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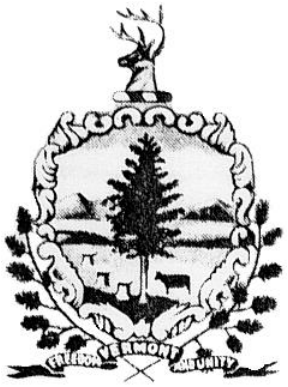

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SECRETARY OF THE SENATE

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Adjournment

On motion of Senator Ashe, the Senate adjourned, to reconvene on Tuesday, May 1, 2017, at three o'clock in the afternoon pursuant to J.R.S. 31.

MONDAY, MAY 1, 2017

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. 56

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, 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. 529. An act relating to approval of amendments to the charter of the City of Barre.

H. 534. An act relating to approval of the adoption and codification of the charter of the Town of Calais.

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. 3. An act relating to mental health professionals' duty to warn.

S. 4. An act relating to publicly accessible meetings of an accountable care organization's governing body.

S. 133. An act relating to examining mental health care and care coordination.

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

The House has adopted joint resolution of the following title:

J.R.H. 10. Joint resolution authorizing the Green Mountain Girls State educational program to use the State House.

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. 127. An act relating to miscellaneous changes to laws related to vehicles and vessels.

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

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

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

H. 503. An act relating to bail.

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. Lalonde of South Burlington
Rep. Conquest of Newbury
Rep. Shaw of Pittsford

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

H. 513. An act relating to making miscellaneous changes to education law.

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 to Senate bill of the following title:

S. 22. An act relating to increased penalties for possession, sale, and dispensation of fentanyl.

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 adopted House concurrent resolutions of the following titles:

H.C.R. 140. House concurrent resolution congratulating the 2016 Lake Region Union High School Rangers Division II championship boys' soccer team.

H.C.R. 141. House concurrent resolution in memory of former Representative Sam Lloyd of Weston.

H.C.R. 142. House concurrent resolution honoring skiing photographer and photojournalist extraordinaire Hubert Schriebl.

H.C.R. 143. House concurrent resolution in memory of Leland Kinsey, the poet laureate of the Northeast Kingdom.

H.C.R. 144. House concurrent resolution designating the second full week of May 2017 as Women's Lung Health Week in Vermont.

H.C.R. 145. House concurrent resolution congratulating the New England Center for Circus Arts on its 10th anniversary and its cofounders, Elsie Smith and Serenity Smith Forchion, on winning the 2016 Walter Cerf Medal for Outstanding Achievement in the Arts.

H.C.R. 146. House concurrent resolution congratulating the Champlain Valley Union High School Redhawks on a winning a fourth consecutive girls' volleyball State championship.

H.C.R. 147. House concurrent resolution commemorating the 100th anniversary of the occupational therapy profession.

H.C.R. 148. House concurrent resolution in memory of Edward E. Steele of Waterbury.

H.C.R. 149. House concurrent resolution honoring Capitol Police Chief Leslie Robert Dimick for his outstanding public safety career achievements.

H.C.R. 150. House concurrent resolution congratulating Helmut Lenes on being named the 2017 David K. Hakins Inductee into the Vermont Sports Hall of Fame.

H.C.R. 151. House concurrent resolution honoring Tom Connor for his dynamic educational leadership and as director of the Journey East curriculum at Leland & Gray Middle and High School.

H.C.R. 152. House concurrent resolution congratulating Erwin Mattison on the 60th anniversary of his exemplary Bennington Fire Department service.

H.C.R. 153. House concurrent resolution congratulating Richard Knapp on a half-century of outstanding firefighting service and leadership with the Bennington Fire Department.

H.C.R. 154. House concurrent resolution congratulating the 2017 Vermont Prudential Spirit of Community Award honorees and distinguished finalists.

H.C.R. 155. House concurrent resolution honoring Henry Broughton of Vergennes for his half-century of outstanding leadership of the Vergennes Memorial Day Parade.

H.C.R. 156. House concurrent resolution honoring the invaluable public safety service of K9 Casko and Vermont State Police Corporal Michelle LeBlanc.

H.C.R. 157. House concurrent resolution congratulating the University of Vermont's 2017 Race to Zero participating teams.

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

Committee Relieved of Further Consideration

H. 312.

On motion of Senator White, the Committee on Finance was relieved of further consideration of House bill entitled:

An act relating to retirement and pensions,

Thereupon, under the rule, the bill was ordered placed on the Calendar for notice the next legislative day.

Joint Resolution Placed on Calendar

J.R.H. 10.

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution authorizing the Green Mountain Girls State educational program to use the State House.

Whereas, the American Legion Auxiliary Department of Vermont sponsors the Green Mountain Girls State education program, providing a group of girls entering the 12th grade a special opportunity to study the workings of State government in Montpelier, and

Whereas, as part of their visit to the State's capital city, the girls conduct a mock legislative session in the State House, now therefore be it

Resolved by the Senate and House of Representatives:

That the Sergeant at Arms shall make available the chambers and committee rooms of the State House for the Green Mountain Girls State educational program on Wednesday, June 21, 2017, from 8:00 a.m. to 4:15 p.m., and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the American Legion Auxiliary Department of Vermont in Montpelier.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Bills Referred

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

H. 529.

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

To the Committee on Rules.

H. 534.

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

To the Committee on Rules.

House Proposal of Amendment Concurred In with Amendment

S. 72.

House proposal of amendment to Senate bill entitled:

An act relating to requiring telemarketers to provide accurate caller identification information.

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:

* * * Telemarketers; Accurate Caller I.D. Information * * *

Sec. 1. 9 V.S.A. chapter 63, subchapter 1 is amended to read:

Subchapter 1. General Provisions

* * *

§ 2464a. PROHIBITED TELEPHONE SOLICITATIONS

(a) Definitions. As used in this section, section 2464b, and section 2464c of this title:

(1) "Customer" means a customer, residing or located in Vermont, of a company providing telecommunications service as defined in 30 V.S.A. § 203(5).

(2) "Caller identification information" means information a caller identification service provides regarding the name and number of the person calling.

(3) "Caller identification service" means a service that allows a subscriber of the service to have the telephone number, and where available, the name of the calling party transmitted contemporaneously with the telephone call and displayed on a device in or connected to the subscriber's telephone.

(4) "Federal functional regulator" means a federal functional regulator as defined in 15 U.S.C. § 6809(2).

~~(3)~~(5) "Financial institution" means a financial institution as defined in 15 U.S.C. § 6809(3).

~~(4)~~(6) "Tax-exempt organization" means an organization described in Section 501(c) of the Internal Revenue Service Code (26 U.S.C. § 501(c)).

~~(5)~~(7) "Telemarketer" means any telephone solicitor. However, "telemarketer" does not include any telephone solicitor who is otherwise registered or licensed with, or regulated or chartered by, the Secretary of State, the Public Service Board, the Department of Financial Regulation, or the Department of Taxes~~,~~ or is a financial institution subject to regulations adopted pursuant to 15 U.S.C. § 6804(a) by a federal functional regulator. Telephone solicitors registered with the Department of Taxes to collect Vermont income withholding, sales and use, or meals and rooms tax, but not registered with any other agency listed in this subdivision, shall provide to the Secretary of State an address and agent for the purpose of submitting to the jurisdiction of the Vermont courts in any action brought for violations of this section.

~~(6)~~(8) "Telephone solicitation":

(A) means the solicitation by telephone of a customer for the purpose of encouraging the customer to contribute to an organization ~~which~~ that is not a tax-exempt organization, or to purchase, lease, or otherwise agree to pay consideration for money, goods, or services; and

(B) does not include:

(i) telephone calls made in response to a request or inquiry by the called customer;

(ii) telephone calls made by or on behalf of a tax-exempt organization, an organization incorporated as a nonprofit organization with the State of Vermont, or an organization in the process of applying for tax-exempt status or nonprofit status;

(iii) telephone calls made by a person not regularly engaged in the activities listed in subdivision (A) of this subdivision ~~(6)~~(8); or

(iv) telephone calls made to a person with whom the telephone solicitor has an established business relationship.

~~(7)~~(9) "Telephone solicitor" means any person placing telephone solicitations, or hiring others, on an hourly, commission, or independent contractor basis~~,~~ to conduct telephone solicitations.

(b) Prohibition; Caller Identification Information.

(1) No telemarketer shall make a telephone solicitation to a telephone number in Vermont without having first registered in accordance with section 2464b of this title.

(2) No person shall make any telephone call to a telephone number in Vermont ~~which~~ that violates the Federal Trade Commission's Do Not Call Rule, 16 C.F.R. subdivision 310.4(b)(1)(iii), or the Federal Communication Commission's Do Not Call Rule, 47 C.F.R. subdivision 64.1200(c)(2) and subsection (d), as amended from time to time.

(3)(A) A person who places a telephone call to make a telephone solicitation, or to induce a charitable contribution, donation, or gift of money or other thing of value, shall transmit or cause to be transmitted to a caller identification service in use by the recipient of the call:

(i) the caller's telephone number; and

(ii) if made available by the caller's carrier, the caller's name.

(B) Notwithstanding subdivision (A) of this subdivision (3), a caller may substitute for its own name and number the name and the number, which is answered during regular business hours, of the person on whose behalf the caller places the call.

(c) Violation. A violation of this section shall constitute a violation of section 2453 of this title. Each prohibited telephone call shall constitute a separate violation. In considering a civil penalty for violations of subdivision (b)(2) of this section, the court may consider, among other relevant factors, the extent to which a telephone solicitor maintained and complied with procedures designed to ensure compliance with the rules of the Federal Communications Commission and the Federal Trade Commission.

(d) Criminal Penalties. A telemarketer who makes a telephone solicitation in violation of subdivision (b)(1) of this section shall be imprisoned for not more than 18 months or fined not more than $10,000.00, or both. It shall be an affirmative defense, for a telemarketer with five or fewer employees, that the telemarketer did not know, and did not consciously avoid knowing, that Vermont has a requirement of registration of telemarketers. Each telephone call shall constitute a separate solicitation under this section. This section shall not be construed to limit a person's liability under any other civil or criminal law.

§ 2464b. REGISTRATION OF TELEMARKETERS

(a) Every telemarketer shall register with the Secretary of State, on a form approved by the Secretary. In the case of a telemarketer who hires, whether on an hourly, commission, or independent contractor basis, one or more persons to conduct telephone solicitations, only the person who causes others to

conduct telephone solicitations need register. The Secretary of State may adopt rules prescribing the manner in which registration under this section shall be conducted, including a requirement of notice to the Secretary by the telemarketer when the telemarketer ceases to do business in Vermont.

(b) The Secretary of State shall require that each telemarketer designate an agent for the purpose of submitting to the jurisdiction of the Vermont courts in any action brought for violations of section 2464a of this title.

(c) The Secretary of State shall collect the following fees when a document described in this section is delivered to the Office of the Secretary of State for filing:

(1) Registration: $125.00.

(2) Statement of change of designated agent or designated office, or both: $25.00, not to exceed $1,000.00 per filer per calendar year.

§ 2464c. PRIVATE CAUSE OF ACTION

Any person who receives a telephone call in violation of subsection 2464a(b) of this title may bring an action in Superior Court for damages, injunctive relief, punitive damages in the case of a willful violation, and reasonable costs and attorney's fees. The ~~Court~~ court may issue an award for the person's actual damages or $500.00 for a first violation, or $1,000.00 for each subsequent violation, whichever is greater. In considering the amount of punitive damages, the ~~Court~~ court may consider, among other relevant factors, the extent to which a telephone solicitor maintained and complied with procedures designed to ensure compliance with the requirements of sections 2464a and 2464b of this title. This section shall not limit any other claims the person may have under applicable law.

* * *

* * * Data Brokers * * *

Sec. 2. DATA BROKERS; RECOMMENDATION

(a) Findings. The General Assembly finds that:

(1) The data broker industry brings benefits to society by:

(A) providing data necessary for the operation of both the public and private sectors;

(B) supporting the critical flow of information for interstate and intrastate commerce; and

(C) aiding in securing and protecting consumer identities.

(2) Despite these benefits, concerns have arisen about the data broker industry, including:

(A) how the data broker industry or persons accessing the industry may directly or indirectly harm vulnerable populations;

(B) the use of the data broker industry by those who harass, stalk, and otherwise harm others;

(C) whether appropriate safeguards are in place to assure that our most sensitive information is not sold to identity thieves, scammers, and other criminals; and

(D) the impact of the data broker industry on the privacy, dignity, and well-being of the people of Vermont.

(b) Recommendation. On or before December 15, 2017, the Commissioner of Financial Regulation and the Attorney General, in consultation with industry and consumer stakeholders, shall submit a recommendation or draft legislation to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs reflecting:

(1) an appropriate definition of the term "data broker";

(2) whether and, if so, to what extent the data broker industry should be regulated by the Commissioner of Financial Regulation or the Attorney General;

(3) additional consumer protections that data broker legislation should seek to include that are not addressed within the framework of existing federal and State consumer protection laws; and

(4) proposed courses of action that balance the benefits to society that the data broker industry brings with actual and potential harms the industry may pose to consumers.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Cummings moved that the Senate concur in the House proposal of amendment with an amendment as follows:

By striking out Sec. 2 and the accompanying reader assistance (data brokers) in their entirety and by inserting in lieu thereof a new Sec. 2 and reader assistance to read as follows:

* * * AG Recommendations; Data Brokers; Privacy Rules for Internet Service Providers and Edge Providers * * *

Sec. 2. ATTORNEY GENERAL; CONSUMER PROTECTION; RECOMMENDATIONS; DATA BROKERS; INTERNET SERVICE PROVIDERS AND EDGE PROVIDERS

(a)(1) Data broker findings. The General Assembly finds that:

(A) The data broker industry brings benefits to society by:

(i) providing data necessary for the operation of both the public and private sectors;

(ii) supporting the critical flow of information for interstate and intrastate commerce; and

(iii) aiding in securing and protecting consumer identities.

(B) Despite these benefits, concerns have arisen about the data broker industry, including:

(i) how the data broker industry or persons accessing the industry may directly or indirectly harm vulnerable populations;

(ii) the use of the data broker industry by those who harass, stalk, and otherwise harm others;

(iii) whether appropriate safeguards are in place to ensure that our most sensitive information is not sold to identity thieves, scammers, and other criminals; and

(iv) the impact of the data broker industry on the privacy, dignity, and well-being of the people of Vermont.

(2) Data broker recommendation. On or before December 15, 2017, the Commissioner of Financial Regulation and the Attorney General, in consultation with industry and consumer stakeholders, shall submit a recommendation or draft legislation to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs reflecting:

(A) an appropriate definition of the term "data broker";

(B) whether and, if so, to what extent the data broker industry should be regulated by the Commissioner of Financial Regulation or the Attorney General;

(C) additional consumer protections that data broker legislation should seek to include that are not addressed within the framework of existing federal and State consumer protection laws; and

(D) proposed courses of action that balance the benefits to society that the data broker industry brings with actual and potential harms the industry may pose to consumers.

(b)(1) Telecommunications privacy rule recommendation. On or before December 15, 2018, the Attorney General, in consultation with the Commissioner of Public Service, and in consultation with industry and consumer stakeholders, shall submit a recommendation or draft legislation to the Senate Committees on Finance and on Economic Development, Housing and General Affairs and the House Committees on Commerce and Economic Development and on Energy and Technology reflecting whether and to what extent the State should adopt privacy and data security rules applicable to telecommunications service providers subject to the jurisdiction of the Public Service Board under 30 V.S.A. § 203(5), including:

(A) broadband Internet access service providers; and

(B) to the extent permitted by federal law, "edge providers," which shall include any individual or entity that provides any content, application, or service over the Internet, and any individual or entity that provides a device used for accessing any content, application, or service over the Internet.

(2) In making the recommendation, the Attorney General shall consider the following:

(A) Whether any proposed rules should be modeled after the Federal Communications Commission's 2016 Privacy Order, WC Docket No. 16-106, FCC 16-148, adopted October 27, 2016 and released November 2, 2016.

(B) Whether any rules should include:

(i) disclosure requirements pertaining to a provider's privacy policies;

(ii) opt-in or opt-out procedures for obtaining customer approval to use and share sensitive or nonsensitive customer proprietary information, respectively; and

(iii) data security and data breach notification requirements.

(C) Proposed courses of action that balance the benefits to society that the telecommunications industry brings with actual and potential harms the industry may pose to consumers.

(D) Such other factors and considerations the Attorney General deems relevant to making recommendations pursuant to this section.

(3) Working group coordination. The Attorney General in consultation with the Commissioner of Public Service, at their discretion, may consult with

or otherwise incorporate this review into the working group process established in subsection (a) of this section.

Which was agreed to.

Bill Passed in Concurrence

House bills of the following titles were severally read the third time and passed in concurrence:

H. 356. An act relating to approval of amendments to the charter of the Town of Berlin.

H. 520. An act relating to approval of amendments to the charter of the Town of Stowe.

Bills Passed in Concurrence with Proposal of Amendment

House bills of the following titles were severally read the third time and passed in concurrence with proposal of amendment:

H. 506. An act relating to professions and occupations regulated by the Office of Professional Regulation.

H. 512. An act relating to the procedure for conducting recounts.

Proposal of Amendment; Third Reading Ordered

H. 130.

Senator Clarkson, 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 Town of Hartford.

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 pending the question, Shall the bill be read a third time?, Senator Clarkson moved to amend the bill in Sec. 2, 24 App. V.S.A. chapter 123A, by striking out in its entirety section 201 (town meeting).

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Third Readings Ordered

H. 524.

Senator Clarkson, 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 Town of Hartford.

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. 527.

Senator Ayer, 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 Town of East Montpelier and to the merger of the Town and the East Montpelier Fire District No. 1.

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. 536.

Senator Ayer, 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 Town of Colchester.

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.

Proposals of Amendment; Third Reading Ordered

H. 22.

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

An act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council.

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

First: In Sec. 1, 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), by striking out section 2355 (Council powers and duties) in its entirety and inserting in lieu thereof the following:

§ 2355. COUNCIL POWERS AND DUTIES

(a) The Council shall adopt rules with respect to:

* * *

(10) a definition of criminal justice personnel and criminal justice training for purposes of this title; and

(11) ~~decertification of persons who have been convicted of a felony subsequent to their certification as law enforcement officers;~~ [Repealed.]

(12) ~~decertification of persons who have not complied with in-service training requirements, provided that the Council, through~~ permitting its Executive Director~~, may~~ to grant up to a 60-day waiver to a law enforcement officer who has failed to meet his or her annual in-service training requirements but who is able to complete those training requirements within ~~that 60-day period~~ the time period permitted by the Executive Director.

(b) The Council shall conduct and administer training schools and offer courses of instruction for law enforcement officers and other criminal justice personnel. The Council may also offer the basic officer's course for pre-service students and educational outreach courses for the public, including firearms safety and use of force.

* * *

(f) The Council shall charge participants or employers of participants in law enforcement training programs as follows:

* * *

(2) The tuition fees for training not required under section 2358 of this chapter shall be set to reflect the actual costs for operation of the particular programs offered, with an additional $30.00 entrance exam fee assessed on all training, except educational outreach courses for the public.

* * *

Second: In Sec. 1, 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), in section 2401 (definitions), in subdivision (2) ("Category B conduct"), after the following: "amounting to actions on duty or under color of authority, or both, that involve" by inserting the following: willful failure to comply with a State-required policy or

Third: In Sec. 1, 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), by striking out section 2406 (permitted Council sanctions) in its entirety and inserting in lieu thereof the following:

§ 2406. PERMITTED COUNCIL SANCTIONS

(a) Generally. The Council may impose any of the following sanctions on a law enforcement officer's certification upon its finding that a law enforcement officer committed unprofessional conduct:

(1) written warning;

(2) suspension, but to run concurrently with the length and time of any suspension imposed by a law enforcement agency with an effective internal affairs program, which shall amount to suspension for time already served if an officer has already served a suspension imposed by his or her agency with such a program;

(3) revocation, with the option of recertification at the discretion of the Council; or

(4) permanent revocation.

(b) Intended revocation; temporary voluntary surrender.

(1)(A) If, after an evidentiary hearing, the Council intends to revoke a law enforcement officer's certification due to its finding that the officer committed unprofessional conduct, the Council shall issue a decision to that effect.

(B) Within 10 business days from the date of that decision, such an officer may voluntarily surrender his or her certification if there is a pending labor proceeding related to the Council's unprofessional conduct findings.

(C) A voluntary surrender of an officer's certification shall remain in effect until the labor proceeding and all appeals are finally adjudicated or until the officer requests a final sanction hearing, whichever occurs first, and thereafter until the Council's final sanction hearing on the matter. At that hearing, the Council may modify its findings and decision on the basis of additional evidence.

(2) If an officer fails to voluntarily surrender his or her certification in accordance with subdivision (1) of this subsection, the Council's original findings and decision shall take effect.

Fourth: In Sec. 2 (transitional provisions to implement this act), by adding a new subsection to be letter subsection (g) to read as follows:

(g) Council, OPR; joint report. On or before October 1, 2017, the Executive Director of the Vermont Criminal Justice Training Council and the Director of the Office of Professional Regulation (Office) shall consult with law enforcement stakeholders and report to the Senate and House Committees on Government Operations on a proposal for the Office to perform duties related to the professional regulation of law enforcement officers.

Fifth: In Sec. 2 (transitional provisions to implement this act), in subsection (a) (effective internal affairs programs), in subdivision (1) (law enforcement agencies), following the words "On or before" by striking out the following: "January 1, 2018" and inserting in lieu thereof the following: July 1, 2018

Sixth: In Sec. 2 (transitional provisions to implement this act), in subsection (a) (effective internal affairs programs), in subdivision (2) (Vermont Criminal Justice Training Council), following the words "On or before" by striking out the following: "October 1, 2017" and inserting in lieu thereof the following: April 1, 2018

Seventh: In Sec. 2 (transitional provisions to implement this act), in subsection (f) (annual report of Executive Director), following "Annually, on or before January 15, beginning in the year" by striking out the following: "2018 and ending in the year 2021" and inserting in lieu thereof the following: 2019 and ending in the year 2022

Eighth: By striking out in Sec. 6 (effective dates) its entirety and inserting in lieu thereof after the reader assistance the following:

Sec. 6. EFFECTIVE DATES

This act shall take effect on July 1, 2018, except:

(1) this section and Sec. 2 (transitional provisions to implement this act) shall take effect on passage; and

(2) the following shall take effect on July 1, 2017:

(A) in Sec. 1, 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council):

(i) § 2351 (creation and purpose of Council);

(ii) § 2351a (definitions);

(iii) § 2352 (Council membership);

(iv) § 2354 (Council meetings);

(v) § 2355 (Council powers and duties), except that subsection (a) shall take effect on July 1, 2018;

(vi) § 2358 (minimum training standards; definitions); and

(vii) § 2362a (potential hiring agency; duty to contact former agency);

(B) Sec. 3, 20 V.S.A. § 1812 (definitions); and

(C) Sec. 4, 20 V.S.A. § 1922 (creation of State Police Advisory Commission; members; duties).

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, the proposals of amendment were collectively agreed to, and third reading of the bill was ordered.

Proposals of Amendment; Third Reading Ordered

H. 238.

Senator Clarkson, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to modernizing and reorganizing Title 7.

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:

* * * Modernization and Reorganization of Title 7 * * *

Sec. 1. 7 V.S.A. § 1 is amended to read:

§ 1. CONSTRUCTION

This title is based on the taxing power and the police power of the ~~state~~ State, and is for the protection of the public welfare, good order, health, peace, safety, and morals of the people of the ~~state, and all of its~~ State. The provisions of this title shall be liberally construed ~~for the accomplishment of the~~ to accomplish its purposes ~~set forth herein~~.

Sec. 2. 7 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

~~The following words as~~ As used in this title~~, unless a contrary meaning is required by the context, shall have the following meaning~~:

(1) "Alcohol"~~:~~ means the product of distillation ~~of spirits or any fermented malt or vinous beverage~~, fermentation, or chemical synthesis, including alcoholic beverages, ethyl alcohol, and nonpotable alcohol.

(2) "Alcoholic beverages" means malt beverages, vinous beverages, spirits, and fortified wines.

(3) "Board of Liquor and Lottery" means the Board of Control appointed under the provisions of chapter 5 of this title.

(4) "Boat"~~:~~ means a vessel suitably equipped and operated for the transportation of passengers in interstate commerce.

~~(3) "Bottler": any person that bottles malt beverages, vinous beverages, spirits, or fortified wines for sale or for distribution in this State.~~

~~(4) "Bottler's license": the license granted by the Liquor Control Board permitting a bottler to bottle for sale and to distribute and sell at wholesale malt or vinous beverages.~~

~~(6)~~(5) "Caterer's license"~~:~~ means a license issued by the ~~Liquor Control~~ Board of Liquor and Lottery authorizing the holder of a first-class license or first- and third-class licenses ~~for a restaurant or hotel premises~~ to serve ~~malt or vinous beverages, spirits, or fortified wines~~ alcoholic beverages at a function located on premises other than those occupied by a first-, first- and third-, or second-class licensee to sell alcoholic beverages.

(6) "Certificate of approval" means a license granted by the Board of Liquor and Lottery to a manufacturer or distributor of malt beverages or vinous beverages, or both, that is not licensed under the provisions of this title, that permits the licensee to sell those beverages to holders of a packager's or wholesale dealer's license.

(7) "Club"~~:~~ means an unincorporated association or a corporation authorized to do business in this State, that has been in existence for at least two consecutive years prior to the date of application for a license under this title and owns, hires, or leases a building or space in a building that is suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and contains suitable and adequate kitchen and dining room space and equipment implements and facilities. ~~A club may be used or leased by a nonmember as a location for a social event as if it were any other licensed commercial establishment. Such club shall file with the Liquor Control Board, before May 1 of each year, a list of the names and residences of its members and a list of its officers. Its affairs and management shall be conducted by a board of directors, executive committee, or similar body chosen by the members at its annual meeting, and no member or any officer, agent, or employee of the club shall be paid, or directly or indirectly receive, in the form of salary or other compensation, any profits from the disposition or sale of alcoholic liquors to the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at annual meetings by the members or by its directors or other governing body, and as reported by the club to the Liquor Control Board. An auxiliary member of a club may invite one guest at any one time. An officer or director of a club may perform the duties of a bartender without receiving any payment for that service, provided the officer or director is in compliance with the requirements of this title that relate to service of alcoholic beverages. An officer, member, or director of a club may volunteer to perform services at the club other than serving alcoholic beverages, including seating patrons and checking~~

~~identification, without receiving payment for those services. An officer, member, or director of a club who volunteers his or her services shall not be considered to be an employee of the club.~~ A bona fide unincorporated association or corporation whose officers and members consist solely of veterans of the U.S. Armed Forces or a subordinate lodge or local chapter of any national fraternal order, and which fulfills all requirements of ~~this subdivision~~ section 229 of this title, except that it has not been in existence for at least two years, shall come within the terms of this definition six months after the completion of its organization. ~~A club located on and integrally associated with at least a regulation nine-hole golf course need only be in existence for six months prior to the date of application for license under this title.~~

(8) "Commercial catering license" means a license granted by the Board of Liquor and Lottery permitting a business licensed by the Department of Health as a commercial caterer and having a commercial kitchen facility in the home or place of business to sell alcoholic beverages at a function previously approved by the local control commissioners.

(9) "Commissioner of Liquor and Lottery" or "Commissioner" means the executive officer of the Board of Liquor and Lottery appointed under the provisions of chapter 5 of this title.

~~(8)~~(10) "Control commissioners"~~:~~ means the commissioners of a municipality appointed under section 166 of this title.

(11) "Department" means the Department of Liquor and Lottery.

(12) "Destination resort master license" means a license granted by the Board of Liquor and Lottery pursuant to section 242 of this title permitting a destination resort to designate licensed caterers and commercial caterers that will be permitted to cater individual events within the boundaries of the resort without being required to obtain a request to cater permit for each individual event. For purposes of a destination resort master license, a "destination resort" is a resort that contains at least 100 acres of land, offers at least 50 units of sleeping accommodations, offers meal and beverage service to the public for consideration, and has related sports and recreational facilities for the convenience or enjoyment of its guests. "Destination resort" does not include the University of Vermont, the Vermont State Colleges, or any other university, college, or postsecondary school.

~~(9)~~(13) "Dining car"~~:~~ means a railroad car on which meals are prepared and served.

(14) "Division" means the Division of Liquor Control within the Department of Liquor and Lottery.

(15) "Festival permit" means a permit granted by the Division of Liquor Control permitting a person to conduct an event at which malt or vinous beverages, or both, are sold by the glass to the public, provided the event is approved by the local control commissioners.

~~(10)~~(16) "First-class license"~~:~~ means a license ~~granted by the control commissioners~~ permitting the licensee to sell malt or vinous beverages to the public for consumption only on the premises for which the license is granted.

(17) "Fortified wine permit" means a permit granted to a second-class licensee that permits the licensee to export and sell fortified wines to the public for consumption off the licensed premises.

(18) "Fortified wines" mean vinous beverages, including those to which spirits have been added during manufacture, containing at least 16 percent alcohol but no more than 23 percent alcohol by volume at 60 degrees Fahrenheit, and all vermouths containing no more than 23 percent alcohol by volume at 60 degrees Fahrenheit.

(19) "Fourth-class license" means a license permitting a licensed manufacturer or rectifier to sell by the unopened container and distribute by the glass, with or without charge, beverages manufactured by the licensee.

(20) "Home-fermented beverages" means malt or vinous beverages produced at home and not for sale.

~~(11)~~(21) "Hotel" has the same meaning as in 32 V.S.A. § 9202(3) and as determined by the ~~Liquor Control~~ Board of Liquor and Lottery. ~~A hotel that places a minibar in any room of a registered guest shall assure that the minibar is locked and that access to the minibar is restricted to guests of legal drinking age.~~

~~(12) "Commissioner of Liquor Control": the executive officer of the Liquor Control Board appointed under the provisions of this title.~~

(22) "Industrial alcohol distributor's license" means a license granted by the Board of Liquor and Lottery that allows holders to sell pure ethyl or grain alcohol of at least 190 proof in quantities of five gallons or more directly to manufacturers, industrial users, hospitals, druggists, and institutions of learning.

(23) "Keg" means a reusable container capable of holding at least five gallons of malt beverage or at least two and a half gallons of vinous beverage.

(24) "Legal age" means 21 years of age or older.

~~(13) "Liquor Control Board": the Board of Control appointed under the provisions of this title~~.

~~(14)~~(25) "Malt beverages"~~:~~ means all fermented beverages of any name or description manufactured for sale from malt, wholly or in part, or from any substitute therefor, known as, among other things, beer, ~~porter,~~ ale, ~~and stout~~ or lager, containing not less than one percent nor more than 16 percent of alcohol by volume at 60 degrees Fahrenheit. ~~However, if such a beverage has an alcohol content of more than six percent and has a terminal specific gravity of less than 1.009, it shall be deemed to be a spirit and not a malt beverage. The holder of the certificate of approval or the manufacturer shall certify to the Liquor Control Board the terminal specific gravity of the beverage when the alcohol content is more than six percent.~~

~~(15)~~(26) "Manufacturer's or rectifier's license"~~:~~ means a license granted by the ~~Liquor Control~~ Board of Liquor and Lottery that permits the holder to manufacture or rectify malt beverages, ~~or~~ vinous beverages and fortified wines, or spirits and fortified wines. ~~Spirits and fortified wines may be manufactured or rectified by a license holder for export and sale to the Liquor Control Board, and malt beverages and vinous beverages may be manufactured or rectified by a license holder for export and sale to bottlers or wholesale dealers. This license permits a manufacturer of vinous beverages or fortified wines to receive from another manufacturer licensed in or outside this State bulk shipments of vinous beverages to rectify with the licensee's own product, provided that the vinous beverages or fortified wines produced by a Vermont manufacturer may contain no more than 25 percent imported vinous beverage. The Liquor Control Board may grant to a licensed manufacturer or rectifier of spirits, fortified wines, vinous beverages, or malt beverages a first-class license or a first- and a third-class license permitting the licensee to sell alcoholic beverages to the public only at the manufacturer's premises which for the purposes of a manufacturer of malt beverages, includes up to two licensed establishments that are located on the contiguous real estate of the holder of the manufacturer's license, provided the manufacturer or rectifier owns or has direct control over those establishments. The Liquor Control Board may grant to a licensed manufacturer or a rectifier of malt beverages a second-class license permitting the licensee to sell alcoholic beverages to the public anywhere on the manufacturer's or rectifier's premises. A licensed manufacturer or rectifier may serve, with or without charge, at an event held on the premises of the licensee or at a location on the contiguous real estate of the licensee, spirits, fortified wines, vinous beverages, and malt beverages, provided the licensee gives the Department written notice of the event, including details required by the Department, at least five days before the event. Any beverages not manufactured by the licensee and served at the event shall be purchased on invoice from a licensed manufacturer or wholesale dealer or the Liquor Control Board.~~

(27) "Minor" means an individual who has not attained 21 years of age.

(28) "Outside consumption permit" means a permit granted by the Division of Liquor Control allowing the holder of a first-class, first- and third-class, or fourth-class license to allow for consumption of alcoholic beverages in a delineated outside area.

(29) "Packager's license" means a license granted by the Board of Liquor and Lottery permitting a person to bottle or otherwise package alcoholic beverages for sale and to distribute and sell alcoholic beverages at wholesale in this State.

~~(16)~~(30) "Person"~~:~~, as applied to licensees, means an individual who is a citizen or a lawful permanent resident of the United States; a partnership composed of individuals, a majority of whom are citizens or lawful permanent residents of the United States; a corporation organized under the laws of this State or another state in which a majority of the directors are citizens or lawful permanent residents of the United States; or a limited liability company organized under the laws of this State or another state in which a majority of the members or managers are citizens or lawful permanent residents of the United States.

(31) "Request to cater permit" means a permit granted by the Division of Liquor Control authorizing a licensed caterer or commercial caterer to cater individual events.

~~(17) "Restaurant": a space in a suitable building, approved by the Liquor Control Board, occupied, used, maintained, advertised, or held out to the public to be a place where food is served at all times when open for business and there are no sleeping accommodations. The space shall have adequate and sanitary kitchen and dining room capacity and the number and kinds of employees for preparing, cooking, and serving suitable food for guests and patrons as required by the Liquor Control Board~~.

~~(18)~~(32) "Retail dealer"~~:~~ means any person who sells or ~~distributes~~ furnishes malt or vinous beverages to the public.

(33) "Retail delivery permit" means a permit granted by the Division of Liquor Control that permits a second-class licensee to deliver malt beverages or vinous beverages sold from the licensed premises for consumption off the premises to an individual who is at least 21 years of age at a physical address in Vermont.

(34) "Sampler flight" means a flight, ski, paddle, or any similar device by design or name intended to hold alcoholic beverage samples for the purpose of comparison.

~~(19)~~(35) "Second-class license"~~:~~ means a license ~~granted by the control commissioners~~ permitting the licensee to export malt beverages or vinous beverages and to sell malt beverages or vinous beverages to the public for consumption off the premises for which the license is granted. ~~The Liquor Control Board may grant a second-class licensee a fortified wine permit that permits the licensee to export and to sell fortified wines to the public for consumption off the licensed premises.~~

(36) "Special event permit" means a permit granted by the Division of Liquor Control permitting a licensed manufacturer or rectifier to sell, by the glass or by the unopened bottle, alcoholic beverages manufactured or rectified by the license holder at an event open to the public that has been approved by the local control commissioners.

(37) "Special venue serving permit" means a permit granted by the Division of Liquor Control permitting an art gallery, bookstore, public library, or museum to conduct an event at which malt or vinous beverages or both are served by the glass to the public. As used in this section, "art gallery" means a fixed establishment whose primary purpose is to exhibit or offer for sale works of art; "bookstore" means a fixed establishment whose primary purpose is to offer books for sale; "public library" has the same meaning as in 22 V.S.A. § 101; and "museum" has the same meaning as in 27 V.S.A. § 1151.

(38) "Specialty beer" means a malt beverage that contains more than eight percent alcohol and not more than 16 percent alcohol by volume at 60 degrees Fahrenheit.

~~(20)~~(39) "Spirits" ~~or "spirituous liquors":~~ means beverages that contain more than one percent of alcohol obtained by distillation, by chemical synthesis, or through concentration by freezing; vinous beverages containing more than 23 percent of alcohol; and malt beverages containing more than 16 percent of alcohol ~~or more than six percent of alcohol if the terminal specific gravity thereof is less than 1.009; in each case measured~~ by volume at 60 degrees Fahrenheit.

~~(21) "Specialty beer": a malt beverage that contains more than eight percent alcohol and not more than 16 percent alcohol by volume at 60 degrees Fahrenheit.~~

~~(22)~~(40) "Third-class license"~~:~~ means a license granted by the ~~Liquor Control~~ Board of Liquor and Lottery permitting the licensee to sell spirits and fortified wines for consumption only on the premises for which the license is granted.

~~(23)~~(41) "Vinous beverages"~~:~~ means all fermented beverages of any name or description manufactured or obtained for sale from the natural sugar

content of fruits or other agricultural product, containing sugar, the alcoholic content of which is not less than one percent nor more than 16 percent by volume at 60 degrees Fahrenheit.

~~(24) "Wholesale dealer": any person other than a bottler who buys malt or vinous beverages for distribution to or resale to retail dealers or to agencies of the United States.~~

~~(25)~~(42) "Wholesale dealer's license"~~: the~~ means a license granted by the ~~Liquor Control~~ Board of Liquor and Lottery permitting the ~~wholesale dealer~~ holder to sell or distribute malt or vinous beverages ~~as a wholesale dealer~~ to first- and second-class licensees, to educational sampling event permit holders, and to agencies of the United States.

~~(26) "Minor": a person who has not attained the age of 21.~~

~~(27) "Special events permit": a permit granted by the Liquor Control Board permitting a licensed manufacturer or rectifier to sell by the glass or by unopened bottle spirits, fortified wines, malt beverages, or vinous beverages manufactured or rectified by the license holder at an event open to the public that has been approved by the local licensing authority. For the purposes of tasting only, the permit holder may distribute, with or without charge, beverages manufactured by the permit holder by the glass no more than two ounces per product and eight ounces total of malt beverages or vinous beverages and no more than one ounce in total of spirits or fortified wines to each individual. No more than 104 special events permits may be issued to a licensed manufacturer or rectifier during a year. A special events permit shall be valid for the duration of each public event or four days, whichever is shorter. Requests for a special events permit, accompanied by the fee as required by subdivision 231(13) of this title, shall be submitted to the Department of Liquor Control at least five days prior to the date of the event. Each manufacturer or rectifier planning to attend a single special event under this permit may be listed on a single permit. However, each attendance at a special event shall count toward the manufacturer's or rectifier's annual limit of 104 special events permits.~~

~~(28) "Fourth-class license" or "farmers' market license": the license granted by the Liquor Control Board permitting a licensed manufacturer or rectifier to sell by the unopened container and distribute by the glass with or without charge, beverages manufactured by the licensee. No more than a combined total of ten fourth-class and farmers' market licenses may be granted to a licensed manufacturer or rectifier. At only one fourth-class license location, a licensed manufacturer or rectifier may sell by the unopened container and distribute by the glass, with or without charge, vinous beverages, malt beverages, fortified wines, or spirits produced by no more than five~~

~~additional manufacturers or rectifiers, provided these beverages are purchased on invoice from the manufacturer or rectifier. A manufacturer or rectifier may sell its product to no more than five additional manufacturers or rectifiers. A fourth-class licensee may distribute by the glass no more than two ounces of malt beverages or vinous beverages with a total of eight ounces to each retail customer and no more than one-quarter ounce of spirits or fortified wine with a total of one ounce to each retail customer for consumption on the manufacturer's premises or at a farmers' market. A fourth-class licensee may distribute by the glass up to four mixed drinks containing a combined total of no more than one ounce of spirits or fortified wine to each retail customer for consumption only on the manufacturer's premises. A farmers' market license is valid for all dates of operation for a specific farmers' market location.~~

~~(29) "Festival permit": a permit granted by the Liquor Control Board permitting a person to conduct an event at which malt or vinous beverages, or both, are sold by the glass to the public, provided the event is approved by the local licensing authority. A festival permit holder may purchase invoiced volumes of malt or vinous beverages directly from a manufacturer or bottler, provided the manufacturer or bottler either holds a federal Basic Permit or a Brewers Notice or evidence of licensure in a foreign country, satisfactory to the Board, whichever applies. The invoiced volumes of malt or vinous beverages may be transported to the site and sold by the glass to the public by the permit holder or its employees and volunteers only during the event. A festival permit holder shall be subject to the provisions of this chapter, including section 240 of this title, and the rules of the Board regarding the sale of the alcoholic beverages and shall pay the tax on the malt or vinous beverages as required by section 421 of this title. A person shall not be granted a festival permit more than four times in one year, and each permit shall be valid for no more than four consecutive days. A request for a festival permit shall be submitted to the Department in a form required by the Department at least 15 days prior to the festival and shall be accompanied by a permit fee as required by subdivision 231(a)(14) of this title to be paid to the Department.~~

~~(30) "Home-fermented beverages": malt or vinous beverages produced at home and not for sale.~~

~~(31) "Legal age": 21 years of age or older.~~

~~(32) "Art gallery or bookstore permit": a permit granted by the Liquor Control Board permitting an art gallery or bookstore to conduct an event at which malt or vinous beverages or both are served by the glass to the public, provided that the event is approved by the local licensing authority. A permit holder may purchase malt or vinous beverages directly from a licensed retailer. A permit holder shall be subject to the provisions of this title and the rules of~~

~~the Board regarding the service of alcoholic beverages. A request for a permit shall be submitted to the Department in a form required by the Department at least five days prior to the event and shall be accompanied by the permit fee required by subdivision 231(a)(22) of this title. As used in this section, "art gallery" means a fixed establishment whose primary purpose is to exhibit or offer for sale works of art; and "bookstore" means a fixed establishment whose primary purpose is to offer books for sale.~~

~~(33) "Commercial catering license": A license granted by the Board permitting a business licensed by the Department of Health as a commercial caterer and having a commercial kitchen facility in the home or place of business to sell malt beverages, vinous beverages, spirits, or fortified wines at a function previously approved by the local licensing authority.~~

~~(34) "Request to cater permit": a permit granted by the Liquor Control Board authorizing a first- or first- and third-class licensed caterer or commercial caterer to cater individual events.~~

~~(35) "Industrial alcohol distributors license": a license granted by the Liquor Control Board that allows holders to sell pure ethyl or grain alcohol of at least 190 proof in quantities of five gallons or more directly to manufacturers, industrial users, hospitals, druggists, and institutions of learning. Alcohol sold under the industrial alcohol distributors license may only be used for manufacturing, mechanical, medicinal, and scientific purposes.~~

~~(36) "Outside consumption permit": a permit granted by the Liquor Control Board allowing the holder of a first-class, first- and third-class, or fourth-class license to allow for consumption of alcohol in a delineated outside area.~~

~~(37) "Sampler flight": a flight, ski, paddle, or any similar device by design or name intended to hold alcoholic beverage samples for the purpose of comparison.~~

~~(38) "Fortified wines": vinous beverages, including those to which spirits have been added during manufacture, containing at least 16 percent alcohol but no more than 23 percent alcohol by volume at 60 degrees Fahrenheit, and all vermouths containing no more than 23 percent alcohol by volume at 60 degrees Fahrenheit.~~

~~(39) "Public library or museum permit": a permit granted by the Liquor Control Board permitting a public library or museum to serve malt beverages or vinous beverages, or both, by the glass to the public for a period of not more than six hours during an event held for a charitable or educational purpose, provided that the event is approved by the local licensing authority. A permit~~

~~holder may purchase malt beverages or vinous beverages directly from a licensed retailer. A permit holder shall be subject to the provisions of this title and the rules of the Board regarding the service of alcoholic beverages. A request for a permit shall be submitted to the Department in a form required by the Department at least five days prior to the event and shall be accompanied by the permit fee required by subdivision 231(a)(24) of this title. As used in this section, "public library" has the same meaning as in 22 V.S.A. § 101 and "museum" has the same meaning as in 27 V.S.A. § 1151.~~

~~(40) "Retail delivery permit": a permit granted by the Liquor Control Board that permits a second-class licensee to deliver malt beverages or vinous beverages sold from the licensed premises for consumption off the premises to an individual who is at least 21 years of age at a physical address in Vermont.~~

~~(41) "Destination resort master license": a license granted by the Liquor Control Board pursuant to section 472 of this title permitting a destination resort to designate licensed caterers and commercial caterers that will be permitted to cater individual events within the boundaries of the resort without being required to obtain a request to cater permit for each individual event. For purposes of a destination resort master license, a "destination resort" is a resort that contains at least 100 acres of land, offers at least 50 units of sleeping accommodations, offers food and beverage service to the public for consideration, and has related sports and recreational facilities for the convenience or enjoyment of its guests. "Destination resort" does not include the University of Vermont, the Vermont State Colleges, or any other university, college, or postsecondary school.~~

Sec. 3. 7 V.S.A. § 3 is amended to read:

§ 3. CULINARY ARTS STUDENTS; EXEMPTIONS FROM PROVISIONS OF TITLE

A student ~~aged~~ 18 years of age or older who is enrolled in a postsecondary education culinary arts program, accredited by a commission recognized by the U.S. Department of Education, shall be exempt from the provisions of this title while attending classes that require the possession or consumption of alcoholic beverages.

Sec. 4. 7 V.S.A. § 4 is amended to read:

§ 4. NONPROFIT ORGANIZATIONS; WINE AND BEER AUCTIONS; FUNDRAISING

(a) A nonprofit organization qualified for tax exempt status pursuant to Section 501(c) of the federal Internal Revenue Code, as amended, in the discretion of the ~~commissioner~~ Commissioner, may auction ~~vinous or malt beverages, or both,~~ alcoholic beverages to the public without a license, provided that:

(1) Prior to the auction, the organization provides written notification of the auction accompanied by documentation of its nonprofit status satisfactory to the ~~commissioner~~ Commissioner.

(2) The ~~commissioner~~ Commissioner approves the organization's nonprofit qualifications and the organization's ~~right~~ proposal to auction ~~vinous or malt~~ alcoholic beverages.

(3) The profits from the ~~auction sale of~~ auctioned beverages are used solely for the expenses of the nonprofit organization related to ~~conduct~~ conducting the ~~sale~~ auction or for the nonprofit purposes of the organization.

(b) A person who donates ~~vinous or malt~~ alcoholic beverages to a nonprofit organization for an auction under this section is not required to be licensed under this ~~chapter~~ title.

(c) A licensee under this title may donate alcoholic beverages to a nonprofit organization pursuant to this section, provided the licensee pays to the ~~state~~ State all the taxes that would be due ~~as~~ if the alcoholic beverages had been sold in the course of the licensee's business.

* * *

Sec. 5. 7 V.S.A. chapter 3 is redesignated to read:

CHAPTER 3. RESTRICTIONS AND PROHIBITED ACTS

Sec. 6. 7 V.S.A. § 61 is amended to read:

§ 61. RESTRICTIONS; EXCEPTIONS

(a) A person~~, partnership, association, or corporation~~ shall not furnish or sell, ~~or expose~~ or keep with intent to sell, any ~~malt or vinous beverages, spirits, or fortified wines~~ alcoholic beverages, or manufacture, sell, barter, transport, import, export, deliver, prescribe, furnish, or possess any alcohol, except as authorized by this title.

(b) ~~However~~ Notwithstanding subsection (a) of this section, this chapter shall not apply to:

(1) the furnishing of ~~such~~ alcoholic beverages ~~or spirits~~ by ~~a person~~ an individual in his or her private dwelling unless ~~such~~ the dwelling becomes a place of public resort~~, nor to the sale of fermented cider by the barrel or cask of not less than 32 liquid gallons capacity, provided the same is delivered and removed from the vendor's premises in such barrel or cask at the time of such sale, nor to~~;

(2) the use of sacramental wine~~, nor to~~; or

(3) the furnishing, purchase, sale, barter, transportation, importation, exportation, delivery, prescription, or possession of alcohol for manufacturing, mechanical, medicinal, and scientific purposes, provided ~~the same~~ that it is done ~~under and~~ in accordance with the rules ~~and regulations made~~ of the Board of Liquor and Lottery and licenses and permits issued by the ~~Liquor Control~~ Board or Division of Liquor Control as ~~hereinafter~~ provided in this title.

Sec. 7. 7 V.S.A. § 62 is amended to read:

§ 62. HOURS OF SALE

(a) ~~Holders of first- or first- and third-class licenses~~ First- or first- and third-class licensees, or festival, special event, or educational sampling event permit holders may sell ~~malt and vinous beverages or spirits and fortified wines~~ alcoholic beverages between the hours of 8:00 a.m. and 2:00 a.m. the next morning.

(b)(1) ~~Holders of second-class licenses~~ Second-class licensees may sell malt and vinous beverages between the hours of 6:00 a.m. and 12:00 ~~a.m. the next morning~~ midnight.

(2) Fourth-class licensees may sell or furnish alcoholic beverages between the hours of 6:00 a.m. and 12:00 midnight.

* * *

Sec. 8. 7 V.S.A. § 63 is amended to read:

§ 63. IMPORTATION OR TRANSPORTATION OF ~~LIQUORS~~ ALCOHOL; PROHIBITIONS; PERSONAL IMPORT LIMIT; PENALTY

(a)(1) All spirits and fortified wines imported or transported into this State shall be imported or transported by and through the ~~Liquor Control~~ Board of Liquor and Lottery. A person importing or transporting or causing to be imported or transported into this State any spirits ~~and~~ or fortified wines, or both, in violation of this section shall be imprisoned not more than one year or fined not more than $1,000.00, or both.

(2) ~~However~~ Notwithstanding subdivision (1) of this subsection, a person may import or transport not more than eight quarts of spirits ~~and~~ or fortified wines, or both, into this State in his or her own private vehicle or in his or her actual possession at the time of importation without a license or permit, provided the beverages are not for resale.

(b)(1) Except as provided in sections ~~66 and 68~~ 277, 278, and 283 of this title, all malt or vinous beverages, or both, imported or transported into this State shall be imported or transported by and through ~~a wholesale dealer holding~~ the holder of a wholesale dealer's license issued by the ~~Liquor Control~~ Board of Liquor and Lottery. A person importing or transporting or causing to

be imported or transported into this State any malt or vinous beverages, or both, in violation of this section shall be imprisoned not more than one year or fined not more than $1,000.00, or both.

(2) ~~Provided, however~~ Notwithstanding subdivision (1) of this subsection, a person may import or transport not more than six gallons of malt or vinous beverages, or both, into this State in his or her own private vehicle or in his or her actual possession at the time of importation without a license or permit, ~~providing it is~~ provided the beverages are not for resale.

Sec. 9. 7 V.S.A. § 64 is amended to read:

§ 64. SALE OF MALT BEVERAGES AND VINOUS BEVERAGES IN KEGS

(a) ~~As used in this section, "keg" means a reusable container capable of holding at least five gallons of malt beverage.~~

~~(b)~~ A keg shall be sold by a ~~second class~~ second-class or fourth-class licensee only under the following conditions:

(1) The keg shall be tagged in a manner and with a label approved by the ~~board~~ Board of Liquor and Lottery. The label shall be supplied and securely affixed to the keg by the wholesale dealer, or in the case of a second-class license issued for the premises of a licensed manufacturer or a fourth-class licensee, by the manufacturer.

(2) ~~A person~~ A purchaser shall exhibit ~~proper proof~~ a valid authorized form of identification upon demand of a licensee or an agent of a licensee. If the ~~person~~ purchaser fails to provide ~~such proof~~ a valid authorized form of identification, the licensee shall be entitled to refuse to sell the keg to the ~~person~~ individual. As used in this subsection, "~~proper proof~~ a valid authorized form of identification" ~~means a photographic motor vehicle operator's license, a liquor control photographic identification card, a valid passport, a United States military identification card or a photographic nondriver motor vehicle identification card obtained from the department of motor vehicles~~ has the same meaning as in section 589 of this title.

(3) The purchaser shall complete a form, provided by the ~~board~~ Board, ~~which~~ that includes at least the name, address, and date of birth of the purchaser as they appear on the purchaser's ~~proper proof~~ valid authorized form of identification and the identification number of the keg. The form shall also include the provisions of this section and the penalties for a violation of ~~these provisions~~ this section. The licensee shall retain the form for 90 days after return of the keg.

(4) The licensee shall collect a deposit of at least $25.00 which shall be returned to the purchaser upon return of the keg with the label intact.

~~(c)~~(b) A licensee shall not:

(1) sell a keg without a legible label attached; or

(2) return a deposit on a keg ~~which~~ that is returned without the label intact.

~~(d)~~(c) Any person, other than ~~the wholesaler~~ a wholesale dealer or manufacturer, who intentionally removes or defaces the label attached to a keg shall be imprisoned not more than two years or fined not more than $1,000.00, or both.

Sec. 10. 7 V.S.A. § 65 is redesignated and amended to read:

§ ~~65~~ 66. HOME-FERMENTED MALT AND VINOUS BEVERAGES; TASTING EVENT

(a) ~~A person~~ An individual of legal age may, without obtaining a license under this title or paying ~~state~~ State taxes or fees, produce malt or vinous beverages, or both, at home provided that the amount of home-fermented beverages produced by that ~~person~~ individual does not exceed the quantities limitation in 26 U.S.C. §§ 5053 and 5042.

* * *

Sec. 11. REPEALS

7 V.S.A. §§ 66 (malt and vinous beverage shipping licenses) and 67 (alcoholic beverage tastings) are repealed.

Sec. 12. 7 V.S.A. § 69 is redesignated and amended to read:

§ ~~69~~ 67. POWDERED ALCOHOL PRODUCTS

(a) It shall be unlawful for a person to knowingly possess or sell a powdered alcohol product.

(b) A person that knowingly ~~and unlawfully possessing~~ possesses a powdered alcohol product shall be fined not more than $500.00.

~~(b)~~(c) A person that knowingly ~~and unlawfully selling~~ sells a powdered alcohol product shall be imprisoned not more than two years or fined not more than $10,000.00, or both.

~~(c)~~(d) As used in this section, "powdered alcohol product" means any alcoholic powder that can be added to water or food.

Sec. 13. 7 V.S.A. chapter 5 is amended to read:

CHAPTER 5. DEPARTMENT OF LIQUOR ~~CONTROL~~ AND LOTTERY

§ 101. COMPOSITION OF DEPARTMENT; COMMISSIONER OF LIQUOR ~~CONTROL~~ AND LOTTERY; ~~LIQUOR CONTROL~~ BOARD OF LIQUOR AND LOTTERY

(a)(1) The Department of Liquor ~~Control~~ and Lottery, created by 3 V.S.A. § 212, shall administer the laws relating to alcoholic beverages, tobacco, and the State Lottery. It shall include the Commissioner of Liquor ~~Control~~ and Lottery and the ~~Liquor Control~~ Board of Liquor and Lottery.

(2) The Board of Liquor and Lottery shall supervise and manage the sales of spirits and fortified wines pursuant to this title and the establishment and management of the State Lottery pursuant to 31 V.S.A. chapter 14.

(3)(A) The Department of Liquor and Lottery shall be under the immediate supervision and direction of the Commissioner of Liquor and Lottery.

(B) The Division of Liquor Control is created within the Department to administer and carry out the laws relating to alcohol and tobacco set forth in this title.

(C) The Division of Lottery is created within the Department to administer and carry out the laws relating to the State Lottery set forth in 31 V.S.A. chapter 14.

(D) The Commissioner, with the approval of the Governor, may appoint a Deputy Commissioner of Liquor Control to supervise and direct the Division of Liquor Control and a Deputy Commissioner of the State Lottery to supervise and direct the Division of Lottery. Both Deputy Commissioners shall be exempt from the classified service and shall serve at the pleasure of the Commissioner.

(b)(1) The ~~Liquor Control~~ Board of Liquor and Lottery shall consist of five persons, ~~not~~ the Chair and four regular members. Not more than three members of ~~which~~ the Board shall belong to the same political party.

(2)(A) With the advice and consent of the Senate, the Governor shall appoint the members of the Board for staggered ~~five~~ three-year terms.

(B) The Governor shall fill a vacancy occurring during a term by an appointment for the unexpired term in accordance with the provisions of 3 V.S.A. § 257(b).

(C) A member's term of office shall commence on February 1 of the year in which the member is appointed.

(3) A member of the Board may serve for no more than two consecutive full terms. A member who is appointed to fill a vacancy occurring during a term may serve two consecutive full terms in addition to the unexpired portion of the term during which the member is first appointed.

(4) The Governor shall biennially designate a member of the Board to be its Chair. The Chair shall have general charge of the offices and employees of the Board.

(c) No member of the Board shall have a financial interest in any licensee under this title or 31 V.S.A. chapter 14, nor shall any member of the Board have a financial interest in any contract awarded by the Board or the Department of Liquor and Lottery.

(d) The Governor shall annually submit a budget for the Department to the General Assembly.

§ 102. REMOVAL

Notwithstanding any provision of 3 V.S.A. § 2004 to the contrary, after notice and hearing, the Governor may remove a member of the ~~Liquor Control~~ Board of Liquor and Lottery for incompetency, failure to discharge his or her duties, malfeasance, immorality, or other cause inimical to the general good of the State. In case of such removal, the Governor shall appoint a person to fill the unexpired term.

§ 103. MEETINGS

The Board shall ~~hold such meetings~~ meet as may be required for the performance of its duties. The ~~times and places for such meetings~~ time and place for each meeting shall be designated by the Chair of the Board. ~~Such~~ The Chair shall call a meeting upon the written request of any two members ~~and~~ or upon the written request of the Governor.

§ 104. DUTIES; AUTHORITY TO RESOLVE ALLEGED VIOLATIONS

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

(1)(A) See that the laws relating to ~~intoxicating liquor~~ alcohol and ~~to the manufacture, sale, transportation, barter, furnishing, importation, exportation, delivery, prescription, and possession of malt and vinous beverages, spirits, fortified wines, and alcohol by licensees and others~~ alcoholic beverages are enforced, using for that purpose ~~such~~ as much of the monies annually available to the ~~Liquor Control~~ Board of Liquor and Lottery as may be necessary.

(B) ~~However, the~~ The ~~Liquor Control~~ Board of Liquor and Lottery and its agents and ~~inspectors~~ investigators shall act in this respect in collaboration with sheriffs, deputy sheriffs, constables, ~~officers~~ law enforcement officers certified as Level II or Level III pursuant to 20 V.S.A. chapter 151, and members of village and city police forces, control commissioners, the Attorney General, State's Attorneys, and town and city grand jurors.

(C) When the Board acts to enforce any section of this title or any administrative rule ~~or regulation~~ relating to sale to minors, its investigation on the alleged violation shall be forwarded to the Attorney General or the appropriate State's Attorney whether or not there is an administrative finding of wrongdoing. Nothing in this section shall be deemed to affect the responsibility or duties of ~~such~~ law enforcement officers or agencies with respect to the enforcement of ~~such laws~~ the provisions of this title.

(D) The Commissioner or ~~his or her~~ designee is authorized to prosecute administrative matters under this section and shall have the authority to enter into direct negotiations with a licensee to reach a proposed resolution or settlement of an alleged violation, subject to Board approval, or dismissal with or without prejudice.

(2) Supervise the opening and operation of local agencies for the sale and distribution of spirits and fortified wines.

(3) Locate ~~and~~, establish, and supervise the operation of a central liquor ~~agency~~ warehouse and office for the purpose of supplying spirits and fortified wines to local agencies established in accordance with this title and for the purpose of selling spirits and fortified wines to licensees of the third-class and ~~druggists, and supervise the operation of such central liquor agency~~ fortified wine permit holders.

(4) Supervise the financial transactions of ~~such~~ the central liquor ~~agency~~ warehouse and office, and the local agencies established in accordance with this title.

(5) Adopt rules necessary for the execution of its powers and duties and of the powers and duties of all persons under its supervision and control.

(6) Employ ~~such~~ assistants, ~~inspectors~~ investigators, and other officers as it deems necessary, subject to the approval of the Governor.

(7) Fix bonds or other security to be given by licensees.

(8) ~~Make~~ Adopt rules ~~and regulations~~ concerning, and issue licenses and permits under ~~such~~ whatever terms and conditions ~~as~~ it may impose for the furnishing, purchasing, selling, bartering, transporting, importing, exporting, delivering, and possessing of alcohol, including denatured alcohol, for manufacturing, mechanical, medicinal, and scientific purposes.

(9) Adopt rules regarding labeling and advertising of ~~malt or vinous beverages, spirits, and fortified wines~~ alcoholic beverages by adoption of federal regulations or otherwise, and collaborate with federal agencies in respect ~~thereto~~ to the adoption and the enforcement ~~thereof~~ of the rules.

(10) Adopt rules relating to extension of credit by and to licensees or permittees.

(11) Adopt rules regarding intrastate transportation of malt and vinous beverages.

§ 105. DUTIES OF ATTORNEY GENERAL

The ~~attorney general~~ Attorney General shall collaborate with the ~~liquor control board~~ Board of Liquor and Lottery for the enforcement of the provisions of subdivision ~~(1) of section~~ 104(1) of this title.

§ 106. COMMISSIONER OF LIQUOR ~~CONTROL~~ AND LOTTERY; REPORTS; RECOMMENDATIONS

(a)(1) With the advice and consent of the Senate, the Governor shall appoint from among no fewer than three candidates proposed by the ~~Liquor Control~~ Board of Liquor and Lottery a Commissioner of Liquor ~~Control~~ and Lottery for a term of four years.

(2) The Board shall review the applicants for the position of Commissioner of Liquor ~~Control~~ and Lottery and by a vote of the majority of the members of the Board shall select candidates to propose to the Governor. The Board shall consider each applicant's administrative expertise and his or her knowledge regarding the business of distributing and selling alcoholic beverages and administering the State Lottery.

(b) The Commissioner shall serve at the pleasure of the Governor until the end of the term for which he or she is appointed or until a successor is appointed.

§ 107. DUTIES OF COMMISSIONER OF LIQUOR ~~CONTROL~~ AND LOTTERY

(a) The Commissioner of Liquor ~~Control~~ and Lottery shall direct and supervise the Department of Liquor and Lottery and, subject to the direction of the Board, shall see that the laws relating to alcohol and tobacco under this title and the State Lottery under 31 V.S.A. chapter 14 are carried out. The

Commissioner shall annually prepare a budget for the Department and submit it to the Board.

(b) With respect to the laws relating to alcohol, the Commissioner shall:

(1) In towns that vote to permit the sale of spirits and fortified wines, establish local agencies as the Board of Liquor and Lottery shall determine. However, the ~~Liquor Control~~ Board shall not be obligated to establish an agency in every town that votes to permit the sale of spirits and fortified wines.

* * *

(4) Supervise the quantities and qualities of spirits and fortified wines to be kept as stock in local agencies and recommend rules subject to approval and adoption by the Board regarding the filling of requisitions ~~therefor~~ for spirits and fortified wines on the Commissioner of Liquor ~~Control~~ and Lottery.

(5) Purchase ~~through the Commissioner of Buildings and General Services~~ spirits and fortified wines for and in behalf of the ~~Liquor Control~~ Board of Liquor and Lottery~~,~~; supervise their storage and distribution to local agencies, ~~druggists,~~ third-class licensees, and holders of fortified wine permits~~,~~; and recommend rules subject to approval and adoption by the Board regarding the sale and delivery from the central ~~storage plant~~ liquor warehouse.

* * *

§ 108. ENFORCEMENT BY BOARD; REGULATIONS; FORMS AND REPORTS

The ~~liquor control board~~ Board of Liquor and Lottery shall administer and enforce the provisions of this title, and is authorized and empowered to ~~prescribe such~~ adopt rules and ~~regulations, including the issuing of~~ issue the necessary blanks, forms, and reports, except reports to the ~~commissioner of taxes~~ Commissioner of Taxes and to the ~~commissioner of public safety~~ Commissioner of Public Safety, as may be necessary to carry out the provisions of this title.

§ 109. AUDIT OF ACCOUNTS OF ~~LIQUOR CONTROL~~ BOARD OF LIQUOR AND LOTTERY

All accounts of the ~~liquor control board~~ Board of Liquor and Lottery related to its activities pursuant to this title shall be audited annually by the ~~auditor of accounts~~ Auditor of Accounts and the annual report of ~~such~~ the audit shall accompany the annual reports of ~~such liquor control board~~ the Board of Liquor and Lottery.

§ 110. SPECIAL BRANDS; PURCHASE BY COMMISSIONER OF LIQUOR ~~CONTROL.~~ AND LOTTERY

If ~~any~~ a person ~~shall desire~~ desires to purchase any class, variety, or brand of spirits or fortified wine ~~which any~~ that a local agency or fortified wine permit holder does not have in stock, the Commissioner of Liquor ~~Control~~ and Lottery shall order the ~~same through the Commissioner of Buildings and General Services~~ product upon the payment of a reasonable deposit by the purchaser in ~~such~~ a proportion of the approximate cost of the order as ~~shall be~~ prescribed by the ~~regulations~~ rules of the ~~Liquor Control~~ Board of Liquor and Lottery.

§ 111. ~~VINOUS BEVERAGES MANUFACTURED IN VERMONT~~ TRANSFER OF LOCAL AGENCY STORE IN CONJUNCTION WITH SALE OF REAL PROPERTY OR BUSINESS

~~Vinous beverages manufactured in Vermont and bearing the Vermont seal of quality:~~

~~(1) shall be sold in State-operated stores;~~

~~(2) may be sold in contract agency stores and may be displayed with the spirits and fortified wines or with the vinous beverages, or both.~~

(a) If a proposed sale of real estate or a business in which a local agency store is located is contingent on the transfer of the agency store's contract with the Board to the buyer, the seller and buyer may, prior to completing the sale, submit to the Department a request to approve the transfer of the agency store's contract to the buyer. The request shall be accompanied by any information required by the Department.

(b) The Department shall review the request and evaluate the buyer based on the standards for evaluating an applicant for a new agency store contract.

(c) Within 30 days after receiving the request and all necessary information, the Department shall complete the evaluation of the proposed transfer and notify the parties of whether the agency store's contract may be transferred to the buyer.

(d)(1) If the transfer is approved, the contract shall transfer to the buyer upon completion of the sale.

(2) If the transfer is denied, the seller may continue to operate the agency store pursuant to the existing contract with the Department.

§ 112. LIQUOR CONTROL ENTERPRISE FUND

The Liquor Control Enterprise Fund is ~~hereby~~ established. It shall consist of all receipts from the sale of spirits, fortified wines, and other items by the

Board of Liquor and Lottery and Division of Liquor Control; fees paid to the ~~Department~~ Division of Liquor Control for the benefit of the ~~Department~~ Division; all other amounts received by the ~~Department~~ Division of Liquor Control for its benefit; and all amounts that are from time to time appropriated to the ~~Department~~ Division of Liquor Control.

Sec. 14. 7 V.S.A. chapter 7 is amended to read:

CHAPTER 7. MUNICIPAL CONTROL

§ 161. LICENSES VOTED BY TOWN; TOWN MEETINGS; WARNING

(a) Upon petition of not less than five percent of the legal voters of any town, filed with the town clerk in conformance with 17 V.S.A. § 2642, the warning of the annual or special meeting shall contain an article providing for a vote upon the following questions:

Shall licenses for the sale of malt and vinous beverages be granted in this town?

Shall spirits and fortified wines be sold in this town?

The vote under ~~such~~ the article shall be by ballot in the following form:

Shall licenses for the sale of malt and vinous beverages be granted in this town?

Yes _____ No _____

Shall spirits and fortified wines be sold in this town?

Yes _____ No _____

(b) Licenses and permits for the sale of malt and vinous beverages and ~~spirit~~ spirits and fortified wines shall be issued according to the vote at the annual town meeting held in March 1969 until a town votes otherwise.

§ 162. REPORT

After any annual town meeting ~~wherein the~~ in which a town votes on the questions set forth in section 161 of this title, the town clerk ~~of the town~~ shall report promptly the results of the vote to the ~~liquor control board~~ Board of Liquor and Lottery, upon forms furnished by the ~~board~~ Board.

§ 163. BALLOTS; COLOR

(a) Whenever a petition is filed under section 161 of this title, the town clerk shall print, at least two weeks before the annual or special meeting, ~~cause~~ blank ballots for the votes provided for in section 161 of this title ~~to be printed~~ in any color except yellow~~, in such manner that each ballot can be easily detached, to the number of~~. The ballots shall be printed in a quantity equal to

not less than one and one-tenth times the number of registered voters ~~qualified to vote~~ at the last preceding general election, as shown by the checklist.

(b) Upon each ~~such~~ ballot shall be endorsed the words: "OFFICIAL BALLOT" followed by the name of the town in which it is to be used and the date of the election. The town clerk is authorized to use regular ballots for the requisite number of sample ballots by adding in type or print on the front ~~thereof~~ of each ballot, the words: "SAMPLE BALLOT."

§ 164. DUTIES OF BALLOT CLERKS AND TOWN CLERKS

The board of civil authority, or the ballot clerks if directed by ~~them~~ the board of civil authority, shall have charge of the ballots and perform the duties imposed upon ballot clerks and assisting clerks and be subject to the penalties imposed upon such officials by law. The town clerk shall perform the same duties in respect to ~~such~~ the ballots as are imposed upon him or her by the provisions of law governing general elections, except as otherwise provided.

§ 165. HOURS OF OPENING

The box for the reception of ~~such~~ the ballots shall be opened at the hour the meeting is called, and be closed when general voting ceases.

§ 166. CONTROL COMMISSIONERS

There shall be control commissioners in each town and city. ~~Such~~ The control commissioners shall be the selectboard members in each town and the city council members in each city. The town and city clerks shall be recording officers and clerks of the commissioners and be paid as ~~hereinafter~~ provided in 24 V.S.A. §§ 932 and 933.

§ 167. DUTIES OF LOCAL CONTROL COMMISSIONERS

(a) The local control commissioners shall administer ~~such~~ the rules ~~and regulations, which shall be~~ furnished to them by the ~~liquor control board~~ Board of Liquor and Lottery, as ~~shall be~~ necessary to carry out the purposes of this title. Except as provided in subsection (b) of this section, all applications for and forms of licenses and permits, ~~and applications therefor~~ and all rules ~~and regulations~~ shall be prescribed by the ~~liquor control board~~ Board of Liquor and Lottery, which shall prepare and issue ~~such~~ the applications, forms, and rules ~~and regulations~~.

(b) If the municipality so votes at a meeting duly warned for that purpose, the local control commissioners may, in the exercise of their authority under ~~subdivision 222(1) of~~ this title, condition the issuance of licenses and permits upon compliance, during the term of the license or permit, with any ordinance regulating entertainment or public nuisances that has been duly adopted by the municipality~~; and~~ at a meeting duly warned for that purpose.

(c) The local control commissioners may, in the exercise of their authority under section ~~236~~ 210 of this title, suspend or revoke a ~~liquor~~ license or permit for a violation of any condition placed upon the issuance of ~~a~~ the license or permit under subsection (b) of this section. ~~The local control commissioners shall give reasons for the suspension or revocation in writing and shall also state the duration of any suspension in writing.~~

§ 168. UNORGANIZED PLACES, CONTROL COMMISSIONERS

In an unorganized town or gore, the supervisor shall be the control commissioner for the administration of the ~~liquor control laws~~ rules necessary to carry out the applicable provisions of this title. He or she may in his or her discretion issue and approve the issuance of licenses and permits as he or she finds will best serve the interests of the inhabitants ~~best served~~. The provisions of sections 161–165~~, 221 and 224~~ and 201 of this title, insofar as they relate to voting, shall not apply to unorganized towns and gores.

Sec. 15. REDESIGNATION; ADDITION OF SUBCHAPTER

7 V.S.A. chapter 9, subchapter 1, which shall include sections 201–214, is added to read:

Subchapter 1. General Provisions

Sec. 16. REDESIGNATION; ADDITION OF SUBCHAPTER

7 V.S.A. chapter 9, subchapter 2, which shall include sections 221–229, is added to read:

Subchapter 2. Retail Licenses and Permits

Sec. 17. REDESIGNATION; ADDITION OF SUBCHAPTER

7 V.S.A. chapter 9, subchapter 3, which shall include sections 241–243, is added to read:

Subchapter 3. Catering Licenses and Permits

Sec. 18. REDESIGNATION; ADDITION OF SUBCHAPTER

7 V.S.A. chapter 9, subchapter 4, which shall include sections 251–259, is added to read:

Subchapter 4. Tasting and Event Permits

Sec. 19. REDESIGNATION; ADDITION OF SUBCHAPTER

7 V.S.A. chapter 9, subchapter 5, which shall include sections 271–283, is added to read:

Subchapter 5. Manufacturing and Distribution of Alcohol

Sec. 20. 7 V.S.A. § 221 is redesignated and amended to read:

§ ~~221~~ 201. LICENSES CONTINGENT ON TOWN VOTE~~; RESTRICTIONS AS TO DANCING PAVILIONS~~

Licenses of the first or second class shall not be granted by the control commissioners or the ~~Liquor Control~~ Board of Liquor and Lottery to be exercised in any city or town, the voters of which vote "No" ~~to the question: "Shall license be granted for the sale of malt and vinous beverages?"~~ on the question of whether to permit the sale of malt beverages and vinous beverages pursuant to section 161 of this title. Licenses of the third class shall not be granted by the ~~Liquor Control~~ Board of Liquor and Lottery to be exercised in any city or town, the voters of which vote "No" ~~to the question: "Shall spirits and fortified wines be sold in this town?"~~ on the question of whether to sell fortified wines and spirits pursuant to section 161 of this title. ~~Licenses of the third class shall not be granted to any open air or wayside dancing pavilions.~~

Sec. 21. 7 V.S.A. § 223 is redesignated and amended to read:

§ ~~223~~ 202. LICENSES TO ENFORCEMENT OFFICER OR CONTROL ~~BOARD MEMBER~~ COMMISSIONER; EXCEPTIONS

(a) No license of any class shall be granted to any enforcement officer or to any person acting in the officer's behalf.

(b) A member of a local control ~~board~~ commission to whom or in behalf of whom a ~~first or second class~~ first- or second-class license was issued by that ~~board~~ commission shall not participate in any control ~~board~~ commission action regarding any ~~first or second class~~ first- or second-class license. If a majority of the members of a local control ~~board~~ commission is unable to participate in a control ~~board~~ commission action regarding any ~~first or second class~~ first- or second-class license, that action shall be referred to the ~~state liquor control board~~ Board of Liquor and Lottery for investigation and action.

(c) An application for a ~~first or second class~~ first- or second-class license by or in behalf of a member of the local control ~~board~~ commission or a complaint or disciplinary action regarding a ~~first or second class~~ first- or second-class license issued by a ~~board~~ commission on which any member is a licensee shall be referred to the ~~state liquor control board~~ Board of Liquor and Lottery for investigation and action.

Sec. 22. 7 V.S.A. § 230 is redesignated and amended to read:

§ ~~230~~ 203. RESTRICTIONS; FINANCIAL INTERESTS; ~~DISPLAY OF LICENSE;~~ EMPLOYEES

(a)(1) Except as provided in ~~subdivision 2(15)~~ section 271 of this title, a ~~bottler~~ packager, manufacturer, or rectifier licensed in Vermont or in another state, a certificate of approval holder, or a wholesale dealer shall not have any financial interest in the business of a first-, second-, or third-class ~~license~~ licensee, and a first-, second-, or third-class licensee may not have any financial interest in the business of a ~~bottler~~ packager, manufacturer, or rectifier licensed in Vermont or in another state, a certificate of approval holder, or a wholesale dealer.

(2) ~~However~~ Notwithstanding subdivision (1) of this subsection and except as otherwise provided in section 271 of this title, a manufacturer of malt beverages may have a financial interest in the business of a first- or second-class license, and a first- or second-class licensee may have a financial interest in the business of a manufacturer of malt beverages, provided ~~a~~ the first- or second-class licensee does not purchase, possess, or sell the malt beverages produced by a manufacturer with which there is any financial interest. ~~All licenses or permits granted under this title shall be conspicuously displayed on the premises for which the license or permit is granted.~~ Any manufacturer of malt beverages that has a financial interest in a first- or second-class licensee and any first- or second-class licensee that has a financial interest in a manufacturer of malt beverages, as permitted under this ~~section~~ subdivision, shall provide to the ~~Department~~ Division of Liquor Control and the applicable wholesale dealer written notification of that financial interest and the licensees involved. A wholesale dealer shall not be in violation of this section for delivering malt beverages to a first- or second-class licensee that is prohibited from purchasing, possessing, or selling those malt beverages under this section.

(b) An individual who is an employee of a wholesale dealer that does not hold a solicitor's license may also be employed by a first- or second-class licensee on a paid or voluntary basis, provided that the employee does not exercise any control over, or participate in, the management of the first- or second-class licensee's business or business decisions, and that ~~either~~ neither employment relationship ~~does not result~~ results in the exclusion of any competitor wholesale dealer or any brand of alcoholic beverages of a competitor wholesale dealer.

Sec. 23. 7 V.S.A. § 231 is redesignated and amended to read:

§ ~~231~~ 204. APPLICATION AND RENEWAL FEES FOR LICENSES AND PERMITS; DISPOSITION OF FEES

(a) The following fees shall be paid when applying for a new license or permit or to renew a license or permit:

(1) For a manufacturer's or rectifier's license to manufacture or rectify malt beverages, or vinous beverages and fortified wines, or spirits and fortified wines, $285.00 for each license.

(2) For a ~~bottler's~~ packager's license, $1,865.00.

(3) For a wholesale dealer's license, $1,245.00 for each location.

(4) For a first-class license, $230.00.

(5) For a second-class license, $140.00.

(6) For a third-class license, $1,095.00 for an annual license and $550.00 for a six-month license.

(7) For a shipping license for malt beverages or vinous beverages:

(A) In-state consumer shipping license, ~~initial and renewal,~~ $330.00.

(B) Out-of-state consumer shipping license, ~~initial and renewal,~~ $330.00.

(C) ~~Retail~~ Vinous beverages retail shipping license, $250.00.

(8)(A) For a caterer's license, $250.00.

(B) For a commercial catering license, $220.00.

(C) For a request to cater permit, $20.00.

(9) ~~[Repealed.]~~

~~(10) [Repealed.]~~

~~(11)~~ For up to ten fourth-class licenses, $70.00.

~~(12)~~(10) For an industrial alcohol ~~distributors~~ distributor's license, $220.00.

~~(13)~~(11) For a special events permit, $35.00.

~~(14)~~(12) For a festival permit, $125.00.

~~(15)~~(13) For ~~a wine~~ an alcoholic beverages tasting permit, $25.00.

~~(16)~~(14) For an educational sampling event permit, $250.00.

~~(17)~~(15) For an outside consumption permit, $20.00.

~~(18)~~(16) For a certificate of approval:

(A) For malt beverages, $2,485.00.

(B) For vinous beverages, $985.00.

~~(19)~~(17) For a solicitor's license, $70.00.

~~(20)~~(18) For a vinous beverages storage license, $235.00.

~~(21)~~(19) For a promotional railroad tasting permit ~~for a railroad~~, $20.00.

~~(22)~~(20) For an ~~art gallery or bookstore~~ special venue serving permit, $20.00.

~~(23)~~(21) For a fortified wine permit, $100.00.

~~(24) For a public library or museum permit, $20.00.~~

~~(25)~~(22) For a retail delivery permit, $100.00.

~~(26)~~(23) For a destination resort master license, $1,000.00.

(b) Except for fees collected for first-, second-, and third-class licenses, the fees collected pursuant to subsection (a) of this section shall be deposited in the Liquor Control Enterprise Fund. The other fees shall be distributed as follows:

(1) Third-class license fees: 55 percent shall go to the Liquor Control Enterprise Fund, and 45 percent shall go to the General Fund and shall fund alcohol abuse prevention and treatment programs.

(2) First- and second-class license fees: At least 50 percent of first-class and second-class license fees shall go to the respective municipalities in which the licensed premises are located, and the remaining percentage of those fees shall go to the Liquor Control Enterprise Fund. A municipality may retain more than 50 percent of the fees that the municipality collected for first- and second-class licenses to the extent that the municipality has assumed responsibility for enforcement of those licenses pursuant to a contract with the Department. The ~~Department~~ Board of Liquor and Lottery shall adopt rules regarding contracts entered into pursuant to this subdivision.

Sec. 24. 7 V.S.A. § 232 is redesignated and amended to read:

§ ~~232~~ 205. TERMS OF PERMITS ~~AND~~, LICENSES, AND CERTIFICATES

(a) All permits ~~and~~, licenses, and certificates shall expire midnight, April 30, of each year ~~and, upon the payment of a new fee,~~.

(b) A permit, license, or certificate may be renewed as follows:

(1) A first-class or second-class license, and an outside consumption permit associated with a first-class license, may be renewed by:

(A) payment of the fee provided in section 204 of this title;

(B) submission to the local control commissioners ~~with the~~ of an application demonstrating that the licensee satisfies all applicable rules and requirements; and

(C) approval of the ~~liquor control board~~ Board of Liquor and Lottery as provided in section 221, 222, or 227 of this title~~, provided the licensee is entitled thereto~~.

(2) All other permits, licenses, and certificates may be renewed by:

(A) payment of the fee provided in section 204 of this title; and

(B) submission to the Board of Liquor and Lottery or the Division, as appropriate, of an application demonstrating that the holder satisfies all applicable rules and requirements.

Sec 25. 7 V.S.A. § 233 is redesignated and amended to read:

§ ~~233~~ 206. DISPOSAL OF FEES

The control commissioners shall collect all fees for ~~retailers' licenses of the first~~ first- and ~~second class~~ second-class licenses and shall pay ~~such~~ the fees to the Division and the city and town treasurers of the respective cities and towns where ~~such~~ the fees are collected ~~to be~~ as provided in subsection 204(b) of this chapter. The portion of each fee paid to the city or town may be used as ~~such cities and towns~~ it may direct, less a fee of $5.00 to be retained by the city or town clerk as a fee for issuing ~~such~~ and recording the license ~~and recording the same~~. ~~Fees~~ Except as otherwise provided in section 274 and 275 of this title, fees for all other licenses shall be paid to the ~~liquor control board~~ Board of Liquor and Lottery.

Sec. 26. 7 V.S.A. § 234 is redesignated and amended to read:

§ ~~234~~ 207. CHANGE OF LOCATION

~~In case any~~ If a licensee desires to change the location of ~~his~~ its business before the expiration of ~~his~~ its license, ~~upon proper~~ the licensee may submit an application~~,~~ to the ~~liquor control board~~ Board of Liquor and Lottery, which may amend ~~his~~ the license to cover the new premises without the payment of any additional fee.

Sec. 27. 7 V.S.A. § 208 is added to read:

§ 208. DISPLAY OF LICENSE

All licenses or permits granted under this title shall be conspicuously displayed on the premises for which the license or permit is granted.

Sec. 28. 7 V.S.A. § 235 is redesignated and amended to read:

§ ~~235~~ 209. BANKRUPTCY, DEATH, AND REVOCATION

(a) If a licensee or permittee becomes bankrupt or dies before the expiration of ~~his or her~~ its license or permit, ~~his or her~~ the licensee's or permittee's trustee, executor, or administrator may sell the ~~intoxicating liquors~~

alcohol ~~which~~ that came into ~~his or her~~ its possession to a holder of a license or permit of the same class.

(b) If a license or permit is revoked under the provisions of this title, after ~~such~~ the revocation, the licensee or permittee may sell the ~~intoxicating liquors in his or her~~ alcohol in its possession at the time of ~~such~~ the revocation to a holder of a license or permit of the same class.

(c)(1) All sales under this section ~~shall be accompanied by immediate and actual delivery and~~ shall be made within 30 days after ~~such~~ the bankruptcy, death, or revocation and shall include immediate and actual delivery of the alcohol.

(2) ~~However~~ Notwithstanding subdivision (1) of this subsection, upon application of the executor or administrator of a deceased licensee or permittee, the ~~board~~ Board may transfer the license or permit of the decedent to ~~such~~ the executor or administrator without payment of any additional fee, and the executor or administrator may then carry on the business of the decedent under the license or permit until ~~the~~ its expiration ~~thereof~~.

(d)(1) The holder of a manufacturer's or rectifier's license may pledge or mortgage ~~intoxicating liquor~~ alcoholic beverages manufactured or rectified by ~~such~~ the licensee and ~~such~~ the pledgee or mortgagee may retain possession of ~~such liquor~~ the alcoholic beverages and ~~after condition broken~~, if the licensee defaults, may sell and dispose of the alcoholic beverages to persons to whom the licensee might lawfully sell ~~such liquors~~ the alcoholic beverages, subject to the same restrictions and regulations as ~~such~~ the licensee, and to ~~such~~ any further restriction ~~and regulation as may be~~ or rules prescribed by the ~~liquor control board~~ Board of Liquor and Lottery with respect to ~~notice to it in~~ advance notice to it of ~~such~~ the sale and determination by it of the persons entitled to buy and the manner of ~~such~~ the sale.

(2) Any sale ~~under such~~ pursuant to a default on a pledge or mortgage shall not be at public auction as required with respect to ~~like~~ similar sales of other property, but shall be upon not less than ten days' notice to the pledgor or mortgagor and for the highest amount which may be offered ~~under the regulations of such liquor control board as aforesaid~~ pursuant to the rules of the Board of Liquor and Lottery.

Sec. 29. 7 V.S.A. § 236 is redesignated and amended to read:

§ ~~236~~ 210. SUSPENSION OR REVOCATION OF LICENSE OR PERMIT; ADMINISTRATIVE PENALTY

(a)(1) The control commissioners or the ~~liquor control board~~ Board of Liquor and Lottery shall have power to suspend or revoke any permit or license granted pursuant to this title in the event the person holding ~~such~~ the

permit or license shall at any time during the term ~~thereof so~~ of the permit or license conduct ~~his or her~~ its business ~~as to be~~ in violation of this title, the conditions pursuant to which ~~such~~ the permit or license was granted, or ~~of~~ any rule ~~or regulation~~ prescribed by the ~~liquor control board~~ Board of Liquor and Lottery.

(2) No revocation shall be made until the permittee or licensee ~~shall be~~ has been notified and ~~be~~ given a hearing before the ~~liquor control board~~ Board of Liquor and Lottery, unless ~~such~~ the permittee or licensee ~~shall have~~ has been convicted by a court of competent jurisdiction of violating the provisions of this title.

(3) In the case of a suspension, the permittee or licensee shall be notified and given a hearing before the ~~liquor control board~~ Board of Liquor and Lottery or the local ~~governing body~~ control commissioners, whichever applies.

(4) Any decision to suspend or revoke a license shall be issued in writing and set forth the reasons for the suspension or revocation and, if applicable, the duration of the suspension.

(5) A tobacco license may not be suspended or revoked for a first-time violation. Suspension or revocation of a tobacco license shall not affect any liquor license held by the licensee.

(b)(1) As an alternative to and in lieu of the authority to suspend or revoke any permit or license, the ~~liquor control board~~ Board of Liquor and Lottery shall also have the power to impose an administrative penalty of up to $2,500.00 per violation against a holder of a wholesale dealer's license or a holder of a ~~first~~ first-, ~~second~~ second-, or ~~third class~~ third-class license for a violation of the conditions ~~under which~~ of the license ~~was issued~~ or of this title or of any rule ~~or regulation~~ adopted by the ~~board~~ Board.

(2) The administrative penalty may be imposed after a hearing before the ~~board~~ Board or after the licensee has been convicted by a court of competent jurisdiction of violating the provisions of this title.

(3) The ~~board~~ Board may also impose an administrative penalty under this subsection against a holder of a tobacco license for up to $100.00 for a first violation and up to $1,000.00 for subsequent violations.

(4) For the first violation during a tobacco or alcohol compliance check during any three-year period, a licensee or permittee shall receive a warning and be required to attend a ~~department~~ Division server training class.

(c) For suspension or revocation proceedings involving a tobacco license or the imposition of an administrative penalty against a tobacco licensee under this section, the ~~commissioner~~ Commissioner, a ~~board~~ Board member designated by the ~~chair~~ Chair, or a hearing officer designated by the ~~chair~~

Chair pursuant to section ~~236a~~ 211 of this title may conduct the hearing and render a decision.

(d)(1) The ~~board~~ Board shall subpoena any person in this ~~state~~ State to appear for a hearing or for a deposition in the same manner as prescribed for judicial procedures.

(2) Sheriffs and witnesses shall receive the same fees for the service of process and attendance before the ~~board~~ Board as are paid in ~~superior court~~ Superior Court.

Sec. 30. 7 V.S.A. § 236a is redesignated and amended to read:

§ ~~236a~~ 211. HEARING OFFICER

(a) The ~~chair~~ Chair of the ~~board~~ Board of Liquor and Lottery may appoint a hearing officer to conduct hearings pursuant to section ~~236~~ 210 of this title. A hearing officer may be a member of the ~~board~~ Board appointed under section ~~236~~ 210 of this title.

(b) The hearing officer may administer oaths in all cases, so far as the exercise of that power is properly incidental to the performance of the hearing officer's duty or that of the ~~board~~ Board. A hearing officer may hold any hearing in any matter within the jurisdiction of the ~~board~~ Board.

(c) The hearing officer shall make findings of fact in writing to the ~~board~~ Board in the form of a proposal for decision. A copy of the proposal for decision shall be served upon the parties pursuant to 3 V.S.A. § ~~811~~ 812. Judgment on the hearing officer's proposal for decision shall be rendered by a majority of the ~~board~~ Board.

(d) At least 10 days prior to a hearing ~~before the board~~, the hearing officer shall give written notice of the time and place of the hearing to all parties in the case and shall indicate either that the hearing will be before the Board or the name and title of the person designated to conduct the hearing.

(e) The ~~chair~~ Chair may appoint a hearing officer to hear and finally determine any complaint involving a tobacco license. In such a case, the hearing officer may impose administrative penalties as provided in subsection ~~236(b)~~ 210(b) of this title.

Sec. 31. 7 V.S.A. § 237 is redesignated and amended to read:

§ ~~237~~ 212. COMPLAINTS AND PROSECUTIONS

The ~~commissioner of liquor control~~ Commissioner of Liquor and Lottery or the local control commissioners shall make complaint to the ~~state's attorney~~ State's Attorney or town grand juror of any unlawful furnishing, selling, or keeping for sale of alcohol~~, spirituous liquor, or malt or vinous beverages~~ or

alcoholic beverages, and ~~furnish the evidence thereof to such state's attorney~~ provide evidence in support of the complaint to the State's Attorney or town grand juror, who shall prosecute for ~~such~~ the alleged violation.

Sec. 32. 7 V.S.A. § 239 is redesignated and amended to read:

§ ~~239~~ 213. LICENSEE EDUCATION

(a) A new first-class, second-class, third-class, fourth-class~~, or farmers' market license~~, or manufacturer's or rectifier's license, or common carrier certificate shall not be granted until the applicant has attended a ~~Department~~ Division of Liquor Control in-person seminar or completed the appropriate ~~Department~~ Division of Liquor Control online training program for the purpose of being informed of the Vermont ~~liquor~~ laws~~,~~ and rules~~, and regulations~~ pertaining to the purchase, storage, and sale of ~~alcohol~~ alcoholic beverages. A corporation, partnership, or association shall designate a director, partner, or manager who shall comply with the terms of this subsection.

(b)(1) Every holder of a first-class, second-class, third-class, fourth-class, or ~~farmers' market licensee, and every holder of a~~ manufacturer's or rectifier's license, or common carrier certificate shall complete the ~~Department~~ Division of Liquor Control in-person licensee training seminar or the appropriate ~~Department~~ Division of Liquor Control online training program at least once every two years. A corporation, partnership, or association shall designate a director, partner, or manager who shall comply with the terms of this subsection.

(2) A first-class, second-class, third-class, fourth-class~~, or farmers' market license~~, or manufacturer's or rectifier's license shall not be renewed unless the Division's records ~~of the Department of Liquor Control~~ show that the licensee has complied with the terms of this subsection.

(c)(1) Each licensee, permittee, or common carrier certificate holder shall ensure that every employee who is involved in the delivery, sale, or serving of ~~alcohol~~ alcoholic beverages completes a training program approved by the ~~Department~~ Division of Liquor Control before the employee begins serving or selling alcoholic beverages and at least once every 24 months thereafter. Each licensee shall maintain written documentation, signed by each employee trained, of each training program conducted.

(2) A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished or approved by the ~~Department~~ Division of Liquor Control. A licensee who fails to comply with the requirements of this subsection shall be subject to a suspension of the license issued under this title for no less than one day ~~of the license issued under this title~~.

(d) The following fees for ~~Department~~ Division of Liquor Control in-person or online seminars will be paid:

(1) For a first-class or first- and third-class licensee seminar either ~~in person~~ in-person or online, $25.00 per person.

(2) For a second-class licensee seminar either ~~in person~~ in-person or online, $25.00 per person.

(3) For a combination first-class, first- and third-class, and second-class licensee seminar either ~~in person~~ in-person or online, $25.00 per person.

(4) For a manufacturer's or rectifier's, or fourth-class~~, or farmers' market~~ licensee seminar either ~~in person~~ in-person or online, $10.00 per person.

(5) For common carrier seminars either ~~in person~~ in-person or online, $10.00 per person.

(6) For all special event, festival, educational sampling, ~~art gallery, bookstore, museum and library~~ and special venue serving permit holders for either an in-person or online seminar, $10.00 per person.

(e) Fees for all seminars listed in this section and under other sections of this title with regards to in-person or online training shall be deposited directly in the Liquor Control Enterprise Fund.

Sec. 33. 7 V.S.A. § 240 is redesignated and amended to read:

§ ~~240~~ 214. PROOF OF FINANCIAL RESPONSIBILITY

(a) Any ~~first, second or third class liquor~~ first-, second-, or third-class licensee whose license is suspended by the local control commissioners or suspended or revoked by the ~~liquor control board~~ Board of Liquor and Lottery for selling or furnishing ~~intoxicating liquor~~ alcoholic beverages to a minor, to a person apparently under the influence of ~~intoxicating liquor~~ alcohol, to a person after legal serving hours, or to a person ~~whom~~ who it would be reasonable to expect would be intoxicated as a result of the amount of ~~liquor~~ alcoholic beverages served to that person, shall be required to furnish to the ~~liquor control department~~ Commissioner a certificate of financial responsibility within 60 days of the commencement of the suspension or revocation or at the time of reinstatement of the license, whichever is later. Financial responsibility may be established by any one or a combination of the following: insurance, surety bond, or letter of credit. Coverage shall be maintained at not less than $25,000.00 per occurrence and $50,000.00 aggregate per occurrence. Proof of financial responsibility shall be required for license renewal for the three years following the suspension or revocation.

(b)(1) Proof of financial responsibility and completion of the licensee education program established in section ~~239~~ 213 of this title shall be conditions for a licensee to be permitted to resume operation after a suspension or revocation for any of the reasons in subsection (a) of this section~~; however~~.

(2) However, at the discretion of the suspending or revoking authority, the licensee may receive a provisional license prior to the time these conditions are met in order to allow for compliance with the education requirement or to obtain the certificate of financial responsibility. A provisional license may not be issued for a period exceeding 60 days.

Sec. 34. 7 V.S.A. § 221 is added to read:

§ 221. FIRST-CLASS LICENSES

(a)(1) With the approval of the Board of Liquor and Lottery, the control commissioners may grant a first-class license to a retail dealer for the premises where the dealer carries on business if the retail dealer submits an application and pays the fee provided in section 204 of this title, and satisfies the Board that the premises:

(A) are leased, rented, or owned by the retail dealer;

(B) are devoted primarily to dispensing meals to the public, except in the case of clubs; and

(C) have adequate and sanitary space and equipment for preparing and serving meals.

(2) The Board of Liquor and Lottery may grant a first-class license to a boat or railroad dining car if the person that operates it submits an application and pays the fee provided in section 204 of this title.

(3) The Division shall post notice of pending applications on its website.

(b)(1) A first-class license permits the holder to sell malt and vinous beverages for consumption only on those premises.

(2) Except as otherwise provided pursuant to sections 271 and 278 of this title, a first-class license holder shall purchase all malt beverages and vinous beverages sold pursuant to the license from Vermont wholesale dealers or packagers.

(c) A retail dealer carrying on business in more than one place shall acquire a first-class license for each place where the retail dealer sells malt or vinous beverages for consumption on the premises.

(d) Partially consumed bottles of vinous beverages or specialty beers that were purchased with a meal may be removed from first-class licensed premises provided the beverages are recapped or resealed.

(e) No person under 18 years of age shall be employed by a first-class licensee as:

(1) a bartender for the purpose of preparing, mixing, or dispensing alcoholic beverages; or

(2) a waitress or waiter for the purpose of serving alcoholic beverages.

(f)(1) A holder of a first-class license may contract with another person to prepare and dispense food on the licensed premises.

(2) The first-class license holder shall provide to the Division written notification five business days prior to the start of the contract the following information:

(A) the name and address of the license holder;

(B) a signed copy of the contract;

(C) the name and address of the person contracted to provide the food;

(D) a copy of the person's license from the Department of Health for the facility in which food is served; and

(E) the person's rooms and meals tax certificate from the Department of Taxes.

(3) The holder of the first-class license shall notify the Division within five business days of the termination of the contract to prepare and dispense food. The first-class licensee shall be responsible for controlling all conduct on the premises at all times, including the area in which the food is prepared and stored.

(g) A hotel that holds a first-class license and places a minibar in any room of a registered guest shall ensure that the minibar is locked and that access to the minibar is restricted to guests of legal drinking age.

(h) The holder of a first-class license may permit a customer to:

(1) possess or carry no more than two open containers of alcoholic beverages; and

(2) maintain control over his or her open container of alcoholic beverages at all times while on the licensed premises.

Sec. 35. 7 V.S.A. § 222 is amended to read:

§ 222. ~~FIRST- AND~~ SECOND-CLASS LICENSES~~; GRANTING OF; SALE TO MINORS; CONTRACTING FOR FOOD SERVICE~~

(a)(1) With the approval of the ~~Liquor Control~~ Board of Liquor and Lottery, the control commissioners may grant ~~the following licenses~~ a second-class license to a retail dealer for the premises where the dealer carries on business if the retail dealer submits an application and pays the fee provided in section 204 of this title and satisfies the Board that the premises:

~~(1) Upon making application and paying the license fee provided in section 231 of this title, a first-class license which authorizes the dealer to sell malt and vinous beverages for consumption only on those premises, and upon satisfying the Liquor Control Board that the premises are leased, rented, or owned by the retail dealer and are devoted primarily to dispensing meals to the public, except clubs, and that the premises have adequate and sanitary space and equipment for preparing and serving meals. The term "public" includes patrons of hotels, boarding houses, restaurants, dining cars, and similar places where meals are served. A retail dealer carrying on business in more than one place shall acquire a first-class license for each place where the retail dealer sells malt and vinous beverages. No malt or vinous beverages shall be sold by a first-class licensee to a minor. Partially consumed bottles of vinous beverages or specialty beers that were purchased with a meal may be removed from first-class licensed premises provided the beverages are recapped or resealed.~~

~~(2) Upon making application, paying the license fee provided in section 231 of this title, and upon satisfying the Board that such~~

(A) ~~premises~~ are leased, rented, or owned by the retail dealer; and

(B) are a safe, sanitary, and proper place from which to sell malt and vinous beverages~~, a second-class license, which shall authorize such dealer~~.

(2) The Division shall post notice of pending applications on its website.

(b)(1) A second-class license permits the holder to export malt and vinous beverages~~,~~ and to sell malt and vinous beverages to the public from ~~such~~ the licensed premises for consumption off the premises.

(2) The Division of Liquor Control may grant a second-class licensee a fortified wine permit pursuant to section 225 of this chapter or a retail delivery permit pursuant to section 226 of this chapter.

(3) Except as otherwise provided pursuant to sections 225, 271, and 278 of this title, a second-class license holder shall purchase all malt beverages and vinous beverages sold pursuant to its license from Vermont wholesale dealers or packagers.

(c) A retail dealer carrying on business in more than one place shall be required to acquire a second-class license for each place where the retail dealer sells malt and vinous beverages. ~~No malt or vinous beverages shall be sold by a second-class licensee to a minor.~~

~~(3) No person under the age of 18 shall be employed by a first- or third-class licensee as a bartender for the purpose of preparing, mixing, or dispensing alcoholic beverages. No person under the age of 18 shall be employed by a first- or third-class licensee as a waitress or waiter for the purpose of serving alcoholic beverages.~~

~~(4)(A) A holder of a first-class license may contract with another person to prepare and dispense food on the license holder's premises.~~

~~(B) The first-class license holder shall provide to the Department written notification five business days prior to start of the contract the following information:~~

~~(i) the name and address of the license holder;~~

~~(ii) a signed copy of the contract;~~

~~(iii) the name and address of the person contracted to provide the food;~~

~~(iv) a copy of the person's license from the Department of Health for the facility in which food is served; and~~

~~(v) the person's rooms and meals tax certificate from the Department of Taxes.~~

~~(C) The holder of the first-class license shall notify the Department within five business days of the termination of the contract to prepare and dispense food. It is the responsibility of the first-class licensee to control all conduct on the premises at all times, including the area in which the food is prepared and stored.~~

~~(5)(A) The holder of a first-class license may serve a sampler flight of up to 32 ounces in the aggregate of malt beverages to a single customer at one time.~~

~~(B) The holder of a first-class license may serve a sampler flight of up to 12 ounces in the aggregate of vinous beverages to a single customer at one time.~~

(C) The holder of a third-class license may serve a sampler flight of up to four ounces in the aggregate of spirits or fortified wines to a single customer at one time.

(6) The Liquor Control Board may grant a fortified wine permit to a second-class licensee if the licensee files an application accompanied by the license fee as provided in section 231 of this title. The holder of a fortified wine permit may sell fortified wines to the public from the licensed premises for consumption off the premises. The Liquor Control Board shall issue no more than 150 fortified wine permits in any single year. The holder of a fortified wine permit shall purchase all fortified wines to be offered for sale to the public pursuant to the permit through the Liquor Control Board at a price equal to no more than 75 percent of the current retail price for the fortified wine established by the Commissioner pursuant to subdivision 107(3)(B) of this title.

(7)(A)(i) The Liquor Control Board may grant a retail delivery permit to a second-class licensee if the licensee files an application accompanied by the fee provided in section 231 of this title.

(ii) Notwithstanding subdivision (i) of this subdivision (7)(A), the Liquor Control Board shall not grant a retail delivery permit in relation to a second-class license issued to a licensed manufacturer or rectifier for the manufacturer's or rectifier's premises.

(B) A retail delivery permit holder may deliver malt beverages or vinous beverages sold from the licensed premises for consumption off the premises to an individual who is at least 21 years of age subject to the following requirements:

(i) Deliveries shall only be made by the permit holder or an employee of the permit holder.

(ii) Deliveries shall only occur between the hours of 9:00 a.m. and 5:00 p.m.

(iii) Deliveries shall only be made to a physical address located in Vermont.

(iv) An employee of a retail delivery permit holder shall not be permitted to make deliveries of malt beverages or vinous beverages pursuant to the permit unless he or she has completed a training program approved by the Department as required pursuant to section 239 of this chapter.

(v) Malt beverages and vinous beverages delivered pursuant to a retail delivery permit shall be for personal use and not for resale.

Sec. 36. 7 V.S.A. § 224 is redesignated and amended to read:

§ ~~224~~ 223. THIRD-CLASS LICENSES~~; OPEN CONTAINERS~~

(a)(1) The ~~Liquor Control~~ Board of Liquor and Lottery may grant to a person who operates a hotel, restaurant, ~~or~~ club, boat, or railroad dining car, or who holds a manufacturer's or rectifier's license, a ~~license of the third class~~ third-class license if the person files an application accompanied by the ~~license~~ fee ~~as~~ provided in section ~~231~~ 204 of this title for the premises in which the business of the hotel, restaurant, or club is carried on or for the boat or railroad dining car.

(2) The applicant shall satisfy the Board that the applicant is the bona fide owner or lessee of the premises, boat, or railroad dining car and that it is operated for the purpose covered by the license.

(b) ~~The holder of a~~ A third-class license holder may sell spirits and fortified wines for consumption only on the licensed premises ~~covered by the license. The applicant for a third-class license shall satisfy the Liquor Control Board that the applicant is the bona fide owner or lessee of the premises and that the premises are operated for the purpose covered by the license~~, boat, or railroad dining car.

~~(b)~~(c) The holder of a ~~first- or first- and~~ third-class license may permit a ~~consumer~~ customer to:

(1) ~~Possess~~ possess or carry no more than two open containers of alcoholic beverages~~.~~; and

(2) ~~Maintain~~ maintain control over his or her open container of alcoholic beverages at all times while on the licensed premises, boat, or railroad dining car.

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

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

(e) No person under 18 years of age shall be employed by a third-class licensee as:

(1) a bartender for the purpose of preparing, mixing, or dispensing alcoholic beverages; or

(2) a waitress or waiter for the purpose of serving alcoholic beverages.

Sec. 37. 7 V.S.A. § 241 is redesignated and amended to read:

§ ~~241~~ 224. ~~FOURTH CLASS LICENSE; RULES: ADVERTISING~~ FOURTH-CLASS LICENSES

(a) The Board of Liquor and Lottery may grant up to a combined total of ten fourth-class licenses to a manufacturer or rectifier that submits an application and the fee provided in section 204 of this title.

(b) At each licensed location, a fourth-class licensee may sell by the unopened container or distribute by the glass, with or without charge, alcoholic beverages manufactured by the licensee.

(1) A licensee may, for consumption at the licensed premises or location, distribute the following amounts of alcoholic beverages to a retail customer:

(A) no more than two ounces of malt beverages or vinous beverages with a total of eight ounces; and

(B) no more than one-quarter ounce of spirits or fortified wine with a total of one ounce.

(2) At a fourth-class license location at the licensee's manufacturing premises, the licensee may distribute by the glass up to four mixed drinks containing a combined total of no more than one ounce of spirits or fortified wine to each retail customer for consumption only on the licensed premises.

(3) At each licensed location, a fourth-class licensee may, pursuant to section 64 of this title, sell malt beverages or vinous beverages, or both by the keg.

(c)(1) At only one fourth-class license location, a licensed manufacturer or rectifier may sell by the unopened container or distribute by the glass, with or without charge, alcoholic beverages produced by no more than five additional manufacturers or rectifiers, provided these beverages are purchased on invoice from the manufacturer or rectifier.

(2) A manufacturer or rectifier may sell its product to no more than five additional manufacturers or rectifiers.

(d) A fourth-class license issued for a farmers' market location shall be valid for all dates of operation for the specific farmers' market location.

(e) Rules ~~and regulations~~ applicable to ~~second class~~ second-class licenses and pertaining to financial responsibility~~; education of employees~~, age of employees~~, hours of sale, age of purchasers~~, the selling and furnishing to apparently intoxicated persons; and leases of businesses shall all apply ~~in like manner~~ to ~~fourth class~~ fourth-class licenses.

~~(b)~~(f) Signs and advertising of ~~fourth class~~ fourth-class licenses at tasting rooms and retail shops other than at the manufacturer's or rectifier's premises shall indicate that the premises are a "tasting room and retail shop," and shall be in lettering not less than 75 percent of the height and width of the lettering setting forth the name of the licensee or establishment.

Sec. 38. 7 V.S.A. § 225 is redesignated and amended to read:

§ ~~225~~ 251. EDUCATIONAL SAMPLING EVENT PERMIT

(a) The Division of Liquor Control ~~Board~~ may grant an educational sampling event permit to a person ~~to conduct an event that is open to the public and at which malt beverages, vinous beverages, fortified wines, or spirits, or all four are served only for the purposes of marketing and educational sampling, provided~~ if:

(1) the event is also approved by the local ~~licensing authority. At~~ control commissioners; and

(2) at least 15 days prior to the event, ~~an~~ the applicant ~~shall submit~~ submits an application to the ~~Department~~ Division in a form required by the ~~Department. The application shall include~~ Commissioner that includes a list of the alcoholic beverages to be acquired for sampling at the event~~, and the application shall be~~ and is accompanied by ~~a~~ the fee ~~in the amount required pursuant to~~ provided in section ~~231~~ 204 of this title.

(b) An educational sampling event permit holder is permitted to conduct an event that is open to the public at which malt beverages, vinous beverages, fortified wines, spirits, or all four are served only for the purposes of marketing and educational sampling.

(c)(1) No more than four educational sampling event permits shall be issued annually to the same person.

(2) An educational sampling event permit shall be valid for no more than four consecutive days.

(d) The permit holder shall ensure all the following:

(1) Attendees at the educational sampling event shall be required to pay an entry fee of no less than $5.00.

(2)(A) ~~Beverages~~ Malt beverages or vinous beverages for sampling shall be offered in glasses that contain no more than two ounces of either beverage.

(B) Fortified wines and spirits for sampling shall be offered in glasses that contain no more than one quarter ounce of either beverage.

(3) The event shall be conducted in compliance with all the requirements of this title.

~~(b)~~(e) An educational sampling event permit holder:

(1) ~~May~~ may receive shipments directly from a manufacturer, ~~bottler~~ packager, certificate of approval holder, wholesale dealer, or importer licensed in Vermont or that provides evidence of licensure in another state or foreign country satisfactory to the Board~~.~~;

(2) ~~May~~ may transport ~~malt beverages, vinous beverages, fortified wines, and spirits~~ alcoholic beverages to the event site, and those beverages may be served at the event by the permit holder or the holder's employees, volunteers, or representatives of a manufacturer, ~~bottler~~ packager, or importer participating in the event, provided they meet the server age and training requirements under section 259 of this chapter~~.~~; and

(3) ~~[Repealed.]~~

~~(c) All the~~ shall mark all cases and bottles of alcoholic beverages to be served at the event ~~shall be marked by the permit holder~~ "For sampling only. Not for resale."

~~(d)~~(f) Taxes for the alcoholic beverages served at the event shall be paid as follows:

(1) ~~Malt~~ malt beverages:

(A) $0.265 per gallon of malt beverages served~~.~~ that contain not more than six percent of alcohol by volume at 60 degrees Fahrenheit; and

(B) $0.55 per gallon of malt beverages served that contain more than six percent of alcohol by volume at 60 degrees Fahrenheit;

(2) ~~Vinous~~ vinous beverages: $0.55 per gallon served~~.~~;

(3) ~~Spirituous liquors~~ spirits: $19.80 per gallon served~~.~~; and

(4) ~~Fortified~~ fortified wines: $19.80 per gallon served.

Sec. 39. 7 V.S.A. § 225 is added to read:

§ 225. FORTIFIED WINE PERMITS

(a)(1) The Division of Liquor Control may grant a fortified wine permit to a second-class licensee if the licensee files an application accompanied by the fee provided in section 204 of this title.

(2) The Division of Liquor Control shall issue no more than 150 fortified wine permits in any single year.

(b)(1) A fortified wine permit holder may sell fortified wines to the public from the licensed premises for consumption off the premises.

(2) A fortified wine permit holder shall purchase all fortified wines to be offered for sale to the public pursuant to the permit through the Liquor Control Board at a price equal to no more than 75 percent of the current retail price for the fortified wine established by the Commissioner pursuant to subdivision 107(3)(B) of this title.

Sec. 40. 7 V.S.A. § 226 is redesignated and amended to read:

§ ~~226~~ 272. ~~BOTTLERS'~~ PACKAGER'S LICENSE

(a) The ~~liquor control board~~ Board of Liquor and Lottery may grant ~~to a bottler a license to bottle and sell malt and vinous beverages received by such bottler in bulk upon~~ a packager's license to a person if the person:

(1) submits an application ~~and the payment of~~;

(2) pays the ~~license~~ fee ~~as~~ provided in section ~~231~~ 204 of this title; and

(3) ~~upon satisfying~~ satisfies the ~~commissioner of liquor control~~ Commissioner of Liquor and Lottery as to ~~the~~ its compliance with the rules ~~and regulations~~ of the ~~liquor control board~~ Board relating to the cleanliness of the applicant's facilities for storage and bottling of ~~the malt and vinous~~ alcoholic beverages.

(b) A packager's license holder may:

(1) bottle or otherwise package alcoholic beverages the licensee receives in bulk for sale; and

(2) distribute and sell alcoholic beverages that are bottled or otherwise packaged for sale by the licensee.

(c) A packager's license holder shall comply with the provisions of subsection 274(c) of this subchapter.

Sec. 41. 7 V.S.A. § 226 is added to read:

§ 226. RETAIL DELIVERY PERMITS

(a)(1) The Division of Liquor Control may grant a retail delivery permit to a second-class licensee if the licensee files an application accompanied by the fee provided in section 204 of this title.

(2) Notwithstanding subdivision (1) of this subsection, the Division of Liquor Control shall not grant a retail delivery permit in relation to a second-class license issued to a licensed manufacturer or rectifier for the manufacturer's or rectifier's premises.

(b) A retail delivery permit holder may deliver malt beverages or vinous beverages sold from the licensed premises for consumption off the premises to an individual who is at least 21 years of age subject to the following requirements:

(1) Deliveries shall only be made by the permit holder or an employee of the permit holder.

(2) Deliveries shall only occur between the hours of 9:00 a.m. and 5:00 p.m.

(3) Deliveries shall only be made to a physical address located in Vermont.

(4) An employee of a retail delivery permit holder shall not be permitted to make deliveries of malt beverages or vinous beverages pursuant to the permit unless he or she has completed a training program approved by the Division pursuant to section 213 of this chapter.

(5) Malt beverages and vinous beverages delivered pursuant to a retail delivery permit shall be for personal use and not for resale.

Sec. 42. 7 V.S.A. § 227 is redesignated and amended to read:

§ ~~227~~ 273. WHOLESALE DEALER'S LICENSE

(a) The ~~liquor control board~~ Board of Liquor and Lottery may grant ~~to a wholesale dealer a license to distribute or sell malt and vinous beverages upon application of such wholesale dealer and the payment of~~ a wholesale dealer's license to a person if the person:

(1) submits an application on a form required by the Board;

(2) pays the ~~license~~ fee ~~as~~ provided in section ~~231~~ 204 of this title; and

(3) ~~upon satisfying the liquor control board~~ satisfies the Board as to ~~his or her~~ its qualifications as a wholesale dealer.

(b) A wholesale dealer's license holder may distribute or sell malt beverages or vinous beverages to first- and second-class licensees and holders of educational sampling event permits.

(c)(1) In no event shall a wholesale dealer's license ~~permit carrying~~ holder be permitted to carry on business allowed by a ~~retail dealer's first class~~ first-class license or ~~second class~~ second-class license.

(2) A wholesale dealer's license holder shall comply with the provisions of subsection 274(c) of this subchapter.

Sec. 43. 7 V.S.A. § 228 is redesignated and amended to read:

§ ~~228~~ 258. ~~DINING CARS AND BOATS; FIRST- OR THIRD-CLASS LICENSE; PURCHASE OF LIQUORS OUTSIDE STATE;~~ PROMOTIONAL RAILROAD TASTING PERMIT

~~(a) The Liquor Control Board may grant to a person that operates a boat or dining car engaged in interstate commerce a license of the first-class or third-class upon the application and payment of the license fee as provided in section 231 of this title. A person that operates a dining car or boat engaged in interstate commerce may procure spirits and fortified wines outside the State of Vermont.~~

~~(b)~~ The Division of Liquor Control ~~Board~~ may grant to a person that operates a railroad a tasting permit that permits the holder to conduct tastings of ~~Vermont-produced~~ alcoholic beverages in the dining car~~, provided~~ if the person files with the ~~department~~ Division an application along with the ~~permit~~ fee ~~required pursuant to subdivision 231(a)(21)~~ provided in section 204 of this title.

Sec. 44. 7 V.S.A. § 238a is redesignated and amended to read:

§ ~~238a~~ 227. OUTSIDE CONSUMPTION PERMITS; FIRST-, THIRD-, AND FOURTH-CLASS LICENSEES

Pursuant to ~~regulations of~~ the rules of the Board of Liquor and Lottery, the Division of Liquor Control ~~Board,~~ may grant an outside consumption permit ~~may be granted~~ to the holder of a first- ~~or~~, first- and third-class ~~licenses for all or part of the outside premises of a golf course or to the holder of a~~, or fourth-class license for all or part of the outside premises of the license holder~~,~~ ~~provided that such~~ if the permit is ~~first obtained from~~ approved by the local control commissioners and ~~approved by~~ the Board.

Sec. 45. 7 V.S.A. § 228 is added to read:

§ 228. SAMPLER FLIGHTS

(a) The holder of a first-class license may serve a sampler flight of up to 32 ounces in the aggregate of malt beverages to a single customer at one time.

(b) The holder of a first-class license may serve a sampler flight of up to 12 ounces in the aggregate of vinous beverages to a single customer at one time.

(c) The holder of a third-class license may serve a sampler flight of up to four ounces in the aggregate of spirits or fortified wines to a single customer at one time.

Sec. 46. 7 V.S.A. § 229 is amended to read:

§ 229. ~~NUMBER OF LICENSES ALLOWED~~ CLUBS

~~Unless specially authorized by the board, it shall be unlawful for a person to hold more than one first class license or more than one second class license at the same time or a first class license and a second class license, or a second class license and a third class license at the same time, or a bottler's license or wholesale dealer's license and a license of any other class at the same time. However, nothing herein shall be construed to prevent a person holding a bottler's license and a wholesale dealer's license at the same time provided such person pays both the license fees as provided in section 231 of this title.~~

(a)(1) Except as otherwise provided in subdivisions (2) and (3) of this subsection, a club shall be permitted to obtain a license under this title if it has existed for at least two consecutive years prior to the date of its application.

(2) A club whose officers and members consist solely of veterans of the U.S. Armed Forces or a subordinate lodge or local chapter of any national fraternal order, which fulfills all requirements of this section except that it has not been in existence for at least two consecutive years, shall be permitted to obtain a license under this title if it has existed for at least six months prior to the date of its application.

(3) A club that is located on and integrally associated with at least a regulation nine-hole golf course shall be permitted to obtain a license under this title if it has existed for at least six months prior to the date of its application.

(b) The premises of a club that is licensed pursuant to this title may be used or leased by a nonmember as a location for a social event as if it were any other licensed commercial establishment.

(c)(1) Before May 1 of each year, each club shall file with the Board of Liquor and Lottery a list of the names and residences of its members and a list of its officers.

(2) Its affairs and management shall be conducted by a board of directors, executive committee, or similar body chosen by the members at its annual meeting.

(3)(A) A club may provide for a salary for members, officers, agents, or employees of the club by a vote at annual meetings by the club's members, directors, or other governing body, and shall report the salary set for the members, officers, agents, or employees to the Board of Liquor and Lottery.

(B) No member, officer, agent, or employee of a club shall be paid, or directly or indirectly receive, in the form of salary or other compensation,

any profits from the disposition or sale of alcoholic beverages to the club's members or guests introduced by members beyond the amount of any salary that may be fixed and voted pursuant to subdivision (A) of this subdivision (3).

(4) An auxiliary member of a club may invite one guest at any one time.

(5)(A) An officer or director of a club may perform the duties of a bartender without receiving any payment for that service, provided the officer or director is in compliance with the requirements of this title that relate to service of alcoholic beverages.

(B) An officer, member, or director of a club may volunteer to perform services at the club other than serving alcoholic beverages, including seating patrons and checking identification, without receiving payment for those services.

(6) An officer, member, or director of a club who volunteers his or her services shall not be considered to be an employee of the club.

Sec. 47. 7 V.S.A. § 238 is redesignated and amended to read:

§ ~~238~~ 241. CATERER'S LICENSE~~, GRANTING OF; SALE TO MINORS~~; COMMERCIAL CATERING LICENSE

(a) The ~~Liquor Control~~ Board of Liquor and Lottery may issue a caterer's license ~~only to those persons who hold a current first-class license or current first- and third-class licenses for a restaurant or hotel premises.~~

~~(b) The Board may issue~~ or a commercial catering license ~~only~~ to ~~those persons~~ a person who ~~hold~~ holds a first-class license or ~~current~~ first- and third-class licenses.

~~(c)~~(b) The ~~Liquor Control~~ Board of Liquor and Lottery shall adopt rules as ~~it deems~~ necessary to effectuate the purposes of this section.

~~(d) No malt or vinous beverages, spirits, or fortified wines shall be sold or served to a minor by a holder of a caterer's license.~~

~~(e) Notwithstanding the provisions of subsection (a) of this section, the Liquor Control Board may issue a caterer's license to a licensed manufacturer or rectifier who holds a current first-class license.~~

Sec. 48 7 V.S.A. § 243 is added to read:

§ 243. REQUEST TO CATER PERMIT

(a) The Division of Liquor Control may issue a request to cater permit to the holder of a caterer's license or commercial caterer's license if the licensee:

(1) submits an application for the permit on a form prescribed by the Commissioner;

(2) receives approval for the proposed event from the local control commissioners; and

(3) pays the fee required pursuant to section 204 of this title.

(b) A request to cater permit shall authorize a licensed caterer or commercial caterer to serve alcoholic beverages at an individual event as set forth in the permit.

Sec. 49. 7 V.S.A. § 252 is added to read:

§ 252. SPECIAL EVENT PERMITS

(a)(1) The Division of Liquor Control may issue a special event permit if the application is submitted to the Division of Liquor Control with the fee provided in section 204 of this title at least five days prior to the date of the event.

(2) A special event permit shall be valid for the duration of each public event or four days, whichever is shorter.

(b)(1) A special event permit holder may sell alcoholic beverages manufactured or rectified by the permit holder by the glass or the unopened bottle.

(2) For purposes of tasting, a special event permit holder may distribute beverages manufactured or rectified by the permit holder with or without charge, provided the beverages are distributed:

(A) by the glass; and

(B) in quantities of no more than two ounces per product and eight ounces total of malt beverages or vinous beverages and no more than one ounce in total of spirits or fortified wines to each individual.

(c)(1) A licensed manufacturer or rectifier may be issued no more than 104 special event permits during a year.

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

Sec. 50. 7 V.S.A. § 253 is added to read:

§ 253. FESTIVAL PERMITS

(a) The Division of Liquor Control may grant a festival permit if the applicant has:

(1) received approval from the local control commissioners;

(2) submitted a request for a festival permit to the Division in a form required by the Commissioner at least 15 days prior to the festival; and

(3) paid the fee provided in section 204 of this title.

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

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

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

(d) A person shall be granted no more than four festival permits per year, and each permit shall be valid for no more than four consecutive days.

Sec. 51. 7 V.S.A. § 254 is added to read:

§ 254. SPECIAL VENUE SERVING PERMITS

(a) The Division of Liquor Control may grant an art gallery, bookstore, public library, or museum a special venue serving permit if the applicant has:

(1) received approval from the local control commissioners;

(2) submitted a request for a permit to the Division in a form required by the Commissioner at least five days prior to the event; and

(3) paid the fee provided in section 204 of this title.

(b) A permit holder may purchase malt or vinous beverages directly from a licensed retailer.

(c) A permit holder shall be subject to the provisions of this title and the rules of the Board regarding the service of alcoholic beverages.

(d) A public library or museum may only be granted a permit pursuant to this section for an event held for a charitable or educational purpose at which malt and vinous beverages will be served for a period of not more than six hours.

Sec. 52. 7 V.S.A. § 255 is added to read:

§ 255. RETAIL ALCOHOLIC BEVERAGE TASTING PERMITS

(a) The Division of Liquor Control may grant a licensee a permit to conduct an alcoholic beverage tasting event as provided in subsection (b) of this section if:

(1) the licensee has submitted a written application in a form required by the Commissioner and paid the fee provided in section 204 of this title at least five days prior to the date of the alcoholic beverage tasting event; and

(2) the Commissioner determines that the licensee is in good standing,

(b) The Division may grant the following alcoholic beverage tasting permits to the following types of licensees:

(1) A second-class licensee.

(A) The permit authorizes the employees of the second-class licensee or of a designated manufacturer or rectifier to dispense to each customer of legal age on the licensee's premises malt or vinous beverages by the glass not to exceed two ounces of each beverage with a total of eight ounces of malt or vinous beverages.

(B) Malt or vinous beverages dispensed at the tasting event shall be from the inventory of the licensee or purchased from a wholesale dealer.

(C) A second-class licensee may be granted up to 48 tasting permits per year. In addition, a second-class licensee may be granted up to five permits per week to conduct a tasting as part of an educational food preparation class or course conducted by the licensee on the licensee's premises.

(2) A licensed manufacturer or rectifier of malt or vinous beverages.

(A) The permit authorizes the licensed manufacturer or rectifier to dispense to each customer of legal age for consumption on the premises of a second-class licensee beverages produced by the manufacturer or rectifier by the glass not to exceed two ounces of each beverage with a total of eight ounces of malt or vinous beverages.

(B) A manufacturer or rectifier may conduct no more than 48 tastings per year.

(3) A licensed wholesale dealer. The permit authorizes a licensed wholesale dealer to dispense malt or vinous beverages for promotional purposes at the wholesale dealer's premises without charge to invited employees of first-, second-, and third-class licensees, provided the invited employees are of legal age.

(c) A vinous beverage or malt beverage tasting event held pursuant to subsection (b) of this section, not including an alcoholic beverage tasting conducted on the premises of the manufacturer or rectifier, shall comply with the following:

(1) continue for no more than six hours, with no more than six beverages to be offered at a single event, and no more than two ounces of any single beverage and no more than a total of eight ounces of malt or vinous beverages to be dispensed to a customer;

(2) serve no more than eight individuals at one time; and

(3) be conducted totally within a designated area that extends no further than 10 feet from the point of service and that is marked by a clearly visible sign that states that no one under 21 years of age may participate in the tasting.

(d) The holder of a permit issued under this section shall keep an accurate accounting of the beverages consumed at a tasting event and shall be responsible for complying with all applicable laws under this title.

(e) The holder of a permit issued under this section that provides alcoholic beverages to a minor or permits an individual under 18 years of age to serve alcoholic beverages at a tasting event under this section shall be fined not less than $500.00 nor more than $2,000.00 or imprisoned not more than two years, or both.

Sec. 53. 7 V.S.A. § 256 is added to read:

§ 256. PROMOTIONAL TASTINGS FOR LICENSEES

(a)(1) At the request of a first- or second-class licensee, a holder of a manufacturer's, rectifier's, or wholesale dealer's license may distribute without charge to the first- or second-class licensee's management and staff, provided they are of legal age and are off duty for the rest of the day, two ounces per person of vinous or malt beverages for the purpose of promoting the beverage.

(2) At the request of a holder of a third-class license, a manufacturer or rectifier of spirits or fortified wines may distribute without charge to the third-class licensee's management and staff, provided they are of legal age and are off duty for the rest of the day, one-quarter ounce of each beverage and no more than a total of one ounce to each individual for the purpose of promoting the beverage.

(3) No permit is required for a tasting pursuant to this subsection, but written notice of the event shall be provided to the Division of Liquor Control at least two days prior to the date of the tasting.

(b)(1) At the request of a holder of a wholesale dealer's license, a first-class licensee may dispense malt or vinous beverages for promotional purposes

without charge to invited management and staff of first-, second-, or third-class licensees, provided they are of legal age.

(2) The event shall be held on the premises of the first-class licensee.

(3) The first-class licensee shall be responsible for complying with all applicable laws under this title.

(4) No permit is required for a tasting pursuant to this subsection, but the wholesale dealer shall provide written notice of the event to the Division of Liquor Control at least 10 days prior to the date of the tasting.

(c)(1) Upon receipt of a first- or second-class application by the Board, a holder of a wholesale dealer's license may dispense malt or vinous beverages for promotional purposes without charge to invited management and staff of the business that has applied for a first- or second-class license, provided they are of legal age.

(2) The event shall be held on the premises of the first- or second-class applicant.

(3) The first- or second-class applicant shall be responsible for complying with all applicable laws under this title.

(4) No malt or vinous beverages shall be left behind at the conclusion of the tasting.

(5) No permit is required under this subdivision, but the wholesale dealer shall provide written notice of the event to the Division at least five days prior to the date of the tasting.

Sec. 54. 7 V.S.A. § 257 is added to read:

§ 257. TASTINGS FOR PRODUCT QUALITY ASSURANCE

(a) A licensed manufacturer or rectifier may distribute to its management and staff who are directly involved in the production of the licensee's products, provided they are of legal age and at the licensed premises, samples of the licensee's products for the purpose of assuring the quality of the products.

(b) Each sample of malt beverages or vinous beverages shall be no larger than two ounces, and each sample of spirits or fortified wines shall be no larger than one-quarter ounce.

(c) No permit is required for a tasting pursuant to this section.

Sec. 55. 7 V.S.A. § 259 is added to read:

§ 259. TASTING EVENTS; AGE AND TRAINING OF SERVERS

No individual who is under 18 years of age or who has not received training as required by the Division may serve alcoholic beverages at a tasting event under this subchapter.

Sec. 56. 7 V.S.A. § 271 is added to read:

§ 271. MANUFACTURER'S OR RECTIFIER'S LICENSE

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

(1) malt beverages;

(2) vinous beverages and fortified wines; or

(3) spirits and fortified wines.

(b) Except as otherwise provided in section 224 of this title and subsections (d)–(f) of this section:

(1) spirits and fortified wine may be manufactured for sale to the Board of Liquor and Lottery or for export, or both; and

(2) malt beverages and vinous beverages may be manufactured or rectified for sale to packagers or wholesale dealers, or for export, or both.

(c) A licensed manufacturer of vinous beverages or fortified wines may receive from another manufacturer licensed in or outside this State bulk shipments of vinous beverages to rectify with the licensee's own product, provided that the vinous beverages or fortified wines produced by the licensed manufacturer may contain no more than 25 percent imported vinous beverages.

(d)(1) The Board of Liquor and Lottery may grant to a licensed manufacturer or rectifier a first-class license or a first- and a third-class license permitting the licensee to sell alcoholic beverages to the public at an establishment located at the manufacturer's premises, provided the manufacturer or rectifier owns or has direct control over that establishment.

(2) For a manufacturer of malt beverages, the premises of the manufacturer may include up to two licensed establishments that are located on the contiguous real estate of the license holder, provided the manufacturer owns or has direct control over both establishments.

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

(f)(1) A licensed manufacturer or rectifier may serve alcoholic beverages with or without charge at an event held on the premises of the licensee or at a location on the contiguous real estate of the licensee provided the licensee at least five days before the event gives the Division written notice of the event, including details required by the Division.

(2) Any beverages not manufactured by the licensee and served at the event shall be purchased on invoice from a licensed manufacturer or wholesale dealer or the Board of Liquor and Lottery.

Sec. 57. REPEAL

7 V.S.A. chapter 11 (Certificates of Approval) is repealed.

Sec. 58. 7 V.S.A. § 274 is added to read:

§ 274. CERTIFICATE OF APPROVAL FOR DISTRIBUTION OF MALT OR VINOUS BEVERAGES

(a) The Board of Liquor and Lottery may grant to a manufacturer or distributor of malt or vinous beverages that is not licensed under the provisions of this title a certificate of approval if the manufacturer or distributor does all of the following:

(1) Submits an application on a form prescribed by the Board, including any additional information that the Board may deem necessary.

(2) Agrees to comply with the rules of the Board.

(3) Pays the fee provided in section 204 of this title to the Division of Liquor Control by a certified check payable to the State of Vermont or another form of payment approved by the Board of Liquor and Lottery. If the Board does not grant the application, the certified check or payment shall be returned to the applicant.

(b) A certificate of approval shall permit the holder to export malt or vinous beverages, or sell malt or vinous beverages to holders of packagers' or wholesale dealers' licenses issued under section 272 or 273 of this title, or both.

(c) A holder of a packager's or a wholesale dealer's license issued under this title shall not purchase within or outside the State, or import or cause to be imported into the State, any malt or vinous beverages unless the person, manufacturer, or distributor from which the beverages are obtained holds a valid certificate of approval or packager's license.

(d)(1) The Board of Liquor and Lottery may suspend or revoke a certificate of approval if the holder fails to comply with the rules of the Board or to submit reports to the Commissioner of Taxes in accordance with all applicable laws and rules.

(2)(A) A certificate of approval shall not be revoked unless the holder has been given a hearing following reasonable notice.

(B) Notice of a revocation or suspension shall be sent to each holder of a packager's or wholesale dealer's license prior to the effective date of the revocation or suspension.

(e) A person who violates a provision of this section shall be fined not more than $300.00 or imprisoned not more than one year, or both, for each offense and shall forfeit any license issued under the provisions of this title.

Sec. 59. REPEAL

7 V.S.A. chapter 13 (Solicitor's License) is repealed.

Sec. 60. 7 V.S.A. § 275 is added to read:

§ 275. SOLICITOR'S LICENSE

(a) The Board of Liquor and Lottery may grant an individual a solicitor's license if he or she does all of the following:

(1) Submits an application to the Board of Liquor and Lottery on a form prescribed by the Board. The application shall include, at a minimum, the name, residence, and business address of the applicant, the name and address of the vendor or employer to be represented by the applicant, and an agreement by the applicant to comply with the rules of the Board.

(2) Submits to the Board a recommendation by the vendor to be represented by the applicant that indicates the applicant is qualified to hold a solicitor's license.

(3) Pays the fee provided in section 204 of this title to the Division of Liquor Control by certified check made payable to the State of Vermont. The certified check shall be returned to the applicant if the Board does not grant him or her a license under this section.

(b) A solicitor's license holder may solicit orders for and promote the sale of malt or vinous beverages by canvassing or interviewing holders of licenses issued under the provisions of this title.

(c) The Board of Liquor and Lottery may suspend or revoke a solicitor's license for failure to comply with any rule of the Board or for other cause. A solicitor's license shall not be revoked until the license holder has had an opportunity for a hearing following reasonable notice.

(d) A person who solicits orders for, or promotes the sale of malt or vinous beverages, or attempts to solicit or promote the sale of malt or vinous beverages by canvassing or interviewing a holder of a license issued under the provisions of this title, without having first obtained a solicitor's license as

provided in this section, or who makes a false or fraudulent statement or representation in an application for the license or in connection with an application shall be imprisoned not more than six months or fined not more than $500.00, or both.

Sec. 61. 7 V.S.A. § 276 is added to read:

§ 276. INDUSTRIAL ALCOHOL DISTRIBUTOR'S LICENSE

(a) The Board of Liquor and Lottery may grant an industrial alcohol distributor's license upon application and payment of the fee provided in section 204 of this title.

(b) Alcohol sold under an industrial alcohol distributor's license may only be used for manufacturing, mechanical, medicinal, and scientific purposes.

Sec. 62. 7 V.S.A. § 277 is added to read:

§ 277. MALT AND VINOUS BEVERAGE CONSUMER SHIPPING LICENSE

(a)(1) A manufacturer or rectifier of malt or vinous beverages licensed in Vermont may be granted an in-state consumer shipping license by filing with the Division of Liquor Control an application in a form required by the Commissioner accompanied by a copy of the applicant's current Vermont manufacturer's license and the fee provided in section 204 of this title.

(2) An in-state consumer shipping license may be renewed annually by submitting to the Division the fee provided in section 204 of this title accompanied by a copy of the licensee's current Vermont manufacturer's license.

(b)(1) A manufacturer or rectifier of malt or vinous beverages licensed in another state that operates a brewery or winery in the United States and holds valid state and federal permits and licenses may be granted an out-of-state consumer shipping license by filing with the Division of Liquor Control an application in a form required by the Commissioner accompanied by copies of the applicant's current out-of-state manufacturer's license and the fee provided in section 204 of this title.

(2) An out-of-state consumer shipping license may be renewed annually by submitting to the Division the fee provided in section 204 of this title accompanied by the licensee's current out-of-state manufacturer's license.

(3) As used in this section, "out-of-state" means any state other than Vermont, any territory or possession of the United States, and does not include a foreign country.

(c)(1) A consumer shipping license granted pursuant to this section shall permit the licensee to ship malt or vinous beverages produced by the licensee to private residents for personal use and not for resale.

(2) A licensee shall not ship more than 12 cases of malt beverages containing no more than 36 gallons of malt beverages or no more than 12 cases of vinous beverages containing no more than 29 gallons of vinous beverages to any one Vermont resident in any calendar year.

(3) The beverages shall be shipped by common carrier certified by the Division pursuant to section 280 of this subchapter. The common carrier shall comply with all the following:

(A) deliver beverages pursuant to an invoice that includes the name of the licensee and the name and address of the purchaser;

(B) on delivery, require a valid authorized form of identification, as defined in section 589 of this title, from a recipient who appears to be under 30 years of age; and

(C) require the recipient to sign an electronic or paper form or other acknowledgment of receipt.

Sec. 63. 7 V.S.A. § 278 is added to read:

§ 278. VINOUS BEVERAGE RETAIL SHIPPING LICENSE

(a) A manufacturer or rectifier of vinous beverages that is licensed in-state or out-of-state and holds valid state and federal permits and operates a winery in the United States may apply for a retail shipping license by filing with the Division of Liquor Control an application in a form required by the Commissioner accompanied by a copy of its in-state or out-of-state license and the fee provided in section 204 of this title.

(b) The retail shipping license may be renewed annually by submitting to the Division the fee provided in section 204 of this title accompanied by the licensee's current in-state or out-of-state manufacturer's license.

(c) A retail shipping license holder, including the holder's affiliates, franchises, and subsidiaries, may sell up to 5,000 gallons of vinous beverages per year directly to first- or second-class licensees and deliver the beverages by common carrier, the manufacturer's or rectifier's own vehicle, or the vehicle of an employee of a manufacturer or rectifier, provided that the beverages are sold on invoice, and no more than 100 gallons per month are sold to any single first- or second-class licensee.

(d) The retail shipping license holder shall provide to the Division documentation of the annual and monthly number of gallons sold.

(e) Vinous beverages sold under this section may be delivered by the vehicle of a second-class license holder if the second-class licensee cannot obtain the vinous beverages from a wholesale dealer.

Sec. 64. 7 V.S.A. § 279 is added to read:

§ 279. CONSUMER AND RETAIL SHIPPING LICENSES; GENERAL REQUIREMENTS

A holder of a shipping license granted pursuant to section 277 or 278 of this subchapter shall comply with all of the following:

(1) Ensure that all containers of alcoholic beverages are shipped in a container that is clearly labeled: "contains alcohol; signature of individual 21 years of age or older required for delivery."

(2) Not ship to any address in a municipality that the Division of Liquor Control identifies as having voted to be "dry."

(3) Retain a copy of each record of sale for a minimum of five years from the date of shipping.

(4) Report at least twice per year to the Division if a holder of a consumer shipping license and once per year if a holder of a retail shipping license in a manner and form required by the Commissioner all the following information:

(A) the total amount of malt or vinous beverages shipped into or within the State during the preceding six months if a holder of a consumer shipping license or during the preceding 12 months if a holder of a retail shipping license;

(B) the names and addresses of the purchasers to whom the beverages were shipped; and

(C) the date purchased, the quantity and value of each shipment, and, if applicable, the name of the common carrier used to make each delivery.

(5) Pay to the Commissioner of Taxes the tax required pursuant to section 421 of this title on the malt or vinous beverages shipped pursuant to this subchapter and comply with the provisions of 32 V.S.A. chapter 233, 24 V.S.A. § 138, and any other legally authorized local sales taxes. Delivery in this State shall be deemed to constitute a sale in this State at the place of delivery and shall be subject to all appropriate taxes levied by the State of Vermont.

(6) Permit the State Treasurer, the Division of Liquor Control, and the Department of Taxes, separately or jointly, upon request, to perform an audit of its records.

(7) If an out-of-state license holder, be deemed to have consented to the jurisdiction of the Board of Liquor and Lottery, Department of Liquor and Lottery, Division of Liquor Control, or any other State agency and the Vermont State courts concerning enforcement of this or other applicable laws and rules.

(8) Not have any direct or indirect financial interest in a Vermont wholesale dealer or retail dealer, including a first-, second-, or third-class licensee.

(9) Comply with all applicable laws and Board of Liquor and Lottery rules.

(10) Comply with the beverage container deposit redemption system pursuant to 10 V.S.A. chapter 53.

Sec. 65. 7 V.S.A. § 280 is added to read:

§ 280. COMMON CARRIERS; REQUIREMENTS

(a) A common carrier shall not deliver malt or vinous beverages pursuant to this chapter until it has complied with the training provisions in section 213 of this title and been certified by the Division of Liquor Control.

(b) No employee of a certified common carrier may deliver malt or vinous beverages until that employee completes the training required pursuant to subsection 213(c) of this title.

(c) A certified common carrier shall deliver only malt or vinous beverages that have been shipped by the holder of a license issued under section 277 or 278 of this subchapter or vinous beverages that have been shipped by the holder of a vinous beverage storage license issued under section 283 of this subchapter.

Sec. 66. 7 V.S.A. § 281 is added to read:

§ 281. PROHIBITIONS

(a)(1) Except as otherwise provided in section 226 of this title, direct shipments of malt or vinous beverages are prohibited if the shipment is not specifically authorized and in compliance with sections 277–280 of this subchapter.

(2) Any person who knowingly makes, participates in, imports, or receives a direct shipment of malt or vinous beverages from a person who does not hold a license, permit, or certificate pursuant to sections 226 or 277–280 of this title may be fined not more than $1,000.00 or imprisoned not more than one year, or both.

(b) The holder of a license issued pursuant to section 277 or 278 of this title or a common carrier that ships malt or vinous beverages to an individual under 21 years of age shall be fined not less than $1,000.00 or more than $3,000.00 or imprisoned not more than two years, or both.

(c) For any violation of sections 277–280 of this subchapter, the Board of Liquor and Lottery may suspend or revoke a license issued under section 277 or 278 of this subchapter, in addition to any other remedies available to the Board.

Sec. 67. 7 V.S.A. § 282 is added to read:

§ 282. RULEMAKING

The Board of Liquor and Lottery and the Commissioner of Taxes may adopt rules and forms necessary to implement sections 277–281 of this subchapter.

Sec. 68. 7 V.S.A. § 68 is redesignated and amended to read:

§ ~~68~~ 283. VINOUS BEVERAGE STORAGE AND SHIPPING LICENSE

(a) The ~~liquor control board~~ Board of Liquor and Lottery may, pursuant to rules adopted by the Board, grant a vinous beverage storage and shipping license to a person ~~who operates~~ that submits an application and pays the fee provided in section 204 of this title.

(b)(1) A vinous beverage storage and shipping licensee may operate a climate-controlled storage facility in which vinous beverages owned by another person are stored for a fee ~~a license that allows the licensee to store~~ and may transport vinous beverages on which all applicable taxes already have been paid.

(2) A vinous beverage storage facility may also accept shipments from any licensed in-state or out-of-state vinous beverage manufacturer that has an in-state or out-of-state consumer shipping license pursuant to section ~~66~~ 277 of this title.

(3) Vinous beverages stored by the licensee may be transported only for shipment to the owner of the beverages or to another licensed vinous beverage storage facility, and the beverages shall be shipped only by common carrier in compliance with ~~subsection 66(f)~~ section 280 of this title. ~~The licensee shall pay a fee pursuant to subdivision 231(a)(20) of this title. A license under this section shall be issued pursuant to rules adopted by the board.~~

(c) A person granted a license pursuant to this section may not sell or resell any vinous beverages stored at the storage facility.

Sec. 69. 7 V.S.A. § 421 is amended to read:

§ 421. TAX ON MALT AND VINOUS BEVERAGES

(a) Every ~~bottler~~ packager and ~~wholesaler~~ wholesale dealer shall pay to the Commissioner of Taxes the sum of 26 and one-half cents per gallon for every gallon or its equivalent of malt ~~beverage~~ beverages containing not more than six percent of alcohol by volume at 60 degrees Fahrenheit sold by them to retailers in the State and the sum of 55 cents per gallon for each gallon of malt ~~beverage~~ beverages containing more than six percent of alcohol by volume at 60 degrees Fahrenheit and each gallon of vinous beverages sold by them to retailers in the State ~~and shall also pay to the Liquor Control Board all fees for bottler's and wholesaler's licenses~~. A manufacturer or rectifier of malt or vinous beverages shall pay the taxes required by this subsection to the Commissioner of Taxes for all malt and vinous beverages manufactured or rectified by them and sold at retail.

(b) A ~~bottler~~ packager or ~~wholesaler~~ wholesale dealer may sell malt or vinous beverages to any duly authorized agency of the U.S. Armed Forces on ~~the Ethan Allen Air Force Reservation in the towns of Colchester and Essex or the firing range of the U.S. Armed Forces in the towns of Bolton, Jericho, and Underhill and at the Air Force bases at St. Albans and at the North Concord Air Force Station at North Concord or~~ any ~~other~~ U.S. Armed Forces' installation presently existing in the State or which may in the future be established as though to a retail dealer but without the payment of the gallonage tax, subject to the filing of the returns ~~hereinafter~~ as provided in subsection (c) of this section.

(c)(1) For the purpose of ascertaining the amount of tax, on the filing dates set out in subdivision (2) of this subsection according to tax liability, each ~~bottler and wholesaler~~ packager, wholesale dealer, manufacturer, or rectifier shall transmit to the Commissioner of Taxes, upon a form prepared and furnished by the Commissioner, a statement or return under oath or affirmation showing the quantity of malt and vinous beverages sold by the ~~bottler or wholesaler~~ packager, wholesale dealer, manufacturer, or rectifier during the preceding filing period, and report any other information requested by the Commissioner accompanied by payment of the tax required by this section. The amount of tax computed under subsection (a) of this section shall be rounded to the nearest whole cent. At the same time this form is due, each ~~bottler and wholesaler~~ packager, wholesale dealer, manufacturer, or rectifier also shall transmit to the Commissioner in electronic format a separate report showing the description, quantity, and price of malt and vinous beverages sold by the ~~bottler or wholesaler~~ packager, wholesale dealer, manufacturer, or rectifier to each retail dealer as defined in ~~subdivision 2(18)~~ section 2 of this title; provided, however, for direct sales to retail dealers by manufacturers or

rectifiers of vinous beverages, the report required by this subsection may be submitted in a nonelectronic format.

(2) Where the tax liability for the immediately preceding full calendar year has been (or would have been in cases when the business was not operating for the entire year):

(A) $2,000.00 or less, then payment of the tax and submission of the documents required by this section shall be due and payable in quarterly installments on or before the 25th day of the calendar month succeeding the quarter ending the last day of March, June, September, and December of each year; or

(B) ~~More~~ more than $2,000.00, then payment of the tax and submission of the documents required by this section shall be due and payable monthly on or before the 25th (23rd of February) day of the month following the month for which the tax is due.

(d) The exemption provided in this section for beverages sold on any U.S. Armed Forces' installation presently existing in the State is allowed only if the sales are evidenced by a proper voucher or affidavit in a form prescribed by the Commissioner of Taxes, which shall be a part of the return filed.

(e) A person ~~or corporation~~ failing to pay the tax when due, or failing to make returns as required by this section, shall be subject to and governed by the provisions of 32 V.S.A. §§ 3202 and 3203.

(f) ~~All holders of a license of the first- or second-class shall purchase all malt and vinous beverages from Vermont wholesalers or bottlers.~~ [Repealed.]

Sec. 70. 7 V.S.A. § 423 is amended to read:

§ 423. RULES

(a) The Commissioner of Taxes and the ~~Liquor Control~~ Board of Liquor and Lottery shall adopt ~~such~~ rules as ~~they deem~~ necessary for the proper administration and collection of the tax imposed under section 422 of this title.

* * *

Sec. 71. 7 V.S.A. § 425 is amended to read:

§ 425. TAXES A PERSONAL DEBT; ACTION FOR RECOVERY

All taxes imposed by this title and all increases, interest, and penalties ~~thereon~~ on those taxes, from the time they become due and payable, shall become a personal debt, from the person liable to pay the ~~same,~~ amounts due to the ~~state~~ State of Vermont, ~~to~~ and may be recovered in ~~an~~ a civil action ~~on this statute~~ brought pursuant to this section.

Sec. 72. 7 V.S.A. chapter 17 is redesignated to read:

CHAPTER 17. SALE TO INTOXICATED PERSONS ~~AND PUBLIC CHARGES~~

Sec. 73. 7 V.S.A. § 501 is amended to read:

§ 501. UNLAWFUL SALE OF ~~INTOXICATING LIQUORS~~ ALCOHOLIC BEVERAGES; CIVIL ACTION FOR DAMAGES

(a) Action for damages. A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by an intoxicated person, or in consequence of the intoxication of any person, shall have a right of action in his or her own name, jointly or severally, against any person or persons who have caused in whole or in part ~~such~~ the intoxication by selling or furnishing ~~intoxicating liquor~~ alcoholic beverages:

(1) to a minor as defined in section 2 of this title;

(2) to a person apparently under the influence of ~~intoxicating liquor~~ alcohol;

(3) to a person after legal serving hours; or

(4) to a person ~~whom~~ who it would be reasonable to expect would be under the influence of ~~intoxicating liquor~~ alcohol as a result of the amount of ~~liquor~~ alcoholic beverages served by the defendant to that person.

(b) Survival of action; joint action. Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or his or her legal representatives may bring either a joint action against the person intoxicated ~~and~~, the person or persons who furnished the ~~liquor~~ alcoholic beverages, and an owner who may be liable under subsection (c) of this section, or a separate action against either or any of them.

(c) Landlord liability.

(1) If the ~~intoxicating liquor was~~ alcoholic beverages were sold or furnished to the intoxicated person in a rented building, the owner may be joined as a defendant in the action, and judgment ~~therein~~ in the action may be rendered against the owner, if the owner of the building or in the case of a corporation, its agent, knew or had reason to know that ~~intoxicating liquor was~~ alcoholic beverages were sold or furnished by the tenant:

~~(1)~~(A) to minors as defined in section 2 of this title;

~~(2)~~(B) to persons apparently under the influence of ~~intoxicating liquor~~ alcohol;

~~(3)~~(C) to persons after legal serving hours; or

~~(4)~~(D) to persons ~~whom~~ who it would be reasonable to expect would be under the influence of ~~intoxicating liquor~~ alcohol as a result of the amount of ~~liquor~~ alcoholic beverages served to them by the tenant.

(2) It shall be an affirmative defense to an action against an owner that the owner took reasonable steps to prevent the sale of ~~intoxicating liquor~~ alcoholic beverages under the circumstances described in this subsection or to evict the tenant.

(d) Statute of limitations. An action to recover ~~for~~ damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(e) Evidence.

(1) In an action brought under this section, evidence of responsible actions taken or not taken is admissible, if otherwise relevant.

(2) Responsible actions may include~~, but are not limited to,~~ instruction of servers as to laws governing the sale of alcoholic beverages, training of servers regarding intervention techniques, admonishment to patrons or guests concerning laws regarding the consumption of ~~intoxicating liquor~~ alcoholic beverages, and inquiry under the methods provided by law as to the age or degree of intoxication of the persons involved.

(f) Right of contribution. A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(g) Social host.

(1) Except as set forth in subdivision (2) of this subsection, nothing in this section shall create a statutory cause of action against a social host for furnishing ~~intoxicating liquor~~ alcoholic beverages to any person without compensation or profit~~, if the social host is not a licensee or required to be a licensee under this title~~. However, this subdivision shall not be construed to limit or otherwise affect the liability of a social host for negligence at common law.

(2) A social host who knowingly furnishes ~~intoxicating liquor~~ alcoholic beverages to a minor may be held liable under this section if the social host knew, or a reasonable person in the same circumstances would have known, that the person who received the ~~intoxicating liquor~~ alcoholic beverages was a minor.

(h) Definitions. ~~For the purpose of~~ As used in this section:

(1) "Apparently under the influence of ~~intoxicating liquor~~ alcohol" means a state of intoxication accompanied by a perceptible act or series of actions which present signs of intoxication.

(2) "Social host" means a person who is not the holder of a ~~liquor~~ license or permit under this title and is not required to hold a license or permit under this title ~~to hold a liquor license~~.

Sec. 74. 7 V.S.A. § 502 is amended to read:

§ 502. MINORS; PAYMENT OF DAMAGES RECOVERED

All damages recovered by a minor in ~~such~~ an action under section 501 of this chapter shall be paid over to ~~such~~ the minor or to his or her guardian on ~~such~~ whatever terms ~~as~~ the court may order.

Sec. 75. 7 V.S.A. § 503 is amended to read:

§ 503. SATISFACTION OF JUDGMENT; REVOCATION OF LICENSE

If ~~a judgment recovered against~~ a licensee ~~under the provisions of~~ fails to satisfy a judgment entered under section 501 of this title ~~remains unsatisfied~~ for 30 days after ~~the entry thereof~~ the judgment is entered, the ~~board of~~ local control commissioners or the ~~liquor control board~~ Board of Liquor and Lottery shall revoke ~~his~~ its license. A license shall not be granted to a person against whom ~~such~~ a judgment has been recovered, until the ~~same~~ judgment is satisfied.

Sec. 76. 7 V.S.A. § 504 is amended to read:

§ 504. ~~ACTION FOUNDED ON TORT; CERTIFIED EXECUTION~~

~~A judgment for the plaintiff under section 501 of this title shall be treated as rendered in an action founded on tort. At the time of such judgment, the court shall adjudge that the cause of action arose from the wilful and malicious act of the defendant, and that he or she ought to be confined in close jail, and a certificate thereof shall be stated in or upon the execution.~~ [Repealed.]

Sec. 77. 7 V.S.A. § 505 is amended to read:

§ 505. ~~NOTICE TO PROHIBIT SALES TO CERTAIN PERSONS~~

~~The father, mother, husband, wife, child, brother, sister, guardian, or employer of a person may, in writing, notify any board of control commissioners as defined in section 2 of this title, who may, on investigation, forbid the sale or furnishing of spirits, fortified wines, or malt or vinous beverages, or all four, by licensees as defined in section 2 of this title, within the jurisdiction of that board of control commissioners to that person.~~ [Repealed.]

Sec. 78. 7 V.S.A. § 506 is amended to read:

§ 506. ~~RECORD OF NOTICES~~

~~(a) Such board of control commissioners shall place on file the notices received under section 505 of this title and they shall be open to public inspection at reasonable times, except that the notices of a husband, father, wife, child, mother or a sister provided for in section 505 of this title shall not be open to inspection nor be disclosed by such board of control commissioners. Upon receipt of a notice, such board of control commissioners may, upon investigation, give written notice forbidding the sale or furnishing of spirits, fortified wines, or malt and vinous beverages, or all four to such person and to all licensees within the jurisdiction of such board of control commissioners.~~

~~(b) Copies of all notices sent by a board of control commissioners shall be furnished forthwith to the Commissioner of Liquor Control who may upon receipt of such copy forbid the sale of spirits and fortified wines by any State agency or agencies to such person.~~ [Repealed.]

Sec. 79. 7 V.S.A. § 561 is amended to read:

§ 561. AUTHORITY OF LIQUOR CONTROL INVESTIGATORS; ARREST FOR UNLAWFULLY MANUFACTURING, POSSESSING, OR TRANSPORTING ALCOHOLIC BEVERAGES; SEIZURE OF PROPERTY

* * *

(b) The Commissioner of Liquor ~~Control~~ and Lottery, the Director of ~~the~~ Enforcement ~~Division of~~ for the ~~Department~~ Division of Liquor Control ~~or,~~ an investigator employed by the ~~Liquor Control~~ Board of Liquor and Lottery or by the ~~Department~~ Division of Liquor Control ~~and~~, or any other law enforcement officer may arrest or take into custody pursuant to the Vermont Rules of Criminal Procedure a person whom he or she finds in the act of manufacturing alcohol or possessing a still~~,~~ or other apparatus for the manufacture of alcohol~~, or~~; unlawfully selling, bartering, possessing, furnishing, or transporting alcohol~~,~~; or unlawfully selling, furnishing, or transporting ~~spirits, fortified wines, or malt and vinous~~ alcoholic beverages, and shall seize the ~~liquors,~~ alcohol, vessels, and implements of sale and the stills or other apparatus for the manufacture of alcohol in the possession of the person. He or she may also seize and take into custody any property described in this section.

Sec. 80. 7 V.S.A. § 563 is redesignated and amended to read:

§ ~~563~~ 562. SEARCH WARRANTS

(a) If a ~~state's attorney~~ State's Attorney, the ~~commissioner of liquor control~~ Commissioner of Liquor and Lottery, ~~or~~ an ~~inspector~~ investigator duly acting for the ~~liquor control board~~ Board of Liquor and Lottery, ~~or~~ a control commissioner, or a town grand juror ~~or two reputable citizens of the county,~~ make a complaint under oath or affirmation~~, before~~ to a judge of ~~a criminal division~~ the Criminal Division of the ~~superior court~~ Superior Court, that he or she or they have reason to believe that ~~malt or vinous beverages or spirituous liquor~~ alcoholic beverages or alcohol are kept or deposited for sale or distribution contrary to law, or that alcohol is manufactured or possessed contrary to law, in any kind of vehicle, air or water craft, or other conveyance, or a dwelling house~~, store, shop, steamboat, or water craft of any kind, depot~~, railway car, ~~motor vehicle or land or air carriage of any kind, warehouse~~ or ~~other~~ building or place in the county, the judge shall issue a warrant to search the premises described in the complaint.

(b) If the ~~liquor~~ alcoholic beverages or alcohol is found ~~therein~~ there under circumstances warranting the belief that it is intended for sale or distribution contrary to law, or if ~~the~~ alcohol is found ~~therein~~ in that place under circumstances warranting the belief that it is unlawfully manufactured or possessed, or if any still~~,~~ or ~~any~~ other apparatus for the manufacture of alcohol is found ~~therein~~ in that place, the officer shall seize and convey the ~~same~~ alcoholic beverages, alcohol, or still or other apparatus to ~~some~~ a secure place ~~of security,~~ and keep it until ~~final action is had thereon~~ the court renders a final judgment on it.

Sec. 81. 7 V.S.A. 564 is redesignated and amended to read:

§ ~~564~~ 563. SEARCH OF PREMISES WITHOUT WARRANT

(a) A ~~sheriff, deputy sheriff, constable, police~~ law enforcement officer, selectboard member, or grand juror who has information that ~~malt, vinous, and spirituous liquor~~ alcoholic beverages or alcohol is kept with intent to sell, or is sold contrary to law in ~~a tent, shanty, hut, or place of any kind for selling refreshments in a~~ any kind of public place for selling refreshments, except a dwelling ~~houses~~ house, on or near the ~~ground~~ grounds of a ~~cattle show, agricultural exhibition, military muster, or~~ public occasion of any kind~~,~~ shall search ~~such~~ the suspected place without a warrant.

(b)(1) If ~~such~~ the officer finds ~~such liquor~~ alcoholic beverages or alcohol upon the premises, he or she shall seize ~~the same~~ it and apprehend the keeper of ~~such~~ the place and take him or her, without the ~~liquor so~~ seized alcoholic beverages or alcohol, ~~forthwith or~~ as soon as ~~conveniently may be~~ practicable,

before a ~~district~~ judge of the Criminal Division of the Superior Court in ~~whose~~ the jurisdiction where the ~~same~~ alcoholic beverages or alcohol is found~~, and thereupon such~~.

(2) The officer shall make a written complaint under oath~~, subscribed by him or her,~~ or affirmation to ~~such magistrate~~ the judge, setting forth the details of the finding of ~~such liquor~~ the alcoholic beverages or alcohol.

(c)(1) Upon proof that ~~the liquor is intoxicating and that the same was~~ the alcoholic beverages or alcohol were found in the possession of the accused in ~~a tent, shanty, or other~~ a public place, with intent to sell contrary to law, the ~~liquor~~ seized alcoholic beverages or alcohol shall be adjudged forfeited and disposed of by order of ~~such magistrate~~ the court, as provided in this chapter. ~~Such~~

(2) The owner or keeper shall be proceeded against~~, as provided in~~ pursuant to this chapter~~,~~ for keeping ~~such malt and vinous beverage, spirituous liquor,~~ the alcoholic beverages or alcohol with intent to sell.

Sec. 82. 7 V.S.A. § 565 is redesignated and amended to read:

§ ~~565~~ 564. NOTICE OF SEIZURE; HEARING; FEES

~~The~~ An officer who ~~makes a seizure of malt, vinous or spirituous liquor or~~ pursuant to section 562 or 563 of this chapter seizes alcoholic beverages, alcohol, or a still or other apparatus for the manufacture of alcohol, with or without a warrant, shall ~~forthwith~~ promptly give notice ~~thereof~~ of the seizure to a grand juror of the town in which ~~such~~ the seizure is made, or to the ~~state's attorney~~ State's Attorney of the county. ~~Such~~ The grand juror or ~~state's attorney~~ State's Attorney shall then attend and act in behalf of the ~~state~~ State at the hearing against the ~~liquor~~ seized alcoholic beverages, alcohol, still, or apparatus ~~so seized, and the~~. An officer making ~~the~~ a seizure without a warrant shall be allowed the same fees as if he or she had acted under a warrant.

Sec. 83. 7 V.S.A. § 566 is redesignated and amended to read:

§ ~~566~~ 565. ARREST OF OWNER OF SEIZED PROPERTY

The officer shall promptly apprehend and bring ~~forthwith~~ before the ~~magistrate~~ court the owner ~~and~~, keeper, and all persons having ~~the~~ custody of~~,~~ or exercising any control over~~,~~ the ~~liquor~~ alcoholic beverages, alcohol, or other property seized pursuant to section 562 or 563 of this chapter, ~~either~~ whether as principal, clerk, servant, or agent.

Sec. 84. 7 V.S.A. § 567 is redesignated and amended to read:

§ ~~567~~ 566. ARREST OF OWNER OF BUILDING

If the owner or keeper of ~~such liquor~~ the alcoholic beverages, alcohol, or other property seized pursuant to section 562 or 563 of this chapter is unknown to the officer, or if a person is not found in possession or custody of the ~~same~~ seized alcoholic beverages, alcohol, or other property, the officer shall apprehend and bring before the ~~magistrate~~ court the owner or occupant of the building or apartments in which ~~such liquor~~ the seized alcoholic beverages, alcohol, or other property was found, if ~~known to him or can be by him ascertained~~ he or she knows or can ascertain the person's identity.

Sec. 85. 7 V.S.A. § 568 is redesignated and amended to read:

§ ~~568~~ 567. FORFEITURE OF SEIZED PROPERTY

(a) If, ~~upon~~ after a hearing, ~~it appears~~ the court determines that ~~such liquor~~ the alcoholic beverages, alcohol, or other property seized pursuant to section 562 or 563 of this chapter was intended for sale, distribution, or use contrary to law, it shall be adjudged forfeited and condemned. ~~When liquor~~

(b) Alcoholic beverages, alcohol, or other property that is adjudged forfeited and condemned under this section~~, it~~ shall be turned over to the ~~commissioner of liquor control~~ Commissioner of Liquor and Lottery for the benefit of the ~~state~~ State.

Sec. 86. 7 V.S.A. § 569 is redesignated and amended to read:

§ ~~569~~ 568. COSTS OF FORFEITURE AND CONDEMNATION PROCEEDINGS

Upon condemnation of ~~such liquor~~ alcoholic beverages, alcohol, or other property pursuant to section 567 of this title, any ~~and all persons~~ person apprehended and brought before ~~such magistrate~~ the court under sections ~~564~~ 563 and ~~566~~ 565 of this title shall be liable ~~to pay~~ for the costs of ~~such~~ the proceedings, if, in the judgment of the ~~magistrate~~ court, any of them by themselves, or through clerks, servants, or agents~~, shall have been~~:

(1) engaged in, or aided ~~in~~, assisted ~~in~~, or abetted the keeping of ~~such liquor~~ the alcoholic beverages, alcohol, or other property for unlawful sale, distribution, or use~~, or have been~~;

(2) were privy ~~thereto,~~ to the keeping of the alcoholic beverages, alcohol, or other property for unlawful sale, distribution, or use; or ~~have~~

(3) knowingly permitted the use of any building or apartments ~~by them~~ the person owned or controlled, for ~~the~~ storing or keeping ~~of such liquor~~ the alcoholic beverages, alcohol, or other property for ~~such~~ unlawful sale, distribution, or use.

Sec. 87. 7 V.S.A. § 570 is redesignated and amended to read:

§ ~~570~~ 569. EXECUTION FOR COSTS

~~Against any and all persons by the magistrate adjudged~~ If the court determines that a person is liable ~~to pay~~ for the costs~~, in case~~ of the proceedings pursuant to section 568 of this title and the costs are not paid, the ~~magistrate~~ court, after a hearing, shall issue an execution in favor of the ~~state~~ State and against the ~~body or bodies of the persons,~~ person that is liable for the costs~~; upon which~~. The execution shall be certified as follows: "This execution is issued for the costs of the seizure and condemnation of ~~intoxicating liquor~~ alcoholic beverages, alcohol, or a still or other apparatus for the manufacture of alcohol that was kept in violation of law." ~~Persons committed upon the executions shall not be admitted to the liberties of the jail yard.~~

Sec. 88. 7 V.S.A. § 571 is amended to read:

§ 571. ~~SEARCH OF VEHICLE OR CRAFT WITHOUT WARRANT~~

~~If a sheriff, deputy sheriff, constable, police officer, Commissioner of Liquor Control or inspector duly acting for the Liquor Control Board, or State Police has reason to believe and does believe, that a person is engaged in the act of smuggling, delivering, or transporting, in violation of law, malt or vinous beverages, spirits, fortified wines, or alcohol in any wagon, buggy, automobile, motor vehicle, air or water craft, or other vehicle, he or she shall search for and seize without warrant, malt or vinous beverages, spirits, fortified wines, or alcohol found therein being smuggled, delivered, or transported contrary to law. Whenever malt or vinous beverages, spirits, fortified wines, or alcohol, transported unlawfully or alcohol possessed illegally shall be seized by such officer, he or she shall take possession of the vehicle, team, automobile, boat, air or water craft, or other conveyance and shall arrest the person in charge thereof.~~ [Repealed.]

Sec. 89. 7 V.S.A. § 572 is redesignated and amended to read:

§ ~~572~~ 570. FORFEITURE AND CONDEMNATION OF SEIZED VEHICLE OR CRAFT

(a) If ~~such~~ an officer seizes ~~malt or vinous beverages, spirits, fortified wines,~~ alcoholic beverages or alcohol and takes possession of a vehicle~~, team, automobile, boat~~, air or water craft, or other conveyance ~~in which such malt or vinous beverages, spirits, fortified wines, or alcohol is being unlawfully transported or in which alcohol is unlawfully possessed, without a warrant,~~ he or she shall ~~forthwith~~ promptly make a complaint~~,~~ under oath~~, subscribed by him or her,~~ or affirmation to a judge of the Criminal Division of the Superior Court~~,~~ in ~~whose~~ the jurisdiction ~~the same was seized~~ where the seizure occurred. ~~Thereupon the~~

(b) The same proceedings shall be had ~~as~~ with respect to the ~~liquor~~ alcoholic beverages or alcohol and the vehicle ~~and team or automobile, motor vehicle, boat~~, air or water craft, or other conveyances ~~as would be had if malt or vinous beverages, spirits, or fortified wines had been seized~~, except that if the vehicle ~~and team, or automobile, boat~~, air or water craft, or other conveyance, ~~shall be finally~~ is adjudged forfeited and condemned ~~the same~~, it shall, upon the written order of the ~~magistrate~~ court, ~~shall~~ be sold at a public sheriff's sale for the benefit of the State. The officer making the sale shall make a return in writing to the court ~~issuing such~~ that issued the order of sale with the proceeds ~~thereof~~ from the sale, less his or her expenses and fees for keeping and selling the ~~same~~ vehicle, air or water craft, or other conveyance, which ~~fees~~ shall be the same as for the sale of personal property upon execution.

Sec. 90. 7 V.S.A. § 573 is redesignated and amended to read:

§ ~~573~~ 572. PROCEEDS OF SALE OF CONDEMNED VEHICLE OR CRAFT

(a) From the net proceeds of ~~such~~ a sale pursuant to section 571 of this title, the court shall pay all liens, according to their priority ~~which are~~ that:

(1) are established by intervention or otherwise at the time the court enters the judgment of forfeiture ~~being adjudged~~ or in other proceedings brought for ~~such~~ that purpose~~, as being~~; and

(2) are bona fide and ~~having been~~ were created without the owner's having any knowledge that the carrying vehicle was ~~being~~ used or ~~was to~~ would be used for the illegal ~~transportation~~ transport of ~~malt or vinous beverages, spirits, fortified wines,~~ alcoholic beverages or alcohol ~~and~~.

(b) The court shall pay the balance of the proceeds to the State Treasurer~~,~~ ~~as provided for the payment of fines under the provisions of law~~.

Sec. 91. 7 V.S.A. § 574 is redesignated and amended to read:

§ ~~574~~ 573. RIGHTS OF OWNER; ADJOURNED HEARING

(a) Nothing ~~herein~~ in this chapter shall be construed to prejudice the rights of ~~the~~ a bona fide owner of ~~any such~~ a vehicle, air or water craft, or other conveyance to have it returned to his or her possession upon ~~affirmative~~ proof ~~by the owner~~ that he or she had no ~~express or implied~~ knowledge that ~~such conveyance~~ it was being used or was to be used for the illegal transportation of ~~malt or vinous beverages, spirits, fortified wines,~~ alcoholic beverages or alcohol, ~~and the owner shall be entitled to a return of the same if~~ provided he or she ~~appears~~ enters an appearance before ~~adjudication~~ the court has entered a judgment of forfeiture.

(b)(1) If ~~upon~~, following a hearing, the person in charge of ~~any such~~ a vehicle, air or water craft, or other conveyance ~~does not appear~~ is determined not to be ~~the~~ its owner ~~thereof~~ and no person ~~shall claim such conveyance~~ has claimed it, ~~further~~ the hearing shall be continued to a date certain~~,~~ and the taking of ~~such~~ the vehicle, air or water craft, or other conveyance and the date of the adjourned hearing shall be advertised in ~~some~~ a newspaper~~,~~ published in the town or county where it was taken ~~and~~ or, if there ~~be~~ is no newspaper published in ~~such~~ the town or county, ~~then~~ in a newspaper having circulation in ~~such~~ the county, once a week for three successive weeks.

(2) The ~~magistrate~~ Commissioner of Finance and Management shall provide the court conducting the hearing ~~shall be allowed by the Commissioner of Finance and Management~~ with the cost of ~~such~~ the advertising.

Sec. 92. 7 V.S.A. § 575 is redesignated and amended to read:

§ ~~575~~ 574. REOPENING OF FORFEITURE PROCEEDING

(a) At any time within one year after ~~such~~ a vehicle, air or water craft, or other conveyance ~~shall have~~ has been adjudged forfeited, ~~and upon notice to the state's attorney of the county,~~ a claimant may provide notice to the State's Attorney of the county and, upon showing that he or she had no knowledge of the forfeiture hearing, may apply to the court ~~or magistrate before whom former proceedings were had to~~ that entered the judgment of forfeiture to have the case reopened~~, provided he or she shall~~. The court may require the claimant to give security by ~~way of recognizance~~ posting a bond to the ~~state, with~~ State in a sufficient ~~sureties in such~~ sum, as the court directs, conditioned ~~that~~ on the claimant ~~will prosecute~~ prosecuting his or her claim to effect and ~~pay~~ paying the costs awarded against him or her.

(b) If upon rehearing ~~such~~ the claimant establishes his or her claim, the court ~~or magistrate~~ shall certify to the ~~commissioner of finance and management~~ Commissioner of Finance and Management the amount of ~~such~~ the claim, ~~not exceeding~~ which shall not exceed the net amount actually realized by the ~~state~~ State from the sale of ~~such~~ the vehicle, air or water craft, or other conveyance, and the ~~commissioner of finance and management~~ Commissioner of Finance and Management shall issue his or her warrant ~~therefor~~ to pay the sum.

Sec. 93. 7 V.S.A. § 576 is redesignated and amended to read:

§ ~~576~~ 575. CLAIM BY OWNER, KEEPER, OR POSSESSOR FOR SEIZED GOODS OR APPARATUS; BOND

(a)(1) When the owner, keeper, or possessor of ~~malt, vinous, or spirituous liquor or~~ alcoholic beverages, alcohol, or a still or other apparatus for the manufacture of alcohol seized under the provisions of this title~~,~~ appears and

makes a claim to the ~~same~~ seized alcoholic beverages, alcohol, or other property, he or she shall file a written claim with the ~~magistrate~~ court before ~~whom~~ which the proceedings are pending~~, setting~~.

(2) The claim shall set forth his or her interest in the ~~liquor~~ seized alcoholic beverages, alcohol, or other property, and the reasons why it should not be adjudged forfeited.

(b) ~~He or she shall also~~ The court may require the claimant to give security by ~~way of recognizance~~ posting a bond to the ~~state~~ State, ~~with sufficient sureties,~~ in ~~such~~ a sufficient sum as the court directs, conditioned ~~that he or she will prosecute~~ on the claimant prosecuting his or her claim to effect and ~~pay~~ paying the costs awarded against him or her.

Sec. 94. 7 V.S.A. § 577 is redesignated and amended to read:

§ ~~577~~ 576. APPEAL; BOND

~~An appeal shall not be allowed to the~~ If a claimant elects to appeal from the judgment of the court ~~until he or she gives security by way of recognizance~~ under this chapter, the court may require that he or she give security by posting a bond to the ~~state~~ State, ~~with sufficient sureties,~~ in ~~such~~ a sufficient sum, as the court directs, conditioned ~~that he or she will prosecute~~ on the claimant's prosecuting his or her appeal to effect and ~~pay~~ paying the costs awarded against him or her.

Sec. 95. 7 V.S.A. § 578 is redesignated and amended to read:

§ ~~578~~ 577. JUDGMENT AGAINST CLAIMANT; FORFEITURE; COSTS

If the court renders judgment ~~is~~ against the claimant pursuant to section 575 or 576 of this title, the ~~liquor~~ alcoholic beverages or alcohol and the casks or vessels containing the ~~same~~ alcoholic beverages or alcohol shall be adjudged forfeited and condemned, as provided in this ~~title~~ chapter, and the court shall also enter judgment ~~shall be rendered~~ against the claimant for all costs of prosecution incurred after the filing of his or her claim.

Sec. 96. 7 V.S.A. § 579 is redesignated and amended to read:

§ ~~579~~ 578. DISPOSITION OF LIQUOR CONDEMNED ON APPEAL

If the appellant fails to enter and prosecute his or her appeal pursuant to section 576 of this title, or if judgment is against him or her on appeal, the court in which ~~such~~ the appeal is finally decided shall order the ~~liquor~~ alcoholic beverages or alcohol to be disposed of as in the case of ~~liquor~~ alcoholic beverages or alcohol adjudged forfeited and condemned under an order of a ~~district~~ judge of the Criminal Division of the Superior Court pursuant to section 567 of this title.

Sec. 97. 7 V.S.A. § 580 is redesignated and amended to read:

§ ~~580~~ 579. SEIZED PROPERTY TAKEN BY WRIT OF REPLEVIN

If ~~liquor~~ alcoholic beverages, alcohol, or other property seized by an officer under the provisions of this ~~title~~ chapter is taken from his or her possession by a writ of replevin, it shall not be delivered to the claimant, but shall be held by the officer serving ~~such~~ the writ, until the final determination of the seizure action~~; whereupon the same~~. Upon the final determination of the action, the alcoholic beverages, alcohol, or other property held by the officer who served the writ shall be delivered to the party in whose favor judgment is rendered, or to ~~such~~ an officer ~~as~~ who has authority to hold or dispose of ~~the same~~ it under the original seizure proceedings.

Sec. 98. 7 V.S.A. § 581 is redesignated and amended to read:

§ ~~581~~ 580. SEIZURE PROCEEDINGS WITHOUT DELAY BY REPLEVIN

Proceedings on the seizure of ~~malt, vinous or spirituous liquor or~~ alcoholic beverages, alcohol, or a still or other apparatus for the manufacture of alcohol, except final execution, shall not be delayed by a replevin ~~thereof~~ of the seized alcoholic beverages, alcohol, or other property, but the cause shall proceed to final judgment as if the action for replevin had not been commenced.

Sec. 99. 7 V.S.A. § 582 is redesignated and amended to read:

§ ~~582~~ 581. COSTS AGAINST OWNER OR KEEPER

If proceedings for the condemnation of ~~malt, vinous, spirituous liquor or~~ alcoholic beverages, alcohol, or a still or other apparatus for the manufacture of alcohol result in the prosecution and conviction of the owner or keeper ~~thereof~~ of the alcoholic beverages, alcohol, or other property for an offense ~~hereunder~~ under this title, the costs in ~~such~~ the proceedings shall be taxed against ~~such~~ the owner or keeper.

Sec. 100. 7 V.S.A. § 584 is redesignated and amended to read:

§ ~~584~~ 582. SALE OF LIQUOR TAKEN BY ATTACHMENT OR ON EXECUTION

~~Malt, vinous, or spirits and fortified wines~~ Alcoholic beverages lawfully taken by attachment or on execution issued by a court of this State may be sold by a duly authorized officer as other personal property taken on execution, but only to the persons and institutions to which ~~liquor~~ alcoholic beverages may be sold under the provisions of this title.

Sec. 101. 7 V.S.A. § 585 is redesignated and amended to read:

§ ~~585~~ 583. ENFORCEMENT AS STATE EXPENSE

Fees payable and expenses incurred under the provisions of this title shall be paid by the ~~state~~ State.

Sec. 102. 7 V.S.A. § 586 is amended to read:

§ 586. ~~NOTICE TO FEDERAL GOVERNMENT~~

~~When a person is convicted of or pleads guilty to furnishing or selling intoxicating liquor contrary to law, the court shall forthwith give notice thereof to the United States district director of internal revenue for this district, if such court has reason to believe that such person has not paid any special tax imposed by the United States government upon dealers in intoxicating liquors.~~ [Repealed.]

Sec. 103. 7 V.S.A. § 588 is redesignated and amended to read:

§ ~~588~~ 584. SUFFICIENCY OF SPECIFICATION

If a specification is required in prosecutions for offenses under this title, it shall be sufficient to specify the offenses with ~~such~~ as much certainty as to the time, place, and person as the prosecutor is able to provide, and the ~~same~~ the specifications provided may be amended ~~upon~~ at trial. When the specifications set forth the sale or furnishing of alcoholic beverages or alcohol to any unknown person or persons ~~unknown~~, the witnesses may be inquired of as to ~~such~~ those transactions. If the name of the person is disclosed, it may be added to the specifications, and upon ~~such~~ any terms ~~as~~ related to postponement of the trial as the court deems reasonable.

Sec. 104. 7 V.S.A. § 589 is redesignated and amended to read:

§ ~~589~~ 585. ~~TAX RECEIPT~~ ALCOHOL DEALER REGISTRATION AS EVIDENCE

~~The receipt for or record of the payment of the United States special tax as liquor seller~~ A copy or record of a person's Alcohol Dealer Registration with the U.S. Alcohol and Tobacco Tax and Trade Bureau shall be prima facie evidence that the person named ~~therein~~ in the registration keeps for sale and sells ~~intoxicating liquors~~ alcoholic beverages or alcohol.

Sec. 105. 7 V.S.A. § 590 is redesignated and amended to read:

§ ~~590~~ 587. FINES AND COSTS

Fines collected under this title shall be remitted to the ~~general fund~~ General Fund. Costs collected under this title shall be remitted to the ~~liquor control fund~~ Liquor Control Enterprise Fund.

Sec. 106. 7 V.S.A. § 598 is amended to read:

§ 598. ~~FORM OF NOTICE TO FEDERAL GOVERNMENT~~

~~The notice to the United States district director of internal revenue shall be in substance as follows:~~

~~I hereby notify you that _____ of _____ in the county of _____ and state of Vermont, has this day been convicted of or has pleaded guilty to the crime of furnishing or selling intoxicating liquor, contrary to law. I give you this information so that you may, if you desire, investigate as to whether or not said _____ has paid the special internal revenue tax to the United States government.~~ [Repealed.]

Sec. 107. 7 V.S.A. § 600 is redesignated and amended to read:

§ ~~600~~ 588. FEES OF SHERIFF, CONSTABLE, OR POLICE OFFICER

When a sheriff, constable, or police officer makes a search ~~for intoxicating liquor by direction of a lawful~~ under this title pursuant to a warrant, he or she shall receive ~~as fees for such services $2.00~~ a fee for the search, ~~$0.15 a mile for actual travel~~ reimbursement for mileage at the rate set pursuant to 32 V.S.A. § 1267, and ~~such~~ the sum ~~as~~ that he or she ~~shall~~ actually ~~pay~~ paid out for necessary assistance, if ~~deemed reasonable by the commissioner of finance and management,~~:

(1) the Commissioner of Liquor and Lottery deems the amount to be reasonable; and ~~if~~

(2) the officer ~~makes~~ declares under oath that the money was ~~so~~ expended as claimed, ~~stating~~ and, if applicable, states the name of his or her assistant and the amount paid for the assistance.

Sec. 108. 7 V.S.A. § 602 is redesignated as follows:

§ ~~602~~ 589. EXHIBITION OF CARD

Sec. 109. 7 V.S.A. § 603 is redesignated and amended to read:

§ ~~603~~ 590. ~~LIQUOR CONTROL~~ BOARD OF LIQUOR AND LOTTERY; RULES

The ~~liquor control board~~ Board of Liquor and Lottery shall ~~make~~ adopt rules ~~and regulations~~ as necessary to effectuate the purposes of section ~~602~~ 589 of this title.

Sec. 110. 7 V.S.A. § 651 is amended to read:

§ 651. SOLICITING ORDERS

A person who, for himself or herself or as agent, takes or solicits orders for the sale of malt or vinous beverages, except for licensees or from agencies of the U.S. ~~Army~~ Armed Forces as specified in section 421 of this title, or of spirits or fortified wines shall be imprisoned not more than six months nor less than three months or fined not more than $500.00 nor less than $100.00, or both.

Sec. 111. 7 V.S.A. § 652 is amended to read:

§ 652. TRANSPORTATION

A person who, by himself or herself, or through a clerk or agent, brings into the ~~state~~ State, or conveys or transports over or along a railroad or public highway, or by land, air, or water, ~~malt or vinous beverages or spirituous liquor~~ alcoholic beverages, or alcohol which the person knows or has reason to believe is to be unlawfully kept, sold, or furnished, shall be imprisoned not more than six months nor less than three months or fined not more than $500.00 nor less than $100.00, or both.

Sec. 112. 7 V.S.A. § 654 is amended to read:

§ 654. ~~TAMPERING WITH SAMPLES~~

~~A person who tampers with samples of alcohol, malt or vinous beverages or spirituous liquor taken for analysis under this chapter shall be imprisoned not more than 12 months nor less than six months or fined not more than $500.00 nor less than $100.00, or both.~~ [Repealed.]

Sec. 113. 7 V.S.A. § 655 is amended to read:

§ 655. BARTER

(a) A licensee or permittee ~~who~~ shall be imprisoned not more than 12 months nor less than six months or fined not more than $1,000.00 nor less than $300.00, or both, if the licensee or permittee:

(1) purchases or receives ~~wearing~~ apparel, tools, implements of trade or husbandry, household goods, furniture, or provisions, directly or indirectly, by way of sale or barter, the consideration ~~of~~ for which is, in whole or in part ~~is, malt or vinous beverages or spirituous liquor~~ alcoholic beverages or alcohol or the price ~~thereof,~~ of the alcoholic beverages or alcohol; or

(2) receives ~~such article~~ apparel, tools, implements of trade or husbandry, household goods, furniture, or provisions in pawn for ~~such beverage or liquor~~ alcoholic beverages or alcohol or the price ~~thereof, shall be imprisoned not more than twelve months nor less than six months or fined not~~

~~more than $1,000.00 nor less than $300.00, or both~~ of the alcoholic beverages or alcohol.

(b) ~~On~~ A person's license or permit issued under this title shall be revoked following a conviction ~~thereof, his or her license or permit shall be revoked~~ under subsection (a) of this section.

Sec. 114. 7 V.S.A. § 658 is amended to read:

§ 658. SALE OR FURNISHING TO MINORS; ENABLING CONSUMPTION BY MINORS; MINORS CAUSING DEATH OR SERIOUS BODILY INJURY

(a) ~~No~~ A person shall not:

(1) sell or furnish ~~malt or vinous beverages, spirits, or fortified wines~~ alcoholic beverages to a person under ~~the age of~~ 21 years of age; or

(2) knowingly enable the consumption of ~~malt or vinous beverages, spirits, or fortified wines~~ alcoholic beverages by a person under ~~the age of~~ 21 years of age.

(b) As used in this section, "enable the consumption of ~~malt or vinous beverages, spirits, or fortified wines~~ alcoholic beverages" means creating a direct and immediate opportunity for a person to consume ~~malt or vinous beverages, spirits, or fortified wines~~ alcoholic beverages.

(c) A person who violates subsection (a) of this section shall be fined not less than $500.00 nor more than $2,000.00 or imprisoned not more than two years, or both. However, an employee of a licensee or an employee of a ~~State-contracted~~ State liquor agency, who in the course of employment violates subdivision (a)(1) of this section:

(1) during a compliance check conducted by a law enforcement officer as defined in 20 V.S.A. § 2358:

(A) shall be assessed a civil penalty of not more than $100.00 for the first violation, and a civil penalty of not less than $100.00 nor more than $500.00 for a second violation that occurs more than one year after the first violation~~.~~; and

(B) shall be subject to the criminal penalties provided in this subsection for a second violation within a year of the first violation, and for a third or subsequent violation within three years of the first violation.

(2) may plead as an affirmative defense that:

(A) the purchaser exhibited and the employee carefully viewed photographic identification that complied with section ~~602~~ 589 of this title and indicated the purchaser to be 21 years of age or older; ~~and~~

(B) an ordinary prudent person would believe the purchaser to be of legal age to make the purchase; and

(C) the sale was made in good faith, based upon the reasonable belief that the purchaser was of legal age to purchase alcoholic beverages.

(d) A person who violates subsection (a) of this section, where the person under ~~the age of~~ 21 years of age, while operating a motor vehicle on a public highway causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than $10,000.00, or both.

Sec. 115. 7 V.S.A. § 659 is amended to read:

§ 659. REFUSAL OR NEGLECT OF OFFICERS TO PERFORM DUTIES

(a) The ~~sheriffs of the several counties and their~~ county sheriffs, sheriff's deputies, constables, officers or members of the village or city police, ~~state police~~ State Police, and ~~inspectors~~ investigators of the ~~liquor control board are hereby empowered, and it is hereby made their~~ Board of Liquor and Lottery shall have the authority and duty to see that the provisions of this title and the rules ~~and regulations made as authorized~~ adopted by the ~~liquor control board herein provided for~~ Board of Liquor and Lottery pursuant to this title are enforced within their respective jurisdictions. Any ~~such~~ officer who ~~wilfully~~ willfully refuses or neglects to perform the duties imposed upon him or her by this section shall be fined not more than $500.00 or imprisoned not more than 90 days, or both.

(b) A control commissioner, ~~state's attorney~~ State's Attorney, or town grand juror who ~~wilfully~~ willfully refuses or neglects to investigate a complaint for a violation of this chapter, when accompanied by evidence in support ~~thereof~~ of the complaint, shall be fined $300.00.

Sec. 116. 7 V.S.A. § 665 is amended to read:

§ 665. ~~PRESCRIPTIONS FOR OTHER THAN MEDICAL USE~~

~~A physician who gives a prescription for spirituous liquor, when he knows or has reason to believe it is not necessary for medicinal use, shall be fined not more than $200.00 for the first offense and $500.00 for each subsequent offense.~~ [Repealed.]

Sec. 117. 7 V.S.A. § 666 is redesignated and amended to read:

§ ~~666~~ 660. ADVERTISING

(a) ~~No~~ A person shall not display on outside billboards or signs erected on the highway any advertisement of any kind ~~of malt, vinous beverage or spirituous liquor~~ relating to alcoholic beverages, or indicate where ~~the same~~

alcoholic beverages may be procured. ~~However, the prohibition contained in this section shall not apply to a motor vehicle lawfully transporting in transit malt, vinous beverage or spirituous liquor from a place in another state to a place in another state.~~ A person who violates any provision of this section shall be fined not more than $100.00 nor less than $10.00, for each offense, and ~~such~~ a conviction for a violation shall be cause for revoking the person's license ~~after conviction~~ issued under this title.

(b) ~~Advertising of malt or vinous~~ Notwithstanding subsection (a) of this section, advertising of alcoholic beverages on ~~vehicles~~ a motor vehicle lawfully transporting alcoholic beverages or on a vehicle drawn by horses shall be permitted.

(c)(1) The ~~alcoholic~~ alcohol content of any malt beverage shall not be set forth or stated in any advertising or promotion ~~thereof~~ of the beverage in any medium.

(2) ~~No~~ A person shall not advertise or promote the sale of any fermented beverage made from malt by indicating in any way that the beverage has a higher alcoholic content than other similar beverages.

(3) ~~However~~ Notwithstanding subdivisions (1) and (2) of this subsection, the alcoholic content of a malt beverage may be set forth on its label or packaging.

Sec. 118. 7 V.S.A. § 667 is redesignated and amended to read:

§ ~~667~~ 661. VIOLATIONS OF TITLE

(a)(1) A person~~, partnership, association, or corporation who~~ that furnishes, sells, ~~exposes,~~ or keeps with intent to sell, or bottles or prepares for sale any ~~malt or vinous beverages, spirits, or fortified wines~~ alcoholic beverages, except as authorized by this title, or sells, barters, transports, imports, exports, delivers, prescribes, furnishes, or possesses alcohol, except as authorized by the ~~Liquor Control~~ Board of Liquor and Lottery, or ~~who~~ that unlawfully manufactures alcohol or possesses a still or other apparatus for the manufacture of alcohol shall be imprisoned not more than 12 months nor less than three months or fined not more than $1,000.00 nor less than $100.00, or both.

(2) For a subsequent conviction ~~thereof~~ under subdivision (1) of this subsection within one year, ~~such~~ a person~~, partnership, association, or corporation~~ shall be imprisoned not more than three years nor less than six months or fined not more than $2,000.00 nor less than $500.00, or both.

(b) A person~~, partnership, association, or corporation, who~~ that willfully violates a provision of this title for which no other penalty is prescribed or ~~who~~ that willfully violates a ~~provision of the regulations~~ rule of the ~~Liquor Control~~ Board of Liquor and Lottery shall be imprisoned not more than three months

nor less than one month or fined not more than $200.00 nor less than $50.00, or both.

(c) The provisions of subsection (b) of this section shall not apply to a violation of subsection 1005(a) of this title, relating to purchase of tobacco products by a person less than 18 years of age.

Sec. 119. 7 V.S.A. § 668 is redesignated and amended to read:

§ ~~668~~ 662. LIMIT OF SENTENCE

A sentence of imprisonment under this title~~, either cumulative or on failure to pay fine and costs,~~ shall not exceed ~~the~~ a term of three years.

Sec. 120. 7 V.S.A. § 671 is redesignated and amended to read:

§ ~~671~~ 65. PURCHASE OF KEGS ~~OF MALT BEVERAGES~~

Any ~~person~~ individual who, within 60 days of purchase, fails to return a keg~~, as defined in section 64 of this title,~~ sold pursuant to section 64 of this chapter to the ~~second class~~ second-class or fourth-class licensee from which the keg was purchased shall be fined not more than $200.00.

Sec. 121. 7 V.S.A. § 701 is amended to read:

§ 701. DEFINITIONS

As used in this chapter~~, and unless otherwise required by the context~~:

(1) "Certificate of approval" ~~shall mean~~ means an authorization by the ~~liquor control board~~ Board of Liquor and Lottery pursuant to section 274 of this title to a manufacturer or distributor of malt beverages or vinous beverages, or both not licensed under the provisions of this title, to sell ~~such~~ those beverages ~~either~~ to holders of ~~bottlers~~ a packager's or wholesale ~~dealers licenses~~ dealer's license issued by the ~~board~~ Board ~~under the provisions of~~ pursuant to section ~~226~~ 272 or ~~227~~ 273 of this title.

(2) "Franchise" or "agreement" shall mean one or more of the following:

(A) a commercial relationship between a wholesale dealer and a certificate of approval holder or a manufacturer of a definite duration or indefinite duration~~, which~~ that is or is not in writing and ~~which relationship~~ has been in existence for at least one year;

(B) a relationship ~~whereby~~ that has been in existence for at least one year in which the wholesale dealer is granted the right to offer and sell the brands of ~~beer~~ malt beverages or ~~wine~~ vinous beverages offered by the certificate of approval holder or manufacturer ~~and which relationship has been in existence for at least one year~~;

(C) a relationship ~~whereby~~ that has been in existence for at least one year in which the wholesale dealer, as an independent business, constitutes a component of a certificate of approval holder's or manufacturer's distribution system a~~nd which relationship has been in existence for at least one year~~;

(D) a relationship ~~whereby~~ that has been in existence for at least one year in which the wholesale dealer's business is substantially associated with the certificate of approval holder's or manufacturer's brand, advertising, or other commercial symbol designating the manufacturer a~~nd which relationship has been in existence for at least one year~~;

(E) a relationship ~~whereby~~ that has been in existence for at least one year in which the wholesale dealer's business is substantially reliant on the certificate of approval holder or manufacturer for the continued supply of ~~beer~~ malt beverages or ~~wine and which relationship has been in existence for at least one year~~ vinous beverages; and

(F) a written or oral arrangement for a definite or indefinite period ~~whereby~~ that has been in existence for at least one year in which a certificate of approval holder or manufacturer grants to a wholesale dealer a license to use a trade name, trade mark, service mark, or related characteristic, and in which there is a community of interest in the marketing of goods or services at wholesale, retail, by lease, or otherwise ~~and which arrangement has been in existence for at least one year~~.

(3) "Franchisee" means any ~~beer~~ malt beverages or ~~wine~~ vinous beverages wholesale dealer to whom a franchise or agreement as defined ~~herein~~ in this section is granted or offered, or any ~~beer~~ malt beverages or ~~wine~~ vinous beverages certificate of approval holder or manufacturer who is a party to a franchise or agreement as defined ~~herein~~ in this section.

(4) "Franchisor" means any ~~beer~~ malt beverages or ~~wine~~ vinous beverages certificate of approval holder or manufacturer who enters into any franchise or agreement with a ~~beer~~ malt beverages or ~~wine~~ vinous beverages wholesale dealer, or any ~~beer~~ malt beverages or ~~wine~~ vinous beverages certificate of approval holder or manufacturer who is a party to a franchise or agreement as defined ~~herein~~ in this section.

(5) "Territory" or "sales territory" ~~shall mean~~ means the area of sales responsibility designated by any agreement or franchise between any franchisee or franchisor for the brand or brands of any franchisor or manufacturer.

(6) ~~As used herein, brand~~ "Brand" and "brands" are synonymous with label and labels.

Sec. 122. 7 V.S.A. § 702 is amended to read:

§ 702. PROHIBITED ACTS BY MANUFACTURER

~~No~~ A manufacturer shall not:

(1) induce or coerce, or attempt to induce or coerce, any wholesale dealer to accept delivery of any alcoholic beverage, any form of advertisement, or any other commodity, ~~which shall not have been~~ that was not ordered by the wholesale dealer;

(2) induce or coerce, or attempt to induce or coerce, any wholesale dealer to do any illegal act or thing by threatening to cancel or terminate ~~his beer~~ the wholesale dealer's malt beverages or ~~wine~~ vinous beverages franchise agreement; or

(3) fail or refuse to deliver promptly to a wholesale dealer after the receipt of ~~his~~ its order any ~~beer~~ malt beverages or ~~wine~~ vinous beverages when the product is publicly advertised for immediate sale.

Sec. 123. 7 V.S.A. § 703 is amended to read:

§ 703. CANCELLATION OF FRANCHISE

Notwithstanding the terms, provisions, or conditions of any agreement or franchise, no certificate of approval holder or manufacturer shall cancel, terminate, or refuse to continue a franchise, or cause a wholesale dealer to relinquish a franchise, unless good cause is shown to exist.

Sec. 124. 7 V.S.A. § 704 is amended to read:

§ 704. 120 ~~DAYS~~ DAYS' NOTICE FOR CANCELLATION; RECTIFICATION

(a)(1) Except as provided in subsection (c) of this section, a certificate of approval holder or manufacturer shall provide a franchisee or agreement holder at least 120 ~~days~~ days' written notice of any intent to terminate or cancel any franchise or agreement.

(2) The notice shall state the causes and reasons for the intended termination or cancellation. The franchisee shall have ~~such~~ 120 days in which to rectify any claimed deficiency.

(b) The ~~superior court~~ Superior Court, upon petition and after due notice to both parties and the opportunity to be heard, shall decide whether good cause exists to allow termination or cancellation of the franchise or agreement.

(c) The notice provisions of subsection (a) of this section may be waived if the reason for termination, cancellation, or nonrenewal is insolvency, the occurrence of an assignment for the benefit of creditors, bankruptcy, or if the

certificate of approval holder or manufacturer is able to prove to the court that ~~such~~ providing the required notice would do irreparable harm to the marketing of ~~his~~ its product.

Sec. 125. 7 V.S.A. § 705 is amended to read:

§ 705. EXCLUSIVE TERRITORIES

No certificate of approval holder or manufacturer, who ~~shall designate~~ designates a sales territory for which ~~any~~ a wholesale dealer shall be primarily responsible or in which ~~any~~ a wholesale dealer is required to concentrate its efforts, shall enter into any franchise or agreement with any other wholesale dealer for the purpose of establishing an additional franchisee for its brand or brands of ~~beer~~ malt beverages or ~~wine~~ vinous beverages in the territory being primarily served or concentrated upon by ~~a~~ the first licensed wholesale dealer.

Sec. 126. 7 V.S.A. § 706 is amended to read:

§ 706. SALE TO RETAILERS BY FRANCHISEES

No franchisee ~~who shall be~~ that is granted a sales territory for which the franchisee shall be primarily responsible or in which the franchisee is required to concentrate its efforts shall make any sale or delivery of ~~beer~~ malt beverages or ~~wine~~ vinous beverages to any retail licensee whose place of business is not within the sales territory granted to the franchisee.

Sec. 127. 7 V.S.A. § 707 is amended to read:

§ 707. SALE OR TRANSFER; PURCHASE BY MANUFACTURER

(a) A wholesale dealer wishing to sell or otherwise transfer ~~his~~ its interests in a franchise shall give at least 90 days' written notice to the certificate of approval holder or manufacturer, prior to ~~such~~ the sale or transfer. The notice of intended sale or transfer shall give the full name and address of the proposed transferee, along with full details outlining the qualifications of the proposed transferee which, in the opinion of the wholesale dealer, make the proposed transferee competent to operate the franchise.

(b) In the event the certificate of approval holder or manufacturer wishes to resist the proposed sale or transfer to the proposed transferee, ~~he~~ the certificate of approval holder or manufacturer shall petition the ~~superior court~~ Superior Court for a hearing no later than 60 days prior to the date of the proposed sale or transfer~~, clearly stating his~~. The petition shall clearly state the certificate of approval holder's or manufacturer's reasons for resisting the proposed sale or transfer.

(c) Upon receipt of a petition brought resisting a sale or transfer, the ~~superior court~~ Superior Court shall hold a hearing on the proposed transfer or sale. The court shall make a full inquiry into the qualifications of the proposed

transferee, and shall determine whether or not ~~such~~ the proposed transferee is in a position to substantially continue the operations of the franchise, to assume the obligations of the franchise holder, and to conduct the business in a manner ~~which~~ that will ~~serve to~~ protect the legitimate interests of the certificate of approval holder or manufacturer.

(d) ~~In the event~~ If the ~~superior court~~ Superior Court finds the proposed transferee to be qualified to operate the franchise, it shall approve the transfer of the franchise to the proposed transferee ~~shall be approved~~.

Sec. 128. 7 V.S.A. § 709 is redesignated to read:

§ ~~709~~ 708. MERGER OF FRANCHISOR

Sec. 129. 7 V.S.A. § 710 is redesignated to read:

§ ~~710~~ 709. HEIRS, SUCCESSORS, AND ASSIGNS

Sec. 130. REPEAL

7 V.S.A. chapter 25 (rathskellars) is repealed.

Sec. 131. 7 V.S.A. § 1002 is amended to read:

§ 1002. LICENSE REQUIRED; APPLICATION; FEE; ISSUANCE

(a)(1) No person shall engage in the retail sale of tobacco products, tobacco substitutes, or tobacco paraphernalia~~, or provide a vending machine for their sale~~ in his or her place of business without a tobacco license obtained from the ~~Department~~ Division of Liquor Control~~; provided, however, that no~~.

(2) No person shall engage in the retail sale of tobacco substitutes without also obtaining a tobacco substitute endorsement from the ~~Department~~ Division of Liquor Control.

(3) Tobacco licenses and tobacco substitute endorsements shall expire at midnight, April 30, of each year.

(b)(1) The Board shall prepare and issue tobacco license and tobacco substitute endorsement forms and applications. These shall be incorporated into the liquor license forms and applications prepared and issued under this title.

(2) The licenses issued under this section shall be entitled "LIQUOR LICENSE," "LIQUOR-TOBACCO LICENSE," or "TOBACCO LICENSE," as applicable. The endorsements issued under this section shall be entitled "TOBACCO SUBSTITUTE ENDORSEMENT."

(3) The Board shall also provide simple instructions for licensees designed to assist them in complying with the provisions of this chapter.

(c) Each tobacco license and tobacco substitute endorsement shall be prominently displayed on the premises identified in the license.

(d)(1) For a license or endorsement required under this section, a person shall apply to the legislative body of the municipality and shall pay the following fees:

(A) to the ~~Department~~ Division of Liquor Control, the applicable liquor license fee~~, as set forth in chapter 9~~ provided in section 204 of this title~~,~~ for a liquor license and a tobacco license;

(B) to the legislative body of the municipality, a fee of $110.00 for a tobacco license or renewal; and

(C) to the legislative body of the municipality, a fee of $50.00 for a tobacco substitute endorsement as provided in ~~subsection (a)~~ subdivision (a)(2) of this section.

(2) The municipal clerk shall forward the application to the ~~Department~~ Division, and the ~~Department~~ Division shall issue the tobacco license and the tobacco substitute endorsement, as applicable, and shall forward all fees to the Commissioner for deposit in the Liquor Control Enterprise Fund.

* * *

Sec. 132. 7 V.S.A. § 1002a is amended to read:

§ 1002a. LICENSEE EDUCATION

(a) An applicant for a tobacco license that does not hold a liquor license issued under this title shall be granted a tobacco license pursuant to section 1002 of this title only after the applicant has attended a ~~Department~~ Division of Liquor Control in-person seminar or completed the appropriate ~~Department~~ Division of Liquor Control online training program for the purpose of being informed about the Vermont tobacco laws pertaining to the purchase, storage, and sale of tobacco products. A corporation, partnership, or association shall designate a director, partner, or manager to comply with the requirements of this subsection.

(b) The holder of a tobacco license that does not also hold a liquor license issued pursuant to this title for the same premises shall:

(1) Complete the ~~Department's~~ Division's in-person or online enforcement seminar at least once every two years. A corporation, partnership, or association shall designate a director, partner, or manager to comply with this subdivision.

(2) Ensure that every employee involved in the sale of tobacco products completes a ~~Department~~ Division of Liquor Control in-person or online

training program or other training programs approved by the ~~Department~~ Division before the employee begins selling or providing tobacco products, and at least once every 24 months thereafter. A licensee may comply with this subdivision by conducting its own training program on its premises using information and materials furnished by the ~~Department~~ Division of Liquor Control. A licensee ~~who~~ that fails to comply with the requirements of this subsection shall be subject to suspension of ~~the~~ its tobacco license for no less than one day.

(3) Fees for ~~Department~~ Division of Liquor Control in-person and online seminars for tobacco only ~~will~~ shall be $10.00 per person.

Sec. 133. 7 V.S.A. § 1003 is amended to read:

§ 1003. SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES; TOBACCO PARAPHERNALIA; REQUIREMENTS; PROHIBITIONS

(a) A person shall not sell or provide tobacco products, tobacco substitutes, or tobacco paraphernalia to any person ~~younger than~~ under 18 years of age.

~~(b) Beginning August 28, 1997, vending machines selling tobacco products, tobacco substitutes, or tobacco paraphernalia are prohibited. This subsection shall not apply to a vending machine 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. A single vending machine may not be used to sell other commodities in combination with tobacco products, tobacco substitutes, or tobacco paraphernalia. A violation of this subsection shall result in the seizure of the vending machine.~~

~~(c) Beginning January 1, 2001, and subject to receiving any necessary exemption from preemption from the U.S. Food and Drug Administration, all~~ All vending machines selling tobacco products are prohibited.

~~(d)~~(c)(1) Persons holding a tobacco license may only display or store tobacco products or tobacco substitutes:

(A) behind a sales counter or in any other area of the establishment that is inaccessible to the public; or

(B) in a locked container.

(2) This subsection shall not apply to the following:

(A) a display of tobacco products that is located in a commercial establishment in which by law no person ~~younger than~~ under 18 years of age is permitted to enter at any time;

(B) 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

(C) 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.

~~(e)~~(d) The sale and the purchase of bidis is prohibited. A person who holds a tobacco license who sells bidis as prohibited by this subsection shall be fined not more than $500.00. A person who purchases bidis from any source shall be fined not more than $250.00.

~~(f)~~(e) No person holding a tobacco license shall sell cigarettes or little cigars individually or in packs that contain fewer than 20 cigarettes or little cigars.

~~(g)~~(f) As used in this section, "little cigars" means any rolls of tobacco wrapped in leaf tobacco or any substance containing tobacco, other than any roll of tobacco which is a cigarette within the meaning of 32 V.S.A. § 7702(1), and as to which 1,000 units weigh not more than three pounds.

Sec. 134. 7 V.S.A. 1004 is amended to read:

§ 1004. PROOF OF AGE FOR THE SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES; TOBACCO PARAPHERNALIA

(a) A person shall exhibit proper proof of his or her age upon demand of a person licensed under this chapter, an employee of a licensee, or a law enforcement officer. If the person fails to provide ~~such~~ proper proof of age, the licensee shall be entitled to refuse to sell tobacco products, tobacco substitutes, or tobacco paraphernalia to the person. The sale or furnishing of tobacco products, tobacco substitutes, or tobacco paraphernalia to a person exhibiting proper proof of age shall be prima facie evidence of a licensee's compliance with section 1007 of this title.

(b) As used in this section, "proper proof of age" means ~~a photographic motor vehicle operator's license, a valid passport, a U.S. Military identification card, or a photographic nondriver motor vehicle identification card obtained from the Department of Motor Vehicles~~ a valid authorized form of identification as defined in section 589 of this title.

Sec. 135. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER 18 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY

(a)(1) A person under 18 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment.

(2) A person under 18 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia.

(b) A person who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of ~~this~~ subsection (a) of this section shall be subject to having the tobacco products, tobacco substitutes, or tobacco paraphernalia immediately confiscated and shall be further subject to a civil penalty of $25.00. An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.

~~(b)~~(c) A person under 18 years of age who misrepresents his or her age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia shall be fined not more than $50.00 or provide up to 10 hours of community service, or both.

Sec. 136. 7 V.S.A. 1006 is amended to read:

§ 1006. POSTING OF SIGNS

(a) A person licensed under this chapter shall post in a conspicuous place on the premises identified in the tobacco license a warning sign stating that the sale of tobacco products, tobacco substitutes, and tobacco paraphernalia to ~~minors~~ persons under 18 years of age is prohibited. The Board shall prepare the sign and make it available with the license forms issued under this chapter. The sign may include information about the health effects of tobacco and tobacco cessation services. The Board, in consultation with a representative of the licensees when appropriate, is authorized to change the design of the sign as needed to maintain its effectiveness.

(b) A person violating this section shall be guilty of a misdemeanor and fined not more than $100.00.

Sec. 137. 7 V.S.A. § 1007 is amended to read:

§ 1007. FURNISHING TOBACCO TO PERSONS UNDER 18 YEARS OF AGE; REPORT

(a) ~~An individual who~~ A person that sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person under 18 years of age shall be subject to a civil penalty of not more than $100.00 for the first offense and not more than $500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours of the occurrence of the alleged violation.

(b)(1) The ~~Department~~ Division of Liquor Control shall conduct or contract for compliance tests of tobacco licensees as frequently and as comprehensively as necessary to ensure consistent statewide compliance with the prohibition on sales to ~~minors~~ persons under 18 years of age of at least 90 percent for buyers who are 16 or 17 years of age. An individual under 18 years of age participating in a compliance test shall not be in violation of ~~7 V.S.A. §~~ section 1005 of this title.

(2) Any violation by a tobacco licensee of subsection 1003(a) of this title and this section after a first sale violation or during a compliance test conducted within six months of a previous violation shall be considered a multiple violation and shall result in the minimum license suspension in addition to any other penalties available under this title. Minimum license suspensions for multiple violations shall be assessed as follows:

(A) Two violations one weekday;

(B) Three violations two weekdays;

(C) Four violations three weekdays;

(D) Five violations three weekend days, Friday through Sunday.

(3) The ~~Department~~ Commissioner shall report to the House Committee on General, Housing and Military Affairs, the Senate Committee on Economic Development, Housing and General Affairs, and the Tobacco Evaluation and Review Board annually, on or before January 15, the methodology and results of compliance tests conducted during the previous year. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subsection.

Sec. 138. 7 V.S.A. § 1008 is amended to read:

§ 1008. RULEMAKING

The ~~board~~ Board of Liquor and Lottery shall adopt rules for the administration and enforcement of this chapter.

Sec. 139. 7 V.S.A. § 1009 is amended to read:

§ 1009. CONTRABAND AND SEIZURE

Any cigarettes or other tobacco products that have been sold, offered for sale, or possessed for sale in violation of section 1003 of this title, 20 V.S.A. § 2757, 32 V.S.A. § 7786, or 33 V.S.A. § 1919, and any commercial cigarette rolling machines possessed or utilized in violation of section 1011 of this title, shall be deemed contraband, and shall be subject to seizure by the Commissioner, the Commissioner's agents or employees, the Commissioner of Taxes, or any agent or employee ~~thereof~~ of the Commissioner of Taxes, or by any ~~peace~~ law enforcement officer of this State when directed to do so by the Commissioner. All cigarettes or other tobacco products seized shall be destroyed.

Sec. 140. 7 V.S.A. § 1010 is amended to read:

§ 1010. INTERNET SALES

(a) As used in this section:

(1) "Cigarette" has the same ~~definition as that found at~~ meaning as in 32 V.S.A. § 7702(1).

(2) [Repealed.]

(3) "Licensed wholesale dealer" has the same ~~definition as that found at~~ meaning as in 32 V.S.A § 7702(5).

(4) "Little cigars" has the same ~~definition as that found at~~ meaning as in 32 V.S.A. § 7702(6).

(5) "Retail dealer" has the same ~~definition as that found at~~ meaning as in 32 V.S.A. § 7702(10).

(6) "Roll-your-own tobacco" has the same ~~definition as that found at~~ meaning as in 32 V.S.A § 7702(11).

(7) "Snuff" has the same ~~definition as that found at~~ meaning as in 32 V.S.A. § 7702(13).

(b) No person shall cause cigarettes, roll-your-own tobacco, little cigars, or snuff, ordered or purchased by mail or through a computer network, telephonic network, or other electronic network, to be shipped to anyone other than a licensed wholesale dealer or retail dealer in this State.

(c) No person shall, with knowledge or reason to know of the violation, provide substantial assistance to a person in violation of this section.

(d) A violation of this section is punishable as follows:

(1) A knowing or intentional violation of this section shall be punishable by imprisonment for not more than five years or a fine of not more than $5,000.00, or both.

(2) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a person has violated this section, the Attorney General may impose a civil penalty in an amount not to exceed $5,000.00 for each violation. For purposes of this subsection, each shipment or transport of cigarettes, roll-your-own tobacco, little cigars, or snuff shall constitute a separate violation.

(3) The Attorney General may seek an injunction to restrain a threatened or actual violation of this section.

(4) In any action brought pursuant to this section, the State shall be entitled to recover the costs of investigation, of expert witness fees, of the action, and reasonable attorney's fees.

(5) A person who violates this section engages in an unfair and deceptive trade practice in violation of the State's Consumer Protection Act, 9 V.S.A. §§ 2451 et seq.

(6) If a court determines that a person has violated the provisions of this section, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the State Treasurer for deposit in the General Fund.

(7) Unless otherwise expressly provided, the penalties or remedies, or both, under this section are in addition to any other penalties and remedies available under any other law of this State.

Sec. 141. 7 V.S.A. § 1011 is amended to read:

§ 1011. COMMERCIAL CIGARETTE ROLLING MACHINES

(a) A person shall not possess or use a cigarette rolling machine for commercial purposes.

(b) A person who knowingly violates subsection (a) of this section shall be subject to the following civil penalties:

(1) The revocation or termination of any license, permit, appointment, or commission under this chapter.

(2) A civil penalty of up to $50,000.00 in any action brought by the Department of Taxes, the Department of Liquor and Lottery, the Division of Liquor Control, or the Attorney General.

(c) Penalties assessed under subsection (b) of this section shall be paid into the General Fund.

(d) A person who violates subsection (a) of this section shall be imprisoned for not more than three years or fined not more than $100,000.00, or both.

(e) This section shall not apply to the possession of a cigarette rolling machine intended solely for personal use by individuals who do not intend to offer the resulting product for resale.

(f) A cigarette rolling machine capable of rolling 200 cigarettes in fewer than 15 minutes ~~is~~ shall be presumed to be for commercial purposes.

Sec. 142. 7 V.S.A. § 1012 is amended to read:

§ 1012. LIQUID NICOTINE; PACKAGING

(a) Unless specifically preempted by federal law, no person shall manufacture, regardless of location, for sale in; offer for sale in; sell in or into the stream of commerce in; or otherwise introduce into the stream of commerce in Vermont:

(1) any liquid or gel substance containing nicotine unless that product is contained in child-resistant packaging; or

(2) any nicotine liquid container unless that container constitutes child-resistant packaging.

(b) As used in this section:

(1) "Child-resistant packaging" means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance ~~contained therein~~ in the container within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all ~~such~~ children under five years of age cannot open or obtain a toxic or harmful amount of the substance in the container within a reasonable time.

(2) "Nicotine liquid container" means a bottle or other container of a nicotine liquid or other substance containing nicotine ~~which~~ that is sold, marketed, or intended for use in a tobacco substitute. The term does not include a container containing nicotine in a cartridge that is sold, marketed, or intended for use in a tobacco substitute if the cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer.

Sec. 143. 10 V.S.A. § 1522 is amended to read:

§ 1522. BEVERAGE CONTAINERS; DEPOSIT

(a) Except with respect to beverage containers which contain liquor, a deposit of not less than five cents shall be paid by the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container. With respect to beverage containers of volume greater than 50 ml. which contain liquor, a deposit of 15 cents shall be paid by the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container. The difference between liquor bottle deposits collected and refunds made is hereby retained by the ~~liquor control fund~~ Liquor Control Enterprise Fund for administration of this subsection.

* * *

Sec. 144. 10 V.S.A. § 6605f is amended to read:

§ 6605f. WASTE MANAGEMENT PERSONNEL BACKGROUND REVIEW

(a) Disqualifying criteria. Any nongovernmental entity or person applying for a certification under section 6605, 6605a, or 6606 of this title, for interim certification under section 6605b of this title, or for a waste transportation permit under section 6607a of this title, shall be denied certification or other authorization if the Secretary finds:

(1) that the applicant or any person required to be listed on the disclosure statement pursuant to subdivision (b)(1) of this section has been convicted of any of the following disqualifying offenses in this or any other jurisdiction within the 10 years preceding the date of the application:

* * *

(L) ~~trafficking in alcoholic beverages as defined in~~ unlawfully selling, bartering, possessing, furnishing, or transporting alcohol pursuant to 7 V.S.A. § 561;

* * *

Sec. 145. 12 V.S.A. § 7156 is amended to read:

§ 7156. EFFECT OF EMANCIPATION

* * *

(b) The order of emancipation shall not affect the status of the minor in the applicability of any provision of law which requires specific age requirements under the ~~state~~ State or federal constitution or any ~~state~~ State or federal law

including laws that prohibit the sale, purchase, or consumption of ~~intoxicating liquor~~ alcoholic beverages to or by a person under 21 years of age.

Sec. 146. 13 V.S.A. § 6505 is amended to read:

§ 6505. PAYMENT

The ~~commissioner of finance and management~~ Commissioner of Finance and Management shall allow counsel so employed a reasonable compensation for his or her services and expenses and shall issue his or her warrant for the amount allowed. Compensation shall not be allowed where it appears to the ~~commissioner~~ Commissioner that the prosecution was superfluous and instituted to enhance costs, nor in the trial of a person upon a complaint for intoxication or for any other offense against the ~~chapter~~ title relating to ~~intoxicating liquors~~ alcoholic beverages, except where the respondent pleads not guilty.

Sec. 147. 18 V.S.A. § 4249 is amended to read:

§ 4249. TRANSPORTATION OF ALCOHOL, TOBACCO, OR REGULATED DRUGS INTO PLACES OF DETENTION

(a) No person shall knowingly carry or introduce or cause to be carried or introduced into a lockup, jail, prison, or correctional facility:

(1) alcohol~~, malt or vinous beverages, or spirituous liquor~~ or alcoholic beverages;

* * *

Sec. 148. 18 V.S.A. § 4254 is amended to read:

§ 4254. IMMUNITY FROM LIABILITY

* * *

(b) A person who, in good faith and in a timely manner, seeks medical assistance for someone who is experiencing a drug overdose shall not be cited, arrested, or prosecuted for a violation of this chapter or cited, arrested, or prosecuted for procuring, possessing, or consuming alcohol by someone under ~~age~~ 21 years of age pursuant to 7 V.S.A ~~§§~~ § 656 ~~and 657~~ or for providing to or enabling consumption of alcohol by someone under ~~age~~ 21 years of age pursuant to 7 V.S.A. § 658(a)-(c).

(c) A person who is experiencing a drug overdose and, in good faith, seeks medical assistance for himself or herself or is the subject of a good faith request for medical assistance shall not be cited, arrested, or prosecuted for a violation of this chapter or cited, arrested, or prosecuted for procuring, possessing, or consuming alcohol by someone under ~~age~~ 21 years of age pursuant to 7 V.S.A. ~~§§~~ § 656 ~~and 657~~ or for providing to or enabling

consumption of alcohol by someone under ~~age~~ 21 years of age pursuant to 7 V.S.A. § 658(a)–(c).

(d) A person who seeks medical assistance for a drug overdose or is the subject of a good faith request for medical assistance pursuant to subsection (b) or (c) of this section shall not be subject to any of the penalties for violation of 13 V.S.A. § 1030 (violation of a protection order), for a violation of this chapter or 7 V.S.A ~~§§~~ § 656 ~~and 657~~, for being at the scene of the drug overdose~~,~~ or for being within close proximity to any person at the scene of the drug overdose.

(e) A person who seeks medical assistance for a drug overdose or is the subject of a good faith request for medical assistance pursuant to subsection (b) or (c) of this section shall not be subject to any sanction for a violation of a condition of pretrial release, probation, furlough, or parole for a violation of this chapter or 7 V.S.A ~~§§~~ § 656 ~~and 657~~ for being at the scene of the drug overdose or for being within close proximity to any person at the scene of the drug overdose.

* * *

Sec. 149. 20 V.S.A. § 1817 is amended to read:

§ 1817. REPORTS OF LAW ENFORCEMENT OFFICER; ACCIDENTS INVOLVING ~~LIQUOR~~ ALCOHOL

Any law enforcement officer who, upon investigation of a motor vehicle accident or other incident involving the use of ~~intoxicating liquor~~ alcohol, shall inquire whether the person involved in the accident or incident was served or furnished ~~intoxicating liquor~~ alcoholic beverages at a licensed establishment and, if the officer determines that a person was served or furnished ~~intoxicating liquor~~ alcoholic beverages at a licensed establishment, the officer shall so inform ~~in writing~~ the appropriate licensee or licensees in writing. A law enforcement officer shall not be subject to civil liability for an omission or failure to comply with a provision of this section.

Sec. 150. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

* * *

(b) The Council shall offer or approve basic training and annual in-service training for each of the following three levels of law enforcement officer certification in accordance with the scope of practice for each level, and shall determine by rule the scope of practice for each level in accordance with the provisions of this section:

* * *

(2) Level II certification.

(A) An applicant for certification as a Level II law enforcement officer shall first complete Level II basic training and may then become certified in a specialized practice area as set forth in subdivision (B)(ii) of this subdivision (2). Level II basic training shall include training to respond to calls regarding alleged crimes in progress and to react to the circumstances described in subdivision (B)(iii) of this subdivision (2).

(B)(i) Except as provided in subdivisions (ii) and (iii) of this subdivision (B), the scope of practice of a Level II law enforcement officer shall be limited to investigating the following matters:

(I) ~~7 V.S.A. § 657 (person under 21 years of age misrepresenting age procuring, possessing, or consuming alcoholic beverages; third or subsequent offense);~~ [Repealed.]

(II) 7 V.S.A. § 658 (sale or furnishing to minors; enabling consumption by minors);

* * *

Sec. 151. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR POSSESSION OF ALCOHOL

(a) A person shall not consume alcoholic beverages while operating a motor vehicle on a public highway. As used in this section, "alcoholic beverages" shall have the same meaning as ~~"intoxicating liquor"~~ "alcohol" as defined in section 1200 of this title.

* * *

Sec. 152. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR POSSESSION OF ALCOHOL

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume alcoholic beverages or possess any open container which contains alcoholic beverages in the passenger area of any motor vehicle on a public highway. As used in this section, "alcoholic beverages" shall have the same meaning as ~~"intoxicating liquor"~~ "alcohol" as defined in section 1200 of this title.

* * *

Sec. 153. 23 V.S.A. § 1200 is amended to read:

§ 1200. DEFINITIONS

As used in this subchapter:

* * *

(4) ~~"Intoxicating liquor"~~ "Alcohol" includes alcohol, malt beverages, ~~spirituous liquors~~ spirits, fortified wines, and vinous beverages, as defined in 7 V.S.A. § 2, and any beverage or liquid containing any of them.

* * *

(7) "Highway" ~~shall be defined~~ has the same meaning as in subdivision 4(13) of this title, except that for purposes of this subchapter, "highway" does not include the driveway which serves only a single-family or two-family residence of the operator. This exception shall not apply if a person causes the death of a person, causes bodily injury to a person, or causes damage to the personal property of another person, while operating a motor vehicle on a driveway in violation of section 1201 of this subchapter.

* * *

(9)(A) "Ignition interlock restricted driver's license" or "ignition interlock RDL" or "RDL" means a restricted license or privilege to operate a motor vehicle issued by the Commissioner allowing a resident whose license or privilege to operate has been suspended or revoked for operating under the influence of ~~intoxicating liquor~~ alcohol or in excess of legal limits of alcohol concentration, or for refusing an enforcement officer's reasonable request for an evidentiary test, to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, installed with an approved ignition interlock device.

(B) "Ignition interlock certificate" means a restricted privilege to operate a motor vehicle issued by the Commissioner allowing a nonresident whose privilege to operate a motor vehicle in Vermont has been suspended or revoked for operating under the influence of ~~intoxicating liquor~~ alcohol or in excess of legal limits of alcohol concentration, or for refusing an enforcement officer's reasonable request for an evidentiary test, to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, installed with an approved ignition interlock device.

* * *

Sec. 154. 23 V.S.A. § 3207a is amended to read:

§ 3207a. OPERATING UNDER THE INFLUENCE OF ~~INTOXICATING LIQUOR~~ ALCOHOL OR DRUGS; SWI

(a) A person shall not operate, attempt to operate, or be in actual physical control of a snowmobile on any lands, waters, or public highways of this State:

(1) when the person's alcohol concentration is 0.08 or more; or

(2) when the person is under the influence of ~~intoxicating liquor~~ alcohol; or

(3) when the person is under the influence of any other drug or under the combined influence of alcohol and any other drug to a degree which renders the person incapable of safely operating a snowmobile.

(b) A person who is a habitual user of or under the influence of any narcotic drug or who is under the influence of any other drug, substance, or inhalant other than ~~intoxicating liquor~~ alcohol to a degree which renders the person incapable of safely operating a snowmobile may not operate, attempt to operate, or be in actual physical control of a snowmobile.

* * *

(e) As used in this section, ~~"intoxicating liquor" includes~~ "alcohol~~,~~" includes "alcohol," "malt beverages," "~~spirituous liquors~~ spirits," "fortified wines," and "vinous beverages" as defined in 7 V.S.A. § 2, and any beverage or liquid containing any of them.

* * *

Sec. 155. 23 V.S.A. § 3323 is amended to read:

§ 3323. OPERATING UNDER THE INFLUENCE OF ~~INTOXICATING LIQUOR~~ ALCOHOL OR DRUGS; B.W.I.

(a) A person shall not operate, attempt to operate, or be in actual physical control of a vessel on the waters of this State while:

(1) there is 0.08 percent or more by weight of alcohol in his or her blood, as shown by analysis of his or her breath or blood; or

(2) under the influence of ~~intoxicating liquor~~ alcohol; or

(3) under the influence of any other drug or under the combined influence of alcohol and any other drug to a degree which renders the person incapable of operating safely.

(b) ~~For purposes of~~ As used in this section, ~~"intoxicating liquor" includes~~ "alcohol~~,~~" includes "alcohol," "malt beverages," "~~spirituous liquors~~ spirits,"

"fortified wines," and "vinous beverages" as defined in 7 V.S.A. § 2, and any beverage or liquid containing any of ~~the foregoing~~ them.

(c) A person who is a habitual user of or under the influence of any narcotic drug or who is under the influence of any other drug, substance, or inhalant other than ~~intoxicating liquor~~ alcohol to a degree which renders the person incapable of safely operating a vessel may not operate, attempt to operate, or be in actual physical control of a vessel. The fact that a person charged with a violation of this section is or has been entitled to use such drug under the laws of this State shall not constitute a defense against any charge of violating this section.

* * *

Sec. 156. 23 V.S.A. § 3506 is amended to read:

§ 3506. OPERATION

* * *

(b) An all-terrain vehicle may not be operated:

* * *

(8) While the operator is under the influence of drugs or ~~intoxicating beverages~~ alcohol as defined by this title.

* * *

Sec. 157. 24 V.S.A. § 301 is amended to read:

§ 301. PENALTY FOR REFUSAL TO ASSIST

A person being required in the name of the State by a sheriff, deputy sheriff, high bailiff, deputy bailiff, or constable, who neglects or refuses to assist ~~such an~~ the officer in the execution of his or her office, in a criminal cause, ~~or~~ in the preservation of the peace, ~~or~~ in the apprehension and securing of a person for a breach of the peace, ~~or~~ in a search and seizure of ~~intoxicating liquors~~ alcohol as defined in 7 V.S.A. § 2 or in transporting ~~such liquors~~ the alcohol when seized, or in a case of escape or rescue of persons arrested on civil process, shall be fined not more than $500.00, unless the circumstances under which his or her assistance is called for amount to a riot, in which case he or she shall be imprisoned not more than six months or fined not more than $100.00, or both.

Sec. 158. 29 V.S.A. § 902 is amended to read:

§ 902. DUTIES OF COMMISSIONER OF BUILDINGS AND GENERAL SERVICES

* * *

(f) The Commissioner of Buildings and General Services may also:

* * *

(4) receive, warehouse, manage, and distribute all State property and commodities, except alcoholic beverages purchased ~~for~~ by the ~~Liquor Control~~ Board of Liquor and Lottery; and all surplus federal property and commodities;

* * *

(i) Notwithstanding subsection (a) of this section, all alcoholic beverages sold by the Board of Liquor and Lottery shall be purchased by the Board as set forth in 7 V.S.A. §§ 104 and 107.

Sec. 159. 32 V.S.A. § 10203 is amended to read:

§ 10203. DISTRIBUTION; RETAIL PURCHASE AND SALE

* * *

(f) Break-open tickets shall not be sold at premises licensed to sell alcoholic beverages except ~~at clubs~~ for clubs as defined in 7 V.S.A. § ~~2(7)~~ 2. However, a nonprofit organization may sell break-open tickets at premises licensed to sell alcoholic beverages if, notwithstanding 13 V.S.A. § 2143(e), all proceeds from the sale of the break-open tickets are used by the nonprofit organization exclusively for charitable, religious, educational, and civic undertakings, with only the following costs deducted from the proceeds:

(1) the actual cost of the break-open tickets;

(2) the prizes awarded;

(3) the reasonable legal fees necessary to organize the nonprofit organization and to ~~assure~~ ensure compliance with all legal requirements; and

(4) the reasonable accounting fees necessary to account for the proceeds from the sale of the break-open tickets.

* * *

Sec. 160. 33 V.S.A. § 5102 is amended to read:

§ 5102. DEFINITIONS AND PROVISIONS OF GENERAL APPLICATION

As used in the juvenile judicial proceedings chapters~~, unless the context otherwise requires~~:

* * *

(9) "Delinquent act" means an act designated a crime under the laws of this State, or of another state if the act occurred in another state, or under federal law. A delinquent act shall include a violation of 7 V.S.A. ~~§§~~ § 656 ~~and 657~~; however, it shall not include:

(A) snowmobile offenses in 23 V.S.A. chapter 29, subchapter 1 and motorboat offenses in 23 V.S.A. chapter 29, subchapter 2, except for violations of sections 3207a, 3207b, 3207c, 3207d, and 3323;

(B) motor vehicle offenses committed by an individual who is at least 16 years of age, except for violations of 23 V.S.A. chapter 13, subchapter 13 and of 23 V.S.A. § 1091.

* * *

Sec. 161. REPLACEMENTS

In the following sections, the phrase "intoxicating liquor" or "intoxicating liquors," wherever it appears, shall be replaced with "alcohol":

(1) 5 V.S.A. §§ 427, 3728, and 3729;

(2) 9 V.S.A. § 3807;

(3) 13 V.S.A. §§ 4017, 5041, 5042, 5301, and 7601;

(4) 23 V.S.A. §§ 308, 1130, 1201, 1204, 1211, 1213, 1218, 3206, 3207d, 3311, 3325, 3326, 3905, and 4116; and

(5) 32 V.S.A. § 805.

Sec. 162. REVIEW OF FINES AND PENALTIES; REPORT

The Commissioner of Liquor and Lottery shall review the adequacy and effectiveness of all fines and penalties in Title 7 to determine which fines and penalties, if any, require an amendment to improve their efficacy and operation in concert with the regulatory and enforcement provisions of Title 7. On or before January 15, 2018, the Commissioner shall submit a written report to the House Committees on General, Housing and Military Affairs and on Judiciary, and the Senate Committees on Economic Development, Housing and General Affairs and on Judiciary regarding his or her findings and any recommendations for legislative action.

* * * Merger of State Lottery into Department of Liquor and Lottery * * *

Sec. 163. FINDINGS AND PURPOSE

(a) The General Assembly finds that:

(1) The Department of Liquor Control and the State Lottery serve similar roles in Vermont's government by generating significant revenue for the State through the sales of a controlled product.

(2) The similarities between the roles and functions of the Department of Liquor Control and the State Lottery create the potential for the two entities to merge and collaborate in carrying out their respective functions and missions.

(3) Merging the Department of Liquor Control and State Lottery into a single Department of Liquor and Lottery will enable the State to deliver services more effectively and efficiently to the public.

(4) Merging the Department of Liquor Control and the State Lottery into a single Department of Liquor and Lottery will also enable the State to realize significant cost savings by eliminating redundancy, improving accountability, providing for more efficient use of specialized expertise and facilities, and promoting the effective sharing of best practices and state-of-the-art technology.

(b) Accordingly, it is the intent of the General Assembly to:

(1) create a combined Department of Liquor and Lottery that will be a successor to and continuation of the Department of Liquor Control and the State Lottery; and

(2) create a Board of Liquor and Lottery that shall be the successor to and a continuation of the Liquor Control Board and the Lottery Commission.

Sec. 164. REPEALS

31 V.S.A. §§ 651 (State Lottery Commission), 652 (organization), and 653 (compensation) are repealed.

Sec. 165. 31 V.S.A. § 654 is redesignated and amended to read:

§ ~~654~~ 651. POWERS AND DUTIES OF BOARD OF LIQUOR AND LOTTERY

The ~~Commission~~ Board of Liquor and Lottery shall adopt rules pursuant to 3 V.S.A. chapter 25, governing the establishment and operation of the State Lottery. The rules may include the following:

* * *

(7) Lottery product sales locations, which may include State agency liquor stores ~~and liquor agencies~~; private business establishments, except establishments holding first- or first- and third-class licenses pursuant to Title 7; fraternal, religious, and volunteer organizations; town clerks' offices; and State fairs, race tracks, and other sporting arenas.

* * *

(11) Apportionment of total revenues, within limits hereinafter specified, accruing to the State Lottery Fund among:

(A) the payment of prizes to winning ticket holders;

(B) the payment of all costs incurred in the creation, operation, and administration of the ~~lottery~~ State Lottery, including compensation of the

~~Commission~~ Board, ~~Director~~ Commissioner of Liquor and Lottery, employees of the Department of Liquor and Lottery, consultants, contractors, and other necessary expenses;

(C) the repayment of monies advanced to the State Lottery Fund for initial funding of the ~~lottery~~ State Lottery;

* * *

Sec. 166. 31 V.S.A. § 654a is redesignated and amended to read:

§ ~~654a~~ 652. MULTIJURISDICTIONAL LOTTERY GAME

(a) In addition to the Tri-State Lotto Compact provided for in subchapter 2 of this chapter~~,~~ and the other authority to operate lotteries contained in this chapter, the ~~Commission~~ Board of Liquor and Lottery is authorized to negotiate and contract with up to four multijurisdictional lotteries to offer and provide multijurisdictional lottery games. The ~~Commission~~ Board may join any multijurisdictional lottery that provides indemnification for its standing committee members, officers, directors, employees, and agents. The ~~Commission~~ Board shall adopt rules under 3 V.S.A. chapter 25 to govern the establishment and operation of any multijurisdictional lottery game authorized by this section.

* * *

(c) The provisions of subdivisions 674L.1.1A through 674L.1.1I of this title shall apply to the payment of prizes to a person other than a winner for prizes awarded under any multijurisdictional lottery authorized by this section, except that the ~~Vermont Lottery Commission~~ Board of Liquor and Lottery shall be responsible for implementing ~~such~~ the provisions under this section, rather than the Tri-State Lotto Commission.

Sec. 167. 31 V.S.A. § 655 is redesignated and amended to read:

§ ~~655~~ 653. LICENSE FEES

A license fee shall be charged for each sales license granted to a person for the purpose of selling lottery tickets at the time the person is first granted a license. The fee shall be fixed by the ~~Commission~~ Board of Liquor and Lottery, but no license fee in excess of $50.00 may be charged.

Sec. 168. 31 V.S.A. § 656 is redesignated and amended to read:

§ ~~656~~ 654. INTERSTATE LOTTERY; CONSULTANT; MANAGEMENT

(a) The ~~Commission~~ Board of Liquor and Lottery may develop and operate a lottery or the State may enter into a contractual agreement with another state or states to provide for the operation of the lottery. Approval of the Joint Fiscal Committee and the Governor shall be required for such contractual agreements with other states.

(b) If no interstate contract is entered into, the ~~Commission~~ Board shall obtain the service of an experienced lottery design and implementation consultant. The fee for the consultant may be fixed or may be based ~~upon~~ on a percentage of gross receipts realized from the lottery.

(c) The ~~Commission~~ Board may enter into a facilities management type of agreement for operation of the lottery by a third party.

Sec. 169. 31 V.S.A. § 657 is redesignated and amended to read:

§ ~~657~~ 655. ~~DIRECTOR AND~~ DUTIES OF THE COMMISSIONER

(a) The State Lottery shall be under the immediate supervision and direction of ~~a Lottery Director~~ the Commissioner of Liquor and Lottery. ~~The Director shall devote his or her entire time and attention to the duties of his or her office and shall not be engaged in any other profession or occupation. The Office of Director of the State Lottery is an executive position and shall not be included in the plan of classification of State employees, notwithstanding 3 V.S.A. § 310(a).~~

(b) The ~~Director~~ Commissioner shall:

(1) supervise and administer the operation of the ~~lottery~~ Lottery within the rules adopted by the ~~Commission~~ Board of Liquor and Lottery;

(2) subject to the approval of the ~~Commission~~ Board, enter into such contracts ~~as may be required~~ necessary for the proper creation, administration, operation, modification, and promotion of the ~~lottery~~ Lottery or any part ~~thereof~~ of the Lottery. These contracts shall not be assignable;

(3) license sales agents and suspend or revoke any license in accordance with the provisions of this chapter and the rules of the ~~Commission~~ Board;

(4) act as Secretary to the ~~Commission~~ Board, but as a nonvoting member of the ~~Commission~~ Board;

(5) employ ~~such~~ professional and secretarial staff as ~~may be required~~ necessary to carry out the functions of the ~~Commission~~ Division of the Lottery. 3 V.S.A. chapter 13 shall apply to employees of the ~~Commission~~ Division; and

(6) annually prepare a budget and submit it to the ~~Commission~~ Board.

Sec. 170. 31 V.S.A. § 658 is redesignated and amended to read:

§ ~~658~~ 656. STATE LOTTERY FUND

(a) There is hereby created in the State Treasury a separate fund to be known as the State Lottery Fund. ~~This fund~~ The Fund shall consist of all revenues received from the Treasurer for initial funding, from sale of lottery tickets, from license fees, and from all other money credited or transferred

from any other fund or source pursuant to law. The monies in the State Lottery Fund shall be disbursed pursuant to subdivision ~~654(11)~~ 651(11) of this title, and shall be disbursed by the Treasurer on warrants issued by the Commissioner of Finance and Management, when authorized by the Commissioner of Liquor and Lottery ~~Director~~ and approved by the Commissioner of Finance and Management.

(b) Expenditures for administrative and overhead expenses of the operation of the ~~lottery~~ Lottery, except agent and bank commissions, shall be paid from ~~lottery~~ Lottery receipts from an appropriation authorized for that purpose. Agent commissions shall be set by the ~~Lottery Commission~~ Board of Liquor and Lottery and ~~may~~ shall not exceed 6.25 percent of gross receipts and bank commissions ~~may~~ shall not exceed ~~1~~ one percent of gross receipts. Once the draw game results become official, the payment of any commission on any draw game ticket that wins at least $10,000.00 shall be made through the normal course of processing payments to lottery agents, regardless of whether the winning ticket is claimed.

* * *

Sec. 171. 31 V.S.A. § 659 is redesignated and amended to read:

§ ~~659~~ 657. REPORT OF THE ~~COMMISSION~~ BOARD

The ~~Commission~~ Board of Liquor and Lottery shall make an annual report to the Governor and to the General Assembly on or before the 10th day of January in each year~~, including therein~~. The report shall include an account of ~~its~~ the Board's actions~~,~~ and the receipts derived under the provisions of this chapter, the practical effects of the application ~~thereof~~ of the proceeds of the Lottery, and any recommendation for legislation ~~which~~ that the ~~Commission~~ Board deems advisable.

Sec. 172. 31 V.S.A. § 660 is redesignated and amended to read:

§ ~~660~~ 658. ~~POST-AUDITS~~ POSTAUDITS

All ~~lottery~~ Lottery accounts and transactions of the ~~Lottery Commission~~ Board of Liquor and Lottery and Division of the Lottery pursuant to this chapter shall be subject to annual ~~post-audits~~ postaudits conducted by independent auditors retained by the ~~Commission~~ Board for this purpose. The ~~Commission~~ Board may order ~~such~~ other audits as it deems necessary and desirable.

Sec. 173. 31 V.S.A. § 661 is redesignated and amended to read:

§ ~~661~~ 659. SALES AND PURCHASE OF LOTTERY TICKETS

The following acts relating to the purchase and sale of lottery tickets are prohibited:

* * *

(4) No member of the ~~Commission~~ Board of Liquor and Lottery or employee of the ~~Commission~~ Board of Department of Liquor and Lottery, or ~~members~~ member of ~~their~~ his or her immediate household, may claim or receive prize money ~~hereunder~~ under this chapter.

Sec. 174. 31 V.S.A. § 662 is redesignated to read:

§ ~~662~~ 660. UNCLAIMED PRIZE MONEY

Sec. 175. 31 V.S.A. § 663 is redesignated to read:

§ ~~663~~ 661. STATE GAMING LAWS INAPPLICABLE AS TO LOTTERY

Sec. 176. 31 V.S.A. § 665 is redesignated to read:

§ ~~665~~ 662. PENALTIES

Sec. 177. 31 V.S.A. § 666 is redesignated to read:

§ ~~666~~ 663. PUBLICATION OF ODDS

Sec. 178. 31 V.S.A. § 667 is redesignated to read:

§ ~~667~~ 664. FISCAL COMMITTEE REVIEW

* * *

(b) This section shall not apply in the event the ~~Commission~~ Board of Liquor and Lottery enters into a facilities management agreement pursuant to the provisions of subsection ~~656(c)~~ 654(c) of this title.

Sec. 179. 3 V.S.A. § 212 is amended to read:

§ 212. DEPARTMENTS CREATED

The following administrative departments are hereby created, through the instrumentality of which the Governor, under the Constitution, shall exercise such functions as are by law assigned to each department respectively:

* * *

(14) The Department of Liquor ~~Control~~ and Lottery

* * *

Sec. 180. 32 V.S.A. § 1010 is amended to read:

§ 1010. MEMBERS OF CERTAIN BOARDS

(a) Except for those members serving ex officio or otherwise regularly employed by the State, the compensation of the members of the following Boards shall be $50.00 per diem:

* * *

(7) ~~Liquor Control Board~~ Board of Liquor and Lottery

* * *

Sec. 181. 2016 Acts and Resolves No. 144, Sec. 20 is amended to read:

Sec. 20. COMMISSIONER OF LIQUOR ~~CONTROL~~ AND LOTTERY; CURRENT TERM; APPOINTMENT OF SUCCESSOR

The Commissioner of Liquor ~~Control~~ and Lottery in office on the effective date of this act shall be deemed to have commenced a four-year term pursuant to 7 V.S.A. § 106(a)(1) on February 1, 2016. The Commissioner shall serve until the end of the four-year term or until a successor is appointed as provided pursuant to 7 V.S.A. § 106. Notwithstanding any provision of 3 V.S.A. § 2004 or 7 V.S.A. § 106(b) to the contrary, during this current term, the Governor may remove the Commissioner for cause after notice and a hearing.

Sec. 182. BOARD OF LIQUOR AND LOTTERY; DEPARTMENT OF LIQUOR AND LOTTERY; POWERS AND DUTIES

On July 1, 2017:

(1)(A) The Board of Liquor and Lottery shall assume all the powers, duties, rights, and responsibilities of the Liquor Control Board and the Lottery Commission.

(B) The rules of the Liquor Control Board and the Lottery Commission in effect on July 1, 2017 shall be the rules of the Board of Liquor and Lottery until they are amended or repealed.

(2)(A) The Department of Liquor and Lottery shall assume all the powers, duties, rights, and responsibilities of the Department of Liquor Control and the State Lottery.

(B) All positions and appropriations of the Department of Liquor Control and the State Lottery shall be transferred to the Department of Liquor and Lottery.

(3)(A) The Commissioner of Liquor Control shall become the Commissioner of Liquor and Lottery.

(B) The Commissioner of Liquor and Lottery shall assume all the powers, duties, rights, and responsibilities of the Commissioner of Liquor Control and the Director of the State Lottery.

Sec. 183. LEGISLATIVE COUNCIL; PREPARATION OF A DRAFT BILL

On or before January 15, 2018, the Office of Legislative Council shall prepare and submit a draft bill to the House Committees on General, Housing

and Military Affairs and on Government Operations and the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations that makes statutory amendments of a technical nature and identifies all statutory sections that the General Assembly may need to amend substantively to effect the intent of this act.

Sec. 184. DEPARTMENT OF LIQUOR AND LOTTERY; FUNCTIONS AND DUTIES; EFFECTIVENESS; REPORT

The Commissioner Liquor and Lottery, in consultation with the Board of Liquor and Lottery, shall examine the effectiveness of the Department of Liquor and Lottery in fulfilling its functions and duties and shall identify specific measures to enhance the Department's ability to carry out its functions and duties effectively and efficiently. On or before November 15, 2017, the Chair of the Board shall submit a written report to the Governor and the General Assembly of his or her findings and recommendations for legislative action.

* * * Casino Events Hosted by Nonprofit Organizations * * *

Sec. 185. 13 V.S.A. § 2143 is amended to read:

§ 2143. NONPROFIT ORGANIZATIONS

(a) Notwithstanding the provisions of this chapter, a nonprofit organization, as defined in 32 V.S.A. § 10201(5), may organize and execute, and an individual may participate in lotteries, raffles, or other games of chance for the purpose of raising funds to be used in charitable, religious, educational, and civic undertakings or used by fraternal organizations to provide direct support to charitable, religious, educational, or civic undertakings with which they are affiliated. Except as provided in subsection (d) of this section, gambling machines and other mechanical devices described in section 2135 of this title shall not be utilized under authority of this section.

* * *

(d) Casino events shall be limited as follows:

(1) A location may be the site of no more than:

(A) one casino event in any calendar quarter; or

(B) three casino events in any calendar year, as long as there are at least 15 days between each event.

(2) A location that is owned by a nonprofit, as defined in 32 V.S.A. § 10201(5), may be the site of no more than ~~three casino events in any calendar quarter and no more than 12 casino events in any calendar year~~ two casino events in any calendar month as long as there are at least ~~15~~ 10 days between each event.

(3) A nonprofit organization, as defined in 32 V.S.A. § 10201(5), may organize and execute no more than~~:~~

~~(A)~~ one casino event in any calendar ~~quarter; or~~

~~(B) three casino events in any calendar year, as long as there are at least 15 days between each event~~ month.

(4) ~~For the purposes of~~ As used in this subsection, "casino event" means an event held during any 24-hour period at which any game of ~~change~~ chance is conducted except those prohibited by ~~13 V.S.A. §~~ subdivision 2135(a)(1) or (2) of this title. A "casino event" shall not include a fair, bazaar, field days, agricultural exposition, or similar event ~~which~~ that utilizes a wheel of fortune, chuck-a-luck, or other such games commonly conducted at such events, or break-open tickets, bingo, a lottery, or a raffle.

(e) Games of chance shall be limited as follows:

(1) All proceeds raised by a game of chance shall be used exclusively for charitable, religious, educational, and civic undertakings after deducting:

(A) reasonable expenses, as determined by fair market value, of purchasing or renting materials and equipment used for the game of chance ~~and~~, of printing advertisements, and of the direct purchase of advertising through established media, such as newspapers, radio, and television; and

(B) reasonable expenses, as determined by fair market value, for rent for the premises on which the game of ~~change~~ chance is executed~~, except that rent paid prior to August 1, 1994, pursuant to a written lease in effect on June 1, 1994, and not subject to cancellation, may be deducted, whether or not such rent is reasonable,~~ and repairs and upkeep to the premises for nonprofit organizations having ownership in premises; and

(C) prizes awarded to players as limited in subdivision (4) of this subsection (e); and

(D) payments to persons as limited in subdivision (2) of this subsection (e).

* * *

(6) A nonprofit organization shall not organize and execute games of chance on more than two days in any calendar week, nor shall games of chance be organized and executed at any location on more than two days in any calendar week, except that:

(A) Casino events may be conducted only as permitted under subsection (d) of this section.

* * *

(D) ~~Agricultural fairs qualified to receive a State stipend pursuant to 31 V.S.A. § 617 may organize and execute games of chance for not more than 12 consecutive days during the fair once each calendar year.~~ [Repealed.]

* * *

* * * Division of Liquor Control; Raffles of Rare and Unusual Products * * *

Sec. 186. 7 V.S.A. § 5 is added to read:

§ 5. DEPARTMENT OF LIQUOR CONTROL; RAFFLES FOR RIGHT TO PURCHASE RARE AND UNUSUAL PRODUCTS

(a) Notwithstanding any provision of 13 V.S.A. chapter 51 to the contrary, the Division of Liquor Control may conduct raffles for the right to purchase certain rare and unusual spirits and fortified wines that are acquired by the Board of Liquor and Lottery. A raffle conducted pursuant to this section shall meet the following requirements:

(1) Tickets to enter the raffle shall only be available for purchase to a member of the general public who is 21 years of age or older.

(2) Tickets for the raffle shall be sold at a price fixed by the Commissioner.

(3) All notices or advertisements relating to the raffle shall clearly state:

(A) the price of a raffle ticket;

(B) the date of the drawing;

(C) the sales price of each rare and unusual spirit or fortified wine; and

(D) that the winning prize will be the right to purchase the rare and unusual spirit or fortified wine for the specified sales price.

(4) No Board member or employee of the Department, and no immediate family member of a Board member or employee of the Department shall be permitted to enter the raffle.

(b) The proceeds from the sale of tickets for each raffle shall be used by the Division to provide direct support to nonprofit organizations that are qualified for tax exempt status pursuant to Section 501(c) of the federal Internal Revenue Code and whose primary mission is to provide educational programming related to the prevention of underage alcohol consumption.

(c) As used in this section, "rare and unusual spirits and fortified wines" means spirits and fortified wines that are distributed or allocated to the Board in an amount that is insufficient for general distribution to local agency stores and for which the Commissioner determines that an extraordinary level of public demand exists.

Sec. 187. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

And that after passage the title of the bill be amended to read:

An act relating to modernizing and reorganizing Title 7 and creating the Department of Liquor and Lottery.

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

Senator Sirotkin, 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 Economic Development, Housing and General Affairs.

Senator Sears, 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 Economic Development, Housing and General Affairs with the following amendments thereto:

First: In Sec. 13, 7 V.S.A. chapter 5, after section 112, Liquor Control Enterprise Fund, by adding a new section to be numbered section 113 to read as follows:

§ 113. ADMINISTRATION OF DEPARTMENT; APPORTIONMENT OF COSTS

The administrative and operating costs of the Department of Liquor and Lottery that are not specific to either the Division of Liquor Control or the Division of Lottery and the cost of any functions that are shared in common by the two Divisions shall be allocated to and paid from the Liquor Control Enterprise Fund and the State Lottery Fund based on Generally Accepted Accounting Principles.

Second: After Sec. 13, 7 V.S.A. chapter 5, by adding a new section to be numbered Sec. 13a to read as follows:

Sec. 13a. USE OF DEPARTMENTAL ADMINISTRATIVE RESOURCES; APPORTIONMENT OF COSTS; REPORT

On or before January 15, 2018, the Commissioner of Liquor and Lottery shall submit a written report regarding the allocation of costs to the Liquor Control Enterprise Fund and the State Lottery Fund pursuant to 7 V.S.A. § 113 and the method used for allocating those costs to the House and Senate Committees on Appropriations.

Third: In Sec. 186, 7 V.S.A. § 5, Department of Liquor Control, raffles for right to purchase rare and unusual products, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) The proceeds from the sale of tickets for each raffle shall be deposited in the Liquor Control Enterprise Fund established pursuant to section 112 of this title.

Fourth: After Sec. 186, 7 V.S.A. § 5, by adding a new section to be numbered Sec. 186a to read as follows:

Sec. 186a. PROCEEDS FROM SALE OF RAFFLE TICKETS FOR PURCHASE OF RARE AND UNUSUAL PRODUCTS; REPORT

On or before January 15, 2018, the Commissioner of Liquor and Lottery shall submit a written report regarding raffles conducted by the Department pursuant to 7 V.S.A. § 5, including the number of products for which a raffle was conducted, the total number of tickets sold, and the proceeds from the sales of raffle tickets to the House Committees on Appropriations and on General, Housing and Military Affairs and the Senate Committees on Appropriations and on Economic Development, Housing and General Affairs.

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 the recommendation of proposal of amendment of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Economic Development, Housing and General Affairs, as amended, was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senator Clarkson moved to amend the Senate proposal of amendment as follows:

First: In Sec. 173, 31 V.S.A. § 661, sales and purchase of lottery tickets, in subdivision (4), before the words "Department of Liquor and Lottery" by striking out the words Board of

Second: In Sec. 181, 2016 Acts and Resolves No 144, Sec. 20, by striking out the section in its entirety and inserting in lieu thereof a new Sec. 181 to read as follows:

Sec. 181. [Deleted.]

Third: In Sec. 186, 7 V.S.A. § 5, raffles for right to purchase rare and unusual products, in the section name, by striking out the word "CONTROL" and inserting in lieu thereof the words AND LOTTERY

Which was agreed to.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 26, Nays 0.

Senator Mullin 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, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Balint, Baruth, Benning, Pearson.

Proposal of Amendment; Third Reading Ordered

H. 347.

Senator Sirotkin, for the Committee on Finance, to which was referred House bill entitled:

An act relating to the State Telecommunications Plan.

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:

Sec. 1. 30 V.S.A. § 202d is amended to read:

§ 202d. TELECOMMUNICATIONS PLAN

(a) The Department of Public Service shall constitute the responsible planning agency of the State for the purpose of obtaining for all consumers in the State stable and predictable rates and a technologically advanced telecommunications network serving all service areas in the State. The Department shall be responsible for the provision of plans for meeting emerging trends related to telecommunications technology, markets, financing, and competition.

(b) The Department shall prepare a Telecommunications Plan for the State. The Department of Innovation and Information, the Agency of Commerce and Community Development, and the Agency of Transportation shall assist the Department in preparing the Plan. The Plan shall be for a 10-year period and shall serve as a basis for State telecommunications policy. Prior to preparing the Plan, the Department shall prepare:

(1) ~~an~~ An overview, looking 10 years ahead, of future requirements for telecommunications services, considering services needed for economic development, technological advances, and other trends and factors which, as determined by the Department of Public Service, will significantly affect State telecommunications policy and programs~~;~~.

(2) ~~a survey~~ One or more surveys of Vermont residents and businesses, conducted in cooperation with the Agency of Commerce and Community Development to determine what telecommunications services are needed now and in the succeeding ~~ten~~ 10 years, generally, and with respect to the following specific sectors in Vermont;

(A) the educational sector, with input from the Secretary of Education;

(B) the health care and human services sectors, with input from the Commissioner of Health and the Secretary of Human Services;

(C) the public safety sector, with input from the Commissioner of Public Safety and the Executive Director of the Enhanced 911 Board; and

(D) the workforce training and development sectors, with input from the Commissioner of Labor.

(3) ~~an~~ An assessment of the current state of telecommunications infrastructure~~;~~.

(4) ~~an~~ An assessment, conducted in cooperation with the Department of Innovation and Information and the Agency of Transportation, of the current State telecommunications system and evaluation of alternative proposals for upgrading the system to provide the best available and affordable technology for use by government~~; and~~.

(5) ~~an~~ An assessment of the state of telecommunications networks and services in Vermont relative to other states, including price comparisons for key services and comparisons of the state of technology deployment.

(c) In developing the Plan, the Department shall take into account the State telecommunications policies and goals of section 202c of this title.

(d) In establishing plans, public hearings shall be held and the Department shall consult with members of the public, representatives of

telecommunications utilities with a certificate of public good, other providers, including the Vermont Electric Power Co., Inc. (VELCO), and other interested State agencies, particularly the Agency of Commerce and Community Development, the Agency of Transportation, and the Department of Innovation and Information, whose views shall be considered in preparation of the Plan. To the extent necessary, the Department shall include in the Plan surveys to determine existing, needed, and desirable plant improvements and extensions, access and coordination between telecommunications providers, methods of operations, and any change that will produce better service or reduce costs. To this end, the Department may require the submission of data by each company subject to supervision by the Public Service Board.

(e) Before adopting a Plan, the Department shall conduct public hearings on a final draft and shall consider the testimony presented at such hearings in preparing the final Plan. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose. The Plan shall be adopted by September 1, 2014, and then reviewed and updated as provided in subsection (f) of this section.

(f) The Department, from time to time, but in no event less than every three years, shall institute proceedings to review the Plan and make revisions, where necessary. The three-year major review shall be made according to the procedures established in this section for initial adoption of the Plan. For good cause or upon request by a joint resolution passed by the General Assembly, an interim review and revision of any section of the Plan may be made after conducting public hearings on the interim revision. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose.

(g) The Department shall review and update the minimum technical service characteristic objectives not less than every three years beginning in 2017. In the event such review is conducted separately from an update of the Plan, the Department shall issue revised minimum technical service characteristic objectives as an amendment to the Plan.

Sec. 2. 30 V.S.A. § 218(c) is amended to read:

(c)(1) The Public Service Board shall take any action~~, including the setting of telephone rates, enabling~~ necessary to enable the State of Vermont and telecommunications companies offering service in Vermont to participate in the ~~Federal Communications Commission telephone~~ federal Lifeline program administered by the Federal Communications Commission (FCC) or its agent and also the Vermont Lifeline program described in subdivision (2) of this subsection. ~~The Board shall set one or more residential basic exchange Lifeline telephone service credits, for those persons eligible to participate in the Federal Communications Commission Lifeline program.~~

(2) A ~~person shall be eligible for the Lifeline benefit who meets the Department for Children and Families means test of eligibility, which shall include all persons participating in public assistance programs administered by the Department. The Department for Children and Families shall verify this eligibility, in compliance with Federal Communications Commission requirements.~~

~~(A) The benefit under this subdivision shall be equal to the full subscriber line charge, plus an amount equal to the larger of:~~

~~(i) 50 percent of the monthly basic service charge, including 50 percent of all mileage charges and, if the Board determines after notice and opportunity for hearing that their inclusion will make Lifeline benefits more comparable in different areas, 50 percent of the usage cost arising from a fixed amount of monthly local usage; and~~

~~(ii) $7.00 per month;~~

~~(B) provided that in no event shall the amount of the monthly credit exceed the monthly basic service charge, including any standard usage and mileage charges~~ household that qualifies for participation in the federal Lifeline program under criteria established by the FCC or other federal law or regulation shall also be eligible to receive a Vermont Lifeline benefit for wireline voice telephone service. The Vermont Lifeline benefit established under this subdivision shall be set at an amount not to exceed the benefit provided to a household as of October 31, 2017, or $4.25, whichever is greater, and shall be applied as a supplement to any wireline voice benefit received through participation in the federal Lifeline program. However, in no event shall the aggregate amount of benefits received through the federal and State programs described in this subdivision exceed a household's monthly basic service charge for wireline services, including any standard usage and mileage charges.

(3) A ~~person shall also be eligible for the Lifeline benefit who submits to the Commissioner for Children and Families an application containing any information and disclosure of information authorization necessary to process the Lifeline credit. Such application shall be filed with the Commissioner on or before June 15 of each year and shall be signed by the applicant under the pains and penalties of perjury. A person shall be eligible who is 65 years of age or older whose modified adjusted gross income as defined in 32 V.S.A. § 6061(5) for the preceding taxable year was less than 175 percent of the official poverty line established by the federal Department of Health and Human Services for a family of two published as of October 1 of the preceding taxable year. A person shall be eligible whose modified adjusted gross income as defined in 32 V.S.A. § 6061(5) for the preceding taxable year was less than~~

~~150 percent of the official poverty line established by the federal Department of Health and Human Services for a family of two published as of October 1 of the preceding taxable year. In the case of sickness, absence, disability, excusable neglect, or when, in the judgment of the Secretary of Human Services good cause exists, the Secretary may extend the deadline for filing claims under this section. The provisions of 32 V.S.A. § 5901 shall apply to such application. The Secretary of Human Services shall perform income verification. Upon enrollment in the program, and for each period of renewal, such participant shall receive the credit for 12 ensuing months.~~

~~(A) The benefit under this subdivision shall be equal to the full subscriber line charge, plus an amount equal to the larger of:~~

~~(i) 50 percent of the monthly basic service charge, including 50 percent of all mileage charges and, if the Board determines after notice and opportunity for hearing that their inclusion will make Lifeline benefits more comparable in different areas, 50 percent of the usage cost arising from a fixed amount of monthly local usage; and~~

~~(ii) $7.00 per month.~~

~~(B) The amount of the monthly credit pursuant to subdivision (A) of this subdivision (3) shall not exceed the monthly basic service charge, including any standard usage and mileage charges~~ company designated as an eligible telecommunications carrier by the Board pursuant to 47 U.S.C. § 214(e) shall verify an applicant's eligibility for receipt of federal or State Lifeline benefits as required by federal law or regulation or as directed by the Vermont Agency of Human Services, as applicable. The Agency shall provide the FCC or its agent with categorical eligibility data regarding an applicant's status in qualifying programs administered by the Agency.

(4) Notwithstanding any provisions of this subsection to the contrary, a subscriber who is enrolled in the Lifeline program and has obtained a final relief from abuse order in accordance with the provisions of 15 V.S.A. chapter 21 or 33 V.S.A. chapter 69 shall qualify for a Lifeline benefit credit for the amount of the incremental charges imposed by the local telecommunications company for treating the number of the subscriber as nonpublished and any charges required to change from a published to a nonpublished number. ~~Such subscribers shall be deemed to have good cause by the Secretary of Human Services for the purpose of extending the application deadline in subdivision (3) of this subsection. For purposes of~~ As used in this section, "nonpublished" means that the customer's telephone number is not listed in any published directories, is not listed on directory assistance records of the company, and is not made available on request by a member of the general public, notwithstanding any claim of emergency a requesting party may present. The

Department for Children and Families shall develop an application form and certification process for obtaining this Lifeline benefit credit. ~~Upon enrollment in the program, such participant shall receive the Lifeline benefit credit until the end of the calendar year. Renewals shall be for a period of one year.~~

Sec. 3. LIFELINE ELIGIBILITY AND PARTICIPATION; REPORT

On or before January 1, 2019 and annually thereafter for the next three years, the Commissioner for Children and Families, in consultation with the Commissioner of Public Service, shall file a report with the General Assembly describing the eligibility and participation rates in Vermont with respect to both the federal and State Lifeline programs. The first report shall include the number of persons 65 years of age or older who became ineligible for the federal and State Lifeline programs pursuant to the repeal of the State-specific eligibility criteria.

Sec. 4. CONSUMER EDUCATION AND OUTREACH; REPORT

(a) On or before September 15, 2017, the Commissioner for Children and Families and the Commissioner of Public Service, with input and assistance from representatives of various advocacy groups, including AARP, Inc., shall prepare and distribute one or more notices for distribution to Vermonters, particularly persons 65 years of age or older, who are eligible to participate in the Lifeline program according to the Department for Children and Families' data. The notices shall describe the criteria for eligibility and the process necessary for such participation. With input and assistance from the same advocacy groups' representatives, the Commissioners shall engage, on or before October 31, 2017, in other education and outreach efforts designed to increase participation in the Lifeline program, with particular focus on eligibility through the Supplemental Nutrition Assistance Program (SNAP). In addition, education and outreach efforts shall be targeted to persons age 65 years or older who are eligible for the Lifeline program pursuant to the State-specific eligibility criteria that will be repealed effective November 1, 2017. Beginning on November 1, 2017, the Commissioners shall cooperate, to the extent necessary, with outreach efforts conducted by eligible telecommunications carriers and the FCC or its agent.

(b) On or before September 15, 2017, the Commissioner for Children and Families, within input from the Commissioner of Public Service, shall file a report with the General Assembly describing the specific efforts made to identify persons age 65 or older who might be at risk of losing eligibility for Lifeline because of the elimination of State-specific eligibility criteria and to inform them of alternative means of obtaining Lifeline eligibility under the new federal criteria and summarizing the results of such outreach efforts.

Sec. 5. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 2 (Lifeline eligibility and administration) shall take effect on November 1, 2017.

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.

Proposal of Amendment; Third Reading Ordered

H. 424.

Senator MacDonald, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to the Commission on Act 250: the Next 50 Years.

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:

Sec. 1. FINDINGS; PURPOSE

(a) Findings. The General Assembly finds as follows:

(1) In 1969, Governor Deane Davis by executive order created the Governor's Commission on Environmental Control, which consisted of 17 members and became known as the Gibb Commission because it was chaired by Representative Arthur Gibb.

(2) The Gibb Commission's recommendations, submitted in 1970, included a new State system for reviewing and controlling plans for large-scale and environmentally sensitive development. The system was not to be centered in Montpelier. Instead, the power to review projects and grant permits would be vested more locally, in commissions for districts within the State.

(3) In 1970, the General Assembly enacted 1970 Acts and Resolves No. 250, an act to create an environmental board and district environmental commissions. This act is now codified at 10 V.S.A. chapter 151 and is commonly known as Act 250. In Sec. 1 of Act 250 (the Findings), the General Assembly found that:

(A) "the unplanned, uncoordinated and uncontrolled use of the lands and the environment of the state of Vermont has resulted in usages of the lands and the environment which may be destructive to the environment and which

are not suitable to the demands and needs of the people of the state of Vermont";

(B) "a comprehensive state capability and development plan and land use plan are necessary to provide guidelines for utilization of the lands and environment of the state of Vermont and to define the goals to be achieved through land environmental use, planning and control";

(C) "it is necessary to establish an environmental board and district environmental commissions and vest them with the authority to regulate the use of the lands and the environment of the state according to the guidelines and goals set forth in the state comprehensive capability and development plan and to give these commissions the authority to enforce the regulations and controls"; and

(D) "it is necessary to regulate and control the utilization and usages of lands and the environment to insure that, hereafter, the only usages which will be permitted are not unduly detrimental to the environment, will promote the general welfare through orderly growth and development and are suitable to the demands and needs of the people of this state."

(4) In 1973 Acts and Resolves No. 85, Secs. 6 and 7, the General Assembly adopted the Capability and Development Plan (the Plan) called for by Act 250. Among the Plan's objectives are:

(A) "Preservation of the agricultural and forest productivity of the land, and the economic viability of agricultural units, conservation of the recreational opportunity afforded by the state's hills, forests, streams and lakes, wise use of the state's non-renewable earth and mineral reserves, and protection of the beauty of the landscape are matters of public good. Uses which threaten or significantly inhibit these resources should be permitted only when the public interest is clearly benefited thereby."

(B) "Increased demands for and costs of public services, such as schools, road maintenance, and fire and police protection must be considered in relation to available tax revenues and reasonable public and private capital investment. . . . Accordingly, conditions may be imposed upon the rate and location of development in order to control its impact upon the community."

(C) "Strip development along highways and scattered residential development not related to community centers cause increased cost of government, congestion of highways, the loss of prime agricultural lands, overtaxing of town roads and services and economic or social decline in the traditional community center."

(D) "Provision should be made for the renovation of village and town centers for commercial and industrial development, where feasible, and

location of residential and other development off the main highways near the village center on land which is other than primary agricultural soil."

(E) "In order to achieve a strong economy that provides satisfying and rewarding job and investment opportunities and sufficient income to meet the needs and aspirations of the citizens of Vermont, economic development should be pursued selectively so as to provide maximum economic benefit with minimal environmental impact."

(b) Purpose. The General Assembly establishes a Commission on Act 250: the Next 50 Years (the Commission) and intends that the Commission review the vision for Act 250 adopted in the 1970s and its implementation with the objective of ensuring that, over the next 50 years, Act 250 supports Vermont's economic, environmental, and land use planning goals.

(c) Executive Branch working group. Contemporaneously with the consideration of this act by the General Assembly, the Chair of the Natural Resources Board (NRB) has convened a working group on Act 250 to include the NRB and the Agencies of Commerce and Community Development and of Natural Resources, with assistance from the Agencies of Agriculture, Food and Markets and of Transportation. The working group intends to make recommendations during October 2017. The General Assembly intends that the Commission established by this act receive and consider information and recommendations offered by the working group convened by the Chair of the NRB.

Sec. 2. COMMISSION ON ACT 250: THE NEXT 50 YEARS; REPORT

(a) Establishment. There is established the Commission on Act 250: the Next 50 Years (the Commission) to:

(1) Review the goals of Act 250, including the findings set forth in 1970 Acts and Resolves No. 250, Sec. 1 (the Findings) and the Capability and Development Plan adopted in 1973 Acts and Resolves No. 85, Secs. 6 and 7 (the Plan), and assess, to the extent feasible, the positive and negative outcomes of Act 250's implementation from 1970 to 2017. This review shall include consideration of the information, statistics, and recommendations described in subdivision (d)(1)(B) of this section.

(2) Engage Vermonters on their priorities for the future of the Vermont landscape, including how to maintain Vermont's environment and sense of place, and address relevant issues that have emerged since 1970.

(3) Perform the tasks and the review set forth in subsection (e) of this section and submit a report with recommended changes to Act 250 to achieve the goals stated in the Findings and the Plan, including any suggested revisions to the Plan.

(b) Membership; officers.

(1) The Commission shall be composed of the following seven members:

(A) three members of the House of Representatives, not all from the same party, appointed by the Speaker of the House;

(B) three members of the Senate, not all from the same party, appointed by the Committee on Committees; and

(C) one member of the House of Representatives or the Senate, jointly appointed by the Speaker of the House and the Committee on Committees.

(2) At its first meeting, the Commission shall elect a Chair and Vice Chair. The Vice Chair shall function as Chair in the Chair's absence.

(c) Advisors. Advisors to the Commission shall be appointed as set forth in this subsection. The advisors are referred to collectively as the "Act 250 Advisors." The Commission may seek assistance from additional persons or organizations with expertise relevant to the Commission's charge.

(1) The advisors may attend and participate in Commission meetings and shall have the opportunity to present information and recommendations to the Commission. The Commission shall notify the advisors of each Commission meeting.

(2) The advisors to the Commission shall be:

(A) the Chair of the Natural Resources Board or designee;

(B) a representative of a Vermont-based, statewide environmental organization that has a focus on land use and significant experience in the Act 250 process, appointed by the Committee on Committees;

(C) a person with expertise in environmental science affiliated with a Vermont college or university, appointed by the Speaker of the House;

(D) a representative of the Vermont Association of Planning and Development Agencies, appointed by the Speaker of the House;

(E) a representative of the Vermont Planners Association, appointed by the Committee on Committees;

(F) a representative of a Vermont-based business organization with significant experience in real estate development and land use permitting, including Act 250, appointed by the Committee on Committees;

(G) a person currently serving or who formerly served in the position of an elected officer of a Vermont city or town, appointed by the Vermont League of Cities and Towns;

(H) the Chair of the Environmental Law Section of the Vermont Bar Association;

(I) each of the following or their designees:

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

(ii) the Secretary of Commerce and Community Development;

(iii) the Secretary of Natural Resources; and

(iv) the Secretary of Transportation; and

(J) a current or former district coordinator or district commissioner, appointed by the Chair of the Natural Resources Board.

(3) The Commission and the Chair of the Natural Resources Board each may appoint one advisor in addition to the advisors set forth in subdivision (c)(2) of this section.

(4) Each appointing authority for an advisor to the Commission shall promptly notify the Office of Legislative Council of the appointment when made.

(d) Meetings; phases. The Commission shall meet as needed to perform its tasks and shall conduct three phases of meetings: a preliminary meeting phase, a public discussion phase, and a deliberation and report preparation phase. The initial meeting shall be part of the preliminary meeting phase, convened by the Office of Legislative Council during September 2017 after notice to the Commission members and the Act 250 Advisors. Subsequent Commission meetings shall be at the call of the Chair or of any three members of the Commission.

(1) Preliminary meeting phase.

(A) The preliminary meeting phase shall include the initial meeting of the Commission and such additional meetings as may be scheduled.

(B) During the preliminary meeting phase, the Commission shall become informed on the history, provisions, and implementation of Act 250, including its current permitting and appeals processes. This phase shall include:

(i) Review of available information on the outcomes of Act 250 from 1970 to 2017, including case studies and analyses. When information relevant to this review does not exist, the Commission may request its preparation.

(ii) Review of the history and implementation of land use planning in Vermont, including municipal and regional planning under 24 V.S.A. chapter 117.

(iii) Receipt of the information and recommendations of the working group described in Sec. 1(c) of this act;

(iv) Information prepared by the Natural Resources Board on:

(I) the Act 250 application process;

(II) coordination of the Act 250 program with the Agencies of Agriculture, Food and Markets, of Commerce and Community Development, of Natural Resources, and of Transportation;

(III) over multiple years, application processing times by district, number of appeals of application decisions and time to resolve, and number of appeals of jurisdictional opinions and time to resolve; and

(IV) an overview of the history of the Natural Resources Board.

(v) Opportunity for the Act 250 Advisors to present relevant information.

(2) Public discussion phase. Following the preliminary meeting phase, the Commission, with assistance from the Act 250 Advisors, shall conduct a series of information and interactive meetings on 2070: A Vision for Vermont's Future.

(A) The purpose of this phase shall be to accomplish the public engagement set forth in subdivision (a)(2) of this section.

(B) The Commission shall conduct this phase during adjournment of the General Assembly.

(3) Deliberation and report preparation phase. Following completion of the public meeting phase, the Commission shall meet to perform the tasks set forth in subsection (e) of this section and deliberate and prepare its written report and recommendations, with assistance from the Act 250 Advisors.

(e) Tasks; report and recommendations. After considering the information from its public discussion meetings and consultation with the Act 250 Advisors, the Commission shall perform the tasks set forth in this subsection and submit its report, including:

(1) A statistical analysis based on available data on Vermont environmental and land use permitting in general and on Act 250 permit processing specifically, produced in collaboration with municipal, regional, and State planners and regulatory agencies.

(2) Review and recommendations related to:

(A) An evaluation of the degree to which Act 250 has been successful or unsuccessful in meeting the goals set forth in the Findings and the Plan.

(B) An evaluation of whether revisions should be made to the Plan.

(C) An examination of the criteria and jurisdiction of Act 250, including:

(i) Whether the criteria reflect current science and adequately address climate change and other environmental issues that have emerged since 1970. On climate change, the Commission shall seek to understand, within the context of the criteria of Act 250, the impacts of climate change on infrastructure, development, and recreation within the State, and methods to incorporate strategies that reduce greenhouse gas emissions.

(ii) Whether the criteria support development in areas designated under 24 V.S.A. chapter 76A, and preserve rural areas, farms, and forests outside those areas.

(iii) Whether the criteria support natural resources, working lands, farms, agricultural soils, and forests in a healthy ecosystem protected from fragmentation and loss of wildlife corridors.

(iv) Whether Act 250 promotes compact centers of mixed use and residential development surrounded by rural lands.

(v) Whether Act 250 applies to the type and scale of development that provides adequate protection for important natural resources as defined in 24 V.S.A. § 2791.

(vi) Whether the exemptions from Act 250 jurisdiction further or detract from achieving the goals set forth in the Findings and the Plan, including the exemptions for farming and for energy projects.

(D) An examination of changes that have occurred since 1970 that may affect Act 250, such as changes in demographics and patterns and structures of business ownership.

(E) An examination of the interface between Act 250 and other current permit processes at the local and State levels and opportunities to consolidate and reduce duplication. This examination shall include

consideration of the relationship of the scope, criteria, and procedures of Act 250 with the scope, criteria, and procedures of Agency of Natural Resources permitting, municipal and regional land use planning and regulation, and designation under 24 V.S.A. chapter 76A.

(F) An evaluation of how well the Act 250 application, review, and appeals processes are serving Vermonters and the State's environment and how they can be improved, including consideration of:

(i) Public participation before the District Environmental Commissions and in the appeals process, including party status.

(ii) The structure of the Natural Resources Board.

(iii) De novo or on the record appeals.

(iv) Comparison of the history and structure of the former Environmental Board appeals process with the current process before the Environmental Division of the Superior Court.

(v) Other appellate structures.

(G) The following specific considerations:

(i) Circumstances under which land might be released from Act 250 jurisdiction.

(ii) Potential revisions to Act 250's definitions of development and subdivision for ways to better achieve the goals of Act 250, including the ability to protect forest blocks and habitat connectivity.

(iii) The scope of Act 250's jurisdiction over projects on ridgelines, including its ability to protect ridgelines that are lower than 2,500 feet, and projects on ridgelines that are expressly exempted from Act 250.

(iv) Potential jurisdictional solutions for projects that overlap between towns with and without both permanent zoning and subdivision bylaws.

(v) The potential of a person that obtains party status to offer to withdraw the person's opposition or appeal in return for payment or other consideration that is unrelated to addressing the impacts of the relevant project under the Act 250 criteria.

(H) Such other issues related to Act 250 as the Commission may consider significant.

(f) Due date. On or before December 15, 2018, the Commission shall submit its report and recommendations to the House Committee on Natural Resources, Fish and Wildlife and the Senate Committee on Natural Resources

and Energy (the Natural Resource Committees). The report shall attach the Commission's proposed legislation.

(g) Assistance.

(1) The Office of Legislative Council shall provide administrative and legal assistance to the Commission, including the scheduling of meetings and the preparation of recommended legislation. The Joint Fiscal Office shall provide assistance to the Commission with respect to fiscal and statistical analysis.

(2) The Commission shall be entitled to technical and professional services from the Natural Resources Board and the Agencies of Commerce and Community Development, of Natural Resources, and of Transportation.

(3) On request, the Commission shall be entitled to available statistics and data from municipalities, regional planning commissions, and State agencies on land use and environmental permit processing and decisions.

(4) On request, the Commission shall be entitled to data from the Superior Court on appeals before the Environmental Division from decisions under Act 250, including annual numbers of appeals, length of time, and disposition.

(h) Subcommittees. The Commission may appoint members of the Commission to subcommittees to which it assigns tasks related to specific issues within the Commission's charge and may request one or more of the Act 250 Advisors to assist those subcommittees.

(i) Reimbursement.

(A) For attendance at no more than 10 Commission meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

(B) There shall be no reimbursement for attendance at subcommittee meetings or more than 10 Commission meetings.

(j) Cessation. The Commission shall cease to exist on February 15, 2019.

Sec. 3. APPROPRIATION

For fiscal year 2018, the amount of $25,000.00 is appropriated to the Office of Legislative Council for the purpose of Sec. 2(d)(2) of this act, the public discussion phase, including obtaining professional assistance in the design and conduct of this phase, if requested by the Commission, and the cost of presentations and meetings other than per diems and expenses of Commission members.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

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

Senator Nitka, 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 Natural Resources and Energy with the following amendments thereto:

First: In Sec. 2, Commission on Act 250: The Next 50 Years; Report, in subsection (b) (membership; officers), by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) The Commission shall be composed of the following six members:

(A) three members of the House of Representatives, not all from the same party, appointed by the Speaker of the House; and

(B) three members of the Senate, not all from the same party, appointed by the Committee on Committees.

Second: By striking out Sec. 3 (appropriation) in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. ASSISTANCE; PUBLIC ENGAGEMENT

If requested by the Commission established under Sec. 2 of this act, the Office of Legislative Council may retain professional assistance in the design and conduct of the public discussion phase set forth in Sec. 2(d)(2) of this act, provided the cost of this assistance does not exceed $20,000.00.

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 Natural Resources and Energy was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Natural Resources and Energy, as amended, was agreed to and third reading of the bill was ordered on a roll call, Yeas 26, Nays 0.

Senator Bray 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, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Balint, Baruth, Benning, Pearson.

House Proposals of Amendment to Senate Proposal of Amendment Concurred In

H. 184.

House proposals of amendment to Senate proposal of amendment to House bill entitled:

An act relating to evaluation of suicide profiles.

Were taken up.

The House proposes to the Senate to amend the Senate proposal of amendment with further amendment thereto as follows:

First: In Sec. 1, in subsection (a), before the phrase "analyses or reports" by inserting the words "Vermont-specific" and after the phrase "National Violent Death Reporting System" and before the comma, by inserting the phrase "as well as national comparative data"

Second: In Sec. 1, by striking out subsection (b) in its entirety and inserting in lieu there the following:

(b) On or before January 15, 2019, the Secretary shall present plans describing how Vermont-specific data relevant to subdivisions (a)(1)–(4) of this section shall be collected after the National Violent Death Reporting System grant expires. The plan shall be presented to the Senate Committee on Health and Welfare, the House Committee on Health Care, and the Green Mountain Care Board, in its capacity overseeing development and implementation of the All-Payer Model that includes reductions in suicide deaths among Vermont residents as a quality measure.

Third: In Sec. 1, in subsection (c), after the phrase "Health and Welfare" by striking out "and to" and by inserting a comma in lieu thereof and by inserting after "Health Care" a comma followed by "and the Green Mountain Care Board"

Fourth: In Sec. 1, in subsection (c), in subdivision (1), after "any" by inserting the words "Vermont-specific" and after the phrase "this section" by inserting the phrase "as well as national comparative data"

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

House Proposal of Amendment to Senate Proposal of Amendment Concurred In

H. 230.

House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to consent by minors for mental health treatment related to sexual orientation and gender identity.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment as follows:

In Sec. 2 by striking out the following: "July 1, 2017" and inserting in lieu thereof the following: January 1, 2018

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

House Proposals of Amendment to Senate Proposal of Amendment Concurred In

H. 308.

House proposals of amendment to Senate proposal of amendment to House bill entitled:

An act relating to a committee to reorganize and reclassify Vermont's criminal statutes.

Were taken up.

The House proposes to the Senate to amend the Senate proposal of amendment as follows:

First: By striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. OFFICE OF THE ATTORNEY GENERAL; HUMAN RIGHTS COMMISSION; REPORT

The Attorney General, together with the Human Rights Commission and interested stakeholders, shall develop a strategy to address racial disparities within the State systems of education, labor and employment, access to housing and health care, and economic development. The Attorney General and the Human Rights Commission shall jointly report on the strategy to the Justice Oversight Committee on or before November 1, 2017.

Second: By adding a new section to be numbered Sec. 6a to read as follows:

Sec. 6a. REPEAL

3 V.S.A. § 168 (Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel) is repealed on July 1, 2020.

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

House Proposal of Amendment Concurred In with Amendment

S. 10.

House proposal of amendment to Senate bill entitled:

An act relating to liability for the contamination of potable water supplies.

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:

* * * Contaminated Potable Water Supplies * * *

Sec. 1. 10 V.S.A. § 6615e is added to read:

§ 6615e. RELIEF FOR CONTAMINATED POTABLE WATER SUPPLIES

(a) Definitions. As used in this section:

(1) "Public water system" means any system or combination of systems owned or controlled by a person that provides drinking water through pipes or other constructed conveyances to the public and that has at least 15 service connections or serves an average of at least 25 individuals daily for at least 60 days out of the year. A "public water system" includes all collection, treatment, storage, and distribution facilities under the control of the water supplier and used primarily in connection with the system, and any collection or pretreatment storage facilities not under the control of the water supplier

that are used primarily in connection with the system. "Public water system" shall also mean any part of a system that does not provide drinking water, if use of such a part could affect the quality or quantity of the drinking water supplied by the system. "Public water system" shall also mean a system that bottles drinking water for public distribution and sale.

(2) "Public community water system" means a public water system that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

(b) Extension of public community water system.

(1) The Secretary, after due consideration of cost, may initiate a proceeding under this section to determine whether a person that released perfluorooctanoic acid into the air, groundwater, surface water, or onto the land is liable for the costs of extending the water supply of a public water system to an impacted property. A person who released perfluorooctanoic acid shall be liable for the extension of a municipal water line when:

(A) the property is served by a potable water supply regulated under chapter 64 of this title;

(B) the Secretary has determined that the potable water supply on the property:

(i) is a failed supply under chapter 64 of this title due to perfluorooctanoic acid contamination; or

(ii) is likely to fail due to contamination by perfluorooctanoic acid due to the proximity of the potable water supply to other potable water supplies contaminated by perfluorooctanoic acid or due to other relevant factors; and

(C) the person the Secretary determined released perfluorooctanoic acid into the air, groundwater, surface water, or onto the land is a cause of or contributor to the perfluorooctanoic acid contamination or likely contamination of the potable water supply.

(2) A person liable for the extension of a public water system under this section shall be strictly, jointly, and severally liable for all costs associated with that public water system extension. The remedy under this section is in addition to those provided by existing statutory or common law.

(c) Liability payment.

(1) Following notification of liability by the Secretary, a person liable under subsection (b) of this section for the extension of the water supply of a public water system shall pay the owner of the public water system for the extension of the water supply within 30 days of receipt of a final engineering design or within an alternate time frame ordered by the Secretary.

(2) If the person liable for the extension of the water supply does not pay the owner within the time frame required under subdivision (1) of this subsection, the person shall be liable for interest on the assessed cost of the extension of the water supply.

(d) Available defenses; rights. All defenses to liability and all rights to contribution or indemnification available to a person under section 6615 of this title are available to a person subject to liability under this section.

Sec. 2. APPLICATION OF LIABILITY

(a) 10 V.S.A. § 6615e, enacted under Sec. 1 of this act, shall apply to any determination of liability made by the Secretary of Natural Resources under 10 V.S.A. § 6615e after the effective date of the section.

(b) Notwithstanding any contrary provision of 1 V.S.A. § 214, 10 V.S.A. § 6615e shall apply to any relevant release of perfluorooctanoic acid regardless of the date of the relevant release, including releases that occurred prior to the effective date of 10 V.S.A. § 6615e.

* * * Hazardous Materials * * *

Sec. 3. 10 V.S.A. § 6602(16) is amended to read:

(16)(A) "Hazardous material" means all petroleum and toxic, corrosive, or other chemicals and related sludge included in any of the following:

(i) any substance defined in section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980;

(ii) petroleum, including crude oil or any fraction thereof; ~~or~~

(iii) hazardous wastes, as determined under subdivision (4) of this section; or

(iv) a chemical or substance that, when released, poses a risk to human health or other living organisms and that is listed by the Secretary by rule.

(B) "Hazardous material" does not include herbicides and pesticides when applied consistent with good practice conducted in conformity with federal, State, and local laws and regulations and according to manufacturer's instructions. Nothing in this subdivision shall affect the authority granted and the limitations imposed by section 6608a of this title.

Sec. 4. 10 V.S.A. § 6602(12) is amended to read:

(12) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any solid waste or hazardous waste

into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any ground or surface waters.

* * * Brownfields * * *

Sec. 5. 10 V.S.A. § 6652(b) is amended to read:

(b) Upon receipt of the completion report, the Secretary shall determine whether additional work is required in order to complete the plan. The applicant shall perform any additional activities necessary to complete the corrective action plan as required by the Secretary and shall submit a new completion report. When the Secretary determines that the applicant has successfully completed the corrective action plan and paid all fees and costs due under this subchapter, the Secretary shall issue a certificate of completion, which certifies that the work is completed. The certificate of completion shall include a description of any land use restrictions and other conditions required by the corrective action plan. The Secretary may establish land use restrictions in the certificate of completion for a property, but the Secretary shall not acquire interests in the property in order to establish a land use restriction.

Sec. 6. 10 V.S.A. § 6653 is amended to read:

§ 6653. RELEASE FROM LIABILITY; PERSONAL RELEASE FROM LIABILITY

(a) An applicant who has obtained a certificate of completion pursuant to section 6652 of this title and successor owners of the property included in the certificate of completion who are not otherwise liable under section 6615 for the release or threatened release of a hazardous material at the property shall not be liable under subdivision 6615(a)(1) of this title for any of the following:

(1) A release or threatened release that existed at the property at the time of the approval of the corrective action plan and complies with one or both of the following:

(A) was discovered after the approval of the corrective action plan by means that were not recognized standard methods at the time of approval of the corrective action plan;

(B) the material was not regulated as hazardous material until after approval of the corrective action plan.

(2) Cleanup after approval of the corrective action plan was done pursuant to more stringent cleanup standards effective after approval of the corrective action plan.

(3) Natural resource damages pursuant to section 6615d of this title, provided that the applicant did not cause the release that resulted in the damages to natural resources.

* * *

(c) A release from liability under this section or forbearance from action provided by section 6646 of this title does not extend to any of the following:

(1) A release or threatened release of a hazardous material that was not present at the time the applicant submitted an application pursuant to this subchapter where the release or threatened release:

(A) has not been addressed under an amended corrective action plan approved by the Secretary; or

(B) was caused by intentional or reckless conduct by the applicant or agents of the applicant.

(2) Failure to comply with the general obligations established in section 6644 of this title.

(3) A release that occurs subsequent to the issuance of a certificate of completion.

(4) Failure to comply with the use restrictions contained within the certificate of completion for the site issued pursuant to subsection 6652(b) of this title.

* * *

* * * Groundwater Classification * * *

Sec. 7. 10 V.S.A. § 1392(d) is amended to read:

(d) The groundwater management strategy, including groundwater classification and associated technical criteria and standards, shall be adopted as a rule in accordance with the provisions of 3 V.S.A.~~,~~ chapter 25. ~~The secretary shall file any final proposed rules regarding the groundwater management strategy, with the natural resources board not less than 30 days prior to filing with the legislative committee on administrative rules. The board shall review the final proposed rules and comment regarding their compatibility with the Vermont water quality standards and the objectives of the Vermont Water Pollution Control Act. The secretary shall include the natural resources board's comments in filing the final proposed rules with the legislative committee on administrative rules.~~

Sec. 8. 10 V.S.A. § 1394(a) is amended to read:

(a) The ~~state~~ State adopts, for purposes of classifying its groundwater, the following classes and definitions thereof:

* * *

(4) Class IV. Not suitable as a source of potable water but suitable for some agricultural, industrial and commercial use, provided that the Secretary may authorize, subject to conditions, use as a source of potable water supply or other use under a reclassification order issued for the aquifer.

* * * Public Trust Lands * * *

Sec. 9. ADDITIONAL AUTHORIZED USE; PUBLIC TRUST LANDS

(a) The General Assembly finds that:

(1) the General Assembly has the authority to authorize public uses of filled public trust lands in the City of Burlington; and

(2) the use of the filled public trust lands in the City of Burlington authorized by this act is consistent with the public trust doctrine.

(b) In addition to the uses authorized by the General Assembly in 1990 Acts and Resolves No. 274, 1991 Acts and Resolves No. 53, 1996 Acts and Resolves No. 87, and 1997 Acts and Resolves No. 22, the filled public trust lands within the City of Burlington that are located north of the centerline of Maple Street extending north to the northern terminus of the Lake Street extension completed in 2016 and that extend to the waters of Lake Champlain may be utilized for public markets that benefit Vermont's public and that are available to the public on an open and nondiscriminatory basis.

(c) Any use authorized under this act is subject to all applicable requirements of law.

* * * Effective Date * * *

Sec. 10. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Bray moved that the Senate concur in the House proposal of amendment with an amendment as follows:

By striking out Sec. 9 in its entirety and renumbering the remaining section of the bill to be numerically correct.

Which was agreed to.

Committee of Conference Appointed

H. 503.

An act relating to bail.

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

Senator Sears
Senator Nitka
Senator Benning

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 Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 10, S. 72, H. 184, H. 230, H. 308, H. 356, H. 503, H. 506, H. 512, H. 520.

Adjournment

On motion of Senator Ashe, the Senate adjourned until ten o'clock in the morning.

TUESDAY, MAY 2, 2017

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. Rebecca Silbernagel, 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. 154. An act relating to approval of amendments to the charter of the City of Burlington.

H. 241. An act relating to the charter of the Central Vermont Solid Waste Management District.

H. 522. An act relating to approval of amendments to the charter of the City of Burlington.

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. 61. An act relating to offenders with mental illness.

S. 134. An act relating to court diversion and pretrial services.

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

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 494. An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

And has adopted the same on its part.

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

H. 515. An act relating to Executive Branch and Judiciary fees.

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. Young of Glover
Rep. Wood of Waterbury
Rep. Baser of Bristol.

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

S. 56. An act relating to life insurance policies and the Vermont Uniform Securities Act.

And has concurred therein.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 42. An act relating to appointing municipal clerks and treasurers and to municipal audit penalties.

And has adopted the same on its part.

Rules Suspended; House Proposal of Amendment to Senate Proposal of Amendment Not Concurred In; Committee of Conference Requested; Committee of Conference Appointed; Bill Messaged

H. 513.

Appearing on the Calendar for action, on motion of Senator Ashe, the rules were suspended and Senate bill entitled:

An act relating to making miscellaneous changes to education law.

Was taken up for immediate consideration.

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

* * * Criminal Record Checks * * *

Sec. 1. 16 V.S.A. § 255(k) and (l) are added to read:

(k) The requirements of this section shall not apply to persons operating or employed by a child care facility that is prequalified to provide prekindergarten education pursuant to section 829 of this title and that is required to be licensed by the Department for Children and Families pursuant to 33 V.S.A § 3502.

(l) The requirements of this section shall not apply with respect to a school district's partners in any program authorized or student placement created by chapter 23, subchapter 2 of this title. It is provided, however, that superintendents are not prohibited from requiring a fingerprint supported record check pursuant to district policy with respect to its partners in such programs.

* * * Education Weighting Report * * *

Sec. 2. EDUCATION WEIGHTING REPORT

(a) The Agency of Education, the Joint Fiscal Office, and the Office of Legislative Council, in consultation with the Secretary of Human Services, the Vermont Superintendent's Association, the Vermont School Boards Association, and the Vermont National Education Association, shall consider and make recommendations on the criteria used for determining weighted long-term membership of a school district under 16 V.S.A. § 4010, including the following.

(1) The current weighting factors and any supporting evidence or basis in the historical record for these factors.

(2) The relationship between each of the current weighting factors and the quality and equity of educational outcomes for students.

(3) Whether any of the weighting factors, including the weighting factors for students from economically deprived backgrounds and for students

for whom English is not the primary language, should be modified, and if so, how the weighting factors should be modified and if the modification would further the quality and equity of educational outcomes for students.

(4) Whether to add any weighting factors, including a school district population density factor, and if so, why the weighting factor should be added and if the weighting factor would further the quality and equity of educational outcomes for students. In considering whether to recommend the addition of a school district population density factor, the Agency of Education shall consider the practices of other states, information from the National Council for State Legislatures, and research conducted by higher education institutions working on identifying rural or urban education financing factors.

(b) In addition to considering and making recommendations on the criteria used for the determining weighted long-term membership of a school district under subsection (a) of this section, the Agency of Education may consider and make recommendations on other methods that would further the quality and equity of educational outcomes for students.

(c) Report. On or before December 15, 2017, the Agency of Education shall submit a written report to the House and Senate Committees on Education, the House Committee on Ways and Means, and the Senate Committee on Finance with its findings and any recommendations.

* * * Surety Bond; Postsecondary Institutions * * *

Sec. 3. 16 V.S.A. § 175 is amended to read:

§ 175. POSTSECONDARY EDUCATIONAL INSTITUTIONS; CLOSING

(a) When an institution of higher education, whether or not chartered in this State, proposes to discontinue the regular course of instruction, either permanently or for a temporary period other than a customary vacation period, the institution shall:

(1) promptly inform the State Board;

(2) prepare the academic record of each current and former student in a form satisfactory to the State Board and including interpretive information required by the Board; and

(3) deliver the records to a person designated by the State Board to act as permanent repository for the institution's records, together with the reasonable cost of entering and maintaining the records.

* * *

(e) When an institution of higher education is unable or unwilling to comply with the requirements of subsection (a) of this section, the State Board may expend State funds necessary to ensure the proper storage and availability of the institution's records. The Attorney General shall then seek recovery under this subsection, in the name of the State, of all of the State's incurred costs and expenses, including attorney's fees, arising from the failure to comply. Claims under this subsection shall be a lien on all the property of a defaulting institution, until all claims under this subsection are satisfied. The lien shall take effect from the date of filing notice thereof in the records of the town or towns where property of the defaulting institution is located.

* * *

(g)(1) Each institution of higher education accredited in Vermont, except institutions that are members of the Association of Vermont Independent Colleges (AVIC), the University of Vermont, and the Vermont State Colleges, shall acquire and maintain a bond from a corporate surety licensed to do business in Vermont in the amount of $50,000.00 to cover costs that may be incurred by the State under subsection (e) of this section due to the institution's failure to comply with the requirements of subsection (a) of this section, and the institution shall provide evidence of the bond to the Secretary within 30 days of receipt. The State shall be entitled to recover up to the full amount of the bond in addition to the other remedies provided in subsection (e) of this section.

(2) AVIC shall maintain a memorandum of understanding with each of its member colleges under which each member college agrees to:

(A) upon the request of AVIC, properly administer the student records of a member college that fails to comply with the requirements of subsection (a) of this section; and

(B) contribute on an equitable basis and in a manner determined in the sole discretion of AVIC to the costs of another AVIC member or other entity selected by AVIC maintaining the records of a member college that fails to comply with the requirements of subsection (a) of this section.

* * * Prekindergarten Education Recommendations * * *

Sec. 4. PREKINDERGARTEN EDUCATION RECOMMENDATIONS

On or before November 1, 2017, the Secretaries of Human Services and of Education shall jointly present recommendations to the House and Senate Committees on Education, House Committee on Human Services, and Senate Committee on Health and Welfare that will ensure equity, quality, and affordability, and reduce duplication and complexity, in the current delivery of prekindergarten services.

* * * High School Completion Program * * *

Sec. 5. 16 V.S.A. § 942(6) is amended to read:

(6) ~~"Contracting agency"~~ "Local adult education and literacy provider" means an entity that ~~enters into a contract with the Agency to provide "flexible pathways to graduation" services itself or in conjunction with one or more approved providers in Vermont~~ is awarded Federal or State grant funds to conduct adult education and literacy activities.

Sec. 6. 16 V.S.A. § 943 is amended to read:

§ 943. HIGH SCHOOL COMPLETION PROGRAM

(a) There is created a High School Completion Program to be a potential component of a flexible pathway for any Vermont student who is at least 16 years ~~old~~ of age, who has not received a high school diploma, and who may or may not be enrolled in a public or approved independent school.

(b) If a person who wishes to work on a personalized learning plan leading to graduation through the High School Completion Program is not enrolled in a public or approved independent school, then the Secretary shall assign the prospective student to a high school district, which shall be the district of residence whenever possible. The school district in which a student is enrolled or to which a nonenrolled student is assigned shall work with the ~~contracting agency~~ local adult education and literacy provider that serves the high school district and the student to develop a personalized learning plan. The school district shall award a high school diploma upon successful completion of the plan.

(c) The Secretary shall reimburse, and net cash payments where possible, a school district that has agreed to a personalized learning plan developed under this section in an amount:

(1) established by the Secretary for the development and ongoing evaluation and revision of the personalized learning plan and for other educational services typically provided by the assigned district or an approved independent school pursuant to the plan, such as counseling, health services, participation in cocurricular activities, and participation in academic or other courses; provided, however, that this amount shall not be available to a school district that provides services under this section to an enrolled student; and

(2) negotiated by the Secretary and the ~~contracting agency~~ local adult education and literacy provider, with the approved provider, for services and outcomes purchased from the approved provider on behalf of the student pursuant to the personalized learning plan.

* * * Act 46 Findings and Purpose * * *

Sec. 7. FINDINGS AND PURPOSE

(a) 2015 Acts and Resolves No. 46 established a multi-year, phased process that provides multiple opportunities for school districts to unify existing governance units into more "sustainable governance structures" designed to meet the General Assembly's identified educational and fiscal goals while recognizing and reflecting local priorities. It has been the General Assembly's intent to revitalize Vermont's small schools – to promote equity in their offerings and stability in their finances – through these changes in governance.

(b) While Vermont generally does an excellent job educating our children, we fall short in two critical areas. First, we are not as successful as we need to be in educating children from families with low income, and second, while we have a very high graduation rate from our high schools, not enough of our graduates continue their education. Fulfilling the goals of Act 46 is a critical step in addressing these shortcomings.

(c) As of Town Meeting Day 2017, voters in 96 Vermont towns have voted to merge 104 school districts into these slightly larger, more sustainable governance structures, resulting in the creation of 20 new unified union districts (serving prekindergarten–grade 12 students). As a result, approximately 60 percent of Vermont's school-age children live or will soon live in districts that satisfy the goals of Act 46.

(d) These slightly larger, more flexible unified union districts have begun to realize distinct benefits, including the ability to offer kindergarten–grade 8 choice among elementary schools within the new district boundaries; greater flexibility in sharing students, staff, and resources among individual schools; the elimination of bureaucratic redundancies; and the flexibility to create magnet academies, focusing on a particular area of specialization by school.

(e) Significant areas of the State, however, have experienced difficulty satisfying the goals of Act 46. The range of complications is varied, including operating or tuitioning models that differ among adjoining districts, geographic isolation due to lengthy driving times or inhospitable travel routes between proposed merger partners, and greatly differing levels of debt per equalized pupil between districts involved in merger study committees.

(f) This act is designed to make useful changes to the merger time lines and allowable governance structures under Act 46 without weakening or eliminating the Act's fundamental phased merger and incentive structures and requirements. Nothing in this act should suggest that it is acceptable for a school district to fail to take reasonable and robust action to seek to meet the goals of Act 46.

* * * Side-by-Side Structures * * *

Sec. 8. 2012 Acts and Resolves No. 156, Sec. 15 is amended to read:

Sec. 15. TWO OR MORE MERGERS; REGIONAL EDUCATION DISTRICT INCENTIVES

(a) Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) ~~of No. 153 of the Acts of the 2009 Adj. Sess. (2010)~~ that requires a single regional education district ("RED") to have an average daily membership of at least 1,250 or result from the merger of at least four districts, or both, two or more new districts shall be eligible jointly for the incentives provided in ~~Sec. 4 of~~ No. 153, Sec. 4 if:

* * *

(3) ~~one of the new districts provides education in all elementary and secondary grades by operating one or more schools and the other new district or districts pay tuition for students in one or more grades;~~ each new district has a model of operating schools or paying tuition that is different from the model of the other, which may include:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students in prekindergarten through grade 12;

* * *

(b) The incentives provided under this act shall be available only if the new districts receive final approval of their electorate on or before November 30, 2017. This section is repealed on July 1, ~~2017~~ 2019.

Sec. 9. THREE-BY-ONE SIDE-BY-SIDE STRUCTURE; EXEMPTION FROM STATEWIDE PLAN

(a) If the conditions of this section are met, the Merged District and the Existing District or Districts shall be exempt from the requirement under 2015 Acts and Resolves No. 46, Secs. 9 and 10, to self-evaluate and make a proposal to the Secretary of Education and State Board of Education and from the State Board's statewide plan.

(1) The new district is formed by the merger of at least three existing districts (Merged District) and, together with one or two existing districts (each an Existing District), are, following the receipt of all approvals required under this section, members of the same supervisory union (Three-by-One Side-by-Side Structure).

(2) As of March 7, 2017, town meeting day, each Existing District is either:

(A) geographically isolated, due to lengthy driving times or inhospitable travel routes between the Existing District's school or schools and the nearest school in which there is excess capacity as determined by the State Board of Education; or

(B) structurally isolated, because all adjoining school districts have operating or tuitioning models that differ from the Existing District.

(3) The Merged District and each Existing District have, following the receipt of all approvals required under this section, a model of operating schools or paying tuition that is different from the model of each other; provided, however, that if two Existing Districts are members of the Three-by-One Side-by-Side Structure, the Existing Districts may have the same model of operating schools or paying tuition if they are geographically isolated from each other, within the meaning of subdivision (2)(A) of this subsection. These models are:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students in prekindergarten through grade 12.

(4) Each Existing District and the districts proposing to merge into the Merged District jointly submit a proposal to the State Board after the effective date of this section and demonstrate in their proposal that:

(A) the Three-by-One Side-by-Side Structure is better suited to them than a governance structure described in 2015 Acts and Resolves No. 46, Sec. 6 and will meet the goals set forth in Sec. 2 of that act;

(B) each Existing District meets one or more of the criteria set forth in subdivision (2) of this subsection (a);

(C) each Existing District has a detailed action plan it proposes to take to continue to improve its performance in connection with each of the goals set forth in 2015 Acts and Resolves No. 46, Sec. 2.

(5) Each Existing District and the districts proposing to merge into the Merged District obtain State Board approval of their proposal to form the proposed Three-by-One Side-by-Side Structure.

(6) Each Existing District obtains the approval of its electorate to be an Existing District in the proposed Three-by-One Side-by-Side Structure on or before November 30, 2017.

(7) The districts proposing to merge into the Merged District receive final approval from their electorate for the merger proposal on or before November 30, 2017, and the Merged District becomes fully operational on or before July 1, 2019.

(8) The Three-by-One Side-by-Side Structure is formed on or before November 30, 2019 in the manner approved by the State Board.

(b) The districts that are proposing to merge into the Merged District may include:

(1) districts that have not received, as of the effective date of this section, approval from their electorate to merge, regardless of whether the Merged District will be eligible to receive incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended; and

(2) districts that received, on or after July 1, 2010 but prior to the effective date of this section, approval from their electorate to merge but are not operational as a Merged District as of the effective date of this section, regardless of whether the Merged District is eligible to receive incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended.

(c) The formation of a Three-by-One Side-by-Side Structure shall not entitle the Merged District or an Existing District to qualify for the incentives provided in 2010 Acts and Resolves No. 153, Sec. 4. However, a Merged District that is otherwise entitled to incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended, shall not lose these incentives due to its participation as a member of a Three-by-One Side-by-Side Structure.

Sec. 10. TWO-BY-TWO-BY-ONE SIDE-BY-SIDE STRUCTURE; REGIONAL EDUCATION DISTRICT INCENTIVES

(a) Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) that requires a single regional education district (RED) to have an average daily membership of at least 1,250 or result from the merger of at least four districts, or both, two or more new districts shall be eligible for the incentives provided in No. 153, Sec. 4 as amended by 2012 Acts and Resolves No. 156 and 2015 Acts and Resolves No. 46 if:

(1) Each new district is formed by the merger of at least two existing districts (each a Merged District) and, together with an Existing District, are,

following the receipt of all approvals required under this section, members of the same supervisory union (Two-by-Two-by-One Side-by-Side Structure).

(2) As of March 7, 2017, town meeting day, the Existing District is either:

(A) geographically isolated, due to lengthy driving times or inhospitable travel routes between the Existing District's school or schools and the nearest school in which there is excess capacity as determined by the State Board of Education; or

(B) structurally isolated, because all adjoining school districts have operating or tuitioning models that differ from the Existing District.

(3) Each Merged District and the Existing District, following the receipt of all approvals required under this section, have a model of operating schools or paying tuition that is different from the model of each other. These models are:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students in prekindergarten through grade 12.

(4) The Two-by-Two-by-One Side-by-Side Structure meets all criteria for RED formation other than the size criterion of 2010 Acts and Resolves No. 153, Sec. 3(a)(1) (average daily membership of at least 1,250) and otherwise as provided in this section.

(5) The Existing District and the districts proposing to merge into the Merged Districts jointly submit a proposal to the State Board after the effective date of this section and demonstrate in their proposal that:

(A) the Two-by-Two-by-One Side-by-Side Structure is better suited to them than a governance structure described in 2015 Acts and Resolves No. 46, Sec. 6 and will meet the goals set forth in Sec. 2 of that act;

(B) the Existing District meets one or more of the criteria set forth in subdivision (2) of this subsection (a); and

(C) the Existing District has a detailed action plan it proposes to take to continue to improve its performance in connection with each of the goals set forth in 2015 Acts and Resolves No. 46, Sec. 2.

(6) The Existing District and the districts proposing to merge into the Merged Districts obtain State Board approval of their proposal to form the proposed Two-by-Two-by-One Side-by-Side Structure.

(7) The Existing District obtains the approval of its electorate to be an Existing District in the proposed Two-by-Two-by-One Side-by-Side Structure on or before November 30, 2017.

(8) The districts proposing to merge into each Merged District receive final approval from their electorate for the merger proposal on or before November 30, 2017, and each Merged District becomes fully operational on or before July 1, 2019.

(9) Each Merged District has the same effective date of merger.

(10) The Two-by-Two-by-One Side-by-Side Structure is formed on or before November 30, 2019 in the manner approved by the State Board.

(b) The districts that are proposing to merge into the Merged Districts may include:

(1) districts that have not received, as of the effective date of this section, approval from their electorate to merge, regardless of whether the Merged District will be eligible to receive incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended; and

(2) districts that received, on or after July 1, 2010 but prior to the effective date of this section, approval from their electorate to merge but are not operational as a Merged District as of the effective date of this section, regardless of whether the Merged District is eligible to receive incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended.

(c) If the conditions of this section are met, the incentives provided in 2010 Acts and Resolves No. 153, Sec. 4 shall be available to each Merged District, unless the Merged District has already received incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended. These incentives shall not be available to the Existing District.

(d) If the conditions of this section are met, the Existing District shall be exempt from the requirement under 2015 Acts and Resolves No. 46, Secs. 9 and 10, to self-evaluate and make a proposal to the Secretary of Education and State Board of Education and exempt from the State Board's statewide plan.

* * * Withdrawal from Union School District * * *

Sec. 11. TEMPORARY AUTHORITY TO WITHDRAW FROM UNION SCHOOL DISTRICT

(a) Notwithstanding any provision of 16 V.S.A. § 721a to the contrary, a school district may withdraw from a union high school district without approval by the remaining members of the union high school district upon the following conditions:

(1) The school district proposing to withdraw from the union high school district operates a school or schools for all resident students in prekindergarten through grade 6 and pays tuition for resident students in grade 7 through grade 12.

(2) At least one year has elapsed since the union high school district became a body politic and corporate as provided in 16 V.S.A. § 706g.

(3) A majority of the voters of the school district proposing to withdraw from the union high school district present and voting at a school district meeting duly warned for that purpose votes to withdraw from the union high school district. The clerk of the school district shall certify the vote to the Secretary of State, who shall record the certificate in his or her office and shall give notice of the vote to the Secretary of Education and to the other members of the union high school district.

(4) The State Board approves the withdrawal based on a recommendation from the Secretary of Education.

(5) The withdrawal process is completed on or before July 1, 2019.

(b) In making his or her recommendation, the Secretary of Education shall assess whether:

(1) students in the withdrawing school district would attend a school that complies with the rules adopted by the State Board pertaining to educational programs; and

(2) it is in the best interests of the State, the students, and the districts remaining in the union high school district for the union to continue to exist.

(c) The State Board shall:

(1) consider the recommendation of the Secretary and any other information it deems appropriate;

(2) hold a public meeting within 60 days of receiving the recommendation of the Secretary, and provide due notice of this meeting to the Secretary and all members of the union high school district;

(3) within 10 days of the meeting, notify the Secretary and all members of the union high school district of its decision;

(4) if it approves the withdrawal, declare the membership of the withdrawing school district in the union high school district terminated as of July 1 immediately following, or as soon after July 1 as the financial obligations of the withdrawing school district have been paid to, or an agreement has been made with, the union high school district in an amount to satisfy those obligations; and

(5) file the declaration with the Secretary of State, the clerk of the withdrawing school district, and the clerk of the union high school district concerned.

Sec. 12. REPEAL

Sec. 11 of this act is repealed on July 2, 2019.

* * * Reduction of Average Daily Membership; Guidelines for Alternative Structures * * *

Sec. 13. 2015 Acts and Resolves No. 46, Sec. 5 is amended to read:

Sec. 5. PREFERRED EDUCATION GOVERNANCE STRUCTURE; ALTERNATIVE STRUCTURE GUIDELINES

* * *

(c) Alternative structure: supervisory union with member districts. An Education District as envisioned in subsection (b) 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~~ may 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 complies with its obligations under 16 V.S.A. § 261a and that maximizes efficiencies through economies of scale and the flexible management, transfer, and sharing of ~~nonfinancial~~ resources among the member districts, which may include a common personnel system, with the goal of increasing the ratio of students to full-time equivalent staff;

(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; ~~and~~

(4) the supervisory union has the smallest number of member school districts practicable after consideration of greatly differing levels of indebtedness among the member districts; and

~~(4)~~(5) the combined average daily membership of all member districts is not less than ~~1,100~~ 900.

* * * Secretary and State Board; Consideration of Alternative Structure Proposals * * *

Sec. 14. 2015 Acts and Resolves No. 46, Sec. 10 is amended to read:

Sec. 10. TRANSITION TO SUSTAINABLE GOVERNANCE STRUCTURES; PROPOSAL; FINAL PLAN

* * *

(c) Process. On and after October 1, 2017, the Secretary and State Board shall consider any proposals submitted by districts or groups of districts under Sec. 9 of this act. Districts that submit such a proposal shall have the opportunity to add to or otherwise amend their proposal in connection with the Secretary's consideration of the proposal and conversations with the district or districts under subsection (a) of this section, and in connection with testimony presented to the State Board under subsection (b) of this section. The State Board may, in its discretion, approve an alternative governance proposal at any time on or before November 30, 2018.

(d) The statewide plan required by subsection (b) of this section shall include default Articles of Agreement to be used by all new unified union school districts created under the plan until the board of the new district votes to approve new or amended articles.

(e) After the State Board of Education issues the statewide plan under subsection (b) of this section, districts subject to merger shall have 90 days to form a study committee under 16 V.S.A. § 706b and to draft Articles of Agreement for the new district. During this period, the study committee shall hold at least one public hearing to consider and take comments on the draft Articles of Agreement.

(f) If the study committee formed under subsection (e) of this section does not approve Articles of Agreement within the 90-day period provided in that subsection, the provisions in the default Articles of Agreement included in the statewide plan shall apply to the new district.

~~(c)~~(g) Applicability. This section shall not apply to:

(1) an interstate school district;

(2) a regional career technical center school district formed under 16 V.S.A. chapter 37, subchapter 5A; or

(3) a district that, between June 30, 2013 and July 2, 2019, began to operate as a unified union school district and:

(A) voluntarily merged into the preferred education governance structure, an Education District, as set forth Sec. 5(b) of this act; or

(B) is a regional education district or any other district eligible to receive incentives pursuant to 2010 Acts and Resolves No. 153, as amended by 2012 Acts and Resolves No. 156.

* * * Deadline for Small School Support Metrics * * *

Sec. 15. 2015 Acts and Resolves No. 46, Sec. 21 is amended to read:

Sec. 21. SMALL SCHOOL SUPPORT; METRICS

On or before July 1, 2018, the State Board of Education shall adopt and publish metrics by which it will make determinations whether to award small school support grants pursuant to 16 V.S.A. § 4015 on and after July 1, 2019, as amended by Sec. 20 of this act; provided, however, that on or before September 30, 2017, the State Board shall publish a list of districts that it determines to be geographically isolated pursuant to that section as amended by Sec. 20 of this act.

* * * Time Extension for Qualifying Districts * * *

Sec. 16. 2015 Acts and Resolves No. 46, Sec. 9 is amended to read:

Sec. 9. SELF-EVALUATION, MEETINGS, AND PROPOSAL

(a) On or before ~~November 30, 2017~~ the date that is the earlier of six months after the date the State Board's rules on the process for submitting alternative governance proposals take effect or January 31, 2018, the board of each school district in the State that has a governance structure different from the preferred structure identified in Sec. 5(b) of this act (Education District), or that does not expect to become or will not become an Education District on or before July 1, 2019, shall perform each of the following actions, unless the district qualifies for an exemption under Sec. 10(g) of this act.

Sec. 17. TIME EXTENSION FOR VOTE OF ELECTORATE

Notwithstanding any provision of law to the contrary, the date by which a qualifying district must receive final approval from the electorate for its merger proposal is extended from July 1, 2017 to November 30, 2017. A qualifying district is a district that:

(1) proposed a school district consolidation plan under 2010 Acts and Resolves No. 153, as amended, or 2012 Acts and Resolves No. 156, as amended, which was rejected by voters;

(2) is a member of a study committee formed under 16 V.S.A. § 706 that provides to the Secretary a declaration that another school district wants to join the district's study committee, signed by each member of the study committee and the district that proposes to join the study committee; or

(3) is a member of a supervisory union that, on or after July 1, 2010, combined with another supervisory union.

* * * Grants and Fee Reimbursement * * *

Sec. 18. 2015 Acts and Resolves No. 46, Sec. 7 is amended to read:

Sec. 7. SCHOOL DISTRICTS CREATED AFTER DEADLINE FOR ACCELERATED ACTIVITY; TAX INCENTIVES; SMALL SCHOOL SUPPORT; JOINT CONTRACT SCHOOLS

* * *

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

* * *

(3) Transition Facilitation Grant.

(A) After voter approval of the plan of merger, notwithstanding any provision to the contrary in 16 V.S.A. § 4025, 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:

(i) 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

(ii) $150,000.00.

(B) A Transition Facilitation Grant awarded under this subdivision (3) shall be reduced by the total amount of reimbursement paid for consulting services, analysis, and transition costs pursuant to 2012 Acts and Resolves No. 156, Secs. 2, 4, and 9.

* * *

Sec. 19. 2012 Acts and Resolves No. 156, Sec. 9 is amended to read:

Sec. 9. REIMBURSEMENT OF FEES FOR CONSULTING SERVICES; MERGER; SCHOOL DISTRICTS; SUNSET

(a) From the ~~education fund~~ Education Fund, the ~~commissioner of education~~ Secretary of Education shall reimburse up to $20,000.00 of fees paid by a study committee established under 16 V.S.A. § 706 for legal and other consulting services necessary to analyze the advisability of creating a union school district or a unified union school district ~~and~~, to prepare the report required by 16 V.S.A. § 706b, and to conduct community outreach, including communications with voters. Community outreach materials shall be limited to those that are reasonably designed to inform and educate. Not more than 30 percent of the reimbursement amount provided by the Secretary under this section shall be used for the purpose of community outreach.

* * *

Sec. 20. 2015 Acts and Resolves No. 46, Sec. 10 is amended to read:

Sec. 10. TRANSITION TO SUSTAINABLE GOVERNANCE STRUCTURES; PROPOSAL; FINAL PLAN

* * *

(d)(1) The Secretary of Education shall make a supplemental Transitional Facilitation Grant of $10,000.00 to a school district that:

(A) has received or is eligible to receive tax incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended (a qualifying school district); and

(B) either on its own initiative or at the request of the State Board, agrees by vote of its electorate to merge with another school district (a qualifying merger).

(2) A qualifying school district shall use the grant funding to defray the cost of integration. The Secretary shall pay the grant amount to a qualifying school district for each qualifying merger with a school district even if multiple qualifying mergers are effective on the same date. The Secretary shall pay the grant amount not later than 30 days after all required approvals are obtained.

(3) Notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the Secretary of Education shall pay the supplemental Transition Facilitation Grant from the Education Fund.

(4) The supplemental Transition Facilitation Grant shall be available for a qualifying merger initiated by a qualifying school district only if the merger is scheduled to take effect on or before November 30, 2018.

* * * Applications for Adjustments to Supervisory Union Boundaries * * *

Sec. 21. 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 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 request that the State Board adjust the existing boundaries of the supervisory union of which it is a 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~~ ~~requests~~ act on a request made pursuant to this subsection within 75 days of receipt of the request and may regroup the school districts of the area so as to ensure reasonable supervision of all public schools therein.

* * *

* * * Technical Corrections; Clarifications * * *

Sec. 22. 2012 Acts and Resolves No. 156, Sec. 16 is amended to read:

Sec. 16. UNION ELEMENTARY SCHOOL DISTRICTS; REGIONAL EDUCATION DISTRICT INCENTIVES

* * *

(b) This section is repealed on July 1, ~~2017~~ 2019.

Sec. 23. 2012 Acts and Resolves No. 156, Sec. 17 is amended to read:

Sec. 17. MODIFIED UNIFIED UNION SCHOOL DISTRICT

* * *

(d) This section is repealed on July 1, ~~2017~~ 2019.

Sec. 24. AVAILABILITY OF TAX AND OTHER INCENTIVES

The tax and other incentives under 2010 Acts and Resolves No. 153, as amended, and 2012 Acts and Resolves No. 156, as amended, shall be available only if the new governance structure formed under those acts becomes fully operational on or before July 1, 2019.

Sec. 25. 2015 Acts and Resolves No. 46, Sec. 23 is amended to read:

Sec. 23. 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. 22 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.

(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. 22 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. Until such time as Sec. 22 of this act shall apply to the district, the district's equalized pupil count shall be calculated under 16 V.S.A. § 4010(f), as in effect on June 30, 2016.

Sec. 26. QUALIFICATION FOR INCENTIVES; ASSIGNMENT TO A SUPERVISORY UNION BY THE STATE BOARD

Notwithstanding any requirement under 2015 Acts and Resolves No. 46, Secs. 6 and 7 that the newly formed school district be its own supervisory district, the newly formed school district shall qualify for the incentives under this section even if it is assigned to a supervisory union by the State Board of Education and that assignment by the State Board is not made at the request of the school district.

* * * State Board Rulemaking Authority * * *

Sec. 27. 2015 Acts and Resolves No. 46, Sec. 8 is amended to read:

Sec. 8. EVALUATION BY THE STATE BOARD OF EDUCATION

* * *

(c) The State Board may adopt rules designed to assist districts in submitting alternative structure proposals, but shall not by rule or otherwise impose more stringent requirements than those in this act.

* * * Tax Provisions * * *

Sec. 28. CALCULATION OF EDUCATION PROPERTY TAX SPENDING ADJUSTMENT AND EDUCATION INCOME TAX SPENDING ADJUSTMENT FOR CERTAIN SCHOOL DISTRICTS

(a) Under this section, a qualifying school district is a school district:

(1) that operates no schools and pays tuition for all resident students in prekindergarten through grade 12;

(2) that, on or before November 15, 2017, obtains final approval from its electorate to consolidate with an existing unified union school district that is eligible to receive incentives under 2010 Acts and Resolves No. 153 (consolidated district), as amended; and

(3) for which either:

(A) the education property tax spending adjustment under 32 V.S.A. § 5401(13)(A) for the district's fiscal year 2017 exceeded the district's education property tax spending adjustment for the district's 2015 fiscal year by more than 100 percent; or

(B) the education income tax spending adjustment under 32 V.S.A. § 5401(13)(B) for the district's fiscal year 2017 exceeded the district's education income tax spending adjustment for the district's 2015 fiscal year by more than 100 percent.

(b) Notwithstanding any provision of law to the contrary:

(1) for the first year in which the consolidated district's equalized homestead tax rate or household income percentage is reduced under 2010 Acts and Resolves No. 153, as amended, the equalized homestead tax rate and household income percentage for the town associated with the qualifying district shall be set at the average equalized homestead tax rate and household income percentage of the towns associated with the other districts that merge into the consolidated district; and

(2) 2010 Acts and Resolves No. 153, Sec. 4(a)(2), which limits the amount by which tax rates are permitted to change, shall not apply to the town associated with the qualifying district for the first year for which the consolidated district's equalized homestead tax rate or household income percentage is reduced under that act.

Sec. 29. MODIFIED UNIFIED UNION SCHOOL DISTRICTS; TAX RATE CALCULATIONS

The tax rate provisions in 2010 Acts and Resolves No. 155, Sec. 13(a)(1), as amended, shall not apply to the calculation of tax rates in a member of a modified unified union school district (MUUSD) formed under 2012 Acts and Resolves No. 156, Sec. 17, as amended, if that member is a member for fewer than all grades, prekindergarten through grade 12. This section shall apply to the calculation of taxes in any MUUSD that began full operation after July 1, 2015.

* * * Elections to Unified Union School District Board * * *

Sec. 30. ELECTIONS TO UNIFIED UNION SCHOOL DISTRICT BOARD

(a) Notwithstanding any provision to the contrary under 16 V.S.A. § 706k, the election of a director on the board of a unified union school district who is to serve on the board after expiration of the term for an initial director shall be held at the unified union school district's annual meeting in accordance with the district's articles of agreement.

(b) Notwithstanding any provision to the contrary under 16 V.S.A. § 706l, if a vacancy occurs on the board of a unified union school district and the vacancy is in a seat that is allocated to a specific town, the clerk shall immediately notify the selectboard of the town. Within 30 days of the receipt of that notice, the unified union school district board, in consultation with the selectboard, shall appoint a person who is otherwise eligible to serve as a member of the unified union school district board to fill the vacancy until an election is held in accordance with the unified union school district's articles of agreement.

(c) This section is repealed on July 1, 2018.

* * * Effective Dates * * *

Sec. 31. EFFECTIVE DATES

(a) This section and Secs. 2 and 4–30 shall take effect on passage.

(b) Sec. 1 (criminal record checks) shall take effect on passage and shall apply to persons hired or contracted with after June 30, 2017 and to persons who apply for or renew child care provider license after June 30, 2017.

(c) Sec. 3 (surety bond; postsecondary institutions) shall take effect on October 1, 2017.

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

Thereupon, pursuant to the request of the Senate, the President announced the appointment of

Senator Baruth
Senator Balint
Senator Mullin

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

On motion of Senator Ashe, the rules were suspended and the bill was messaged to the House forthwith.

Bills Referred

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

H. 154.

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

To the Committee on Rules.

H. 241.

An act relating to the charter of the Central Vermont Solid Waste Management District.

To the Committee on Rules.

H. 522.

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

To the Committee on Rules.

Proposal of Amendment; Bill Passed in Concurrence

H. 327.

House bill entitled:

An act relating to the charter of the Northeast Kingdom Solid Waste Management District.

Was taken up.

Thereupon, pending third reading of the bill, Senator Rodgers moved to amend the Senate proposal of amendment by striking out Sec. 3 (effective date) in its entirety and inserting in lieu thereof the following:

Sec. 3. 10 V.S.A. § 6605k(c) is amended to read:

(c) The following persons shall be subject to the requirements of subsection (b) of this section:

(1) beginning on July 1, 2014, a person whose acts or processes produce more than 104 tons per year of food residuals;

(2) beginning on July 1, 2015, a person whose acts or processes produce more than 52 tons per year of food residuals;

(3) beginning on July 1, 2016, a person whose acts or processes produce more than 26 tons per year of food residuals~~;~~ and

(4) ~~beginning July 1, 2017, a person whose acts or processes produce more than 18 tons per year of food residuals; and~~

~~(5)~~ beginning on July 1, 2020, any person who generates any amount of food residuals.

Sec. 4. 10 V.S.A. § 6607a(g) is amended to read:

(g)(1) Except as set forth in subdivisions (2), (3), and (4) of this subsection, a commercial hauler that offers the collection of municipal solid waste shall:

(A) Beginning on July 1, 2015, offer to collect mandated recyclables separated from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables.

(B) Beginning on July 1, 2016, offer to collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)-(5) of this title.

~~(C) Beginning on July 1, 2017, offer collection of food residuals separate from other solid waste and deliver to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2) (5) of this title.~~

* * *

(3) A commercial hauler is not required to comply with the requirements of subdivision (1)(A)~~,~~ or (B)~~, or (C)~~ of this subsection in a specified area within a municipality if:

(A) the Secretary has approved a solid waste implementation plan for the municipality;

(B) for purposes of waiver of the requirements of subdivision (1)(A) of this subsection (g), the Secretary determines that under the approved plan:

(i) the municipality is achieving the per capita disposal rate in the State Solid Waste Plan; and

(ii) the municipality demonstrates that its progress toward meeting the diversion goal in the State Solid Waste Plan is substantially equivalent to that of municipalities complying with the requirements of subdivision (1)(A) of this subsection (g);

(C) the approved plan delineates an area where solid waste management services required by subdivision (1)(A)~~,~~ or (B)~~, or (C)~~ of this subsection (g) are not required; and

(D) in the delineated area, alternatives to the services, including on-site management, required under subdivision (1)(A)~~,~~ or (B)~~, or (C)~~ of this subsection (g) are offered, the alternative services have capacity to serve the needs of all residents in the delineated area, and the alternative services are convenient to residents of the delineated area.

(4) A commercial hauler is not required to comply with the requirements of subdivision (1)(A)~~,~~ or (B)~~, or (C)~~ of this subsection for mandated recyclables, leaf and yard residuals, or food residuals collected as part of a litter collection event operated or administered by a nonprofit organization or municipality.

Sec. 5. EFFECTIVE DATES

(a) This section and Secs. 3 and 4 (food residuals) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2017.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Rodgers?, Senator Rodgers requested that the question be divided and that Sec. 3 and 5 be voted on separately.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as moved by Senator Rodgers? Senator Campion 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 Rodgers 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 Rodgers was *not germane* to the bill.

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

Thereupon, Senator Rodgers moved that the rules be suspended to permit the Senate to consider a non-germane amendment.

Thereupon, Senator Rodgers requested and was granted leave to withdraw the proposal of amendment.

Thereupon, the question, Shall the bill pass in concurrence with proposal of amendment?, was decided in the affirmative.

Proposal of Amended; Third Reading Ordered

H. 510.

Senator Branagan, for the Committee on Agriculture, to which was referred House bill entitled:

An act relating to the cost share for State agricultural water quality financial assistance grants.

Reported that the bill ought to pass in concurrence.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be read third time?, Senator Pollina moved to amend the Senate proposal of amendment by adding two new sections to be Secs. 2a and 2b to read as follows:

Sec. 2a. 3 V.S.A. § 2822(i) is amended to read:

(i)(1) 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. Municipalities shall be exempt from the payment of fees under this section except for those fees prescribed in subdivisions (j)(1), (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 stormwater systems prescribed in subdivision (j)(2)(A)(iii)(I), (II), or (IV) and (j)(2)(B)(iv)(I), (II), or (V) of this section for which a municipality has assumed full legal responsibility under 10 V.S.A. § 1264.

(2) An air contaminant source shall be exempt from the fees required under subdivisions (j)(1)(A) and (B) of this section when the source of the emissions

is the anaerobic digestion of agricultural products, agricultural by-products, agricultural waste, or food waste.

Sec. 2b. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(51) The following machinery, including repair parts, used for timber cutting, removal, and processing of timber or other solid wood forest products intended to be sold ultimately at retail: skidders with grapple and cable, feller bunchers, cut-to-length processors, forwarders, delimbers, loader slashers, log loaders, whole tree chippers, stationary screening systems, and firewood processors, elevators, and screens. The Department of Taxes shall publish guidance relating to the application of this exemption.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

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

H. 22.

House bill entitled:

An act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council.

Was taken up.

Thereupon, pending third reading of the bill, Senators Sirotkin and White moved to amend the Senate proposal of amendment in Sec. 1, in 20 V.S.A. § 2362a (potential hiring agency; duty to contact former agency), by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b)(1)(A) If that former agency is a law enforcement agency in this State, the executive officer of that former agency or designee shall disclose to the potential hiring agency in writing the reason the officer is no longer employed by the former agency.

(B) The executive officer or designee shall send a copy of the disclosure to the officer at the same time he or she sends it to the potential hiring agency.

(2) Such a former agency shall be immune from liability for its disclosure described in subdivision (1) of this subsection, unless such disclosure would constitute intentional misrepresentation or gross negligence.

Which was agreed to.

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

Bills Passed in Concurrence with Proposal of Amendment

House bills of the following titles were severally read the third time and passed in concurrence with proposal of amendment:

H. 130. An act relating to approval of amendments to the charter of the Town of Hartford.

H. 238. An act relating to modernizing and reorganizing Title 7.

H. 347. An act relating to the State Telecommunications Plan.

Proposal of Amendment; Consideration Postponed

H. 424.

House bill entitled:

An act relating to the Commission on Act 250: the Next 50 Years.

Was taken up.

Thereupon, pending third reading of the bill, Senators Pearson, Ashe, Baruth, Ingram, Lyons, Sirotkin and Bray moved to amend the Senate proposal of amendment by adding a new section to be numbered Sec. 3a to read as follows:

Sec. 3a. ADDITIONAL AUTHORIZED USE; PUBLIC TRUST LANDS

(a) The General Assembly finds that:

(1) the General Assembly has the authority to authorize public uses of filled public trust lands in the City of Burlington; and

(2) the use of the filled public trust lands in the City of Burlington authorized by this act is consistent with the public trust doctrine.

(b) In addition to the uses authorized by the General Assembly in 1990 Acts and Resolves No. 274, 1991 Acts and Resolves No. 53, 1996 Acts and Resolves No. 87, and 1997 Acts and Resolves No. 22, the filled public trust lands within the City of Burlington that are located north of the centerline of Maple Street extending north to the northern terminus of the Lake Street extension completed in 2016 and that extend to the waters of Lake Champlain may be utilized for public markets that benefit Vermont's public and are available to the public on an open and nondiscriminatory basis.

(c) Any use authorized under this act is subject to all applicable requirements of law.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senator Rodgers moved to amend the Senate proposal of amendment as follows:

First: By adding a new section to be numbered Sec. 3b to read as follows:

Sec. 3b. 10 V.S.A. § 6605k(c) is amended to read:

(c) The following persons shall be subject to the requirements of subsection (b) of this section:

(1) beginning on July 1, 2014, a person whose acts or processes produce more than 104 tons per year of food residuals;

(2) beginning on July 1, 2015, a person whose acts or processes produce more than 52 tons per year of food residuals;

(3) beginning on July 1, 2016, a person whose acts or processes produce more than 26 tons per year of food residuals~~;~~ and

(4) ~~beginning July 1, 2017, a person whose acts or processes produce more than 18 tons per year of food residuals; and~~

~~(5)~~ beginning on July 1, 2020, any person who generates any amount of food residuals.

Second: By adding a new section to be numbered Sec. 3c to read as follows:

Sec. 3c. 10 V.S.A. § 6607a(g) is amended to read:

(g)(1) Except as set forth in subdivisions (2), (3), and (4) of this subsection, a commercial hauler that offers the collection of municipal solid waste shall:

(A) Beginning on July 1, 2015, offer to collect mandated recyclables separated from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables.

(B) Beginning on July 1, 2016, offer to collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)-(5) of this title.

~~(C) Beginning on July 1, 2017, offer collection of food residuals separate from other solid waste and deliver to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)-(5) of this title.~~

* * *

(3) A commercial hauler is not required to comply with the requirements of subdivision (1)(A)~~,~~ or (B)~~, or (C)~~ of this subsection in a specified area within a municipality if:

(A) the Secretary has approved a solid waste implementation plan for the municipality;

(B) for purposes of waiver of the requirements of subdivision (1)(A) of this subsection (g), the Secretary determines that under the approved plan:

(i) the municipality is achieving the per capita disposal rate in the State Solid Waste Plan; and

(ii) the municipality demonstrates that its progress toward meeting the diversion goal in the State Solid Waste Plan is substantially equivalent to that of municipalities complying with the requirements of subdivision (1)(A) of this subsection (g);

(C) the approved plan delineates an area where solid waste management services required by subdivision (1)(A)~~,~~ or (B)~~, or (C)~~ of this subsection (g) are not required; and

(D) in the delineated area, alternatives to the services, including on-site management, required under subdivision (1)(A)~~,~~ or (B)~~, or (C)~~ of this subsection (g) are offered, the alternative services have capacity to serve the needs of all residents in the delineated area, and the alternative services are convenient to residents of the delineated area.

(4) A commercial hauler is not required to comply with the requirements of subdivision (1)(A)~~,~~ or (B)~~, or (C)~~ of this subsection for mandated recyclables, leaf and yard residuals, or food residuals collected as part of a litter collection event operated or administered by a nonprofit organization or municipality.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Rodgers?, Senator Rodgers requested that the question be divided.

Thereupon, pending the question, Shall the bill be amended as *firstly* proposed by Senator Rodgers?, Senator Ashe moved that consideration be postponed until 2:00 P.M. in the afternoon.

Which was agreed to.

Bills Passed in Concurrence

House bills of the following titles were severally read the third time and passed in concurrence:

H. 524. An act relating to approval of amendments to the charter of the Town of Hartford.

H. 527. An act relating to approval of amendments to the charter of the Town of East Montpelier and to the merger of the Town and the East Montpelier Fire District No. 1.

H. 536. An act relating to approval of amendments to the charter of the Town of Colchester.

Proposals of Amendment; Third Reading Ordered

H. 59.

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

An act relating to technical corrections.

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

First: By adding a new section to be numbered Sec. 1 to read as follows:

Sec. 1. 1 V.S.A. § 431 is amended to read:

§ 431. STANDARD TIME; DAYLIGHT SAVING TIME

(a) The standard time within the State of Vermont shall be based on the mean astronomical time of the 75 of longitude west from Greenwich, known and designated as "U.S. Standard Eastern time," except ~~on two o'clock ante meridian of the last Sunday in April in every year and until two o'clock ante meridian of the last Sunday in September in the same year,~~ as provided in 15 U.S.C. § 260a, when standard time ~~is~~ shall be advanced one hour. The period of time so advanced may be called "daylight saving time."

* * *

And by renumbering the current Sec. 1 to be Sec. 1a.

Second: By adding a new section to be numbered Sec. 16a to read as follows:

Sec. 16a. 10 V.S.A. § 1389(e) is amended to read:

(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:

* * *

(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~~.~~; and

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

Third: By striking out Sec. 31 in its entirety and inserting in lieu thereof a new Sec. 31 to read as follows:

Sec. 31. [Deleted.]

Fourth: By adding a new section to be numbered Sec. 61a to read as follows:

Sec. 61a. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Unless the assessment of points is waived by a Superior judge or a Judicial Bureau hearing officer in the interests of justice and in accordance with subsection 2501(b) of this title, a person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

(1) Two points assessed for:

* * *

(YY)	§ 1127.	Unsafe control in presence of ~~horses and cattle~~ animals;

* * *

Fifth: By adding a new section to be numbered Sec. 119a to read as follows:

Sec. 119a. 28 V.S.A. chapter 11 is amended to read:

CHAPTER 11. SUPERVISION OF ADULT INMATES AT THE CORRECTIONAL FACILITIES

* * *

Subchapter 5. Special Treatment Programs

* * *

Subchapter 6. Services For Inmates With Serious Functional Impairment

§ 905. LEGISLATIVE INTENT

It is the intent of the General Assembly that the serious functional impairment designation apply solely to individuals residing in a correctional facility and not to individuals reentering the community after incarceration.

~~Subchapter 6. Services For Inmates With Serious Functional Impairment~~

* * *

Sixth: By adding two new sections to be numbered Secs. 140a and 140b to read as follows:

Sec. 140a. 32 V.S.A. § 9771 is amended to read:

§ 9771. IMPOSITION OF SALES TAX

* * *

(4) admission to places of ~~amusement~~ entertainment, including athletic events, exhibitions, dramatic and musical performances, motion pictures, golf courses and ski areas, and access to cable television systems or other audio or video programming systems that operate by wire, coaxial cable, lightwave, microwave, satellite transmission, or by other similar means, and access to any game or gaming or amusement machine, apparatus or device, excluding video game, pinball, musical, vocal, or visual entertainment machines which are operated by coin, token, or bills;

* * *

Sec. 140b. 32 V.S.A. § 9813 is amended to read:

§ 9813. PRESUMPTIONS AND BURDEN OF PROOF

(a) For the purpose of the proper administration of this chapter and to prevent evasion of the tax hereby imposed, it shall be presumed that all receipts for property or services of any type mentioned in ~~subdivisions 9771(1), (2), and (3) of this title, and all amusement charges of any type mentioned in subdivision 9771(4)~~ section 9771 of this title, are subject to tax until the contrary is established, and the burden of proving that any receipt or

amusement charge is not taxable hereunder shall be upon the person required to collect tax.

* * *

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

Senator Degree, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposals of amendment as recommended by the Committee on Government Operations.

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

Proposals of Amendment; Third Reading Ordered

H. 111.

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

An act relating to vital records.

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

First: In Sec. 3, 18 V.S.A. § 5000, in the final sentence of subdivision (c)(1), by striking out the words "and the date" and inserting in lieu thereof the words and by the date

Second: In Sec. 17, 18 V.S.A. § 5016, in subdivision (c)(1), by inserting the following at the end of the sentence, before the period, and shall not be issued on antifraud paper

Third: In Sec. 22, 18 V.S.A. § 5073, in subdivision (a)(2), by striking out the word "father" and inserting in lieu thereof the word parent

Fourth: In Sec. 27, 18 V.S.A. § 5077a, in subsection (a), in the first sentence, by striking out the following: "in the State Registration System." and inserting in lieu thereof the following: in the Statewide Registration System. If the State Registrar denies an application under this subsection, the applicant may petition the Probate Division of the Superior Court, which shall review the application and relevant evidence de novo to determine if the issuance of a new birth certificate is warranted. If the court issues a decree ordering the issuance of a new birth certificate, the State Registrar shall update the System in accordance with the decree.

Fifth: In Sec. 38, 18 V.S.A. § 5112, by striking out subsections (a) and (b) in their entirety and inserting in lieu thereof the following:

(a)(1) Upon ~~receiving from the Probate Division of the Superior Court a court order that~~ receipt of an application for a new birth certificate and after receiving sufficient evidence to determine that an individual's sexual reassignment has been completed, the State Registrar shall update the Statewide Registration System and issue a new birth certificate to:

(A) show that the sex of the individual born in this State has been changed; and

(B) if the application is accompanied by a decree of the Probate Division authorizing a change of name associated with the change of sex, to reflect the change of name.

(2) The State Registrar shall record in the System the identity of the person requesting the new certificate, the nature and content of the change made, the person who made the change, and the date of the change.

(b)(1) An affidavit by a licensed physician who has treated or evaluated the individual stating that the individual has undergone surgical, hormonal, or other treatment appropriate for that individual for the purpose of gender transition shall constitute sufficient evidence ~~for the Court~~ to ~~issue an order~~ determine that sexual reassignment has been completed. The affidavit shall include the medical license number and signature of the physician.

(2) If the State Registrar denies an application under this section, the applicant may petition the Probate Division of the Superior Court, which shall review the application and relevant evidence de novo to determine if the issuance of a new birth certificate under this section is warranted. If the court issues a decree ordering the issuance of a new birth certificate under this section, the State Registrar shall update the Statewide Registration System and issue a new birth certificate in accordance with subsection (a) of this section.

Sixth: In Sec. 40, 18 V.S.A. § 5139, in subsection (b), in the second sentence, by striking out the words "harm would occur" and inserting in lieu thereof the words harm could occur

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

Senator Lyons, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposals of amendment as recommended by the Committee on Government Operations.

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

Consideration Postponed

H. 218.

Senator Branagan, for the Committee on Agriculture, to which was referred House bill entitled:

An act relating to the adequate shelter of dogs and cats.

Reported that the bill ought to pass in concurrence.

Thereupon, pending the report of the Committee on Judiciary, Senator Ashe moved that consideration of the bill be postponed.

Which was agreed to.

House Proposals of Amendment Concurred In

S. 4.

House proposals of amendment to Senate bill entitled:

An act relating to publicly accessible meetings of an accountable care organization's governing body.

Were taken up.

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

First: In Sec. 2, in 18 V.S.A. § 9572(a), by adding a second sentence to read as follows: For purposes of this section, the term "ACO's governing body" shall also include the governing body of any organization acting as a coordinating entity for two or more ACOs.

Second: In Sec. 2, in 18 V.S.A. § 9572(c), by striking out the word "board's" preceding "meeting schedule" and inserting in lieu thereof the word body's

Third: In Sec. 2, in 18 V.S.A. § 9572(d)(1), by striking out the following: "made available to the public" and inserting in lieu thereof the following: posted on the ACO's website within five business days following the meeting

Fourth: In Sec. 3, effective date, by striking out the following: "January 1, 2018" and inserting in lieu thereof the following: July 1, 2017

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

Rules Suspended; Bills Messaged

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

S. 4, H. 22, H. 130, H. 238, H. 327, H. 347, H. 524, H. 527, H. 536.

Message from the House No. 58

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, 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. 16. An act relating to expanding patient access to the Medical Marijuana Registry.

S. 136. An act relating to miscellaneous consumer protection provisions.

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 House bill of the following title:

H. 513. An act relating to making miscellaneous changes to education law.

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

Rep. Sharpe of Bristol
Rep. Long of Newfane
Rep. Pearce of Richford

Adjournment

On motion of Senator Ashe, the Senate adjourned until two o'clock in the afternoon.

Afternoon

The Senate was called to order by the President.

Message from the Governor
Appointment Referred

A message was received from the Governor, by Brittney L. Wilson, Secretary of Civil and Military Affairs, submitting the following appointment, which was referred to committee as indicated:

Holcombe, Rebecca of Norwich - Secretary of the Agency of Education - from March 1, 2017, to February 28, 2019.

To the Committee on Education.

Bills Referred

Pursuant to Temporary Rule 44A the following bills having failed to meet cross-over and being referred to the Committee on Rules are hereby referred to their respective committees of jurisdictions:

H. 154.

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

To the Committee on Government Operations.

H. 241.

An act relating to the charter of the Central Vermont Solid Waste Management District.

To the Committee on Government Operations.

H. 522.

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

To the Committee on Government Operations.

H. 529.

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

To the Committee on Government Operations.

H. 534.

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

To the Committee on Government Operations.

Consideration Resumed; Bill Amended; Bill Passed in Concurrence with Proposal of Amendment

H. 424.

Consideration was resumed on Senate bill entitled:

An act relating to the Commission on Act 250: the Next 50 Years.

Thereupon, pending the question, Shall the proposal of amendment be amended as *firstly* proposed by Senator Rodgers?, Senator Rodgers requested and was granted leave to withdraw his proposal of amendment.

Thereupon, pending third reading, Senators Rodgers, Bray, Campion, MacDonald and Pearson moved to amend the Senate proposal of amendment as follows:

By adding a new section to be numbered Sec. 3b to read as follows:

Sec. 3b. 10 V.S.A. § 6607a(g)(1) is amended to read:

(g)(1) Except as set forth in subdivisions (2), (3), and (4) of this subsection, a commercial hauler that offers the collection of municipal solid waste shall:

(A) Beginning on July 1, 2015, offer to collect mandated recyclables separated from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables.

(B) Beginning on July 1, 2016, offer to collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)-(5) of this title.

(C) Beginning on July 1, ~~2017~~ 2018, offer collection of food residuals separate from other solid waste and deliver to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)-(5) of this title.

Which was agreed to.

Thereupon, the bill was read the third time and the question, Shall the bill pass in concurrence with proposal of amendment?, was decided in the affirmative.

House Proposals of Amendment Concurred In with Amendment

S. 9.

House proposals of amendment to Senate bill entitled:

An act relating to the preparation of poultry products.

Were taken up.

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

First: In Sec. 2, 6 V.S.A. § 3312, by striking out subdivision (c)(2) in its entirety and inserting in lieu thereof the following:

(2) As used in this subsection, "sanitary standards, practices, and procedures" means:

(A) the poultry are slaughtered in a facility that is soundly constructed, kept in good repair, and of sufficient size;

(B) rooms or compartments in which an edible product is processed, handled, or stored shall be separated from areas used for slaughter;

(C) all food-contact surfaces and nonfood-contact surfaces in the facility are cleaned and sanitized as frequently as necessary to prevent the creation of insanitary conditions and the adulteration of the products;

(D) pest control shall be adequate to prevent the harborage of pests on the grounds and within the facility;

(E) substances used for sanitation and pest control shall be safe and effective under the conditions of use, and shall not be applied or stored in a manner that will result in the contamination of edible products;

(F) sewage from human waste shall be disposed of in a sewage system separate from other drainage lines or disposed of through other means sufficient to prevent backup of sewage into areas where the product is processed, handled, or stored;

(G) process wastewater shall be handled in a manner to prevent the creation of insanitary conditions, which may include through on-farm composting under the required agricultural practices;

(H) a supply of potable water of suitable temperature is provided in all areas where required for processing the product, cleaning rooms, cleaning equipment, cleaning utensils, and cleaning packaging materials;

(I) equipment and utensils used for processing or handling edible product are of a material that is cleanable and sanitizable;

(J) receptacles used for storing inedible material are of such material and construction that their use will not result in adulteration of any edible product or create insanitary conditions;

(K) a person working in contact with the poultry products, food-contact surfaces, and product-packaging material shall maintain hygienic practices; and

(L) clothing worn by persons who handle poultry products shall be of material that is cleanable or disposable; clean garments shall be worn at the start of each working day; and garments shall be changed during the day as often as necessary to prevent adulteration of poultry products or the creation of insanitary conditions.

Second: In Sec. 2, 6 V.S.A. § 3312, by adding a subsection (h) to read as follows:

(h) Approved label. Prior to selling poultry products slaughtered pursuant to the exemption in subsection (c) or (d) of this section, a poultry producer shall submit to the Secretary for approval a copy of the label that the poultry producer proposes to use for compliance with the requirements of subsection (e) of this section.

Thereupon, pending the question, Shall the Senate concur in the House proposals of amendment?, Senator Brooks moved that the Senate concur in the House proposals of amendment with further amendment as follows:

First: In Sec. 2, 6 V.S.A. § 3312, in subdivision (c)(2), by striking out subparagraph (B) in its entirety and inserting in lieu thereof a new subparagraph (B) to read as follows:

(B) rooms or compartments in which an edible product is processed, handled, or stored shall be separated from areas used for slaughter, provided that a producer may use food-grade plastic sheeting as a means of separation when such sheeting prevents the creation of insanitary conditions;

Second: In Sec. 2, 6 V.S.A. § 3312, in subdivision (c)(2), by striking out subparagraphs (F) and (G) in their entirety and inserting in lieu thereof new subparagraph (F) to read as follows:

(F)(i) sewage from human waste shall be disposed of in a sewage system separate from other drainage lines; or

(ii) sewage is disposed of through other means to prevent the creation of insanitary conditions or the backup into the area where the product is processed, handled, or stored, including disposal of process wastewater through on-farm composting under the Required Agricultural Practices;

And by relettering the subsequent subgraphs to be alphabetically correct.

Third: In Sec. 2, 6 V.S.A. § 3312 in subdivision (c)(2), by striking out relettered subgraph (K) in its entirety and inserting in lieu thereof the following:

(K) clothing worn by persons who handle poultry products shall be of material that is cleanable or disposable.

Fourth: In Sec. 2, 6 V.S.A. § 3312, by striking out subsection (h) (approved label) in its entirety.

Which was agreed to.

Consideration Resumed; Bill Amended; Third Reading Ordered

H. 218.

Consideration was resumed on House bill entitled:

An act relating to the adequate shelter of dogs and cats.

Was taken up.

Thereupon, Senator Sears, for the Committee on Judiciary, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as follows:

First: In Sec. 2, 13 V.S.A. § 365, subdivision (c)(1), in the first sentence, by striking out the words "an adequate" and inserting in lieu thereof the words a minimum. And in the second sentence by striking out the word "adequate" and inserting in lieu thereof the word minimum.

Second: In Sec. 2, 13 V.S.A. § 365, subparagraph (c)(3)(A), in the first sentence, by striking out the word "adequate" and inserting in lieu thereof the words a minimum. And in the second sentence by striking out the word "adequate" and inserting in lieu thereof the word minimum

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Judiciary was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator McCormack moved to amend the Senate proposal of amendment, in Sec. 2, 13 V.S.A. § 365, by striking out subdivision (c)(1) in its entirety and inserting in lieu thereof the following:

(c) Minimum size of living space; dogs and cats.

(1) A dog~~, whether chained or penned,~~ shall be provided a minimum living space no less than three feet by four feet for 25 pound and smaller dogs, four feet by four feet for 26-35 pound dogs, four feet by five feet for 36-50 pound dogs, five feet by five feet for 51-99 pound dogs, and six feet by five feet for 100 pound and larger dogs.

Which was disagreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator McCormack moved to amend the Senate proposal of amendment, in Sec. 2, 13 V.S.A. § 365, by striking out subdivision (e)(2) in its entirety and renumbering the following subdivisions to be numerically correct.

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

Thereupon, third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 411.

Senator Bray, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to Vermont's energy efficiency standards for appliances and equipment.

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:

* * * Appliance Efficiency * * *

Sec. 1. PURPOSE

In light of the findings set forth at 9 V.S.A. § 2792, Secs. 2 through 6 of this act adopt federal appliance and lighting efficiency standards in effect on January 19, 2017 so that the same standards will be in place in Vermont should the federal standards be repealed or voided. The act also adopts federal standards for general service lighting that have been adopted by the U.S. Department of Energy and are scheduled to come into effect on January 20, 2020, again so that the same standards will be in place in Vermont. The act does not adopt standards for other products or standards for a product that are different from the federal standards.

Sec. 2. 9 V.S.A. § 2793 is amended to read:

§ 2793. DEFINITIONS

As used in this chapter:

* * *

(15) "General service lamp" has the same meaning as set forth in the action published at 82 Fed. Reg. 7276, 7321-22 (January 19, 2017) and modified by the action published at 82 Fed. Reg. 7322, 7333 (January 19, 2017).

Sec. 3. 9 V.S.A. § 2794 is amended to read:

§ 2794. SCOPE

(a) The provisions of this chapter apply to the following types of new products sold, offered for sale, or installed in the State:

(1) Medium voltage dry-type distribution transformers.

(2) Metal halide lamp fixtures.

(3) Residential furnaces and residential boilers.

(4) Single-voltage external AC to DC power supplies.

(5) State-regulated incandescent reflector lamps.

(6) General service lamps.

(7) Each other product for which the Commissioner is required to adopt an efficiency or water conservation standard by rule pursuant to section 2795 of this title.

(8) Any other product that may be designated by the Commissioner in accordance with section 2797 of this title.

(b) The provisions of this chapter do not apply to:

(1) New products manufactured in the State and sold outside the State and the equipment used in manufacturing those products.

(2) New products manufactured outside the State and sold at wholesale inside the State for final retail sale and installation outside the State.

(3) Products installed in mobile manufactured homes at the time of construction.

(4) Products designed expressly for installation and use in recreational vehicles.

Sec. 4. 9 V.S.A. § 2795 is amended to read:

§ 2795. EFFICIENCY AND WATER CONSERVATION STANDARDS

~~Not later than June 1, 2007, the~~ The Commissioner shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 establishing minimum efficiency standards for the types of new products set forth in section 2794 of this title. The rules shall provide for the following minimum efficiency standards for products sold or installed in this State:

* * *

(6) In the rules, the Commissioner shall adopt minimum efficiency and water conservation standards for each product that is subject to a standard under 10 C.F.R. §§ 430 and 431 as those provisions existed on January 19, 2017. The minimum standard and the testing protocol for each product shall be the same as adopted in those sections of the Code of Federal Regulations.

(7) In the rules, the Commissioner shall adopt a minimum efficacy standard for general service lamps of 45 lumens per watt, when tested in accordance with 10 C.F.R. § 430.23(gg) as that provision existed on January 19, 2017.

Sec. 5. 9 V.S.A. § 2796 is amended to read:

§ 2796. IMPLEMENTATION

* * *

(f)(1) When federal preemption under 42 U.S.C. § 6297 applies to a standard adopted pursuant to this chapter for a product, the standard shall become enforceable on the occurrence of the earliest of the following:

(A) The federal energy or water conservation standard for the product under 42 U.S.C. chapter 77 is withdrawn, repealed, or otherwise voided. However, this subdivision (A) shall not apply to any federal energy or water conservation standard set aside by a court of competent jurisdiction upon the petition of a person who will be adversely affected, as provided in 42 U.S.C. § 6306(b).

(B) A waiver of federal preemption is issued pursuant to 42 U.S.C. § 6297.

(2) The federal standard for general service lamps shall be considered to be withdrawn, repealed, or otherwise voided within the meaning of this subsection if it does not come into effect on January 20, 2020 pursuant to the actions published at 82 Fed. Reg. 7276 and 7333 (January 19, 2017).

(3) When a standard adopted pursuant to this chapter becomes enforceable under this subsection, a person shall not sell or offer for sale in the State a new product subject to the standard unless the efficiency or water conservation of the new product meets or exceeds the requirements set forth in the standard.

Sec. 6. RULE ADOPTION; SCHEDULE; REPORT

(a) Rule adoption; schedule.

(1) On or before August 1, 2017, the Commissioner of Public Service shall file with the Secretary of State proposed rules to effect Sec. 4 of this act.

(2) On or before April 1, 2018, the Commissioner shall finally adopt these rules, unless the Legislative Committee on Administrative Rules extends this date pursuant to 3 V.S.A. § 843(c).

(b) Reports.

(1) On or before December 15, 2017, the Commissioner of Public Service shall file a progress report on the rulemaking required by this act. The report shall attach the proposed rules as filed with the Secretary of State.

(2) On or before December 15, 2018, the Commissioner of Public Service shall file a further progress report on the rulemaking required by this act. The report shall attach the rules as finally adopted by the Commissioner.

* * * Net Metering * * *

Sec. 7. 30 V.S.A. § 8010(c)(2) is amended to read:

(2) The rules shall include provisions that govern:

* * *

(F) the amount of the credit to be assigned to each kWh of electricity generated by a net metering customer in excess of the electricity supplied by the interconnecting provider to the customer, the manner in which the customer's credit will be applied on the customer's bill, and the period during which a net metering customer must use the credit, after which the credit shall revert to the interconnecting provider.

(i) When assigning an amount of credit under this subdivision (F), the Board shall consider making multiple lengths of time available over which a customer may take a credit and differentiating the amount according to the length of time chosen. For example, a monthly credit amount may be higher if taken over 10 years and lower if taken over 20 years. Factors relevant to this consideration shall include the customer's ability to finance the net metering system, the cost of that financing, and the net present value to all ratepayers of the net metering program.

(ii) In this subdivision (ii), "existing net metering system" means a net metering system for which a complete application was filed before January 1, 2017.

(I) Commencing 10 years from the date on which an existing net metering system was installed, the Board may apply to the system the same rules governing bill credits and the use of those credits on the customer's bill that it applies to net metering systems for which applications were filed on or after January 1, 2017, other than any adjustments related to siting and tradeable renewable energy credits.

(II) This subdivision (ii) shall apply to existing net metering systems notwithstanding any contrary provision of 1 V.S.A. § 214 and 2014 Acts and Resolves No. 99, Sec. 10.

Sec. 8. NET METERING SYSTEMS; APPROVAL UNDER BOARD ORDER

(a) In this section, "Temporary Net Metering Order" means the order on reconsideration issued on August 29, 2016 by the Public Service Board (Board) under the caption of "In Re: Revised Net-Metering Rule Pursuant to Act 99 of 2014."

(b) A net metering system that received an approval from the Board pursuant to the Temporary Net Metering Order may be constructed and placed into service in accordance with the terms of that Order and the approval issued pursuant to that Order, provided the approval was issued before September 1, 2017.

* * * Effective Dates * * *

Sec. 9. EFFECTIVE DATES; APPLICABILITY

(a) This act shall take effect on passage.

(b) Notwithstanding 1 V.S.A. § 214, Sec. 7 shall apply to net metering rules of the Public Service Board adopted on or after January 1, 2017.

And that after passage the title of the bill be amended to read:

An act relating to miscellaneous energy issues.

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 Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy?, Senators MacDonald, Lyons and Sirotkin moved to amend the proposal of amendment of the Committee on Natural Resources and Energy, as follows:

First: By striking out Sec. 7 in its entirety and inserting in lieu thereof two new sections to be numbered Secs. 7 and 7a to read as follows:

Sec. 7. LEGISLATIVE INTENT

The General Assembly intends that the Public Service Board, in adopting rules pursuant to 30 V.S.A. § 8010, minimize the effect of those rules on existing net metering systems as defined in Sec. 7a of this act.

Sec. 7a. 30 V.S.A. § 8010 is amended to read:

§ 8010. SELF-GENERATION AND NET METERING

* * *

(f) Rather than the other provisions of this section, an existing net metering system shall be governed by the provisions of section 219a of this title and Board rules implementing that section as they existed on December 31, 2016, except that the Board may allow a provider, commencing 10 years from the date on which an existing net metering system was interconnected to the provider's distribution system, to calculate credits for kWh generated by the system at the blended residential rate or disallow applying such credits to nonbypassable charges, or both.

(1) In such case, a customer with an existing net metering system may continue to apply credits for kWh generated by the system to nonbypassable charges for a period of 10 years from the date on which the system was interconnected to the distribution system of the provider.

(2) As used in this subsection (f):

(A) "Blended residential rate" means the lower of the provider's residential retail rate or the weighted statewide average of all providers' residential retail rates, as determined by the Board. For the purpose of this subdivision (A):

(i) If a provider's general residential service tariff does not include inclining block rates, the provider's residential rate shall be the dollars per kWh charge set forth in that provider's tariff for general residential service.

(ii) If a provider's general residential service tariff does include inclining block rates, the provider's residential rate shall be a blend of the provider's general residential service inclining block rates that is determined by adding together all of the revenues to the provider during the most recent calendar year from kWh sold under those block rates and dividing the sum by the total kWh sold by the company at those rates during the same year.

(B) "Existing net metering system" means a net metering system for which a complete application was filed with the Board before January 1, 2017.

(C) "Nonbypassable charge" means a charge on the bill of a retail electricity provider that a customer must pay whether or not the customer engages in net metering. Only the following shall be nonbypassable charges under this subsection (f):

(i) the customer charge;

(ii) the energy efficiency charge pursuant to subdivision 209(d)(3) of this title;

(iii) the energy assistance program charge pursuant to subsection 218(e) of this title;

(iv) a charge for on-bill financing not related to a net metering system; and

(v) an equipment rental charge.

Second: By striking out Sec. 9 in its entirety and inserting in lieu thereof a new section to be numbered Sec. 9 to read as follows:

Sec. 9. EFFECTIVE DATES; APPLICABILITY

(a) This act shall take effect on passage.

(b) Notwithstanding 1 V.S.A. § 214 and any contrary provision of 2014 Acts and Resolves No. 99, Sec. 10(f), Secs. 7 and 7a shall apply to:

(1) existing net metering systems as defined in Sec. 7a;

(2) net metering systems for which complete applications were or are filed on or after January 1, 2017; and

(3) net metering rules of the Public Service Board adopted on or after January 1, 2017.

Thereupon, pending the question, Shall the proposal of amendment of the Committee of Natural Resources and Energy be amended as proposed by the Senators MacDonald, Lyons and Sirotkin?, Senator MacDonald requested and was granted leave to withdraw the proposal of amendment.

Thereupon, the question, Shall the Senate propose to the House to amend the bill as proposed by the Committee on Natural Resources and Energy, was agreed to.

Thereupon, third reading of the bill was read, on a roll call, Yeas 29, Nays 1.

Senator Bray 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, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, MacDonald, Mazza, McCormack, Mullin, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

The Senator who voted in the negative was: Lyons.

House Proposal of Amendment to Senate Proposal of Amendment to House Proposal of Amendment; Bill Ordered to Lie

S. 22.

Senate bill entitled:

An act relating to increased penalties for possession, sale, and dispensation of fentanyl.

Was taken up.

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

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

Sec. 4. CRIMINAL CODE RECLASSIFICATION IMPLEMENTATION COMMITTEE

(a) Creation. There is created the Criminal Code Reclassification Committee to develop and propose a classification system for purposes of structuring Vermont's criminal offenses.

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

(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;

(c) Powers and duties.

(1) The Committee shall develop a classification system that creates categories of criminal offenses on the basis of the maximum potential period of imprisonment and the maximum potential fine. The Committee shall propose legislation that places each of Vermont's criminal statutes into one of the classification offense categories it identifies. If the Committee is unable to determine an appropriate classification for a particular offense, the Committee shall indicate multiple classification possibilities for that offense.

(2) For purposes of the classification system developed pursuant to this section, the Committee shall consider the recommendations of the Criminal Code Reclassification Study Committee, and may consider whether to propose:

(A) rules of statutory interpretation specifically for criminal provisions;

(B) the consistent use of mental element terminology in all criminal provisions;

(C) a comprehensive section of definitions applicable to all criminal provisions.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office, and may consult with the Vermont Crime Research Group, the Vermont Law School Center for Justice Reform, and any other person who would be of assistance to the Committee.

(e) Report. On or before December 31, 2017, the Committee shall submit a report consisting of proposed legislation to the House and Senate Committees on Judiciary.

(f) Meetings.

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

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

(3) The Committee shall cease to exist on January 15, 2018.

(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.

Second: In Sec. 5, effective dates, after the words "This section" by adding the following: , Sec. 4 (Criminal Code Reclassification Implementation Committee),

And that after passage the title of the bill be amended to read:

An act relating to fentanyl, a committee to reorganize and reclassify Vermont's criminal statutes, and the ephedrine and pseudoephedrine registry.

Thereupon, pending the question, Shall the Senate concur in the House Proposal of Amendment to the Senate Proposal of Amendment to the House Proposal of Amendment?, on motion of Senator Sears, the bill was ordered to lie.

Joint Resolution Adopted in Concurrence

J.R.H. 10.

Joint House resolution entitled:

Joint resolution authorizing the Green Mountain Girls State educational program to use the State House.

Having been placed on the Calendar for action, was taken up and adopted in concurrence.

Rules Suspended; Bill Referred

H. 58.

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

An act relating to awarding hunting and fishing licenses at no cost to persons 65 years of age or older.

Was taken up for immediate consideration.

Thereupon, on motion of Senator Ashe, the rules were suspended, and the bill was referred to the Committee on Finance as if under Senate Rule 31.

Rules Suspended; Bill Referred

H. 495.

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

An act relating to miscellaneous agriculture subjects.

Was taken up for immediate consideration.

Thereupon, on motion of Senator Ashe, the rules were suspended, and the bill was referred to the Committee on Appropriations as if under Senate Rule 31.

Rules Suspended; House Proposal of Amendment Not Concurred In; Committee of Conference Requested; Committee of Conference Appointed

S. 134.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to court diversion and pretrial services.

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; INTENT

(a) The General Assembly finds:

(1) According to numerous studies over many years, pretrial diversion programs result in outcomes for participants that are better than incarceration, including reducing the likelihood that participants commit future crimes and improving substance abuse and mental health outcomes. For example, according to a study of the New York City Jail Diversion Project, 12 months after their offense, offenders who go through a diversion program are less likely to reoffend, spend less time in prison, have received more treatment, and are less likely to suffer drug relapses. In addition, a study in the Journal of the American Academy of Psychiatry and the Law indicates that diversion programs reduce the amount of time participants spend in jail for future offenses from an average of 173 days to an average of 40 days during the year after the offense. Research also demonstrates that offenders who have participated in diversion programs are better able to find employment.

(2) Diversion programs benefit the criminal justice system by reducing costs and allowing resources to be allocated more efficiently for more serious offenders. According to studies by the Urban Institute and the National Alliance on Mental Illness, diversion programs reduce costs and improve outcomes by allowing offenders with mental illness to receive more appropriate treatment outside the criminal justice system. As reported in the Psychiatric Rehabilitation Journal, diversion programs reduce costs by decreasing the need for and use of hospitalization and crisis services by offenders.

(b) It is the intent of the General Assembly that:

(1) Sec. 2 of this act result in an increased use of the Diversion Program throughout the State and a more consistent use of the program between different regions of the State;

(2) the Office of the Attorney General collect data pursuant to 3 V.S.A. § 164(d) on Diversion Program use, including the effect of this act on use of the Program statewide and in particular regions of the State; and

(3) consideration be given to further amending the Diversion Program statutes before Sec. 2 of this act sunsets on July 1, 2020, if it is determined that Sec. 2 of this act did not produce the intended increases in Diversion Program usage.

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

§ 164. ADULT COURT DIVERSION ~~PROJECT~~ PROGRAM

(a) The Attorney General shall develop and administer an adult court diversion ~~project~~ program in all counties. The ~~project~~ program shall be operated through the juvenile diversion project ~~and shall be designed to assist adults who have been charged with a first or second misdemeanor or a first~~

~~nonviolent felony~~. The Attorney General shall adopt only such rules as are necessary to establish an adult court diversion ~~project~~ program for adults, in compliance with this section.

(b) The program shall be designed for two purposes:

(1) To assist adults who have been charged with a first or a second misdemeanor or a first nonviolent felony.

(2) To assist adults with substance abuse or mental health treatment needs regardless of the person's prior criminal history record. Programming for these persons is intended to support access to appropriate treatment or other resources with the aim of improving the person's health and reducing future adverse involvement in the justice system. A person charged with a felony offense that is a listed crime pursuant to 13 V.S.A. § 5301 shall not be eligible under this section.

(c) The ~~adult court diversion project administered by the Attorney General~~ program shall encourage the development of diversion ~~projects~~ programs in local communities through grants of financial assistance to municipalities, private groups or other local organizations. The Attorney General may require local financial contributions as a condition of receipt of ~~project~~ program grants.

(d) The Office of the Attorney General shall develop program outcomes following the designated State of Vermont performance accountability framework and, in consultation with the Department of State's Attorneys and Sheriffs, the Office of the Defender General, the Center for Crime Victim Services, and the Judiciary, report annually on or before December 1 to the General Assembly on services provided and outcome indicators.

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

(1) The diversion ~~project~~ program shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. The prosecuting attorney may refer a person to diversion either before or after arraignment and shall notify in writing the diversion program and the court of his or her intention to refer the person to diversion. If a person is charged with a qualifying crime as defined in 13 V.S.A. § 7601(4)(A), the prosecutor shall provide the person with the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record at arraignment or a subsequent hearing why a referral to the Program would not serve the ends of justice. If the prosecuting attorney refers a case to diversion, the prosecuting attorney may release information to the victim upon a showing of legitimate need and subject to an appropriate protective agreement defining the purpose for which the information is being released and

in all other respects maintaining the confidentiality of the information; otherwise files held by the court, the prosecuting attorney, and the law enforcement agency related to the charges shall be confidential and shall remain confidential unless:

(A) the Board declines to accept the case;

(B) the person declines to participate in diversion;

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

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

(2) Alleged offenders shall be informed of their right to the advice and assistance of private counsel or the public defender at all stages of the diversion process, including the initial decision to participate, and the decision to accept the adult diversion contract, so that the candidate may give informed consent.

(3) The participant shall be informed that his or her selection of the adult diversion contract is voluntary.

(4) Each State's Attorney, in cooperation with the Office of the Attorney General and the adult court diversion ~~project~~ program, shall develop clear criteria for deciding what types of offenses and offenders will be eligible for diversion; however, the State's Attorney shall retain final discretion over the referral of each case for diversion.

(5) All information gathered in the course of the adult diversion process shall be held strictly confidential and shall not be released without the participant's prior consent (except that research and reports that do not require or establish the identity of individual participants are allowed).

(6) Information related to the present offense that is divulged during the adult diversion program shall not be used ~~in the prosecutor's case~~ against the person in the person's criminal or juvenile case for any purpose, including impeachment or cross-examination. However, the fact of participation and success, or reasons for failure may become part of the prosecutor's records.

(7)(A) The adult court diversion ~~project~~ program shall maintain sufficient records so that the reasons for success or failure of the program in particular cases and overall can be investigated by program staff. These records shall include a centralized statewide filing system that will include the following information about individuals who have successfully completed an adult court diversion program:

(i) name and date of birth;

(ii) offense charged and date of offense;

(iii) place of residence;

(iv) county where diversion process took place; and

(v) date of completion of diversion process.

(B) These records shall not be available to anyone other than the participant and his or her attorney, State's Attorneys, the Attorney General and directors of adult court diversion projects.

(8) Adult court diversion ~~projects~~ programs shall be set up to respect the rights of participants.

(9) Each participant shall pay a fee to the local adult court diversion project. The amount of the fee shall be determined by project officers or employees based upon the financial capabilities of the participant. The fee shall not exceed $300.00. The fee shall be a debt due from the participant, and payment of such shall be required for successful completion of the program. Notwithstanding 32 V.S.A. § 502(a), fees collected under this subdivision shall be retained and used solely for the purpose of the court diversion program.

~~(d)~~(f) The Attorney General is authorized to accept grants and gifts for the purposes of this section, such acceptance being pursuant to 32 V.S.A. § 5.

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

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

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

(3) rehabilitation of the participant has been attained to the satisfaction of the court.

~~(f)~~(h) Upon the entry of an order sealing such files and records under this section, the proceedings in the matter under this section shall be considered never to have occurred, all index references thereto shall be deleted, and the

participant, the court, and law enforcement officers and departments shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the order shall be sent to each agency or official named therein.

~~(g)~~(i) Inspection of the files and records included in the order may thereafter be permitted by the court only upon petition by the participant who is the subject of such records, and only to those persons named therein.

~~(h)~~(j) The process of automatically sealing records as provided in this section shall only apply to those persons who completed diversion on or after July 1, 2002. Any person who completed diversion prior to July 1, 2002 must apply to the court to have his or her records sealed. Sealing shall occur if the requirements of subsection ~~(e)~~(g) of this section are met.

~~(i)~~(k) Subject to the approval of the Attorney General, the Vermont Association of Court Diversion Programs may develop and administer programs to assist persons under this section charged with delinquent, criminal, and civil offenses.

Sec. 3. 13 V.S.A. § 7554c is amended to read:

§ 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

(a)(1) The objective of a pretrial risk assessment is to provide information to the ~~Court~~ court for the purpose of determining whether a person presents a risk of nonappearance ~~or a threat to public safety~~ or a risk of re-offense so the ~~Court~~ court can make an appropriate order concerning bail and conditions of pretrial release. The assessment shall not assess victim safety or risk of lethality in domestic assaults.

(2) The objective of a pretrial needs screening is to obtain a preliminary indication of whether a person has a substantial substance abuse or mental health issue that would warrant a subsequent court order for a more detailed clinical assessment.

(3) Participation in a risk assessment or needs screening pursuant to this section does not create any entitlement for the assessed or screened person.

(b)(1) ~~A~~ Except as provided in subdivision (2) of this subsection, a person ~~whose offense or status falls into any of the following categories shall be offered a risk assessment and, if deemed appropriate by the pretrial monitor, a needs screening prior to arraignment:~~

~~(A) misdemeanors and felonies, excluding listed crimes and drug trafficking, cited into court; and~~

~~(B) persons who are arrested and lodged and unable to post bail within 24 hours of lodging, excluding persons who are charged with an offense~~

~~for which registration as a sex offender is required upon conviction pursuant to subchapter 3 of chapter 167 of this title or an offense punishable by up to life imprisonment~~ who is arrested, lodged, and unable to post bail within 24 hours of lodging shall be offered a risk assessment and, if deemed appropriate by the pretrial services coordinator, a needs screening prior to arraignment.

(2) ~~As used in this section, "listed crime" shall have the same meaning as provided in section 5301 of this title and "drug trafficking" means offenses listed as such in Title 18~~ A person charged with an offense for which registration as a sex offender is required pursuant to subchapter 3 of chapter 167 of this title or an offense punishable by a term of life imprisonment shall not be eligible under this section.

(3) ~~Unless ordered as a condition of release under section 7554 of this title, participation~~ Participation in risk assessment or needs screening shall be voluntary and a person's refusal to participate shall not result in any criminal legal liability to the person.

(4) In the event an assessment or screening cannot be obtained prior to arraignment, the risk assessment and needs screening shall be conducted as soon as practicable.

(5) A person who qualifies pursuant to ~~subdivisions (1)(A)-(D)~~ subdivision (1) of this subsection and who has an additional pending charge or a violation of probation shall not be excluded from being offered a risk assessment or needs screening unless the other charge is a listed crime.

(6)~~(A) The Administrative Judge and Court Administrator, in consultation with the Secretary of Human Services and the Commissioner of Corrections, shall develop a statewide plan for the phased, consistent rollout of the categories identified in subdivisions (1)(A) through (D) of this subsection, in the order in which they appear in this subsection. The Administrative Judge and Court Administrator shall present the plan to the Joint Legislative Corrections Oversight Committee on or before October 15, 2014~~ Any person charged with a criminal offense, except those persons identified in subdivision (b)(2) of this section, may choose to engage with a pretrial services coordinator.

~~(B) All persons whose offense or status falls into one of the categories shall be eligible for a risk assessment or needs screening on or after October 15, 2015. Prior to that date, a person shall not be guaranteed the offer of a risk assessment or needs screening solely because the person's offense or status falls into one of the categories. Criminal justice professionals charged with implementation shall adhere to the plan.~~

(c) The results of the risk assessment and needs screening shall be provided to the person and his or her attorney, the prosecutor, and the ~~Court~~ court. Pretrial services coordinators may share information only within the limitations of subsection (e) of this section.

(d)(1) At arraignment, ~~in consideration of the risk assessment and needs screening,~~ the ~~Court~~ court may order ~~the~~ a person to ~~comply with~~ do the following ~~conditions~~:

(A) meet with a pretrial ~~monitor~~ services coordinator on a schedule set by the ~~Court~~ court; ~~and~~

(B) participate in a needs screening with a pretrial services coordinator; and

(C) participate in a clinical assessment by a substance abuse or mental health treatment provider and follow the recommendations of the provider.

(2) The ~~Court~~ court may order the person to ~~follow the recommendation of the pretrial monitor if the person has completed a risk assessment or needs screening~~ engage in pretrial services. Pretrial services may include the pretrial services coordinator:

(A) supporting the person in meeting conditions of release imposed by the court, including the condition to appear for judicial proceedings; and

(B) connecting the person with community-based treatment programs, rehabilitative services, recovery supports, and restorative justice programs.

(3) If possible, the ~~Court~~ court shall set the date and time for the clinical assessment at arraignment. In the alternative, the pretrial ~~monitor~~ services coordinator shall coordinate the date, time, and location of the clinical assessment and advise the ~~Court~~ court, the person and his or her attorney, and the prosecutor.

(4) ~~The conditions~~ An order authorized in subdivision (1) or (2) of this subsection shall be in addition to any ~~other~~ conditions of release permitted by law and shall not limit the ~~Court~~ court in any way. Failure to comply with a court order authorized by subdivision (1) or (2) of this subsection shall not constitute a violation of section 7559 of this title.

(5) This section shall not be construed to limit a court's authority to impose conditions pursuant to section 7554 of this title.

(e)(1) Information obtained from the person during the risk assessment or needs screening shall be exempt from public inspection and copying under the Public Records Act and, except as provided in subdivision (2) of this

subsection, only may be used for determining bail, conditions of release, and appropriate programming for the person in the pending case. The information a pretrial services coordinator may report is limited to whether a risk assessment indicates risk of nonappearance, whether further substance use assessment or treatment is indicated, whether mental health assessment or treatment is indicated, whether a person participated in a clinical assessment, and whether further engagement with pretrial services is recommended unless the person provides written permission to release additional information. Information related to the present offense directly or indirectly derived from the risk assessment, needs screening, or other conversation with the pretrial services coordinator shall not be used against the person in the person's criminal or juvenile case for any purpose, including impeachment or cross-examination. However, the fact of participation or nonparticipation in risk assessment or needs screening may be used in subsequent proceedings. The immunity provisions of this subsection apply only to the use and derivative use of information gained as a proximate result of the risk assessment ~~or,~~ needs screening, or other conversation with the pretrial services coordinator.

(2) The person shall retain all of his or her due process rights throughout the risk assessment and needs screening process and may release his or her records at his or her discretion.

(3) ~~The Vermont Supreme Court in accordance with judicial rulemaking as provided in 12 V.S.A. § 1 shall promulgate and the Department of Corrections in accordance with the Vermont Administrative Procedure Act pursuant to 3 V.S.A. chapter 25 shall adopt rules related to the custody, control, and preservation of information consistent with the confidentiality requirements of this section. Emergency rules adopted prior to January 1, 2015 pursuant to this section shall be considered to meet the "imminent peril" standard under 3 V.S.A. § 844(a)~~ All records of information obtained during risk assessment or needs screening shall be stored in a manner making them accessible only to the Director of Pretrial Services and Pretrial Service Coordinators for a period of three years, after which the records shall be maintained as required by sections 117 and 218 of this title and any other State law. The Director of Pretrial Services shall be responsible for the destruction of records when ordered by the court.

(f) The Attorney General's Office shall:

(1) contract for or otherwise provide the pretrial services described in this section, including performance of risk assessments, needs screenings, and pretrial monitoring services, and

(2) develop pretrial services outcomes following the designated State of Vermont performance accountability framework and, in consultation with the Department of State's Attorneys and Sheriffs, the Office of the Defender

General, the Center for Crime Victim Services, and the Judiciary, report annually on or before December 1 to the General Assembly on services provided and outcome indicators.

Sec. 4. MISDEMEANOR POSSESSION OF DRUGS; PRETRIAL SERVICES

(a) It is the intent of the General Assembly to encourage persons cited or arrested for a misdemeanor drug possession charge the opportunity to engage with pretrial services, and, if appropriate, enter treatment, and that, in turn, a person who complies with such conditions will be eligible for dismissal of the charge.

(b) The Attorney General, the Defender General, and the Executive Director of the Department of State's Attorneys and Sheriffs shall work collaboratively to develop a specific legislative proposal to accomplish this intent with an implementation date of July 1, 2018 and report to the Senate and House Committees on Judiciary and on Appropriations, the Senate Committee on Health and Welfare, and the House Committee on Human Services on or before November 1, 2017.

Sec. 5. 13 V.S.A. § 7041 is amended to read:

§ 7041. DEFERRED SENTENCE

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

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

(1)(A) the respondent is 28 years ~~old~~ of age or younger; or

(B) the respondent is 29 years of age or older and has not previously been convicted of a crime;

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

(3) the court orders, unless waived by the State's Attorney:

(A) a presentence investigation in accordance with the procedures set forth in Rule 32 of the Vermont Rules of Criminal Procedure~~, unless the state's attorney agrees to waive the presentence investigation~~; or

(B) an abbreviated presentence investigation in a form approved by the Commissioner of Corrections;

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

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

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

(c) Notwithstanding subsections (a) and (b) of this section, the court may not defer a sentence for a violation of section 3253a (aggravated sexual assault of a child), section 2602 (lewd and lascivious conduct with a child unless the victim and the defendant were within five years of age and the act was consensual), 3252(c) (sexual assault of a child under 16 years of age unless the victim and the defendant were within five years of age and the act was consensual), 3252(d) or (e) (sexual assault of a child), 3253(a)(8) (aggravated sexual assault), or 3253a (aggravated sexual assault of a child) of this title.

* * *

Sec. 6. 13 V.S.A. § 5231 is amended to read:

§ 5231. RIGHT TO REPRESENTATION, SERVICES AND FACILITIES

(a) A needy person who is being detained by a law enforcement officer without charge or judicial process, ~~or~~ who is charged with having committed or is being detained under a conviction of a serious crime, or who is charged with having committed or is being detained under a conviction of any criminal offense if the person was 25 years of age or less at the time the alleged offense was committed, is entitled:

(1) To be represented by an attorney to the same extent as a person having his or her own counsel~~; and~~.

(2) To be provided with the necessary services and facilities of representation. Any such necessary services and facilities of representation that exceed $1,500.00 per item must receive prior approval from the court after a hearing involving the parties. The court may conduct the hearing outside the presence of the ~~state~~ State, but only to the extent necessary to preserve privileged or confidential information. This obligation and requirement to obtain prior court approval shall also be imposed in like manner upon the ~~attorney general~~ Attorney General or a ~~state's attorney~~ State's Attorney prosecuting a violation of the law.

(b) The attorney, services and facilities, and court costs shall be provided at public expense to the extent that the person, at the time the court determines need, is unable to provide for the person's payment without undue hardship.

Sec. 7. 13 V.S.A. § 5232 is amended to read:

§ 5232. PARTICULAR PROCEEDINGS

Counsel shall be assigned under section 5231 of this title to represent needy persons in any of the following:

* * *

(3) ~~Proceedings~~ For proceedings arising out of a petition brought in a juvenile court, including any subsequent proceedings arising from an order issued in the juvenile proceeding:

(A) the child; and

(B) when the court deems the interests of justice require representation, ~~of either the child or his or her~~ the child's parents or guardian, or both~~, including any subsequent proceedings arising from an order therein~~.

Sec. 8. 13 V.S.A. § 5234 is amended to read:

§ 5234. NOTICE OF RIGHTS; REPRESENTATION PROVIDED

(a) If a person who is being detained by a law enforcement officer without charge or judicial process, ~~or~~ who is charged with having committed or is being detained under a conviction of a serious crime, or who is charged with having committed or is being detained under a conviction of any criminal offense if the person was 25 years of age or less at the time the alleged offense was committed, is not represented by an attorney under conditions in which a person having his or her own counsel would be entitled to be so represented, the law enforcement officer, magistrate, or court concerned shall:

(1) Clearly inform him or her of the right of a person to be represented by an attorney and of a needy person to be represented at public expense~~; and~~.

(2) If the person detained or charged does not have an attorney and does not knowingly, voluntarily and intelligently waive his or her right to have an attorney when detained or charged, notify the appropriate public defender that he or she is not so represented. This shall be done upon commencement of detention, formal charge, or post-conviction proceeding, as the case may be. As used in this subsection, the term "commencement of detention" includes the taking into custody of a probationer or parolee.

(b) Upon commencement of any later judicial proceeding relating to the same matter, the presiding officer shall clearly inform the person so detained or charged of the right of a needy person to be represented by an attorney at public expense.

(c) Information given to a person by a law enforcement officer under this section is effective only if it is communicated to a person in a manner meeting

standards under the ~~constitution~~ Constitution of the United States relating to admissibility in evidence against him or her of statements of a detained person.

(d) Information meeting the standards of subsection (c) of this section and given to a person by a law enforcement officer under this section gives rise to a rebuttable presumption that the information was effectively communicated if:

(1) ~~It~~ it is in writing or otherwise recorded;

(2) ~~The~~ the recipient records his or her acknowledgment of receipt and time of receipt of the information; and

(3) ~~The~~ the material so recorded under subdivisions (1) and (2) of this subsection is filed with the court next concerned.

Sec. 9. LEGISLATIVE FINDINGS

The General Assembly finds that:

(1) According to Michael Botticelli, former Director of the Office of National Drug Control Policy, the National Drug Control Strategy recommends treating "addiction as a public health issue, not a crime." Further, the strategy "rejects the notion that we can arrest and incarcerate our way out of the nation's drug problem."

(2) Vermont Chief Justice Paul Reiber has declared that "the classic approach of 'tough on crime' is not working in [the] area of drug policy" and that treatment-based models are proving to be a more effective approach for dealing with crime associated with substance abuse.

(3) A felony conviction record is a significant impediment to gaining and maintaining employment and housing, yet we know that stable employment and housing are an essential element to recovery from substance abuse and desistance of criminal activity that often accompanies addiction.

(4) In a 2014 study by the PEW Research Center, 67 percent of people polled said government should focus more on providing treatment to people who use illicit drugs and less on punishment. The Center later reported that states are leading the way in reforming drug laws to reflect this opinion: State-level actions have included lowering penalties for possession and use of illegal drugs, shortening mandatory minimums or curbing their applicability, removing automatic sentence enhancements, and establishing or extending the jurisdiction of drug courts and other alternatives to the regular criminal justice system.

(5) Vermont must look at alternative approaches to the traditional criminal justice model for addressing low-level illicit drug use if it is going to reduce the effects of addiction and addiction-related crime in this State.

Sec. 10. STUDY

(a) The Office of Legislative Council shall examine the issue of a public health approach to low-level possession and use of illicit drugs in Vermont as an alternative to the traditional criminal justice model, looking to trends both nationally and internationally, with a goal of providing policymakers a range of approaches to consider during the 2018 legislative session.

(b) The Office of Legislative Council shall report its findings to the General Assembly on or before November 15, 2017.

Sec. 11. SUNSET

Sec. 2 of this act shall be repealed on July 1, 2020.

Sec. 12. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

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.

Thereupon, pursuant to the request of the Senate, the President announced the appointment of

Senator White
Senator Benning
Senator Sears

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

Rules Suspended; House Proposal of Amendment Not Concurred In; Committee of Conference Requested; Committee of Conference Appointed

S. 136.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to miscellaneous consumer protection provisions.

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:

* * * Home Loan Escrow Account Analysis * * *

Sec. 1. 8 V.S.A. § 10404 is amended to read:

§ 10404. HOME LOAN ESCROW ACCOUNTS

* * *

(c) A lender shall not require a borrower to deposit into an escrow account any greater sum than is sufficient to pay taxes, insurance premiums, and other charges with respect to the residential real estate, subject to the following additional charges:

(1) a lender may require aggregate annual deposits no greater than the reasonably estimated total annual charges plus ~~one-twelfth~~ one–sixth of such total; and

(2) a lender may require monthly deposits no greater than one-twelfth of the reasonably estimated total annual charges plus an amount needed to maintain an additional account balance no greater than ~~one-twelfth~~ one–sixth of such total.

* * *

(g)(1) At least annually, a lender shall conduct an escrow account analysis at the completion of the escrow account computation year to determine the borrower's monthly escrow account payments for the next computation year based on the borrower's current tax liability, if made available to the lender either by the borrower or the municipality, after any applicable adjustment for a State credit on property taxes.

(2) Upon submission of a revised property tax bill to the lender, the lender shall review the property tax bill and upon verifying that it has been reduced since the date of the last escrow account analysis, the lender shall, within 30 days of receiving notice from the borrower, conduct a new escrow account analysis, recalculate the borrower's monthly escrow payment, and notify the borrower of any change.

(3) ~~The lender shall provide~~ At least annually, and whenever an escrow account analysis is conducted or upon request of the borrower, the lender shall provide to the borrower financial statements relating to the borrower's escrow account in a manner and on a form ~~approved by the Commissioner~~ consistent with the federal Real Estate Settlement Procedures Act. The lender shall not charge the borrower for the preparation and transmittal of such statements.

* * *

* * * Fantasy Sports Contests * * *

Sec. 2. FANTASY SPORTS; FINDINGS AND PURPOSE

(a) Findings. The General Assembly finds:

(1) Participation in online fantasy sports contests throughout the nation has grown significantly in recent years and it is estimated that approximately 80,000 Vermonters have participated in at least one fantasy sports contest.

(2) At least 10 states have now recognized fantasy sports as a legal, regulated activity, and legislation has been introduced in many more states to recognize, regulate, and tax the activity in order to identify contest operators, ensure fair play, and protect consumers.

(3) Given the widespread participation in online fantasy sports contests, Vermont should carefully consider how best to regulate fantasy sports contests, register fantasy sports contest operators, and provide necessary protection for Vermont consumers.

(b) Purpose. The purpose of Sec. 3 of this act is to direct the Attorney General and the Executive Branch to consider and propose an appropriate regulatory framework for fantasy sports contests.

Sec. 3. FANTASY SPORTS CONTESTS; PROPOSALS

(a) On or before December 15, 2017, the Attorney General shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a proposal for necessary consumer protection provisions regulating fantasy sports contests and operators.

(b) On or before December 15, 2017, the Secretary of Administration shall submit to the House Committee on Ways and Means and the Senate Committee on Finance a proposal for fantasy sports contests concerning:

(1) registration requirements and a flat registration fee of an appropriate amount; and

(2) an appropriate percentage tax on an appropriate measure of revenue.

Secs. 4–5. [Deleted.]

* * * Automatic Renewal Provisions in Consumer Contracts; H.286 * * *

Sec. 6. 9 V.S.A. § 2454a is added to read:

§ 2454a. CONSUMER CONTRACTS; AUTOMATIC RENEWAL

(a) A contract between a consumer and a seller or a lessor with an initial term of one year or longer, and that renews for a subsequent term that is longer than one month, shall not renew automatically unless:

(1) the contract states clearly and conspicuously the terms of the automatic renewal provision in plain, unambiguous language, and in bold-face type;

(2) in addition to accepting the contract, the consumer takes an affirmative action to opt in to the automatic renewal provision; and

(3) if the consumer opts in to the automatic renewal provision, the seller or lessor provides a written or electronic notice to the consumer:

(A) not less than 30 days, and not more than 60 days, before the earliest of:

(i) the automatic renewal date;

(ii) the termination date; or

(iii) the date by which the consumer must provide notice to cancel the contract; and

(B) that includes:

(i) the date the contract will terminate and a clear statement that unless the consumer cancels the contract on or before the termination date, the contract will renew automatically;

(ii) the length and any additional terms of the renewal period;

(iii) one or more methods by which the consumer can cancel the contract; and

(iv) contact information for the seller or lessor,

(b) A person who violates a provision of subsection (a) of this section commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(c) The provisions of this section do not apply to:

(1) a contract between a consumer and a financial institution, as defined in 8 V.S.A. § 11101; or

(2) a contract for insurance, as defined in 8 V.S.A. § 3301a.

Sec. 7. AUTOMATIC RENEWAL OF CONTRACTS; APPLICABILITY TO EXISTING CONTRACTS

(a) A contract between a consumer and a seller or lessor in effect on January 1, 2018, with an initial term of one year or longer, and thatrenews for a subsequent term that is longer than one month, shall not renew automatically unless the seller or lessor sends written or electronic notice to the consumer with the information required 9 V.S.A. § 2454a(a)(3)(B):

(1) not less than 30 days, and not more than 60 days, before the earliest of:

(A) the automatic renewal date;

(B) the termination date; or

(C) the date by which the consumer must provide notice to cancel the contract; or

(2) if the contract will automatically renew on or before January 31, 2018, then as soon as is commercially reasonable after this section takes effect.

(b) The Attorney General shall have the same authority to enforce this section as for 9 V.S.A. § 2454a.

(c) The provisions of this section do not apply to:

(1) a contract between a consumer and a financial institution, as defined in 8 V.S.A. § 11101; or

(2) a contract for insurance, as defined in 8 V.S.A. § 3301a.

* * * Retainage of Payment for Construction Materials; H.288 * * *

Sec. 8. 9 V.S.A. § 4005 is amended to read:

§ 4005. RETAINAGE

(a) If payments under a construction contract are subject to retainage, any amounts ~~which~~ that have been retained during the performance of the contract and ~~which~~ that are due to be released to the contractor upon final completion shall be paid within 30 days after final acceptance of the work.

(b) If an owner is not withholding retainage, a contractor or subcontractor may withhold retainage from its subcontractor in accordance with their agreement. The retainage shall be paid within 30 days after final acceptance of the work.

(c) Notwithstanding any contrary agreement, a contractor shall pay to its subcontractors, and each subcontractor shall in turn pay to its subcontractors, within seven days after receipt of the retainage, the full amount due to each such subcontractor.

(d) If an owner, contractor, or subcontractor unreasonably withholds acceptance of the work or fails to pay retainage as required by this section, the owner, contractor, or subcontractor shall be subject to the interest, penalty, and attorney's fees provisions of sections 4002, 4003, and 4007 of this title.

(e) Notwithstanding any provision of this section or an agreement to the contrary, except in the case of a contractor or subcontractor who is both a materialman who delivers materials and is contracted to perform work using

those materials, a contractor or subcontractor shall not hold retainage for contracted materials that:

(1) have been delivered by a materialman and accepted by the contractor at the site, or off-site; and

(2) are covered by a manufacturer's warranty, or graded to meet industry standards, or both.

* * * Credit Protection for Vulnerable Persons; H.390 * * *

Sec. 9. 9 V.S.A. § 2480a is amended to read:

§ 2480a. DEFINITIONS

~~For purposes of~~ As used in this subchapter and subchapter 9 of this chapter:

(1) "Consumer" means a natural person ~~residing in this State~~ other than a protected consumer.

(2) "Credit report" means ~~any written, oral, or other communication of any information by a credit reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, including an investigative credit report. The term does not include:~~

~~(A) a report containing information solely as to transactions or experiences between the consumer and the person making the report; or~~

~~(B) an authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device.~~ a consumer report, as defined in 15 U.S.C. § 1681a, that is used or collected in whole or in part for the purpose of serving as a factor in establishing a consumer's eligibility for credit for personal, family, or household purposes.

(3) "Credit reporting agency" or "agency" means ~~any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of reporting to third parties on the credit rating or creditworthiness of any consumer~~ a person who, for fees, dues, or on a cooperative basis, regularly engages in whole or in part in the practice of assembling or evaluating information concerning a consumer's credit or other information for the purpose of furnishing a credit report to another person.

(4) "Identity theft" means the unauthorized use of another person's personal identifying information to obtain credit, goods, services, money, or property.

(5) "Investigative credit report" means a report in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom the consumer is acquainted or who may have knowledge concerning any such items of information. The term does not include reports of specific factual information on a consumer's credit record obtained directly from a creditor of the consumer or from a credit reporting agency when such information was obtained directly from a creditor of the consumer or from the consumer.

(6) "Proper identification," ~~as used in this subchapter, means that information generally deemed sufficient to identify a person~~ has the same meaning as in 15 U.S.C. § 1681h(a)(1), and includes:

(A) the consumer's full name, including first, last, and middle names and any suffix;

(B) any name the consumer previously used;

(C) the consumer's current and recent full addresses, including street address, any apartment number, city, state, and ZIP code;

(D) the consumer's Social Security number; and

(E) the consumer's date of birth.

(7) "Security freeze" means a notice placed in a credit report, at the request of the consumer, pursuant to section 2480h of this title.

(8) "Consumer who is subject to a protected consumer security freeze" means a natural person:

(A) for whom a credit reporting agency placed a security freeze under section 2480h of this title; and

(B) who, on the day on which a request for the removal of the security freeze is submitted under section 2480h of this title, is not a protected consumer.

(9) "File" has the same meaning as in 15 U.S.C. § 1681a.

(10) "Incapacitated person" has the same meaning as in 14 V.S.A. § 3152.

(11)(A) "Personal information" means personally identifiable financial information:

(i) provided by a consumer to another person;

(ii) resulting from any transaction with the consumer or any service performed for the consumer; or

(iii) otherwise obtained by another person.

(B) "Personal information" does not include:

(i) publicly available information, as that term is defined by the regulations prescribed under 15 U.S.C. § 6804; or

(ii) any list, description, or other grouping of consumers, and publicly available information pertaining to the consumers, that is derived without using any nonpublic personal information.

(C) Notwithstanding subdivision (B) of this subdivision (11), "personal information" includes any list, description, or other grouping of consumers, and publicly available information pertaining to the consumers, that is derived using any nonpublic personal information other than publicly available information.

(12) "Protected consumer" means a natural person who, at the time a request for a security freeze is made, is:

(A) less than 18 years of age, unless emancipated under 12 V.S.A. chapter 217.

(B) an incapacitated person; or

(C) a protected person.

(13) "Protected person" has the same meaning as in 14 V.S.A. § 3152.

(14) "Record" means a compilation of information that:

(A) identifies a protected consumer;

(B) is created by a consumer reporting agency solely for the purpose of complying with this section; and

(C) may not be created or used to consider the protected consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

(15) "Representative" means a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer.

(16) "Sufficient proof of authority" means documentation that shows that a person has authority to act on behalf of a protected consumer, including:

(A) a court order;

(B) a lawfully executed power of attorney; or

(C) a written, notarized statement signed by the person that expressly describes the person's authority to act on behalf of the protected consumer.

(17) "Sufficient proof of identification" means information or documentation that identifies a protected consumer or a representative, including:

(A) a Social Security number or a copy of a Social Security card issued by the U.S. Social Security Administration;

(B) a certified or official copy of a birth certificate; or

(C) a copy of a government issued driver license or identification card.

Sec. 10. 9 V.S.A. chapter 63, subchapter 9 is added to read:

Subchapter 9. Credit Report Protection for Minors

§ 2493. TITLE

This subchapter is known as "Credit Report Protection for Minors."

§ 2494. DEFINITIONS

As used in this subchapter:

(1) "Proper authority" means:

(A) in the case that it is required of a protected consumer's representative:

(i) sufficient proof of identification of the protected consumer;

(ii) sufficient proof of identification of the protected consumer's representative; and

(iii) sufficient proof of authority to act on behalf of the protected consumer; and

(B) in the case that it is required of a consumer who is subject to a protected consumer security freeze:

(i) sufficient proof of identification of the consumer who is subject to a protected consumer security freeze; and

(ii) proof that the consumer who is subject to a protected consumer security freeze is not a protected consumer.

(2) "Protected consumer security freeze" means:

(A) if a consumer reporting agency does not have a file that pertains to a protected consumer, a restriction that:

(i) is placed on the protected consumer's record in accordance with this subchapter; and

(ii) except as otherwise provided in this subchapter, prohibits the consumer reporting agency from releasing the protected consumer's record; or

(B) if a consumer reporting agency has a file that pertains to the protected consumer, a restriction that:

(i) is placed on the protected consumer's credit report in accordance with this subchapter; and

(ii) except as otherwise provided in this subchapter, prohibits the consumer reporting agency from releasing the protected consumer's credit report or any information derived from the protected consumer's credit report.

§ 2495. APPLICABILITY

This subchapter does not apply to the use of a protected consumer's credit report or record by:

(1) a person administering a credit file monitoring subscription service to which:

(A) the protected consumer has subscribed; or

(B) the protected consumer's representative has subscribed on the protected consumer's behalf;

(2) a person who, upon request from the protected consumer or the protected consumer's representative, provides the protected consumer or the protected consumer's representative with a copy of the protected consumer's credit report;

(3) a check services or fraud prevention services company that issues:

(A) reports on incidents of fraud; or

(B) authorization for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar payment methods;

(4) a deposit account information service company that issues reports regarding account closures due to fraud, substantial overdrafts, automated teller machine abuse, or similar information regarding an individual to inquiring banks or other financial institutions for use only in reviewing an individual's request for a deposit account at the inquiring bank or financial institution;

(5) an insurance company for the purpose of conducting the insurance company's ordinary business;

(6) a consumer reporting agency that:

(A) only resells credit information by assembling and merging information contained in a database of another consumer reporting agency or multiple consumer reporting agencies; and

(B) does not maintain a permanent database of credit information from which new credit reports are produced; or

(7) a consumer reporting agency's database or file that consists of information that:

(A) concerns and is used for:

(i) criminal record information;

(ii) fraud prevention or detection;

(iii) personal loss history information; or

(iv) employment, tenant, or individual background screening; and

(B) is not used for credit granting purposes.

§ 2496. SECURITY FREEZE FOR PROTECTED CONSUMER; TIME IN EFFECT

(a) A consumer reporting agency shall place a security freeze for a protected consumer if:

(1) the consumer reporting agency receives a request from the protected consumer's representative for the placement of the security freeze; and

(2) the protected consumer's representative:

(A) submits the request described in subdivision (1) of this subsection (a):

(i) to the address or other point of contact provided by the consumer reporting agency; and

(ii) in the manner specified by the consumer reporting agency;

(B) demonstrates proper authority to the consumer reporting agency; and

(C) if applicable, pays the consumer reporting agency a fee described in section 2497 of this title.

(b) If a consumer reporting agency does not have a file that pertains to a protected consumer when the consumer reporting agency receives a request described in subsection (a) of this section, the consumer reporting agency shall create a record for the protected consumer.

(c) The credit reporting agency shall:

(1) place a security freeze no later than 30 days after the date the agency receives a request pursuant to subsection (a) of this section; and

(2) no later than 10 business days after placing the freeze:

(A) send a written confirmation of the security freeze to the protected consumer or the protected consumer's representative; and

(B) provide a unique personal identification number or password, other than a Social Security number, to be used to authorize the release of the protected consumer's credit for a specific party, parties, or period of time.

(d) If the protected consumer or protected consumer's representative wishes to allow the protected consumer's credit report to be accessed by a specific party or parties, or for a specific period of time while a freeze is in place, he or she shall:

(1) contact the credit reporting agency;

(2) request that the freeze be temporarily lifted;

(3) provide:

(A) proper authority;

(B) the unique personal identification number or password provided by the credit reporting agency pursuant to subsection (c) of this section;

(C) the proper information regarding the third party, parties, or time period for which the report shall be available to users of the credit report; and

(4) if applicable, pay the consumer reporting agency a fee described in section 2497 of this title.

(e) A credit reporting agency may develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request from a consumer to lift temporarily a freeze on a credit report pursuant to subsection (d) of this section in an expedited manner.

(f) A credit reporting agency that receives a request from a consumer to lift temporarily a freeze on a credit report pursuant to subsection (e) of this section shall comply with the request not later than three business days after receiving the request.

(g) A credit reporting agency shall remove or lift temporarily a freeze placed on a protected consumer's credit report only in the following cases:

(1) Upon request, pursuant to subsection (d) or (j) of this section.

(2) If the protected consumer's credit report was frozen due to a material misrepresentation of fact by the consumer. If a credit reporting agency intends

to remove a freeze upon a protected consumer's credit report pursuant to this subdivision, the credit reporting agency shall notify the protected consumer and his or her representative in writing prior to removing the freeze on the consumer's credit report.

(h) If a third party requests access to a credit report on which a protected consumer security freeze is in effect and this request is in connection with an application for credit or any other use and neither the consumer subject to the protected consumer security freeze nor the protected consumer's representative allows the credit report to be accessed for that specific party or period of time, the third party may treat the application as incomplete.

(i) If a protected consumer's representative requests a security freeze pursuant to this section, the credit reporting agency shall disclose to the protected consumer's representative the process of placing and lifting temporarily a security freeze and the process for allowing access to information from the protected consumer's credit report for a specific party, parties, or period of time while the protected consumer security freeze is in place.

(j)(1) A protected consumer security freeze shall remain in place until the consumer subject to the protected consumer security freeze or the protected consumer's representative requests that the security freeze be removed.

(2) A credit reporting agency shall remove a protected consumer security freeze within three business days of receiving a proper request for removal.

(3) The protected consumer's representative or the consumer who is subject to a protected consumer security freeze shall submit to the consumer reporting agency a proper request for removal:

(A) at the address or other point of contact provided by the consumer reporting agency; and

(B) in the manner specified by the consumer reporting agency.

(4) When submitting a proper request for removal, a protected consumer's representative or a consumer who is subject to a protected consumer security freeze shall:

(A) provide proper authority;

(B) provide the unique personal identification number or password provided by the credit reporting agency pursuant to subsection (c) of this section; and

(C) if applicable, pay the consumer reporting agency a fee described in section 2497 of this title.

(k) A credit reporting agency shall require proper identification of the person making a request to place or remove a protected consumer security freeze.

(l) The provisions of this section, including the protected consumer security freeze, do not apply to the use of a consumer report by the following:

(1) A person, or the person's subsidiary, affiliate, agent, or assignee with which the protected consumer has or, prior to assignment, had an account, contract, or debtor-creditor relationship for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or debt, or extending credit to a consumer with a prior or existing account, contract, or debtor-creditor relationship, subject to the requirements of section 2480e of this title. As used in this subdivision, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

(2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under subsection (d) of this section for purposes of facilitating the extension of credit or other permissible use.

(3) Any person acting pursuant to a court order, warrant, or subpoena.

(4) The Office of Child Support when investigating a child support case pursuant to Title IV-D of the Social Security Act (42 U.S.C. §§ 651-669b) and 33 V.S.A. 4102.

(5) The Economic Services Division of the Department for Children and Families or the Department of Vermont Health Access or its agents or assignee acting to investigate welfare or Medicaid fraud.

(6) The Department of Taxes, municipal taxing authorities, or the Department of Motor Vehicles or any of their agents or assignees, acting to investigate or collect delinquent taxes or assessments, including interest and penalties, unpaid court orders, or to fulfill any of their other statutory or charter responsibilities.

(7) A person's use of credit information for the purposes of prescreening as provided by the federal Fair Credit Reporting Act.

(8) Any person for the sole purpose of providing a credit file monitoring subscription service to which the consumer has subscribed.

(9) A credit reporting agency for the sole purpose of providing a consumer with a copy of his or her credit report upon the consumer's request.

(10) Any property and casualty insurance company for use in setting or adjusting a rate or underwriting for property and casualty insurance purposes.

§ 2497. FEES

(a) Except as provided in subsection (b) of this section, a consumer reporting agency may not charge a fee for any service performed under this subchapter.

(b) A consumer reporting agency may charge a reasonable fee, which does not exceed $5.00, for each placement, suspension, or removal of a protected consumer security freeze, unless:

(1) the protected consumer's representative:

(A) has obtained a police report that states the protected consumer is the alleged victim of identity fraud; and

(B) provides a copy of the report to the consumer reporting agency; or

(2)(A) the protected consumer is less than 16 years of age at the time the request is submitted to the consumer reporting agency; and

(B) the consumer reporting agency has a file that pertains to the protected consumer.

* * * Use of Credit Information for Personal Insurance; H.432 * * *

Sec. 11. 8 V.S.A. § 4727 is added to read:

§ 4727. PERSONAL INSURANCE; USE OF CREDIT INFORMATION

(a) Purpose. The purpose of this section is to regulate the use of credit information for personal insurance, so that consumers are afforded certain protections with respect to the use of such information.

(b) Scope. This section applies to personal insurance and not to commercial insurance. As used in this section, "personal insurance" means private passenger automobile, homeowners, motorcycle, mobile home owners, and noncommercial dwelling fire insurance policies. Such policies must be underwritten for personal, family, or household use. No other types of insurance shall be included as personal insurance for the purpose of this section.

(c) Definitions. As used in this section:

(1) "Adverse action" means a denial or cancellation of, an increase in any charge for, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of, any insurance, existing or applied for, in connection with the underwriting of personal insurance.

(2) "Affiliate" means any company that controls, is controlled by, or is under common control with another company.

(3) "Applicant" means an individual who has applied to be covered by a personal insurance policy with an insurer.

(4) "Consumer" means an insured whose credit information is used or whose insurance score is calculated in the underwriting or rating of a personal insurance policy or an applicant for such a policy.

(5) "Consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

(6) "Credit information" means any credit-related information derived from a credit report, found on a credit report itself, or provided on an application for personal insurance. Information that is not credit-related shall not be considered "credit information," regardless of whether it is contained in a credit report or in an application, or is used to calculate an insurance score.

(7) "Credit report" means any written, oral, or other communication of information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, or credit capacity which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor to determine personal insurance premiums, eligibility for coverage, or tier placement.

(8) "Insurance score" means a number or rating that is derived from an algorithm, computer application, model, or other process that is based in whole or in part on credit information for the purposes of predicting the future insurance loss exposure of an individual applicant or insured.

(d) Use of credit information. An insurer authorized to do business in this State that uses credit information to underwrite or rate risks, shall not:

(1) Use an insurance score that is calculated using income, gender, address, zip code, ethnic group, religion, marital status, or nationality of the consumer as a factor.

(2) Deny, cancel or nonrenew a policy of personal insurance solely on the basis of credit information, without consideration of any other applicable underwriting factor independent of credit information and not expressly prohibited by subdivision (1) of this subsection.

(3) Base an insured's renewal rates for personal insurance solely upon credit information, without consideration of any other applicable factor independent of credit information.

(4) Take an adverse action against a consumer solely because he or she does not have a credit card account, without consideration of any other applicable factor independent of credit information.

(5) Consider an absence of credit information or an inability to calculate an insurance score in underwriting or rating personal insurance, unless the insurer does one of the following:

(A) Treats the consumer as otherwise approved by the Commissioner, if the insurer presents information that such an absence or inability relates to the risk for the insurer.

(B) Treats the consumer as if the applicant or insured had neutral credit information, as defined by the insurer.

(C) Excludes the use of credit information as a factor and uses only other underwriting criteria.

(6) Take an adverse action against a consumer based on credit information, unless an insurer obtains and uses a credit report issued or an insurance score calculated within 90 days from the date the policy is first written or renewal is issued.

(7) Use credit information unless not later than every 36 months following the last time that the insurer obtained current credit information for the insured, the insurer recalculates the insurance score or obtains an updated credit report. Regardless of the requirements of this subsection:

(A) At annual renewal, upon the request of a consumer or the consumer's agent, the insurer shall reunderwrite and rerate the policy based upon a current credit report or insurance score. An insurer need not recalculate the insurance score or obtain the updated credit report of a consumer more frequently than once in a 12-month period.

(B) The insurer shall have the discretion to obtain current credit information upon any renewal before the 36 months, if consistent with its underwriting guidelines.

(C) No insurer need obtain current credit information for an insured, despite the requirements of subdivision (A) of this subdivision (7), if one of the following applies:

(i) The insurer is treating the consumer as otherwise approved by the Commissioner.

(ii) The insured is in the most favorably priced tier of the insurer, within a group of affiliated insurers. However, the insurer shall have the discretion to order such report, if consistent with its underwriting guidelines.

(iii) Credit was not used for underwriting or rating such insured when the policy was initially written. However, the insurer shall have the discretion to use credit for underwriting or rating such insured upon renewal, if consistent with its underwriting guidelines.

(iv) The insurer reevaluates the insured beginning not later than 36 months after inception and thereafter based upon other underwriting or rating factors, excluding credit information.

(8) Use the following as a negative factor in any insurance scoring methodology or in reviewing credit information for the purpose of underwriting or rating a policy of personal insurance:

(A) credit inquiries not initiated by the consumer or inquiries requested by the consumer for his or her own credit information;

(B) inquiries relating to insurance coverage, if so identified on a consumer's credit report;

(C) collection accounts with a medical industry code, if so identified on the consumer's credit report;

(D) multiple lender inquiries, if coded by the consumer reporting agency on the consumer's credit report as being from the home mortgage industry and made within 30 days of one another, unless only one inquiry is considered; and

(E) multiple lender inquiries, if coded by the consumer reporting agency on the consumer's credit report as being from the automobile lending industry and made within 30 days of one another, unless only one inquiry is considered.

(e)(1) Extraordinary life circumstances. Notwithstanding any other law or rule to the contrary, an insurer that uses credit information shall, on written request from an applicant for insurance coverage or an insured, provide reasonable exceptions to the insurer's rates, rating classifications, company or tier placement, or underwriting rules or guidelines for a consumer who has experienced and whose credit information has been directly influenced by any of the following events:

(A) a catastrophic event, as declared by the federal or State government;

(B) a serious illness or injury, or a serious illness or injury to an immediate family member;

(C) the death of a spouse, child, or parent;

(D) divorce or involuntary interruption of legally owed alimony or support payments;

(E) identity theft;

(F) the temporary loss of employment for a period of three months or more, if it results from involuntary termination;

(G) military deployment overseas; or

(H) other events, as determined by the insurer.

(2) If an applicant or insured submits a request for an exception as set forth in subdivision (1) of this subsection, an insurer may, in its sole discretion, but is not mandated to:

(A) require the consumer to provide reasonable written and independently verifiable documentation of the event;

(B) require the consumer to demonstrate that the event had direct and meaningful impact on the consumer's credit information;

(C) require such request be made no more than 60 days from the date of the application for insurance or the policy renewal;

(D) grant an exception despite the consumer not providing the initial request for an exception in writing; or

(E) grant an exception where the consumer asks for consideration of repeated events or the insurer has considered this event previously.

(3) An insurer is not out of compliance with any law or rule relating to underwriting, rating, or rate filing as a result of granting an exception under this section. Nothing in this section shall be construed to provide a consumer or other insured with a cause of action that does not exist in the absence of this section.

(4) The insurer shall provide notice to consumers that reasonable exceptions are available and information about how the consumer may inquire further.

(5) Within 30 days of the insurer's receipt of sufficient documentation of an event described in subdivision (1) of this subsection, the insurer shall inform the consumer of the outcome of the request for a reasonable exception. Such communication shall be in writing or provided to an applicant in the same medium as the request.

(f) Dispute resolution and error correction. If it is determined through the dispute resolution process set forth in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681i(a)(5), that the credit information of a current insured was

incorrect or incomplete and if the insurer receives notice of such determination from either the consumer reporting agency or from the insured, the insurer shall reunderwrite and rerate the consumer within 30 days of receiving the notice. After reunderwriting or rerating the insured, the insurer shall make any adjustments necessary, consistent with its underwriting and rating guidelines. If an insurer determines that the insured has overpaid premium, the insurer shall refund to the insured the amount of overpayment calculated back to the shorter of either the last 12 months of coverage or the actual policy period.

(g)(1) Initial notification. If an insurer writing personal insurance uses credit information in underwriting or rating a consumer, the insurer or its agent shall disclose, either on the insurance application or at the time the insurance application is taken, that it may obtain credit information in connection with such application. Such disclosure shall be either written or provided to an applicant in the same medium as the application for insurance. The insurer need not provide the disclosure statement required under this section to any insured on a renewal policy if such consumer has previously been provided a disclosure statement.

(2) Use of the following example disclosure statement constitutes compliance with this section: "In connection with this application for insurance, we may review your credit report or obtain or use a credit-based insurance score based on the information contained in that credit report. We may use a third party in connection with the development of your insurance score."

(h) Adverse action notification. If an insurer takes an adverse action based upon credit information, the insurer must meet the notice requirements of this subsection. Such insurer shall:

(1) Provide notification to the consumer that an adverse action has been taken, in accordance with the requirements of the federal Fair Credit Reporting Act, 15 U.S.C. § 1681m(a).

(2) Provide notification to the consumer explaining the reason for the adverse action. The reasons must be provided in sufficiently clear and specific language so that a person can identify the basis for the insurer's decision to take an adverse action. Such notification shall include a description of up to four factors that were the primary influences of the adverse action. The use of generalized terms such as "poor credit history," "poor credit rating," or "poor insurance score" does not meet the explanation requirements of this subsection. Standardized credit explanations provided by consumer reporting agencies or other third party vendors are deemed to comply with this section.

(i) Filing. Insurers that use insurance scores to underwrite and rate risks must file their scoring models, or other scoring processes, with the Department

of Financial Regulation. A third party may file scoring models on behalf of insurers. A filing that includes insurance scoring may include loss experience justifying the use of credit information. Any filing relating to credit information is considered trade secret under and not subject to disclosure under Vermont's Public Records Act.

(j) Indemnification. An insurer shall indemnify, defend, and hold agents harmless from and against all liability, fees, and costs arising out of or relating to the actions, errors, or omissions of a producer who obtains or uses credit information or insurance scores, or both, for an insurer, provided the producer follows the instructions of or procedures established by the insurer and complies with any applicable law or regulation. Nothing in this section shall be construed to provide a consumer or other insured with a cause of action that does not exist in the absence of this section.

(k) Sale of policy term information by consumer reporting agency. A consumer reporting agency shall not provide or sell data or lists that include any information that in whole or in part was submitted in conjunction with an insurance inquiry about a consumer's credit information or a request for a credit report or insurance score. Such information includes the expiration dates of an insurance policy or any other information that may identify time periods during which a consumer's insurance may expire and the terms and conditions of the consumer's insurance coverage. The restrictions provided in this subsection do not apply to data or lists the consumer reporting agency supplies to the insurance producer from whom information was received, the insurer on whose behalf such producer acted, or such insurer's affiliates or holding companies. Nothing in this section shall be construed to restrict any insurer from being able to obtain a claims history report or a motor vehicle report.

* * * Credit Card Debt Collection; H.482 * * *

Sec. 12. 12 V.S.A. § 511 is amended to read:

§ 511. CIVIL ACTION

(a) A civil action, except one brought upon the judgment or decree of a court of record of the United States or of this or some other state, and except as otherwise provided, shall be commenced within six years after the cause of action accrues and not thereafter.

(b) Notwithstanding subsection (a) of this section, a civil action to collect a debt arising from default on a credit card account shall be commenced within three years after the cause of action accrues and not thereafter.

Sec. 13. 12 V.S.A. § 3170 is amended to read:

§ 3170. EXEMPTIONS; ISSUANCE OF ORDER

(a) No order approving the issuance of trustee process against earnings shall be entered against a judgment debtor who was, within the two-month period preceding the hearing provided in section 3169 of this title, a recipient of assistance from the Vermont Department for Children and Families or the Department of Vermont Health Access. The judgment debtor must establish this exemption at the time of hearing.

(b) The earnings of a judgment debtor shall be exempt as follows:

(1) seventy-five percent of the debtor's weekly disposable earnings, or 30 times the federal minimum hourly wage, whichever is greater; ~~or~~

(2) if the judgment debt arose from a consumer credit transaction, as that term is defined by 15 U.S.C. section 1602 and implementing regulations of the Federal Reserve Board, other than a default on a credit card account, 85 percent of the debtor's weekly disposable earnings, or 40 times the federal minimum hourly wage, whichever is greater; ~~or~~

(3) if the judgment debt arose from a default on a credit card account, 85 percent of the debtor's weekly disposable earnings, or 40 times the applicable minimum hourly wage, whichever is greater; or

(4) if the court finds that the weekly expenses reasonably incurred by the debtor for his or her maintenance and that of dependents exceed the amounts exempted by subdivisions (1), ~~and~~ (2), and (3) of this subsection, such greater amount of earnings as the court shall order.

* * *

Sec. 14. 9 V.S.A. § 41a is amended to read:

§ 41A. LEGAL RATES

* * *

(e)(1) Subject to subdivision (2) of this subsection, interest on a judgment against a debtor in default on a credit card account shall accrue at the rate of 12 percent per annum.

(2) A court may suspend the accrual of interest on a judgment against a debtor in default on a credit card account if the court finds, through a financial disclosure, that the debtor has an inability to pay.

Sec. 15. 12 V.S.A. § 2903(c) is amended to read:

§ 2903. DURATION AND EFFECTIVENESS

* * *

(c) ~~Interest~~ Unless a court suspends the accrual of interest pursuant to 9 V.S.A. § 41a(e), interest on a judgment lien shall accrue at the rate of 12 percent per annum.

Sec. 16. EFFECTIVE DATES

(a) This section shall take effect on passage.

(b) Sec. 11 (credit information for personal insurance) shall take effect on passage and apply to personal insurance policies either written to be effective or renewed on or after nine months from the effective date of the act.

(d) Secs. 6–7 (automatic renewal provisions) and Secs. 9–10 (credit protection for vulnerable persons) shall take effect on January 1, 2018.

(e) The following sections shall take effect on July 1, 2017:

(1) Sec. 1 (home loan escrow accounts).

(2) Sec. 8 (retainage for construction materials).

(3) Secs. 12–15 (credit card debt collection).

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

Thereupon, pursuant to the request of the Senate, the President announced the appointment of

Senator Sirotkin
Senator Baruth
Senator Clarkson

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 Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 9, S. 134, S. 136, H. 424.

Adjournment

On motion of Senator Ashe, the Senate adjourned until ten o'clock in the morning.

WEDNESDAY, MAY 3, 2017

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

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, 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, 2017 he approved and signed bills originating in the Senate of the following titles:

S. 5. An act relating to plea agreements.

S. 7. An act relating to deferred sentences and the sex offender registry.

S. 39. An act relating to the repeal of the crime of obtaining maps and plans while at war.

S. 60. An act relating to the repeal of 21 V.S.A. § 6.

S. 69. An act relating to an employer's compliance with an income withholding order from another state.

Bills Passed in Concurrence with Proposal of Amendment

House bills of the following titles were severally read the third time and passed in concurrence with proposal of amendment:

H. 59. An act relating to technical corrections.

H. 510. An act relating to the cost share for State agricultural water quality financial assistance grants.

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

H. 111.

House bill entitled:

An act relating to vital records.

Was taken up.

Thereupon, pending third reading of the bill, Senators Pearson and Flory moved to amend the Senate proposal of amendment in Sec. 17, 18 V.S.A. § 5016, in subdivision (b)(2)(A), by striking out the following: "guardian, or petitioner for appointment as executor," and inserting in lieu thereof the following: or guardian; a person petitioning to open a decedent's estate; a court-appointed executor or administrator;

Which was agreed to.

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

Third Reading Ordered

H. 312.

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

An act relating to retirement and pensions.

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.

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

H. 411.

House bill entitled:

An act relating to Vermont's energy efficiency standards for appliances and equipment.

Was taken up.

Thereupon, pending third reading of the bill, Senators MacDonald, Lyons and Sirotkin moved to amend the Senate proposal of amendment as follows:

First: By striking out Sec. 7 in its entirety and inserting in lieu thereof two new sections to be numbered Secs. 7 and 7a to read as follows:

Sec. 7. LEGISLATIVE INTENT

The General Assembly intends that the Public Service Board, in adopting rules pursuant to 30 V.S.A. § 8010, minimize the effect of those rules on existing net metering systems as defined in Sec. 7a of this act.

Sec. 7a. 30 V.S.A. § 8010 is amended to read:

§ 8010. SELF-GENERATION AND NET METERING

* * *

(f) Rather than the other provisions of this section, an existing net metering system shall be governed by the provisions of section 219a of this title and Board rules implementing that section as they existed on December 31, 2016, except that the Board may allow a provider, commencing 10 years from the date on which an existing net metering system was interconnected to the provider's distribution system, to calculate credits for kWh generated by the system at the blended residential rate or disallow applying such credits to nonbypassable charges, or both.

(1) In such case, a customer with an existing net metering system may continue to apply credits for kWh generated by the system to nonbypassable charges for a period of 10 years from the date on which the system was interconnected to the distribution system of the provider.

(2) As used in this subsection (f):

(A) "Blended residential rate" means the lower of the provider's residential retail rate or the weighted statewide average of all providers' residential retail rates, as determined by the Board. For the purpose of this subdivision (A):

(i) If a provider's general residential service tariff does not include inclining block rates, the provider's residential rate shall be the dollars per kWh charge set forth in that provider's tariff for general residential service.

(ii) If a provider's general residential service tariff does include inclining block rates, the provider's residential rate shall be a blend of the provider's general residential service inclining block rates that is determined by adding together all of the revenues to the provider during the most recent calendar year from kWh sold under those block rates and dividing the sum by the total kWh sold by the company at those rates during the same year.

(B) "Existing net metering system" means a net metering system for which a complete application was filed with the Board before January 1, 2017.

(C) "Nonbypassable charge" means a charge on the bill of a retail electricity provider that a customer must pay whether or not the customer engages in net metering. Only the following shall be nonbypassable charges under this subsection (f):

(i) the customer charge;

(ii) the energy efficiency charge pursuant to subdivision 209(d)(3) of this title;

(iii) the energy assistance program charge pursuant to subsection 218(e) of this title;

(iv) a charge for on-bill financing not related to a net metering system; and

(v) an equipment rental charge.

Second: By striking out Sec. 9 in its entirety and inserting in lieu thereof a new Sec. 9 to read as follows:

Sec. 9. EFFECTIVE DATES; APPLICABILITY

(a) This act shall take effect on passage.

(b) Notwithstanding 1 V.S.A. § 214 and any contrary provision of 2014 Acts and Resolves No. 99, Sec. 10(f), Secs. 7 and 7a shall apply to:

(1) existing net metering systems as defined in Sec. 7a;

(2) net metering systems for which complete applications were or are filed on or after January 1, 2017; and

(3) net metering rules of the Public Service Board adopted on or after January 1, 2017.

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

Thereupon, pending third reading of the bill, Senator Rodgers moved to amend the Senate proposal of amendment by inserting four new sections to be numbered Secs. 9, 10, 11, and 12 and reader assistances thereto to read as follows:

* * * Determination of Energy Compliance; Regional Plans; Renewable Technologies * * *

Sec. 9. 24 V.S.A. § 4352(a) is amended to read:

(a) Regional plan. A regional planning commission may submit its adopted regional plan to the Commissioner of Public Service appointed under 30 V.S.A. § 1 for a determination of energy compliance. The Commissioner shall issue an affirmative determination on finding that the regional plan meets the requirements of subsection (c) of this section ~~and allows for the siting in the region of all types of renewable generation technologies~~.

* * * Determination of Energy Compliance; Transportation Planning * * *

Sec. 10. 24 V.S.A. § 4352(c) is amended to read:

(c) Enhanced energy planning; requirements. To obtain an affirmative determination of energy compliance under this section, a plan must:

(1) in the case of a regional plan, include the energy element as described in subdivision 4348a(a)(3) of this title;

(2) in the case of a municipal plan, include an energy element that has the same components as described in subdivision 4348a(a)(3) of this title for a regional plan other than transportation and be confirmed under section 4350 of this title;

* * *

* * * Substantial Deference for Five Years * * *

Sec. 11. 30 V.S.A. § 248(b)(1) is amended to read:

(1) With respect to an in-state facility, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. However:

* * *

(C) With respect to an in-state electric generation facility, the Board shall give substantial deference to the land conservation measures and specific policies contained in a duly adopted regional and municipal plan that has received an affirmative determination of energy compliance under 24 V.S.A. § 4352. In this subdivision (C), "substantial deference" means that a land conservation measure or specific policy shall be applied in accordance with its terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy. The term shall not include consideration of whether the determination of energy compliance should or should not have been affirmative under 24 V.S.A. § 4352.

(D) With respect to an application for an electric generation facility filed before July 1, 2023, the Board shall give substantial deference as defined in subdivision (C) of this subdivision (1) to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. This subdivision (D) shall apply regardless of whether the duly adopted plan of the municipality or region has

obtained an affirmative determination of energy compliance pursuant to 24 V.S.A. § 4352.

Sec. 12. PROSPECTIVE REPEAL

30 V.S.A. § 248(b)(1)(D) is repealed effective on July 1, 2023.

And by renumbering the remaining section to be numerically correct.

Thereupon, pending the question, Shall the Senate propose to the House to amend the Senate proposal of amendment as moved by Senator Rodgers? Senator Campion 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 Rodgers 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 Rodgers was *not germane* to the bill.

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

Thereupon, Senator Rodgers moved that the rules be suspended to permit the Senate to consider a non-germane amendment which was disagreed to on a roll call, Yeas 14, Nays 15.

Senator Rodgers 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, Branagan, Collamore, Cummings, Degree, Flory, Kitchel, MacDonald, Mullin, Rodgers, Starr, Westman, White.

Those Senators who voted in the negative were: Ashe, Ayer, Baruth, Bray, Brooks, Campion, Clarkson, Ingram, Lyons, Mazza, McCormack, Nitka, Pearson, Pollina, Sirotkin.

The Senator absent and not voting was: Sears.

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

First: In Sec. 7, 30 V.S.A. § 8010(c)(2), in subdivision (F)(ii), by striking out subdivision (I) and inserting in lieu thereof a new subdivision (I) to read as follows:

(I) Commencing 10 years from the date on which an existing net metering system was installed, the Board may apply to the system the same

rules governing bill credits and the use of those credits on the customer's bill, other than any adjustments related to siting and tradeable renewable energy credits, as set forth for net metering systems filed on or after January 1, 2017 in the Board's revised net metering rule as submitted to the Legislative Committee on Administrative Rules on February 7, 2017.

Second: By adding a new section to be numbered Sec. 7a to read as follows:

Sec. 7a. LEGISLATIVE INTENT

The General Assembly intends that the Public Service Board, in adopting rules pursuant to 30 V.S.A. § 8010, minimize the effect of those rules on existing net metering systems as defined in Sec. 7 of this act.

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

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment on a roll call, Yeas 29, Nays 1.

Senator Bray 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, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, MacDonald, Mazza, McCormack, Mullin, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

The Senator who voted in the negative was: Lyons.

House Proposal of Amendment Concurred In with Amendment

S. 61.

House proposal of amendment to Senate bill entitled:

An act relating to offenders with mental illness.

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:

Sec. 1. 13 V.S.A. § 4820(5) is added to read:

(5) When a person who is found to be incompetent to stand trial pursuant to subdivision (2) of this section, the court shall appoint counsel from Vermont Legal Aid to represent the person who is the subject of the

proceedings and from the Office of the Attorney General to represent the State in the proceedings.

Sec. 2. 13 V.S.A. § 4821 is amended to read:

§ 4821. NOTICE OF HEARING; PROCEDURES

The person who is the subject of the proceedings, his or her attorney, the legal guardian, if any, the Commissioner of Mental Health or the Commissioner of Disabilities, Aging, and Independent Living, and the ~~State's Attorney or other prosecuting officer representing~~ counsel appointed pursuant to subsection 4820(5) of this title to represent the State in the case~~,~~ shall be given notice of the time and place of a hearing under section 4820 of this title. Procedures for hearings for persons with a mental illness shall be as provided in 18 V.S.A. chapter 181. Procedures for hearings for persons with an intellectual disability shall be as provided in 18 V.S.A. chapter 206, subchapter 3.

Sec. 3. 28 V.S.A. § 3 is amended to read:

§ 3. GENERAL DEFINITIONS

As used in this title:

* * *

(12) Despite other names this concept has been given in the past or may be given in the future, "segregation" means a form of separation from the general population that may or may not include placement in a single-occupancy cell and that is used for disciplinary, administrative, or other reasons, but shall not mean confinement to an infirmary or a residential treatment setting for purposes of evaluation, treatment, or provision of services.

Sec. 4. 28 V.S.A. § 701a(b) is amended to read:

(b) ~~For purposes of this title, and despite other names this concept has been given in the past or may be given in the future, "segregation" means a form of separation from the general population which may or may not include placement in a single occupancy cell and which is used for disciplinary, administrative, or other reasons~~ As used in this section, "segregation" shall have the same meaning as in subdivision 3(12) of this title.

Sec. 5. 28 V.S.A. § 907 is amended to read:

§ 907. MENTAL HEALTH SERVICE FOR INMATES; POWERS AND RESPONSIBILITIES OF COMMISSIONER

The Commissioner shall administer a program of trauma-informed mental health services ~~which~~ that shall be available to all inmates and shall provide

adequate staff to support the program. The program shall provide the following services:

(1)(A) Within 24 hours of admittance to a correctional facility, all inmates shall be screened for any signs of mental illness, mental condition ~~or,~~ psychiatric disability or disorder, or serious functional impairment. If as a result of the screening it is determined that the inmate is receiving services under the developmental disabilities home and ~~community based~~ community-based services waiver or is currently receiving community rehabilitation and treatment services, he or she will automatically be designated as having a serious functional impairment.

(B) Every inmate who is identified as a result of screening by a mental health professional as requiring inpatient evaluation, treatment, or services shall, within 24 hours of the screening, be referred for such treatment, evaluation, or services in a setting appropriate to the clinical needs of the inmate.

* * *

Sec. 6. 28 V.S.A. § 907 is amended to read:

§ 907. MENTAL HEALTH SERVICE FOR INMATES; POWERS AND RESPONSIBILITIES OF COMMISSIONER

* * *

(1)(A) Within 24 hours of admittance to a correctional facility, all inmates shall be screened for any signs of mental illness, mental condition or, psychiatric disability or disorder, or serious functional impairment. If as a result of the screening it is determined that the inmate is receiving services under the developmental disabilities home and community-based services waiver or is currently receiving community rehabilitation and treatment services, he or she will automatically be designated as having a serious functional impairment.

(B) Every inmate who is identified as a result of screening by a mental health professional as requiring inpatient evaluation, treatment, or services shall, within ~~24~~ 48 hours of the screening, be ~~referred for~~ provided with such treatment, evaluation, or services in a setting appropriate to the clinical needs of the inmate.

* * *

Sec. 7. AGENCY OF HUMAN SERVICES; OFFICE OF THE ATTORNEY GENERAL; REPORT TO STANDING COMMITTEES

On or before January 18, 2018:

(1) the Secretary of Human Services shall report to the House and Senate Committees on Judiciary, the House Committee on Corrections and Institutions, the Senate Committee on Health and Welfare, and the House Committee on Health Care on how best to provide mental health treatment and services to inmates and detainees housed in a correctional facility, including recommendations on whether those services should be provided by a classified State employee working within the Agency of Human Services, by designated agencies, or by other professionals contracted for professional mental health care services within the Department; and

(2) the Secretary of Human Services, in consultation with the Attorney General, shall report to the House and Senate Committees on Judiciary and the House and Senate Committees on Appropriations on the resources necessary to comply with the requirements set forth in 13 V.S.A. § 4820(5). The Committees on Appropriations shall consider the report during their FY 2019 budget deliberations in determining the appropriate funding for the State to meet the requirements of 13 V.S.A. § 4820(c).

Sec. 8. LEGISLATIVE INTENT; DEPARTMENT OF CORRECTIONS; USE OF SEGREGATION

It is the intent of the General Assembly that the Department of Corrections continue to house inmates in the least restrictive setting necessary to ensure their own safety as well as the safety of staff and other inmates, and to use segregation only in instances when it serves a specific disciplinary or administrative purpose, pursuant to 28 V.S.A. § 3, and to ensure that inmates designated as seriously functionally impaired or inmates with a serious mental illness receive the support and rehabilitative services they need.

Sec. 9. DEPARTMENT OF CORRECTIONS; DEPARTMENT OF MENTAL HEALTH; FORENSIC MENTAL HEALTH CENTER; MEMORANDUM OF UNDERSTANDING FOR MENTAL HEALTH SERVICES; REPORTS

(a)(1) On or before July 1, 2017, the Department of Corrections shall, jointly with the Department of Mental Health, execute a memorandum of understanding regarding mental health services for inmates prior to the establishment of a forensic mental health center as required by subdivision (c) of this section. The memorandum of understanding shall:

(A) establish that when an inmate is identified by the Department of Corrections as requiring a level of care that cannot be adequately provided by the Department of Corrections, then the Department of Mental Health and the Department of Corrections will work together to determine how to augment the inmate's existing treatment plan until the augmented treatment plan is no longer clinically necessary; and

(B) formally outline the role of the Department of Mental Health Care Management Team in facilitating the clinical placement of inmates coming into the custody of the Commissioner of Mental Health pursuant to Title 13 or Title 18 and inmates voluntarily seeking hospitalization who meet inpatient criteria.

(2) On or before July 1, 2017, the Departments shall jointly report on the memorandum of understanding to the Joint Legislative Justice Oversight Committee.

(b) On or before January 18, 2018, the Department of Corrections shall, in consultation with the Department of Mental Health and the designated agencies, and in accordance with the principles set forth in 18 V.S.A. § 7251, develop a plan to create or establish access to a forensic mental health center pursuant to subsection (c) of this section. On or before January 18, 2018, the Departments shall jointly report on the plan to the House and Senate Committees on Judiciary, the House Committee on Corrections and Institutions, the House Committee on Health Care, and the Senate Committee on Health and Welfare.

(c) On or before July 1, 2019, pursuant to the plan set forth in subsection (b) of this section, a forensic mental health center shall be available to provide comprehensive assessment, evaluation, and treatment for detainees and inmates with mental illness, while preventing inappropriate segregation.

Sec. 10. 2016 Acts and Resolves No. 137, Sec. 7 is amended to read:

Sec. 7. EFFECTIVE DATE; TRANSITION PROVISION

(a) This act shall take effect on passage.

(b) Except as provided in subsection (c) of this section, the Commissioner of Corrections may only release or permit inspection of offender or inmate records in reliance upon an exception to the confidentiality of offender and inmate records if the exception is created by law, including an exception created by rule adopted in accordance with the Administrative Procedure Act under the mandate in Sec. 5, 28 V.S.A. § 107(b)(5).

(c) The Department of Corrections may rely upon exceptions to the confidentiality of offender and inmate files under directives adopted by the Department prior to the effective date of this act until the Commissioner adopts rules pursuant to the rulemaking mandates of Sec. 5, 28 V.S.A. § 107(a) and (b)(5). On or before September 1, 2016, the Commissioner shall prefile rules with the Interagency Committee on Administrative Rules in accordance with these mandates. The Commissioner shall update the Joint Legislative Justice Oversight Committee on the status of its efforts to adopt the rules at the Oversight Committee's first meeting on or after September 1, 2016.

(d)(1) On August 30, 2016, to implement the rulemaking requirements of 28 V.S.A. § 107, the Commissioner prefiled a proposed rule entitled "inmate/offender records and access to information" with the Interagency Committee on Administrative Rules. The Commissioner filed the proposed rule, as corrected, with the Secretary of State on October 13, 2016 and the final proposed rule, as revised, with the Legislative Committee on Administrative Rules (LCAR) on January 31, 2017. After reviewing and receiving testimony on the final proposed rule, as revised, the House Committee on Corrections and Institutions found that it was not consistent with legislative intent because the rule would potentially cause significant costs and disruptions to the Department.

(2) The Commissioner shall:

(A) withdraw the proposed final rule filed with LCAR on January 31, 2017; and

(B) redraft the proposed rule so that it reflects legislative intent as described in subsection (e) of this section.

(3) The Department of Corrections may continue to rely upon exceptions to the confidentiality of offender and inmate files under directives adopted by the Department prior to May 26, 2016 until the Commissioner adopts final rules as required under 28 V.S.A. § 107.

(e) The General Assembly intends that, in either of the following situations, 28 V.S.A. § 107 shall be interpreted not to require the Department to provide an inmate or offender a copy of records:

(1) Previously provided by the Department to the inmate or offender, if the inmate or offender has custody of or the right to access the copy.

(2) If the inmate or offender is responsible for the loss or destruction of a previously provided copy. In the case of such loss or destruction, the inmate or offender may—subject to the limitations of 28 V.S.A. § 107—be entitled to a replacement copy, but the Department may charge him or her for the replacement copy in accordance with law.

(f) On or before October 1, 2017, the Commissioner shall:

(1) develop a plan to implement and use modern records management technology and practices in order to minimize the costs of reviewing, redacting, and furnishing such records in accordance with law; and

(2) send to the members of the House Committee on Corrections and Institutions and of the Senate Committee on Institutions a copy of the plan required under subdivision (1) of this subsection, and a written report that:

(A) summarizes the status of the Department's efforts to redraft the rules as required under subsection (d) of this section; and

(B) outlines the implementation steps, expected benefits and costs to the State of Vermont, and time line associated with transitioning to digital delivery of inmate and offender records.

(g) On or before January 15, 2018, the Commissioner shall submit a copy of the redrafted rules to the House Committee on Corrections and Institutions and to the Senate Committee on Institutions. On or before July 1, 2018, the Commissioner shall prefile the redrafted rules, as may be revised, with the Interagency Committee on Administrative Rules.

Sec. 11. SUBSTANCE ABUSE RECOVERY SERVICES AT CORRECTIONAL FACILITIES; STUDY

(a) The Commissioner of Corrections, in consultation with the Division of Alcohol and Drug Abuse, the Judiciary, and the Vermont State Employees Association, shall study approaches to substance abuse recovery services in State and out-of-state correctional facilities for inmates who are in need of substance abuse recovery in order to provide a holistic approach to their recovery. The study shall include:

(1) a review of recovery regimens for inmates, including:

(A) screening by a medical and mental health professional upon initial entry into a correctional facility;

(B) continuing preexisting prescriptions and medication treatments during an inmate's incarceration;

(C) providing supportive and treatment-enhancing activities throughout the inmate's incarceration, including recovery coaching, certified drug and alcohol counselors, and technology-enabled substance abuse recovery programs; and

(D) developing relationships with community providers once an inmate approaches release;

(2) ways to link recovery programs with increased secondary and postsecondary educational opportunities and job skills and training opportunities;

(3) opportunities to develop and use self-help peer groups to assist in recovery and in maintaining abstinence;

(4) opportunities for mandatory and voluntary services;

(5) the estimated number of inmates impacted and costs associated with providing recovery services;

(6) any operational challenges associated with providing recovery services; and

(7) the feasibility of using classified State employees for delivery of services.

(b) On or before December 1, 2017, the Commissioner of Corrections shall submit a report to the House Committees on Corrections and Institutions, on Human Services, and on Judiciary and the Senate Committees on Institutions, on Health and Welfare, and on Judiciary on the findings of the study described in subsection (a) of this section. The report shall include recommendations for legislative action to implement new recovery services based on the findings of the study.

Sec. 12. EFFECTIVE DATES

(a) This section, Sec. 9 (Department of Corrections; Department of Mental Health; forensic mental health center; memorandum of understanding for provision of mental health services; report to standing committees), and Sec. 10 (2016 Acts and Resolves No. 137, Sec. 7) shall take effect on passage.

(b) Secs. 3 (general definitions), 4 (28 V.S.A. § 701a(b)), 5 (mental health service for inmates; powers and responsibilities of commissioner), 7 (Agency of Human Services; Office of the Attorney General report to standing committees), 8 (legislative intent, Department of Corrections; use of segregation), and 11 (substance abuse recovery services at correctional facilities; study) shall take effect on July 1, 2017.

(c) Sec. 6 (mental health service for inmates; powers and responsibilities of Commissioner) shall take effect on July 1, 2019.

(d) Secs. 1 (hearing regarding commitment) and 2 (notice of hearing; procedures) shall take effect on July 1, 2018.

And that after passage the title of the bill be amended to read:

An act relating to offenders with mental illness, inmate records, and inmate services.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Sears moved that the Senate concur in the House proposal of amendment with an amendment as follows:

First: By striking out Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. [Deleted.]

Second: By striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. [Deleted.]

Third: By striking out Sec. 7 in its entirety and inserting in lieu thereof a new Sec. 7 to read as follows:

Sec. 7. AGENCY OF HUMAN SERVICES; REPORT TO STANDING COMMITTEES

On or before January 18, 2018, the Secretary of Human Services shall report to the House and Senate Committees on Judiciary, the House Committees on Corrections and Institutions and on Health Care, and the Senate Committee on Health and Welfare on how best to provide mental health treatment and services to inmates and detainees housed in a correctional facility, including recommendations on whether those services should be provided by a classified State employee working within the Agency of Human Services, by designated agencies, or by other professionals contracted for professional mental health care services within the Department.

Fourth: By striking out Sec. 11, substance abuse recovery services at correctional facilities; study, in its entirety and inserting in lieu thereof a new Sec. 11 to read as follows:

Sec. 11. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE; SUBSTANCE ABUSE RECOVERY SERVICES AT CORRECTIONAL FACILITIES

During the 2017 legislative interim, the Joint Legislative Justice Oversight Committee shall evaluate approaches to substance abuse recovery services in correctional facilities for inmates, including the use of medication-assisted therapy. Any resulting legislative recommendations shall be introduced as a bill in the 2018 legislative session.

Fifth: In Sec. 12, effective dates, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Secs. 3 (general definitions), 4 (28 V.S.A. § 701a(b)), 5 (mental health service for inmates; powers and responsibilities of commissioner), 7 (Agency of Human Services; report to standing committees), 8 (legislative intent, Department of Corrections; use of segregation), and 11 (Joint Legislative Justice Oversight; substance abuse recovery services at correctional facilities) shall take effect on July 1, 2017.

Sixth: In Sec. 12, effective dates, by striking out subsection (d) in its entirety.

Which was agreed to.

Rules Suspended; Bills Messaged

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

H. 59, H. 111, H. 411, H. 510.

Rules Suspended; Consideration Interrupted by Adjournment

S. 100.

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

An act relating to promoting affordable and sustainable housing.

Was taken up for immediate consideration.

Thereupon, on motion of Senator Ashe, the Senate adjourn until two o'clock in the afternoon.

Afternoon

The Senate was called to order by the President.

Rules Suspended; House Proposal of Amendment Not Concurred In; Committee of Conference Requested; Committee of Conference Appointed; Bill Messaged

S. 16.

Appearing on the Calendar for notice, on motion of Senator Sears, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to expanding patient access to the Medical Marijuana Registry.

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. 18 V.S.A. § 4472 is amended to read:

§ 4472. DEFINITIONS

As used in this subchapter:

(1)(A) "Bona fide health care professional-patient relationship" means a treating or consulting relationship of not less than three months' duration, in the course of which a health care professional has completed a full assessment of the registered patient's medical history and current medical condition, including a personal physical examination.

(B) The three-month requirement shall not apply if:

(i) a patient has been diagnosed with:

(I) a terminal illness;

(II) cancer; or

(III) acquired immune deficiency syndrome; ~~or~~

~~(IV) is currently under hospice care.~~

(ii) a patient is currently under hospice care;

~~(ii)~~(iii) a patient had been diagnosed with a debilitating medical condition by a health care professional in another jurisdiction in which the patient had been formerly a resident and the patient, now a resident of Vermont, has the diagnosis confirmed by a health care professional in this State or a neighboring state as provided in subdivision (6) of this section, and the new health care professional has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination~~.~~;

~~(iii)~~(iv) a patient who is already on the ~~registry~~ Registry changes health care professionals three months or less prior to the annual renewal of the patient's registration, provided the patient's new health care professional has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination~~.~~;

(v) a patient is referred by his or her health care professional to another health care professional who has completed advanced education and clinical training in specific debilitating medical conditions, and that health care professional conducts a full assessment of the patient's medical history and current medical condition, including a personal physical examination;

(vi) a patient's debilitating medical condition is of recent or sudden onset.

* * *

(4) "Debilitating medical condition~~,~~" ~~provided that, in the context of the specific disease or condition described in subdivision (A) or (B) of this subdivision (4), reasonable medical efforts have been made over a reasonable amount of time to relieve the symptoms,~~ means:

(A) cancer, multiple sclerosis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, glaucoma, Crohn's disease, Parkinson's disease, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms; ~~or~~

(B) post-traumatic stress disorder, provided the Department confirms the applicant is undergoing psychotherapy or counseling with a licensed mental health care provider; or

(C) a disease~~,~~ or medical condition~~,~~ or its treatment that is chronic, debilitating, and produces one or more of the following intractable symptoms: cachexia or wasting syndrome; chronic pain; severe nausea; or seizures.

(5) "Dispensary" means a ~~nonprofit entity~~ business organization registered under section 4474e of this title ~~which~~ that acquires, possesses, cultivates, manufactures, transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center and to his or her registered caregiver for the registered patient's use for symptom relief. ~~A dispensary may provide marijuana for symptom relief to registered patients at only one facility or location but may have a second location associated with the dispensary where the marijuana is cultivated or processed. Both locations are considered to be part of the same dispensary.~~ A dispensary may serve patients and caregivers at not more than three locations, as approved by the Department in consideration of factors provided in subsection 4474f(e) of this title, and may cultivate and process marijuana at a separate location from where patients and caregivers are served. All locations shall be considered part of the same dispensary operation under one registration.

(6) "Financier" means a person, other than a financial institution as defined in 8 V.S.A. § 11101, that makes an investment in, or a gift, loan, or other financing to, another person with the expectation of a financial return. If a financier is a business organization, as used in this chapter, the term "financier" includes each owner and principal of that organization.

~~(6)~~(7)(A) "Health care professional" means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a naturopathic physician under 26 V.S.A. chapter 81, an individual certified as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an advanced practice registered nurse under 26 V.S.A. chapter 28.

(B) This definition includes individuals who are professionally licensed under substantially equivalent provisions in New Hampshire, Massachusetts, or New York.

~~(7)~~(8) "Immature marijuana plant" means a female marijuana plant that has not flowered and which does not have buds that may be observed by visual examination.

~~(8)~~(9) "Marijuana" shall have the same meaning as provided in subdivision 4201(15) of this title.

~~(9)~~(10) "Mature marijuana plant" means a female marijuana plant that has flowered and which has buds that may be observed by visual examination.

(11) "Mental health care provider" means a person licensed to practice medicine who specializes in the practice of psychiatry; a psychologist, a psychologist-doctorate, or a psychologist-master as defined in 26 V.S.A. § 3001; a clinical social worker as defined in 26 V.S.A. § 3201; or a clinical mental health counselor as defined in 26 V.S.A. § 3261.

(12) "Ounce" means 28.35 grams.

(13) "Owner" means:

(A) a person that has a direct or beneficial ownership interest of ten percent or more in a business organization, including attribution of the ownership interests of a spouse or domestic partner, parent, spouse's or domestic partner's parent, sibling, and children; or

(B) a person that has the power to direct, or cause the direction of, the management and policies of a business organization, including through the ownership of voting securities, by contract, or otherwise.

~~(10)~~(14) "Possession limit" means the amount of marijuana collectively possessed between the registered patient and the patient's registered caregiver ~~which~~ that is no more than two mature marijuana plants, seven immature plants, and two ounces of usable marijuana.

(15) "Principal" means a person that has the authority to conduct, manage, or supervise the operation of a business organization, and includes the president, vice president, secretary, treasurer, manager, or similar executive officer of a business organization; a director of a business corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; a manager of a manager-managed limited liability company; and a general partner of a partnership, limited partnership, or limited liability partnership.

~~(11)~~(16) "Registered caregiver" means a person who is at least 21 years of age, has met eligibility requirements as determined by the Department in accordance with this chapter, and who has agreed to undertake responsibility for managing the well-being of a registered patient with respect to the use of marijuana for symptom relief.

~~(12)~~(17) "Registered patient" means a resident of Vermont who has been issued a registration card by the Department ~~of Public Safety,~~ identifying the person as having a debilitating medical condition pursuant to the provisions

of this subchapter. "Resident of Vermont" means a person whose domicile is Vermont.

~~(13)~~(18) "Secure indoor facility" means a building or room equipped with locks or other security devices that permit access only by a registered caregiver~~,~~ or registered patient~~, or a principal officer or employee of a dispensary~~.

~~(14)~~(19) "Transport" means the movement of marijuana and marijuana-infused products from registered growing locations to their associated dispensaries, between dispensaries, to registered patients and registered caregivers in accordance with delivery protocols, or as otherwise allowed under this subchapter.

~~(15)~~(20) "Usable marijuana" means the dried leaves and flowers of marijuana, and any mixture or preparation thereof, and does not include the seeds, stalks, and roots of the plant.

~~(16)~~(21) "Use for symptom relief" means the acquisition, possession, cultivation, use, transfer, or transportation of marijuana~~,~~ or of paraphernalia relating to the administration of marijuana to alleviate the symptoms or effects of a registered patient's debilitating medical condition ~~which~~ that is in compliance with all the limitations and restrictions of this subchapter.

Sec. 2. 18 V.S.A. § 4473 is amended to read:

§ 4473. REGISTERED PATIENTS; QUALIFICATION STANDARDS AND PROCEDURES

* * *

(b) The Department of Public Safety shall review applications to become a registered patient using the following procedures:

(1) A patient with a debilitating medical condition shall submit a signed application for registration to the Department. ~~A patient's initial application to the registry shall be notarized, but subsequent renewals shall not require notarization.~~ If the patient is under 18 years of age, the application must be signed by both the patient and a parent or guardian. The application shall require identification and contact information for the patient and the patient's registered caregiver applying for authorization under section 4474 of this title, if any, and the patient's designated dispensary under section 4474e of this title, if any. The applicant shall attach to the application a medical verification form developed by the Department pursuant to subdivision (2) of this subsection.

(2) The Department of Public Safety shall develop a medical verification form to be completed by a health care professional and submitted by a patient applying for registration in the program. The form shall include:

(A) A cover sheet ~~which~~ that includes the following:

(i) A statement of the penalties for providing false information.

(ii) Definitions of the following statutory terms:

(I) "Bona fide health care professional-patient relationship" as defined in section 4472 of this title.

(II) "Debilitating medical condition" as defined in section 4472 of this title.

(III) "Health care professional" as defined in section 4472 of this title.

(iii) A statement that the medical verification form is not considered a prescription and that the only purpose of the medical verification form is to confirm that the applicant patient has a debilitating medical condition.

(B) A verification sheet ~~which~~ that includes the following:

(i) A statement that a bona fide health care professional-patient relationship exists under section 4472 of this title~~,~~ or that, under subdivision (3)(A) of this subsection (b), the debilitating medical condition is of recent or sudden onset~~, and the patient has not had a previous health care professional who is able to verify the nature of the disease and its symptoms~~.

(ii) ~~A statement that reasonable medical efforts have been made over a reasonable amount of time without success to relieve the symptoms.~~ [Repealed.]

(iii) A statement that the patient has a debilitating medical condition as defined in section 4472 of this title, including the specific disease or condition ~~which~~ that the patient has and whether the patient meets the criteria under section 4472.

(iv) A signature line ~~which~~ that provides in substantial part: "I certify that I meet the definition of 'health care professional' under 18 V.S.A. § 4472, that I am a health care professional in good standing in the State of ..... , and that the facts stated above are accurate to the best of my knowledge and belief."

(v) The health care professional's contact information, license number, category of his or her health care profession as defined in subdivision 4472(6) of this title, and contact information for the out-of-state licensing agency, if applicable. The Department ~~of Public Safety~~ shall adopt rules for verifying the goodstanding of out-of-state health care professionals.

(vi) A statement that the medical verification form is not considered a prescription and that the only purpose of the medical verification form is to confirm that the applicant patient has a debilitating medical condition.

(3)(A) The Department ~~of Public Safety~~ shall transmit the completed medical verification form to the health care professional and contact him or her for purposes of confirming the accuracy of the information contained in the form. ~~The Department may approve an application, notwithstanding the six-month requirement in section 4472 of this title, if the Department is satisfied that the medical verification form confirms that the debilitating medical condition is of recent or sudden onset, and that the patient has not had a previous health care professional who is able to verify the nature of the disease and its symptoms~~.

(B) If the health care professional is licensed in another state as provided section 4472 of this title, the Department shall verify that the health care professional is in good standing in that state.

* * *

Sec. 3. 18 V.S.A. § 4474(c)(1) is amended to read:

(c)(1) Except as provided in subdivision (2) of this subsection, a registered caregiver may serve only one registered patient at a time, and a registered patient may have only one registered caregiver at a time. A registered patient may serve as a registered caregiver for one other registered patient.

Sec. 4. 18 V.S.A. § 4474d is amended to read:

§ 4474d. LAW ENFORCEMENT VERIFICATION OF INFORMATION; RULEMAKING

* * *

(b) In response to a person-specific or property-specific inquiry by a law enforcement officer or agency made in the course of a bona fide investigation or prosecution, the Department may verify the identities and registered property addresses of the registered patient and the patient's registered caregiver, a dispensary, ~~and the principal officer, the Board members,~~ and an owner, a principal, a financier, and the employees of a dispensary.

(c) The Department shall maintain a separate secure electronic database accessible to law enforcement personnel 24 hours a day that uses a unique identifier system to allow law enforcement to verify that a person or entity is a registered patient, a registered caregiver, a dispensary, ~~or the principal officer, a board member~~ an owner, a principal, a financier, or an employee of a dispensary.

* * *

Sec. 5. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

* * *

(d)(1) A dispensary shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and shall ensure that each location has an operational security alarm system. All cultivation of marijuana shall take place in ~~an enclosed~~ a secure, locked facility which is either indoors or ~~otherwise~~ outdoors, but not visible to the public, and which can only be accessed by ~~principal officers~~ the owners, principals, financiers, and employees of the dispensary who have valid ~~registry~~ Registry identification cards. An outdoor facility is not required to have a roof provided all other requirements are met. The Department ~~of Public Safety~~ shall perform an annual on-site assessment of each dispensary and may perform on-site assessments of a dispensary without limitation for the purpose of determining compliance with this subchapter and any rules adopted pursuant to this subchapter and may enter a dispensary at any time for such purpose. During an inspection, the Department may review the dispensary's confidential records, including its dispensing records, which shall track transactions according to registered patients' ~~registry~~ Registry identification numbers to protect their confidentiality.

* * *

(f) A person may be denied the right to serve as an owner, ~~a~~ principal ~~officer, board member~~, financier, or employee of a dispensary because of the person's criminal history record in accordance with section 4474g of this title and rules adopted by the Department of Public Safety pursuant to that section.

(g)(1) A dispensary shall notify the Department ~~of Public Safety~~ within 10 days of when ~~a principal officer, board member,~~ an owner, principal, financier, or employee ceases to be associated with or work at the dispensary. His or her ~~registry~~ Registry identification card shall be deemed null and void, and the person shall be liable for any penalties that may apply.

(2) A dispensary shall notify the Department ~~of Public Safety~~ in writing of the name, address, and date of birth of any proposed new ~~principal officer, board member~~ owner, principal, financier, or employee and shall submit a fee for a new ~~registry~~ Registry identification card before a new ~~principal officer, board member~~ owner, principal, financier, or employee begins his or her official duties related to the dispensary and shall submit a complete set of fingerprints for ~~the~~ each prospective ~~principal officer, board member~~ owner, principal, financier, or employee who is a natural person.

* * *

(k)(1) No dispensary~~, principal officer, board member~~ or owner, principal, financier of a dispensary shall:

* * *

(B) acquire usable marijuana or marijuana plants from any source other than registered dispensary ~~principal officers, board members~~ owners, principals, financiers, or employees who cultivate marijuana in accordance with this subchapter;

(C) dispense more than two ounces of usable marijuana to a registered patient directly or through the qualifying patient's registered caregiver during a 30-day period;

(D) dispense an amount of usable marijuana to a qualifying patient or a designated caregiver that the ~~principal officer, board member~~ owner, principal, financier, or employee knows would cause the recipient to possess more marijuana than is permitted under this subchapter;

(E) dispense marijuana to a person other than a registered patient who has designated the dispensary to provide for his or her needs or other than the patient's registered caregiver.

(2) A person found to have violated subdivision (1) of this subsection may no longer serve as ~~a principal officer, board member~~ an owner, principal, financier, or employee of any dispensary, and such person's ~~registry~~ Registry identification card shall be immediately revoked by the Department ~~of Public Safety~~.

(l)(1) A registered dispensary shall not be subject to the following, provided that it is in compliance with this subchapter:

(A) prosecution for the acquisition, possession, cultivation, manufacture, transfer, transport, supply, sale, or dispensing of marijuana, marijuana-infused products, or marijuana-related supplies for symptom relief in accordance with the provisions of this subchapter and any rule adopted by the Department ~~of Public Safety~~ pursuant to this subchapter;

(B) inspection and search, except pursuant to this subchapter or upon a search warrant issued by a court or judicial officer;

(C) seizure of marijuana, marijuana-infused products, and marijuana-related supplies, except upon a valid order issued by a court;

(D) imposition of any penalty or denied any right or privilege, including imposition of a civil penalty or disciplinary action by an occupational or professional licensing board or entity, solely for acting in

accordance with this subchapter to assist registered patients or registered caregivers.

(2) No ~~principal officer, board member~~ owner, principal, financier, or employee of a dispensary shall be subject to arrest, prosecution, search, seizure, or penalty in any manner or denied any right or privilege, including civil penalty or disciplinary action by an occupational or professional licensing board or entity, solely for working for or with a dispensary to engage in acts permitted by this subchapter.

* * *

Sec. 6. 18 V.S.A. § 4474f is amended to read:

§ 4474f. DISPENSARY APPLICATION, APPROVAL, AND REGISTRATION

* * *

(c) Each application for a dispensary registration certificate shall include all of the following:

(1) a nonrefundable application fee in the amount of $2,500.00 paid to the Department ~~of Public Safety~~;

(2) the legal name~~, articles of incorporation, and bylaws~~ of the dispensary and the organizational documents that create the dispensary, govern its operation and internal affairs, and govern relations between and among its owners;

(3) the proposed physical address of the dispensary, if a precise address has been determined or, if not, the general location where it would be located;

(4) a description of the ~~enclosed~~ secure, locked facility where marijuana will be grown, cultivated, harvested, or otherwise prepared for distribution by the dispensary;

(5) the name, address, and date of birth of each ~~principal officer and board member~~ owner, principal, and financier of the dispensary who is a natural person and a complete set of fingerprints for each of them;

(6) proposed security and safety measures, which shall include at least one security alarm system for each location and planned measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana;

(7) proposed procedures to ensure accurate record-keeping.

(d) Any time one or more dispensary registration applications are being considered, the Department ~~of Public Safety~~ shall solicit input from registered patients and registered caregivers.

(e) Each time a dispensary certificate is granted, the decision shall be based on the overall health needs of qualified patients. The following factors shall weigh heavily in the consideration of an application:

(1) geographic convenience to patients from throughout the State of Vermont to a dispensary if the applicant were approved;

(2) the entity's ability to provide an adequate supply to the registered patients in the State;

(3) the entity's ability to demonstrate ~~its board members'~~ that its owners, principals, and financiers have sufficient experience running a ~~nonprofit organization or~~ business;

(4) the comments, if any, of registered patients and registered caregivers regarding which applicant should be granted a registration certificate;

(5) the sufficiency of the applicant's plans for record-keeping, which records shall be considered confidential health care information under Vermont law and are intended to be deemed protected health care information for purposes of the federal Health Insurance Portability and Accountability Act of 1996, as amended;

(6) the sufficiency of the applicant's plans for safety and security, including the proposed location and security devices employed.

(f) The Department ~~of Public Safety~~ may deny an application for a dispensary if it determines that an applicant's criminal history record indicates that the ~~person's~~ association of an owner, principal, or financier with a dispensary would pose a demonstrable threat to public safety.

(g) After a dispensary is approved but before it begins operations, it shall submit the following to the Department:

(1) the legal name ~~and articles of incorporation~~ of the dispensary and the organizational documents that create the dispensary, govern its operation and internal affairs, and govern relations between and among its owners;

(2) the physical address of the dispensary;

(3) the name, address, and date of birth of each ~~principal officer and board member~~ owner, principal, and financier of the dispensary along with a complete set of fingerprints for each;

(4) a registration fee of $20,000.00 for the first year of operation, and an annual fee of $25,000.00 in subsequent years.

Sec. 7. 18 V.S.A. § 4474g is amended to read:

§ 4474g. DISPENSARY REGISTRY IDENTIFICATION CARD; CRIMINAL BACKGROUND CHECK

(a) Except as provided in subsection (b) of this section, the Department ~~of Public Safety~~ shall issue each ~~principal officer, Board member~~ owner, principal, financier, and employee of a dispensary a ~~registry~~ Registry identification card or renewal card within 30 days of receipt of the person's name, address, and date of birth and a fee of $50.00. The fee shall be paid by the dispensary and the cost shall not be passed on to ~~a principal officer, Board member~~ an owner, principal, financier, or employee. A person shall not serve as ~~principal officer, Board member~~ an owner, principal, financier, or employee of a dispensary until that person has received a ~~registry~~ Registry identification card issued under this section. Each card shall specify whether the cardholder is ~~a principal officer, Board member~~ an owner, principal, financier, or employee of a dispensary and shall contain the following:

(1) the name, address, and date of birth of the person;

(2) the legal name of the dispensary with which the person is affiliated;

(3) a random identification number that is unique to the person;

(4) the date of issuance and the expiration date of the ~~registry~~ Registry identification card; and

(5) a photograph of the person.

(b) Prior to acting on an application for a ~~registry~~ Registry identification card, the Department ~~of Public Safety~~ shall obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each applicant shall consent to the release of criminal history records to the Department on forms developed by the Vermont Crime Information Center.

(c) When the Department ~~of Public Safety~~ obtains a criminal history record, the Department shall promptly provide a copy of the record to the applicant and to the ~~principal officer and Board~~ owner, principal, or financier of the dispensary if the applicant is to be an employee. The Department shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Department.

(d) The Department ~~of Public Safety~~ shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this subchapter.

(e) The Department ~~of Public Safety~~ shall not issue a ~~registry~~ Registry identification card to any applicant who has been convicted of a drug-related offense or a violent felony or who has a pending charge for such an offense. ~~For purposes of~~ As used in this subchapter, "violent felony" means a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

(f) The Department ~~of Public Safety~~ shall adopt rules for the issuance of a ~~registry~~ Registry identification card and shall set forth standards for determining whether an applicant should be denied a ~~registry~~ Registry identification card because his or her criminal history record indicates that the person's association with a dispensary would pose a demonstrable threat to public safety. The rules shall consider whether a person who has a conviction for an offense not listed in subsection (e) of this section has been rehabilitated. A conviction for an offense not listed in subsection (e) of this section shall not automatically disqualify a person for a ~~registry~~ Registry identification card. A dispensary may deny a person the opportunity to serve as a Board member or an employee based on his or her criminal history record. An applicant who is denied a ~~registry~~ Registry identification card may appeal the ~~Department of Public Safety's~~ Department's determination in Superior Court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(g) A registration identification card of ~~a principal officer, Board member~~ an owner, principal, or financier, or employee shall expire one year after its issuance or upon the expiration of the registered organization's registration certificate, whichever occurs first.

Sec. 8. 18 V.S.A. § 4474h is amended to read:

§ 4474h. PATIENT DESIGNATION OF DISPENSARY

(a) A registered patient or his or her caregiver may obtain marijuana only from the patient's designated dispensary and may designate only one dispensary. ~~If a registered patient designates a dispensary, the patient and his or her caregiver may not grow marijuana or obtain marijuana or marijuana-infused products for symptom relief from any source other than the designated dispensary.~~ A registered patient who wishes to change his or her dispensary shall notify the Department ~~of Public Safety~~ in writing on a form issued by the Department and shall submit with the form a fee of $25.00. The Department shall issue a new identification card to the registered patient within 30 days of receiving the notification of change in dispensary. The registered patient's previous identification card shall expire at the time the new identification card takes effect. A registered patient shall submit his or her expired identification card to the Department within 30 days of expiration. A registered patient shall not change his or her designated dispensary more than once in any 30-day period.

* * *

Sec. 9. AUTHORITY FOR CURRENTLY REGISTERED NONPROFIT DISPENSARY TO CONVERT TO FOR-PROFIT BUSINESS

(a) Notwithstanding any contrary provision of Title 11B of the Vermont Statutes Annotated, a nonprofit dispensary registered pursuant to 18 V.S.A. chapter 86 may convert to a different type of business organization by approving a plan of conversion pursuant to this section.

(b) A plan of conversion shall include:

(1) the name of the converting organization;

(2) the name and type of organization of the converted organization;

(3) the manner and basis for converting the assets of the converting organization into interests in the converted organization or other consideration;

(4) the proposed organizational documents of the converted organization; and

(5) the other terms and conditions of the conversion.

(c) A converting organization shall approve a plan of conversion by a majority vote of its directors, and by a separate majority vote of its members if it has members.

(d) A converting organization may amend or abandon a plan of conversion before it takes effect in the same manner it approved the plan, if the plan does not specify how to amend the plan.

(e) A converting organization shall sign a statement of conversion and deliver it to the Secretary of State for filing. A statement of conversion shall include:

(1) the name and type of organization prior to the conversion;

(2) the name and type of organization following the conversion;

(3) a statement that the converting organization approved the plan of conversion in accordance with the provisions of this act; and

(4) the organizational documents of the converted organization.

(f) The conversion of a nonprofit dispensary takes effect when the statement of conversion takes effect, and when the conversion takes effect:

(1) The converted organization is:

(A) organized under and subject to the governing statute of the converted organization; and

(B) the same organization continuing without interruption as the converting organization.

(2) Subject to the plan of conversion, the property of the converting organization continues to be vested in the converted organization without transfer, assignment, reversion, or impairment.

(3) The debts, obligations, and other liabilities of the converting organization continue as debts, obligations, and other liabilities of the converted organization.

(4) A court or other authority may substitute the name of the converted organization for the name of the converting organization in any pending action or proceeding.

(5) The organizational documents of the converted organization take effect.

(6) The assets of the converting organization are converted pursuant to the plan of conversion.

(g) When a conversion takes effect, a person that did not have personal liability with respect to the converting organization and becomes subject to personal liability with respect to the converted organization as a result of the conversion has personal liability only to the extent provided by the governing statute of the converted organization and only for those debts, obligations, and other liabilities that the converted organization incurs after the conversion.

(h) When a conversion takes effect, a person that had personal liability for a debt, obligation, or other liability of the converting organization but that does not have personal liability with respect to the converted organization is subject to the following rules:

(1) The conversion does not discharge any personal liability under this title to the extent the personal liability was incurred before the conversion took effect.

(2) The person does not have personal liability under this title for any debt, obligation, or other liability that arises after the conversion takes effect.

(3) Title 11B of the Vermont Statutes Annotated continues to apply to the release, collection, or discharge of any personal liability preserved under subdivision (1) of this subsection as if the conversion had not occurred.

(i) A conversion does not require an organization to wind up its affairs and does not constitute or cause the dissolution of the organization.

Sec. 10. MARIJUANA-INFUSED PRODUCT TESTING; REPORT

The General Assembly recognizes the importance of independent testing of marijuana-infused products sold by dispensaries to determine proper labeling of products in compliance with 18 V.S.A. § 4474e. Therefore, the Agency of Agriculture, Food and Markets and the Department of Public Safety, in consultation with registered dispensaries, shall report their recommendations to the Joint Committee on Justice Oversight and the General Assembly no later than October 15, 2017 on the following:

(1) Who should be responsible for testing marijuana-infused products.

(2) The approved methods and frequency of testing.

(3) Estimated costs associated with such testing and how these costs should be funded.

(4) If testing will be done through an independent testing entity, the process by which the State will certify such entities and oversee such testing.

(5) How to implement a weights and measures program for medical marijuana dispensaries.

Sec. 11. MEDICAL MARIJUANA REGISTRY; WEB PAGE

The Department of Public Safety and the Agency of Digital Services shall develop an independent web page for the Medical Marijuana Registry, separate from any other registry or program administered by the Department, that is up-to-date and user-friendly on or before September 30, 2017 and shall report to the General Assembly on activation of the web page at such time.

Sec. 12. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

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.

Thereupon, pursuant to the request of the Senate, the President announced the appointment of

Senator Sears
Senator Benning
Senator White

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

Thereupon, on motion of Senator Sears, the rules were suspended and the bill was ordered messaged to the House forthwith.

Appointment to Committee of Conference

S. 134.

The President announced the appointment of

Senator Nitka

as a replacement for

Senator Sears

as a member of the committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses upon House bill entitled:

An act relating to court diversion and pretrial services.

Consideration Resumed; Bill Amended; Third Reading Ordered; Rules Suspended; Bill Passed; Bill Messaged

S. 100.

Consideration was resumed on Senate bill entitled:

An act relating to promoting affordable and sustainable housing.

Senator Sirotkin, for the Committee on Finance, to which the bill was referred reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Housing Help Surcharge; Housing Bond * * *

Sec. 1. VERMONT HOUSING AND CONSERVATION BOARD; HOUSING FOR ALL

(a) Findings and purpose.

(1) The General Assembly finds that investments are needed to help house the most vulnerable as well as creating more homes for workers.

(2) The shortage of affordable and available homes has been highlighted recently by:

(A) the Vermont Futures Project of the Vermont Chamber of Commerce, which set a growth target of 5,000 new and improved housing units annually;

(B) a national consultant's recommendations for a Roadmap to End Homelessness, which calls for 368 new units for permanent supportive housing and 1,251 new homes affordable at 30 percent of median or below over the next five years; and

(C) the 2015 statewide housing needs assessment by Bowen National Research, which found the largest gaps in housing affordable to households below 30 percent of median and between 85 percent and 120 percent, and a lack of housing availability across the income spectrum.

(3) The purpose of this section is to promote the development and improvement of housing for Vermonters.

(b) The Vermont Housing and Conservation Board shall use the proceeds of bonds, notes, and other obligations issued by the Vermont Housing Finance Agency pursuant to 10 V.S.A. § 621(22) and transferred to the Vermont Housing and Conservation Trust Fund to fund the creation and improvement of ownership and rental housing for Vermonters with very low to middle income in areas targeted for growth and reinvestment, as follows:

(1) not less than 25 percent of the housing shall be targeted to Vermonters with very low income, meaning households below 50 percent of area median income; and

(2) not less than 25 percent shall be targeted to Vermonters with moderate income, meaning households between 80 and 120 percent of median income.

Sec. 2. 32 V.S.A. § 9241 is amended to read:

§ 9241. IMPOSITION OF TAX

(a) An operator shall collect a tax of nine percent of the rent of each occupancy plus a $2.00 housing help surcharge for each night of the occupancy.

* * *

Sec. 3. 32 V.S.A. § 9241a is added to read:

§ 9241A. HOUSING HELP SURCHARGE; ALLOCATION OF REVENUES

(a) The revenues generated by the $2.00 housing help surcharge imposed under subsection 9241(a) of this title shall be allocated as follows:

(1) the first $2.5 million shall be transferred to the Vermont Housing Finance Agency to pay the principal of and interest due on the bonds, notes, and other obligations authorized to be issued by the Agency pursuant to 10 V.S.A. § 621(22), the proceeds of which the Vermont Housing and Conservation Board shall use to create affordable housing pursuant to 10 V.S.A. chapter 15 and Sec. 1 of S.100 (2017) as enacted; and

(2) any remaining revenues shall be transferred to the Clean Water Fund created in 10 V.S.A. § 1388.

(b) As long as the bonds, notes, and other obligations incurred pursuant to subdivision (a)(1) of this section remain outstanding, the housing help surcharge imposed pursuant to section 9241 of this title shall not be reduced below a rate estimated, at the time of any reduction, to generate annual revenues of at least $6 million.

* * * Vermont Housing Finance Agency; Authority to Issue Bonds for Affordable Housing * * *

Sec. 4. 10 V.S.A. § 621 is amended to read:

§ 621. GENERAL POWERS AND DUTIES

The Agency shall have all of the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including without limitation those general powers provided a business corporation by 11A V.S.A. § 3.02 and those general powers provided a nonprofit corporation by 11B V.S.A. § 3.02 and including, without limiting the generality of the foregoing, the power to:

* * *

(22) issue bonds, notes, and other obligations secured by the housing help surcharge revenues transferred to the Agency pursuant to 32 V.S.A. § 9241a(a)(1).

Sec. 5. 10 V.S.A. § 631(l) is added to read:

(l)(1) The bonds, notes, and other obligations authorized to be issued pursuant to subdivision 621(22) of this title shall be secured by a pledge of the housing help surcharge revenues to be transferred to the Agency pursuant to 32 V.S.A. § 9241a(a)(1) and shall mature not later than June 30, 2038.

(2) The Agency may issue the bonds, notes, and other obligations in one or more series at one time or from time to time, provided that the aggregate annual debt service on the bonds, notes, and other obligations shall not exceed $2.5 million at any time.

(3) The Agency shall transfer the proceeds of the bonds, notes, and other obligations, less issuance fees and costs and required reserves, to the Vermont Housing and Conservation Trust Fund established pursuant to section 312 of this title, for use by the Vermont Housing and Conservation Board as provided in chapter 15 of this title and Sec. 1 of S.100 (2017) as enacted.

(4) The Agency, the Vermont Housing and Conservation Board, and the State Treasurer may execute one or more agreements governing the terms and conditions under which the housing help surcharge revenues that secure the bonds, notes, and obligations will be transferred to the Agency, and any other issues they determine appropriate.

Sec. 6. REPEAL

The following shall be repealed on July 1, 2038:

(1) 32 V.S.A. § 9241a (housing help surcharge for affordable housing debt repayment and clean water fund).

(2) 10 V.S.A. § 621(22) (Vermont Housing Finance Agency (VHFA) authority to issue debt obligations secured by property transfer tax).

(3) 10 V.S.A. § 631(l) (debt obligations issued by VHFA).

Sec. 6a. 32 V.S.A. § 9241 is amended to read:

§ 9241. IMPOSITION OF TAX

(a) An operator shall collect a tax of nine percent of the rent of each occupancy.

* * *

Sec. 7. 10 V.S.A. § 323 is amended to read:

§ 323. ANNUAL REPORT

Prior to January 31 of each year, the ~~board~~ Board shall submit a report concerning its activities to the ~~governor~~ Governor and legislative committees on agriculture, natural resources and energy, appropriations, ways and means, finance, and institutions. The report shall include~~, but not be limited to,~~ the following:

(1) a list and description of activities funded by the ~~board~~ Board during the preceding year, including commitments made to fund projects through housing bond proceeds pursuant to Sec. 1 of S.100 (2017) as enacted, and project descriptions, levels of affordability, and geographic location;

* * *

* * * Municipal Outreach; Sewerage and Water Service Connections * * *

Sec. 8. AGENCY OF NATURAL RESOURCES; EDUCATION AND OUTREACH; DELEGATION; SEWERAGE AND WATER SERVICE CONNECTIONS

(a) The Secretary of Natural Resources, after consultation with the Vermont League of Cities and Towns, shall conduct outreach and education for municipalities regarding the ability of a municipality under 10 V.S.A. § 1976 to be delegated the authority to permit the connection of a municipal sewer or water service line to subdivided land, a building, or a campground.

(b) The education and outreach shall specify the conditions or requirements for delegation, how a municipality can seek delegation, and contact

information or other resource to provide additional information regarding delegation. The education and outreach may include educational materials, workshops, or classes regarding the ability of a municipality to be delegated under 10 V.S.A. § 1976 the permitting of sewer and water service connection.

(c) On or before January 15, 2018, the Secretary of Natural Resources shall submit a report to the Senate Committees on Natural Resources and Energy and Economic Development, Housing and General Affairs and the House Committees on Natural Resources, Fish and Wildlife and on Commerce and Economic Development summarizing the education and outreach conducted or planned by the Secretary under the requirements of this section and whether any municipality has sought delegation of sewer and water service connection permitting under 10 V.S.A. § 1976 since the effective date of this act.

* * * Municipal Land Use and Development; Affordable Housing * * *

Sec. 9. 24 V.S.A. § 4303 is amended to read:

§ 4303. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context otherwise requires:

(1) "Affordable housing" means either of the following:

(A) ~~Housing that is owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household's gross annual income.~~

Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

(B) ~~Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income.~~

Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

* * *

* * * Act 250; Priority Housing Projects * * *

Sec. 10. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

In this chapter:

* * *

(3)(A) "Development" means each of the following:

* * *

(iv) The construction of housing projects such as cooperatives, condominiums, or dwellings, or construction or maintenance of mobile homes or mobile home parks, with 10 or more units, constructed or maintained on a tract or tracts of land, owned or controlled by a person, within a radius of five miles of any point on any involved land, and within any continuous period of five years. However:

(I) A priority housing project shall constitute a development under this subdivision (iv) only if the number of housing units in the project is:

(aa) ~~275 or more, in a municipality with a population of 15,000 or more;~~ [Repealed.]

(bb) ~~150 or more, in a municipality with a population of 10,000 or more but less than 15,000;~~ [Repealed.]

(cc) 75 or more, in a municipality with a population of 6,000 or more but less than 10,000~~;~~.

(dd) 50 or more, in a municipality with a population of 3,000 or more but less than 6,000~~;~~.

(ee) 25 or more, in a municipality with a population of less than 3,000~~; and~~.

(ff) ~~notwithstanding~~ Notwithstanding subdivisions ~~(aa)~~(cc) through (ee) of this subdivision (3)(A)(iv)(I), 10 or more if the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision if the Division for Historic Preservation has determined that the proposed demolition will have no adverse effect, will have no adverse effect if specified conditions are met, or will have an adverse effect that will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document.

(II) The determination of jurisdiction over a priority housing project shall count only the housing units included in that discrete project.

(III) Housing units in a priority housing project shall not count toward determining jurisdiction over any other project.

* * *

(D) The word "development" does not include:

* * *

(viii) The construction of a priority housing project in a municipality with a population of 10,000 or more. However, if the construction of the project involves demolition of one or more buildings that are listed or eligible to be listed on the State or National Register of Historic Places, this exemption shall not apply unless the Division for Historic Preservation has made the determination described in subdivision (3)(A)(iv)(I)(ff) of this section and any imposed conditions are enforceable in the manner set forth in that subdivision.

* * *

(27) "Mixed income housing" means a housing project in which the following apply:

(A) Owner-occupied housing. At the option of the applicant, owner-occupied housing may be characterized by either of the following:

(i) at least 15 percent of the housing units have a purchase price which at the time of first sale does not exceed 85 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency; or

(ii) at least 20 percent of the housing units have a purchase price which at the time of first sale does not exceed 90 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency~~;~~.

(B) Rental ~~Housing~~ housing. At least 20 percent of the housing units that are rented constitute affordable housing and have a duration of affordability of ~~no~~ not less than ~~20~~ 15 years.

(28) "Mixed use" means construction of both mixed income housing and construction of space for any combination of retail, office, services, artisan, and recreational and community facilities, provided at least 40 percent of the gross floor area of the buildings involved is mixed income housing. "Mixed use" does not include industrial use.

(29) "Affordable housing" means either of the following:

(A) ~~Housing that is owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household's gross annual income.~~

Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

(B) ~~Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income.~~

Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

* * *

(35) "Priority housing project" means a discrete project located on a single tract or multiple contiguous tracts of land that consists exclusively of:

(A) mixed income housing or mixed use, or any combination thereof, and is located entirely within a designated downtown development district, designated new town center, designated growth center, or designated village center that is also a designated neighborhood development area under 24 V.S.A. chapter 76A; or

(B) mixed income housing and is located entirely within a designated Vermont neighborhood or designated neighborhood development area under 24 V.S.A. chapter 76A.

* * *

Sec. 11. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

(a) No person shall sell or offer for sale any interest in any subdivision located in this State, or commence construction on a subdivision or development, or commence development without a permit. This section shall not prohibit the sale, mortgage, or transfer of all, or an undivided interest in all, of a subdivision unless the sale, mortgage, or transfer is accomplished to circumvent the purposes of this chapter.

* * *

(o) If a ~~downtown development district~~ designation pursuant to 24 V.S.A. ~~§ 2793~~ chapter 76A is removed, subsection (a) of this section shall apply to any subsequent substantial change to a priority housing project that was originally exempt pursuant to subdivision 6001(3)(A)(iv)(I) of this title on the basis of that designation.

(p)(1) No permit or permit amendment is required for any change to a project that is located entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, if the change consists exclusively of any combination of mixed use and mixed income housing, and the cumulative changes within any continuous period of five years, commencing on or after the effective date of this subsection, remain below the jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title.

(2) No permit or permit amendment is required for a priority housing project in a designated center other than a downtown development district if the project remains below the jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title and will comply with all conditions of any existing permit or permit amendment issued under this chapter that applies to the tract or tracts on which the project will be located. If such a priority housing project will not comply with one or more of these conditions, an application may be filed pursuant to section 6084 of this title.

* * *

Sec. 12. 10 V.S.A. § 6084 is amended to read:

§ 6084. NOTICE OF APPLICATION; HEARINGS, COMMENCEMENT OF REVIEW

* * *

(f) This subsection concerns an application for a permit amendment to change the conditions of an existing permit or permit amendment in order to authorize the construction of a priority housing project described in subdivision 6081(p)(2) of this title.

(1) The District Commission may authorize a district coordinator to issue such an amendment, without notice and a hearing, if the applicant demonstrates that all parties to the permit or permit amendment or their successors in interest have consented to the proposed changes to conditions relative to the criteria for which the party retained party status.

(2) If the applicant is not able to obtain the consent of a party or parties or their successors in interest with respect to one or more of the conditions proposed to be changed, the applicant shall file a permit application pursuant to

this section. However, review by the District Commission shall be limited to whether the changes to conditions not consented to by the party or parties or their successors in interest enable positive findings under subsection 6086(a) and are authorized under subsection 6086(c) of this title.

* * * ACCD; Publication of Median Household Income and Qualifying Costs for Affordable Housing * * *

Sec. 13. 3 V.S.A. § 2472 is amended to read:

§ 2472. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

(a) The Department of Housing and Community Development is created within the Agency of Commerce and Community Development. The Department shall:

* * *

(5) In conjunction with the Vermont Housing Finance Agency, annually publish data and information to enable the public to determine income levels and costs for owner-occupied and rental housing to qualify as affordable housing, as defined in 24 V.S.A. § 4303 and 10 V.S.A. § 6001(29), including:

(A) the median income for each Vermont county, as defined by the U.S. Department of Housing and Urban Development;

(B) the standard metropolitan statistical area median income for each municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; and

(C) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

* * *

* * * Downtown Tax Credits * * *

Sec. 14. 32 V.S.A. § 5930ee is amended to read:

§ 5930ee. LIMITATIONS

Beginning in fiscal year 2010 and thereafter, the State Board may award tax credits to all qualified applicants under this subchapter, provided that:

(1) the total amount of tax credits awarded annually, together with sales tax reallocated under section 9819 of this title, does not exceed ~~$2,200,000.00~~ $2,400,000.00;

* * *

* * * Tax Credit for Affordable Housing; Captive Insurance Companies * * *

Sec. 15. 32 V.S.A. § 5930u is amended to read:

§ 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

(a) As used in this section:

* * *

(5) "Credit certificate" means a certificate issued by the allocating agency to a taxpayer that specifies the amount of affordable housing tax credits that can be applied against the taxpayer's individual or corporate income tax, or franchise, captive insurance premium, or insurance premium tax liability as provided in this subchapter.

* * *

(c) Amount of credit. A taxpayer who makes an eligible cash contribution shall be entitled to claim against the taxpayer's individual income, corporate, franchise, captive insurance premium, or insurance premium tax liability a credit in an amount specified on the taxpayer's credit certificate. The first-year allocation of a credit amount to a taxpayer shall also be deemed an allocation of the same amount in each of the following four years.

* * *

Sec. 16. 24 V.S.A. chapter 53, subchapter 5 is amended to read:

Subchapter 5. Tax Increment Financing

* * *

§ 1892. CREATION OF DISTRICT

* * *

(d) The following municipalities have been authorized to use education tax increment financing for a tax increment financing district~~, and the Vermont Economic Progress Council is not authorized to approve any additional tax increment financing districts even if one of the districts named in this subsection is terminated pursuant to subsection 1894(a) of this subchapter~~:

(1) the City of Burlington, Downtown;

(2) the City of Burlington, Waterfront;

(3) the Town of Milton, North and South;

(4) the City of Newport;

(5) the City of Winooski;

(6) the Town of Colchester;

(7) the Town of Hartford;

(8) the City of St. Albans;

(9) the City of Barre; ~~and~~

(10) the Town of Milton, Town Core; and

(11) the City of South Burlington, New Town Center.

* * *

§ 1894. POWER AND LIFE OF DISTRICT

* * *

(c) Use of the municipal property tax increment. For only debt incurred within the period permitted under subdivision (a)(1) of this section after creation of the district, and related costs, not less than an equal share plus five percent of the municipal tax increment pursuant to subsection (f) of this section shall be retained to service the debt, beginning the first year in which debt is incurred, pursuant to subsection (b) of this section.

* * *

(f) Equal share required. If any tax increment utilization is approved pursuant to 32 V.S.A. § 5404a(h), no more than 75 percent of the State property tax increment and no less than an equal percent, plus five percent, of the municipal tax increment may be approved by the Council or used by the municipality to service this debt.

* * *

Sec. 17. 32 V.S.A. § 5404a is amended to read:

§ 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT FINANCING DISTRICTS

* * *

(f) A municipality that establishes a tax increment financing district under 24 V.S.A. chapter 53, subchapter 5 shall collect all property taxes on properties contained within the district and apply up to 75 percent of the State education property tax increment, and not less than an equal share plus five percent of the municipal tax increment, as defined in 24 V.S.A. § 1896, to repayment of financing of the improvements and related costs for up to 20 years pursuant to 24 V.S.A. § 1894, if approved by the Vermont Economic Progress Council pursuant to this section, subject to the following:

(1) In a municipality with one or more approved districts, the Council shall not approve an additional district until the municipality retires the debt incurred for all of the districts in the municipality.

(2) The Council shall not approve more than two districts in a single county, and not more than an additional 14 districts in the State, provided:

(A) The districts listed in 24 V.S.A. § 1892(d) shall not be counted against the limits imposed in this subdivision (2).

(B) The Council shall consider complete applications in the order they are submitted, except that if during any calendar month the Council receives applications for more districts than are actually available in a county, the Council shall evaluate each application and shall approve the application that, in the Council's discretion, best meets the economic development needs of the county.

(C) If, while the General Assembly is not in session, the Council receives applications for districts that would otherwise qualify for approval but, if approved, would exceed the 14-district limit in the State, the Council shall make one or more presentations to the Emergency Board concerning the applications, and the Emergency Board may, in its discretion, increase the 14-district limit.

(3)(A) A municipality shall immediately notify the Council if it resolves not to incur debt for an approved district within five years of approval or a five-year extension period as required in 24 V.S.A. § 1894.

(B) Upon receiving notification pursuant to subdivision (3)(A) of this subsection, the Council shall terminate the district and may approve a new district, subject to the provisions of this section and 24 V.S.A. chapter 53, subchapter 5.

(4) The Council shall not approve any additional districts on or after July 1, 2024.

* * *

(h) Criteria for approval. To approve utilization of incremental revenues pursuant to subsection (f) of this section, the Vermont Economic Progress Council shall do all the following:

(1) Review each application to determine that the ~~new real property~~ proposed infrastructure improvements and the proposed development would not have occurred or would have occurred in a significantly different and less desirable manner but for the proposed utilization of the incremental tax revenues. The review shall take into account:

(A) the amount of additional time, if any, needed to complete the proposed development within the tax increment district and the amount of additional cost that might be incurred if the project were to proceed without education property tax increment financing;

(B) how the proposed development components and size would differ, if at all, without education property tax increment financing, including, if applicable to the development, the number of units of affordable housing, as defined in 24 V.S.A. § 4303; and

(C) the amount of additional revenue expected to be generated as a result of the proposed development; the percentage of that revenue that shall be paid to the education fund; the percentage that shall be paid to the municipality; and the percentage of the revenue paid to the municipality that shall be used to pay financing incurred for development of the tax increment financing district.

(2) Process requirements. Determine that each application meets all of the following four requirements:

(A) The municipality held public hearings and established a tax increment financing district in accordance with 24 V.S.A. §§ 1891-1900.

(B) The municipality has developed a tax increment financing district plan, including: a project description; a development financing plan; a pro forma projection of expected costs; a projection of revenues; a statement and demonstration that the project would not proceed without the allocation of a tax increment; evidence that the municipality is actively seeking or has obtained other sources of funding and investment; and a development schedule that includes a list, a cost estimate, and a schedule for public improvements and projected private development to occur as a result of the improvements.

(C) The municipality has approved or pledged the utilization of incremental municipal tax revenues for purposes of the district in the same proportion as the utilization of education property tax revenues approved by the Vermont Economic Progress Council for the tax increment financing district.

(D) The proposed infrastructure improvements and the projected development or redevelopment are compatible with approved municipal and regional development plans, and the project has clear local and regional significance for employment, housing, and transportation improvements.

(3) Location criteria. Determine that each application meets one of the following criteria:

(A) The development or redevelopment is compact, high density, and located in or near existing industrial areas.

(B) The proposed district is within an approved growth center, designated downtown, designated village center, ~~or~~ new town center, or neighborhood development area.

(C) The development will occur in an area that is economically distressed, which for the purposes of this subdivision means that the ~~area has experienced patterns of increasing unemployment, a drop in average wages, or a decline in real property values~~ municipality in which the area is located has:

(i) median family income that is 80 percent or less of the statewide median family income as reported by the Vermont Department of Taxes for the most recent year for which data is available;

(ii) an annual average unemployment rate that is at least one percent greater than the latest annual average statewide unemployment rate as reported by the Vermont Department of Labor; or

(iii) a median sales price for residential properties under six acres that is 80 percent or less than the statewide median sales price for residential properties under six acres as reported by the Vermont Department of Taxes.

(4) Project criteria. Determine that the proposed development within a tax increment financing district will accomplish at least ~~three~~ two of the following ~~five~~ four criteria:

(A) ~~The development within the tax increment financing district clearly requires substantial public investment over and above the normal municipal operating or bonded debt expenditures.~~

~~(B)~~ The development includes new or rehabilitated affordable housing ~~that is affordable to the majority of the residents living within the municipality and is developed at a higher density than at the time of application. "Affordable" has the same meaning as in 10 V.S.A. § 6001(29),~~ as defined in 24 V.S.A. § 4303.

~~(C)~~(B) The project will affect the remediation and redevelopment of a brownfield located within the district. As used in this section, "brownfield" means an area in which a hazardous substance, pollutant, or contaminant is or may be present, and that situation is likely to complicate the expansion, development, redevelopment, or reuse of the property.

~~(D)~~(C) The development will include at least one entirely new business or business operation or expansion of an existing business within the district, and this business will provide new, quality, full-time jobs that meet or exceed the prevailing wage for the region as reported by the department of labor.

~~(E)~~(D) The development will enhance transportation by creating improved traffic patterns and flow or creating or improving public transportation systems.

* * *

Sec. 18. IMPLEMENTATION

Secs. 16 and 17 of this act shall apply only to tax increment financing district applications filed, and districts approved, on or after the date of passage of this act.

Sec. 19. EFFECTIVE DATES

(a) This section and Secs. 16–18 (tax increment financing districts) shall take effect on passage.

(b) Sec. 6a (repeal of housing help surcharge) shall take effect on July 1, 2038.

(c) The remaining sections of this act shall take effect on July 1, 2017.

And that when so amended the bill ought to pass.

Senator Westman, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Vermont Housing and Conservation Board;
Housing Bond Proceeds for Affordable Housing * * *

Sec. 1. FINDINGS AND PURPOSE; AFFORDABLE HOUSING BOND

(a) Findings.

(1) The General Assembly finds that investments are needed to help house the most vulnerable as well as creating more homes for workers.

(2) The shortage of affordable and available homes has been highlighted recently by:

(A) the Vermont Futures Project of the Vermont Chamber of Commerce, which set a growth target of 5,000 new and improved housing units annually;

(B) a national consultant's recommendations for a Roadmap to End Homelessness, which calls for, over the next five years, 368 new units for permanent supportive housing and 1,251 new homes affordable to families with income that is not more than 30 percent of the median; and

(C) the 2015 statewide housing needs assessment by Bowen National Research, which found the largest gaps in housing affordable to households

with income below 30 percent of median and households with income between 85 percent and 120 percent of median, and found a lack of housing availability across the income spectrum.

(b) Purpose. The purpose of this act is to promote the development and improvement of housing for Vermonters.

Sec. 2. 10 V.S.A. § 314 is added to read:

§ 314. AFFORDABLE HOUSING BOND; INVESTMENT

The Vermont Housing and Conservation Board shall use the proceeds of bonds, notes, and other obligations issued by the Vermont Housing Finance Agency pursuant to subdivision 621(22) of this title and transferred to the Vermont Housing and Conservation Trust Fund to fund the creation and improvement of owner-occupied and rental housing for Vermonters with very low to middle income, in areas targeted for growth and reinvestment, as follows:

(1) not less than 25 percent of the housing shall be targeted to Vermonters with very low income, meaning households with income below 50 percent of area median income;

(2) not less than 25 percent of the housing shall be targeted to Vermonters with moderate income, meaning households with income between 80 and 120 percent of area median income; and

(3) the remaining housing shall be targeted to Vermonters with income that is less than or equal to 120 percent of area median income, consistent with the provisions of this chapter.

Sec. 3. 10 V.S.A. § 323 is amended to read:

§ 323. ANNUAL REPORT

Prior to January 31 of each year, the ~~board~~ Board shall submit a report concerning its activities to the ~~governor~~ Governor and ~~legislative committees on agriculture, natural resources and energy, appropriations, ways and means, finance, and institutions~~ to the House Committees on Agriculture and Forestry, on Appropriations, on Corrections and Institutions, on Natural Resources, Fish and Wildlife, and on Ways and Means and the Senate Committees on Agriculture, on Appropriations, on Finance, on Institutions, and on Natural Resources and Energy. The report shall include~~, but not be limited to,~~ the following:

(1) a list and description of activities funded by the ~~board~~ Board during the preceding year, including commitments made to fund projects through housing bond proceeds pursuant to section 314 of this title, and project descriptions, levels of affordability, and geographic location;

* * *

* * * Allocation of Property Transfer Tax Revenues * * *

Sec. 4. 32 V.S.A. § 9610 is amended to read:

§ 9610. REMITTANCE OF RETURN AND TAX; INSPECTION OF RETURNS

(a) Not later than 30 days after the receipt of any property transfer return, a town clerk shall file the return in the office of the town clerk and electronically forward a copy of the acknowledged return to the Commissioner; provided, however, that with respect to a return filed in paper format with the town, the Commissioner shall have the discretion to allow the town to forward a paper copy of that return to the ~~department~~ Department.

(b) The copies of property transfer returns in the custody of the town clerk may be inspected by any member of the public.

(c) Prior to distributions of property transfer tax revenues under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), and ~~32 V.S.A. §~~ subdivision 435(b)(10) of this title, one percent of the revenues received from the property transfer tax shall be deposited in a special fund in the Department of Taxes for Property Valuation and Review administration costs.

(d)(1) Prior to any distribution of property transfer tax revenue under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), subdivision 435(b)(10) of this title, and subsection (c) of this section, $2,500,000.00 of the revenue received from the property transfer tax shall be transferred to the Vermont Housing Finance Agency to pay the principal of and interest due on the bonds, notes, and other obligations authorized to be issued by the Agency pursuant to 10 V.S.A. § 621(22), the proceeds of which the Vermont Housing and Conservation Board shall use to create affordable housing pursuant to 10 V.S.A. § 314.

(2) As long as the bonds, notes, and other obligations incurred pursuant to subdivision (1) of this subsection remain outstanding, the rate of tax imposed pursuant to section 9602 of this title shall not be reduced below a rate estimated, at the time of any reduction, to generate annual revenues of at least $12,000,000.00.

* * * Vermont Housing Finance Agency; Authority to Issue Bonds for Affordable Housing * * *

Sec. 5. 10 V.S.A. § 621 is amended to read:

§ 621. GENERAL POWERS AND DUTIES

The Agency shall have all of the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including without limitation those general powers provided a business corporation by

11A V.S.A. § 3.02 and those general powers provided a nonprofit corporation by 11B V.S.A. § 3.02 and including, without limiting the generality of the foregoing, the power to:

* * *

(21) use funds received from real estate trust and escrow accounts established under 26 V.S.A. § 2214(c), IORTA funds, for down payment and closing cost assistance with priority given to persons and families at or below 90 percent of median income and to persons and families purchasing perpetually affordable housing;

(22) issue bonds, notes, and other obligations secured by the property transfer tax revenues transferred to the Agency pursuant to 32 V.S.A. § 9610(d).

Sec. 6. 10 V.S.A. § 631(l) is added to read:

(l)(1) The bonds, notes, and other obligations authorized to be issued pursuant to subdivision 621(22) of this title shall be secured by a pledge of the property transfer tax revenues to be transferred to the Agency pursuant to 32 V.S.A. § 9610(d) and shall mature on or before June 30, 2038.

(2) The Agency may issue the bonds, notes, and other obligations in one or more series at one time or from time to time, provided that the aggregate annual debt service on the bonds, notes, and other obligations shall not exceed $2,500,000.00 at any time.

(3) The Agency shall transfer the proceeds of the bonds, notes, and other obligations, less issuance fees and costs and required reserves, to the Vermont Housing and Conservation Trust Fund established pursuant to section 312 of this title for use by the Vermont Housing and Conservation Board as provided in section 314 of this title.

(4) The Agency, the Vermont Housing and Conservation Board, and the State Treasurer may execute one or more agreements governing the terms and conditions under which the property transfer tax revenues that secure the bonds, notes, and obligations shall be transferred to the Agency, and any other issues they determine appropriate.

* * * Funding for Affordable Housing Bond Program;
Allocation of Revenues; Intent * * *

Sec. 7. INTENT; FUNDING FOR AFFORDABLE HOUSING BOND PROGRAM; ALLOCATION OF PROPERTY TRANSFER TAX REVENUES

(a) Revenues from the property transfer tax are currently allocated pursuant to statute as follows:

(1) The first two percent is deposited in a special fund in the Department of Taxes for Property Valuation and Review administration costs pursuant to 32 V.S.A. § 9610(c).

(2) Of the remaining 98 percent of the revenues:

(A) 17 percent is deposited in the Municipal and Regional Planning Fund created in 24 V.S.A. § 4306.

(B) 50 percent is deposited in the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312.

(C) 33 percent is deposited in the General Fund created in 32 V.S.A. § 435.

(b) Pursuant to Sec. 4 of this act, in 32 V.S.A. § 9610(d), the first $2,500,000.00 of revenue generated from the property transfer tax is transferred to the Vermont Housing Finance Agency to service the bonds, notes, and other obligations incurred by the Agency pursuant to 10 V.S.A. § 621(22), the proceeds of which the Vermont Housing and Conservation Board shall use to create affordable housing pursuant to 10 V.S.A. § 314.

(c) Transferring the first $2,500,000.00 of property transfer tax revenues to the Vermont Housing Finance Agency for debt service causes a proportionate reduction in the amount of revenues available for allocation to the respective statutory recipients identified in subsection (a) of this section.

(d) To compensate for this reduction of available property transfer tax revenue, it is the intent of the General Assembly through this act to provide for the transfer of $2,500,000.00 to the Vermont Housing and Conservation Trust Fund, as follows:

(1) Sec. D.100(a)(2) of H.518 (2017) appropriates $11,304,840.00 in fiscal year 2018 from the Vermont Housing and Conservation Trust Fund to the Vermont Housing and Conservation Board. Upon the effective date of this act, the Board shall transfer the amount of $1,500,000.00 back to the Fund, resulting in a fiscal year 2018 total appropriation to the Board of $9,804,840.00. In fiscal year 2018 only, the Commissioner of Taxes shall transfer the amount of $1,500,000.00 from the Vermont Housing and Conservation Trust Fund to the General Fund.

(2) As provided in Sec. 9 of this act, from July 1, 2017 until July 1, 2019, pursuant to 32 V.S.A. § 9602a(d), the Commissioner of Taxes shall annually transfer the first $1,000,000.00 in revenue generated by the clean water surcharge of 0.2 percent to the Vermont Housing and Conservation Trust Fund. In fiscal year 2018 only, the Commissioner shall transfer the amount of $1,000,000.00 from the Vermont Housing and Conservation Trust Fund to the General Fund.

(3) After July 1, 2019, pursuant to 32 V.S.A. § 9602a(d) as further amended in Sec. 10 of this act, the Commissioner of Taxes shall annually transfer the $1,000,000.00 in total revenue generated by the clean water surcharge of 0.04 percent to the Vermont Housing and Conservation Trust Fund.

* * * Clean Water Surcharge; Repeal of 2018 Sunset * * *

Sec. 8. REPEAL; SUNSET OF CLEAN WATER SURCHARGE

2015 Acts and Resolves No. 64, Sec. 39 (sunset of clean water surcharge in 2018) is repealed.

* * * Clean Water Surcharge; Allocation of First $1 Million in Revenue until 2019 * * *

Sec. 9. 32 V.S.A. § 9602a is amended 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 or the first $200,000.00 in value of property transferred if the purchaser obtains a purchase money mortgage funded in part with a homeland grant through the Vermont Housing and Conservation Trust Fund or which the Vermont Housing and Finance Agency or U.S. Department of Agriculture and Rural Development has committed to make or purchase. 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, except for the first $1,000,000.00 of revenue generated by the surcharge, which shall be deposited in the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312.

* * * Clean Water Surcharge; Allocation of Total of $1 Million in Revenue after 2019 * * *

Sec. 10. 32 V.S.A. § 9602a is amended to read:

§ 9602a. CLEAN WATER SURCHARGE

There shall be a surcharge of ~~0.2~~ 0.04 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 or the first $200,000.00 in value of property transferred if the purchaser obtains a purchase money

mortgage funded in part with a homeland grant through the Vermont Housing and Conservation Trust Fund or which the Vermont Housing and Finance Agency or U.S. Department of Agriculture and Rural Development has committed to make or purchase. 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, except for the first $1,000,000.00 of revenue generated by the surcharge, which shall be deposited~~ in the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312.

* * * Repeal of Affordable Housing Bond Provisions After Life of Bond * * *

Sec. 11. REPEAL

The following shall be repealed on July 1, 2039:

(1) 10 V.S.A. § 314 (Vermont Housing and Conservation Board; affordable housing bond and investments).

(2) 32 V.S.A. § 9610(d) (property transfer tax priority for affordable housing debt repayment).

(3) 10 V.S.A. § 621(22) (Vermont Housing Finance Agency (VHFA) authority to issue debt obligations secured by property transfer tax).

(4) 10 V.S.A. § 631(l) (debt obligations issued by VHFA).

(5) 32 V.S.A. § 9602a (clean water surcharge).

Sec. 12. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except for Sec. 10 (reduction in clean water surcharge percentage), which shall take effect on July 1, 2019.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the recommendation of amendment of the Committee on Finance be amended as recommended by the Committee on Appropriations?, Senator Sirotkin moved that the report of the Committee on Finance be withdrawn.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Appropriations?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered on a roll call Yeas 28, Nays 1.

Senator Balint 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, Benning, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pearson, Pollina, Rodgers, Sirotkin, Starr, Westman, White.

The Senator who voted in the negative was: Sears.

The Senator absent and not voting was: Baruth.

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

Thereupon, the bill was read the third time and passed.

Thereupon, on motion of Senator Mullin, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Rules Suspended; Bill Messaged

On motion of Senator Ashe, the rules were suspended, and the following bill was ordered messaged to the House forthwith:

S.61.

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

H. 218.

House bill entitled:

An act relating to the adequate shelter of dogs and cats.

Was taken up.

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

First: In Sec. 2, 13 V.S.A. § 365, by striking out subdivision (c)(3)(A) in its entirety and inserting in lieu thereof the following:

(3)(A) A cat over the age of two months shall be provided a minimum living space that is large enough to allow the cat, in a normal manner, to turn about freely, stand, sit, and lie down. A cat shall be presumed to have minimum living space if provided with floor space of at least eight square feet and a primary structure of at least 24 inches in height. Floor space shall be calculated to include any raised resting platforms provided.

Second: In Sec. 2, 13 V.S.A. § 365, in subdivision (c)(5), by striking out the following: "Dogs or cats that are housed in the same primary living space or enclosure shall be compatible, as determined by observation, provided that:"

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 Ashe, the rules were suspended and the bill was ordered messaged to the House forthwith.

Committee of Conference Appointed

H. 515.

An act relating to Executive Branch and Judiciary fees.

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

Senator Lyons
Senator Cummings
Senator Campion

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

Recess

On motion of Senator Ashe the Senate recessed until 4:00 P.M.

Called to Order

The Senate was called to order by the President.

Message from the House No. 59

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

Mr. President:

I am directed to inform the Senate that:

The Governor has informed the House that on the May 1, 2017, he approved and signed bills originating in the House of the following titles:

H. 4. An act relating to calculating time periods in court proceedings.

H. 85. An act relating to captive insurance companies.

H. 152. An act relating to the Vermont Revised Uniform Fiduciary Access to Digital Assets Act.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 74.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to nonconsensual sexual conduct.

Was taken up for immediate consideration.

Senator Sears, for the Committee of Conference, submitted the following report:

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

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

H.74. An act relating to nonconsensual sexual conduct.

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

Sec. 1. 13 V.S.A. § 2601a is added to read:

§ 2601a. PROHIBITED CONDUCT

(a) No person shall engage in open and gross lewdness.

(b) A person who violates this section shall:

(1) be imprisoned not more than one year or fined not more than $300.00, or both, for a first offense; and

(2) be imprisoned not more than two years or fined not more than $1,000.00, or both, for a second or subsequent offense.

Sec. 2. 13 V.S.A. § 2632 is amended to read:

§ 2632. ~~PROHIBITED ACTS~~ PROSTITUTION

* * *

Sec. 3. 13 V.S.A. § 1030 is amended to read:

§ 1030. VIOLATION OF AN ABUSE PREVENTION ORDER, AN ORDER AGAINST STALKING OR SEXUAL ASSAULT, OR A PROTECTIVE ORDER CONCERNING CONTACT WITH A CHILD

(a) A person who intentionally commits an act prohibited by a court or who fails to perform an act ordered by a court, in violation of an abuse prevention order issued under 15 V.S.A. chapter 21 ~~of Title 15~~ or 33 V.S.A. chapter 69 ~~of Title 33~~, a protective order that concerns contact with a child and is issued under 33 V.S.A. chapter 51 ~~of Title 33~~, or an order against stalking or sexual assault issued under 12 V.S.A. chapter 178 ~~of Title 12~~, after the person has been served notice of the contents of the order as provided in those chapters; or in violation of a foreign abuse prevention order or an order against stalking or sexual assault issued by a court in any other state, federally recognized Indian tribe, territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia; shall be imprisoned not more than one year or fined not more than $5,000.00, or both.

(b) A person who is convicted of a second or subsequent offense under this section or is convicted of an offense under this section and has previously been convicted of domestic assault under section 1042 of this title, first degree aggravated domestic assault under section 1043 of this title, or second degree aggravated domestic assault under section 1044 of this title shall be imprisoned not more than three years or fined not more than $25,000.00, or both.

(c) Upon conviction under this section for a violation of an order issued under 15 V.S.A. chapter 21 ~~of Title 15~~, the court shall, unless the circumstances indicate that it is not appropriate or not available, order the defendant to participate in domestic abuse counseling or a domestic abuse prevention program approved by the ~~department of corrections~~ Department of Corrections. The defendant may at any time request the court to approve an alternative program. The defendant shall pay all or part of the costs of the counseling or program unless the court finds that the defendant is unable to do so.

(d) Upon conviction for a violation of an order issued under 12 V.S.A. chapter 178 ~~of Title 12~~, the court may order the defendant to participate in mental health counseling or sex offender treatment approved by the ~~department of corrections~~ Department of Corrections. The defendant shall pay all or part of the costs of the counseling unless the court finds that the defendant is unable to do so.

(e) Nothing in this section shall be construed to diminish the inherent authority of the courts to enforce their lawful orders through contempt proceedings.

(f) Prosecution for violation of an abuse prevention order or an order against stalking or sexual assault shall not bar prosecution for any other crime, including any crime that may have been committed at the time of the violation of the order.

Sec. 4. 13 V.S.A. § 3281 is added to read:

§ 3281. SEXUAL ASSAULT SURVIVORS' RIGHTS

(a) Short title. This section may be cited as the "Bill of Rights for Sexual Assault Survivors."

(b) Definition. As used in this section, "sexual assault survivor" means a person who is a victim of an alleged sexual offense.

(c) Survivors' rights. When a sexual assault survivor makes a verbal or written report to a law enforcement officer, emergency department, sexual assault nurse examiner, or victim's advocate of an alleged sexual offense, the recipient of the report shall provide written notification to the survivor that he or she has the following rights:

(1) The right to receive a medical forensic examination and any related toxicology testing at no cost to the survivor in accordance with 32 V.S.A. § 1407, irrespective of whether the survivor reports to or cooperates with law enforcement. If the survivor opts to have a medical forensic examination, he or she shall have the following additional rights:

(A) the right to have the medical forensic examination kit or its probative contents delivered to a forensics laboratory within 72 hours of collection;

(B) the right to have the sexual assault evidence collection kit or its probative contents preserved without charge for the duration of the maximum applicable statute of limitations;

(C) the right to be informed in writing of all policies governing the collection, storage, preservation, and disposal of a sexual assault evidence collection kit;

(D) the right to be informed of a DNA profile match on a kit reported to law enforcement or on a confidential kit, on a toxicology report, or on a medical record documenting a medical forensic examination, if the disclosure would not impede or compromise an ongoing investigation; and

(E) upon written request from the survivor, the right to:

(i) receive written notification from the appropriate official with custody not later than 60 days before the date of the kit's intended destruction or disposal; and

(ii) be granted further preservation of the kit or its probative contents.

(2) The right to consult with a sexual assault advocate.

(3) The right to information concerning the availability of protective orders and policies related to the enforcement of protective orders.

(4) The right to information about the availability of, and eligibility for, victim compensation and restitution.

(5) The right to information about confidentiality.

(d) Notification protocols. The Vermont Network Against Domestic and Sexual Violence and the Sexual Assault Nurse Examiner Program, in consultation with other parties referred to in this section, shall develop protocols and written materials to assist all responsible entities in providing notification to victims.

Sec. 5. 13 V.S.A. § 4501 is amended to read:

§ 4501. LIMITATION OF PROSECUTIONS FOR CERTAIN CRIMES

(a) Prosecutions for aggravated sexual assault, aggravated sexual assault of a child, sexual assault, human trafficking, aggravated human trafficking, murder, arson causing death, and kidnapping may be commenced at any time after the commission of the offense.

(b) Prosecutions for manslaughter, ~~sexual assault,~~ lewd and lascivious conduct, ~~sexual exploitation of children under chapter 64 of this title,~~ sexual abuse of a vulnerable adult, grand larceny, robbery, burglary, embezzlement, forgery, bribery offenses, false claims, fraud under 33 V.S.A. § 141(d), and felony tax offenses shall be commenced within six years after the commission of the offense, and not after.

(c) Prosecutions for any of the following offenses ~~alleged to have been committed against a child under 18 years of age~~ shall be commenced within 40 years after the commission of the offense, and not after:

(1) ~~sexual assault;~~

~~(2)~~ lewd and lascivious conduct alleged to have been committed against a child under 18 years of age;

~~(3)~~(2) sexual exploitation of a minor as defined in subsection 3258(c) of this title;

~~(4)~~(3) lewd or lascivious conduct with a child; ~~and~~

~~(5)~~(4) sexual exploitation of children under chapter 64 of this title; and

(5) manslaughter alleged to have been committed against a child under 18 years of age.

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

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

Sec. 6. 14 V.S.A. § 315 is amended to read:

§ 315. PARENT AND CHILD RELATIONSHIP

(a) For the purpose of intestate succession, an individual is the child of his or her parents, regardless of their marital status, but a parent shall not inherit from a child unless the parent has openly acknowledged the child and not refused to support the child.

(b) The parent and child relationship may be established in parentage proceedings under ~~subchapter 3A of~~ 15 V.S.A. chapter 5 ~~of Title 15,~~ subchapter 3A.

(c) A parent shall not inherit from a child conceived of sexual assault who is the subject of a parental rights and responsibilities order issued pursuant to 15 V.S.A. § 665(f).

Sec. 7. 15 V.S.A. § 665 is amended to read:

§ 665. RIGHTS AND RESPONSIBILITIES ORDER; BEST INTERESTS OF THE CHILD

* * *

(f) The State has a compelling interest in not forcing a victim of sexual assault or sexual exploitation to continue an ongoing relationship with the perpetrator of the abuse. Such continued interaction can have traumatic psychological effects on the victim, making recovery more difficult, and negatively affect the victim's ability to parent and to provide for the best interests of the child. Additionally, the State recognizes that a perpetrator may use the threat of pursuing parental rights and responsibilities to coerce a victim into not reporting or not assisting in the prosecution of the perpetrator for the sexual assault or sexual exploitation, or to harass, intimidate, or manipulate the victim.

(1) The ~~Court~~ court may enter an order awarding sole parental rights and responsibilities to a parent and denying all parent-child contact with the other parent if the ~~Court~~ court finds by clear and convincing evidence that the nonmoving parent was convicted of sexually assaulting the moving parent and the child was conceived as a result of the sexual assault. As used in this subdivision, sexual assault shall include sexual assault as provided in 13 V.S.A. § 3252(a), (b), (d), and (e), aggravated sexual assault as provided in 13 V.S.A. § 3253, ~~and~~ aggravated sexual assault of a child as provided in 13 V.S.A. § 3253a, lewd and lascivious conduct with a child as provided in 13 V.S.A. § 2602, and similar offenses in other jurisdictions.

~~(A) An order issued in accordance with this subdivision (f)(1) shall be permanent and shall not be subject to modification.~~

~~(B) Upon issuance of a rights and responsibilities order pursuant to this subdivision (f)(1), the Court shall not issue a parent-child contact order and shall terminate any existing parent-child contact order concerning the child and the nonmoving parent.~~

(2) The ~~Court~~ court may enter an order awarding sole parental rights and responsibilities to one parent and denying all parent-child contact between the other parent and a child if the ~~Court~~ court finds by clear and convincing evidence that the child was conceived as a result of the nonmoving parent sexually assaulting or sexually exploiting the moving parent and the ~~Court~~ court finds by a preponderance of the evidence that such an order is in the best interest of the child. A conviction is not required under this subdivision, and the ~~Court~~ court may consider other evidence of sexual assault or sexual exploitation in making its determination.

~~(A)~~ For purposes of this subdivision (f)(2):

~~(i)~~(A) sexual assault shall include sexual assault as provided in 13 V.S.A. § 3252, aggravated sexual assault as provided in 13 V.S.A. § 3253, aggravated sexual assault of a child as provided in 13 V.S.A. § 3253a, lewd and lascivious conduct with a child as provided in 13 V.S.A. § 2602, and similar offenses in other jurisdictions; and

~~(ii)~~(B) sexual exploitation shall include sexual exploitation of an inmate as provided in 13 V.S.A. § 3257, sexual exploitation of a minor as provided in 13 V.S.A. § 3258, sexual abuse of a vulnerable adult as provided in 13 V.S.A. § 1379, and similar offenses in other jurisdictions.

~~(B) Except as provided in subdivision (f)(2)(C), the Court shall not issue a parent-child contact order in a case in which a parental rights and responsibilities order has been issued pursuant to this subdivision (f)(2) and any existing parent-child contact order concerning the child and the nonmoving parent shall be terminated.~~

~~(C) A party may file a motion for modification of the order only upon a showing of extraordinary, real, substantial, and unanticipated change of circumstances.~~

(3) Issuance of an order pursuant to this subsection shall not affect the right of the custodial parent to seek child support from the noncustodial parent.

(4) Upon issuance of a rights and responsibilities order pursuant to this subsection, the court shall not issue a parent-child contact order and shall terminate any existing parent-child contact order concerning the child and the nonmoving parent. An order issued in accordance with this subdivision shall be permanent and shall not be subject to modification.

Sec. 8. 15 V.S.A. § 1103 is amended to read:

§ 1103. REQUESTS FOR RELIEF

* * *

(c)(1) The ~~Court~~ court shall make such orders as it deems necessary to protect the plaintiff or the children, or both, if the ~~Court~~ court finds that the defendant has abused the plaintiff, and:

(A) there is a danger of further abuse; or

(B) the defendant is currently incarcerated and has been convicted of one of the following: murder, attempted murder, kidnapping, domestic assault, aggravated domestic assault, sexual assault, aggravated sexual assault, stalking, aggravated stalking, lewd or lascivious conduct with a child, use of a child in a sexual performance, or consenting to a sexual performance.

(2) The court order may include the following:

(A) an order that the defendant refrain from abusing the plaintiff~~,~~ or his or her children, or both, and from interfering with their personal liberty, including restrictions on the defendant's ability to contact the plaintiff or the plaintiff's children ~~in person, by phone, or by mail~~, or both, in any way, whether directly, indirectly, or through a third party, with the purpose of making contact with the plaintiff, including in writing or by telephone, e-mail, or other electronic communication, and restrictions prohibiting the defendant from coming within a fixed distance of the plaintiff, the children, the plaintiff's residence, or other designated locations where the plaintiff or the plaintiff's children are likely to spend time;

* * *

Sec. 9. 15 V.S.A. § 1104 is amended to read:

§ 1104. EMERGENCY RELIEF

(a) In accordance with the Vermont Rules of Civil Procedure, temporary orders under this chapter may be issued ex parte, without notice to the defendant, upon motion and findings by the ~~Court~~ court that the defendant has abused the plaintiff or ~~his or her~~ the plaintiff's children, or both. The plaintiff shall submit an affidavit in support of the order. A minor 16 years of age or older, or a minor of any age who is in a dating relationship as defined in subdivision 1101(2) of this chapter, may seek relief on his or her own behalf. Relief under this section shall be limited as follows:

(1) Upon a finding that there is an immediate danger of further abuse, an order may be granted requiring the defendant:

(A) to refrain from abusing the plaintiff or his or her children, or both, or from cruelly treating as defined in 13 V.S.A. § 352 or 352a or killing any animal owned, possessed, leased, kept, or held as a pet by either party or by a minor child residing in the household;

(B) to refrain from interfering with the plaintiff's personal liberty~~,~~ or the personal liberty of the plaintiff's children, or both; ~~and~~

(C) to refrain from coming within a fixed distance of the plaintiff, the plaintiff's children, the plaintiff's residence, or the plaintiff's place of employment; and

(D) to refrain from contacting the plaintiff or the plaintiff's children, or both, in any way, whether directly, indirectly, or through a third party, with the purpose of making contact with the plaintiff, including in writing or by telephone, e-mail, or other electronic communication.

* * *

Sec. 10. EFFECTIVE DATES

(a) This section and Secs. 1 (prohibited conduct), 6 (parent and child), 7 (rights and responsibilities order; best interests of the child), 8 (request for relief), and 9 (emergency relief) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2017.

And that after passage the title of the bill be amended to read:

An act relating to domestic and sexual violence.

RICHARD W. SEARS
MARGARET K FLORY
JEANETTE K. WHITE

Committee on the part of the Senate

MAXINE JO GRAD
RUQAIYAH K. MORRIS
EILEEN "LYNN" G. DICKINSON

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Third Reading Ordered

H. 58.

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

An act relating to awarding hunting and fishing licenses at no cost to persons 65 years of age or older.

Was taken up for immediate consideration.

Senator Rodgers, for the Committee on Natural Resources and Energy, to which the bill was referred, reported that the bill ought to pass in concurrence.

Senator Campion, for the Committee on Finance, to which the bill was referred, 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; Third Reading Ordered

H. 154.

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

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

Was taken up for immediate consideration.

Senator Pearson, for the Committee on Government Operations, to which the bill was referred, 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; Third Reading Ordered

H. 522.

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

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

Was taken up for immediate consideration.

Senator Pearson, for the Committee on Government Operations, to which the bill was referred, 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; Proposal of Amendment; Third Reading Ordered

H. 495.

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

An act relating to miscellaneous agriculture subjects.

Was taken up for immediate consideration.

Senator Collamore, for the Committee on Agriculture, 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:

* * * Administrative Penalty Process * * *

Sec. 1. 6 V.S.A. § 13 is amended to read:

§ 13. ASSURANCES OF DISCONTINUANCE

(a) As an alternative to administrative or judicial proceedings, the ~~secretary~~ Secretary may accept an assurance of discontinuance of any violation. An assurance of discontinuance may include~~, but need not be limited to~~:

(1) specific actions to be taken;

(2) abatement or mitigation schedules;

(3) payment of a civil or administrative penalty and the costs of investigation; or

(4) payment of an amount to be held in escrow pending the outcome of an action, or as restitution to aggrieved persons.

(b) An assurance of discontinuance shall be in writing, and may by its terms be filed with the ~~superior court~~ Superior Court having jurisdiction over the subject matter and become an order of the court. Evidence of a violation of an assurance of discontinuance shall be prima facie proof of the violation.

(c) Any violation of an assurance of discontinuance shall constitute a separate and distinct offense of the underlying regulatory program and shall be subject to the applicable general penalties for violations of the law under that program, in addition to any other applicable penalties.

(d) Costs of investigations collected under subsection (a) of this section shall be credited to a special fund and shall be available to the ~~agency~~ Agency to offset these costs.

Sec. 2. 6 V.S.A. § 16 is amended to read:

§ 16. NOTICE AND FAIR HEARING REQUIREMENTS

(a) The s~~ecretary~~ Secretary shall use the following procedures in assessing the penalty under section 15 of this title: the alleged violator shall be given an opportunity for hearing after reasonable notice and the notice shall be served by personal service or by certified mail~~, return receipt requested~~ sent to the last address of record on file with the Agency. If the alleged violator is not an applicant for or holder of a license, permit, registration, or certification issued by the Agency, the notice shall be served by personal service or by certified mail, return receipt requested. The notice shall include:

(1) ~~a~~ A statement of the legal authority and jurisdiction under which the hearing is to be held~~;~~.

(2) ~~a~~ A statement of the matter at issue, including reference to the particular statute or administrative rule allegedly violated and a factual description of the alleged violation~~;~~.

(3) ~~the~~ The amount of the proposed administrative penalty~~;~~ and required corrective action, abatement, or mitigation.

(4) ~~a~~ A warning that the decision shall become final and the penalty shall be imposed if no hearing is requested within 15 days of ~~receipt~~ service of the notice. The notice shall specify the requirements ~~which~~ that must be met in order to avoid being deemed to have waived the right to a hearing, or the manner of payment if the person elects to pay the penalty and waive a hearing.

(b) Any person who receives notification pursuant to this section shall be deemed to have waived the right to a hearing unless, within 15 days of the receipt of the notice, the person requests a hearing in writing. If the person waives the right to a hearing, the ~~secretary~~ Secretary shall issue a final order finding the person in default and imposing the penalty and any required corrective action, abatement, or mitigation. A copy of the final default order shall be ~~sent to~~ served upon the violator by certified mail, return receipt requested, or by personal service.

(c) When an alleged violator requests a hearing in a timely fashion, the ~~secretary~~ Secretary shall hold the hearing pursuant to 3 V.S.A. chapter 25.

Sec. 3. 6 V.S.A. § 17 is amended to read:

§ 17. COLLECTIONS

(a) The ~~secretary~~ Secretary may collect an unpaid administrative or civil penalty by filing a civil collection action in any ~~district or superior court,~~ Superior Court or through any other means available to ~~state~~ State agencies.

(b) The ~~secretary~~ Secretary may, subject to 3 V.S.A. chapter 25, suspend any license, certificate, registration, or permit issued pursuant to his or her authority for failure to pay a penalty under this chapter more than ~~60~~ 45 days after the penalty was ~~issued~~ imposed by order and served.

* * * Acceptance of Gifts of Real Property * * *

Sec. 4. 6 V.S.A. § 14 is amended to read:

§ 14. ACCEPTANCE OF GIFTS OF REAL PROPERTY

The ~~secretary~~ Secretary, with the approval of the ~~governor~~ Governor, may accept gifts of the rights and interests in real property in the manner provided by 10 V.S.A. chapter 155. Rights or interests in real property acquired by the Secretary through transactions funded in whole or in part by the Vermont Housing and Conservation Board are deemed as accepted by the Governor.

* * * Meat Inspection * * *

Sec. 5. 6 V.S.A. § 3306(i) is amended to read:

(i) All applicants for licensure or relicensure as a commercial slaughter facility shall submit a written humane livestock handling plan or a good commercial practices plan for poultry for review and approval by the Secretary of Agriculture, Food and Markets or designee. The Secretary may suspend, revoke, or condition any commercial slaughter facility license, after notice and opportunity for hearing, for a licensee's failure to adhere to the written plan.

* * * Weights and Measures * * *

Sec. 6. 9 V.S.A. § 2730(c) is amended to read:

(c) Any person wishing to obtain a license to operate a weighing or measuring device shall annually apply to the Secretary, on forms provided by the Secretary, on or before January 1. Each application shall be accompanied by a fee as specified in this section. Except for new applicants, any applicant who applies for a license after January 1 shall pay ~~an additional late fee equal to 10 percent of the specified fee~~ a late fee as provided for under 6 V.S.A. § 1(a)(13).

* * * Working Lands * * *

Sec. 7. 6 V.S.A. § 4607(b) is amended to read:

(b) Powers. The Vermont Working Lands Enterprise Board shall have the authority:

* * *

(6) to establish an application process ~~and~~, eligibility criteria, and criteria for prioritizing assistance for awarding grants, loans, incentives, and other investments in agricultural and forestry enterprises and in food and forest systems~~, provided that the Board shall prioritize assistance under this chapter to a person engaged in farming or forestry before providing assistance to a nonprofit organization or nonprofit corporation for a project that competes with a person engaged in farming or forestry;~~. The Board shall give first priority for awards under this subdivision to persons engaged in farming or forestry. Second priority shall be given to nonprofit organizations or nonprofit corporations that compete with persons engaged in farming or forestry.

* * *

Sec. 8. WORKING LANDS ENTERPRISE BOARD; CRITERIA FOR PRIORITIZING AWARDS

On or before January 15, 2018, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry the guidelines that the Working Lands Enterprise Board shall use in prioritizing awards of assistance under 10 V.S.A. § 4607(b)(6).

* * * Multi-year Licensing * * *

Sec. 9. 6 V.S.A. § 1 is amended to read:

§ 1. GENERAL POWERS OF AGENCY; SECRETARY OF AGRICULTURE, FOOD AND MARKETS

(a) The Agency of Agriculture, Food and Markets shall be administered by a Secretary of Agriculture, Food and Markets. The Secretary shall supervise and be responsible for the execution and enforcement of all laws relating to agriculture and standards of weight and measure. The Secretary may:

* * *

(13) Notwithstanding any law to the contrary in this title or Title 9 or 20, issue all licenses, permits, registrations, or certificates under a program administered by the Secretary for a term of up to three years; renew and issue such licenses, permits, registrations, and certificates on any calendar cycle; collect any annual fee set by law for ~~such~~ the multiyear licensure, permit,

registration, or certificate on a pro-rated basis, which shall not exceed 150 percent of the annual fee for an 18-month cycle, 200 percent of the annual fee for a two-year cycle, or 300 percent of the annual fee for a three-year cycle; and conduct inspections at regulated premises at least once every three years when inspection is required by law. The authority to mandate licenses, permits, registrations, or certificates for more than one year shall not extend to any program administered by the Secretary ~~where~~ for which the annual fee is more than ~~$125.00~~ $175.00. The Secretary shall only provide refunds for overpayments of $25.00 or more on a license, permit, registration, or certificate issued by the Secretary. The Secretary may assess a late fee of $27.00, provided that the late fee is no greater than the fee due, in which case the late fee shall equal the fee due, for any license, registration, permit, or certification renewal that is received more than 30 days past expiration, unless a higher late renewal fee is otherwise prescribed by statute.

* * *

* * * Subsurface Tile Drainage * * *

Sec. 10. 6 V.S.A. § 4810a(b) is amended to read:

(b) On or before December 1, 2021, and prior to prefiling of a rule under 3 V.S.A. § 837, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry draft rules amending the required agricultural practices, in order to include requirements for reducing nutrient contribution to waters of the State from subsurface tile drainage. On or before ~~January 15, 2018~~ July 1, 2022, the Secretary of Agriculture, Food and Markets shall ~~amend by rule~~ initiate rulemaking to amend 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.

* * * Use Value Appraisal; Agricultural Lands * * *

Sec. 11. 32 V.S.A. § 3752 is amended to read:

§ 3752. DEFINITIONS

As used in this subchapter:

(1) "Agricultural land" means any land, exclusive of any housesite, in active use to grow hay or cultivated crops, pasture livestock ~~or to~~, cultivate trees bearing edible fruit, or produce an annual maple product, and ~~which~~ that is 25 acres or more in size, except as provided in this subdivision (1).

Agricultural land shall include buffer zones as defined and required in the Agency of Agriculture, Food and Markets' Required Agricultural Practices rule adopted under 6 V.S.A. chapter 215. There shall be a presumption that the land is used for agricultural purposes if:

(A) it is owned by a farmer and is part of the overall farm unit; or

(B) it is used by a farmer as part of his or her farming operation under written lease for at least three years; or

(C) it has produced an annual gross income from the sale of farm crops in one of two, or three of the five, calendar years preceding of at least:

(i) $2,000.00 for parcels of up to 25 acres; and

(ii) $75.00 per acre for each acre over 25, with the total income required not to exceed $5,000.00.

(iii) Exceptions to these income requirements may be made in cases of orchard lands planted to ~~fruit-producing~~ fruit-producing trees, bushes, or vines ~~which~~ that are not yet of bearing age. As used in this section, the term "farm crops" also includes animal fiber, cider, wine, and cheese, produced on the enrolled land or on a housesite adjoining the enrolled land, from agricultural products grown on the enrolled land.

* * *

(14) "Farm buildings" means all farm buildings and other farm improvements ~~which~~ that are actively used by a farmer as part of a farming operation, are owned by a farmer or leased to a farmer under a written lease for a term of three years or more, and are situated on land that is enrolled in a use value appraisal program or on a housesite adjoining enrolled land. "Farm buildings" shall include up to $100,000.00 of the value of a farm facility processing farm crops, a minimum of 75 percent of which are produced on the farm and shall not include any dwelling, other than a dwelling in use during the ~~preceding tax year~~ prior 12 months exclusively to house one or more farm employees, as defined in 9 V.S.A. § 4469a, and their families, as a nonmonetary benefit of the farm employment. This subdivision shall not affect the application of the definition of "farming" in 10 V.S.A. § 6001(22) or the definition of "farm structure" in 24 V.S.A. § 4413(d)(1).

* * *

Sec. 12. 32 V.S.A. § 3755 is amended to read:

§ 3755. ELIGIBILITY FOR USE VALUE APPRAISALS

(a) Except as modified by subsection (b) of this section, any agricultural land, managed forestland, and farm buildings ~~which~~ that meet the criteria

contained in this subchapter and in the ~~regulations~~ rules adopted by the Board shall be eligible for use value appraisal.

* * *

(d) After ~~a parcel of~~ managed forestland has been removed from use value appraisal due to an adverse inspection report under subdivision 3756(i)(1) of this title, a new application for use value appraisal ~~will~~ shall not be considered for a period of five years, and then shall be approved by the Department of Forests, Parks and Recreation only if a compliance report has been filed with the new application, certifying that appropriate measures have been taken to bring the parcel into compliance with minimum acceptable standards for forest or conservation management.

* * *

(f) On or before ~~September~~ November 1 of each year, the owner of agricultural land or buildings enrolled in the use value program as agricultural land or buildings shall certify in writing under oath to the Commissioner that the agricultural land or buildings enrolled by that owner continue to meet the requirements for enrollment in the use value program at the time of the certification. The form of the certification shall be made on a form specified by the Director of Property Valuation and Review.

* * * Raw Milk * * *

Sec. 13. 6 V.S.A. § 2776 is amended to read:

§ 2776. DEFINITIONS

In this chapter:

(1) "Consumer" means a customer who purchases, barters for, receives delivery of, or otherwise acquires unpasteurized milk according to the requirements of this chapter.

(2) "Milk" shall have the same meaning as set forth in section 2672 of this title.

(3) "Personal consumption" means the use by a consumer of unpasteurized milk for food or to create a food product made with or from unpasteurized milk that is intended to be ingested by the consumer, members of his or her household, or any nonpaying guests.

~~(3)~~(4) "Unpasteurized milk" or "unpasteurized (raw) milk" means milk that is unprocessed.

~~(4)~~(5) "Unprocessed" means milk that has not been modified from the natural state it was in as it left the animal, other than filtering, packaging, and cooling.

* * * Department of Forests, Parks and Recreation;
Water Quality Assistance * * *

Sec. 14. 10 V.S.A. § 2622a is added to read:

§ 2622a. WATER QUALITY ASSISTANCE PROGRAM

(a) Creation of program. There is established the Water Quality Assistance Program under which the Commissioner of Forests, Parks and Recreation shall provide technical and financial assistance to timber harvesters and others for compliance with water quality requirements in the State. The Commissioner of Forests, Parks and Recreation shall coordinate with natural resources conservation districts in the implementation of the Program.

(b) Eligible assistance. Under the Program, the Commissioner of Forests, Parks and Recreation is authorized to expend monies for the following activities in order to facilitate compliance with water quality requirements:

(1) Award financial assistance in the form of grants to timber harvesters and others to purchase or construct skidder bridges and other equipment.

(2) Purchase premade skidder bridges and other equipment to loan or lease to timber harvesters and others.

(3) Purchase available, premade skidder bridges and other equipment and provide those bridges or equipment to cooperating processing plants for sale to timber harvesters and others at cost, subject to storage and handling fees.

(4) If premade skidder bridges are not available on the commercial market, issue in a calendar year two requests for proposal for the construction of skidder bridges for delivery to cooperating processing plants for sale to timber harvesters and others at cost, subject to storage and handling fees. The Commissioner shall issue one request for proposal for the northern part of the State and one request for proposal for the southern part of the State.

(c) Financial assistance. An applicant for a grant under this section shall pay at least 10 percent of the total cost of the equipment. The dollar amount of a State grant shall be equal to the total cost of the equipment, less 10 percent of the total as paid by the applicant. A grant awarded under this section shall be awarded in accordance with terms and conditions established by the Commissioner.

(d) Spill kit. The Commissioner shall provide a person who purchases, constructs, or loans out a skidder bridge under subsection (b) of this section with a spill kit for containing or absorbing fluids released during timber harvesting activities.

Sec. 15. APPROPRIATIONS

Of the capital funds appropriated to the Agency of Natural Resources in FY 2018 for ecosystem restoration and protection, up to $50,000.00 shall be used by the Department of Forests, Parks and Recreation for implementation of the Water Quality Assistance Program under 10 V.S.A. § 2622a.

* * * Forestry Equipment; Sales Tax; Gasoline Tax; Diesel Tax * * *

Sec. 16. 23 V.S.A. chapter 28, subchapter 1 is amended to read:

Subchapter 1: General Gasoline Tax

§ 3101. DEFINITIONS

As used in this chapter:

* * *

(3) As used in this subchapter, "gasoline or other motor fuel" or "motor fuel" shall not include the following: kerosene, ~~diesel oil~~ clear or undyed diesel "fuel" as defined in section 3002 of this title, "railroad fuel" as defined in section 3002 of this title, aircraft jet fuel, or natural gas in any form. Except for "railroad fuel" taxed under section 3003 of this title, the taxation or exemption from taxation of dyed diesel fuel is not addressed under this title.

* * *

Sec. 17. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(7)(A) ~~Sales~~ Except as provided in subdivision (B) of this subdivision (7), sales of:

(i) motor fuels taxed or exempted under 23 V.S.A. chapter 28;

(ii) dyed diesel used to power machinery described in subdivision (51) of this section; and

(iii) dyed diesel used to propel a vehicle off the highways of the State.

(B) ~~provided, however, that aviation~~ Aviation jet fuel and natural gas used to propel a motor vehicle shall be taxed under this chapter with the proceeds to be allocated to the ~~transportation fund~~ Transportation Fund in accordance with 19 V.S.A. § 11.

* * *

(51) The following machinery, including repair parts, used for timber cutting, timber removal, and processing of timber or other solid wood forest products intended to be sold ultimately at retail: skidders with grapple and cable, feller bunchers, cut-to-length processors, forwarders, delimbers, loader slashers, log loaders, whole-tree chippers, stationary screening systems, and firewood processors, elevators, and screens. The Department of Taxes shall publish guidance relating to the application of this exemption.

Sec. 18. 32 V.S.A. § 9706 is amended to read:

§ 9706. STATUTORY PURPOSES

* * *

(d) The statutory purpose of the exemption for fuels for railroads and boats, to propel vehicles, and to power machinery used in the timber industry, in subdivision 9741(7) of this title is to avoid the taxation of fuels:

(1) for the types of transportation for which public expenditure on infrastructure is unnecessary;

(2) that are already subject to taxation under 23 V.S.A. chapter 27 or 28 in support of public expenditure on infrastructure or are specifically exempt from taxation under either of those chapters; and

(3) in order to promote Vermont's commercial timber and forest products economy.

* * *

(kk) The statutory purpose of the exemption for timber cutting, removal, and processing machinery in subdivision 9741(51) of this title is to promote Vermont's commercial timber and forest products economy.

* * * Effective Dates * * *

Sec. 19. EFFECTIVE DATES

(a) This section and Secs. 13 (raw milk) and 14 (Forestry Water Quality Assistance Program) shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2017.

And that when so amended the bill ought to pass.

Senator Pollina, 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 Agriculture with the following amendment thereto:

By striking out Sec. 10 (subsurface tile drainage) in its entirety and inserting in lieu thereof a new Sec. 10 to read as follows:

* * * Subsurface Tile Drainage * * *

Sec. 10. 6 V.S.A. § 4810a(b) is amended to read:

(b)(1) On or before December 1, 2019, and prior to prefiling a rule under 3 V.S.A. § 837, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry draft rules amending the required agricultural practices, in order to include requirements for reducing nutrient contribution to waters of the State from subsurface tile drainage. On or before ~~January 15, 2018~~ July 1, 2020, the Secretary of Agriculture, Food and Markets shall ~~amend by rule~~ initiate rulemaking to amend 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.

(2)(A) Beginning on July 1, 2017, the Secretary of Natural Resources, in consultation with the Secretary of Agriculture, Food and Markets, shall establish a program to map the location of subsurface tile drainage on farms in the State and to monitor, to the extent possible, the water quality effects of subsurface tile drainage on State waters. Beginning on January 1, 2018, and annually thereafter, the Secretary of Natural Resources shall submit to the Senate Committees on Natural Resources and Energy and on Agriculture and the House Committees on Natural Resources, Fish and Wildlife and on Agriculture and Forestry a report that includes:

(i) a map of identified subsurface tile drainage in the State; and

(ii) a list of the specific response or enforcement actions taken by the Agency of Natural Resources or the Agency of Agriculture, Food and Markets to address the effects of subsurface tile drainage on the waters of the State.

(B) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required by this section.

And that when so amended the bill ought to pass.

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 Agriculture with the following amendment thereto:

By striking out Sec. 7 in its entirety and inserting in lieu a new Sec. 7 to read as follows:

Sec. 7. 6 V.S.A. § 4607(b) is amended to read:

(b) Powers. The Vermont Working Lands Enterprise Board shall have the authority:

* * *

(6) to establish an application process ~~and,~~ eligibility criteria, and criteria for prioritizing assistance for awarding grants, loans, incentives, and other investments in agricultural and forestry enterprises and in food and forest systems~~, provided that the Board shall prioritize assistance under this chapter to a person engaged in farming or forestry before providing assistance to a nonprofit organization or nonprofit corporation for a project that competes with a person engaged in farming or forestry~~;

* * *

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the proposal of amendment of the Committee on Agriculture be amended as recommended by the Committee on Finance?, Senator Benning moved to amend the report of the Committee on Finance in Sec. 10, 6 V.S.A. § 4810(b)2(A) by striking out the following: "January 1, 2018" and inserting in lieu thereof the following: January 1, 2022

Which was disagreed to.

Thereupon, the question, Shall the recommendation of proposal of amendment of the Committee on Agriculture be amended as recommended by the Committee on Finance was agreed to.

Thereupon, the proposal of amendment recommended by the Committee on Agriculture, as amended, was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Agriculture, as amended, was agreed to and third reading of the bill was ordered.

Rules Suspended; Bill Messaged

On motion of Senator Ashe, the rules were suspended, and the following bill was ordered messaged to the House forthwith:

H. 74.

Adjournment

On motion of Senator Ashe, the Senate adjourned until ten o'clock in the morning.

THURSDAY, MAY 4, 2017

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. 60

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, 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. 10. An act relating to liability for the contamination of potable water supplies.

S. 72. An act relating to requiring telemarketers to provide accurate caller identification information.

And has passed the same in concurrence.

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

S. 8. An act relating to establishing the State Ethics Commission and standards of governmental ethical conduct.

S. 33. An act relating to the Rozo McLaughlin Farm-to-School Program.

S. 112. An act relating to creating the Spousal Support and Maintenance Task Force.

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

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

J.R.S. 18. Joint resolution in support of combating the rise in hate crimes and bigotry.

And has adopted the same in concurrence.

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. 16. An act relating to expanding patient access to the Medical Marijuana Registry.

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

Rep. Pugh of South Burlington
Rep. Haas of Rochester
Rep. McFaun of Barre Town

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

H. 516. An act relating to miscellaneous tax changes.

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. Young of Glover
Rep. Baser of Bristol

Message from the House No. 61

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, 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 of the following title:

H. 506. An act relating to professions and occupations regulated by the Office of Professional Regulation.

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 bill of the following title:

H. 509. An act relating to calculating statewide education tax rates.

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 bill of the following title:

H. 512. An act relating to the procedure for conducting recounts.

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

House Proposal of Amendment Concurred In

S. 3.

House proposal of amendment to Senate bill entitled:

An act relating to mental health professionals' duty to warn.

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:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) The overwhelming majority of people diagnosed with mental illness are not more likely to be violent than any other person; the majority of interpersonal violence in the United States is committed by people with no diagnosable mental illness.

(2) Generally, there is no legal duty to control the conduct of another to protect a third person from harm. However, in 1985, the Vermont Supreme Court recognized an exception to this common law rule where a special relationship exists between two persons, such as between a mental health professional and a client or patient. In *Peck v. Counseling Service of Addison County, Inc.*, the Vermont Supreme Court ruled that "a mental health professional who knows or, based upon the standards of the mental health profession, should know that his or her patient poses a serious risk of danger to an identifiable victim has a duty to exercise reasonable care to protect him or her from that danger."

(3) The *Peck* standard has been understood and applied by mental health professionals in their practices for more than 30 years.

(4) In 2016, the Vermont Supreme Court decided the case *Kuligoski v. Brattleboro Retreat and Northeast Kingdom Human Services* and created for mental health professionals a new and additional legal "duty to provide information" to caregivers to "enable [the caregivers] to fulfill their role in

keeping [the patient] safe" if that patient has violent propensities and "the caregiver is himself or herself within the zone of danger of the patient's violent propensities."

(5) The *Kuligoski* decision has been seen by many mental health professionals as unworkable. First, unlike the *Peck* duty, the *Kuligoski* decision does not require the risk be serious or imminent. This puts providers in a position of violating the Health Insurance Portability and Accountability Act, Pub. L. 104-191, the federal law regarding the confidentiality of patient records. Second, unlike the *Peck* duty, the *Kuligoski* decision does not require that the prospective victim be identifiable. Third, the *Kuligoski* decision singles out caregivers and potentially creates a situation in which they could be held liable for the actions of the person for whom they are caring. Fourth, the *Kuligoski* decision imposes a duty on mental health facilities and professionals to protect the public from patients and clients who are no longer in their care or under their control.

Sec. 2. 18 V.S.A. § 1882 is added to read:

§ 1882. DISCLOSURES OF PROTECTED HEALTH INFORMATION TO AVERT A SERIOUS RISK OF DANGER

(a) It is the intent of the General Assembly in this section to negate the Vermont Supreme Court's decision in *Kuligoski v. Brattleboro Retreat and Northeast Kingdom Human Services*, 2016 VT 54A, and limit mental health professionals' duty to that as established in common law by *Peck v. Counseling Service of Addison County, Inc.*, 146 Vt. 61 (1985).

(b) A mental health professional's duty is established in common law by *Peck v. Counseling Service of Addison County, Inc.* and requires that "a mental health professional who knows or, based upon the standards of the mental health profession, should know that his or her patient poses a serious risk of danger to an identifiable victim has a duty to exercise reasonable care to protect him or her from that danger." This duty shall be applied in accordance with State and federal privacy and confidentiality laws.

(c) This section does not limit or restrict claims under State or federal law related to safe patient care, including federal discharge planning regulations within the Conditions of Participation for hospitals, patient care regulations for other federally certified facilities, the Emergency Medical Treatment and Active Labor Act of 1986, Pub. Law 99-272, professional licensing standards, or facility licensing standards.

(d) To the extent permitted under federal law, this section does not affect the requirements for mental health professionals to communicate with individuals involved in a patient's care in a manner that is consistent with legal and professional standards, including section 7103 of this title.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative on a roll call Yeas 24, Nays 4.

Senator Ashe 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, Baruth, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Lyons, MacDonald, Mazza, Mullin, Pearson, Pollina, Rodgers, Sears, Starr, Westman, White.

Those Senators who voted in the negative were: Benning, McCormack, Nitka, Sirotkin.

Those Senators absent and not voting were: Balint, Kitchel.

Bills Passed in Concurrence

House bills of the following titles were severally read the third time and passed in concurrence:

H. 58. An act relating to awarding hunting and fishing licenses at no cost to persons 65 years of age or older.

H. 154. An act relating to approval of amendments to the charter of the City of Burlington and to charter amendment procedure.

H. 312. An act relating to retirement and pensions.

H. 522. An act relating to approval of amendments to the charter of the City of Burlington.

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

H. 495.

House bill entitled:

An act relating to miscellaneous agriculture subjects.

Was taken up.

Thereupon, pending third reading of the bill, Senators Collamore, Branagan, Brooks, Pollina and Starr moved to amend the Senate proposal of amendment by adding a new section to be numbered Sec. 18a to read as follows:

* * *Nutrient Management Plans* * *

Sec. 18a. 6 V.S.A. § 61 is amended to read:

§ 61. INFORMATION COLLECTION AND CONFIDENTIALITY

(a) The ~~secretary~~ Secretary may collect information on subjects within the jurisdiction of the ~~agency~~ Agency, including data obtained from questionnaires, surveys, physical samples, and laboratory analyses conducted by the ~~agency~~ Agency. Such information shall be available upon request to the public, provided that it is presented in a form ~~which~~ that does not disclose the identity of individual persons, households, or businesses from whom the information was obtained, or whose characteristics, activities, or products the information is about.

(b) Nutrient management plans or nutrient management plan data produced or acquired by the Agency under chapter 215 of this title are exempt from public inspection and copying under the Public Records Act. The Agency may release to the public nutrient management data compiled in aggregate form, provided that the Agency does not disclose the identity of individual persons, households, or businesses from whom the information was obtained.

Which was agreed to.

Thereupon, the bill was passed in concurrence with proposal of amendment.

Rules Suspended; Third Readings Ordered; Rules Suspended; Bill Messaged

H. 241.

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

An act relating to the charter of the Central Vermont Solid Waste Management District.

Was taken up for immediate consideration.

Senator Collamore, for the Committee on Government Operations, to which the bill was referred, 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 Mazza, the rules were suspended and the bill was placed in all remaining stages of its passage in concurrence forthwith.

Thereupon, the bill was read the third time and passed in concurrence.

Thereupon, on motion of Senator Ashe, the rules were suspended, and the bill was ordered messaged to the House forthwith.

H. 529.

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

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

Was taken up for immediate consideration.

Senator Collamore, for the Committee on Government Operations, to which the bill was referred, 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 Mazza, the rules were suspended and the bill was placed in all remaining stages of its passage in concurrence forthwith.

Thereupon, the bill was read the third time and passed in concurrence.

Thereupon, on motion of Senator Ashe, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 171.

Senator Sears, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

H. 171. An act relating to expungement.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 8005 is amended to read:

§ 8005. NOTICE OF COLLATERAL CONSEQUENCES AND ELIGIBILITY FOR EXPUNGEMENT IN PRETRIAL PROCEEDING

* * *

(b) Before the ~~Court~~ court accepts a plea of guilty or nolo contendere from an individual, the ~~Court~~ court shall:

(1) confirm that the individual received the notice required by subsection (a) of this section and had an opportunity to discuss the notice with counsel, if represented, and understands that there may be collateral consequences to a conviction; and

(2) provide written notice, as part of a written plea agreement or through another form, of the following:

(A) that collateral consequences may apply because of the conviction;

(B) the Internet address of the collection of laws published under this chapter;

(C) that there may be ways to obtain relief from collateral consequences;

(D) that the conviction may be eligible for expungement or sealing pursuant to section 7602 of this title;

(E) contact information for government or nonprofit agencies, groups, or organizations, if any, offering assistance to individuals seeking relief from collateral consequences; and

~~(E)~~(F) that conviction of a crime in this State does not prohibit an individual from voting in this State.

Sec. 2. 13 V.S.A. § 8006 is amended to read:

§ 8006. NOTICE OF COLLATERAL CONSEQUENCES AND ELIGIBILITY FOR EXPUNGEMENT UPON RELEASE

(a) Prior to the completion of a sentence, an individual in the custody of the Commissioner of Corrections shall be given written notice of the following:

(1) that collateral consequences may apply because of the conviction;

(2) the Internet address of the collection of laws published under this chapter;

(3) that there may be ways to obtain relief from collateral consequences;

(4) that the conviction may be eligible for expungement or sealing pursuant to section 7602 of this title;

(5) contact information for government or nonprofit agencies, groups, or organizations, if any, offering assistance to individuals seeking relief from collateral consequences; and

~~(5)~~(6) that conviction of a crime in this State does not prohibit an individual from voting in this State.

(b) For persons sentenced to incarceration, the notice shall be provided not more than 30 days and at least 10 days before completion of the sentence. If the sentence is for a term of less than 30 days then notice shall be provided when the sentence is completed.

(c) For persons receiving a sentence involving community supervision, such as probation, furlough, home confinement, conditional reentry, or parole, the notice shall be provided by the Department of Corrections in keeping with its mission of ensuring rehabilitation and public safety.

(d) For persons receiving a penalty involving a fine only, the court shall, at the time of the judgment, provide either oral or written notice that the conviction may be eligible for expungement or sealing pursuant to section 7602 of this title.

Sec. 3. 13 V.S.A. § 7601(4) is amended to read:

(4) "Qualifying crime" means:

(A) a misdemeanor offense ~~which~~ that is not:

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

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

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

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

(v) a predicate offense;

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

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

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

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

Sec. 4. 13 V.S.A. § 7602 is amended to read:

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

* * *

(b)(1) The ~~Court~~ court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:

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

(B) The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted for the qualifying crime.

(C) Any restitution ordered by the ~~Court~~ court has been paid in full.

(D) The ~~Court~~ court finds that expungement of the criminal history record serves the interest of justice.

(2) The ~~Court~~ court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A), (B), and (C) of this subsection are met and the ~~Court~~ court finds that:

(A) sealing the criminal history record better serves the interest of justice than expungement; and

(B) the person committed the qualifying crime after reaching 19 years of age.

(c)(1) The ~~Court~~ court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:

(A) At least ~~20~~ 10 years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction.

(B) The person has not been convicted of a felony arising out of a new incident or occurrence since the person was convicted of the qualifying crime.

(C) The person has not been convicted of a misdemeanor during the past ~~15~~ five years.

(D) Any restitution ordered by the ~~Court~~ court for any crime of which the person has been convicted has been paid in full.

(E) After considering the particular nature of any subsequent offense, the ~~Court~~ court finds that expungement of the criminal history record for the qualifying crime serves the interest of justice.

(2) The ~~Court~~ court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A), (B), (C), and (D) of this subsection are met and the ~~Court~~ court finds that:

(A) sealing the criminal history record better serves the interest of justice than expungement; and

(B) the person committed the qualifying crime after reaching 19 years of age.

(d) ~~The Court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:~~

~~(1) The petitioner committed the qualifying crime or crimes prior to reaching 25 years of age.~~

~~(2) At least five years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least five years previously.~~

~~(3) The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted of the qualifying crime.~~

~~(4) The person successfully completed a term of regular employment or public service, independent of any service ordered as a part of the petitioner's sentence for the conviction, and as approved by the Community Justice Network of Vermont, which may include:~~

~~(A) community service hours completed without compensation, reparation of harm to the victim, or education regarding ways not to reoffend, or a combination of the three;~~

~~(B) at least one year of service in the U.S. Armed Forces, followed by an honorable discharge or continued service in good standing;~~

~~(C) at least one year of service in AmeriCorps or another local, state, national, or international service program, followed by successful completion of the program or continued service in good standing; or~~

~~(D) at least one year of regular employment.~~

~~(5) Any restitution ordered by the Court for any crime of which the person has been convicted has been paid in full.~~

~~(6) The Court finds that expungement of the criminal history record serves the interest of justice.~~

~~(c)~~ For petitions filed pursuant to subdivision (a)(1)(B) of this section, unless the court finds that expungement would not be in the interest of justice, the ~~Court~~ court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:

(1) ~~At least one year has elapsed since the completion of~~ The petitioner has completed any sentence or supervision for the offense~~, whichever is later~~.

(2) Any restitution ordered by the ~~Court~~ court has been paid in full.

~~(3) The Court finds that expungement of the criminal history record serves the interest of justice.~~

* * *

Sec. 5. 13 V.S.A. § 7605 is amended to read:

§ 7605. DENIAL OF PETITION

If a petition for expungement is denied by the ~~Court~~ court pursuant to this chapter, no further petition shall be brought for at least ~~five~~ two years, unless a shorter duration is authorized by the court.

Sec. 6. 13 V.S.A. § 7606 is amended to read:

§ 7606. EFFECT OF EXPUNGEMENT

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

* * *

Sec. 7. SECRETARY OF STATE; ATTORNEY GENERAL; REPORT

The Secretary of State, in consultation with the Attorney General, shall evaluate how to comply with the requirements of 13 V.S.A. chapter 230 and, on or before January 15, 2018, report to the House and Senate Committees on Judiciary to confirm such compliance.

Sec. 8. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except for Sec. 3 (13 V.S.A. § 7601(4)), subdivision (E), which shall take effect on January 1, 2018.

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

Committee on the part of the Senate

MARTIN J. LALONDE
CHARLES W. CONQUEST
JANSSEN D. WILLHOIT

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Third Reading Ordered; Rules Suspended; Bill Passed; Bill Messaged

H. 534.

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

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

Was taken up for immediate consideration.

Senator Collamore, for the Committee on Government Operations, to which the bill was referred, 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 Mazza, the rules were suspended and the bill was placed in all remaining stages of its passage in concurrence forthwith.

Thereupon, the bill was read the third time and passed in concurrence.

Thereupon, on motion of Senator Ashe, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Rules Suspended; Bills Messaged

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

H. 58, H. 154, H. 171, H. 312, H. 495, H. 522.

Adjournment

On motion of Senator Ashe, the Senate adjourned until two o'clock in the afternoon.

Called to Order

The Senate was called to order by the President *pro tempore*

Message from the House No. 62

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, 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. 34. An act relating to cross-promoting development incentives and State policy goals.

S. 135. An act relating to promoting economic development.

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

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

H. 238. An act relating to modernizing and reorganizing Title 7.

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. Head of South Burlington
Rep. Stevens of Waterbury
Rep. Gonzalez of Winooski.

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

S. 9. An act relating to the preparation of poultry products.

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. Buckholz of Hartford
Rep. Bartholomew of Hartland
Rep. Norris of Shoreham

Rules Suspended; House Proposal of Amendment Not Concurred In; Committee of Conference Requested; Committee of Conference Appointed; Bill Messaged

S. 135.

Pending entry on the Calendar for notice, on motion of Senator Mullin, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to promoting economic development.

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:

* * * Vermont Employment Growth Incentive Program * * *

Sec. A.1. 32 V.S.A. chapter 105 is amended to read:

CHAPTER 105. VERMONT EMPLOYMENT GROWTH INCENTIVE PROGRAM

* * *

§ 3332. APPLICATION; APPROVAL CRITERIA

(a) Application.

(1) A business may apply for an incentive in one or more years of an award period by submitting an application to the Council in the format the Council specifies for that purpose.

(2) For each award year the business applies for an incentive, the business shall:

(A) specify a payroll performance requirement;

(B) specify a jobs performance requirement or a capital investment performance requirement, or both; and

(C) provide any other information the Council requires to evaluate the application under this subchapter.

(b) Mandatory criteria. The Council shall not approve an application unless it finds:

(1) Except as otherwise provided for an enhanced incentive for a business in a qualifying labor market area under section 3334 of this title, the new revenue the proposed activity ~~generates~~ would generate to the State ~~exceeds~~ would exceed the costs of the activity to the State.

(2) The host municipality welcomes the new business.

(3) ~~The~~ Pursuant to a self-certification or other documentation the Council requires by rule or procedure, the business attests to the best of its knowledge:

(A) the business is not a named party to an administrative order, consent decree, or judicial order issued by the State or a subdivision of the State, or if a named party, that the business is in compliance with the terms of such an order or decree;

(B) the business complies with applicable State laws and regulations; and

(C) the proposed economic activity ~~conforms~~ would conform to applicable town and regional plans and with applicable State laws and regulations.

(4) If the business proposes to expand within a limited local market, an incentive would not give the business an unfair competitive advantage over other Vermont businesses in the same or similar line of business and in the same limited local market.

(5) But for the incentive, the proposed economic activity:

(A) would not occur; or

(B) would occur in a significantly different manner that is significantly less desirable to the State.

* * *

§ 3334. ENHANCED INCENTIVE FOR A BUSINESS IN A QUALIFYING LABOR MARKET AREA

(a) The Council may increase the value of an incentive for a business that is located in a labor market area in which:

(1) the average annual unemployment rate is greater than the average annual unemployment rate for the State; or

(2) the average annual wage is less than the average annual wage for the State.

(b) In each calendar year, the amount by which the Council may increase the value of all incentives pursuant to this section is:

(1) $1,500,000.00 for one or more initial approvals; and

(2) $1,000,000.00 for one or more final approvals.

(c) The Council may increase the cap imposed in subdivision (b)(2) of this section by not more than $500,000.00 upon application by the Governor to, and approval of, the Joint Fiscal Committee.

(d) In evaluating the Governor's request, the Committee shall consider the economic and fiscal condition of the State, including recent revenue forecasts and budget projections.

(e) The Council shall provide the Committee with testimony, documentation, company-specific data, and any other information the Committee requests to demonstrate that increasing the cap will create an opportunity for return on investment to the State.

(f) The purpose of the enhanced incentive for a business in a qualifying labor market area is to increase job growth in economically disadvantaged regions of the State, as provided in subsection (a) of this section.

§ 3335. ENHANCED INCENTIVE FOR ENVIRONMENTAL TECHNOLOGY BUSINESS

(a) As used in this section, an "environmental technology business" means a business that:

(1) is subject to income taxation in Vermont; and

(2) seeks an incentive for economic activity in Vermont that the Secretary of Commerce and Community Development certifies is primarily research, design, engineering, development, or manufacturing related to one or more of the following:

(A) waste management, including waste collection, treatment, disposal, reduction, recycling, and remediation;

(B) natural resource protection and management, including water and wastewater purification and treatment, air pollution control and prevention or remediation, soil and groundwater protection or remediation, and hazardous waste control or remediation;

(C) energy efficiency or conservation;

(D) clean energy, including solar, wind, wave, hydro, geothermal, hydrogen, fuel cells, waste-to-energy, or biomass.

(b) The Council shall consider and administer an application from an environmental technology business pursuant to the provisions of this subchapter, except that:

(1) the business's potential share of new revenue growth shall be 90 percent; and

(2) to calculate qualifying payroll, the Council shall:

(A) determine the background growth rate in payroll for the applicable business sector in the award year;

(B) multiply the business's full-time payroll for the award year by 20 percent of the background growth rate; and

(C) subtract the product from the payroll performance requirement for the award year.

(c) The purpose of the enhanced incentive for an environmental technology business is to promote the growth of businesses in Vermont that both create and sustain high quality jobs and improve the natural environment.

* * *

§ 3338. CLAIMING AN INCENTIVE; ANNUAL FILING WITH DEPARTMENT OF TAXES

(a) On or before April 30 following each year of the utilization period, a business with an approved application shall submit an incentive claim to the Department of Taxes.

(b) A business shall include:

(1) the information the Department requires, including the information required in section 5842 of this title and other documentation concerning payroll, jobs, and capital investment necessary to determine whether the business earned the incentive specified for an award year and any installment payment for which the business is eligible; and

(2) a self-certification or other documentation the Department requires by rule or procedure, by which the business attests to the best of its knowledge that:

(A) the business is not a named party to an administrative order, consent decree, or judicial order issued by the State or a subdivision of the State, or if a named party, that the business is in compliance with the terms of such an order or decree; and

(B) the business complies with applicable State laws and regulations.

(c) The Department may consider an incomplete claim to be timely filed if the business files a complete claim within the additional time allowed by the Department in its discretion.

(d) Upon finalizing its review of a complete claim, the Department shall:

(1) notify the business and the Council whether the business is entitled to an installment payment for the applicable year; and

(2) make an installment payment to which the business is entitled.

(e) The Department shall not pay interest on any amounts it holds or pays for an incentive or installment payment pursuant to this subchapter.

§ 3339. RECAPTURE; REDUCTION; REPAYMENT

(a) Recapture.

(1) The Department of Taxes may recapture the value of one or more installment payments a business has claimed, with interest, if:

(A) the business fails to file a claim as required in section 3338 of this title; ~~or~~

(B) during the utilization period, the business experiences:

(i) a 90 percent or greater reduction from base employment; or

(ii) if it had no jobs at the time of application, a 90 percent or greater reduction from the sum of its job performance requirements; or

(C) the Department determines that during the application or claims process the business knowingly made a false attestation that the business:

(i) was not a named party to, or was in compliance with, an administrative order, consent decree, or judicial order issued by the State or a subdivision of the State: or

(ii) was in compliance with State laws and regulations.

(2) If the Department determines that a business is subject to recapture under subdivision (1) of this subsection, the business becomes ineligible to earn or claim an additional incentive or installment payment for the remainder of the utilization period.

(3) Notwithstanding any other statute of limitations, the Department may commence a proceeding to recapture amounts under subdivision (1) of this subsection as follows:

(A) under subdivision (1)(A) of this subsection, no later than three years from the last day of the utilization period; and

(B) under subdivision (1)(B) of this subsection, no later than three years from date the business experiences the reduction from base employment, or three years from the last day of the utilization period, whichever occurs first.

(b) Reduction; recapture. If a business fails to make capital investments that equal or exceed the sum of its capital investment performance requirements by the end of the award period:

(1) The Department shall:

(A) calculate a reduced incentive by multiplying the combined value of the business's award period incentives by the same proportion that the business's total actual capital investments bear to the sum of its capital investment performance requirements; and

(B) reduce the value of any remaining installment payments for which the business is eligible by the same proportion.

(2) If the value of the installment payments the business has already received exceeds the value of the reduced incentive, then:

(A) the business becomes ineligible to claim any additional installment payments for the award period; and

(B) the Department shall recapture the amount by which the value of the installment payments the business has already received exceeds the value of the reduced incentive.

(c) Tax liability.

(1) A person who has the duty and authority to remit taxes under this title shall be personally liable for an installment payment that is subject to recapture under this section.

(2) For purposes of this section, the Department of Taxes may use any enforcement or collection action available for taxes owed pursuant to chapter 151 of this title.

* * *

* * * VEGI; Confidentiality * * *

Sec. A.2. 32 V.S.A. § 3102 is amended to read:

§ 3102. CONFIDENTIALITY OF TAX RECORDS

(a) No present or former officer, employee, or agent of the Department of Taxes shall disclose any return or return information to any person who is not an officer, employee, or agent of the Department of Taxes except in accordance with the provisions of this section. A person who violates this section shall be fined not more than $1,000.00 or imprisoned for not more than

one year, or both; and if the offender is an officer or employee of this State, he or she shall, in addition, be dismissed from office and be incapable of holding any public office for a period of five years thereafter.

* * *

(d) The Commissioner shall disclose a return or return information:

* * *

(5) to the Attorney General, if such return or return information relates to chapter 205 of this title or 33 V.S.A. chapter 19, subchapters 1A and 1B, for purposes of investigating potential violations of and enforcing 7 V.S.A. chapter 40, 20 V.S.A. chapter 173, subchapter 2A, and 33 V.S.A. chapter 19, subchapters 1A and 1B;

(6) to the Vermont Economic Progress Council, provided that the disclosure relates to a successful business applicant under chapter 105, subchapter 2 of this title and the incentive it has claimed is reasonably necessary for the Council to perform its duties under that subchapter.

(e) The Commissioner may, in his or her discretion and subject to such conditions and requirements as he or she may provide, including any confidentiality requirements of the Internal Revenue Service, disclose a return or return information:

* * *

(11) To the Joint Fiscal Office or its agent, provided that the disclosure relates to a successful business applicant under chapter 105, subchapter 2 of this title and the incentive it has claimed and is reasonably necessary for the Joint Fiscal Office or its agent to perform the duties authorized by the Joint Fiscal Committee or a standing committee of the General Assembly under that subchapter; to the Auditor of Accounts for the performance of duties under section 163 of this title; and to the Department of Economic Development for the purposes of subsection 5922(f) of this title~~; and to the Vermont Economic Progress Council, provided that the disclosure relates to a successful business applicant under chapter 105, subchapter 2 of this title and the incentive it has claimed and is reasonably necessary for the Council to perform its duties under that subchapter~~.

* * *

* * * Rural Economic Development Infrastructure Districts * * *

Sec. B.1. 24 V.S.A. chapter 138 is added to read:

CHAPTER 138. RURAL ECONOMIC DEVELOPMENT INFRASTRUCTURE DISTRICTS

§ 5701. PURPOSE

The purpose of this chapter is to enable formation of special municipal districts to finance, own, and maintain infrastructure that provides economic development opportunities in rural and underresourced areas of the State, including areas within one or more municipalities. Specifically, this chapter provides mechanisms for public and private partnerships, including opportunities for tax-incentivized financing and voluntary citizen engagement, to help overcome density and economic hardship.

§ 5702. ESTABLISHMENT; GENERAL PROVISIONS

(a) Establishment. Upon written application by 20 or more voters within a proposed district or upon its own motion, the legislative body of a municipality may establish a rural economic development infrastructure district. The application shall describe the infrastructure to be built or acquired; the plan for financing its acquisition; the anticipated economic benefit; the source of revenues for loan, bond, or lease payments; and plans for retention and disbursement of excess revenues, if any. The application also shall clearly state that the proposed district shall not have authority to levy taxes upon the grand list and may not levy service charges or fees upon any underlying municipality except for services used by such municipality, its own officers, and employees in the operation of municipal functions. Notice of establishment of a district shall be recorded as provided in subsection (e) of this section, posted in at least three public places within the municipality for at least 30 days, and published in a newspaper of general circulation within the municipality not more than 10 days from the date of establishment by the legislative body. Following 40 days from the later of the date of establishment by the legislative body of the municipality or an affirmative vote under subdivision (d)(1) or (2) of this section, the district shall be deemed to be a body politic and corporate, capable of exercising those powers and prerogatives explicitly granted by the legislative body of the municipality in accordance with this chapter and the district's establishment application.

(b) Districts involving more than one municipality. Where the limits of a proposed district include two or more municipalities, or portions of two or more municipalities, the application required by this section shall be made to and considered by the legislative body of each such municipality.

(c) Alteration of district limits. The legislative body of a municipality in which a district is located may alter the limits of a district upon application to the governing board of the district, provided the governing board gives prior written consent. A district expansion need not involve contiguous property. Notice of an alteration of the limits of a district shall be recorded as provided in subsection (e) of this section, posted in at least three public places within the municipality for at least 30 days, and published in a newspaper of general circulation within the municipality not more than 10 days from the date of the legislative body's decision to alter the limits of a district.

(d)(1) Contestability. If a petition signed by five percent of the voters of the municipality objecting to the proposed establishment or alteration of limits of a district is presented to the municipal clerk within 30 days of the date of posting and publication of the notice required by subsection (a) or (c) of this section, as applicable, the legislative body of the municipality shall cause the question of whether the municipality shall establish or alter the limits of the district to be considered at a meeting called for that purpose. The district shall be established in accordance with the application or the limits altered unless a majority of the voters of the municipality present and voting votes to disapprove such establishment or alteration of limits.

(2) If a petition signed by five percent of the voters of the municipality objecting to a legislative body's decision denying the establishment or the alteration of limits of a district is presented to the municipal clerk within 30 days of the legislative body's decision, the legislative body shall cause the question of whether the municipality shall establish or alter the limits of the district to be considered at an annual or special meeting called for that purpose.

(e) Recording. A record of the establishment of a district and any alteration of district limits made by a legislative body shall be filed with the clerk of each municipality in which the district is located, and shall be recorded with the Secretary of State.

§ 5703. LIMITATIONS; TAXES; INDEBTEDNESS; EMINENT DOMAIN

Notwithstanding any grant of authority in this chapter to the contrary:

(1) A district shall not accept funds generated by the taxing or assessment power of any municipality in which it is located.

(2) A district shall not have the power to levy, assess, apportion, or collect any tax upon property within the district, nor upon any of its underlying municipalities, without specific authorization of the General Assembly.

(3) All obligations of the district, including financing leases, shall be secured by and payable only out of the assets of or revenues or monies in the district, including revenue generated by an enterprise owned or operated by the district.

(4) A district shall not have powers of eminent domain.

§ 5704. GOVERNING BOARD; COMPOSITION; MEETINGS; REPORT

(a) Governing board. The legislative power and authority of a district and the administration and the general supervision of all fiscal, prudential, and governmental affairs of a district shall be vested in a governing board, except as otherwise specifically provided in this chapter.

(b) Composition. The first governing board of the district shall consist of four to eight members appointed in equal numbers by the legislative bodies of the underlying municipalities. It shall draft the district's bylaws specifying the size, composition, quorum requirements, and manner of appointing members to the permanent governing board. The bylaws shall require that a majority of the board shall be appointed annually by the legislative bodies of the underlying municipalities. Board members shall serve staggered, three-year terms, and shall be eligible to serve successive terms. The legislative bodies of the municipalities in which the district is located shall fill board vacancies, and may remove board members at will. Any bylaws developed by the governing board under this subsection shall be submitted for approval to the legislative bodies of the municipalities within the district and shall be considered duly adopted 45 days from the date of submission, provided none of the legislative bodies disapprove of the bylaws.

(c) First meeting. The first meeting of the district shall be called upon 30 days' posted and published notice by a presiding officer of a legislative body in which the district is located. Voters within a municipality in which the district is located are eligible to vote at annual and special district meetings. At the first meeting of the district, and at each subsequent annual meeting, there shall be elected from among board members a chair, vice chair, clerk, and treasurer who shall assume their respective offices upon election. At the first meeting, the fiscal year of the district shall be established and rules of parliamentary procedure shall be adopted. Prior to assuming their offices, officers may be required to post bond in such amounts as determined by resolution of the board. The cost of such bond shall be borne by the district.

(d) Annual and special meetings. Unless otherwise established by the voters, the annual district meeting shall be held on the second Monday in January and shall be warned by the clerk or, in the clerk's absence or neglect, by a member of the board. Special meetings shall be warned in the same manner on application in writing by five percent of the voters of the district. A warning for a district meeting shall state the business to be transacted. The time and place of holding the meeting shall be posted in two or more public places in the district not more than 40 days nor less than 30 days before the meeting and recorded in the office of the clerk before the same is posted.

(e) Annual report. The district shall report annually to the legislative bodies and the citizens of the municipalities in which the district is located on the results of its activities in support of economic growth, job creation, improved community efficiency, and any other benefits incident to its activities.

§ 5705. OFFICERS

(a) Generally. The district shall elect at its first meeting and at each annual meeting thereafter a chair, vice chair, clerk, and treasurer, who shall hold office until the next annual meeting and until others are elected. The board may fill a vacancy in any office.

(b) Chair. The chair shall preside at all meetings of the board and make and sign all contracts on behalf of the district upon approval by the board. The chair shall perform all duties incident to the position and office as required by the general laws of the State.

(c) Vice chair. During the absence of or inability of the chair to render or perform his or her duties or exercise his or her powers, the same shall be performed and exercised by the vice chair and when so acting, the vice chair shall have all the powers and be subject to all the responsibilities given to or imposed upon the chair. During the absence or inability of the vice chair to render or perform his or her duties or exercise his or her powers, the board shall elect from among its members an acting vice chair who shall have the powers and be subject to all the responsibilities given or imposed upon the vice chair.

(d) Clerk. The clerk shall keep a record of the meetings, votes, and proceedings of the district for the inspection of its inhabitants.

(e) Treasurer. The treasurer of the district shall be appointed by the board, and shall serve at its pleasure. The treasurer shall have the exclusive charge and custody of the funds of the district and shall be the disbursing officer of the district. When warrants are authorized by the board, the treasurer may sign, make, or endorse in the name of the district all checks and orders for the payment of money and pay out and disburse the same and receipt therefor. The treasurer shall keep a record of every obligation issued and contract entered into by the district and of every payment made. The treasurer shall keep correct books of account of all the business and transactions of the district and such other books and accounts as the board may require. The treasurer shall render a statement of the condition of the finances of the district at each regular meeting of the board and at such other times as required of the treasurer. The treasurer shall prepare the annual financial statement and the budget of the district for distribution, upon approval of the board, to the legislative bodies of district members. Upon the treasurer's termination from

office by virtue of removal or resignation, the treasurer shall immediately pay over to his or her successor all of the funds belonging to the district and at the same time deliver to the successor all official books and papers.

§ 5706. AUDIT

Once the district becomes operational, the board shall cause an audit of the financial condition of the district to be performed annually by an independent professional accounting firm. The results of the audit shall be provided to the governing board and to the legislative bodies of the municipalities in which the district is located.

§ 5707. COMMITTEES

The board has authority to establish one or more committees and grant and delegate to them such powers as it deems necessary. Members of an executive committee shall serve staggered terms and shall be board members. Membership on other committees established by the board is not restricted to board members.

§ 5708. DISTRICT POWERS

A district created under this chapter has the power to:

(1) exercise independently and in concert with other municipalities any other powers which are necessary or desirable for the installation, ownership, operation, maintenance, and disposition of infrastructure promoting economic development in rural areas and matters of mutual concern and that are exercised or are capable of exercise by any of its members;

(2) enter into municipal financing agreements as provided by sections 1789 and 1821-1828 of this title, or other provisions authorizing the pledge of district assets or net revenue, or alternative means of financing capital improvements and operations;

(3) purchase, sell, lease, own, acquire, convey, mortgage, improve, and use real and personal property in connection with its purpose;

(4) enter into contracts for any term or duration;

(5) operate, cause to be operated, or contract for the construction, ownership, management, financing, and operation of an enterprise which a municipal corporation is authorized by law to undertake;

(6) hire employees and fix the compensation and terms of employment;

(7) contract with individuals, corporations, associations, authorities, and agencies for services and property, including the assumption of the liabilities and assets thereof, provided that no assumed liability shall be a general obligation of a municipality in which the district is located;

(8) contract with the State of Vermont, the United States of America, or any subdivision or agency thereof for services, assistance, and joint ventures;

(9) contract with any municipality for the services of any officers or employees of that municipality useful to it;

(10) promote cooperative arrangements and coordinated action among its members and other public and private entities;

(11) make recommendations for review and action to its members and other public agencies that perform functions within the region in which its members are located;

(12) sue and be sued; provided, however, that the property and assets of the district, other than such property as may be pledged as security for a district obligation, shall be subject to levy, execution, or attachment;

(13) appropriate and expend monies; provided, however, that no appropriation shall be funded or made in reliance upon any taxing authority of the district;

(14) establish sinking and reserve funds for retiring and securing its obligations;

(15) establish capital reserve funds and make deposits in them;

(16) solicit, accept, and administer gifts, grants, and bequests in trust or otherwise for its purpose;

(17) enter into an interstate compact consistent with the purposes of this chapter, subject to the approval of the Vermont General Assembly and the United States Congress;

(18) develop a public sewer or water project, provided the legislative body and the planning commission for the municipality in which the sewer or water project is proposed to be located confirm in writing that such project conforms with any duly adopted municipal plan, and the regional planning commission confirms in writing that such project conforms with the duly adopted regional plan;

(19) exercise all powers incident to a public corporation, but only to the extent permitted in this chapter;

(20) adopt a name under which it shall be known and shall conduct business; and

(21) make, establish, alter, amend, or repeal ordinances, regulations, and bylaws relating to matters contained in this chapter and not inconsistent with law.

§ 5709. DISSOLUTION

(a) If the board by resolution approved by a two-thirds vote determines that it is in the best interests of the public, the district members, and the district that such district be dissolved, and if the district then has no outstanding obligations under pledges of district assets or revenue, long-term contracts, or contracts subject to annual appropriation, or will have no such debt or obligation upon completion of the plan of dissolution, it shall prepare a plan of dissolution and thereafter adopt a resolution directing that the question of such dissolution and the plan of dissolution be submitted to the voters of the district at a special meeting thereof duly warned for such purpose. If a majority of the voters of the district present and voting at such special meeting shall vote to dissolve the district and approve the plan of dissolution, the district shall cease to conduct its affairs except insofar as may be necessary for the winding up of them. The board shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the district and to the Secretary of State and shall proceed to collect the assets of the district and apply and distribute them in accordance with the plan of dissolution.

(b) The plan of dissolution shall:

(1) identify and value all unencumbered assets;

(2) identify and value all encumbered assets;

(3) identify all creditors and the nature or amount of all liabilities and obligations;

(4) identify all obligations under long-term contracts and contracts subject to annual appropriation;

(5) specify the means by which assets of the district shall be liquidated and all liabilities and obligations paid and discharged, or adequate provision made for the satisfaction of them;

(6) specify the means by which any assets remaining after discharge of all liabilities shall be liquidated if necessary; and

(7) specify that any assets remaining after payment of all liabilities shall be apportioned and distributed among the district members according to a formula based upon population.

(c) When the plan of dissolution has been implemented, the board shall adopt a resolution certifying that fact to the district members whereupon the district shall be terminated, and notice thereof shall be delivered to the Secretary of the Senate and the Clerk of the House of Representatives in anticipation of confirmation of dissolution by the General Assembly.

* * * Public Retirement * * *

Sec. C.1. THE GREEN MOUNTAIN SECURE RETIREMENT PLAN

(a) The State of Vermont shall, consistent with federal law and regulation, adopt and implement a voluntary Multiple Employer Plan (MEP) public retirement plan, which shall remain in compliance with federal law and regulations once implemented, and shall be called the "Green Mountain Secure Retirement Plan."

(b) The Plan shall be designed and implemented based upon the following guiding principles:

(1) Simplicity: the Plan should be easy for participants to understand.

(2) Affordability: the Plan should be administered to maximize cost effectiveness and efficiency.

(3) Ease of access: the Plan should be easy to join.

(4) Trustworthy oversight: the Plan should be administered by an organization with unimpeachable credentials.

(5) Protection from exploitation: the Plan should protect its participants, particularly the elderly, from unscrupulous business practices and individuals.

(6) Portability: the Plan should not depend upon employment with a specific firm or organization.

(7) Choice: the Plan should provide sufficient investment alternatives to be suitable for individuals with distinct goals, but not too many options to induce analysis paralysis.

(8) Voluntary: the Plan should not be mandatory but autoenrollment should be used to increase participation.

(9) Financial education and financial literacy: the Plan should assist the individual in understanding their financial situation.

(10) Sufficient savings: the Plan should encourage adequate savings in retirement combined with existing pension savings and Social Security.

(11) Additive not duplicative: the Plan should not compete with existing private sector solutions.

(12) Use of pretax dollars: contributions to the Plan should be made using pretax dollars.

(c) The Plan shall:

(1) be available on a voluntary basis to:

(A) employers:

(i) with 50 employees or fewer; and

(ii) who do not currently offer a retirement plan to their employees; and

(B) self-employed individuals;

(2) automatically enroll all employees of employers who choose to participate in the MEP;

(3) allow employees the option of withdrawing their enrollment and ending their participation in the MEP;

(4) be funded by employee contributions with an option for future voluntary employer contributions; and

(5) be overseen by a board:

(A) that shall:

(i) set program terms;

(ii) prepare and design plan documents; and

(iii) be authorized to appoint an administrator to assist in the selection of investments, managers, custodians, and other support services; and

(B) that shall be composed of seven members as follows:

(i) an individual with investment experience, to be appointed by the Governor;

(ii) an individual with private sector retirement plan experience, to be appointed by the Governor;

(iii) an individual with investment experience, to be appointed by the State Treasurer;

(iv) an individual who is an employee or retiree, to be appointed by the State Treasurer;

(v) an individual who is an employee advocate or consumer advocate, to be appointed by the Speaker of the House;

(vi) an individual who is an employer with 50 employees or fewer and who does not offer a retirement plan to his or her employees, to be appointed by the Committee on Committees; and

(vii) the State Treasurer, who shall serve as chair.

(C) that shall, on or before January 15, 2020, and every year thereafter, report to the House and Senate Committees on Government Operations concerning the Green Mountain Secure Retirement Plan, including:

(i) the number of employers and self-employed individuals participating in the plan;

(ii) the total number of individuals participating in the plan;

(iii) the number of employers and self-employed individuals who are eligible to participate in the plan but who do not participate;

(iv) the number of employers and self-employed individuals, and the number of employees of participating employers. who have ended their participation during the preceding twelve months;

(v) the total amount of funds contributed to the Plan during the preceding twelve months;

(vi) the total amount of funds withdrawn from the Plan during the preceding twelve months;

(vii) the total funds or assets under management by the Plan;

(viii) the average return during the preceding twelve months;

(ix) the costs of administering the Plan;

(x) the Board's assessment concerning whether the Plan is sustainable and viable;

(xi) once the marketplace is established:

(I) the number of individuals participating;

(II) the number and nature of plans offered; and

(III) the Board's process and criteria for vetting plans; and

(xii) any other information the Board considers relevant, or that the Committee requests.

(D) for attendance at meetings, members of the Board who are not employees of the State of Vermont, and who are not otherwise compensated by their employer or other organization, shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010 and shall be reimbursed for mileage and travel expenses.

(d) The State of Vermont shall implement the "Green Mountain Secure Retirement Plan" on or before January 15, 2019, based on the recommendations of the Public Retirement Plan Study Committee as set forth in Sec. F.1 of 2016 Acts and Resolves, No. 157.

Sec. C.2. 2016 Acts and Resolves No. 157, Sec. F.1 is amended to read:

Sec. F.1. INTERIM STUDY ON THE FEASIBILITY OF ESTABLISHING A PUBLIC RETIREMENT PLAN

(a) Creation of Committee.

(1) There is created ~~a~~ the Public Retirement Plan Study Committee to evaluate the feasibility of establishing a public retirement plan.

(2) It is the intent of the General Assembly that the Committee continue the work of the Public Retirement Plan Study Committee created in 2014 Acts and Resolves No. 179, Sec. C.108, as amended by 2015 Acts and Resolves No. 58, Sec. C.100, which ceased to exist on January 15, 2016, and to develop specific recommendations concerning the design, creation, and implementation of the Multiple Employer Plan (MEP), pursuant to Sec. C.1 of S.135 (2017) as enacted and as set forth in the January 6, 2017 report issued by the Committee.

(b) Membership.

(1) The Public Retirement Plan Study Committee shall be composed of eight members as follows:

(A) the State Treasurer or designee;

(B) the Commissioner of Labor or designee;

(C) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(D) an individual with private sector experience in the area of providing retirement products and financial services to small businesses, to be appointed by the Speaker;

(E) an individual with experience or expertise in the area of the financial needs of an aging population, to be appointed by the Committee on Committees;

(F) an individual with experience or expertise in the area of the financial needs of Vermont youth or young working adults, to be appointed by the Treasurer;

(G) a representative of employers, to be appointed by the Speaker; and

(H) a representative of employees who currently lack access to employer-sponsored retirement plans, to be appointed by the Committee on Committees.

(2) Unless another appointee is specified pursuant to the authority granted under subdivision (1) of this subsection, the members of the Public

Retirement Plan Study Committee created in 2014 Acts and Resolves No. 179, Sec. C.108, as amended by 2015 Acts and Resolves No. 58, Sec. C.100, which ceased to exist on January 15, 2016, shall serve as the members of the Committee created pursuant to this section.

(c) Powers and duties.

(1)(A) The Committee shall ~~study the feasibility of establishing a~~ develop specific recommendations concerning the design, creation, and implementation time line of the Multiple Employer Plan (MEP) public retirement plan~~, including the following~~ pursuant to Sec. C.1 of S.135 (2017) as enacted, which shall:

(i) ~~the access Vermont residents currently have to employer-sponsored retirement plans and the types of employer-sponsored retirement plans;~~

~~(ii) data and estimates on the amount of savings and resources Vermont residents will need for a financially secure retirement;~~

~~(iii) data and estimates on the actual amount of savings and resources Vermont residents will have for retirement, and whether those savings and resources will be sufficient for a financially secure retirement;~~

~~(iv) current incentives to encourage retirement savings, and the effectiveness of those incentives;~~

~~(v) whether other states have created a public retirement plan and the experience of those states;~~

~~(vi) whether there is a need for a public retirement plan in Vermont;~~

~~(vii) whether a public retirement plan would be feasible and effective in providing for a financially secure retirement for Vermont residents;~~

~~(viii) other programs or incentives the State could pursue in combination with a public retirement plan, or instead of such a plan, in order to encourage residents to save and prepare for retirement; and~~ be available on a voluntary basis to:

(I) employers:

(aa) with 50 employees or fewer; and

(bb) who do not currently offer a retirement plan to their employees; and

(II) self-employed individuals;

(ii) automatically enroll all employees of employers who choose to participate in the MEP;

(iii) allow employees the option of withdrawing their enrollment and ending their participation in the MEP;

(iv) be funded by employee contributions with an option for future voluntary employer contributions; and

(v) be overseen by a board that shall:

(I) set programs terms;

(II) prepare and design plan documents; and

(III) be authorized to appoint an administrator to assist in the selection of investments, managers, custodians, and other support services.

(B) ~~if the Committee determines that a public retirement plan is necessary, feasible, and effective, the Committee shall study:~~

~~(i) potential models for the structure, management, organization, administration, and funding of such a plan;~~

~~(ii) how to ensure that the plan is available to private sector employees who are not covered by an alternative retirement plan;~~

~~(iii) how to build enrollment to a level where enrollee costs can be lowered;~~

~~(iv) whether such a plan should impose any obligation or liability upon private sector employers;~~ The Committee, and thereafter the board that will oversee the MEP, shall study and make specific recommendations concerning:

(i) options to provide access to retirement plans to individuals who are not eligible to participate in, or choose not to participate in, the MEP public retirement plan, including alternative plans and options vetted by the board that shall oversee the MEP, and which private sector plans and options shall be provided through a marketplace implemented no earlier than one year after the MEP begins;

(ii) options for paying for the costs of administering the MEP for the period during which program costs may exceed revenues, including allowing financial service providers to subsidize costs in exchange for longer term contracts;

(iii) if after three years there remain significant numbers of Vermonters who are not covered by a retirement plan, methods to increase participation in the MEP; and

(iv) any other issue the Committee deems relevant.

(2) The Committee shall:

(A) continue monitoring U.S. Department of Labor guidance concerning State Savings Programs for Non-Governmental Employees regarding ERISA rules and other pertinent areas of analysis;

(B) further analyze the relationship between the role of states and the federal government; and

(C) continue its collaboration with educational institutions, other states, and national stakeholders.

(3) The Committee shall have the assistance of the staff of the Office of the Treasurer, the Department of Labor, and the Department of Disabilities, Aging, and Independent Living.

(d) Report. On or before January 15, 2018, the Committee shall report to the General Assembly its findings and ~~any~~ recommendations ~~for legislative action~~. In its report, the Committee shall state its findings as to every factor set forth in ~~subdivision~~ subdivisions (c)(1)(A) ~~of this section, whether it recommends that a public retirement plan be created, and the reasons for that recommendation. If the Committee recommends that a public retirement plan be created, the Committee's report shall include specific recommendations as to the factors listed in subdivision~~ and (c)(1)(B) of this section.

(e) Meetings; term of Committee; Chair. The Committee may meet as frequently as necessary to perform its work and shall cease to exist on January 15, 2018. The State Treasurer shall serve as Chair of the Committee and shall call the first meeting.

(f) Reimbursement. For attendance at meetings, members of the Committee who are not employees of the State of Vermont shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010 and shall be reimbursed for mileage and travel expenses.

* * * Workers' Compensation; VOSHA * * *

Sec. D.1. 21 V.S.A. § 210 is amended to read:

§ 210. PENALTIES

(a) Upon issuance of a citation under this chapter, the Review Board is authorized to assess civil penalties for grounds provided in this subsection. In assessing civil penalties, the Review Board shall follow to the degree practicable the federal procedures prescribed in rules ~~promulgated~~ adopted under the Act. The Review Board shall give due consideration to the appropriateness of the penalty with respect to the size of the business or

operation of the employer being assessed, the gravity of the violation, the good faith of the employer, and the history of previous violations. Civil penalties shall be paid to the Commissioner for deposit with the State Treasurer, and may be recovered in a civil action in the name of the State of Vermont brought in any court of competent jurisdiction. The Commissioner shall not reduce the assessed penalties in any fiscal year by more than 50 percent.

(1) Any employer who willfully or repeatedly violates the requirements of this Code or any standard~~,~~ or rule adopted, or order ~~promulgated~~ issued pursuant to this Code ~~or regulations prescribed pursuant to this Code~~ may be assessed a civil penalty of not more than ~~$70,000.00~~ $126,749.00 for each violation, but not less than $5,000.00 for each willful violation.

(2) Any employer who has received a citation for a serious violation of the requirements of this Code, or any standard~~,~~ or rule adopted, or order ~~promulgated~~ issued pursuant to this Code~~, or of any regulations prescribed pursuant to this Code~~, shall be assessed a civil penalty of up to ~~$7,000.00~~ $12,675.00 for each violation.

(3) Any employer who has received a citation for a violation of the requirements of this Code, or any standard~~,~~ or rule adopted, or order ~~promulgated~~ issued pursuant to this Code ~~or of regulations prescribed pursuant to this Code~~, ~~and such violation~~ if the violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of up to ~~$7,000.00~~ $12,675.00 for each such violation.

(4) Any employer who fails to correct a violation for which a citation has been issued within the period permitted for its correction, which period shall not begin to run until the date of the final order of the Review Board, in the case of any review proceeding under section 226 of this title initiated by the employer in good faith and not solely for delay or avoidance of penalties, may be assessed a civil penalty of not more than ~~$7,000.00~~ $12,675.00 for each day during which the failure or violation continues.

(5) Any employer who willfully violates any standard~~,~~ or rule adopted, or order ~~promulgated~~ issued pursuant to this Code, and that violation caused death to any employee, shall, upon conviction, be punished by a fine of not more than ~~$20,000.00~~ $126,749.00 or by imprisonment for not more than one year, or by both.

* * *

(8) Any employer who violates any of the posting requirements, as prescribed under the provisions of this Code, shall be assessed a civil penalty of up to ~~$7,000.00~~ $12,675.00 for each violation.

(9)(A) As provided under the federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and the Act, the penalties provided in subdivisions (1), (2), (3), (4), (5), and (8) of this subsection shall annually, on January 1, be adjusted to reflect the increase in the Consumer Price Index, CPI-U, U.S. City Average, not seasonally adjusted, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous December 1.

(B) The Commissioner shall calculate and publish the adjustment to the penalties on or before January 1 of each year, and the penalties shall apply to fines imposed on or after that date.

* * *

Sec. D.2. 21 V.S.A. § 711 is amended to read:

§ 711. WORKERS' COMPENSATION ADMINISTRATION FUND

(a) A Workers' Compensation Administration Fund is created pursuant to 32 V.S.A. chapter 7, subchapter 5 to be expended by the Commissioner for the administration of the workers' compensation and occupational disease programs. The Fund shall consist of contributions from employers made at a rate of ~~1.75~~ 1.4 percent of the direct calendar year premium for workers' compensation insurance, one percent of self-insured workers' compensation losses, and one percent of workers' compensation losses of corporations approved under this chapter. Disbursements from the Fund shall be on warrants drawn by the Commissioner of Finance and Management in anticipation of receipts authorized by this section.

* * *

* * * Workforce Development; Career Technical Education * * *

Sec. E.1. 10 V.S.A. § 540 is amended to read:

§ 540. WORKFORCE ~~EDUCATION AND TRAINING~~ DEVELOPMENT LEADER

(a) The Commissioner of Labor shall be the leader of workforce ~~education and training~~ development in the State~~,~~ and shall have the authority and responsibility for the coordination of workforce education and training within State government, including the following duties:

(1) Perform the following duties in consultation with the State Workforce Development Board:

(A) advise the Governor on the establishment of an integrated system of workforce education and training for Vermont;

(B) create and maintain an inventory of all existing workforce education and training programs and activities in the State;

(C) use data to ensure that State workforce education and training activities are aligned with the needs of the available workforce, the current and future job opportunities in the State, and the specific credentials needed to achieve employment in those jobs;

(D) develop a State plan, as required by federal law, to ensure that workforce education and training programs and activities in the State serve Vermont citizens and businesses to the maximum extent possible;

(E) ensure coordination and ~~non-duplication~~ nonduplication of workforce education and training activities;

(F) identify best practices and gaps in the delivery of workforce education and training programs;

(G) design and implement criteria and performance measures for workforce education and training activities; and

(H) establish goals for the integrated workforce education and training system.

(2) Require from each business, training provider, or program that receives State funding to conduct workforce education and training a report that evaluates the results of the training. Each recipient shall submit its report on a schedule determined by the Commissioner and shall include at least the following information:

(A) name of the person who receives funding;

(B) amount of funding;

(C) activities and training provided;

(D) number of trainees and their general description, including the gender of the trainees when available;

(E) employment status of trainees; and

(F) future needs for resources.

(3) Review reports submitted by each recipient of workforce education and training funding.

(4) Issue an annual report to the Governor and the General Assembly on or before December 1 that includes a systematic evaluation of the accomplishments of the State workforce investment system and the performance of participating agencies and institutions.

(5) Coordinate public and private workforce programs to assure that information is easily accessible to students, employees, and employers~~,~~ and that all information and necessary counseling is available through one contact.

(6) Facilitate effective communication between the business community and public and private educational institutions.

(7) Notwithstanding any provision of State law to the contrary, and to the fullest extent allowed under federal law, ensure that in each State and State-funded workforce education and training program, the program administrator collects and reports data and results at the individual level by Social Security Number or an equivalent.

(8) Coordinate within and across State government a comprehensive workforce development strategy that grows the workforce, recruits new workers to the State, and meets employers' workforce needs.

Sec. E.2. 10 V.S.A. § 543 is amended to read:

§ 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT PROGRAMS

(a) Creation. There is created ~~a~~ the Workforce Education and Training Fund in the Department of Labor to be managed in accordance with 32 V.S.A. chapter 7, subchapter 5.

(b) Purposes. The Department shall use the Fund for the following purposes:

(1) training for Vermont workers, including those who are unemployed, underemployed, or in transition from one job or career to another;

(2) internships to provide students with work-based learning opportunities with Vermont employers;

(3) apprenticeship, preapprenticeship, and industry-recognized credential training; and

(4) other workforce development initiatives related to current and future job opportunities in Vermont as determined by the Commissioner of Labor.

(c) Administrative and other support. The Department of Labor shall provide administrative support for the grant award process. When appropriate and reasonable, the State Workforce ~~Investment~~ Development Board and all other public entities involved in economic development and workforce education and training shall provide other support in the process.

(d) Eligible activities.

(1) The Department, in collaboration with the Agency of Education when applicable, shall grant awards from the Fund to employers and entities, including private, public, and nonprofit entities, institutions of higher education, high schools, K–12 school districts, supervisory unions, technical centers, and workforce education and training programs that:

(A) create jobs, offer education, training, apprenticeship, preapprenticeship and industry-recognized credentials, mentoring, career planning, or work-based learning activities, or any combination;

(B) employ student-oriented approaches to workforce education and training; and

(C) link workforce education and economic development strategies.

(2) The Department may fund programs or projects that demonstrate actual increased income and economic opportunity for employees and employers for more than one year.

(3) The Department may fund student internships and training programs that involve the same employer in multiple years, with approval of the Commissioner.

(e) [Repealed].

(f) Awards. The Commissioner of Labor, in consultation with the Chair of the State Workforce Development Board, shall develop award criteria and may grant awards to the following:

(1) Training Programs.

(A) Public, private, and nonprofit entities, including employers and education and training providers, for existing or new training programs that enhance the skills of Vermont workers and:

(i) train workers for trades or occupations that are expected to lead to jobs paying at least 200 percent of the current minimum wage or at least 150 percent if benefits are included; this requirement may be waived when warranted based on regional or occupational wages or economic reality;

(ii) do not duplicate, supplant, or replace other available training funded with public money;

(iii) provide a project timeline, including performance goals, and identify how the effectiveness and outcomes of the program will be measured, including for the individual participants, the employers, and the program as a whole; and

(iv) articulate the need for the training and the direct connection between the training and the job.

(B) The Department shall grant awards under this subdivision (1) to programs or projects that:

(i) offer innovative programs of intensive, student-centric, competency-based education, training, apprenticeship, preapprenticeship and industry-recognized credentials, mentoring, or any combination of these;

(ii) address the needs of workers who are unemployed, underemployed, or ~~are~~ at risk of becoming unemployed, and workers who are in transition from one job or career to another;

(iii) address the needs of employers to hire new employees~~,~~ or retrain incumbent workers, when the employer has demonstrated a need not within the normal course of business, with priority to training that results in new or existing job openings for which the employer intends to hire; or

(iv) in the discretion of the Commissioner, otherwise serve the purposes of this chapter.

(2) Vermont Strong Internship Program. Funding for eligible internship programs and activities under the Vermont Strong Internship Program established in section 544 of this title.

(3) Apprenticeship Program. The Vermont Apprenticeship Program established under 21 V.S.A. chapter 13. Awards under this subdivision may be used to fund the cost of apprenticeship-related instruction provided by the Department of Labor.

(4) Career Focus and Planning programs. In collaboration with the Agency of Education, funding for one or more programs that institute career training and planning for young Vermonters, beginning in middle school.

Sec. E.3. 3. V.S.A. § 2703 is added to read:

§ 2703. CAREER PATHWAYS COORDINATOR

(a) The Secretary of Administration shall have the authority to create the position of Career Pathways Coordinator within the Agency of Education.

(b) The Career Pathways Coordinator shall work under the direction of the State Director for Career Technical Education, and his or her duties shall include the following:

(1) serve as the inter-agency point person for the development of a State-approved Career Pathways System;

(2) convene stakeholders across the Department of Labor, the Agency of Commerce and Community Development, Agency of Education, Agency of Human Services, the Statewide Workforce Development Board, Career Technical Education, employers, postsecondary partners and related entities in order to create a series Career Pathways;

(3) curriculum development, stakeholder engagement, process documentation, and identification of key performance indicators, outcomes collection and reporting;

(4) engage statewide education, employer, and workforce organizations to co-develop statewide career pathways models and exemplars;

(5) identify target populations and entry points;

(6) review and develop competency models, required skill sets, and appropriate credentials at each step of a career pathway, in partnership with business and industry representatives;

(7) coordinate employer validation of competencies and pathways;

(8) develop targeted career ladders and lattices, including stackable skills and industry-recognized credentials;

(9) work with CTE Directors to design and endorse elements of Career Pathways;

(10) use labor market information and other relevant data to identify critical Career Pathways for the State; and

(11) advise the Career Technical Education Director on the funding, governance, and access to career technical education in Vermont.

* * * Heating Fuel and Service Workforce Training Pilot Project * * *

Sec. E.4. HEATING FUEL AND SERVICE WORKFORCE TRAINING PILOT PROJECT

(a) Findings and purpose.

(1) Vermont's heating fuel and heating service companies provide high-skill, high-demand jobs, many of which do not require a college degree but pay over $20 per hour and include benefits.

(2) Vermont's heating fuel and heating service companies have a significant need for new employees. More than two-thirds of these companies report that there is a lack of qualified applicants for heating technician jobs, and more than half report a lack of qualified drivers.

(3) The purpose of this section is to create a partnership between the State and the industry to identify prospective employees, provide them with training and skills necessary for currently available jobs, and provide employers with a skilled workforce.

(b) The Department of Labor, in collaboration with the regional Career Technical Education and Training Centers and the Vermont Fuel Dealers Association, shall establish a Heating Fuel and Service Workforce Training Pilot Project, consistent with the following:

(1) The Department, CTE Centers, Adult Technical Education Providers, and the Association shall:

(A) advertise the availability of workforce training in the field of heating fuel and service;

(B) organize informational sessions, meetings, and other group and individual opportunities for prospective trainees and interested heating and fuel service companies to connect; and

(C) coordinate matches between trainees and employers.

(2) In the event of a successful match, the Department shall facilitate the negotiation and execution of training and employment agreements, pursuant to which:

(A) a prospective trainee agrees to pursue specified training, education, or certification necessary to meet the employer's workforce need;

(B) the Department agrees to provide educational and administrative support to the trainee and 50 percent of the cost of training; and

(C) the employer agrees to provide 50 percent of the cost of training and to employ the trainee upon the successful completion of training, passage of an examination, attainment of a required certification, or a combination of these.

(3) The Association, in collaboration with the CTE Centers and subject to approval by the Department, shall provide education and training that meet the needs of trainees and employers.

(c) The Department shall have the authority to use available private, State, and federal funding to implement the provisions of this section.

(d) On or before January 15, 2018, the Department shall submit a report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development addressing the implementation of this section, the profile of trainees and employers that participated, and any recommendations for further action.

* * * CTE Dual Enrollment * * *

Sec. E.5. CTE DUAL ENROLLMENT MEMORANDA OF UNDERSTANDING

(a) Intent. The intent of this act is to expand the recognition of academic and technical course work completed by students in CTE programs by the University of Vermont and the Vermont State Colleges.

(b) Dual enrollment.

(1) Pursuant to 16 V.S.A. § 944(e), the Agency of Education shall assist the University of Vermont and the Vermont State Colleges in developing memoranda of understanding with each regional CTE center and each comprehensive high school, as defined in 16 V.S.A. § 1522, to facilitate dual enrollment under section 944.

(2) The University of Vermont and the Vermont State Colleges shall enter into memoranda of understanding, as developed with the Agency, with each regional CTE center.

(3) On or before January 15, 2018, the Secretary of Education shall provide a progress report on the status of the memoranda of understanding to the House and Senate Committees on Education, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development, Housing and General Affairs.

Sec. F.1. BENEFIT CLIFF; REPORT

(a) The Commissioner for Children and Families, in consultation with the Joint Fiscal Office, shall evaluate the State's public benefit structure and recommend methods for mitigating or eliminating the benefit cliffs experienced by working Vermonters receiving public assistance.

(b) On or before January 15, 2018, the Commissioner shall submit a report with the results of this evaluation to the House Committees on Human Services, on Commerce and Economic Development, and on Ways and Means and to the Senate Committees on Economic Development, Housing and General Affairs, on Finance, and on Health and Welfare.

(c) The Commissioner may seek the assistance of the Office of Legislative Council in drafting a recommended legislative proposal arising out of the analysis conducted pursuant to this section.

* * * Financial Technology * * *

Sec. G.1. FINANCIAL TECHNOLOGY

(a) The General Assembly finds:

(1) The field of financial technology is rapidly expanding in scope and application.

(2) These developments present both opportunities and challenges.

(3) On the opportunity side, Vermont has been a leader in previous innovations in finance in contexts such as captive insurance.

(4) The existing Vermont legislation on blockchain technology and other aspects of e-finance have given Vermont the potential for leadership in this new era of innovation as well, with the possibility of expanded economic

activity in the financial technology sector that would provide opportunities for employment, tax revenues, and other benefits.

(5) Furthermore, it is important for Vermonters that these developments proceed in ways that do not create avoidable risks for individuals and enterprises in the new e-economy.

(6) The legislative and regulatory response in Vermont will be critical to our ability to embrace the benefits of financial technology and to avoid challenges it may create.

(b)(1) In order to permit the legislature to respond to these developing opportunities and concerns on an informed basis, on or before November 30, 2017, the Center for Legal Innovation at Vermont Law School, in consultation with the Commissioner of Financial Regulation, the Secretary of Commerce and Community Development, and the Attorney General, shall submit a report to the General Assembly that includes:

(A) findings and recommendations on the potential opportunities and risks presented by developments in financial technology;

(B) suggestions for an overall policy direction and proposals for legislative and regulatory action that would effectively implement that policy direction; and

(C) measurable goals and outcomes that would indicate success in the implementation of such a policy.

(2) In developing the background for this report, the Center, Commissioner, Secretary, and Attorney General may consult such other constituencies and stakeholders within and outside the State as they may determine will be helpful to their considerations.

* * * Municipal Outreach; Sewerage and Water Service Connections * * *

Sec. H.1. AGENCY OF NATURAL RESOURCES; EDUCATION AND OUTREACH; DELEGATION; SEWERAGE AND WATER SERVICE CONNECTIONS

(a) The Secretary of Natural Resources, after consultation with the Vermont League of Cities and Towns, shall conduct outreach and education for municipalities regarding the ability of a municipality under 10 V.S.A. § 1976 to be delegated the authority to permit the connection of a municipal sewer or water service line to subdivided land, a building, or a campground.

(b) The education and outreach shall specify the conditions or requirements for delegation, how a municipality can seek delegation, and contact information or other resource to provide additional information regarding delegation. The education and outreach may include educational materials,

workshops, or classes regarding the ability of a municipality to be delegated under 10 V.S.A. § 1976 the permitting of sewer and water service connection.

(c) On or before January 15, 2018, the Secretary of Natural Resources shall submit a report to the Senate Committees on Natural Resources and Energy and on Economic Development, Housing and General Affairs and the House Committees on Natural Resources, Fish and Wildlife and on Commerce and Economic Development summarizing the education and outreach conducted or planned by the Secretary under the requirements of this section and whether any municipality has sought delegation of sewer and water service connection permitting under 10 V.S.A. § 1976 since the effective date of this act.

* * * Municipal Land Use and Development; Affordable Housing * * *

Sec. H.2. 24 V.S.A. § 4303 is amended to read:

§ 4303. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context otherwise requires:

(1) "Affordable housing" means either of the following:

(A) ~~Housing that is owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household's gross annual income.~~ Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

(B) ~~Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of~~

~~Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income.~~ Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

* * *

* * * Act 250; Priority Housing Projects * * *

Sec. H.3. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

In this chapter:

* * *

(3)(A) "Development" means each of the following:

* * *

(iv) The construction of housing projects such as cooperatives, condominiums, or dwellings, or construction or maintenance of mobile homes or mobile home parks, with 10 or more units, constructed or maintained on a tract or tracts of land, owned or controlled by a person, within a radius of five miles of any point on any involved land, and within any continuous period of five years. However:

(I) A priority housing project shall constitute a development under this subdivision (iv) only if the number of housing units in the project is:

(aa) ~~275 or more, in a municipality with a population of 15,000 or more;~~ [Repealed.]

(bb) ~~150 or more, in a municipality with a population of 10,000 or more but less than 15,000;~~ [Repealed.]

(cc) 75 or more, in a municipality with a population of 6,000 or more but less than 10,000~~;~~.

(dd) 50 or more, in a municipality with a population of 3,000 or more but less than 6,000~~;~~.

(ee) 25 or more, in a municipality with a population of less than 3,000~~; and~~.

(ff) ~~notwithstanding~~ Notwithstanding subdivisions ~~(aa)~~(cc) through (ee) of this subdivision (3)(A)(iv)(I), 10 or more if the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision if the Division for Historic Preservation has determined that the proposed demolition will have no adverse effect, will have no adverse effect if specified conditions are met, or will have an adverse effect that will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document.

(II) The determination of jurisdiction over a priority housing project shall count only the housing units included in that discrete project.

(III) Housing units in a priority housing project shall not count toward determining jurisdiction over any other project.

* * *

(D) The word "development" does not include:

* * *

(viii)(I) The construction of a priority housing project in a municipality with a population of 10,000 or more.

(II) If the construction of a priority housing project in this subdivision (3)(D)(viii) involves demolition of one or more buildings that are listed or eligible to be listed on the State or National Register of Historic Places, this exemption shall not apply unless the Division for Historic Preservation has made the determination described in subdivision (A)(iv)(I)(ff) of this subdivision (3) and any imposed conditions are enforceable in the manner set forth in that subdivision.

* * *

(27) "Mixed income housing" means a housing project in which the following apply:

(A) Owner-occupied housing. At the option of the applicant, owner-occupied housing may be characterized by either of the following:

(i) at least 15 percent of the housing units have a purchase price ~~which~~ that at the time of first sale does not exceed 85 percent of the new

construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency; or

(ii) at least 20 percent of the housing units have a purchase price ~~which~~ that at the time of first sale does not exceed 90 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency~~;~~.

(B) Rental ~~Housing~~ housing. At least 20 percent of the housing units that are rented constitute affordable housing and have a duration of affordability of ~~no~~ not less than ~~20~~ 15 years.

(28) "Mixed use" means construction of both mixed income housing and construction of space for any combination of retail, office, services, artisan, and recreational and community facilities, provided at least 40 percent of the gross floor area of the buildings involved is mixed income housing. "Mixed use" does not include industrial use.

(29) "Affordable housing" means either of the following:

(A) ~~Housing that is owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household's gross annual income.~~ Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

(B) ~~Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than~~

~~30 percent of the household's gross annual income.~~ Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

* * *

(35) "Priority housing project" means a discrete project located on a single tract or multiple contiguous tracts of land that consists exclusively of:

(A) mixed income housing or mixed use, or any combination thereof, and is located entirely within a designated downtown development district, designated new town center, designated growth center, or designated village center that is also a designated neighborhood development area under 24 V.S.A. chapter 76A; or

(B) mixed income housing and is located entirely within a designated Vermont neighborhood or designated neighborhood development area under 24 V.S.A. chapter 76A.

* * *

Sec. H.4. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

(a) No person shall sell or offer for sale any interest in any subdivision located in this State, or commence construction on a subdivision or development, or commence development without a permit. This section shall not prohibit the sale, mortgage, or transfer of all, or an undivided interest in all, of a subdivision unless the sale, mortgage, or transfer is accomplished to circumvent the purposes of this chapter.

* * *

(o) If a ~~downtown development district~~ designation pursuant to 24 V.S.A. ~~§ 2793~~ chapter 76A is removed, subsection (a) of this section shall apply to any subsequent substantial change to a priority housing project that was originally exempt pursuant to subdivision 6001(3)(A)(iv)(I) of this title on the basis of that designation.

(p)(1) No permit or permit amendment is required for any change to a project that is located entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, if the change consists exclusively of any combination of mixed use and mixed income housing, and the cumulative changes within any continuous period of five years, commencing on or after the effective date of this subsection, remain below ~~the~~ any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title.

(2) No permit or permit amendment is required for a priority housing project in a designated center other than a downtown development district if the project remains below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title and will comply with all conditions of any existing permit or permit amendment issued under this chapter that applies to the tract or tracts on which the project will be located. If such a priority housing project will not comply with one or more of these conditions, an application may be filed pursuant to section 6084 of this title.

* * *

Sec. H.5. 10 V.S.A. § 6084 is amended to read:

§ 6084. NOTICE OF APPLICATION; HEARINGS, COMMENCEMENT OF REVIEW

* * *

(f) This subsection concerns an application for a new permit amendment to change the conditions of an existing permit or existing permit amendment in order to authorize the construction of a priority housing project described in subdivision 6081(p)(2) of this title.

(1) The District Commission may authorize a district coordinator to issue such an amendment, without notice and a hearing, if the applicant demonstrates that all parties to the existing permit or existing permit amendment, which contains the condition or conditions proposed to be changed, or their successors in interest have consented to the proposed changes to conditions relative to the criteria for which the party obtained party status.

(2) If the applicant is not able to obtain the consent of a party or parties or their successors in interest with respect to one or more of the conditions in the existing permit or permit amendment proposed to be changed, the applicant shall file a permit application pursuant to this section. However, review by the District Commission shall be limited to whether the changes to conditions not consented to by the party or parties or their successors in interest enable positive findings to be made under subsection 6086(a) and are authorized under subsection 6086(c) of this title.

Sec. H.6. 30 V.S.A. § 55 is added to read:

§ 55. PRIORITY HOUSING PROJECTS; STRETCH CODE

A priority housing project as defined in 10 V.S.A. § 6001 shall meet or exceed the stretch codes established under this subchapter by the Department of Public Service.

* * * ACCD; Publication of Median Household Income and Qualifying Costs for Affordable Housing * * *

Sec. H.7. 3 V.S.A. § 2472 is amended to read:

§ 2472. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

(a) The Department of Housing and Community Development is created within the Agency of Commerce and Community Development. The Department shall:

* * *

(5) In conjunction with the Vermont Housing Finance Agency, annually publish data and information to enable the public to determine income levels and costs for owner-occupied and rental housing to qualify as affordable housing, as defined in 24 V.S.A. § 4303 and 10 V.S.A. § 6001(29), including:

(A) the median income for each Vermont county, as defined by the U.S. Department of Housing and Urban Development;

(B) the standard metropolitan statistical area median income for each municipality located in such an area, as defined by the U.S. Department of Housing and Urban Development; and

(C) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

* * *

* * * Downtown Tax Credits * * *

Sec. H.8. 32 V.S.A. § 5930ee is amended to read:

§ 5930ee. LIMITATIONS

Beginning in fiscal year 2010 and thereafter, the State Board may award tax credits to all qualified applicants under this subchapter, provided that:

(1) the total amount of tax credits awarded annually, together with sales tax reallocated under section 9819 of this title, does not exceed ~~$2,200,000.00~~ $2,400,000.00;

* * *

* * * Tax Credit for Affordable Housing; Captive Insurance Companies * * *

Sec. H.9. 32 V.S.A. § 5930bb(a) is amended to read:

(a) Qualified applicants may apply to the State Board to obtain the tax credits provided by this subchapter for a qualified project at any time before ~~one year after~~ the completion of the qualified project.

Sec. H.10. 32 V.S.A. § 5930u is amended to read:

§ 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

(a) As used in this section:

* * *

(5) "Credit certificate" means a certificate issued by the allocating agency to a taxpayer that specifies the amount of affordable housing tax credits that can be applied against the taxpayer's individual or corporate income tax, or franchise, captive insurance premium, or insurance premium tax liability as provided in this subchapter.

* * *

(c) Amount of credit. A taxpayer who makes an eligible cash contribution shall be entitled to claim against the taxpayer's individual income, corporate, franchise, captive insurance premium, or insurance premium tax liability a credit in an amount specified on the taxpayer's credit certificate. The first-year allocation of a credit amount to a taxpayer shall also be deemed an allocation of the same amount in each of the following four years.

* * *

* * * Vermont State Housing Authority; Powers * * *

Sec. H.11. 24 V.S.A. § 4005 is amended to read:

§ 4005. VERMONT STATE HOUSING AUTHORITY; ESTABLISHMENT, MEMBERS, POWERS

* * *

(e) Notwithstanding any provision of law, no person~~, domestic or foreign,~~ shall be authorized to administer allocations of money under 42 U.S.C.A. § 1437a or 1437f or other federal statute authorizing rental subsidies for the benefit of persons of low or moderate income, except:

(1) ~~a subcontractor of~~ the State Authority; ~~or~~

(2) a State public body authorized by law to administer such allocations;

(3) a person authorized to administer such allocations pursuant to an agreement with the State Authority; or

(4) an organization, of which the State Authority is a promoter, member, associate, owner, or manager, that is authorized by a federal agency to administer such allocations in this State.

(f) In addition to the powers granted by this chapter, the State Authority shall have all the powers necessary or convenient for the administration of federal monies pursuant to subsection (e) of this section, including the power:

(1) to enter into one or more agreements for the administration of federal monies;

(2) to be a promoter, partner, member, associate, owner, or manager of any partnership, limited liability company, joint venture, association, trust, or other organization;

(3) to conduct its activities, locate offices, and exercise the powers granted by this title within or outside this State;

(4) to carry on a business in the furtherance of its purposes; and

(5) to do all things necessary or convenient, consistent with law, to further the activities and affairs of the Authority.

* * * Repeal of Sunset on Sales and Use Tax Exemption; Airplanes and Airplane Parts * * *

Sec. I.1. REPEALS

The following are repealed:

(1) 2007 Acts and Resolve No. 81, Secs. 7a (amendment to sales tax exemption for aircraft parts) and 7b (effective date).

(2) 2008 Acts and Resolve No. 190, Sec. 43 (effective date).

* * * Tax Increment Financing Districts* * *

Sec. J. TAX INCREMENT FINANCING; FINDINGS

The General Assembly finds that the State of Vermont has an important role to play in creating the infrastructure necessary to support downtown development and revitalization, particularly in distressed communities.

Sec. J.1. 24 V.S.A. § 1892 is amended to read:

§ 1892. CREATION OF DISTRICT

(a) Upon a finding that such action will serve the public purposes of this subchapter and subject to subsection (d) of this section, the legislative body of any municipality may create within its jurisdiction a special district to be known as a tax increment financing district. The district shall be described by its boundaries and the properties therein and the district boundary shall be

shown on a plan entitled "Proposed Tax Increment Financing District (municipal name), Vermont." The legislative body shall hold one or more public hearings, after public notice, on the proposed plan.

* * *

(d) The following municipalities have been authorized to use education tax increment financing for a tax increment financing district~~, and the Vermont Economic Progress Council is not authorized to approve any additional tax increment financing districts even if one of the districts named in this subsection is terminated pursuant to subsection 1894(a) of this subchapter~~:

(1) the City of Burlington, Downtown;

(2) the City of Burlington, Waterfront;

(3) the Town of Milton, North and South;

(4) the City of Newport;

(5) the City of Winooski;

(6) the Town of Colchester;

(7) the Town of Hartford;

(8) the City of St. Albans;

(9) the City of Barre; ~~and~~

(10) the Town of Milton, Town Core; and

(11) the City of South Burlington.

(e) Annually, the General Assembly may use the estimate of the maximum amount of new long-term net debt that prudently may be authorized for tax increment financing districts in the next fiscal year prepared pursuant to 32 V.S.A. § 305b to determine whether to expand the number of tax increment financing districts.

Sec. J.2. ADDITIONAL TIF DISTRICTS; FINDINGS; APPROVAL

(a) The General Assembly finds that:

(1) the City of Newport has retired its tax increment financing district and all debt incurred in the district was repaid in 2015; and

(2) the Town of Colchester voted to dissolve its tax increment financing district in November 2014.

(b) Notwithstanding 24 V.S.A. § 1892(d), and as a result of the termination of the two tax increment financing districts described in subsection (a) of this section, the Vermont Economic Progress Council is authorized to approve two additional tax increment financing districts.

Sec. J.3. 24 V.S.A. § 1894 is amended to read:

§ 1894. POWER AND LIFE OF DISTRICT

(a) Incurring indebtedness.

(1) A municipality approved under 32 V.S.A. § 5404a(h) may incur indebtedness against revenues of the tax increment financing district at any time during a period of up to five years following the creation of the district. If no debt is incurred during this five-year period, the district shall terminate, unless the Vermont Economic Progress Council grants an extension to a municipality pursuant to subsection (d) of this section. However, if any indebtedness is incurred within the first five years after the creation of the district, then the district has a total of ten years after the creation of the district to incur any additional debt.

* * *

(c) Use of the municipal property tax increment. For only debt incurred within the period permitted under subdivision (a)(1) of this section after creation of the district, and related costs, ~~not less than an equal share~~ 100 percent of the municipal tax increment ~~pursuant to subsection (f) of this section~~ shall be retained to service the debt, beginning the first year in which debt is incurred, pursuant to subsection (b) of this section.

* * *

(f) ~~Equal share required~~ Required share of increment. If any tax increment utilization is approved pursuant to 32 V.S.A. § 5404a(h), ~~no~~ not more than 75 percent of the State property tax increment and ~~no~~ not less than ~~an equal percent~~ 100 percent of the municipal tax increment may be approved by the Council or used by the municipality to service this debt.

* * *

Sec. J.4. 32 V.S.A. § 305b is added to read:

§ 305b. EDUCATION PROPERTY TAX INCREMENT; EMERGENCY BOARD ESTIMATE

(a) Annually, at the January meeting of the Emergency Board held pursuant to section 305a of this title, the Joint Fiscal Office and the Secretary of Administration shall provide to the Emergency Board a consensus estimate of forgone revenue from the Education Fund resulting from the retention of education property tax increment by tax increment financing districts authorized pursuant to 24 V.S.A. chapter 53 and section 5404a of this title. The estimate shall be for the succeeding fiscal year. The Emergency Board shall adopt an official estimate of forgone revenue from the Education Fund at the January meeting.

(b) Annually, on or before September 30 of each year, the Emergency Board shall review the size and affordability of the net indebtedness for tax increment financing districts and submit to the Governor and to the General Assembly an estimate of the maximum amount of new long-term net debt that prudently may be authorized for tax increment financing districts in the next fiscal year. The estimate of the Board shall be advisory, and shall take into consideration:

(1) any existing or new debt incurred by authorized tax increment financing districts; and

(2) the impact of the amount of the indebtedness on the General and Education Funds.

Sec. J.5. 16 V.S.A. § 4025 is amended to read:

§ 4025. EDUCATION FUND

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

(1) All revenue paid to the State from the statewide education tax on nonresidential and homestead property under 32 V.S.A. chapter 135.

(2) For each fiscal year, the amount of the general funds appropriated and transferred to the Education Fund shall be $305,900,000.00, to be increased annually beginning for fiscal year 2018 by the consensus Joint Fiscal Office and Administration determination of the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis through the fiscal year for which the payment is being determined, plus an additional one-tenth of one percent, plus an amount equal to one-half of the official estimate of forgone revenue from the Education Fund adopted by the Emergency Board pursuant to section 305b of this title.

* * *

Sec. J.6. 32 V.S.A. § 5404a(h) is amended to read:

(h) Criteria for approval. To approve utilization of incremental revenues pursuant to subsection (f) of this section, the Vermont Economic Progress Council shall do all the following:

(1) ~~Review~~ Conduct a review of each application ~~to determine that the new real property development would not have occurred or would have occurred in a significantly different and less desirable manner but for the proposed utilization of the incremental tax revenues. The review~~ that shall take into account:

(A) the amount of additional time, if any, needed to complete the proposed development within the tax increment district and the amount of additional cost that might be incurred if the project were to proceed without education property tax increment financing;

(B) how the proposed development components and size would differ, if at all, including, if applicable to the development, in the number of units of affordable housing, as defined in 24 V.S.A. § 4303, without education property tax increment financing; and

(C) the amount of additional revenue expected to be generated as a result of the proposed development; the percentage of that revenue that shall be paid to the ~~education fund~~ Education Fund; the percentage that shall be paid to the municipality; and the percentage of the revenue paid to the municipality that shall be used to pay financing incurred for development of the tax increment financing district.

* * *

(3) Location criteria. Determine that each application meets one of the following criteria:

(A) The development or redevelopment is compact, high density, and located in or near existing industrial areas.

(B) The proposed district is within an approved growth center, designated downtown, designated village center, ~~or~~ new town center, or neighborhood development area.

(C) The development will occur in an area that is economically distressed, which for the purposes of this subdivision means that the ~~area has experienced patterns of increasing unemployment, a drop in average wages, or a decline in real property values~~ municipality in which the area is located has at least one of the following:

(i) a median family income that is not more than 80 percent of the statewide median family income as reported by the Vermont Department of Taxes for the most recent year for which data are available;

(ii) an annual average unemployment rate that is at least one percent greater than the latest annual average statewide unemployment rate as reported by the Vermont Department of Labor; or

(iii) a median sales price for residential properties under six acres that is not more than 80 percent of the statewide median sales price for residential properties under six acres as reported by the Vermont Department of Taxes.

(4) Project criteria. Determine that the proposed development within a tax increment financing district will accomplish at least three of the following five criteria:

(A) The development within the tax increment financing district clearly requires substantial public investment over and above the normal municipal operating or bonded debt expenditures.

(B) The development includes new or rehabilitated affordable housing ~~that is affordable to the majority of the residents living within the municipality and is developed at a higher density than at the time of application. "Affordable" has the same meaning as in 10 V.S.A. § 6001(29),~~ as defined in 24 V.S.A. § 4303.

(C) The project will affect the remediation and redevelopment of a brownfield located within the district. As used in this section, "brownfield" means an area in which a hazardous substance, pollutant, or contaminant is or may be present, and that situation is likely to complicate the expansion, development, redevelopment, or reuse of the property.

(D) The development will include at least one entirely new business or business operation or expansion of an existing business within the district, and this business will provide new, ~~quality~~ high-quality, full-time jobs that meet or exceed the prevailing wage for the region as reported by the ~~department of labor~~ Department of Labor.

(E) The development will enhance transportation by creating improved traffic patterns and flow or creating or improving public transportation systems.

Sec. J.7. 24 V.S.A. chapter 53, subchapter 5 is redesignated to read:

Subchapter 5. Statewide Tax Increment Financing

Sec. J.8. 24 V.S.A. chapter 53, subchapter 6 is added to read:

Subchapter 6. Municipal Tax Increment Financing

§ 1903. DEFINITIONS

As used in this subchapter:

(1) "District" or "TIF" means a tax increment financing district.

(2) "Improvements" means the installation, new construction, or reconstruction of infrastructure to benefit a municipal tax increment financing district, including utilities, transportation, public facilities and amenities, land and property acquisition and demolition, and site preparation.

(3) "Legislative body" means the mayor and alderboard, the city council, the selectboard, or the president and trustees of an incorporated village, as appropriate.

(4) "Municipality" means a city, town, or incorporated village.

(5) "Original taxable value" means the total valuation as determined in accordance with 32 V.S.A. chapter 129 of all taxable real property located within the tax increment financing district as of the creation date as set forth in section 1904 of this subchapter, provided that no parcel within the district shall be divided or bisected by the district boundary.

(6) "Related costs" means expenses incurred and paid by the municipality, exclusive of the actual cost of constructing and financing improvements, that are directly related to the creation and implementation of a municipal tax increment financing district, including reimbursement of sums previously advanced by the municipality for those purposes, direct municipal expenses such as departmental or personnel costs related to creating or administering the project, and audit costs allocable to the district.

§ 1904. MUNICIPAL TAX INCREMENT FINANCING DISTRICT

(a) General authority. Notwithstanding any provision of subchapter 5 of this chapter or 32 V.S.A. § 5404a to the contrary, upon approval of the legislative body of any municipality, a municipality may create a municipal tax increment financing district, and may incur debt to provide funding for improvements and related costs for the district.

(b) Municipal approval; voter approval.

(1) The legislative body of the municipality shall hold one or more public hearings to consider a municipal tax increment financing plan. Following public notice, hearing, and opportunity to comment, the legislative body of the municipality may grant approval of the plan.

(2) When adopted by the act of the legislative body of that municipality, the plan shall be recorded with the municipal clerk and lister or assessor, and the creation of the district shall occur at 12:01 a.m. on April 1 of the calendar year so voted by the municipal legislative body.

(3) The municipality may only incur debt for the project if the voters of the municipality approve the debt obligation by a majority vote at a regular or special meeting for which voting upon the debt obligation was properly warned.

(4) Following final voter approval, the municipality has up to five years to incur debt pursuant to the financing plan.

(c) Life of district.

(1) A municipality may incur indebtedness against revenues of the municipal tax increment financing district over any period authorized by the legislative body of the municipality.

(2) Any indebtedness incurred under subdivision (1) of this subsection may be retired over any period authorized by the legislative body of the municipality.

(3) The district shall continue until the date and hour the indebtedness is retired or, if no debt is incurred, after the period authorized by the legislative body of the municipality to incur indebtedness.

(d) Financing. During the life of an active district, the following apply, notwithstanding any provision of law to the contrary:

(1) Valuation.

(A) Within 30 days of voter approval pursuant to subsection (b) of this section, the lister or assessor for a municipality shall certify to the legislative body of the municipality the original taxable value of a tax increment financing district as of the date the voters approved the debt obligation.

(B) On or before June 30 following voter approval and annually thereafter, the lister or assessor shall assess and certify to the legislative body the current value of a project parcel.

(2) Tax rate.

(A) The lister or assessor shall use the original taxable value of a project parcel when computing the municipal tax rate.

(B) When calculating the amount of tax due on a project parcel, the treasurer shall apply the municipal tax rate to the current assessed value, rather than the original taxable value.

(3) Tax increment.

(A) The "tax increment" is the amount of tax paid on a project parcel, as calculated pursuant to subdivision (2)(B) of this subsection (d) using the current assessed value, that exceeds the amount of tax that would have been due if the tax rate were applied to the original taxable value.

(B) The municipality may retain any share of the municipal tax increment to service the debt, beginning the first year in which debt is incurred.

(C) A municipal tax increment financing district created pursuant to this subchapter is not authorized to retain any education property tax increment.

(D) A municipality shall segregate the tax increment in a special account and in its official books and records.

(4) Use of tax increment.

(A) As of each date the municipality receives a tax payment and retains a portion of the tax increment pursuant to this section, the municipality shall use the portion of the municipal tax increment that is necessary to pay costs actually incurred as of that date for debt service and related costs.

(B) If, after paying for improvements and related costs, there remains any excess portion of the tax increment, the municipality may retain the increment to prepay principal and interest on the financing, use for future financing payments, or use for defeasance of the financing.

(e) Annual audit.

(1) The municipality shall ensure that the segregated account for the tax increment financing district required by this section is subject to the annual audit requirements prescribed in sections 1681 and 1690 of this title.

(2) Any audit procedures shall include verification of the original taxable value and current assessed value, expenditures for project debt service and related costs, annual and total tax increment funds generated, and allocation of tax increment funds.

Sec. J.9. IMPLEMENTATION

Secs. J.1– J.3 and J.6 of this act shall apply only to tax increment financing district applications filed, and districts approved, on or after the date of passage of this act.

Sec. J.10. TAX INCREMENT FINANCING CAPACITY

(a) The Joint Fiscal Office, with the assistance of the consulting Legislative Economist, the Department of Taxes, the State Auditor, and the Agency of Commerce and Community Development, shall examine the use of both tax increment financing districts (TIFs) and other policy options for State assistance to municipalities for funding infrastructure in support of economic development and shall report on the capacity of Vermont to utilize TIFs moving forward.

(b) The report shall include for TIFs, and for other potential tools for funding infrastructure in support of economic development as applicable:

(1) a recommendation for a sustainable statewide capacity level for TIFs or other tools and relevant permitting criteria;

(2) the impact on the State fiscal health, including the General Fund and Education Fund;

(3) the economic development impacts on the State, both positive and negative;

(4) the mechanics for ensuring geographic diversity of TIFs or other tools throughout the State; and

(5) the parameters of TIFs and other tools in other states.

(c) The report in this section shall be made to the General Assembly on or before January 15, 2018.

* * * Climate Economy Accelerator * * *

Sec. K.1. FINDINGS AND PURPOSE

(a) Findings. The General Assembly finds:

(1) Vermont needs to attract and support entrepreneurs, youths, and investors to reinvigorate its economy, today and for the future.

(2) Vermont has a tremendous opportunity to systematically advance economic activity that addresses the challenge of climate change by reducing and mitigating carbon impacts, while spurring innovation and creativity, encouraging entrepreneurism, attracting youths, and building jobs for the future.

(3) Vermont's unique environmental image, strong brand recognition nationally, quality of life, and history of entrepreneurism and invention provides an opportunity to position the State as a premier place to establish new businesses whose mission, products, and services can help society and our economy mitigate the effects of climate change.

(4) The goal of quality job creation as part of the State's economic development policy is dependent on providing support for the start-up and expansion of small businesses sectors of our economy.

(5) The Vermont Sustainable Jobs Fund, the Vermont Council on Rural Development, and a working group of business, finance, and economic development leaders, are developing the Climate Economy Business Accelerator Program to grow entrepreneurial opportunities and provide a network for businesses to promote their solutions, products, and services that can lead to collaboration and innovation.

(6) The Accelerator Program aims to accelerate the creation and growth of entrepreneurs that commercialize business solutions to address the negative impacts of climate change and position our State as the place to come and build businesses that export solutions for a changing climate worldwide.

(7) Nationally, business accelerators have led to the growth of start-up companies, job creation, and enhanced entrepreneurial activity in a region.

Most accelerators are located in major cities and throughout Canada. There are over 150 business accelerators in the United States at this time.

(8) Neither Vermont, nor other New England States, have an accelerator program to support start-up businesses and serve the needs of both rural and urban businesses.

(9) In early 2017 a climate change-related accelerator will launch in Philadelphia with a focus on technology development related to agriculture and water.

(10) The Vermont Sustainable Jobs Fund program (VSJF) was created in 1995 to accelerate the development of Vermont's green economy. Per its enabling statute, VSJF focuses its development efforts on particular economic sectors by supporting the business assistance and financing needs of businesses in these sectors.

(11) To date, VSJF has concentrated on working with early-stage and growth-stage businesses in the green economy, primarily due to a lack of sufficient funding support to work with start-up businesses. Additional funding for VSJF's Accelerator Program will enable it to fulfill its statutory mission.

(12) A State investment of seed funding would leverage additional private and philanthropic investment to carry out this work and boost economic development, innovation, and job creation.

(b) Purpose. The purpose of Sec. K.2 of this act is to create a statutory framework to authorize the creation of the Climate Economy Business Accelerator Program capable of attracting and retaining young entrepreneurs in the State and to position Vermont as a national leader in climate economy innovation.

Sec. K.2. 10 V.S.A. § 331 is added to read:

§ 331. CLIMATE ECONOMY BUSINESS ACCELERATOR PROGRAM

(a) Definition. In this section "climate economy" means the work performed by businesses whose products and services are designed to reduce, mitigate, or prepare for the negative impacts of climate change on human systems, including:

(1) clean energy development and distribution;

(2) thermal and electrical efficiencies in buildings and building construction;

(3) evolving public and private transportation systems;

(4) energy and efficiency innovations in the working lands economy;

(5) recycling, reuse, and renewal of resources; and

(6) resilience technologies, such as soil-sensing devices.

(b) Program implementation. The Vermont Sustainable Jobs Fund shall have the authority to design and implement a Climate Economy Business Accelerator Program as follows:

(1) Assemble a team of experienced program partners, mentors, investors, and business content providers to design and deliver a high quality experience to Accelerator Program cohort participants.

(2) Recruit and select a cohort of at least 10 start-up and early-stage businesses to participate together in a three-to-four-month intensive program of training, mentoring, and investment opportunities.

(3) Assist cohort members in clarifying the market for their products, evaluating the needs of their management teams, defining their business models, articulating their unique values, and securing needed investment capital.

(4) Develop an evaluation and metrics capture process compatible with Results-Based Accountability and begin tracking results.

(5) Develop a network of climate economy related businesses to work alongside the Accelerator Program in order to connect cohort members with the business community to spark business-to-business collaboration, stimulate additional job growth in the climate economy sector, and provide ongoing support as their businesses mature.

(6) Raise additional program funding as needed from sponsors, partners, private foundations, and federal agencies to leverage State general funds.

(c) Outcomes. The outcomes of the Program shall include:

(1) Increase the success rate of start-up businesses in the climate economy sector in Vermont.

(2) Create jobs in the climate economy sector.

(3) Attract and retain young entrepreneurs who develop climate economy businesses in Vermont to serve local, national, and global markets.

(4) Attract equity and venture capital to emerging climate economy start-up businesses in Vermont.

Sec. K.3 BUSINESS INCUBATOR AND ACCELERATOR CONFERENCE

The Agency of Commerce and Community Development, in collaboration with the Center for Entrepreneurial Programs at Castleton University, shall have the authority to convene the first annual "Business Incubator and

Accelerator Conference," which shall be designed to facilitate networking, collaboration, and the exchange of ideas among business professionals and entrepreneurs, including those involved in incubators, microbusiness development programs, the Vermont Center for Emerging Technologies, accelerators, regional development corporations, and businesses.

* * * Opportunity Economy * * *

Sec. L.1. MICROBUSINESS DEVELOPMENT PROGRAM; FINDINGS; APPROPRIATION

(a) Findings. The General Assembly finds:

(1) Since 1989, the Microbusiness Development Program has provided free business technical assistance, including training and counseling, as well as access to capital to Vermonters with low income.

(2) The Vermont Community Action Agencies work in conjunction with many partners, including other service providers, State agencies, business technical assistance providers, and both traditional and alternative lenders.

(3) Each year the Program:

(A) enables the creation or expansion of an average of 145 businesses across Vermont;

(B) supports the creation of 84 new jobs; and

(C) provides access to more than $1,100,000.00 in capital.

(4) The average cost per job created through the Program is less than $3,600.00.

(b) Intent. It is the intent of the General Assembly to provide additional funding, subject to available resources, for the regional Microbusiness Development Programs pursuant to 3 V.S.A. § 3722.

Sec. L.2. FINANCIAL EDUCATION, COACHING, AND CREDIT-BUILDING SERVICES; FINDINGS; APPROPRIATION

(a) Findings. The General Assembly finds:

(1) To overcome barriers to financial security, "Financial Capability" education and coaching services empower people to stabilize their finances, set goals and work to achieve them, and sustain successful financial behaviors over time.

(2) The knowledge and skills gained by Vermonters with low income enable them better to manage scarce resources, repair or build credit, and establish or strengthen connections to financial institutions.

(3) Recent studies show that 10 hours of financial education can yield a savings of $1,390.00 per year for participants, a substantial sum for families living in poverty.

(4) Additionally, a recent national study found that 58 percent of individuals with low-to-moderate income receiving financial coaching and credit-building services had their credit score increase as a result.

(5) These services in Vermont can and have been customized to meet the particular needs of families participating in Reach Up.

(b) It is the intent of the General Assembly to provide funding, subject to available resources, to enable more Vermonters with low income to access these services.

* * * Funding Priorities * * *

Sec. M.1. SMALL BUSINESS DEVELOPMENT CENTER

In fiscal year 2018, it is the intent of the General Assembly to provide funding, subject to available resources, to the Vermont Small Business Development Center (SBDC) as follows:

(1) for the purpose of increasing the number of SBDC business advisors, with priority to underserved regions of the State; and

(2) for the purpose of fully funding the SBDC technology commercialization advisor position.

Sec. M.2. ECONOMIC DEVELOPMENT MARKETING

(a) The Agency of Commerce and Community Development shall have the authority, and may use available funds, to:

(1) implement the Department of Economic Development's economic development marketing plan to attract and retain residents and businesses to Vermont, highlighting the many positive features that make Vermont a great place to live, work, and do business; and

(2) prioritize marketing tactics with the potential to shift most efficiently and effectively perceptions about Vermont as a place to live and work, and that will form a set of marketing assets and strategic framework to sustain Department of Economic Development activities beyond initial implementation.

(b) Funds available to implement this section may be matched with federal funds, special funds, grants, donations, and private funds. To increase the amount and effectiveness of marketing activities conducted, the Agency shall collaborate with private sector partners to maximize State marketing resources and to enable Vermont businesses to align their own brand identities with the Vermont brand, enhancing the reputations of both the business and the State.

(c) For any economic development marketing plan implemented pursuant to this section, the Secretary of Commerce and Community Development shall establish performance measures that support strategic priorities, including strengthening the State economy, before disbursing funds.

Sec. M.3. 2014 Acts and Resolves No. 179, Sec. G.100(b), as amended by 2015 Acts and Resolves No. 51, Sec. G.9, and 2016 Acts and Resolves No. 172, Sec. E.801, is further amended to read:

(b) Sec. E.100.6 (wood products manufacture incentive) shall take effect retroactively on January 1, 2014 and apply to tax years 2014, 2015, ~~and~~ 2016, 2017, and 2018.

* * * Effective Dates * * *

Sec. N.1. EFFECTIVE DATES

(a) This section, Sec. B.1 (rural economic development infrastructure districts), and Secs. J–J.9 (tax increment financing districts) shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2017.

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

Thereupon, pursuant to the request of the Senate, the President announced the appointment of

Senator Mullin
Senator Balint
Senator Sirotkin

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

Thereupon, on motion of Senator Mullin, the rules were suspended and the bill was ordered messaged to the House forthwith.

Rules Suspended; Proposal of Amendment; Third Reading Ordered

H. 29.

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

An act relating to permitting Medicare supplemental plans to offer expense discounts.

Was taken up for immediate consideration.

Senator Sirotkin, for the Committee on Finance, 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:

* * * Medicare Supplemental Plans * * *

Sec. 1. 8 V.S.A. § 4080e is amended to read:

§ 4080e. MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES; COMMUNITY RATING; DISABILITY

(a) A health insurance company, hospital or medical service corporation, or health maintenance organization shall use a community rating method acceptable to the Commissioner for determining premiums for Medicare supplemental insurance policies.

(b)(1) The Commissioner shall adopt rules for standards and procedure for permitting health insurance companies, hospital or medical service organizations, or health maintenance organizations that issue Medicare supplemental insurance policies to use one or more risk classifications in their community rating method. The premium charged shall not deviate from the community rate and the rules shall not permit medical underwriting and screening, except that a health insurance company, hospital or medical service corporation, or health maintenance organization may set different community rates for persons eligible for Medicare by reason of age and persons eligible for Medicare by reason of disability.

(2)(A) A health insurance company, hospital or medical service corporation, or health maintenance organization that issues Medicare supplemental insurance policies may offer expense discounts to encourage timely, full payment of premiums. Expense discounts may include premium reductions for advance payment of a full year's premiums, for paperless billing, for electronic funds transfer, and for other activities directly related to premium payment. The availability of one or more expense discounts shall not be considered a deviation from community rating.

(B) A health insurance company, hospital or medical service corporation, or health maintenance organization that issues Medicare supplemental insurance policies shall not offer reduced premiums or other discounts related to a person's age, gender, marital status, or other demographic criteria.

* * *

* * * Health Care Professional Payment Parity * * *

Sec. 2. FINDINGS

The General Assembly finds:

(1) Serious disparities exist between the amounts commercial health insurers in Vermont reimburse health care professionals for the same services in different settings. The differences are particularly significant for the amounts paid for the services of a health care professional practicing at an academic medical center and those of a health care professional in an independent medical practice or community hospital setting. For example, in January 2015, one Vermont insurer provided the following reimbursement amounts for physician services:

(A) for an office consultation visit for an established patient, CPT code 99213, $78.00 for a physician in an independent practice and $177.00, or 2.3 times that amount, for a physician employed by an academic medical center;

(B) for a diagnostic, screening colonoscopy, CPT code 45378, $584.00 for a physician in an independent practice and $1,356.00, or 2.3 times that amount, for a physician employed by an academic medical center; and

(C) for removal of a single skin lesion for biopsy, CPT code 11000, $109.00 for a physician in an independent practice and $349.00, or 3.2 times that amount, for a physician employed by an academic medical center.

(2) Community hospitals in Vermont face disparities in their physician reimbursement rates that are similar to those of independent practices.

(3) Low reimbursement rates from commercial health insurers and Medicaid have placed burdens on health care professionals in independent practices, causing many of them to close their practices or affiliate with academic medical centers or other hospitals.

(4) The General Assembly asked the Green Mountain Care Board, the commercial insurers, and others to address the issue of the disparity in reimbursement amounts to health care professionals in 2014 Acts and Resolves No. 144, Sec. 19; 2015 Acts and Resolves No. 54, Sec 23; and 2016 Acts and Resolves No. 143, Sec. 5, but little progress has been made to date.

Sec. 3. GREEN MOUNTAIN CARE BOARD; HEALTH CARE PROFESSIONAL PAYMENT PARITY WORK GROUP

(a) The Green Mountain Care Board shall convene the Health Care Professional Payment Parity Work Group to determine how best to ensure fair

and equitable reimbursement amounts to health care professionals for providing the same services in different settings.

(b) The Work Group shall be composed of the following members:

(1) the Chair of the Green Mountain Care Board or designee;

(2) the Commissioner of Vermont Health Access or designee;

(3) a representative of each commercial health insurer with 5,000 or more covered lives in Vermont;

(4) a representative of independent physician practices, appointed by Health First;

(5) a representative of the University of Vermont Medical Center;

(6) a representative of Vermont's community hospitals, appointed by the Vermont Association of Hospitals and Health Systems;

(7) a representative of Vermont's critical access hospitals, appointed by the Vermont Association of Hospitals and Health Systems;

(8) a representative of each accountable care organization in this State;

(9) a representative of Vermont's federally qualified health centers and rural health clinics, appointed by the Bi-State Primary Care Association;

(10) a representative of naturopathic physicians, appointed by the Vermont Association of Naturopathic Physicians;

(11) a representative of chiropractors, appointed by the Vermont Chiropractic Association; and

(12) the Chief Health Care Advocate or designee from the Office of the Health Care Advocate.

(c) The Green Mountain Care Board, in consultation with the other members of the Work Group, shall develop a plan for reimbursing health care professionals in a fair and equitable manner, including the following:

(1) proposing a process for reducing existing disparities in reimbursement amounts for health care professionals across all settings by the maximum achievable amount over three years, beginning on or before January 1, 2018, which shall include:

(A) establishing a process for and evaluating the potential impacts of increasing the reimbursement amounts for lower paid providers and reducing the reimbursement amounts for the highest paid providers;

(B) evaluating the potential impact of requiring health insurers to modify their reimbursement amounts to health care professionals across all

settings for nonemergency evaluation and management office visits codes to the amount of the insurer's average payment for that code across all settings in Vermont on January 1, 2017 or on another specified date;

(C) ensuring that there will be no negative net impact on reimbursement amounts for providers in independent practices and community hospitals;

(D) ensuring that there will be no increase in medical costs or health insurance premiums as a result of the adjusted reimbursement amounts;

(E) considering the impact of the adjusted reimbursement amounts on the implementation of value-based reimbursement models, including the all-payer model; and

(F) developing an oversight and enforcement mechanism through which the Green Mountain Care Board shall evaluate the alignment between reimbursement amounts to providers, hospital budget revenues, and health insurance premiums;

(2) identifying the time frame for adjusting the reimbursement amounts for each category of health care services; and

(3) enforcement and accountability provisions to ensure measurable results.

(d)(1) The Green Mountain Care Board shall provide an update on its progress toward achieving provider payment parity at each meeting of the Health Reform Oversight Committee between May 2017 and January 2018.

(2) On or before November 1, 2017, the Green Mountain Care Board shall submit a final timeline and implementation plan, and propose any necessary legislative changes, to the Health Reform Oversight Committee, the House Committee on Health Care, and the Senate Committees on Health and Welfare and on Finance.

Sec. 4. REIMBURSEMENT AMOUNTS FOR NEWLY ACQUIRED OR NEWLY AFFILIATED PRACTICES

(a) Health care professionals employed by practices newly acquired by or newly affiliated with hospitals on or after November 1, 2017 shall continue to be reimbursed the same professional fees as they were prior to the date of the acquisition or affiliation, subject to any modifications resulting from implementation of the provider payment parity plan required by Sec. 3 of this act.

(b) The Green Mountain Care Board shall ensure compliance with subsection (a) of this section through its review of hospital budgets pursuant to 18 V.S.A. chapter 221, subchapter 7.

* * * Health Insurer Bill Back * * *

Sec. 5. 18 V.S.A. § 9374(h) is amended to read:

(h)(1) Except as otherwise provided in subdivision (2) of this subsection, expenses incurred to obtain information, analyze expenditures, review hospital budgets, and for any other contracts authorized by the Board shall be borne as follows:

(A) 40 percent by the State from State monies;

(B) 15 percent by the hospitals; and

(C) ~~15~~ 45 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125~~;~~

~~(D) 15 percent by,~~ health insurance companies licensed under 8 V.S.A. chapter 101~~;~~, and

~~(E) 15 percent by~~ health maintenance organizations licensed under 8 V.S.A. chapter 139.

(2) The Board may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subdivision (1) of this subsection if, in the Board's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State.

(3) Expenses under subdivision (1)(C) of this subsection shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section shall include major medical, comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care or limited benefits, disability, credit or stop loss, or excess loss insurance coverage.

* * * Effective Dates * * *

Sec. 6. EFFECTIVE DATES

(a) Secs. 1 (Medicare supplemental plans) and 5 (health insurer bill back) shall take effect on July 1, 2017.

(b) Secs. 2-4 (payment parity) and this section shall take effect on passage.

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 the proposal of amendment was agreed to, and third reading of the bill was ordered.

Bill Called Up

S. 22.

Senate bill of the following title was called up by Senator Sears, and, under the rule, placed on the Calendar for action the next legislative day:

An act relating to increased penalties for possession, sale, and dispensation of fentanyl.

Committees of Conference Appointed

S. 9.

An act relating to the preparation of poultry products.

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

Senator Starr
Senator Brooks
Senator Branagan

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

H. 238.

An act relating to modernizing and reorganizing Title 7.

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

Senator Clarkson
Senator Baruth
Senator McCormack

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 Mazza, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 9, H. 238.

Appointments Confirmed

The following Gubernatorial appointments were confirmed separately by the Senate, upon full reports given by the Committees to which they were referred:

The nominations of

Bailey, Melissa of Bolton - Commissioner, Department of Mental Health - January 5, 2017, to February 28, 2017.

Bailey, Melissa of Bolton - Commissioner, Department of Mental Health - March 1, 2017, to February 28, 2019.

Were collectively confirmed by the Senate.

The nominations of

Gustafson, Cory of Montpelier - Commissioner, Department of Vermont Health Access - January 5, 2017, to February 28, 2017.

Gustafson, Cory of Montpelier - Commissioner, Department of Vermont Health Access - March 1, 2017, to February 28, 2019.

Were collectively confirmed by the Senate.

The nominations of

Hutt, Monica of Williston - Commissioner, Department of Aging and Independent Living - January 5, 2017, to February 28, 2017.

Hutt, Monica of Williston - Commissioner, Department of Aging and Independent Living - March 1, 2017, to February 28, 2019.

Were collectively confirmed by the Senate.

The nominations of

Levine, Mark A. of Shelburne - Commissioner, Department of Health - January 5, 2017, to February 28, 2017.

Levine, Mark A. of Shelburne - Commissioner, Department of Health - March 1, 2017, to February 28, 2019.

Were collectively confirmed by the Senate.

The nominations of

Schatz, Kenneth of South Burlington - Commissioner, Department of Children and Families - January 5, 2017, to February 28, 2017.

Schatz, Kenneth of South Burlington - Commissioner, Department of Children and Families - March 1, 2017, to February 28, 2019.

Were collectively confirmed by the Senate.

Recess

On motion of Senator Mazza the Senate recessed until 4:30 P.M.

Called to Order

The Senate was called to order by the President *pro tempore*.

Rules Suspended; House Proposal of Amendment Not Concurred In; Committee of Conference Requested; Committee of Conference Appointed; Bill Messaged

S. 34.

Pending entry on the Calendar for notice, on motion of Senator Starr, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to cross-promoting development incentives and State policy goals.

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:

* * * Rural Economic Development Initiative * * *

Sec. 1. 10 V.S.A. chapter 15, subchapter 4 is added to read:

§ 325m. RURAL ECONOMIC DEVELOPMENT INITIATIVE

Subchapter 4. Rural Economic Development Initiative

(a) Definitions. As used in this subchapter:

(1) "Rural area" means a county of the State designated as "rural" or "mostly rural" by the U.S. Census Bureau in its most recent decennial census.

(2) "Small town" means a town in the State with a population of less than 5,000 at the date of the most recent U.S. Census Bureau decennial census.

(b) Establishment. There is created within the Vermont Housing and Conservation Board a Rural Economic Development Initiative to promote and facilitate community economic development in the small towns and rural areas of the State. The Rural Economic Development Initiative shall collaborate with municipalities, businesses, regional development corporations, and other appropriate entities to access funding and other assistance available to small towns and businesses in rural areas of the State when existing State resources or staffing assistance is not available.

(c) Services; access to funding.

(1) The Rural Economic Development Initiative shall provide the following services to small towns and businesses in rural areas:

(A) identification of grant or other funding opportunities available to small towns and businesses in rural areas that facilitate business development,

siting of businesses, infrastructure, or other economic development opportunities;

(B) technical assistance to small towns and businesses in rural areas in writing grants, accessing and completing the application process for identified grants or other funding opportunities, including writing applications for grants or other funding, coordination with providers of grants or other funding, strategic planning for the implementation or timing of activities funded by grants or other funding, and compliance with the requirements of grant awards or awards of other funding; and

(C) recommending available grants, tax credits, or other incentives that a small town or rural area can use to attract businesses.

(2) In providing services under this subsection, the Rural Economic Development Initiative shall give first priority to projects that have received necessary State or municipal approval and that are ready for construction or implementation. Priority shall also be given to projects identified through community visits hosted by the Vermont Council on Rural Development or other public engagement planning processes.

(3) In identifying businesses, or business types, the Rural Economic Development Initiative shall seek to identify businesses or business types in the following priority areas:

(A) milk plants, milk handlers, or dairy products, as those terms are defined in 6 V.S.A. § 2672;

(B) the outdoor equipment or recreation industry;

(C) the value-added forest products industry;

(D) the value-added food industry;

(E) phosphorus removal technology; and

(F) composting facilities.

(d) Report. Beginning on January 31, 2018, and annually thereafter, the Rural Economic Development Initiative shall submit to the Senate Committees on Agriculture and on Economic Development, Housing and General Affairs and the House Committees on Agriculture and Forestry and on Commerce and Economic Development a report regarding the activities and progress of the Initiative. The report shall include:

(1) a summary of activities in the preceding calendar year;

(2) an evaluation of the effectiveness of the services provided to small towns and businesses in rural areas;

(3) an accounting of the grants or other funding facilitated or provided assistance with;

(4) an accounting of the funds acquired by the Rural Economic Development Initiative for administration of grants or other funding mechanisms and whether these funds are sufficient to offset the cost of the Rural Economic Development Initiative; and

(5) recommended changes to the program, including proposed legislative amendments to further economic development in small towns and rural areas in the State.

Sec. 2. [Deleted.]

* * * Cross-promotion of Development Programs * * *

Sec. 3. EXECUTIVE BRANCH CROSS-PROMOTION OF LOAN, GRANT, AND INCENTIVE PROGRAMS

(a) The General Assembly finds that it is within the authority of the Executive Branch to manage a process of continuous improvement for agency and statewide programs and operations. While undertaking these efforts, the Executive Branch shall ensure that State loan, grant, and other incentive programs cross-promote:

(1) the availability of financial and technical assistance from the State through education and outreach materials; and

(2) the State policies funded by State incentive programs, including the adoption of renewable energy, rural economic development, public access to conserved lands, and water quality improvements.

(b) The Secretary of Administration shall provide material or information regarding the cross-promotion of State policies on State websites and within application materials available to the public regarding State loan, grant, and other incentive programs.

* * * Energy Efficiency * * *

Sec. 4. REPORT; ENERGY EFFICIENCY CHARGE; COMMERCIAL AND INDUSTRIAL CUSTOMERS

(a) On or before January 15, 2018, the Commissioner of Public Service (the Commissioner) shall submit a report with recommendations as described in subsection (b) of this section.

(1) In preparing the report, the Commissioner shall consult with the Secretary of Commerce and Community Development, the energy efficiency utilities (EEU) appointed under 30 V.S.A. § 209(d)(2), the regional development corporations, the Public Service Board, and other affected persons.

(2) The Commissioner shall submit the report to the Senate Committees on Finance, on Natural Resources and Energy, and on Agriculture and the House Committees on Ways and Means, on Energy and Technology, on Commerce and Economic Development, and on Agriculture and Forestry.

(b) The report shall provide the Commissioner's recommendations on:

(1) Whether and how to increase the use by commercial and industrial customers of self-administered efficiency programs under 30 V.S.A. § 209(d) and (j), including:

(A) Potential methods and incentives to increase participation in self-administration of energy efficiency, including:

(i) Potential changes to the eligibility criteria for existing programs.

(ii) Use of performance-based structures.

(iii) Self-administration of energy efficiency by a commercial and industrial customer, with payment of an energy efficiency charge (EEC) amount only for technical assistance by an EEU, if the customer demonstrates that it possesses in-house expertise that supports such self-administration and implements energy efficiency measures that the customer demonstrates are cost-effective and save energy at a benefit-cost ratio similar to the EEU.

(B) The potential inclusion of such methods and incentives in EEU demand resource plans.

(C) Periodic reporting by the EEUs of participation rates in self-administration of energy efficiency by commercial and industrial customers located in the small towns in the State's rural areas. As used in this subdivision (C):

(i) "Rural area" means a county of the State designated as "rural" or "mostly rural" by the U.S. Census Bureau in its most recent decennial census.

(ii) "Small town" means a town in a rural area of the State with a population of less than 5,000 at the date of the most recent U.S. Census Bureau decennial census.

(2) The potential establishment of a multi-year pilot program that allows a category of commercial and industrial customers to apply the total amount of their Energy Efficiency Charge (EEC), for the period of the pilot, to investments that reduce the customer's total energy consumption.

(A) The goal of such a program would be to reduce significantly all energy costs for the customer, and to transform the energy profile of the

customer such that significant savings would be generated and endure over the long term. Customers in the program would receive the full amount of their EEC contributions, for the period of the pilot, in the form of direct services and incentives provided by an EEU, which would consider how to lower customers' bills cost-effectively across electric, heating, transportation, and process fuels using energy efficiency, demand management, energy storage, fuel switching, and on-site renewable energy.

(B) In the report, the Commissioner shall consider:

(i) the definition of eligible commercial and industrial customers;

(ii) the potential establishment and implementation of such a program in a manner similar to an economic development rate for the EEU;

(iii) the interaction of such a program with the existing programs for self-managed energy efficiency under 30 V.S.A. § 209(d), including the Energy Savings Account, Self-Managed Energy Efficiency, and Customer Credit Programs;

(iv) the benefits and costs of such a program, including:

(I) a reduction in the operating costs of participating customers;

(II) the effect on job retention and creation and on economic development;

(III) the effect on greenhouse gas emissions;

(IV) the effect on systemwide efficiency benefits that would otherwise be obtained with the EEC funds, such as avoided supply costs, avoided transmission and distribution costs, avoided regional network service charges, and lost revenues from the regional forward-capacity market;

(V) the potential impact on commercial and industrial customers that may not be eligible to participate in such a program;

(VI) the extent to which such a program may result in cost shifts or subsidization among rate classes, and methods for avoiding or mitigating these effects;

(VII) the effect on the budgets developed through the demand resource planning process;

(VIII) the costs of administration;

(IX) any other benefits and costs of the potential program; and

(v) The consistency of such a program with least-cost planning as defined in 30 V.S.A. § 218c; with State energy goals and policy set forth in 10 V.S.A. §§ 578, 580, and 581 and 30 V.S.A. §§ 202a and 218e; and with the State energy plans adopted pursuant to 30 V.S.A. §§ 202 and 202b.

(c) The report submitted under this section shall include a proposed timeline to phase in the recommendations contained in the report. In developing this timeline, the Commissioner shall consider the impact to the established budgets of the EEUs, the regulatory requirements applicable to the EEUs, and the value of rapid implementation of the recommendations.

Sec. 5. 30 V.S.A. § 209(d)(3) is amended to read:

(3) Energy efficiency charge; regulated fuels. In addition to its existing authority, the Board may establish by order or rule a volumetric charge to customers for the support of energy efficiency programs that meet the requirements of section 218c of this title, with due consideration to the State's energy policy under section 202a of this title and to its energy and economic policy interests under section 218e of this title to maintain and enhance the State's economic vitality. The charge shall be known as the energy efficiency charge, shall be shown separately on each customer's bill, and shall be paid to a fund administrator appointed by the Board and deposited into ~~an~~ the Electric Efficiency Fund. When such a charge is shown, notice as to how to obtain information about energy efficiency programs approved under this section shall be provided in a manner directed by the Board. This notice shall include, at a minimum, a toll-free telephone number, and to the extent feasible shall be on the customer's bill and near the energy efficiency charge.

* * *

* * * Environmental Permitting * * *

Sec. 6. ENVIRONMENTAL PERMITTING; AIR CONTAMINANT FEES; ANAEROBIC DIGESTION

On or before January 15, 2018, the Secretary of Natural Resources shall report to House Committees on Agriculture and Forestry and on Natural Resources, Fish and Wildlife and the Senate Committees on Agriculture and on Natural Resources and Energy with a recommendation for reducing or eliminating the air contaminant fee paid by farmers for the emissions from the anaerobic digestion of agricultural products, agricultural by-products, agricultural waste, or food waste. The report shall include a summary of what services the Agency of Natural Resources provides or provided to owners of anaerobic digestors in relation to fees paid.

* * * Phosphorus Removal Technology; Grants * * *

Sec. 7. 6 V.S.A. § 4828 is amended to read:

§ 4828. CAPITAL EQUIPMENT ASSISTANCE PROGRAM

(a) It is the purpose of this section to provide assistance to contract applicators, nonprofit organizations, and farms to purchase or use innovative

equipment that will aid in the reduction of surface runoff of agricultural wastes to State waters, improve water quality of State waters, reduce odors from manure application, separate phosphorus from manure, decrease greenhouse gas emissions, and reduce costs to farmers.

(b) The capital equipment assistance program is created in the Agency of Agriculture, Food and Markets to provide farms, nonprofit organizations, and custom applicators in Vermont with State financial assistance for the purchase of new or innovative equipment to improve manure application, separation of phosphorus from manure, or nutrient management plan implementation.

(c) Assistance under this section shall in each fiscal year be allocated according to the following priorities and as further defined by the Secretary:

(1) First priority shall be given to capital equipment to be used on farm sites that are serviced by custom applicators, phosphorus separation equipment providers, and nonprofit organizations and that are located in descending order within the boundaries of:

(A) the Lake Champlain Basin;

(B) the Lake Memphremagog Basin;

(C) the Connecticut River Basin; and

(D) the Hudson River Basin.

(2) Next priority shall be given to capital equipment to be used at a farm site ~~which~~ that is located in descending order within the boundaries of:

(A) the Lake Champlain Basin;

(B) the Lake Memphremagog Basin;

(C) the Connecticut River Basin; and

(D) the Hudson River Basin.

(d) An applicant for a State grant under this section to purchase or implement phosphorus removal technology or equipment shall pay 10 percent of the total eligible project cost. The dollar amount of a State grant to purchase or implement phosphorus removal technology or equipment shall be equal to the total eligible project cost, less 10 percent of the total as paid by the applicant, and shall not exceed $300,000.00.

Sec. 8. [Deleted.]

* * * Workers' Compensation; High-Risk Occupations and Industries * * *

Sec. 9. WORKERS' COMPENSATION; INDUSTRIES AND OCCUPATIONS WITH HIGH RISK, HIGH PREMIUMS, AND FEW POLICYHOLDERS; STUDY; REPORT

(a) The Commissioner of Financial Regulation, in consultation with the Commissioner of Labor, the National Council on Compensation Insurance, and other interested stakeholders, shall identify and study industries and occupations in Vermont that experience a high risk of workplace and on-the-job injuries and whose workers' compensation insurance is characterized by high premiums and few policyholders in the insurance pool. The industries and occupations addressed in the study shall include, among others, logging and log hauling, as well as arborists, roofers, and occupations in saw mills and wood manufacturing operations. In particular, the Commissioner shall:

(1) examine differences in the potential for loss, premium rates, and experience and participation in the workers' compensation marketplace between the industries and occupations identified, and the average for all industries and occupations in Vermont;

(2) study potential methods for reducing workers' compensation premium rates and costs for high-risk industries and occupations, including risk pooling between multiple high-risk industries or occupations, creating self-insured trusts; creating voluntary safety certification programs, and programs or best practices employed by other states; and

(3) model the potential impact on workers' compensation premiums and costs from each of the methods identified pursuant to subdivision (2) of this subsection.

(b) On or before January 15, 2018, the Commissioner of Financial Regulation shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance regarding his or her findings and any recommendations for legislative action to reduce the workers' compensation premium rates and costs for the industries identified in the study.

* * * Repeals * * *

Sec. 10. REPEALS

(a) 10 V.S.A. chapter 15, subchapter 4 (Rural Economic Development Initiative) shall be repealed on July 1, 2019; and

(b) 6 V.S.A. § 4828(d) (phosphorus removal grant criteria) shall be repealed on July 1, 2023.

* * * Effective Date * * *

Sec. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

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

Thereupon, pursuant to the request of the Senate, the President announced the appointment of

Senator Pollina
Senator Collamore
Senator Starr

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

Thereupon, on motion of Senator Mazza, the rules were suspended and the bill was ordered messaged to the House forthwith.

Rules Suspended; House Proposal of Amendment Not Concurred In; Committee of Conference Requested; Committee of Conference Appointed; Bill Messaged

S. 112.

Pending entry on the Calendar for notice, on motion of Senator Sears, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to creating the Spousal Support and Maintenance Task Force.

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. 15 V.S.A. § 752 is amended to read:

§ 752. MAINTENANCE

(a) In an action under this chapter, the court may order either spouse to make maintenance payments, either rehabilitative or permanent in nature, to the other spouse if it finds that the spouse seeking maintenance:

(1) lacks sufficient income~~,~~ or property, or both, including property apportioned in accordance with section 751 of this title, to provide for his or her reasonable needs; and

(2) is unable to support himself or herself through appropriate employment at the standard of living established during the civil marriage or is the custodian of a child of the parties.

(b) The maintenance order shall be in such amounts and for such periods of time as the court deems just, after considering all relevant factors, including~~, but not limited to~~:

(1) the financial resources of the party seeking maintenance, the property apportioned to the party, the party's ability to meet his or her needs independently, and the extent to which a provision for support of a child living with the party contains a sum for that party as custodian;

(2) the time and expense necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;

(3) the standard of living established during the civil marriage;

(4) the duration of the civil marriage;

(5) the age and the physical and emotional condition of each spouse;

(6) the ability of the spouse from whom maintenance is sought to meet his or her reasonable needs while meeting those of the spouse seeking maintenance; ~~and~~

(7) inflation with relation to the cost of living~~.~~; and

(8) the following guidelines:

Length of marriage	% of the difference between parties' gross income	Duration of alimony award as % length of marriage
0 to <5 years	0–20%	No alimony or short-term alimony up to one year
5 to <10 years	15–35%	20–50% (1–5 yrs)
10 to <15 years	20–40%	40–60% (3–9 yrs)
15 to <20 years	24–45%	40–70% (6–14 yrs)
20+ years	30–50%	45% (9–20+ yrs)

Sec. 2. SPOUSAL SUPPORT AND MAINTENANCE STUDY

On or before January 15, 2018, the Family Division Oversight Committee of the Supreme Court shall review how the spousal support and maintenance guidelines set forth in 15 V.S.A. § 752(b)(8) are working in practice, and

report on its findings to the Senate and House Committees on Judiciary. In addition to this review, the Committee may consider any of the following topics for further legislative recommendations:

(1) the purposes of alimony;

(2) the meaning of both permanent and rehabilitative alimony, as used in 15 V.S.A. §752(a), and if judges should specify whether they are awarding rehabilitative alimony or permanent alimony, or both;

(3) whether income from a pension should be considered for alimony purposes when such pension is also divided or awarded in the division of assets and property;

(4) whether to establish a "retirement age" for purposes of ending alimony payments, and whether judges should continue to have the discretion to order alimony to continue past such retirement age if the facts of a case call for such continuation;

(5) what constitutes cohabitation for purposes of alimony, and what effect a recipient spouse's cohabitation should have on alimony awards; and

(6) what effect the remarriage of a recipient spouse should have on an alimony award.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read:

An act relating to spousal support and maintenance guidelines and study.

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.

Thereupon, pursuant to the request of the Senate, the President announced the appointment of

Senator White
Senator Sears
Senator Flory

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

Thereupon, on motion of Senator Mazza, the rules were suspended and the bill was ordered messaged to the House forthwith.

Committee of Conference Appointed

H. 516.

An act relating to miscellaneous tax changes.

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

Senator Cummings
Senator MacDonald
Senator Degree

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

Message from the House No. 63

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

Mr. President:

I am directed to inform the Senate that:

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

H. 519. An act relating to capital construction and State bonding.

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

Adjournment

On motion of Senator Mazza, the Senate adjourned until ten o'clock in the morning.

FRIDAY, MAY 5, 2017

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. 64

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, 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. 170. An act relating to possession and cultivation of marijuana by a person 21 years of age or older.

H. 196. An act relating to paid family leave.

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

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

H. 130. An act relating to approval of amendments to the charter of the Town of Hartford.

H. 347. An act relating to the State Telecommunications Plan.

H. 424. An act relating to the Commission on Act 250: the Next 50 Years.

And has severally concurred therein.

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. 75. An act relating to aquatic nuisance species control.

And has adopted the same on its part.

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. 127. An act relating to miscellaneous changes to laws related to vehicles and vessels.

And has adopted the same on its part.

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. 50. An act relating to insurance coverage for telemedicine services delivered in or outside a health care facility.

And has adopted the same on its part.

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

H. 22. An act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council.

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. Townsend of South Burlington
Rep. LaClair of Barre Town
Rep. Gardner of Richmond

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. 34. An act relating to rural economic development.

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

Rep. Lawrence of Lyndon
Reps. Carr of Brandon
Rep. Sullivan of Dorset

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. 135. An act relating to promoting economic development.

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

Rep. Botzow of Pownal
Rep. Marcotte of Coventry
Rep. Condon of Colchester

Pages Honored

In appreciation of their many services to the members of the General Assembly, the President recognized the following-named pages who are completing their services today and presented them with letters of appreciation.

Eusebio Aja, III of Barre
Hannah Cawley of Colchester
Summer Chabot of Vergennes
Aine Fannon of Adamant
Isabella Gaffney of Starksboro
Megan Humphrey of Milton
Owen Kemerer of Essex Junction
Charlotte Mays of Warren
Seth Rossman of Burlington
Rileigh Steinhour of Richford

Bills Referred

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

H. 170.

An act relating to possession and cultivation of marijuana by a person 21 years of age or older.

To the Committee on Rules.

H. 196.

An act relating to paid family leave.

To the Committee on Rules.

House Proposal of Amendment Concurred In with Amendment

S. 133.

House proposal of amendment to Senate bill entitled:

An act relating to examining mental health care and care coordination.

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:

* * * Findings and Legislative Intent * * *

Sec. 1. FINDINGS

The General Assembly finds that:

(1) The State's mental health system has changed during the past ten years, with regard to both policy and the structural components of the system.

(2) The State's adult mental health inpatient system was disrupted after Tropical Storm Irene flooded the Vermont State Hospital in 2011. The General Assembly, in 2012 Acts and Resolves No. 79, responded by designing a system "to provide flexible and recovery-oriented treatment opportunities and to ensure that the mental health needs of Vermonters are served."

(3) Elements of Act 79 included the addition of over 50 long- and short-term residential beds to the State's mental health system, all of which are operated by the designated and specialized service agencies, increased peer support services, and replacement inpatient beds. It also was intended to strengthen existing care coordination within the Department of Mental Health to assist community providers and hospitals in the development of a system that provided rapid access to each level of support within the continuum of

care as needed to ensure appropriate, high-quality, and recovery- and resiliency-oriented services in the least restrictive and most integrated settings for each stage of an individual's recovery.

(4) Two key elements of Act 79 were never realized: a 24-hour peer-run warm line and eight residential recovery beds. Other elements of Act 79 were fully implemented.

(5) Since Tropical Storm Irene flooded the Vermont State Hospital, Vermont has experienced a dramatic increase in the number of individuals in mental health distress experiencing long waits in emergency departments for inpatient hospital beds. Currently, hospitals average 90 percent occupancy, while crisis beds average just under 70 percent occupancy, the latter largely due to understaffing. Issues related to hospital discharge include an inadequate staffing in community programs, insufficient community programs, and inadequate supply of housing.

(6) Individuals presenting in emergency departments reporting acute psychiatric distress often remain in that setting for many hours or days under the supervision of hospital staff, peers, crisis workers, or law enforcement officers, until a bed in a psychiatric inpatient unit becomes available. Many of these individuals do not have access to a psychiatric care provider, and the emergency department does not provide a therapeutic environment. Due to these conditions, some individuals experience trauma and worsening symptoms while waiting for an appropriate level of care. Hospitals are also strained and report that their staff is demoralized that they cannot care adequately for psychiatric patients and consequently there is a rise in turnover rates. Many hospitals are investing in special rooms for psychiatric emergencies and hiring mental health technicians to work in the emergency departments.

(7) Traumatic waits in emergency departments for children and adolescents in crisis are increasing, and there are limited resources for crisis support, hospital diversion, and inpatient care for children and adolescents in Vermont.

(8) Addressing mental health care needs within the health care system in Vermont requires appropriate data and analysis, but simultaneously the urgency created by those individuals suffering under existing circumstances must be recognized.

(9) Research has shown that there are specific factors associated with long waits, including homelessness, interhospital transfer, public insurance, use of sitters or restraint, age, comorbid medical conditions, alcohol and substance use, diagnoses of autism, intellectual disability, developmental delay, and suicidal ideation. Data have not been captured in Vermont to

identify factors that may be associated with longer wait times and that could help pinpoint solutions.

(10) Vermonters in the custody of the Commissioner of Corrections often do not have access to appropriate crisis or routine mental health supports or to inpatient care when needed, and are often held in correctional facilities after being referred for inpatient care due to the lack of access to inpatient beds. The General Assembly is working to address this aspect of the crisis through parallel legislation during the 2017–2018 biennium.

(11) Care provided by the designated agencies is the cornerstone upon which the public mental health system balances. However, many Vermonters seeking help for psychiatric symptoms at emergency departments are not clients of the designated or specialized service agencies and are meeting with the crisis response team for the first time. Some of the individuals presenting in emergency departments are able to be assessed, stabilized, and discharged to return home or to supportive programming provided by the designated and specialized service agencies.

(12) Act 79 specified that it was the intent of the General Assembly that "the [A]gency of [H]uman [S]ervices fully integrate all mental health services with all substance abuse, public health, and health care reform initiatives, consistent with the goals of parity." However, reimbursement rates for crisis, outpatient, and inpatient care are often segregated from health care payment structures and payment reform.

(13) There is a shortage of psychiatric care professionals, both nationally and statewide. Psychiatrists working in Vermont have testified that they are distressed that individuals with psychiatric conditions remain for lengthy periods of time in emergency departments and that there is an overall lack of health care parity between mental conditions and other health conditions.

(14) In 2007, a study commissioned by the Agency of Human Services substantiated that designated and specialized service agencies face challenges in meeting the demand for services at current funding levels. It further found that keeping pace with current inflation trends, while maintaining existing caseload levels, required annual funding increases of eight percent across all payers to address unmet demand. Since that time, cost of living adjustments appropriated to designated and specialized service agencies have been raised by less than one percent annually.

(15) Designated and specialized service agencies are required by statute to provide a broad array of services, including many mandated services that are not fully funded.

(16) Evidence regarding the link between social determinants and healthy families has become increasingly clear in recent years. Improving an individual's trajectory requires addressing the needs of children and adolescents in the context of their family and support networks. This means Vermont must work within a multi-generational framework. While these findings primarily focus on the highest acuity individuals within the adult system, it is important also to focus on children's and adolescents' mental health. Social determinants, when addressed, can improve an individual's health; therefore housing, employment, food security, and natural support must be considered as part of this work as well.

(17) Before moving ahead with changes to improve mental health care and to achieve its integration with comprehensive health care reform, an analysis is necessary to take stock of how it is functioning and what resources are necessary for evidence-based or best practice and cost-efficient improvements that best meet the mental health needs of Vermont children, adolescents, and adults in their recovery.

(18) It is essential to the development of both short- and long-term improvements to mental health care for Vermonters that a common vision be established regarding how integrated, recovery- and resiliency-oriented services will emerge as part of a comprehensive and holistic health care system.

Sec. 2. LEGISLATIVE INTENT

It is the intent of the General Assembly to continue to work toward a system of health care that is fully inclusive of access to mental health care and meets the principles adopted in 18 V.S.A. § 7251, including:

(1) The State of Vermont shall meet the needs of individuals with mental health conditions, including the needs of individuals in the custody of the Commissioner of Corrections, and the State's mental health system shall reflect excellence, best practices, and the highest standards of care.

(2) Long-term planning shall look beyond the foreseeable future and present needs of the mental health community. Programs shall be designed to be responsive to changes over time in levels and types of needs, service delivery practices, and sources of funding.

(3) Vermont's mental health system shall provide a coordinated continuum of care by the Departments of Mental Health and of Corrections, designated hospitals, designated agencies, and community and peer partners to ensure that individuals with mental health conditions receive care in the most integrated and least restrictive settings available. Individuals' treatment choices shall be honored to the extent possible.

(4) The mental health system shall be integrated into the overall health care system.

(5) Vermont's mental health system shall be geographically and financially accessible. Resources shall be distributed based on demographics and geography to increase the likelihood of treatment as close to the patient's home as possible. All ranges of services shall be available to individuals who need them, regardless of individuals' ability to pay.

(6) The State's mental health system shall ensure that the legal rights of individuals with mental health conditions are protected.

(7) Oversight and accountability shall be built into all aspects of the mental health system.

(8) Vermont's mental health system shall be adequately funded and financially sustainable to the same degree as other health services.

(9) Individuals with a psychiatric disability or mental condition who are in the custody or temporary custody of the Commissioner of Mental Health and who receive treatment in an acute inpatient hospital unit, intensive residential recovery facility, or a secure residential recovery facility shall be afforded rights and protections that reflect evidence-based best practices aimed at reducing the use of emergency involuntary procedures.

* * * Analysis, Action Plan, and Long-Term Vision Evaluation * * *

Sec. 3. ANALYSIS, ACTION PLAN, AND LONG-TERM VISION FOR THE PROVISION OF MENTAL HEALTH CARE WITHIN THE HEALTH CARE SYSTEM

(a) In order to address the present crisis that emergency departments are experiencing in treating an individual who presents with symptoms of a mental health crisis, and in recognition that this crisis is a symptom of larger systematic shortcomings in the provision of mental health services statewide, the General Assembly seeks an analysis and action plan from the Secretary of Human Services in accordance with the following specifications:

(1) On or before December 15, 2017, the Secretary of Human Services, in collaboration with the Commissioner of Mental Health, the Green Mountain Care Board, providers, and persons who are affected by current services, shall submit an action plan with recommendations and legislative proposals to the Senate Committee on Health and Welfare and to the House Committees on Health Care and on Human Services that shall be informed by an analysis of specific issues described in this section and Sec. 4 of this act. The analysis shall be conducted in conjunction with the planned updates to the Health Resource Allocation Plan (HRAP) described in 18 V.S.A. § 9405, of which the mental health and health care integration components shall be prioritized.

With regard to children, adolescents, and adults, the analysis and action plan shall:

(A) specify steps to develop a common, long-term, statewide vision of how integrated, recovery- and resiliency-oriented services shall emerge as part of a comprehensive and holistic health care system;

(B) identify data that are not currently gathered, and that are necessary for current and future planning, long-term evaluation of the system, and for quality measurements, including identification of any data requiring legislation to ensure their availability;

(C) identify the causes underlying increased referrals and self-referrals to emergency departments;

(D) determine the availability, regional accessibility, and gaps in services that are barriers to efficient, medically necessary, recovery- and resiliency-oriented patient care at levels of support that are least restrictive and most integrated with regard to voluntary and involuntary hospital admissions, emergency departments, intensive residential recovery facilities, secure residential recovery facilities, crisis beds, and other diversion capacities; crisis intervention services; peer respite and support services; intensive and other outpatient services; services for transition age youths; and stable housing;

(E) incorporate existing information from research and from established quality metrics regarding emergency department wait times;

(F) incorporate anticipated demographic trends, the impact of the opiate crisis, and data that indicate short- and long-term trends; and

(G) identify the levels of resources necessary to attract and retain qualified staff to meet identified outcomes required of designated and specialized service agencies and specify a timeline for achieving those levels of support.

(2) On or before September 1, 2017, the Secretary shall submit a status report to the Senate Committee on Health and Welfare and to the House Committees on Health Care and on Human Services describing the progress made in completing the analysis required pursuant to this subsection and producing a corresponding action plan. The status report shall include any immediate action steps that the Agency was able to take to address the emergency department crisis that did not require additional resources or legislation.

(b)(1) The Commissioner shall collect data to inform the analysis and action plan described in subsection (a) of this section regarding emergency services for persons with psychiatric symptoms or complaints in the emergency department. The data collected regarding persons presenting in emergency departments with psychiatric symptoms shall include:

(A) the circumstances under which and reasons why a person is being referred or self-referred to an emergency department;

(B) measurements shown by research to affect length of waits; and

(C) rates at which persons brought to emergency departments for emergency examinations pursuant to 18 V.S.A. §§ 7504 and 7505 are found not to be in need of inpatient hospitalization.

(2) Data to otherwise inform the analysis and action plan shall include short- and long-term trends in inpatient length of stay and readmission rates.

(3) Data for persons under 18 years of age shall be collected and analyzed separately.

(c) On or before January 15, 2019, the Secretary shall submit a comprehensive evaluation of the overarching structure for the delivery of mental health services within a sustainable, holistic health care system in Vermont to the Senate Committee on Health and Welfare and to the House Committees on Health Care and on Human Services, including:

(1) whether the current structure is succeeding in serving Vermonters with mental health needs and meeting the goals of access, quality, and integration of services;

(2) whether quality and access to mental health services are equitable throughout Vermont;

(3) whether the current structure advances the long-term vision of an integrated, holistic health care system;

(4) how the designated and specialized service agency structure contributes to the realization of that long-term vision;

(5) how mental health care is being fully integrated into health care payment reform; and

(6) any recommendations for structural changes to the mental health system that would assist in achieving the vision of an integrated, holistic health care system.

Sec. 4. COMPONENTS OF ANALYSIS, ACTION PLAN, AND LONG-TERM VISION EVALUATION

The analysis, action plan, and long-term vision evaluation required by Sec. 3 of this act shall address the following:

(1) Care coordination. The analysis, action plan, and long-term vision evaluation shall address the potential benefits and costs of developing regional navigation and resource centers for referrals from primary care, hospital emergency departments, inpatient psychiatric units, correctional facilities, and community providers, including the designated and specialized service agencies, private counseling services, and peer-run services. The goal of regional navigation and resource centers is to foster improved access to efficient, medically necessary, and recovery- and resiliency-oriented patient care at levels of support that are least restrictive and most integrated for individuals with mental health conditions, substance use disorders, or co-occurring conditions. Consideration of regional navigation and resource centers shall include consideration of other coordination models identified during the recovery- and resiliency-oriented analysis, including models that address the goal of an integrated health system.

(2) Accountability. The analysis, action plan, and long-term vision evaluation shall address the effectiveness of the Department's care coordination team in providing access to and adequate accountability for coordination and collaboration among hospitals and community partners for transition and ongoing care, including the judicial and corrections systems. An assessment of accountability shall include an evaluation of potential discrimination in hospital admissions at different levels of care and the extent to which individuals are served by their medical homes.

(3)(A) Crisis diversion evaluation. The analysis, action plan, and long-term vision evaluation shall evaluate:

(i) existing and potential new models, including the 23-hour bed model, that prevent or divert individuals from the need to access an emergency department;

(ii) models for children, adolescents, and adults; and

(iii) whether existing programs need to be expanded, enhanced, or reconfigured, and whether additional capacity is needed.

(B) Diversion models used for patient assessment and stabilization, involuntary holds, diversion from emergency departments, and holds while appropriate discharge plans are determined shall be considered, including the extent to which they address psychiatric oversight, nursing oversight and coordination, peer support, security, and geographic access. If the preliminary

analysis identifies a need for or the benefits of additional, enhanced, expanded, or reconfigured models, the action plan shall include preliminary steps necessary to identify licensing needs, implementation, and ongoing costs.

(4) Implementation of Act 79. The analysis, action plan, and long-term vision evaluation, in coordination with the work completed by the Department of Mental Health for its annual report pursuant to 18 V.S.A. § 7504, shall address whether those components of the system envisioned in 2012 Acts and Resolves No. 79 that have not been fully implemented remain necessary and whether those components that have been implemented are adequate to meet the needs identified in the preliminary analysis. Priority shall be given to determining whether there is a need to fund fully the 24-hour warm line and eight unutilized intensive residential recovery facility beds and whether other models of supported housing are necessary. If implementation or expansion of these components is deemed necessary in the analysis, the action plan shall identify the initial steps needed to plan, design, and fund the recommended implementation or expansion.

(5) Mental health access parity. The analysis, action plan, and long-term vision evaluation shall evaluate opportunities for and remove barriers to implementing parity in the manner that individuals presenting at hospitals are received, regardless of whether for a psychiatric or other health care condition. The evaluation shall examine: existing processes to screen and triage health emergencies; transfer and disposition planning; stabilization and admission; and criteria for transfer to specialized or long-term care services.

(6) Geriatric psychiatric support services, residential care, or skilled nursing unit or facility. The analysis, action plan, and long-term vision evaluation shall evaluate the extent to which additional support services are needed for geriatric patients in order to prevent hospital admissions or to facilitate discharges from inpatient settings, including community-based services, enhanced residential care services, enhanced supports within skilled nursing units or facilities, or new units or facilities. If the analysis concludes that the situation warrants more home- and community-based services, a geriatric nursing home unit or facility, or any combination thereof, the action plan shall include a proposal for the initial funding phases and, if appropriate, siting and design, for one or more units or facilities with a focus on the clinical best practices for these patient populations. The action plan and preliminary analysis shall also include means for improving coordination and shared care management between Choices for Care and the designated and specialized service agencies.

(7) Forensic psychiatric support services or residential care. The analysis, action plan, and long-term vision evaluation shall evaluate the extent to which additional services or facilities are needed for forensic patients in

order to enable appropriate access to inpatient care, prevent hospital admissions, or facilitate discharges from inpatient settings. These services may include community-based services or enhanced residential care services. The analysis and action plan shall be completed in coordination with other relevant assessments regarding access to mental health care for persons in the custody of the Commissioner of Corrections as required by the General Assembly during the first year of the 2017–2018 biennium.

(8) Units or facilities for use as nursing or residential homes or supportive housing. To the extent that the analysis indicates a need for additional units or facilities, it shall require consultation with the Commissioner of Buildings and General Services to determine whether there are any units or facilities that the State could be utilized for a geriatric skilled nursing or forensic psychiatric facility, an additional intensive residential recovery facility, an expanded secure residential recovery facility, or supportive housing.

(9) Designated and specialized service agencies. The analysis, action plan, and long-term vision evaluation shall estimate the levels of funding necessary to sustain the designated and specialized service agencies' workforce; enable the designated and specialized service agencies to meet their statutorily mandated responsibilities and required outcomes; identify the required outcomes; and establish recommended levels of increased funding for inclusion in the fiscal year 2019 budget.

Sec. 5. INVOLUNTARY TREATMENT AND MEDICATION REVIEW

(a) On or before December 15, 2017, the Secretary of Human Services, in collaboration with the Commissioner of Mental Health and the Chief Superior Judge, shall analyze and submit a report to the Senate Committee on Health and Welfare to the House Committee on Health Care regarding the role that involuntary treatment and psychiatric medication play in inpatient emergency department wait times, including any concerns arising from judicial timelines and processes. The analysis shall examine gaps and shortcomings in the mental health system, including the adequacy of housing and community resources available to divert patients from involuntary hospitalization; treatment modalities, including involuntary medication and non-medication alternatives available to address the needs of patients in psychiatric crises; and other characteristics of the mental health system that contribute to prolonged stays in hospital emergency departments and inpatient psychiatric units. The analysis shall also examine the interplay between the rights of staff and patients' rights and the use of involuntary treatment and medication. Additionally, to provide the General Assembly with a wide variety of options, the analysis shall examine the following, including the legal implications, the rationale or disincentives, and a cost-benefit analysis for each:

(1) a statutory directive to the Department of Mental Health to prioritize the restoration of competency where possible for all forensic patients committed to the care of the Commissioner; and

(2) enabling applications for involuntary treatment and applications for involuntary medication to be filed simultaneously or at any point that a psychiatrist believes joint filing is necessary for the restoration of the individual's competency.

(b) On or before January 15, 2018, Vermont Legal Aid, Disability Rights Vermont, and Vermont Psychiatric Survivors shall have the opportunity to submit an addendum addressing the Secretary's report completed pursuant to subsection (a) of this section.

(c)(1) On or before November 15, 2017, the Department shall issue a request for information for a longitudinal study comparing the outcomes of patients who received court-ordered medications while hospitalized with those of patients who did not receive court-order medication while hospitalized, including both patients who voluntarily received medication and those who received no medication, for a period from 1998 to the present. The request for information shall specify that the study examine the following measures:

(A) the length of an individual's involuntary hospitalization

(B) the time spent by an individual in inpatient and outpatient settings;

(C) the number of an individual's hospital admissions, including both voluntary and involuntary admissions;

(D) the number of and length of time of an individual's residential placements;

(E) an individual's success in different types of residential settings;

(F) any employment or other vocational and educational activities after hospital discharge;

(G) any criminal charges after hospital discharge; and

(H) other parameters determined in consultation with representatives of inpatient and community treatment providers and advocates for the rights of psychiatric patients.

(2) Request for information proposals shall include estimated costs, time frames for conducting the work, and any other necessary information.

* * * Payment Structures * * *

Sec. 6. INTEGRATION OF PAYMENTS; ACCOUNTABLE CARE ORGANIZATIONS

(a) Pursuant to 18 V.S.A. § 9382, the Green Mountain Care Board shall review an accountable care organization's (ACO) model of care and integration with community providers, including designated and specialized service agencies, regarding how the model of care promotes seamless coordination across the care continuum, business or operational relationships between the entities, and any proposed investments or expansions to community-based providers. The purpose of this review is to ensure progress toward and accountability to the population health measures related to mental health and substance use disorder contained in the All Payer ACO Model Agreement.

(b) In the Board's annual report due on January 15, 2018, the Green Mountain Care Board shall include a summary of information relating to integration with community providers, as described in subsection (a) of this section, received in the first ACO budget review under 18 V.S.A. § 9382.

(c) On or before December 31, 2020, the Agency of Human Services, in collaboration with the Green Mountain Care Board, shall provide a copy of the report required by Section 11 of the All-Payer Model Accountable Care Organization Model Agreement, which outlines a plan for including the financing and delivery of community-based providers in delivery system reform, to the Senate Committee on Health and Welfare and the House Committee on Health Care.

Sec. 7. PAYMENTS TO THE DESIGNATED AND SPECIALIZED SERVICE AGENCIES

The Secretary of Human Services, in collaboration with the Commissioners of Mental Health and of Disabilities, Aging, and Independent Living; providers; and persons who are affected by current services, shall develop a plan to integrate multiple sources of payments for mental and substance abuse services to the designated and specialized service agencies. In a manner consistent with Sec. 11 of this act, the plan shall implement a Global Funding model as a successor to the analysis and work conducted under the Medicaid Pathways and other work undertaken regarding mental health in health care reform. It shall increase efficiency and reduce the administrative burden. On or before January 1, 2018, the Secretary shall submit the plan and any related legislative proposals to the Senate Committee on Health and Welfare and the House Committees on Health Care and on Human Services.

Sec. 8. ALIGNMENT OF FUNDING WITHIN THE AGENCY OF HUMAN SERVICES

For the purpose of creating a more transparent system of public funding for mental health services, the Agency of Human Services shall continue with budget development processes enacted in legislation during the first year of the 2015–2016 biennium that unify payment for services, policies, and utilization review of services within an appropriate department consistent with Secs. 6 and 7 of this act.

* * * Workforce Development * * *

Sec. 9. MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE USE DISORDER WORKFORCE STUDY COMMITTEE

(a) Creation. There is created the Mental Health, Developmental Disabilities, and Substance Use Disorder Workforce Study Committee to examine best practices for training, recruiting, and retaining health care providers and other service providers in Vermont, particularly with regard to the fields of mental health, developmental disabilities, and substance use disorders. It is the goal of the General Assembly to enhance program capacity in the State to address ongoing workforce shortages.

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

(1) the Secretary of Human Services or designee, who shall serve as the Chair;

(2) the Commissioner of Labor or designee;

(3) the Commissioner of Mental Health or designee;

(4) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(5) the Commissioner of Health or designee;

(6) a representative of the Vermont State Colleges;

(7) a representative of the Governor's Health Care Workforce Work Group created by Executive Order 07-13;

(8) a representative of persons affected by current services;

(9) a representative of the families of persons affected by current services;

(10) a representative of the designated and specialized service agencies appointed by Vermont Care Partners;

(11) the Director of Substance Abuse Prevention;

(12) a representative appointed by the Area Health Education Centers; and

(13) any other appropriate individuals by invitation of the Chair.

(c) Powers and duties. The Committee shall consider and weigh the effectiveness of loan repayment, tax abatement, long-term employment agreements, funded training models, internships, rotations, and any other evidence-based training, recruitment, and retention tools available for the purpose of attracting and retaining qualified health care providers in the State, particularly with regard to the fields of mental health, developmental disabilities, and substance use disorders.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Human Services.

(e) Report. On or before December 15, 2017, the Committee shall submit a report to the Senate Committee on Health and Welfare and the House Committees on Health Care and on Human Services regarding the results of its examination, including any legislative proposals for both long-term and immediate steps the State may take to attract and retain more health care providers in Vermont.

(f) Meetings.

(1) The Secretary of Human Services shall call the first meeting of the Committee to occur on or before July 1, 2017.

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

(3) The Committee shall cease to exist on December 31, 2017.

Sec. 10. OFFICE OF PROFESSIONAL REGULATION; INTERSTATE COMPACTS

The Director of Professional Regulation shall engage other states in a discussion of the creation of national standards for coordinating the regulation and licensing of mental health professionals, as defined in 18 V.S.A. § 7101, for the purposes of licensure reciprocity and greater interstate mobility of that workforce. On or before September 1, 2017, the Director shall report to the Senate Committee on Health and Welfare and the House Committee on Health Care regarding the results of his or her efforts and recommendations for legislative action.

* * * Designated and Specialized Service Agencies * * *

Sec. 11. 18 V.S.A. § 8914 is added to read:

§ 8914. RATES OF PAYMENTS TO DESIGNATED AND SPECIALIZED SERVICE AGENCIES

(a) The Secretary of Human Services shall have sole responsibility for establishing the Departments of Health, of Mental Health, and of Disabilities, Aging, and Independent Living's rates of payments for designated and specialized service agencies and the Alcohol and Drug Abuse Program's preferred providers that are reasonable and adequate to achieve the required outcomes for designated populations. When establishing rates of payment for designated and specialized service agencies, the Secretary shall adjust rates to take into account factors that include:

(1) the reasonable cost of any governmental mandate that has been enacted, adopted, or imposed by any State or federal authority; and

(2) a cost adjustment factor to reflect changes in reasonable cost of goods and services of designated and specialized service agencies, including those attributed to inflation and labor market dynamics.

(b) When establishing rates of payment for designated and specialized service agencies and the Alcohol and Drug Abuse Program's preferred providers, the Secretary may consider geographic differences in wages, benefits, housing, and real estate costs in each region of the State.

Sec. 12. HEALTH INSURANCE; DESIGNATED AND SPECIALIZED SERVICE AGENCY EMPLOYEES

On or before September 1, 2017, the Commissioner of Human Resources shall consult with Blue Cross and Blue Shield of Vermont and Vermont Care Partners regarding the operational feasibility of including the designated and specialized service agencies in the State employees' health benefit plan and submit any findings and relevant recommendations for legislative action to the Senate Committees on Health and Welfare, on Government Operations, and on Finance and the House Committees on Health Care and on Government Operations.

* * * Effective Date * * *

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Ayer moved that the Senate concur in the House proposal of amendment with an amendment as follows:

First: In Sec. 3, in subsection (a), by striking out "systematic" and inserting in lieu thereof systemic

Second: In Sec. 4, in subdivision (3)(A), by striking out "evaluate" and inserting in lieu thereof assess

Third: In Sec. 4, in subdivision (7), in the first sentence, by striking out "evaluate" and inserting in lieu thereof assess

Fourth: In Sec. 4, in subdivision (8), by striking out "be utilized" and inserting in lieu thereof utilize

Fifth: In Sec. 4, by striking out subdivision (9) in its entirety and inserting in lieu thereof a new subdivision (9) to read as follows:

(9) Emergency services. The analysis, action plan, and long-term vision evaluation shall address how designated and specialized service agencies fund emergency services for the purpose of ensuring emergency services achieve maximum efficiency and are available to all individuals within a specific designated or specialized service agency's catchment area and shall identify any funding gaps, including methodologies of payment, capacity of payment, third-party payers, and unfunded services. "Emergency services" means crisis response teams and crisis bed programs.

Sixth: In Sec. 5, in subsection (a), in the first sentence, by striking out "to" after "Welfare" and inserting in lieu thereof and

Seventh: In Sec. 5, in subdivision (c)(1), in the first sentence, by striking out "court-order" and inserting in lieu thereof court-ordered

Eighth: In Sec. 5, in subdivision (c)(1)(A), by inserting a semi-colon after the word "hospitalization"

Ninth: In Sec. 11, 18 V.S.A. § 8914, in subsections (a) and (b), by striking out "and the Alcohol and Drug Abuse Program's preferred providers"

Tenth: In Sec. 11, 18 V.S.A. § 8914, in subdivision (a)(2), by striking out "cost" the second time in which appears and inserting in lieu thereof costs

Eleventh: In Sec. 12, by striking out "Blue Cross and Blue Shield" and by inserting in lieu thereof BlueCross BlueShield

Which was agreed to.

House Proposals of Amendment Concurred In with Amendment

S. 52.

House proposal of amendment to Senate bill entitled:

An act relating to the Public Service Board and its proceedings.

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:

* * * Preapplication Submittals; Energy Facilities * * *

Sec. 1. 30 V.S.A. § 248(f) is amended to read:

(f) However, plans for the construction of such a facility within the State must be submitted by the petitioner to the municipal and regional planning commissions no less than 45 days prior to application for a certificate of public good under this section, unless the municipal and regional planning commissions shall waive such requirement.

(1) ~~Such~~ The municipal or regional planning commission may take one or more of the following actions:

(A) ~~hold~~ Hold a public hearing on the proposed plans. The planning commission may request that the petitioner or the Department of Public Service, or both, attend the hearing. The petitioner and the Department each shall have an obligation to comply with such a request. The Department shall consider the comments made and information obtained at the hearing in making recommendations to the Board on the application and in determining whether to retain additional personnel under subdivision (1)(B) of this subsection.

(B) Request that the Department of Public Service exercise its authority under section 20 of this title to retain experts and other personnel to review the proposed facility. The Department may commence retention of these personnel once the petitioner has submitted proposed plans under this subsection. The Department may allocate the expenses incurred in retaining these personnel to the petitioner in accordance with section 21 of this title. Granting a request by a planning commission pursuant to this subdivision shall not oblige the Department or the personnel it retains to agree with the position of the commission.

(C) ~~Such commissions shall make~~ Make recommendations~~, if any, to the Public Service Board and~~ to the petitioner ~~at least seven days prior to filing of the petition with the Public Service Board~~ within 40 days of the petitioner's submittal to the planning commission under this subsection.

(D) Once the petition is filed with the Public Service Board, make recommendations to the Board by the deadline for submitting comments or testimony set forth in the applicable provision of this section, Board rule, or scheduling order issued by the Board.

(2) The petitioner's application shall address the substantive written comments related to the criteria of subsection (b) of this section received by the petitioner within 45 days of the submittal made under this subsection and the substantive oral comments related to those criteria made at a public hearing under subdivision (1) of this subsection.

* * * Facility Siting; Service of Application When Determined Complete; Extension of Telecommunications Siting Authority * * *

Sec. 2. 30 V.S.A. § 246 is amended to read:

§ 246. TEMPORARY SITING OF METEOROLOGICAL STATIONS

(a) As used in this section, a "meteorological station" consists of one temporary tower, which may include guy wires, and attached instrumentation to collect and record wind speed, wind direction, and atmospheric conditions.

(b) The Public Service Board shall establish by rule or order standards and procedures governing application for, and issuance or revocation of, a certificate of public good for the temporary installation of one or more meteorological stations under the provisions of section 248 of this title. A meteorological station shall be deemed to promote the public good of the State if it is in compliance with the criteria of this section and the Board rules or orders. An applicant for a certificate of public good for a meteorological station shall be exempt from the requirements of subsection 202(f) of this title.

(c) In developing rules or orders, the Board:

(1) Shall develop a simple application form and shall require that ~~completed applications be filed~~ the applicant first file the application with the Board~~,~~ and that, within two business days of notification from the Board that the application is complete, the applicant serve copies of the complete application on the Department of Public Service, the Agency of Natural Resources, the Agency of Transportation, and the municipality in which the meteorological station is proposed to be located.

(2) Shall require that if no objections are filed within 30 days of the ~~Board's receipt of a complete application~~ date of service of the complete application under subdivision (1) of this subsection, and the Board determines that the applicant has met all of the requirements of section 248 of this title, the certificate of public good shall be issued for a period that the Board finds reasonable, but in no event for more than five years. Upon request of an applicant, the Board may renew a certificate of public good. Upon expiration of the certificate, the meteorological station and all associated structures and material shall be removed, and the site shall be restored substantially to its preconstruction condition.

(3) May waive the requirements of section 248 of this title that are not applicable to meteorological stations, including criteria that are generally applicable to public service companies as defined in this title. The Board shall not waive review regarding whether construction will have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety.

(4) Shall seek to simplify the application and review process, as appropriate, in conformance with this section.

* * *

Sec. 3. 30 V.S.A. § 248(a)(4) is amended to read:

(4)(A) With respect to a facility located in the State, the Public Service Board shall hold a nontechnical public hearing on each petition for such finding and certificate in at least one county in which any portion of the construction of the facility is proposed to be located. From the comments made at the public hearing, the Board shall derive areas of inquiry that are relevant to the findings to be made under this section and shall address each such area in its decision. Prior to making findings, if the record does not contain evidence on such an area, the Board shall direct the parties to provide evidence on the area. This subdivision does not require the Board to respond to each individual comment.

(B) The Public Service Board shall hold technical hearings at locations which it selects.

(C) ~~At the time of filing its application with the Board, copies shall be given by the petitioner to~~ Within two business days of notification from the Board that the petition is complete, the petitioner shall serve copies of the complete petition on the Attorney General and the Department of Public Service, and, with respect to facilities within the State, the Department of Health, Agency of Natural Resources, Historic Preservation Division, Agency of Transportation, Agency of Agriculture, Food and Markets, and to the chair or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located.

(D) Notice of the public hearing shall be published and maintained on the Board's website for at least 12 days before the day appointed for the hearing. Notice of the public hearing shall be published once in a newspaper of general circulation in the county or counties in which the proposed facility will be located, and the notice shall include an Internet address where more information regarding the proposed facility may be viewed.

* * *

Sec. 4. 30 V.S.A. § 248(j)(2) is amended to read:

(2) Any party seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its petition. ~~The~~ Within two business days of notification by the Board that the filing is complete, the party shall serve copies of the complete filing on the parties specified in subdivision (a)(4)(C) of this section and the Board shall give written notice of the proposed certificate and its determination that the filing is complete to ~~the~~ those parties ~~specified in subdivision (a)(4)(C) of this section~~, to any public interest organization that has in writing requested notice of applications to proceed under this subsection, and to any other person found by the Board to have a substantial interest in the matter. Such notice also shall be published on the Board's website within two days of issuing the determination that the filing is complete and shall request comment within ~~28~~ 30 days of the ~~initial publication~~ date of service of the complete filing on the question of whether the petition raises a significant issue with respect to the substantive criteria of this section. If the Board finds that the petition raises a significant issue with respect to the substantive criteria of this section, the Board shall hear evidence on any such issue.

Sec. 5. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS FACILITIES

* * *

(e) Notice. No less than 60 days prior to filing an application for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the Board pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the Secretary of Natural Resources; the Secretary of Transportation; the Division for Historic Preservation; the Commissioner of Public Service and its Director for Public Advocacy; the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151; and the landowners of record of property adjoining the project sites. In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions. The notices to the legislative body and planning commission of the municipality shall attach a statement that itemizes the rights and opportunities available to those bodies under subdivisions (c)(2) and (e)(2) of this section and under subsections (m), (n), and (o) of this section and informs them of the guide published under subsection (p) of this section and how to obtain a copy of that guide.

* * *

(i) Sunset of Board authority. Effective on July 1, ~~2017~~ 2020, no new applications for certificates of public good under this section may be considered by the Board.

(j) Telecommunications facilities of limited size and scope.

* * *

(2)(A) Any ~~party~~ person seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its application~~, and provide~~. Within two business days of notification from the Board that the filing is complete, the applicant shall serve notice and a copy of the application, proposed certificate of public good, and proposed findings of fact ~~to~~ on the Commissioner of Public Service and its Director for Public Advocacy, the Secretary of Natural Resources, the Division for Historic Preservation, the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151, and each of the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities. ~~At the same time the applicant files the documents specified in this subdivision with the Board~~ Within two business days of notification from the Board that the filing is complete, the applicant also shall ~~give~~ serve written notice of the proposed certificate ~~to~~ on the landowners of record of property adjoining the project site or sites unless the Board has previously determined on request of the applicant that good cause exists to waive or modify the notice requirement with respect to such landowners. Such notice shall request comment to the Board within ~~21~~ 30 days of the ~~notice~~ date of service on the question of whether the application raises a significant issue with respect to the substantive criteria of this section. If the Board finds that an application raises a significant issue with respect to the substantive criteria of this section, the Board shall hear evidence on any such issue.

* * *

(C) If the Board accepts a request to consider an application under the procedures of this subsection, then unless the Public Service Board subsequently determines that an application raises a significant issue, the Board shall issue a final determination on an application ~~filed pursuant to this subsection within 45 days of its filing or, if the original filing did not substantially comply with the Public Service Board's rules,~~ within ~~45~~ 60 days of the date on which the Clerk of the Board notifies the applicant that the filing is complete. If, subsequent to acceptance of an application under this subsection, the Board rules that an application raises a significant issue, it shall

issue a final determination on an application filed pursuant to this subsection ~~within 90 days of its filing or, if the original filing did not substantially comply with the Public Service Board's rules,~~ within 90 days of the date on which the Clerk of the Board notifies the applicant that the filing is complete.

* * *

(k) De minimis modifications. An applicant intending to make a de minimis modification of a telecommunications facility shall provide written notice of its intent, including a description of the de minimis modification, its plans for the de minimis modification, and its certification that the project constitutes a de minimis modification under this section, to the following: the landowner of record of the property on which the facility is located; the legislative body of the municipality in which the applicant proposes to undertake such limited modifications to the facility; and the Commissioner of Public Service and his or her Director for Public Advocacy. Unless an objection to the classification of a proposed project as a de minimis modification is filed with the Board within ~~21~~ 30 days of this notice, a certificate of public good shall be issued. Objections may be filed only by persons entitled to notice of this proposed project pursuant to this subsection. If an objection of the classification of the proposed project as a de minimis modification is timely filed with the Board, the Board may determine whether the intended project meets the definition of de minimis modification established in subdivision (b)(2) of this section.

* * *

(o) Retention; experts. The Department of Public Service may retain experts and other personnel as identified in section 20 of this title to provide information essential to a full consideration of an application for a certificate of public good under this section. The Department may allocate the expenses incurred in retaining these personnel to the applicant in accordance with section 21 of this title. The Department may commence retention of these personnel once the applicant has filed the ~~45-day~~ 60-day notice under subsection (e) of this section. A municipal legislative body or planning commission may request that the Department retain these personnel. Granting such a request shall not oblige the Department or the personnel it retains to agree with the position of the municipality.

* * *

* * * Notice of Petitions for a CPG to Do Business * * *

Sec. 6. 30 V.S.A. § 231 is amended to read:

§ 231. CERTIFICATE OF PUBLIC GOOD; ABANDONMENT OF SERVICE; HEARING

(a) A person, partnership, unincorporated association, or previously incorporated association~~, which~~ that desires to own or operate a business over which the Public Service Board has jurisdiction under the provisions of this chapter shall first petition the Board to determine whether the operation of such business will promote the general good of the State, and shall at that time file a copy of any such petition with the Department. The Department, within 12 days, shall review the petition and file a recommendation regarding the petition in the same manner as is set forth in subsection 225(b) of this title. Such recommendation shall set forth reasons why the petition shall be accepted without hearing or shall request that a hearing on the petition be scheduled. If the Department requests a hearing on the petition, or, if the Board deems a hearing necessary, it shall appoint a time and place in the county where the proposed corporation is to have its principal office for hearing the petition~~, and shall make an order for the publication of the substance thereof and the time and place of hearing two weeks successively in a newspaper of general circulation in the county to be served by the petitioner, the last publication to be at least seven days before the day appointed for the hearing~~. At least 12 days before this hearing, notice of the hearing shall be published on the Board's website and once in a newspaper of general circulation in the county in which the hearing will occur. The website notice shall be maintained through the date of the hearing. The newspaper notice shall include an Internet address where more information regarding the petition may be viewed. The Director for Public Advocacy shall represent the public at ~~such~~ the hearing. If the Board finds that the operation of such business will promote the general good of the State, it shall give such person, partnership, unincorporated association, or previously incorporated association a certificate of public good specifying the business and territory to be served by such petitioners. For good cause, after opportunity for hearing, the Board may amend or revoke any certificate awarded under the provisions of this section. If any such certificate is revoked, the person, partnership, unincorporated association, or previously incorporated association shall no longer have authority to conduct any business which is subject to the jurisdiction of the Board whether or not regulation thereunder has been reduced or suspended, under section 226a or 227a of this title.

* * *

* * * Enforcement * * *

Sec. 7. 30 V.S.A. § 2 is amended to read:

§ 2. DEPARTMENT POWERS

* * *

(h) The Department shall investigate when it receives a complaint that there has been noncompliance with section 246, 248, 248a, or 8010 of this title, any rule adopted pursuant to those sections, or any certificate of public good issued pursuant to those sections, including a complaint of such noncompliance received pursuant to section 208 of this title or the complaint protocol established under 2016 Acts and Resolves No. 130, Sec. 5c.

Sec. 8. 30 V.S.A. § 30 is amended to read:

§ 30. PENALTIES; AFFIDAVIT OF COMPLIANCE

* * *

(h) In accordance with the process set forth in this subsection, the Department may issue an administrative citation to a person the Department believes after investigation violated section 246, 248, 248a, or 8010 of this title, any rule adopted pursuant to those sections, or any certificate of public good issued pursuant to those sections.

(1) An administrative citation, whether draft or final, shall:

(A) state each provision of statute and rule and each condition of a certificate of public good alleged to have been violated;

(B) include a concise statement of the facts giving rise to the alleged violation and the evidence supporting the existence of those facts;

(C) request that the person take the remedial action specified in the notice or pay a civil penalty of not more than $5,000.00 for the violation, or both; and

(D) if remedial action is requested, state the reasons for seeking the action.

(2) The Department shall initiate the process by issuing a draft administrative citation to the person and sending a copy to each municipality in which the person's facility is located, each adjoining property owner to the facility, the complainant if any, and, for alleged violations of the facility's certificate of public good, each party to the proceeding in which the certificate was issued.

(A) At the time the draft citation is issued, the Department shall file a copy with the Board and post the draft citation on its website.

(B) Commencing with the date of issuance, the Department shall provide an opportunity of 30 days for public comment on the draft citation. The Department shall include information on this opportunity in the draft citation.

(C) Once the public comment period closes, the Department:

(i) Shall provide the person and the Board with a copy of each comment received.

(ii) Within 15 days of the close of the comment period, may file a revised draft citation with the Board. The revised draft citation may be accompanied by a stipulation or agreed settlement between the person and the Department with a request for Board approval.

(D) The Board may on its own initiative open a proceeding to investigate the violation alleged in the draft citation. The Board shall take any such action within 25 days of the close of the public comment period, or the filing of a revised draft citation, whichever is later. Such a Board proceeding shall supersede the draft citation.

(3) If the Board has not opened a proceeding pursuant to subdivision (2)(D) of this subsection, the Department may issue a final administrative citation to the person. Within 30 days of receipt of a final administrative citation, the person shall respond in one of the following ways:

(A) Request a hearing before the Board on the existence of the alleged violation, the proposed penalty, and the proposed remedial action.

(B) Pay any civil penalty set forth in the notice and agree to undertake such remedial action as is set forth in the notice and submit to the Department for its approval a plan for compliance. In such a case, the final administrative citation shall be enforceable in the same manner as an order of the Board.

(C) Decline to contest the existence of the alleged violation and request a hearing on either the proposed penalty or remedial action, or both. When exercising this option, a person may agree to either the proposed penalty or remedial action and seek a hearing only on the penalty or action with which the person disagrees.

(4) When a person requests a hearing under subdivision (3) of this subsection, the Board shall open a proceeding and conduct a hearing in accordance with the provisions of this section on the alleged violation and such remedial action and penalty as are set forth in the notice. Notwithstanding any contrary provision of this section, a penalty under this subdivision (4) shall not exceed $5,000.00.

(5) If a person pays the civil penalty set forth in a final administrative citation, then the Department shall be precluded from seeking and the Board from imposing additional civil penalties for the same alleged violation unless the violation is continuing or is repeated.

(6) If a person agrees to undertake the remedial action set forth in a final administrative citation, failure to undertake the action or comply with a

compliance plan approved by the Department shall constitute a separate violation.

(7) The Board may approve disposition of a final administrative citation by stipulation or agreed settlement submitted before entry of a final order.

(8) Penalties assessed under this subsection shall be deposited in the General Fund.

* * * Name Change to Public Utility Commission * * *

Sec. 9. 30 V.S.A. § 3 is amended to read:

§ 3. PUBLIC ~~SERVICE BOARD~~ UTILITY COMMISSION

(a) The Vermont Public ~~Service Board~~ Utility Commission shall consist of a Chair and two members. The Chair and each member shall not be required to be admitted to the practice of law in this State.

(b) The Chair shall be nominated, appointed, and confirmed in the manner of a Superior judge.

(c) Members of the ~~Board~~ Commission other than the Chair shall be appointed in accordance with this subsection. Whenever a vacancy occurs, public announcement of the vacancy shall be made. The Governor shall submit at least five names of potential nominees to the Judicial Nominating Board for review. The Judicial Nominating Board shall review the candidates in respect to judicial criteria and standards only and shall recommend to the Governor those candidates the Board considers qualified. The Governor shall make the appointment from the list of qualified candidates. The appointment shall be subject to the consent of the Senate.

(d) The term of each member shall be six years. Any appointment to fill a vacancy shall be for the unexpired portion of the term vacated. A member wishing to succeed himself or herself in office may seek reappointment under the terms of this section.

(e) Notwithstanding 3 V.S.A. § 2004, or any other provision of law, members of the ~~Board~~ Commission may be removed only for cause. When a ~~Board~~ Commission member who hears all or a substantial part of a case retires from office before such case is completed, he or she shall remain a member of the ~~Board~~ Commission for the purpose of concluding and deciding such case, and signing the findings, orders, decrees, and judgments therein. A retiring Chair shall also remain a member for the purpose of certifying questions of law if appeal is taken. For such service, he or she shall receive a reasonable compensation to be fixed by the remaining members of the ~~Board~~ Commission and necessary expenses while on official business.

(f) A case shall be deemed completed when the ~~Board~~ Commission enters a final order therein even though such order is appealed to the Supreme Court and the case remanded by that court to the ~~Board~~ Commission. Upon remand the ~~Board~~ Commission then in office may in its discretion consider relevant evidence including any part of the transcript of testimony in the proceedings prior to appeal.

(g) The Chair shall have general charge of the offices and employees of the ~~Board~~ Commission.

Sec. 10. 30 V.S.A. § 7001(1) is amended to read:

(1) ~~"Board"~~ "Commission" means the Public ~~Service Board~~ Utility Commission under section 3 of this title.

Sec. 11. 30 V.S.A. § 8002(1) is amended to read:

(1) ~~"Board"~~ "Commission" means the Public ~~Service Board~~ Utility Commission under section 3 of this title~~, except when used to refer to the Clean Energy Development Board~~.

Sec. 12. REVISION AUTHORITY

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall make the following revisions throughout the statutes as needed for consistency with Secs. 9–11 of this act, as long as the revisions have no other effect on the meaning of the affected statutes:

(1) replace "Public Service Board" with "Public Utility Commission"; and

(2) replace "Board" with "Commission" when the existing term "Board" refers to the Public Service Board.

Sec. 13. RULES; NAME CHANGE

(a) The rules of the Public Service Board in effect on July 1, 2017 shall become rules of the Vermont Public Utility Commission (the Commission).

(b) In those rules, the Commission is authorized to change all references to the Public Service Board so that they refer to the Commission. Unless accompanied by one or more other revisions to the rules, such a change need not be made through the rulemaking process under the Administrative Procedure Act.

* * * In-person Citizens' Access to Public Service Board Hearings * * *

Sec. 13a. 30 V.S.A. § 11 is amended to read:

§ 11. PLEADINGS; RULES OF PRACTICE; HEARINGS; FINDINGS OF FACT

* * *

(b) The Board shall allow all members of the public to attend each of its hearings unless the hearing is for the sole purpose of considering information to be treated as confidential pursuant to a protective order duly adopted by the Board.

(1) The Board shall make all reasonable efforts to ensure that the location of each hearing is sufficient to accommodate all members of the public seeking to attend.

(2) The Board shall ensure that the public may safely attend the hearing, including obtaining such resources as may be necessary to fulfill this obligation.

(c) The Board shall hear all matters within its jurisdiction, and make its findings of fact. It shall state its rulings of law when they are excepted to. Upon appeal to the Supreme Court, its findings of fact shall be accepted unless clearly erroneous.

* * * Remote Location Access by Citizens to PSB Hearings * * *

Sec. 14. PLAN; CITIZENS' ACCESS TO PSB HEARINGS FROM REMOTE LOCATIONS

(a) On or before December 15, 2017, the Division for Telecommunications and Connectivity within the Department of Public Service, in consultation with relevant organizations such as the Vermont Access Network and Vermont access management organizations, shall submit to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy a plan to achieve citizen access to hearings and workshops of the Public Service Board from remote locations across the State. The access shall include interactive capability and the ability to use multiple remote locations simultaneously. The plan may build on the Department's Vermont Video Connect proposal described in the Report to the General Assembly by the Vermont Interactive Technologies Working Group dated Dec. 9, 2015, submitted pursuant to 2015 Acts and Resolves No. 58, Sec. E.602.1.

(b) The plan shall include each of the following:

(1) assessment of cost-effective interactive video technologies;

(2) identification of at least five locations across Vermont that are willing and able to host the access described in subsection (a) of this section;

(3) the estimated capital costs of providing such access; and

(4) the estimated operating costs for hosting and connecting.

* * * Citizen Access to Public Service Board; Implementation Report * * *

Sec. 15. REPORT; IMPLEMENTATION OF WORKING GROUP RECOMMENDATIONS

On or before December 15, 2017, the Public Service Board shall submit to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy a report on the progress made in implementing the recommendations of the Access to Public Service Board Working Group created by 2016 Acts and Resolves No. 174, Sec. 15, including those recommendations that the Group identified as not requiring statutory change.

* * * Appliance Efficiency * * *

Sec. 16. PURPOSE

In light of the findings set forth at 9 V.S.A. § 2792, Secs. 17 through 21 of this act adopt federal appliance and lighting efficiency standards in effect on January 19, 2017 so that the same standards will be in place in Vermont should the federal standards be repealed or voided. The act also adopts federal standards for general service lighting that have been adopted by the U.S. Department of Energy and are scheduled to come into effect on January 20, 2020, again so that the same standards will be in place in Vermont. The act does not adopt standards for other products or standards for a product that are different from the federal standards.

Sec. 17. 9 V.S.A. § 2793 is amended to read:

§ 2793. DEFINITIONS

As used in this chapter:

* * *

(15) "General service lamp" has the same meaning as set forth in the action published at 82 Fed. Reg. 7276, 7321-22 (January 19, 2017) and modified by the action published at 82 Fed. Reg. 7322, 7333 (January 19, 2017).

Sec. 18. 9 V.S.A. § 2794 is amended to read:

§ 2794. SCOPE

(a) The provisions of this chapter apply to the following types of new products sold, offered for sale, or installed in the State:

(1) Medium voltage dry-type distribution transformers.

(2) Metal halide lamp fixtures.

(3) Residential furnaces and residential boilers.

(4) Single-voltage external AC to DC power supplies.

(5) State-regulated incandescent reflector lamps.

(6) General service lamps.

(7) Each other product for which the Commissioner is required to adopt an efficiency or water conservation standard by rule pursuant to section 2795 of this title.

(8) Any other product that may be designated by the Commissioner in accordance with section 2797 of this title.

(b) The provisions of this chapter do not apply to:

(1) New products manufactured in the State and sold outside the State and the equipment used in manufacturing those products.

(2) New products manufactured outside the State and sold at wholesale inside the State for final retail sale and installation outside the State.

(3) Products installed in mobile manufactured homes at the time of construction.

(4) Products designed expressly for installation and use in recreational vehicles.

Sec. 19. 9 V.S.A. § 2795 is amended to read:

§ 2795. EFFICIENCY AND WATER CONSERVATION STANDARDS

~~Not later than June 1, 2007, the~~ The Commissioner shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 establishing minimum efficiency standards for the types of new products set forth in section 2794 of this title. The rules shall provide for the following minimum efficiency standards for products sold or installed in this State:

* * *

(6) In the rules, the Commissioner shall adopt minimum efficiency and water conservation standards for each product that is subject to a standard under 10 C.F.R. §§ 430 and 431 as those provisions existed on January 19, 2017. The minimum standard and the testing protocol for each product shall be the same as adopted in those sections of the Code of Federal Regulations.

(7) In the rules, the Commissioner shall adopt a minimum efficacy standard for general service lamps of 45 lumens per watt, when tested in accordance with 10 C.F.R. § 430.23(gg) as that provision existed on January 19, 2017.

Sec. 20. 9 V.S.A. § 2796 is amended to read:

§ 2796. IMPLEMENTATION

* * *

(f)(1) When federal preemption under 42 U.S.C. § 6297 applies to a standard adopted pursuant to this chapter for a product, the standard shall become enforceable on the occurrence of the earliest of the following:

(A) The federal energy or water conservation standard for the product under 42 U.S.C. chapter 77 is withdrawn, repealed, or otherwise voided. However, this subdivision (A) shall not apply to any federal energy or water conservation standard set aside by a court of competent jurisdiction upon the petition of a person who will be adversely affected, as provided in 42 U.S.C. § 6306(b).

(B) A waiver of federal preemption is issued pursuant to 42 U.S.C. § 6297.

(2) The federal standard for general service lamps shall be considered to be withdrawn, repealed, or otherwise voided within the meaning of this subsection if it does not come into effect on January 20, 2020 pursuant to the actions published at 82 Fed. Reg. 7276 and 7333 (January 19, 2017).

(3) When a standard adopted pursuant to this chapter becomes enforceable under this subsection, a person shall not sell or offer for sale in the State a new product subject to the standard unless the efficiency or water conservation of the new product meets or exceeds the requirements set forth in the standard.

Sec. 21. RULE ADOPTION; SCHEDULE; REPORT

(a) Rule adoption; schedule.

(1) On or before August 1, 2017, the Commissioner of Public Service shall file with the Secretary of State proposed rules to effect Sec. 19 of this act.

(2) On or before April 1, 2018, the Commissioner shall finally adopt these rules, unless the Legislative Committee on Administrative Rules extends this date pursuant to 3 V.S.A. § 843(c).

(b) Reports.

(1) On or before December 15, 2017, the Commissioner of Public Service shall file a progress report on the rulemaking required by this act. The report shall attach the proposed rules as filed with the Secretary of State.

(2) On or before December 15, 2018, the Commissioner of Public Service shall file a further progress report on the rulemaking required by this act. The report shall attach the rules as finally adopted by the Commissioner.

* * * Energy Storage * * *

Sec. 22. ENERGY STORAGE; REPORT

(a) Definitions. As used in this section, "energy storage" means a system that uses mechanical, chemical, or thermal processes to store energy for later use.

(b) Report. On or before November 15, 2017, the Commissioner of Public Service shall submit a report on the issue of deploying energy storage on the Vermont electric transmission and distribution system.

(1) The Commissioner shall submit the report to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy.

(2) The Commissioner shall provide an opportunity for the public and Vermont electric transmission and distribution companies to submit information relevant to the preparation of the report.

(3) The report shall:

(A) summarize existing state, regional, and national actions or initiatives affecting deployment of energy storage;

(B) identify and summarize federal and state jurisdictional issues regarding deployment of energy storage;

(C) identify the opportunities for, the benefits of, and the barriers to deploying energy storage;

(D) identify and evaluate regulatory options and structures available to foster energy storage, including potential cost impacts to ratepayers; and

(E) assess the potential methods for fostering the development of cost-effective solutions for energy storage in Vermont and the potential benefits and cost impacts of each method for ratepayers.

(4) The report shall identify the challenges and opportunities for fostering energy storage in Vermont.

Sec. 23. 30 V.S.A. § 8015 is amended to read:

§ 8015. VERMONT CLEAN ENERGY DEVELOPMENT FUND

* * *

(b) Definitions. ~~For purposes of~~ As used in this section, the following definitions shall apply:

* * *

(6) "Energy storage" means a system that uses mechanical, chemical, or thermal processes to store energy for later use.

* * *

(d) Expenditures authorized.

(1) Projects for funding may include the following:

(A) projects that will sell power in commercial quantities;

(B) among those projects that will sell power in commercial quantities, funding priority will be given to those projects that commit to sell power to Vermont utilities on favorable terms;

(C) projects to benefit publicly owned or leased buildings;

(D) renewable energy projects on farms, which may include any or all costs incurred to upgrade to a three-phase line to serve a system on a farm;

(E) ~~small scale~~ small-scale renewable energy in Vermont residences, institutions, and businesses:

(i) generally; and

(ii) through the Small-scale Renewable Energy Incentive Program;

(F) projects under the agricultural economic development special account established under 6 V.S.A. § 4710(g) to harvest biomass, convert biomass to energy, or produce biofuel;

(G) until December 31, 2008 only, super-efficient buildings;

(H) projects to develop and use thermal or geothermal energy, regardless of whether they also involve the generation of electricity;

(I) emerging energy-efficient technologies;

(J) effective projects that are not likely to be established in the absence of funding under the program;

(K) natural gas vehicles and associated fueling infrastructure if each such vehicle is dedicated only to natural gas fuel and, on a life cycle basis, the vehicle's emissions will be lower than those of commercially available vehicles using other fossil fuel, and any such infrastructure will deliver gas without interruption of flow;

(L) electric vehicles and associated charging stations;

(M) energy storage projects that facilitate utilization of renewable energy resources.

* * *

* * * Telecommunications Plan * * *

Sec. 24. 30 V.S.A. § 202d is amended to read:

§ 202d. TELECOMMUNICATIONS PLAN

(a) The Department of Public Service shall constitute the responsible planning agency of the State for the purpose of obtaining for all consumers in the State stable and predictable rates and a technologically advanced telecommunications network serving all service areas in the State. The Department shall be responsible for the provision of plans for meeting emerging trends related to telecommunications technology, markets, financing, and competition.

(b) The Department shall prepare a Telecommunications Plan for the State. The Department of Innovation and Information, the Agency of Commerce and Community Development, and the Agency of Transportation shall assist the Department in preparing the Plan. The Plan shall be for a 10-year period and shall serve as a basis for State telecommunications policy. Prior to preparing the Plan, the Department shall prepare:

(1) ~~an~~ An overview, looking 10 years ahead, of future requirements for telecommunications services, considering services needed for economic development, technological advances, and other trends and factors which, as determined by the Department of Public Service, will significantly affect State telecommunications policy and programs~~;~~.

(2) ~~a survey~~ One or more surveys of Vermont residents and businesses, conducted in cooperation with the Agency of Commerce and Community Development to determine what telecommunications services are needed now and in the succeeding ~~ten~~ 10 years, generally, and with respect to the following specific sectors in Vermont;

(A) the educational sector, with input from the Secretary of Education;

(B) the health care and human services sectors, with input from the Commissioner of Health and the Secretary of Human Services;

(C) the public safety sector, with input from the Commissioner of Public Safety and the Executive Director of the Enhanced 911 Board; and

(D) the workforce training and development sectors, with input from the Commissioner of Labor.

(3) ~~an~~ An assessment of the current state of telecommunications infrastructure~~;~~.

(4) ~~an~~ An assessment, conducted in cooperation with the Department of Innovation and Information and the Agency of Transportation, of the current State telecommunications system and evaluation of alternative proposals for upgrading the system to provide the best available and affordable technology for use by government~~; and~~.

(5) ~~an~~ An assessment of the state of telecommunications networks and services in Vermont relative to other states, including price comparisons for key services and comparisons of the state of technology deployment.

(c) In developing the Plan, the Department shall take into account the State telecommunications policies and goals of section 202c of this title.

(d) In establishing plans, public hearings shall be held and the Department shall consult with members of the public, representatives of telecommunications utilities with a certificate of public good, other providers, including the Vermont Electric Power Co., Inc. (VELCO), and other interested State agencies, particularly the Agency of Commerce and Community Development, the Agency of Transportation, and the Department of Innovation and Information, whose views shall be considered in preparation of the Plan. To the extent necessary, the Department shall include in the Plan surveys to determine existing, needed, and desirable plant improvements and extensions, access and coordination between telecommunications providers, methods of operations, and any change that will produce better service or reduce costs. To this end, the Department may require the submission of data by each company subject to supervision by the Public Service Board.

(e) Before adopting a Plan, the Department shall conduct public hearings on a final draft and shall consider the testimony presented at such hearings in preparing the final Plan. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose. The Plan shall be adopted by September 1, 2014, and then reviewed and updated as provided in subsection (f) of this section.

(f) The Department, from time to time, but in no event less than every three years, shall institute proceedings to review the Plan and make revisions, where necessary. The three-year major review shall be made according to the procedures established in this section for initial adoption of the Plan. For good cause or upon request by a joint resolution passed by the General Assembly, an interim review and revision of any section of the Plan may be made after conducting public hearings on the interim revision. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose.

(g) The Department shall review and update the minimum technical service characteristic objectives not less than every three years beginning in 2017. In the event such review is conducted separately from an update of the Plan, the Department shall issue revised minimum technical service characteristic objectives as an amendment to the Plan.

* * * Standard Offer Program; Exemption * * *

Sec. 25. STANDARD OFFER PROGRAM; EXEMPTION; REPORT

(a) On or before December 15, 2018, the Public Service Board (Board) shall submit a written report providing its recommendations related to the exemption set forth at 30 V.S.A. § 8005a(k)(2)(B) and any issues arising from that exemption, including the effect of the exemption on the State's achievement of the renewable energy goals set forth in 30 V.S.A. § 8001. In developing its recommendations under this section, the Board shall conduct a proceeding to solicit input from potentially affected parties and the public.

(b) Notwithstanding any contrary provision of the exemption at 30 V.S.A. § 8005a(k)(2)(B), a retail electricity provider shall not qualify to be exempt under subdivision 8005a(k)(2)(B) during calendar year 2018 or calendar year 2019 unless that provider previously qualified for an exemption under that subdivision.

(c) In this section, "retail electricity provider" has the same meaning as in 30 V.S.A. § 8002.

* * * Open Meeting Law; Public Service Board * * *

Sec. 25a. REPORT; OPEN MEETING LAW; PUBLIC SERVICE BOARD

(a) On or before December 15, 2017, the Attorney General shall submit a report on the exemption of the Public Service Board from the Vermont Open Meeting Law, 1 V.S.A. § 312(e). The report shall evaluate whether the Board should continue to have a complete exemption from the Open Meeting Law or whether its exemption should be limited, as with other administrative boards, to the Board's deliberations in connection with quasi-judicial proceedings. The report shall set out the reasons favoring and disfavoring each of these outcomes and provide the Attorney's General recommendation.

(b) The report described in subsection (a) shall be submitted to the House and Senate Committees on Government Operations, the House Committee on Energy and Technology, and the Senate Committees on Finance and on Natural Resources and Energy.

* * * Effective Dates * * *

Sec. 26. EFFECTIVE DATES

This section and Secs. 14 through 25a shall take effect on passage. The remainder of this act shall take effect on July 1, 2017.

and that after passage the title of the bill be amended to read: "An act relating to the Public Service Board, energy, and telecommunications"

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senators Lyons, Campion, Cummings, Degree, MacDonald, Pollina and Sirotkin moved that the Senate concur in the House proposal of amendment with a further proposal of amendment as follows:

First: By striking out Sec. 5 in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS FACILITIES

* * *

(j) Telecommunications facilities of limited size and scope.

* * *

(2)(A) Any ~~party~~ person seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its application~~, and provide~~. Within two business days of notification from the Board that the filing is complete, the applicant shall serve notice and a copy of the application, proposed certificate of public good, and proposed findings of fact ~~to~~ on the Commissioner of Public Service and its Director for Public Advocacy, the Secretary of Natural Resources, the Division for Historic Preservation, the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151, and each of the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities. ~~At the same time the applicant files the documents specified in this subdivision with the Board~~ Within two business days of notification from the Board that the filing is complete, the applicant also shall ~~give~~ serve written notice of the proposed certificate ~~to~~ on the landowners of record of property adjoining the project site or sites unless the Board has previously determined on request of the applicant that good cause exists to waive or modify the notice requirement with respect to such landowners. Such notice shall request comment to the Board within ~~21~~ 30 days of the ~~notice~~ date of service on the question of

whether the application raises a significant issue with respect to the substantive criteria of this section. If the Board finds that an application raises a significant issue with respect to the substantive criteria of this section, the Board shall hear evidence on any such issue.

* * *

(C) If the Board accepts a request to consider an application under the procedures of this subsection, then unless the Public Service Board subsequently determines that an application raises a significant issue, the Board shall issue a final determination on an application ~~filed pursuant to this subsection within 45 days of its filing or, if the original filing did not substantially comply with the Public Service Board's rules,~~ within ~~45~~ 60 days of the date on which the Clerk of the Board notifies the applicant that the filing is complete. If, subsequent to acceptance of an application under this subsection, the Board rules that an application raises a significant issue, it shall issue a final determination on an application filed pursuant to this subsection ~~within 90 days of its filing or, if the original filing did not substantially comply with the Public Service Board's rules,~~ within 90 days of the date on which the Clerk of the Board notifies the applicant that the filing is complete.

* * *

(k) De minimis modifications. An applicant intending to make a de minimis modification of a telecommunications facility shall provide written notice of its intent, including a description of the de minimis modification, its plans for the de minimis modification, and its certification that the project constitutes a de minimis modification under this section, to the following: the landowner of record of the property on which the facility is located; the legislative body of the municipality in which the applicant proposes to undertake such limited modifications to the facility; and the Commissioner of Public Service and his or her Director for Public Advocacy. Unless an objection to the classification of a proposed project as a de minimis modification is filed with the Board within ~~21~~ 30 days of this notice, a certificate of public good shall be issued. Objections may be filed only by persons entitled to notice of this proposed project pursuant to this subsection. If an objection of the classification of the proposed project as a de minimis modification is timely filed with the Board, the Board may determine whether the intended project meets the definition of de minimis modification established in subdivision (b)(2) of this section.

* * *

(o) Retention; experts. The Department of Public Service may retain experts and other personnel as identified in section 20 of this title to provide information essential to a full consideration of an application for a certificate

of public good under this section. The Department may allocate the expenses incurred in retaining these personnel to the applicant in accordance with section 21 of this title. The Department may commence retention of these personnel once the applicant has filed the ~~45-day~~ 60-day notice under subsection (e) of this section. A municipal legislative body or planning commission may request that the Department retain these personnel. Granting such a request shall not oblige the Department or the personnel it retains to agree with the position of the municipality.

* * *

Second: After Sec. 15, by striking out Secs. 16 through 21 in their entirety and the reader assistance thereto and inserting in lieu thereof the following:

Secs. 16-21. [Deleted.]

Third: By striking out Sec. 24 in its entirety and the reader assistance thereto and inserting in lieu thereof the following:

Sec. 24. [Deleted.]

Fourth: In Sec. 25a, Report; Open Meeting Law; Public Service Board, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) On or before December 15, 2017, the Secretary of State shall submit a report on the exemption of the Public Service Board from the Vermont Open Meeting Law, 1 V.S.A. § 312(e). The report shall evaluate whether the Board should continue to have a complete exemption from the Open Meeting Law or whether its exemption should be limited, as with other administrative boards, to the Board's deliberations in connection with quasi-judicial proceedings. The report shall set out the reasons favoring and disfavoring each of these outcomes and provide the Secretary of State's recommendation. In preparing the report, the Secretary of State shall consult with the Attorney General and the Public Service Board.

Fifth: In Sec. 26, effective dates, in the first sentence, by striking out "Secs. 14 through 25a" and inserting in lieu thereof Secs. 14, 15, 22, 23, 25, and 25a

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment with a proposal of amendment as proposed by Senators Lyons, Campion, Cummings, Degree, MacDonald, Pollina and Sirotkin?, Senator Rodgers moved to amend the proposal of amendment of Senators Lyons, Campion, Cummings, Degree, MacDonald, Pollina and Sirotkin, as follows:

By adding two new sections to be numbered Secs. 3a and 3b to read as follows:

Sec. 3a. 30 V.S.A. § 248(b)(1) is amended to read:

(1) With respect to an in-state facility, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. However:

* * *

(C) With respect to an in-state electric generation facility, the Board shall give substantial deference to the land conservation measures and specific policies contained in a duly adopted regional and municipal plan that has received an affirmative determination of energy compliance under 24 V.S.A. § 4352. In this subdivision (C), "substantial deference" means that a land conservation measure or specific policy shall be applied in accordance with its terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy. The term shall not include consideration of whether the determination of energy compliance should or should not have been affirmative under 24 V.S.A. § 4352.

(D) With respect to an application for an electric generation facility filed before July 1, 2023, the Board shall give substantial deference as defined in subdivision (C) of this subdivision (1) to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. This subdivision (D) shall apply regardless of whether the duly adopted plan of the municipality or region has obtained an affirmative determination of energy compliance pursuant to 24 V.S.A. § 4352.

Sec. 3b. PROSPECTIVE REPEAL

30 V.S.A. § 248(b)(1)(D) is repealed effective on July 1, 2023.

Which was disagreed to on a roll call, Yeas 10, Nays 20.

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

Roll Call

Those Senators who voted in the affirmative were: Benning, Branagan, Collamore, Degree, Flory, Kitchel, Mullin, Nitka, Rodgers, Starr.

Those Senators who voted in the negative were: Ashe, Ayer, Balint, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Lyons,

MacDonald, Mazza, McCormack, Pearson, Pollina, Sears, Sirotkin, Westman, White.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment with a proposal of amendment as proposed by Senators Lyons, Campion, Cummings, Degree, MacDonald, Pollina and Sirotkin?, Senator Rodgers moved to amend the proposal of amendment of Senators Lyons, Campion, Cummings, Degree, MacDonald, Pollina and Sirotkin, as follows:

Sec. 1a and a reader assistance thereto to read:

* * * Determination of Energy Compliance; Transportation Planning * * *

Sec. 1a. 24 V.S.A. § 4352(c) is amended to read:

(c) Enhanced energy planning; requirements. To obtain an affirmative determination of energy compliance under this section, a plan must:

(1) in the case of a regional plan, include the energy element as described in subdivision 4348a(a)(3) of this title;

(2) in the case of a municipal plan, include an energy element that has the same components as described in subdivision 4348a(a)(3) of this title for a regional plan <u>other than transportation</u> and be confirmed under section 4350 of this title;

* * *

Which was disagreed to.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment as proposed by Senators Lyons, Campion, Cummings, Degree, MacDonald, Pollina and Sirotkin?, was agreed to.

Proposal of Amendment; Third Reading Ordered

H. 143.

Senator Benning, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to automobile insurance requirements and transportation network companies.

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:

Sec. 1. 23 V.S.A. chapter 10 is added to read:

CHAPTER 10. TRANSPORTATION NETWORK COMPANIES

§ 750. DEFINITIONS; INSURANCE REQUIREMENTS

(a) Definitions. As used in this chapter:

(1) "Digital network" or "network" means any online-enabled application, software, website, or system offered or used by a transportation network company that enables the prearrangement of rides with transportation network drivers.

(2) "Personal vehicle" means a vehicle that is:

(A) used by a driver to provide a prearranged ride;

(B) owned, leased, or otherwise authorized for use by the driver; and

(C) not a taxicab, limousine, or other for-hire vehicle.

(3) "Prearranged ride" or "ride" means the transportation provided by a driver to a transportation network rider, beginning when a driver accepts the rider's request for a ride through a digital network controlled by a company; continuing while the driver transports the rider; and ending when the last requesting rider departs from the vehicle. The term does not include:

(A) shared-expense carpool or vanpool arrangements;

(B) use of a taxicab, limousine, or other for-hire vehicle;

(C) use of a public or private regional transportation company that operates along a fixed route; or

(D) a ride furnished through a broker using a publicly funded network to connect riders to drivers through the Elders and Persons with Disabilities Program, Medicaid Non-Emergency Medical Transportation Program, or other similar governmental transportation program.

(4) "Transportation network company" or "company" means a person that uses a digital network to connect riders to drivers who provide prearranged rides.

(5) "Transportation network company driver" or "driver" means an individual who:

(A) receives connections to potential riders and related services from a transportation network company in exchange for payment of a fee to the company; and

(B) uses a personal vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company in exchange for compensation or payment of a fee.

(6) "Transportation network company rider" or "rider" means an individual who uses a company's digital network to connect with a driver who provides rides in his or her personal vehicle between points chosen by the rider.

(b) Company's financial responsibility.

(1) Beginning on July 1, 2017, a driver, or company on the driver's behalf, shall maintain primary automobile insurance that recognizes that the driver is a company driver or otherwise uses a vehicle to transport passengers for compensation and covers the driver while the driver is logged on to the company's digital network or while the driver is engaged in a prearranged ride.

(2)(A) The following automobile insurance requirements shall apply while a participating driver is logged on to the transportation network company's digital network and is available to receive transportation requests but is not engaged in a prearranged ride:

(i) primary automobile liability insurance in the amount of at least $100,000.00 for death and bodily injury per person, $300,000.00 for death and bodily injury per incident, and $25,000.00 for property damage; and

(ii) any other State-mandated coverage under section 941 of this title.

(B) The coverage requirements of this subdivision (2) may be satisfied by any of the following:

(i) automobile insurance maintained by the driver;

(ii) automobile insurance maintained by the company; or

(iii) any combination of subdivisions (i) and (ii) of this subdivision (2)(B).

(3)(A) The following automobile insurance requirements shall apply while a driver is engaged in a prearranged ride:

(i) primary automobile liability insurance that provides at least $1,000,000.00 for death, bodily injury, and property damage;

(ii) uninsured and underinsured motorist coverage that provides at least $1,000,000.00 for death, bodily injury, and property damage; and

(iii) $10,000.00 in medical payments coverage (Med Pay).

(B) The coverage requirements of this subdivision (3) may be satisfied by any of the following:

(i) automobile insurance maintained by the driver;

(ii) automobile insurance maintained by the company; or

(iii) any combination of subdivisions (i) and (ii) of this subdivision (3)(B).

(4) If insurance maintained by a driver under subdivision (2) or (3) of this subsection has lapsed or does not provide the required coverage, insurance maintained by a company shall provide such coverage beginning with the first dollar of a claim and shall have the duty to defend such claim.

(5) Coverage under an automobile insurance policy maintained by the company shall not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(6) Insurance required by this subsection may be placed with an insurer licensed under chapter 101 (insurance companies generally) or 138 (surplus lines insurance) of this title.

(7) Insurance satisfying the requirements of this subsection shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under section 800 of this title.

(8) A driver shall carry proof of coverage satisfying this section at all times during use of a vehicle in connection with a company's digital network. In the event of an accident, a driver shall provide this insurance coverage information to the directly interested parties, automobile insurers, and law enforcement, upon request. Upon such request, a driver shall also disclose whether he or she was logged on to the network or was on a prearranged ride at the time of an accident.

(c) Disclosures. A transportation network company shall disclose in writing to its drivers the following before they are allowed to accept a request for a prearranged ride on the company's digital network:

(1) the insurance coverage, including the types of coverage and the limits for each coverage, that the company provides while the driver uses a personal vehicle in connection with the company's network; and

(2) that the driver's own automobile insurance policy, depending on its terms, might not provide any coverage while the driver is logged on to the company's network and available to receive transportation requests or engaged in a prearranged ride.

(d)(1) Automobile insurers. Notwithstanding any other provision of law to the contrary, insurers that write automobile insurance in Vermont may exclude any and all coverage afforded under a policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a driver is logged on to a transportation network company's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage in an automobile insurance policy, including:

(A) liability coverage for bodily injury and property damage;

(B) personal injury protection coverage;

(C) uninsured and underinsured motorist coverage;

(D) medical payments coverage;

(E) comprehensive physical damage coverage; and

(F) collision physical damage coverage.

(2) Nothing in this subsection implies or requires that a personal automobile insurance policy provide coverage while the driver is logged on to a company's digital network, while the driver is engaged in a prearranged ride, or while the driver otherwise uses a vehicle to transport passengers for compensation.

(3) Nothing in this section shall be construed to require an insurer to use any particular policy language or reference to this section in order to exclude any and all coverage for any loss or injury that occurs while a driver is logged on to a company's digital network or while a driver provides a prearranged ride.

(4) Nothing in this subsection is deemed to preclude an insurer from providing primary or excess coverage for the driver's vehicle, if it chooses to do so by contract or endorsement.

(5) Insurers that exclude the coverage described under subsection (b) of this section shall have no duty to defend or indemnify any claim expressly excluded thereunder.

(6) Nothing in this section is deemed to invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use in Vermont prior to the enactment of this section, that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public.

(7) An insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide automobile insurance to the same driver in

satisfaction of the coverage requirements of subsection (b) of this section at the time of loss.

(8) In a claims coverage investigation, transportation network companies shall immediately provide, upon request by directly involved parties or any insurer of the transportation network company driver, if applicable, the precise times that a transportation network company driver logged on and off the transportation network company's digital network in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident. Insurers providing coverage under subsection (b) of this section shall disclose, upon request by any other insurer involved in the particular claim, the applicable charges, exclusions, and limits provided under any automobile insurance maintained in order to satisfy the requirements of subsection (b) of this section.

§ 751. COMPANY LICENSE

(a) A company shall not operate without a license issued by the Commissioner of Motor Vehicles. Applications for a license shall be filed with the Commissioner and shall contain such information and shall be on such forms as the Commissioner may prescribe.

(b) Each application shall be accompanied by an application fee of $250.00, which shall not be refunded. If an application is approved by the Commissioner, upon payment of an additional fee of $250.00, the applicant shall be granted a license, which shall be valid for one year after the date of issuance. The renewal fee is $500.00.

(c) The Commissioner shall not issue a license to a company unless he or she finds that the company:

(1) has a zero-tolerance policy for drug and alcohol use, as described in subsection 752(c) of this chapter;

(2) requires compliance with applicable vehicle requirements;

(3) adopts nondiscrimination and accessibility policies; and

(4) establishes record maintenance guidelines.

§ 752. DRIVER REQUIREMENTS; BACKGROUND CHECKS

(a) A company shall not allow an individual to act as a driver on the company's network without requiring the individual to submit to the company an application that includes:

(1) the individual's name, address, and date of birth;

(2) a copy of the individual's driver's license;

(3) a copy of the registration for the personal vehicle that the individual will use to provide prearranged rides; and

(4) proof of financial responsibility for the personal vehicle described in subdivision (3) of this subsection of a type and in the amounts required by the company.

(b)(1) A company shall not allow an individual to act as a driver on the company's network unless, with respect to the driver, the company:

(A) obtains a Vermont criminal record from the Vermont Crime Information Center; and

(B) contracts with an entity accredited by the National Association of Professional Background Screeners to conduct a national criminal record check, a motor vehicle check, and a search of the Vermont Sex Offender Registry and the National Sex Offender Public Registry.

(2) The background checks required by this subsection shall be conducted annually by the company.

(c) A company shall not allow an individual to act as a driver on the company's network if the company knows or should know that the individual:

(1) has been convicted within the last seven years of:

(A) a listed crime as defined in 13 V.S.A. § 5301(7);

(B) an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64;

(C) a violation of 18 V.S.A. § 4231(b)(2), (b)(3), or (c)(selling, dispensing, or trafficking cocaine); 4232(b)(2) or (b)(3)(selling or dispensing LSD); 4233(b)(2), (b)(3), or (c)(selling, dispensing, or trafficking heroin); 4234(b)(2) or (b)(3)(selling or dispensing depressants, stimulants, and narcotics); 4234a(b)(2), (b)(3), or (c)(selling, dispensing, or trafficking methamphetamine); 4235(c)(2) or (c)(3)(selling or dispensing hallucinogenic drugs); or 4235a(b)(2) or (b)(3)(selling or dispensing Ecstasy);

(D) a violation of section 1201 (operating a vehicle while under the influence of alcohol or drugs) of this title;

(E) a felony violation of 13 V.S.A. chapter 47 (frauds) or chapter 57 (larceny and embezzlement); or

(F) a comparable offense in another jurisdiction;

(2) has been convicted within the last three years of:

(A) more than three moving violations as defined in subdivision 4(44) of this title;

(B) grossly negligent operation of a motor vehicle in violation of section 1071 of this title or operating with a suspended or revoked license in violation of section 674 of this title; or

(C) a comparable offense in another jurisdiction; or

(3) is or has been required to register as a sex offender in any jurisdiction.

(c) A company shall establish and enforce a zero tolerance policy for drug and alcohol use by drivers during any period when a driver is engaged in, or is logged into the company's network but is not engaged in, a prearranged ride. The policy shall include provisions for investigations of alleged policy violations and the suspension of drivers under investigation.

(d) A company shall require that a personal vehicle used to provide prearranged rides complies with all applicable laws and regulations concerning vehicle equipment.

§ 753. RECORDS; INSPECTION

The Commissioner of Motor Vehicles or designee, at all reasonable times, has the right to inspect driver and company records demonstrating compliance with the requirements of this chapter, including the results of background checks, proof that vehicles meet the standards of this chapter, and proof of adequate insurance.

§ 754. ENFORCEMENT; ADMINISTRATIVE PENALTIES

(a) The Commissioner may impose an administrative penalty, suspend or revoke a company's license, or both, if a company violates the provisions of this chapter.

(b) A violation may be subject to an administrative penalty of not more than $500.00. Each violation is a separate and distinct offense and, in the case of a continuing violation, each day's continuance may be deemed a separate and distinct offense.

(c) The company shall be given notice and opportunity for a hearing for alleged violations under this section. Service of the notice shall be sufficient if sent by first class mail to the address stated on the company's license. The notice shall include the following:

(1) a factual description of the alleged violation;

(2) a reference to the particular statute allegedly violated;

(3) the amount of the proposed administrative penalty; and

(4) a warning that the company will be deemed to have waived its right to a hearing, that the penalty will be imposed if no hearing is requested within 15 days from the date of the notice, and that failure to pay a penalty may result in suspension of its license.

(d) A company that receives notice under subsection (c) of this section shall be deemed to have waived the right to a hearing unless, within 15 days from the date of the notice, the company requests a hearing in writing. If the company waives the right to a hearing, the Commissioner shall issue a final order finding the company in default and imposing the penalty.

(e) The provisions of sections 105, 106, and 107 of this title shall apply to hearings conducted under this section.

(f) The Commissioner may collect an unpaid administrative penalty by filing a civil action in Superior Court, or through any other means available to State agencies.

(g) If a penalty is not paid within 60 days after it is imposed, the Commissioner may suspend any license issued under this chapter.

(h) The remedies authorized by this section shall be in addition to any other civil or criminal remedies provided by law for violation of this chapter.

§ 755. PREEMPTION; SAVINGS CLAUSE

(a) A municipality shall not adopt an ordinance, resolution, or bylaw regulating transportation network companies that is inconsistent with the requirements of this chapter.

(b) Subsection (a) of this section shall not apply to a municipal ordinance, resolution, or bylaw regulating transportation network companies adopted by a municipality with a population of more than 35,000 residents based on the 2010 census and in effect on July 1, 2017. This subsection shall be repealed on July 1, 2022.

Sec. 2. AUTOMOBILE FINANCIAL RESPONSIBILITY; STUDY

The Commissioner of Financial Regulation shall review the minimum automobile insurance requirements in each of the states located in the northeastern region of the United States and shall report his or her findings and recommendations with respect to Vermont's minimum automobile insurance requirements to the General Assembly on or before November 1, 2017.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

And that after passage the title of the bill be amended to read:

An act relating to transportation network companies.

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

Senator Degree, for the Committee on Finance, 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 Judiciary with the following amendments thereto:

First: In Sec. 1, 23 V.S.A. § 750(b)(2)(A), by striking out subdivision (i) in its entirety and inserting in lieu thereof a new subdivision (i) to read as follows:

(i) primary automobile liability insurance in the amount of at least $50,000.00 for death and bodily injury per person, $100,000.00 for death and bodily injury per incident, and $25,000.00 for property damage; and

Second: In Sec. 1, 23 V.S.A. § 750(b) (company's financial responsibility), by adding subdivision (9) to read as follows:

(9) A person who fails to maintain primary automobile insurance as required in subdivisions (2) and (3) of this subsection (b) shall be assessed a civil penalty of not more than $500.00, and such violation shall be a traffic violation within the meaning of chapter 24 of this title. A person who fails to carry proof of insurance as required under subdivision (8) of this subsection (b) shall be subject to a fine of not more than $100.00. Notwithstanding any provision of law to the contrary, a person who operates a vehicle without financial responsibility as required by this subsection (b) is subject to administrative action as set forth in chapter 11 of this title.

Third: In Sec. 1, by striking out section 751 (company license) in its entirety

Fourth: In Sec. 1, by striking out section 754 (enforcement) in its entirety and by inserting in lieu thereof a new section 754 to read as follows:

§ 754. ENFORCEMENT; ADMINISTRATIVE PENALTIES

(a) The Commissioner of Motor Vehicles may impose an administrative penalty if a company violates a provision of this chapter.

(b) A violation may be subject to an administrative penalty of not more than $500.00. Each violation is a separate and distinct offense and, in the case of a continuing violation, each day's continuance may be deemed a separate and distinct offense.

(c) The company shall be given notice and opportunity for a hearing for alleged violations under this section. Service of the notice shall be sufficient if

sent by first class mail to the applicable address on file with the Secretary of State. The notice shall include the following:

(1) a factual description of the alleged violation;

(2) a reference to the particular statute allegedly violated;

(3) the amount of the proposed administrative penalty; and

(4) a warning that the company will be deemed to have waived its right to a hearing and that the penalty will be imposed if no hearing is requested within 15 days from the date of the notice.

(d) A company that receives notice under subsection (c) of this section shall be deemed to have waived the right to a hearing unless, within 15 days from the date of the notice, the company requests a hearing in writing. If the company waives the right to a hearing, the Commissioner shall issue a final order finding the company in default and imposing the penalty.

(e) The provisions of sections 105, 106, and 107 of this title shall apply to hearings conducted under this section.

(f) The Commissioner may collect an unpaid administrative penalty by filing a civil action in Superior Court or through any other means available to State agencies.

(g) The remedies authorized by this section shall be in addition to any other civil or criminal remedies provided by law for violation of this chapter.

Fifth: By adding Sec. 3 to read as follows:

Sec. 3. STUDY; STATEWIDE REGULATION OF VEHICLES FOR HIRE

(a) The Commissioner of Motor Vehicles, in consultation with the Director of the Office of Professional Regulation, shall conduct a study of whether and to what extent vehicles for hire, vehicle for hire drivers, and vehicle for hire companies should be regulated by the State. Among other things, the Commissioner shall consider:

(1) issues related to public safety, necessity, and convenience;

(2) regulatory models adopted in other states, as well as in Vermont municipalities, applicable to transportation network companies and other vehicle for hire companies;

(3) matters related to passenger safety, including driver background checks, periodic vehicle safety inspections, and signage;

(4) matters related to insurance coverage, including minimum liability coverage, disclosure requirements, and claims procedures;

(5) matters related to fares, including the provision of fare estimates to riders, restrictions on "surge pricing," and payment methods;

(6) matters such as the licensing or permitting of companies and drivers; nondiscrimination street hails; the protection of driver and rider information; taxes or fees; the employment status of drivers; increased access for people with disabilities;

(7) the extent to which all vehicles for hire, vehicle for hire drivers, and vehicle for hire companies should be treated similarly with respect to statewide regulation; and

(8) any other matter deemed relevant by the Commissioner and the Director.

(b) For purposes of this section, a "vehicle for hire" is a passenger vehicle transporting passengers for compensation of any kind. Vehicles for hire include taxicabs, transportation network company vehicles, limousines, jitneys, car services, contract vehicles, shuttle vans, and other such vehicles transporting passengers for compensation of any kind except:

(1) Those which an employer uses to transport employees.

(2) Those which are used primarily to transport elderly, special needs and handicapped persons for whom special transportation programs are designed and funded by State, federal, or local authority otherwise exempted pursuant to 23 V.S.A. § 4(15).

(3) Buses, trolleys, trains, or similar mass transit vehicles.

(4) Courtesy vehicles for which the passenger pays no direct charge, such as hotel or car dealer shuttle vans.

(c) On or before December 15, 2017, the Commissioner shall report his or her findings and recommendations to the Senate Committees on Transportation, on Judiciary, and on Finance and the House Committees on Transportation, on Judiciary, and on Commerce and Economic Development.

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 the recommendation of proposal of amendment of the Committee on Judiciary was amended as recommended by the Committee on Finance.

Thereupon, the proposal of amendment recommended by the Committee on Judiciary, as amended, was agreed to and third reading of the bill was ordered.

Rules Suspended; House Proposal of Amendment to Senate Proposal of Amendment Concurred In

H. 506.

Appearing on the Calendar for notice, on motion of Senator White, the rules were suspended and House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to professions and occupations regulated by the Office of Professional Regulation.

Was taken up for immediate consideration.

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

By striking out Sec. 35 (professional regulation report) in its entirety and inserting in lieu thereof the following:

Sec. 35. PROFESSIONAL REGULATION REPORT

The Director of the Office of Professional Regulation and leaders of the relevant agencies and departments shall continue to analyze the professional regulation reports and other information gathered as a result of the professional regulation survey required by 2016 Acts and Resolves No. 156, Secs. 20 and 21 in order to recommend how the State can operate in a more effective and efficient manner.

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

Rules Suspended; House Proposal of Amendment to Senate Proposals of Amendment Concurred In

H. 512.

Appearing on the Calendar for notice, on motion of Senator White, the rules were suspended and House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to the procedure for conducting recounts.

Was taken up for immediate consideration.

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

First: In Sec. 1, in 17 V.S.A. chapter 51, subchapter 9, in section 2602j (court hearing and judgment), in subsection (c), following "the marking of any

ballot as defective in accordance with section 2547" by inserting the following: or subsection 2587(d)

Second: In Sec. 1, in section 2602j (court hearing and judgment), in subsection (f), following "and after it has made a final decision on any questionable votes" by inserting the following: or defective ballots

Third: In Sec. 31, 17 V.S.A. § 2543 (return of ballots), by striking out subsection (d) in its entirety and inserting in lieu thereof:

(d)(1) All early voter absentee ballots returned ~~to the clerk before the polls close on election day~~ as follows shall be counted:

(A) by any means, to the town clerk's office before the close of business on the day preceding the election;

(B) by mail, to the town clerk's office before the close of the polls on the day of the election; and

(C) by hand delivery to the presiding officer at the voter's polling place.

(2) An early voter absentee ballot returned in a manner other than those set forth in subdivision (1) of this subsection shall not be counted.

Thereupon, the question, Shall the Senate concur in the House proposals of amendment to the Senate proposals of amendment?, were severally decided in the affirmative.

Rules Suspended; House Proposal of Amendment to Senate Proposals of Amendment Concurred In

H. 519.

Appearing on the Calendar for notice, on motion of Senator Flory, the rules were suspended and House proposals of amendment to Senate proposals of amendment to House bill entitled:

An act relating to capital construction and State bonding.

Were taken up for immediate consideration.

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

First: In Sec. 2, State Buildings, in subdivision (c)(2), by striking out the following: "$5,799,648.00" and inserting in lieu thereof the following: $5,707,408.00, and after subsection (d), by striking out the appropriation totals and inserting in lieu thereof the following:

Appropriation – FY 2018	$27,857,525.00
Appropriation – FY 2019	$27,853,933.00
Total Appropriation – Section 2	$55,711,458.00

Second: In Sec. 3, Human Services, by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) The sum of $300,000.00 is appropriated in FY 2018 to the Department of Buildings and General Services for the Agency of Human Services for cameras, locks, perimeter intrusion at correctional facilities, and renovations to the Southeast State Correctional Facility for up to 50 beds.

and after subsection (b), by striking out the appropriation totals and inserting in lieu thereof the following:

Appropriation – FY 2018	$300,000.00
Appropriation – FY 2019	$300,000.00
Total Appropriation – Section 3	$600,000.00

Third: In Sec. 5, Commerce and Community Development, by adding a subsection (e) to read as follows:

(e) The amounts appropriated in subdivisions (a)(2) and (a)(3) of this section shall be used as a one-to-one matching grant. The funds shall become available after the Agency notifies the Department that the funds have been matched.

Fourth: In Sec. 10, Natural Resources, in subdivision (c)(2), by striking out:

"(2) Lake Champlain Walleye Association, Inc., to upgrade and repair the Walleye Rearing, restoration and stocking infrastructure: $30,000.00"

and inserting in lieu thereof

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

and by striking out all after subsection (f) and inserting in lieu thereof the following:

(g) The following sums are appropriated in FY 2019 to the Agency of Natural Resources for the Department of Fish and Wildlife for the projects described in this subsection:

(1) General infrastructure projects, including conservation camps and shooting ranges, hatchery improvements, wildlife management area infrastructure, and fishing access areas: $1,100,000.00

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

Appropriation – FY 2018 $10,914,000.00

Appropriation – FY 2019 $8,205,000.00

Total Appropriation – Section 10 $19,119,000.00

Fifth: In Sec. 11, Clean Water Initiatives, in subdivision (f)(4), by striking out the following: "$11,010,704.00" and inserting in lieu thereof the following: $11,112,944.00 and after subsection (k), by striking out the appropriation totals and inserting in lieu thereof the following:

Appropriation – FY 2018 $21,936,616.00

Appropriation – FY 2019 $23,470,212.00

Total Appropriation – Section 11 $45,406,828.00

Sixth: In Sec. 12, Military, in subdivision (b)(1), by striking out the following: "$850,000.00" and inserting in lieu thereof the following: $700,000.00 and after subsection (b), by striking out the appropriation totals and inserting in lieu thereof the following:

Appropriation – FY 2018 $750,000.00

Appropriation – FY 2019 $760,000.00

Total Appropriation – Section 12 $1,510,000.00

Seventh: In Sec. 16, Vermont Veterans' Home, by striking out all after subsection (a) and inserting in lieu thereof the following:

(b) The sum of $300,000.00 is appropriated in FY 2018 to the Department of Buildings and General Services for the Vermont Veterans' Home for kitchen renovations and mold remediation.

(c) The sum of $50,000.00 is appropriated in FY 2019 to the Vermont Veterans' Home for resident care furnishings.

(d) It is the intent of the General Assembly that the amounts appropriated in subsections (a) and (c) of this section shall be used to match federal funds to purchase resident care furnishings for the Veterans' Home.

Appropriation – FY 2018 $390,000.00

Appropriation – FY 2019 $50,000.00

Total Appropriation – Section 16 $440,000.00

Eighth: In Sec. 27, 29 V.S.A. § 154a, in subdivision (b)(3), by striking out the following "acquisition, management and care" and inserting in lieu thereof the following: acquisition, management, and care

Ninth: In Sec. 31, Agency of Human Services; Facilities, in subsection (a), by striking out subdivision (a)(2) in its entirety and renumbering the remaining subdivisions to be numerically correct, and in subsection (c), by inserting at the end of the sentence, before the period, the following: , and the Health Reform Oversight Committee

Tenth: In Sec. 36, Public Safety Field Station; Williston, in subsection (b), following the first sentence, by adding a second sentence to read as follows:

The proceeds from the sale shall be appropriated to future capital construction projects.

Thereupon, the question, Shall the Senate concur in the House proposals of amendment to the Senate proposals of amendment?, were severally decided in the affirmative.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 508.

Appearing on the Calendar for notice, on motion of Senator Lyons, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to building resilience for individuals experiencing adverse childhood experiences.

Was taken up for immediate consideration.

Senator Lyons, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

H. 508. An act relating to building resilience for individuals experiencing adverse childhood experiences.

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

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Adversity in childhood has a direct impact on an individual's health outcomes and social functioning. The cumulative effects of multiple adverse childhood experiences (ACEs) have even more profound public health and societal implications. ACEs include physical, emotional, and sexual abuse; neglect; food and financial insecurity; living with a person experiencing mental illness or substance use disorder, or both; experiencing or witnessing domestic violence; and having divorced parents or an incarcerated parent.

(2) The ACE questionnaire contains ten categories of questions for adults pertaining to abuse, neglect, and family dysfunction during childhood. It is used to measure an adult's exposure to traumatic stressors in childhood. Based on a respondent's answers to the questionnaire, an ACE score is calculated, which is the total number of ACE categories reported as experienced by a respondent.

(3) ACEs are common in Vermont. One in eight Vermont children has experienced three or more ACEs, the most common being divorced or separated parents, food and housing insecurity, and having lived with someone with a substance use disorder or mental health condition. Children with three or more ACEs have higher odds of failing to engage and flourish in school.

(4) The impact of ACEs in Vermont is evident through the rise in caseloads in the Department for Children and Families, the acceleration of the opioid epidemic, which is both driving and affected by family dysfunction, and rising health care costs associated with adult chronic illness.

(5) The impact of ACEs is felt across all socioeconomic boundaries.

(6) The earlier in life an intervention occurs for an individual who has experienced ACEs, the more likely that intervention is to be successful.

(7) There are at least 17 nationally recognized models shown to be effective in lowering the risk for child abuse and neglect, improving maternal and child health, and promoting child development and school readiness.

(8) The General Assembly understands that people who have experienced adverse childhood experiences can build resilience and can succeed in leading happy, healthy lives.

Sec. 2. 33 V.S.A. chapter 34 is added to read:

CHAPTER 34. PROMOTION OF CHILD AND FAMILY RESILIENCE

§ 3401. PRINCIPLES FOR VERMONT'S TRAUMA-INFORMED SYSTEM OF CARE

The General Assembly adopts the following principles with regard to strengthening Vermont's response to trauma and toxic stress during childhood:

(1) Childhood trauma affects all aspects of society. Each of Vermont's systems addressing trauma, particularly social services; health care, including mental health; education; child care; and the justice system, shall collaborate to address the causes and symptoms of childhood trauma and to build resilience.

(2) Addressing trauma in Vermont requires building resilience in those individuals already affected and preventing childhood trauma within the next generation.

(3) Early childhood adversity is common and can be prevented. When adversity is not prevented, early intervention is essential to ameliorate the impacts of adversity. A statewide, community-based, interconnected, public health and social service approach is necessary to address this effectively. This model shall include training for local leaders to facilitate a cultural change around the prevention and treatment of childhood trauma.

(4) Service systems shall be integrated at the local and regional levels to maximize resources and simplify how systems respond to individual and family needs. All programs and services shall be evidence-informed and research-based, adhering to best practices in addressing trauma and promoting resilience.

Sec. 3. ADVERSE CHILDHOOD EXPERIENCES; WORKING GROUP

(a) Creation. There is created the Adverse Childhood Experiences Working Group for the purpose of investigating, cataloguing, and analyzing existing resources to mitigate childhood trauma, identify populations served, and examine structures to build resiliency.

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

(1) three members of the House, who shall be appointed by the Speaker, including:

(A) the Chair of the House Committee on Human Services or designee;

(B) the Chair of the House Committee on Health Care or designee; and

(C) the Chair of the House Committee on Education or designee; and

(2) three members of the Senate, who shall be appointed by the Committee on Committees, including:

(A) the Chair of the Senate Committee on Health and Welfare or designee;

(B) the Chair of the Senate Committee on Education or designee; and

(C) one current member from the Senate at large.

(c)(1) Powers and duties. In light of current research and the fiscal environment, the Working Group shall analyze existing resources related to building resilience in early childhood and propose appropriate structures for advancing the most evidence-based or evidence-informed and cost-effective approaches to serve children experiencing trauma, including the following:

(A) identifying by service area existing intervention programs for children and families and those populations served by each program, including the effectiveness of identified programs;

(B) determining whether there are any statewide or regional gaps in services for interventions on behalf of children and families;

(C) exploring previous and ongoing initiatives within the Agencies of Human Services and of Education that address trauma, including any gains achieved;

(D) considering, if necessary, a legislative proposal that targets the use of evidence-based or evidence-informed and cost-effective interventions for children and families based upon the strengths and weaknesses of existing services; and

(E) determining the fiscal impact and staffing needs related to any changes to State services proposed by the Working Group, including those that affect public schools.

(2) The Working Group shall take testimony from a diverse array of public and private stakeholders, including the Agency of Human Service's Child and Family Trauma Advisory Committee.

(d)(1) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Office of Legislative Council. The Joint Fiscal Office and the Agencies of Education and of Human Services shall provide assistance to the Working Group as necessary.

(2) On or before August 15, 2017, the Agency of Human Services, in consultation with the Agency of Education, shall provide data and background materials relevant to the responsibilities of the Working Group to the Office of Legislative Council, including:

(A) a spreadsheet by service area of those programs or services that receive State or federal funds to provide intervention services for children and families and the eligibility criteria for each program and service;

(B) a compilation of grants to organizations that address childhood trauma and resiliency from the grants inventory established pursuant to 3 V.S.A. § 3022a;

(C) a summary as to how the Agencies currently coordinate their work related to childhood trauma prevention, screening, and treatment efforts;

(D) any training materials currently disseminated to early child care and learning professionals by the Agencies regarding the identification of students exposed to adverse childhood experiences and strategies for referring families to community health teams and primary care medical homes; and

(E) a description of any existing programming within the Agencies or conducted in partnership with local community groups that is aimed at addressing and reducing trauma and associated health risks to children.

(e) Proposed legislation. On or before November 1, 2017, the Working Group shall submit any recommended legislation to the House Committee on Human Services and the Senate Committee on Health and Welfare.

(f) Meetings.

(1) The Chair of the House Committee on Human Services or designee shall call the first meeting of the Working Group to occur on or before September 1, 2017.

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

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

(4) The Working Group shall cease to exist on December 1, 2017.

(g) Reimbursement. For attendance at meetings during adjournment of the General Assembly, legislative members of the Working Group shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings.

(h) Appropriation. The sum of $7,704.00 is appropriated to the General Assembly from the General Fund in fiscal year 2018 for per diem compensation and reimbursement of expenses for members of the Working Group.

Sec. 4. ADVERSE CHILDHOOD EXPERIENCES; RESPONSE PLAN

(a) On or before January 15, 2019, the Agency of Human Services shall present to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare, in response to the work completed by the Adverse Childhood Experiences Working Group established pursuant to Sec. 3 of this act, a plan that specially addresses the integration of evidence-informed and family-focused prevention, intervention, treatment, and recovery services for individuals affected by adverse childhood experiences. The plan shall address the coordination of services throughout the Agency and shall propose mechanisms for:

(1) improving and engaging community providers in the systematic prevention of trauma;

(2) case detection and care of individuals affected by adverse childhood experiences; and

(3) ensuring that grants to the Agency of Human Services' community partners related to children and families strive toward accountability and community resilience.

(b) On or before February 1, 2018, the Agency of Human Services shall update the Senate Committee on Health and Welfare and the House Committees on Health Care and on Human Services on work being done in advance of the response plan required by subsection (a) of this section.

Sec. 5. CURRICULUM; ADVERSE CHILDHOOD EXPERIENCES

The General Assembly recommends that the State Colleges and University of Vermont's College of Medicine, College of Nursing and Health Sciences, and College of Education and Social Services expressly include information in their curricula pertaining to adverse childhood experiences and their impact on short- and long-term physical and mental health outcomes.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

VIRGINIA V. LYONS
CLAIRE D. AYER
DEBORAH J. INGRAM

Committee on the part of the Senate

ANN D. PUGH
MICHAEL MROWICKI
CARL J. ROSENQUIST

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 127.

Pending entry on the Calendar for notice, on motion of Senator Mazza, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to miscellaneous changes to laws related to vehicles and vessels.

Was taken up for immediate consideration.

Senator Mazza, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

S. 127. An act relating to miscellaneous changes to laws related to vehicles and vessels.

Respectfully reports that it has met and considered the same and recommends that the Senate accede to the House Proposal of Amendment and the House Proposal be further amended as follows:

First: In Sec. 12, 23 V.S.A. § 1095b, in subdivision (c)(3), by striking out the following: "for a first conviction and four points assessed for a second or subsequent conviction"

Second: By striking out Sec. 13 in its entirety and inserting in lieu thereof the following:

Sec. 13. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Unless the assessment of points is waived by a Superior judge or a Judicial Bureau hearing officer in the interests of justice and in accordance with subsection 2501(b) of this title, a person operating a motor vehicle shall

have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

(1) Two points assessed for:

* * *

(LL)(i)	§ 1095.	Entertainment picture visible to operator;
(ii)	§ 1095b(c)~~(2)~~(3)	Use of portable electronic device ~~in~~ outside work or school zone~~—first offense~~;

* * *

(3) Four points assessed for:

(A)	§ 1012.	Failure to obey enforcement officer;
(B)	§ 1013.	Authority of enforcement officers;
(C)	§ 1051.	Failure to yield to pedestrian;
(D)	§ 1057.	Failure to yield to persons who are blind;
(E)	§ 1095b(c)(2)	Use of portable electronic device in work or school zone—first offense;

(4) Five points assessed for:

(A)	§ 1050.	Failure to yield to emergency vehicles;
(B)	§ 1075.	Illegal passing of school bus;
(C)	§ 1099.	Texting prohibited;
(D)	§ 1095b(c)(2)	Use of portable electronic device in work or school zone—second and subsequent offenses;

* * *

Third: By striking out Sec. 24 in its entirety and inserting in lieu thereof the following:

Sec. 24. 2012 Acts and Resolves No. 71, Sec. 1, as amended by 2012 Acts and Resolves No. 143, Sec. 13 and by 2014 Acts and Resolves No. 189, Sec. 26, is further amended as follows:

Sec. 1. VERMONT STRONG MOTOR VEHICLE PLATES

* * *

(c) Use. An approved Vermont Strong commemorative plate may be displayed on a motor vehicle registered in Vermont as a pleasure car or on a motor truck registered in Vermont for less than 26,001 pounds (but excluding vehicles registered under the International Registration Plan) by covering the front registration plate with the commemorative plate any time from the effective date of this act ~~until June 30, 2016~~. The regular front registration plate shall not be removed. The regular rear registration plate shall be in place and clearly visible at all times.

* * *

* * * License Plate Cost Savings * * *

Sec. 24a. LICENSE PLATE COST SAVINGS

(a) The Commissioner of Motor Vehicles, in consultation with the Commissioner of Corrections, shall:

(1) examine whether the redesign of Vermont's standard license plate could lead to cost savings associated with the production of such plates and, if cost savings are likely to result from a redesign, shall estimate how much savings would result from various redesign options; and

(2) identify any other opportunities to reduce costs associated with the production and acquisition of license plates, including by reducing materials costs, and estimate the cost savings expected to result from such opportunities.

(b) The Commissioner of Motor Vehicles shall estimate all cost savings that would result from eliminating the requirement that vehicles registered in Vermont display front license plates, except in the case of motor trucks with a registered weight of 10,100 pounds or more. The estimate shall assume that front and rear license plates will continue to be issued for vehicles registered pursuant to 23 V.S.A. § 304(b)(1) (vanity plates).

(c) On or before January 15, 2018, the Commissioner of Motor Vehicles shall report to the House and Senate Committees on Transportation and on Appropriations the findings and estimates required under this section and any proposed actions or recommendations related to achieving license plate-related cost savings.

Fourth: By striking out Sec. 27a and the reader assistance thereto in their entirety

Fifth: In Sec. 31 (effective dates), in subdivision (a)(1), by striking out the following: "27a (inspections; emissions repairs),"

RICHARD T. MAZZA
MARGARET K FLORY
DUSTIN ALLARD DEGREE

Committee on the part of the Senate

PATRICK M. BRENNAN
TIMOTHY R. CORCORAN
MOLLIE SULLIVAN BURKE

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Committee of Conference Appointed

H. 22.

An act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council.

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

Senator White
Senator Collamore
Senator Pearson

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

Message from the House No. 65

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, 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. 495. An act relating to miscellaneous agriculture subjects.

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. Smith of New Haven
Rep. Bock of Chester
Rep. Higley of Lowell

Message from the House No. 66

A message was received from the House of Representatives by Ms. Melissa Kucserik, its First 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. 95. An act relating to sexual assault nurse examiners.

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

Message from the House No. 67

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, 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. 131. An act relating to State's Attorneys and sheriffs.

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 the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 16. An act relating to expanding patient access to the Medical Marijuana Registry.

And has adopted the same on its part.

Adjournment

On motion of Senator Mazza, the Senate adjourned until one o'clock and thirty minutes in the afternoon.

Called to Order

The Senate was called to order by the President *pro tempore*.

Rules Suspended; Bills Messaged

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

S. 52, S. 133, H. 506, H. 508, H. 512, H. 519.

President Assumes the Chair

Committee of Conference Appointed

H. 495.

An act relating to miscellaneous agriculture subjects.

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

Senator Collamore
Senator Pollina
Senator Starr

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

House Proposal of Amendment to Senate Proposal of Amendment to House Proposal of Amendment Concurred in with further Proposal of Amendment

S. 22.

Senate bill entitled:

An act relating to increased penalties for possession, sale, and dispensation of fentanyl.

Having been called up, was taken up.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment to the House proposal of amendment?, Senator Sears moved to concur in the House proposal of amendment to the Senate proposal of amendment to the House proposal of amendment with further proposal of amendment as follows:

By striking out Secs. 1–5 in their entirety and inserting in lieu thereof new Secs. 1–18 to read as follows:

Sec. 1. LEGISLATIVE INTENT; CIVIL AND CRIMINAL PENALTIES

It is the intent of the General Assembly to eliminate all penalties for possession of one ounce or less of marijuana and two mature and four immature marijuana plants for a person who is 21 years of age or older while retaining criminal penalties for possession, dispensing and sale of larger amounts of marijuana. This act also retains civil penalties for possession of

marijuana by a person under 21 years of age, which are the same as for possession of alcohol by a person under 21 years of age.

Sec. 2. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

As used in this chapter, unless the context otherwise requires:

* * *

(15)(A) "Marijuana" means ~~any plant material of the genus cannabis or any preparation, compound, or mixture thereof except:~~

~~(A) sterilized seeds of the plant;~~

~~(B) fiber produced from the stalks; or~~

~~(C) hemp or hemp products, as defined in 6 V.S.A. § 562~~ all parts of the plant Cannabis sativa L., except as provided by subdivision (B) of this subdivision (15), whether growing or harvested, and includes:

(i) the seeds of the plant;

(ii) the resin extracted from any part of the plant; and

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

(B) "Marijuana" does not include:

(i) the mature stalks of the plant and fiber produced from the stalks;

(ii) oil or cake made from the seeds of the plant;

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;

(iv) the sterilized seed of the plant that is incapable of germination; or

(v) hemp or hemp products, as defined in 6 V.S.A. § 562.

* * *

(43) "Immature marijuana plant" means a female marijuana plant that has not flowered and that does not have buds that may be observed by visual examination.

(44) "Mature marijuana plant" means a female marijuana plant that has flowered and that has buds that may be observed by visual examination.

Sec. 3. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than one ounce of marijuana or more than five grams of hashish or cultivate more than two mature marijuana plants or four immature marijuana plants. For a first offense under this subdivision (A), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than $500.00, or both.

(B) A person convicted of a second or subsequent offense of knowingly and unlawfully possessing more than one ounce of marijuana or more than five grams of hashish or cultivating more than two mature marijuana plants or four immature marijuana plants shall be imprisoned not more than two years or fined not more than $2,000.00, or both.

(C) Upon an adjudication of guilt for a first or second offense under this subdivision, the court may defer sentencing as provided in 13 V.S.A. § 7041 except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be imposed at any time within two years from and after the date of entry of deferment. The court may, prior to sentencing, order that the defendant submit to a drug assessment screening which may be considered at sentencing in the same manner as a presentence report.

(2) A person knowingly and unlawfully possessing two ounces of marijuana or 10 grams of hashish or knowingly and unlawfully cultivating more than ~~three plants of~~ four mature marijuana plants or eight immature marijuana plants shall be imprisoned not more than three years or fined not more than $10,000.00, or both.

(3) A person knowingly and unlawfully possessing more than one pound ~~or more~~ of marijuana or more than 2.8 ounces ~~or more~~ of hashish or knowingly and unlawfully cultivating more than ~~10 plants of~~ six mature marijuana plants or 12 immature marijuana plants shall be imprisoned not more than five years or fined not more than ~~$100,000.00~~ $10,000.00, or both.

(4) A person knowingly and unlawfully possessing more than 10 pounds ~~or more~~ of marijuana or more than one pound ~~or more~~ of hashish or knowingly and unlawfully cultivating more than ~~25 plants of~~ 12 mature marijuana plants or 24 immature marijuana plants shall be imprisoned not more than 15 years or fined not more than $500,000.00, or both.

(5) If a court fails to provide the defendant with notice of collateral consequences in accordance with 13 V.S.A. § 8005(b) and the defendant later at any time shows that the plea and conviction for a violation of this subsection may have or has had a negative consequence, the court, upon the defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion to vacate.

(6) The amounts of marijuana in this subsection shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

* * *

Sec. 4. 18 V.S.A. § 4230a is amended to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE OR OLDER~~; CIVIL VIOLATION~~

(a)(1) ~~A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:~~

~~(1) not more than $200.00 for a first offense;~~

~~(2) not more than $300.00 for a second offense;~~

~~(3) not more than $500.00 for a third or subsequent offense.~~

~~(b)~~(1) Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish and two mature marijuana plants or fewer or four immature marijuana plants or fewer or who possesses paraphernalia for marijuana use shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law. The one-ounce limit of marijuana or five grams of hashish that may be possessed by a person 21 years of age or older shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

(2)(A) ~~A violation of this section shall not result in the creation of a criminal history record of any kind~~ A person shall not consume marijuana in a public place. "Public place" means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited by law.

(B) A person who violates this subdivision (a)(2) shall be assessed a civil penalty as follows:

(i) not more than $100.00 for a first offense;

(ii) not more than $200.00 for a second offense; and

(iii) not more than $500.00 for a third or subsequent offense.

~~(c)(1)~~(b) This section does not ~~exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana.~~

~~(2) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana is contraband pursuant to section 4242 of this title and subject to seizure and forfeiture unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).~~

~~(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.~~

~~(d) If a person suspected of violating this section contests the presence of cannabinoids within 10 days of receiving a civil citation, the person may request that the State Crime Laboratory test the substance at the person's expense. If the substance tests negative for the presence of cannabinoids, the State shall reimburse the person at state expense~~:

(1) exempt a person from arrest, citation, or prosecution for being under the influence of marijuana while operating a vehicle of any kind or for consuming marijuana while operating a motor vehicle;

(2) repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana or for consuming marijuana while operating a motor vehicle;

(3) limit the authority of primary and secondary schools to impose administrative penalties for the possession of marijuana on school property;

(4) prohibit a municipality from adopting a civil ordinance to provide additional penalties for consumption of marijuana in a public place;

(5) prohibit a landlord from banning possession or use of marijuana in a lease agreement; or

(6) allow an inmate of a correctional facility to possess or use marijuana or to limit the authority of law enforcement, the courts, the Department of Corrections, or the Parole Board to impose penalties on offenders who use marijuana in violation of a court order, conditions of furlough, parole, or rules of a correctional facility.

~~(e)~~(c)(1) A law enforcement officer is authorized to detain a person if:

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

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

~~(f)~~(d) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding of law enforcement officers on the Drug Task Force, except for a $12.50 administrative charge for each violation which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Abuse Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.

(e) Nothing in this section shall be construed to do any of the following:

(1) require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana in the workplace;

(2) prevent an employer from adopting a policy that prohibits the use of marijuana in the workplace;

(3) create a cause of action against an employer that discharges an employee for violating a policy that restricts or prohibits the use of marijuana by employees; or

(4) prevent an employer from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana on the employer's premises.

Sec. 5. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS OF AGE; CIVIL VIOLATION

(a) Offense. A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish or two mature marijuana plants or fewer or four immature marijuana plants or fewer commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of $300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days, for a first offense; and

(2) a civil penalty of not more than $600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a second or subsequent offense.

* * *

Sec. 6. REPEAL

18 V.S.A. § 4230d (marijuana possession by a person under 16 years of age; delinquency) is repealed.

Sec. 7. 18 V.S.A. § 4230e is added to read:

§ 4230e. CULTIVATION OF MARIJUANA BY A PERSON 21 YEARS OF AGE OR OLDER

(a)(1) Except as otherwise provided in this section, a person 21 years of age or older who cultivates no more than two mature marijuana plants and four immature marijuana plants shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

(2) Each dwelling unit shall be limited to two mature marijuana plants and four immature marijuana plants regardless of how many persons 21 years of age or older reside in the dwelling unit. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(3) Any marijuana harvested from the plants allowed pursuant to this subsection shall not count toward the one-ounce possession limit in section 4230a of this title provided it is stored in an indoor facility on the property where the marijuana was cultivated and reasonable precautions are taken to prevent unauthorized access to the marijuana.

(4) Cultivation in excess of the limits provided in this subsection shall be punished in accordance with section 4230 of this title.

(b)(1) Personal cultivation of marijuana only shall occur:

(A) on property lawfully in possession of the cultivator or with the consent of the person in lawful possession of the property; and

(B) in an enclosure that is screened from public view and is secure so that access is limited to the cultivator and persons 21 years of age or older who have permission from the cultivator.

(2) A person who violates this subsection shall be assessed a civil penalty as follows:

(A) not more than $100.00 for a first offense;

(B) not more than $200.00 for a second offense; and

(C) not more than $500.00 for a third or subsequent offense.

Sec. 8. 18 V.S.A. § 4230g is added to read:

§ 4230g. FURNISHING MARIJUANA TO A PERSON UNDER 21 YEARS OF AGE; CRIMINAL OFFENSE

(a) No person shall:

(1) furnish marijuana to a person under 21 years of age; or

(2) knowingly enable the consumption of marijuana by a person under 21 years of age.

(b) As used in this section, "enable the consumption of marijuana" means creating a direct and immediate opportunity for a person to consume marijuana.

(c) Except as provided in subsection (d) of this section, a person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than $2,000.00, or both.

(d) A person who violates subsection (a) of this section, where the person under 21 years of age, while operating a motor vehicle on a public highway, causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than $10,000.00, or both.

(e) This section shall not apply to:

(1) A person under 21 years of age who furnishes marijuana to a person under 21 years of age or who knowingly enables the consumption of marijuana by a person under 21 years of age. Possession of an ounce or less of marijuana

by a person under 21 years of age shall be punished in accordance with sections 4230b–4230d of this title and dispensing or selling marijuana shall be punished in accordance with sections 4230 and 4237 of this title.

(2) A dispensary that lawfully provides marijuana to a registered patient or caregiver pursuant to chapter 86 of this title.

Sec. 9. 18 V.S.A. § 4230h is added to read:

§ 4230h. FURNISHING MARIJUANA TO A PERSON UNDER 21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

(a) A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by a person under 21 years of age who is impaired by marijuana, or in consequence of the impairment by marijuana of any person under 21 years of age, shall have a right of action in his or her own name, jointly or severally, against any person or persons who have caused in whole or in part such impairment by furnishing marijuana to a person under 21 years of age.

(b) Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or his or her legal representatives may bring either a joint action against the impaired person under 21 years of age and the person or persons who furnished the marijuana, or a separate action against either or any of them.

(c) An action to recover for damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(d) In an action brought under this section, evidence of responsible actions taken or not taken is admissible if otherwise relevant.

(e) A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(f) A person who knowingly furnishes marijuana to a person under 21 years of age may be held liable under this section if the social host knew, or a reasonable person in the same circumstances would have known, that the person who received the marijuana was under 21 years of age.

Sec. 10. 18 V.S.A. § 4230i is added to read:

§ 4230i. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE PROHIBITED

(a) No person shall manufacture concentrated marijuana by chemical extraction or chemical synthesis using butane or hexane unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety pursuant to chapter 86 of this title.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than $2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than $5,000.00, or both.

Sec. 11. 18 V.S.A. § 4230j is added to read:

§ 4230j. EXCEPTIONS

(a) A person who is convicted of a felony for selling marijuana in violation of section 4230 of this title or selling a regulated drug to minors or on school grounds in violation of section 4237 of this title for an offense that occurred on or after July 1, 2018 and who possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:

(1) not more than $200.00 for a first offense;

(2) not more than $300.00 for a second offense;

(3) not more than $500.00 for a third or subsequent offense.

(b) A person who is convicted of a felony for selling marijuana in violation of section 4230 of this title or selling a regulated drug to minors or on school grounds in violation of section 4237 of this title for an offense that occurred on or after July 1, 2018 and who possesses any of the following commits a misdemeanor and is subject to imprisonment of not more than one year or a fine of not more than $1,000.00, or both:

(1) more than one ounce, but not more than two ounces of marijuana;

(2) more than five grams, but not more than 10 grams of hashish; or

(3) not more than six mature marijuana plants and 12 immature marijuana plants.

Sec. 12. 18 V.S.A. § 4476 is amended to read:

§ 4476. OFFENSES AND PENALTIES

(a) ~~No person shall sell, possess with intent to sell, or manufacture with intent to sell, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a regulated drug in violation of chapter 84 of this title. Whoever violates any provision of this section shall be punished by imprisonment for not more than one year, or by a fine of not more than $1,000.00, or both.~~

~~(b) Any~~ A person who ~~violates subsection (a) of this section by selling~~ sells drug paraphernalia to a person under 18 years of age shall be imprisoned for not more than two years, or fined not more than $2,000.00, or both.

~~(c)~~(b) The distribution and possession of needles and syringes as part of an organized community-based needle exchange program shall not be a violation of this section or of chapter 84 of this title.

Sec. 13. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume alcoholic beverages or marijuana while operating a motor vehicle on a public highway. As used in this subsection, the prohibition on consumption of marijuana by the operator shall extend to the operator's consumption of secondhand marijuana smoke in the vehicle as a result of another person's consumption of marijuana. As used in this section, "alcoholic beverages" shall have the same meaning as "intoxicating liquor" as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any open container which contains alcoholic beverages or marijuana in the passenger area of the motor vehicle.

(c) As used in this section, "passenger area" shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than $500.00. A person who violates subsection (b) of this section shall be assessed a civil penalty of not more than ~~$25.00~~ $50.00. A person adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to a civil violation for the same actions under subsection (b) of this section.

Sec. 14. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR POSSESSION OF ALCOHOL OR MARIJUANA

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume alcoholic beverages or marijuana or possess any open container which contains alcoholic beverages or marijuana in the

passenger area of any motor vehicle on a public highway. As used in this section, "alcoholic beverages" shall have the same meaning as "intoxicating liquor" as defined in section 1200 of this title.

(b) As used in this section, "passenger area" shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(c) A person, other than the operator, may possess an open container which contains alcoholic beverages in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.

(d) A person who violates this section shall be ~~fined~~ subject to a civil penalty of not more than ~~$25.00~~ $50.00.

Sec. 15. 23 V.S.A. § 1134b is amended to read:

§ 1134b. ~~SMOKING~~ USING MARIJUANA OR TOBACCO IN A MOTOR VEHICLE WITH CHILD PRESENT

(a) A person shall not use marijuana as defined in 18 V.S.A. § 4201 or a tobacco substitute as defined in 7 V.S.A. § 1001 or possess a lighted tobacco product ~~or use a tobacco substitute as defined in 7 V.S.A. § 1001~~ 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~~ civil penalty of not more than $100.00. No points shall be assessed for a violation of this section.

Sec. 16. 33 V.S.A. § 3504 is amended to read:

§ 3504. MARIJUANA AND TOBACCO USE PROHIBITED AT CHILD CARE FACILITIES

(a) No person shall be permitted to use marijuana as defined in 18 V.S.A. § 4201 or to cultivate marijuana, or use tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both indoor and outdoor, of any licensed child care center or afterschool program at any time.

(b) No person shall be permitted to use marijuana as defined in 18 V.S.A. § 4201, tobacco products, or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both ~~indoor~~ indoors and in any outdoor area designated for

child care, of a licensed or registered family child care home while children are present and in care. If use of marijuana or smoking of tobacco products or tobacco substitutes occurs on the premises during other times, the family child care home shall notify prospective families prior to enrolling a child in the family child care home that their child will be exposed to an environment in which marijuana, tobacco products, or tobacco substitutes~~, or both,~~ are used. Cultivation of marijuana in a licensed or registered family child care home is not permitted.

Sec. 17. DISPARITIES IN ENFORCEMENT OF DRUG LAWS; MARIJUANA REGULATORY COMMISSION

(a) Findings. The General Assembly finds that:

(1) A 2013 report by the American Civil Liberties Union, *The War on Marijuana in Black and White*, identified Vermont as 15th in the country and first in New England when comparing discrepancies in citation and arrest rates for marijuana possession. The report stated that African-Americans in Vermont were 4.36 times more likely to be cited or arrested for marijuana possession than whites, higher than the national average of African-Americans being 3.73 more likely than whites to be cited or arrested for marijuana possession. Although Vermont later decriminalized possession of small amounts of marijuana, a 2016 report by Human Rights Watch and the ACLU, *Every 25 Seconds: The Human Toll of Criminalizing Drug Use in the United States*, found that Vermont had the third-highest racial disparity in drug possession arrest rates in the country despite nearly identical use rates.

(2) In the report, *Driving While Black or Brown in Vermont*, University of Vermont researchers, examining 2015 data from 29 police agencies covering 78 percent of Vermont's population, found significant disparities in how often African-Americans and Hispanics are stopped, searched, and arrested, as compared to whites and Asians. According to the report, African-American drivers are four times more likely than white drivers to be searched by Vermont police, even though they are less likely to be found with illegal items.

(3) As part of efforts to eliminate implicit bias in Vermont's criminal justice system, policymakers must reexamine the State's drug laws, beginning with its policy on marijuana.

(4) According to a 2014 study conducted by the RAND Corporation, an estimated 80,000 Vermont residents regularly consume marijuana. Except for patients on the Vermont Medical Marijuana Registry, these Vermonters obtain marijuana through a thriving illegal market.

(5) In November 2016, voters in Massachusetts and Maine approved possession and cultivation of marijuana for personal use by adults 21 years of age or older. In July 2018, both states will begin to allow retail sales of marijuana and marijuana-infused products through licensed stores. Canada is expected to act favorably on legislation legalizing marijuana possession and cultivation for adults 18 years of age or older and federal administration officials have cited the summer of 2018 as the date at which licensed retail stores will begin selling marijuana and marijuana-infused products to the public.

(6) By adopting a comprehensive regulatory structure for legalizing and licensing the marijuana market, Vermont can revise drug laws that have a disparate impact on racial minorities, help prevent access to marijuana by youths, better control the safety and quality of marijuana being consumed by Vermonters, and use revenues to support substance use prevention and education and enforcement of impaired driving laws.

(b) Creation. There is created the Marijuana Regulatory Commission.

(c) Membership. The Commission shall be composed of the following nine members:

(1) two current members of the House of Representatives and one member of the public who all shall be appointed by the Speaker of the House;

(2) two current members of the Senate and one member of the public who all shall be appointed by the Committee on Committees;

(3) the Attorney General or designee;

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

(5) one member appointed by the Governor.

(d) Powers and duties. The Commission shall develop legislation that establishes a comprehensive regulatory and revenue system for an adult-use marijuana market that, when compared to the current illegal marijuana market, increases public safety and reduces harm to public health.

(e) Assistance. The Commission shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office for the purpose of preparing legislation and shall have the technical assistance of the Agency of Agriculture, Food and Markets.

(f) Legislation. On or before November 1, 2017, the Commission shall provide the General Assembly and the Governor with its recommended legislation.

(g) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Commission to occur on or before August 1, 2017.

(2) The members shall elect a chair from the membership.

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

(4) The Commission shall cease to exist on January 30, 2018.

(h) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than six meetings.

(2) Other 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 per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

Sec. 18. EFFECTIVE DATE

This section and Sec. 17 shall take effect on passage and the remaining sections shall take effect on July 1, 2018.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment to the House proposal of amendment with further proposal of amendment?, Senator Collamore 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 Sears 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*.

Thereupon, the pending question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment to the House proposal of amendment with further proposal of amendment?, was agreed to on a roll call, Yeas 20, Nay 9.

Senator Collamore 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, Brooks, Campion, Clarkson, Cummings, Lyons, MacDonald, McCormack, Pearson, Pollina, Rodgers, Sears, Sirotkin, Westman, White.

Those Senators who voted in the negative were: Branagan, Collamore, Degree, Flory, Ingram, Mazza, Mullin, Nitka, Starr.

The Senator absent and not voting was: Kitchel.

Rules Suspended; House Proposal of Amendment Concurred In

S. 33.

Appearing on the Calendar for notice, on motion of Senator Branagan, the rules were suspended and House proposals of amendment to Senate bill entitled:

An act relating to the Rozo McLaughlin Farm-to-School Program.

Were taken up for immediate consideration.

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

First: In Sec. 1, in 6 V.S.A. § 4719, in subdivision (a)(5), after "Vermont students in" and before "programs" by striking out the words "school meal" and inserting in lieu thereof the words child nutrition

Second: In Sec. 1, by striking out 6 V.S.A. § 4721 in its entirety and inserting in lieu thereof the following:

§ 4721. LOCAL FOODS GRANT PROGRAM

(a) There is created in the Agency of Agriculture, Food and Markets the Rozo McLaughlin Farm-to-School Program to execute, administer, and award local grants for the purpose of helping Vermont schools develop farm-to-school programs that will sustain relationships with local farmers and producers, enrich the educational experience of students, improve the health of Vermont children, and enhance Vermont's agricultural economy.

(b) A school, a school district, a consortium of schools, ~~or~~ a consortium of school districts, or registered or licensed child care providers may apply to the Secretary of Agriculture, Food and Markets for a grant award to:

(1) fund equipment, resources, training, and materials that will help to increase use of local foods in ~~the School Food Service Program~~ child nutrition programs;

(2) fund items, including local ~~farm~~ food products, gardening supplies, field trips to farms, gleaning on farms, and stipends to visiting farmers, that will help ~~teachers~~ educators to use hands-on educational techniques to teach children about nutrition and farm-to-school connections; and

(3) ~~provide~~ fund professional development and technical assistance, in partnership with the Agency of Education and farm-to-school technical service providers, to help teachers, child nutrition personnel, and members of the farm-

to-school community educate students about nutrition and farm-to-school connections and assist schools and licensed or registered child care providers in developing a farm-to-school program.

(4) fund technical assistance or support strategies to increase participation in federal child nutrition programs that increase the viability of sustainable meal programs.

(c) The Secretaries of Agriculture, Food and Markets and of Education and the Commissioner of Health, in consultation with farmers, ~~food service workers~~ child nutrition staff, ~~and~~ educators, and farm-to-school technical service providers jointly shall ~~jointly~~ adopt ~~rules~~ procedures relating to the content of the grant application and the criteria for making awards.

(d) The Secretary shall determine that there is significant interest in the school community before making an award and shall give priority consideration to schools ~~and~~, school districts, and registered or licensed child care providers that are developing farm-to-school connections and education that indicate a willingness to make changes to their child nutrition programs to increase student access and participation and that are making progress toward the implementation of the Vermont ~~nutrition and fitness policy guidelines~~ School Wellness Policy Guidelines developed by the Agency of Agriculture, Food and Markets, the Agency of Education, and the Department of Health, ~~dated November 2005~~ updated in June 2015 or of the successor of these guidelines.

(e) No award shall be greater than $15,000.00.

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

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 513.

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

An act relating to making miscellaneous changes to education law.

Was taken up for immediate consideration.

Senator Baruth, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

H. 513. An act relating to making miscellaneous changes to education law.

Respectfully reports that it has met and considered the same and recommends that the Senate accede to the House Proposal of Amendment to the Senate Proposal of Amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Act 46 Findings and Purpose * * *

Sec. 1. FINDINGS AND PURPOSE

(a) 2015 Acts and Resolves No. 46 established a multi-year, phased process that provides multiple opportunities for school districts to unify existing governance units into more "sustainable governance structures" designed to meet the General Assembly's identified educational and fiscal goals while recognizing and reflecting local priorities. It has been the General Assembly's intent to revitalize Vermont's small schools—to promote equity in their offerings and stability in their finances—through these changes in governance.

(b) While Vermont generally does an excellent job educating our children, we fall short in two critical areas. First, we are not as successful as we need to be in educating children from families with low income, and second, while we have a very high graduation rate from our high schools, not enough of our graduates continue their education. Fulfilling the goals of Act 46 is a critical step in addressing these shortcomings.

(c) As of May 1, 2017, voters in 105 Vermont towns have voted to merge 113 school districts into slightly larger, more sustainable governance structures, resulting in the creation of 23 new unified districts (serving prekindergarten–grade 12 students). As a result, approximately 60 percent of Vermont's school-age children live or will soon live in districts that satisfy the goals of Act 46.

(d) These slightly larger, more flexible unified union districts have begun to realize distinct benefits, including the ability to offer kindergarten–grade 8 choice among elementary schools within the new district boundaries; greater flexibility in sharing students, staff, and resources among individual schools; the elimination of bureaucratic redundancies; and the flexibility to create magnet academies, focusing on a particular area of specialization by school.

(e) Significant areas of the State, however, have experienced difficulty satisfying the goals of Act 46. The range of complications is varied, including operating or tuitioning models that differ among adjoining districts, geographic isolation due to lengthy driving times or inhospitable travel routes between

proposed merger partners, and greatly differing levels of debt per equalized pupil between districts involved in merger study committees.

(f) This act is designed to make useful changes to the merger time lines and allowable governance structures under Act 46 without weakening or eliminating the Act's fundamental phased merger and incentive structures and requirements. Nothing in this act should be interpreted to suggest that it is acceptable for a school district to fail to take reasonable and robust action to seek to meet the goals of Act 46.

* * * Side-by-Side Structures * * *

Sec. 2. 2012 Acts and Resolves No. 156, Sec. 15 is amended to read:

Sec. 15. TWO OR MORE MERGERS; REGIONAL EDUCATION DISTRICT INCENTIVES

(a) Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) ~~of No. 153 of the Acts of the 2009 Adj. Sess. (2010)~~ that requires a single regional education district ("RED") to have an average daily membership of at least 1,250 or result from the merger of at least four districts, or both, two or more new districts shall be eligible jointly for the incentives provided in ~~Sec. 4 of~~ No. 153, Sec. 4 if:

* * *

(3) ~~one of the new districts provides education in all elementary and secondary grades by operating one or more schools and the other new district or districts pay tuition for students in one or more grades;~~ each new district has a model of operating schools or paying tuition that is different from the model of the other, which may include:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students in prekindergarten through grade 12;

* * *

(b) The incentives provided under this act shall be available only if the new districts receive final approval of their electorate on or before November 30, 2017. This section is repealed on July 1, ~~2017~~ 2019.

Sec. 3. THREE-BY-ONE SIDE-BY-SIDE STRUCTURE; EXEMPTION FROM STATEWIDE PLAN

If the conditions of this section are met, the Merged District and the Existing District shall be exempt from the requirement under 2015 Acts and Resolves No. 46, Secs. 9 and 10, to self-evaluate and make a proposal to the Secretary of Education and State Board of Education and from the State Board's statewide plan, and the Merged District shall be eligible for the incentives provided in 2010 Acts and Resolves No. 153, Sec. 4 as amended by 2012 Acts and Resolves No. 156 and 2015 Acts and Resolves No. 46.

(1) The new district is formed by the merger of at least three existing districts (Merged District) and, together with one existing district (an Existing District) are members of the same supervisory union (Three-by-One Side-by-Side Structure) that is operational as a unit on the day on which the Merged District becomes operational.

(2) As of March 7, 2017, town meeting day, the Existing District was either:

(A) geographically isolated, due to lengthy driving times or inhospitable travel routes between the Existing District's school or schools and the nearest school in which there is excess capacity as determined by the State Board of Education; or

(B) structurally isolated, because all adjoining school districts have operating or tuitioning models that differ from the Existing District; provided, however, that an Existing District shall not be disqualified from being structurally isolated due to the fact that one or more adjoining school districts that have merged or reached final agreement to merge under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended, have the same operating or tuitioning model as the Existing District.

(3) The Merged District and the Existing District have, following the receipt of all approvals required under this section, models of operating schools or paying tuition that are different from each other. These models are:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students in prekindergarten through grade 12.

(4) The Three-by-One Side-by-Side Structure meets all criteria, other than the size criterion (average daily membership of at least 1,250), for formation of a unified union school district under 2010 Acts and Resolves No. 153, Sec. 3 and otherwise as provided in this section.

(5) The Existing District and either the Merged District or the districts proposing to merge into the Merged District jointly submit a proposal to the State Board after the effective date of this section. The proposal may be made either by districts that have not yet presented a merger proposal to the electorate or by a Merged District that received voter approval to merge on or after July 1 , 2010. The proposal shall demonstrate that:

(A) the Three-by-One Side-by-Side Structure is better suited to them than a governance structure described in 2015 Acts and Resolves No. 46, Sec. 6 and will meet the goals set forth in Sec. 2 of that act;

(B) the Existing District meets one or more of the criteria set forth in subdivision (2) of this subsection;

(C) the Existing District has a detailed action plan to continue to improve its performance in connection with each of the goals set forth in 2015 Acts and Resolves No. 46, Sec. 2.

(6) The Existing District and the districts proposing to merge into the Merged District obtain State Board approval of their proposal to form the proposed Three-by-One Side-by-Side Structure.

(7) The Existing District obtains the approval of its electorate to be an Existing District in the proposed Three-by-One Side-by-Side Structure on or before November 30, 2017.

(8) The districts proposing to merge into the Merged District receive final approval from their electorates for the merger proposal on or before November 30, 2017, and the Merged District becomes fully operational on or before July 1, 2019.

Sec. 4. TWO-BY-TWO-BY-ONE SIDE-BY-SIDE STRUCTURE; REGIONAL EDUCATION DISTRICT INCENTIVES

(a) If the conditions of this section are met, each Merged District and the Existing District shall be exempt from the requirement under 2015 Acts and Resolves No. 46, Secs. 9 and 10 to self-evaluate and make a proposal to the Secretary of Education and State Board of Education and from the State Board's statewide plan, and, except as provided under subsection (b) of this section, each Merged District shall be eligible for the incentives provided in 2010 Acts and Resolves No. 153, Sec. 4 as amended by 2012 Acts and Resolves No. 156 and 2015 Acts and Resolves No. 46.

(1) Each new district is formed by the merger of at least two existing districts (each a Merged District) and, together with an Existing District, are members of the same supervisory union (Two-by-Two-by-One Side-by-Side Structure) that is operational as a unit on the day on which the Merged Districts become operational.

(2) As of March 7, 2017, town meeting day, the Existing District was either:

(A) geographically isolated, due to lengthy driving times or inhospitable travel routes between the Existing District's school or schools and the nearest school in which there is excess capacity as determined by the State Board of Education; or

(B) structurally isolated, because all adjoining school districts have operating or tuitioning models that differ from the Existing District; provided, however, that an Existing District shall not be disqualified from being structurally isolated due to the fact that one or more adjoining school districts that have merged or reached final agreement to merge under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended, have the same operating or tuitioning model as the Existing District.

(3) Each Merged District and the Existing District, following the receipt of all approvals required under this section, has a model of operating schools or paying tuition that is different from the model of the other. These models are:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students in prekindergarten through grade 12.

(4) The Two-by-Two-by-One Side-by-Side Structure meets all criteria, other than the size criterion (average daily membership of at least 1,250), for formation of a unified union school district under 2010 Acts and Resolves No. 153, Sec. 3 and otherwise as provided in this section.

(5) The Existing District and either the Merged Districts or the districts proposing to merge into the Merged Districts jointly submit a proposal to the State Board after the effective date of this section. The proposal may be made either by districts that have not yet presented a merger proposal to the electorate or by Merged Districts that received voter approval to merge on or after July 1, 2010. The proposal shall demonstrate that:

(A) the Two-by-Two-by-One Side-by-Side Structure is better suited to them than a governance structure described in 2015 Acts and Resolves No. 46, Sec. 6 and will meet the goals set forth in Sec. 2 of that act;

(B) the Existing District meets one or more of the criteria set forth in subdivision (2) of this subsection (a); and

(C) the Existing District has a detailed action plan to continue to improve its performance in connection with each of the goals set forth in 2015 Acts and Resolves No. 46, Sec. 2.

(6) The Existing District and the districts proposing to merge into the Merged Districts obtain State Board approval of their proposal to form the proposed Two-by-Two-by-One Side-by-Side Structure.

(7) The Existing District obtains the approval of its electorate to be an Existing District in the proposed Two-by-Two-by-One Side-by-Side Structure on or before November 30, 2017.

(8) The districts proposing to merge into each Merged District receive final approval from their electorates for the merger proposal on or before November 30, 2017, and each Merged District becomes fully operational on or before July 1, 2019.

(9) Each Merged District has the same effective date of merger.

(b) Notwithstanding subsection (a) of this section, a Merged District shall not be eligible to receive incentives under this section if the District already received or is eligible to receive incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended.

* * * Withdrawal from Union School District * * *

Sec. 5. TEMPORARY AUTHORITY TO WITHDRAW FROM UNION SCHOOL DISTRICT

(a) Notwithstanding any provision of 16 V.S.A. § 721a to the contrary, a school district may withdraw from a union high school district without approval by the remaining members of the union high school district upon the following conditions:

(1) The school district proposing to withdraw from the union high school district operates a school or schools for all resident students in prekindergarten through grade 6 and historically both has been a member of the union high school district and also pays tuition for resident students in grade 7 through grade 12.

(2) At least one year has elapsed since the union high school district became a body politic and corporate as provided in 16 V.S.A. § 706g.

(3) A majority of the voters of the school district proposing to withdraw from the union high school district present and voting at a school district meeting duly warned for that purpose votes to withdraw from the union high school district. The clerk of the school district shall certify the vote to the Secretary of State, who shall record the certificate in his or her office and shall give notice of the vote to the Secretary of Education and to the other members of the union high school district.

(4) The State Board approves the withdrawal based on a recommendation from the Secretary of Education.

(5) The withdrawal process is completed on or before July 1, 2019.

(b) In making his or her recommendation, the Secretary of Education shall assess whether:

(1) students in the withdrawing school district would attend a school that complies with the rules adopted by the State Board pertaining to educational programs; and

(2) it is in the best interests of the State, the students, and the districts remaining in the union high school district for the union to continue to exist.

(c) The State Board shall:

(1) consider the recommendation of the Secretary and any other information it deems appropriate;

(2) hold a public meeting within 60 days of receiving the recommendation of the Secretary, and provide due notice of this meeting to the Secretary and all members of the union high school district;

(3) within 10 days of the meeting, notify the Secretary and all members of the union high school district of its decision;

(4) if it approves the withdrawal, declare the membership of the withdrawing school district in the union high school district terminated as of July 1 immediately following, or as soon after July 1 as the financial obligations of the withdrawing school district have been paid to, or an agreement has been made with, the union high school district in an amount to satisfy those obligations (Termination Date); and

(5) file the declaration with the Secretary of State, the clerk of the withdrawing school district, and the clerk of the union high school district concerned.

Sec. 6. REPEAL

(a) Sec. 5 of this act is repealed on July 2, 2019.

(b) If a district withdraws from a union high school district under Sec. 5 of this act, then 2006 Acts and Resolves No.182, Sec. 28 is repealed on the Termination Date, as defined under Sec. 5 (c)(4) of this act.

* * * Reduction of Average Daily Membership; Guidelines for Alternative Structures * * *

Sec. 7. 2015 Acts and Resolves No. 46, Sec. 5 is amended to read:

Sec. 5. PREFERRED EDUCATION GOVERNANCE STRUCTURE; ALTERNATIVE STRUCTURE GUIDELINES

* * *

(c) Alternative structure: supervisory union with member districts. An Education District as envisioned in subsection (b) 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~~ may 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 complies with its obligations under 16 V.S.A. § 261a and that maximizes efficiencies through economies of scale and the flexible management, transfer, and sharing of ~~nonfinancial~~ resources among the member districts, which may include a common personnel system, with the goal of increasing the ratio of students to full-time equivalent staff;

(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; ~~and~~

(4) the supervisory union has the smallest number of member school districts practicable after consideration of greatly differing levels of indebtedness among the member districts; and

~~(4)~~(5) the combined average daily membership of all member districts is not less than ~~1,100~~ 900.

* * * Secretary and State Board; Consideration of Alternative Structure Proposals; Exemption from Statewide Plan; Supplemental Transitional Facilitation Grant * * *

Sec. 8. 2015 Acts and Resolves No. 46, Sec. 10 is amended to read:

Sec. 10. TRANSITION TO SUSTAINABLE GOVERNANCE STRUCTURES; PROPOSAL; FINAL PLAN

* * *

(c) Process. On and after October 1, 2017, the Secretary and State Board shall consider any proposals submitted by districts or groups of districts under Sec. 9 of this act. Districts that submit such a proposal shall have the opportunity to add to or otherwise amend their proposal in connection with the Secretary's consideration of the proposal and conversations with the district or districts under subsection (a) of this section, and in connection with testimony presented to the State Board under subsection (b) of this section. The State Board may, in its discretion, approve an alternative governance proposal at any time on or before November 30, 2018.

(d) The statewide plan required by subsection (b) of this section shall include default Articles of Agreement to be used by all new unified union school districts created under the plan unless and until new or amended articles are approved.

(1) After the State Board of Education issues the statewide plan under subsection (b) of this section, districts subject to merger shall have 90 days to form a committee with members appointed in the same manner and number as required for a study committee under 16 V.S.A. chapter 11, and which shall draft Articles of Agreement for the new district. During this period, the committee shall hold at least one public hearing to consider and take comments on the draft Articles of Agreement.

(2) If the committee's draft Articles of Agreement are not approved within the 90-day period, then the provisions in the State Board's default Articles of Agreement included in the statewide plan shall apply to the new district.

(3) On or before January 15, 2018, the Vermont School Boards Association and the Vermont Superintendents Association, in consultation with the Agency of Education, shall develop and present to the House and Senate Committees on Education proposed legislation that:

(A) addresses which of the specific articles developed under subdivision (1) of this subsection must or should be approved only by the electorate and which can or should be approved by the committee created in that subdivision or another legal body; and

(B) amends 16 V.S.A. § 706n, which currently requires all later amendments to articles to be approved by either the electorate or the unified board based upon whether the provision was included in the Warning for the original merger vote.

(e) Applicability. This section shall not apply to:

(1) an interstate school district;

(2) a regional career technical center school district formed under 16 V.S.A. chapter 37, subchapter 5A; ~~or~~

(3) a district that, between June 30, 2013 and July 2, 2019, began to operate as a unified union school district and:

(A) voluntarily merged into the preferred education governance structure, an Education District, as set forth Sec. 5(b) of this act; or

(B) is a regional education district or any other district eligible to receive incentives pursuant to 2010 Acts and Resolves No. 153, as amended by 2012 Acts and Resolves No. 156; or

(4) a supervisory district with a minimum average daily membership of 900.

(f)(1) The Secretary of Education shall make a supplemental Transitional Facilitation Grant of $10,000.00 to a school district that:

(A) has received or is eligible to receive tax incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended (a qualifying school district); and

(B) either on its own initiative or at the request of the State Board, agrees by vote of its electorate to merge with another school district (a qualifying merger).

(2) A qualifying school district shall use the grant funding to defray the cost of integration. The Secretary shall pay the grant amount to a qualifying school district for each qualifying merger with a school district even if multiple qualifying mergers are effective on the same date. The Secretary shall pay the grant amount not later than 30 days after all required approvals are obtained.

(3) Notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the Secretary of Education shall pay the supplemental Transition Facilitation Grant from the Education Fund.

(4) The supplemental Transition Facilitation Grant shall be available for a qualifying merger initiated by a qualifying school district only if the merger is scheduled to take effect on or before November 30, 2018.

* * * Deadline for Small School Support Metrics * * *

Sec. 9. 2015 Acts and Resolves No. 46, Sec. 21 is amended to read:

Sec. 21. SMALL SCHOOL SUPPORT; METRICS

On or before July 1, 2018, the State Board of Education shall adopt and publish metrics by which it will make determinations whether to award small school support grants pursuant to 16 V.S.A. § 4015 on and after July 1, 2019, as amended by Sec. 20 of this act; provided, however, that on or before September 30, 2017, the State Board shall publish a list of districts that it determines to be geographically isolated pursuant to that section as amended by Sec. 20 of this act.

* * * Time Extension for Qualifying Districts * * *

Sec. 10. 2015 Acts and Resolves No. 46, Sec. 9 is amended to read:

Sec. 9. SELF-EVALUATION, MEETINGS, AND PROPOSAL

(a) On or before ~~November 30, 2017~~ the earlier of January 31, 2018 or the date that is six months after the date that the State Board's rules on the process for submitting alternative governance proposals take effect, the board of each school district in the State that has a governance structure different from the preferred structure identified in Sec. 5(b) of this act (Education District), or that does not expect to become or will not become an Education District on or before July 1, 2019, shall perform each of the following actions, unless the district qualifies for an exemption under Sec. 10(g) of this act.

* * *

Sec. 11. TIME EXTENSION FOR VOTE OF ELECTORATE

Notwithstanding any provision of law to the contrary, the date by which a district must receive final approval from its electorate for its proposal to merge under 2010 Acts and Resolves No. 153 or 2012 Acts and Resolves No. 156, each as amended, is extended from July 1, 2017 to November 30, 2017.

* * * Grants and Fee Reimbursement * * *

Sec. 12. 2015 Acts and Resolves No. 46, Sec. 7 is amended to read:

Sec. 7. SCHOOL DISTRICTS CREATED AFTER DEADLINE FOR ACCELERATED ACTIVITY; TAX INCENTIVES; SMALL SCHOOL SUPPORT; JOINT CONTRACT SCHOOLS

* * *

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

* * *

(3) Transition Facilitation Grant.

(A) After voter approval of the plan of merger, notwithstanding any provision to the contrary in 16 V.S.A. § 4025, 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:

(i) 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

(ii) $150,000.00.

(B) A Transition Facilitation Grant awarded under this subdivision (3) shall be reduced by the total amount of reimbursement paid for consulting services, analysis, and transition costs pursuant to 2012 Acts and Resolves No. 156, Secs. 2, 4, and 9.

* * *

Sec. 13. 2012 Acts and Resolves No. 156, Sec. 9 is amended to read:

Sec. 9. REIMBURSEMENT OF FEES FOR CONSULTING SERVICES; MERGER; SCHOOL DISTRICTS; SUNSET

(a) From the ~~education fund~~ Education Fund, the ~~commissioner of education~~ Secretary of Education shall reimburse up to $20,000.00 of fees paid by a study committee established under 16 V.S.A. § 706 for legal and other consulting services necessary to analyze the advisability of creating a union school district or a unified union school district ~~and~~, to prepare the report required by 16 V.S.A. § 706b, and to conduct community outreach, including communications with voters. Community outreach materials shall be limited to those that are reasonably designed to inform and educate. Not more than 30 percent of the reimbursement amount provided by the Secretary under this section shall be used for the purpose of community outreach.

* * *

* * * Applications for Adjustments to Supervisory Union Boundaries * * *

Sec. 14. 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 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 request that the State Board adjust the existing boundaries of the supervisory union of which it is a 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~~ ~~requests~~ act on a request made pursuant to this subsection within 75 days of receipt of the request and may regroup the school districts of the area so as to ensure reasonable supervision of all public schools therein.

* * *

* * * Technical Corrections; Clarifications * * *

Sec. 15. 2012 Acts and Resolves No. 156, Sec. 16 is amended to read:

Sec. 16. UNION ELEMENTARY SCHOOL DISTRICTS; REGIONAL EDUCATION DISTRICT INCENTIVES

* * *

(b) This section is repealed on July 1, ~~2017~~ 2019.

Sec. 16. 2012 Acts and Resolves No. 156, Sec. 17 is amended to read:

Sec. 17. MODIFIED UNIFIED UNION SCHOOL DISTRICT

* * *

(d) This section is repealed on July 1, ~~2017~~ 2019.

Sec. 17. AVAILABILITY OF TAX AND OTHER INCENTIVES

The tax and other incentives under 2010 Acts and Resolves No. 153, as amended, and 2012 Acts and Resolves No. 156, as amended, shall be available only if the new governance structure formed under those acts becomes fully operational on or before July 1, 2019.

Sec. 18. 2015 Acts and Resolves No. 46, Sec. 23 is amended to read:

Sec. 23. 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. 22 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.

(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. 22 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. Until such time as Sec. 22 of this act shall apply to the district, the district's equalized pupil count shall be calculated under 16 V.S.A. § 4010(f), as in effect on June 30, 2016.

Sec. 19. QUALIFICATION FOR INCENTIVES; ASSIGNMENT TO A SUPERVISORY UNION BY THE STATE BOARD

Notwithstanding any requirement under 2015 Acts and Resolves No. 46, Secs. 6 and 7 that the newly formed school district be its own supervisory district, the newly formed school district shall qualify for the incentives under those sections even if it is assigned to a supervisory union by the State Board of Education and that assignment by the State Board is not made at the request of the school district.

* * * State Board Rulemaking Authority * * *

Sec. 20. 2015 Acts and Resolves No. 46, Sec. 8 is amended to read:

Sec. 8. EVALUATION BY THE STATE BOARD OF EDUCATION

* * *

(c) The State Board may adopt rules designed to assist districts in submitting alternative structure proposals, but shall not by rule or otherwise impose more stringent requirements than those in this act.

* * * Tax Provisions * * *

Sec. 21. CALCULATION OF EDUCATION PROPERTY TAX SPENDING ADJUSTMENT AND EDUCATION INCOME TAX SPENDING ADJUSTMENT FOR CERTAIN SCHOOL DISTRICTS

(a) Under this section, a qualifying school district is a school district:

(1) that operates no schools and pays tuition for all resident students in prekindergarten through grade 12;

(2) that, on or before November 15, 2017, obtains final approval from its electorate to consolidate with an existing unified union school district that is eligible to receive incentives under 2010 Acts and Resolves No. 153 (consolidated district), as amended; and

(3) for which either:

(A) the education property tax spending adjustment under 32 V.S.A. § 5401(13)(A) for the district's fiscal year 2017 exceeded the district's education property tax spending adjustment for the district's 2015 fiscal year by more than 100 percent; or

(B) the education income tax spending adjustment under 32 V.S.A. § 5401(13)(B) for the district's fiscal year 2017 exceeded the district's education income tax spending adjustment for the district's 2015 fiscal year by more than 100 percent.

(b) Notwithstanding any provision of law to the contrary:

(1) for the first year in which the consolidated district's equalized homestead tax rate or household income percentage is reduced under 2010 Acts and Resolves No. 153, as amended, the equalized homestead tax rate and household income percentage for the town associated with the qualifying district shall be set at the average equalized homestead tax rate and household income percentage of the towns associated with the other districts that merge into the consolidated district; and

(2) 2010 Acts and Resolves No. 153, Sec. 4(a)(2), which limits the amount by which tax rates are permitted to change, shall not apply to the town associated with the qualifying district for the first year for which the consolidated district's equalized homestead tax rate or household income percentage is reduced under that act.

Sec. 22. MODIFIED UNIFIED UNION SCHOOL DISTRICTS; TAX RATE CALCULATIONS

The tax rate provisions in 2010 Acts and Resolves No. 155, Sec. 13(a)(1), as amended, shall not apply to the calculation of tax rates in a member of a modified unified union school district (MUUSD) formed under 2012 Acts and Resolves No. 156, Sec. 17, as amended, if that member is a member for fewer than all grades, prekindergarten through grade 12. This section shall apply to the calculation of taxes in any MUUSD that began full operation after July 1, 2015.

* * * Elections to Unified Union School District Board * * *

Sec. 23. ELECTIONS TO UNIFIED UNION SCHOOL DISTRICT BOARD

(a) Notwithstanding any provision to the contrary under 16 V.S.A. § 706k, the election of a director on the board of a unified union school district who is to serve on the board after expiration of the term for an initial director shall be held at the unified union school district's annual meeting in accordance with the district's articles of agreement.

(b) Notwithstanding any provision to the contrary under 16 V.S.A. § 706l, if a vacancy occurs on the board of a unified union school district and the vacancy is in a seat that is allocated to a specific town, the clerk shall immediately notify the selectboard of the town. Within 30 days of the receipt of that notice, the unified union school district board, in consultation with the selectboard, shall appoint a person who is otherwise eligible to serve as a member of the unified union school district board to fill the vacancy until an election is held in accordance with the unified union school district's articles of agreement.

(c) This section is repealed on July 1, 2018.

* * * Renewal of Principal's Contracts * * *

Sec. 24. 16 V.S.A. § 243(c) is amended to read:

(c) Renewal and nonrenewal. A principal who has been continuously employed for more than two years in the same position has the right either to have his or her contract renewed, or to receive written notice of nonrenewal ~~at least 90 days before~~ on or before February 1 of the year in which the existing contract expires. Nonrenewal may be based upon elimination of the position, performance deficiencies, or other reasons. The written notice shall recite the grounds for nonrenewal. If nonrenewal is based on performance deficiencies, the written notice shall be accompanied by an evaluation performed by the superintendent. At its discretion, the school board may allow a period of remediation of performance deficiencies prior to issuance of the written notice. After receiving such a notice, the principal may request in writing, and shall be

granted, a meeting with the school board. Such request shall be delivered within 15 days of delivery of notice of nonrenewal, and the meeting shall be held within 15 days of delivery of the request for a meeting. At the meeting, the school board shall explain its position, and the principal shall be allowed to respond. The principal and any member of the board may present written information or oral information through statements of others, and the principal and the board may be represented by counsel. The meeting shall be in executive session unless both parties agree in writing that it be open to the public. After the meeting, the school board shall decide whether or not to offer the principal an opportunity to renew his or her contract. The school board shall issue its decision in writing within five days. The decision of the school board shall be final.

* * * Postsecondary Schools * * *

Sec. 25. 16 V.S.A § 176(d) is amended to read:

(d) Exemptions. The following are exempt from the requirements of this section except for the requirements of subdivision (c)(1)(C) of this section:

* * *

(4) Postsecondary schools that are accredited. The following postsecondary institutions are accredited, meet the criteria for exempt status, and are authorized to operate educational programs beyond secondary education, including programs leading to a degree or certificate: Bennington College, ~~Burlington College,~~ Champlain College, College of St. Joseph, Goddard College, Green Mountain College, Landmark College, Marlboro College, Middlebury College, New England Culinary Institute, Norwich University, Saint Michael's College, SIT Graduate Institute, Southern Vermont College, Sterling College, Vermont College of Fine Arts, and Vermont Law School. This authorization is provided solely to the extent necessary to ensure institutional compliance with federal financial aid-related regulations, and it does not affect, rescind, or supersede any preexisting authorizations, charters, or other forms of recognition or authorization.

* * *

* * * Educational Opportunities * * *

Sec. 26. 16 V.S.A § 165(b) is amended to read:

(b) ~~Every two years~~ Annually, the Secretary shall determine whether students in each Vermont public school are provided educational opportunities substantially equal to those provided in other public schools. If the Secretary determines that a school is not meeting the education quality standards listed in subsection (a) of this section or that the school is making insufficient progress in improving student performance in relation to the standards for student

performance set forth in subdivision 164(9) of this title, he or she shall describe in writing actions that a district must take in order to meet either or both sets of standards and shall provide technical assistance to the school. If the school fails to meet the standards or make sufficient progress ~~by the end of the next two year period~~ within two years of the determination, the Secretary shall recommend to the State Board one or more of the following actions:

* * *

* * * Local Education Agency * * *

Sec. 27. 16 V.S.A. § 563 is amended to read:

§ 563. POWERS OF SCHOOL BOARDS; FORM OF VOTE

The school board of a school district, in addition to other duties and authority specifically assigned by law:

* * *

(26) ~~Shall carry out the duties of a local education agency, as that term is defined in 20 U.S.C. § 7801(26), for purposes of determining student 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.~~ [Repealed.]

* * *

* * * State-placed and Homeless Students * * *

Sec. 28. 16 V.S.A § 1075 is amended to read:

§ 1075. LEGAL RESIDENCE DEFINED; RESPONSIBILITY AND PAYMENT OF EDUCATION OF STUDENT

* * *

(c) State-placed students.

(1) A State-placed student in the legal custody of the Commissioner for Children and Families, other than one placed in a 24-hour residential facility and except as otherwise provided in this subsection, shall be educated by ~~the school district in which the student is living~~ the student's school of origin, unless ~~an alternative plan or facility for the education of the student is agreed upon by Secretary~~ the student's education team determines that it is not in the student's best interest to attend the school of origin. The student's education team shall include, as applicable, the student, the student's parents and foster parents, the student's guardian ad litem and educational surrogate parent, representatives of both the school of origin and potential new school, and a representative of the Family Services Division of the Department for Children and Families. In the case of a dispute ~~as to where a State-placed student is~~

~~living, the Secretary shall conduct a hearing to determine which school district is responsible for educating the student. The Secretary's decision shall be final~~ about whether it is in the student's best interest to attend the school of origin, the Commissioner for Children and Families shall make the final decision. As used in this section, "school of origin" means the school in which the child was enrolled at the time of placement into custody of the Commissioner for Children and Families, or in the case of a student already in the custody of the Commissioner for Children and Families, the school the student most recently attended.

(2) If a student is a State-placed student pursuant to subdivision 11(a)(28)(D)(i)(I) of this title, then the Department for Children and Families shall ~~assume responsibility~~ be responsible for the student's transportation to and from school, unless the receiving district chooses to provide transportation.

(3) A State-placed student not in the legal custody of the Commissioner for Children and Families, other than one placed in a 24-hour residential facility and except as otherwise provided in this subsection, shall be educated by the school district in which the student is living unless an alternative plan or facility for the education of the student is agreed upon by the Secretary. In the case of dispute as to where a State-placed student is living, the Secretary shall conduct a hearing to determine which school district is responsible for educating the student. The Secretary's decision shall be final.

(4) A student who is in temporary legal custody pursuant to 33 V.S.A. § 5308(b)(3) or (4) and is a State-placed student pursuant to subdivision 11(a)(28)(D)(i)(II) of this title, shall be enrolled, at the temporary legal custodian's discretion, in the district in which the student's parents reside, the district in which either parent resides if the parents live in different districts, the district in which the student's legal guardian resides, or the district in which the temporary legal custodian resides. If the student enrolls in the district in which the temporary legal custodian resides, the district shall provide transportation in the same manner and to the same extent it is provided to other students in the district. In all other cases, the temporary legal custodian is responsible for the student's transportation to and from school, unless the receiving district chooses to provide transportation.

~~(4)~~(5) If a student who had been a State-placed student pursuant to subdivision 11(a)(28) of this title is returned to live in the district in which one or more of the student's parents or legal guardians reside, then, at the request of the student's parent or legal guardian, the Secretary may order the student to continue his or her enrollment for the remainder of the academic year in the district in which the student resided prior to returning to the parent's or guardian's district and the student will continue to be funded as a State-placed student. Unless the receiving district chooses to provide transportation:

* * *

(e) For the purposes of this title, the legal residence or residence of a child of homeless parents is ~~where the child temporarily resides~~ the child's school of origin, as defined in subdivision (c)(1) of this section, unless the parents and another school district agree that the child's attendance in school in that school district will be in the best interests of the child ~~in that continuity of education will be provided and transportation will not be unduly burdensome to the school district~~. A "child of homeless parents" means a child whose parents:

* * *

* * * Early College * * *

Sec. 29. REPEAL

16 V.S.A § 4011(e) (early college) is repealed.

Sec. 30. 16 V.S.A § 946 is added to read:

§ 946. EARLY COLLEGE

(a) For each grade 12 Vermont student enrolled, the Secretary shall pay an amount equal to 87 percent of the base education amount to:

(1) the Vermont Academy of Science and Technology (VAST); and

(2) an early college program other than the VAST program that is developed and operated or overseen by the University of Vermont, by one of the Vermont State Colleges, or by an accredited private postsecondary school located in Vermont and that is approved for operation by the Secretary; provided, however, when making a payment under this subdivision (2), the Secretary shall not pay more than the tuition charged by the institution.

(b) The Secretary shall make the payment pursuant to subsection (a) of this section directly to the postsecondary institution, which shall accept the amount as full payment of the student's tuition.

(c) A student on whose behalf the Secretary makes a payment pursuant to subsection (a) of this subsection:

(1) shall be enrolled as a full-time student in the institution receiving the payment for the academic year for which payment is made;

(2) shall not be enrolled concurrently in a secondary school operated by the student's district of residence or to which the district pays tuition on the student's behalf; and

(3) shall not be included in the average daily membership of any school district for the academic year for which payment is made; provided, however,

that if more than five percent of the grade 12 students residing in a district enroll in an early college program, then the district may include the number of students in excess of five percent in its average daily membership; but further provided that a student in grade 12 enrolled in a college program shall be included in the percentage calculation only if, for the previous academic year, the student was enrolled in a school maintained by the district or was a student for whom the district paid tuition to a public or approved independent school.

(d) A postsecondary institution shall not accept a student into an early college program unless enrollment in an early college program was an element of the student's personalized learning plan.

Sec. 31. REPEAL

16 V.S.A § 4011a (early college program; report; appropriations) is repealed.

Sec. 32. 16 V.S.A § 947 is added to read:

§ 947. EARLY COLLEGE PROGRAM; REPORT; APPROPRIATION

(a) Notwithstanding 2 V.S.A. § 20(d), any postsecondary institution receiving funds pursuant to section 946 of this title shall report annually in January to the Senate and House Committees on Education regarding the level of participation in the institution's early college program, the success in achieving the stated goals of the program to enhance secondary students' educational experiences and prepare them for success in college and beyond, and the specific results for participating students relating to programmatic goals.

(b) In the budget submitted annually to the General Assembly pursuant to 32 V.S.A. chapter 5, the Governor shall include the recommended appropriation for all early college programs to be funded pursuant to section 946 of this title, including the VAST program, as a distinct amount.

* * * Advisory Council on Special Education * * *

Sec. 33. 16 V.S.A § 2945(c) is amended to read:

(c) The members of the Council who are employees of the State shall receive no additional compensation for their services, but actual and necessary expenses shall be allowed State employees, and shall be charged to their departments or institutions. The members of the Council who are not employees of the State shall receive a per diem compensation ~~of $30.00 per day~~ as provided under 32 V.S.A. § 1010 for each day of official business and reimbursement for actual and necessary expenses at the rate allowed State employees.

* * *

* * * Criminal Record Checks * * *

Sec. 34. 16 V.S.A. § 255(k) and (l) are added to read:

(k) The requirements of this section shall not apply to superintendents and headmasters with respect to persons operating or employed by a child care facility, as defined under 33 V.S.A. § 3511, that provides prekindergarten education pursuant to section 829 of this title and that is required to be licensed by the Department for Children and Families pursuant to 33 V.S.A. § 3502. Superintendents and headmasters are not prohibited from conducting a criminal record check as a condition of hiring an employee to work in a child care facility that provides prekindergarten education operated by the school.

(l) The requirements of this section shall not apply with respect to a school district's partners in any program authorized or student placement created by chapter 23, subchapter 2 of this title; provided, however, that superintendents are not prohibited from requiring a fingerprint-supported record check pursuant to district policy with respect to its partners in such programs.

* * * Education Weighting Report * * *

Sec. 35. EDUCATION WEIGHTING REPORT

(a) The Agency of Education, in consultation with the Secretary of Human Services, the Vermont Superintendents Association, the Vermont School Boards Association, and the Vermont National Education Association, shall consider and make recommendations on the criteria used for determining weighted long-term membership of a school district under 16 V.S.A. § 4010, including the following.

(1) The current weighting factors and any supporting evidence or basis in the historical record for these factors.

(2) The relationship between each of the current weighting factors and the quality and equity of educational outcomes for students.

(3) Whether any of the weighting factors, including the weighting factors for students from economically deprived backgrounds and for students for whom English is not the primary language, should be modified, and if so, how the weighting factors should be modified and if the modification would further the quality and equity of educational outcomes for students.

(4) Whether to add any weighting factors, including a school district population density factor, and if so, why the weighting factor should be added and if the weighting factor would further the quality and equity of educational outcomes for students. In considering whether to recommend the addition of a school district population density factor, the Agency of Education shall consider the practices of other states, information from the National Council

for State Legislatures, and research conducted by higher education institutions working on identifying rural or urban education financing factors.

(b) In addition to considering and making recommendations on the criteria used for determining weighted long-term membership of a school district under subsection (a) of this section, the Agency of Education may consider and make recommendations on other methods that would further the quality and equity of educational outcomes for students.

(c) On or before December 15, 2017, the Agency of Education shall submit a written report to the House and Senate Committees on Education, the House Committee on Ways and Means, and the Senate Committee on Finance with its findings and any recommendations.

(d) Assistance. The Agency of Education shall have the technical assistance of the Joint Fiscal Office and the Office of Legislative Council.

* * * Postsecondary Institutions; Closing * * *

Sec. 36. 16 V.S.A. § 175 is amended to read:

§ 175. POSTSECONDARY EDUCATIONAL INSTITUTIONS; CLOSING

* * *

(g) The Association of Vermont Independent Colleges (AVIC) shall maintain a memorandum of understanding with each of its member colleges under which each member college agrees to:

(1) upon the request of AVIC, properly administer the student records of a member college that fails to comply with the requirements of subsection (a) of this section; and

(2) contribute on an equitable basis and in a manner determined in the sole discretion of AVIC to the costs of another AVIC member or other entity selected by AVIC maintaining the records of a member college that fails to comply with the requirements of subsection (a) of this section.

* * * Prekindergarten Education Recommendations * * *

Sec. 37. PREKINDERGARTEN EDUCATION RECOMMENDATIONS

On or before November 1, 2017, the Secretaries of Human Services and of Education shall jointly present recommendations to the House and Senate Committees on Education, House Committee on Human Services, and Senate Committee on Health and Welfare that will ensure equity, quality, and affordability, and reduce duplication and complexity, in the current delivery of prekindergarten services.

* * * High School Completion Program * * *

Sec. 38. 16 V.S.A. § 942(6) is amended to read:

(6) ~~"Contracting agency"~~ "Local adult education and literacy provider" means an entity that ~~enters into a contract with the Agency to provide "flexible pathways to graduation" services itself or in conjunction with one or more approved providers in Vermont~~ is awarded federal or State grant funds to conduct adult education and literacy activities.

Sec. 39. 16 V.S.A. § 943 is amended to read:

§ 943. HIGH SCHOOL COMPLETION PROGRAM

(a) There is created a High School Completion Program to be a potential component of a flexible pathway for any Vermont student who is at least 16 years ~~old~~ of age, who has not received a high school diploma, and who may or may not be enrolled in a public or approved independent school.

(b) If a person who wishes to work on a personalized learning plan leading to graduation through the High School Completion Program is not enrolled in a public or approved independent school, then the Secretary shall assign the prospective student to a high school district, which shall be the district of residence whenever possible. The school district in which a student is enrolled or to which a nonenrolled student is assigned shall work with the ~~contracting agency~~ local adult education and literacy provider that serves the high school district and the student to develop a personalized learning plan. The school district shall award a high school diploma upon successful completion of the plan.

(c) The Secretary shall reimburse, and net cash payments where possible, a school district that has agreed to a personalized learning plan developed under this section in an amount:

(1) established by the Secretary for the development and ongoing evaluation and revision of the personalized learning plan and for other educational services typically provided by the assigned district or an approved independent school pursuant to the plan, such as counseling, health services, participation in cocurricular activities, and participation in academic or other courses; provided, however, that this amount shall not be available to a school district that provides services under this section to an enrolled student; and

(2) negotiated by the Secretary and the ~~contracting agency~~ local adult education and literacy provider, with the approved provider, for services and outcomes purchased from the approved provider on behalf of the student pursuant to the personalized learning plan.

* * * Vermont Standards Board for Professional Educators * * *

Sec. 40. 16 V.S.A. § 1693 is amended to read:

§ 1693. STANDARDS BOARD FOR PROFESSIONAL EDUCATORS

(a) There is hereby established the Vermont Standards Board for Professional Educators comprising 13 members as follows: seven teachers, two administrators, one of whom shall be a school superintendent, one public member, one school board member, one representative of educator preparation programs from a public institution of higher education, and one representative of educator preparation programs from a private institution of higher education.

* * *

Sec. 41. TRANSITIONAL PROVISION

A superintendent shall be appointed to the Vermont Standards Board for Professional Educators under Sec. 40 of this act upon the next expiration of the term of a member who is serving on the Board as an administrator.

* * * Approved Independent Schools Study Committee * * *

Sec. 42. APPROVED INDEPENDENT SCHOOLS STUDY COMMITTEE

(a) Creation. There is created the Approved Independent Schools Study Committee to consider and make recommendations on the criteria to be used by the State Board of Education for designation as an "approved" independent school.

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

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

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

(3) the Chair of the State Board of Education or designee;

(4) the Secretary of Education or designee;

(5) the Executive Director of the Vermont Superintendents Association or designee;

(6) the Executive Director of the Vermont School Boards Association or designee;

(7) the Executive Director of the Vermont Independent Schools Association or designee;

(8) two members of the Vermont Council of Independent Schools, who shall be chosen by the Chair of the Vermont Council of Independent Schools; and

(9) the Executive Director of the Vermont Council of Special Education Administrators or designee.

(c) Powers and duties. The Committee shall consider and make recommendations on the criteria to be used by the State Board of Education for designation as an "approved" independent school, including the following criteria:

(1) the school's enrollment policy and any limitation on a student's ability to enroll;

(2) how the school should be required to deliver special education services and which categories of these services; and

(3) the scope and nature of financial information and special education information that should be required to be reported by the school to the State Board or Agency of Education.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Education.

(e) Report. On or before December 1, 2017, the Committee shall submit a written report to the House and Senate Committees on Education and the State Board of Education with its findings and any recommendations, including recommendations for any amendments to legislation.

(f) Continuation of rulemaking. It is the intent of the General Assembly to resolve the issues raised by the State Board of Education's proposed amendments to the 2200 Series of its Rules and Practices initiated by the State Board on November 13, 2015 (Rules for Approval of Independent Schools) after taking into account the report of the Committee required under subsection (e) of this section. Therefore, notwithstanding any provision to the contrary under 16 V.S.A. § 164, the State Board of Education shall suspend further development of the amendments to the Rules for Approval of Independent Schools, pending receipt of the report of the Committee, and shall further develop these amendments after considering the Committee's report.

(g) Meetings.

(1) The Secretary of Education shall call the first meeting of the Committee to occur on or before May 30, 2017.

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

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

(4) The Committee shall cease to exist on December 2, 2017.

(h) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than seven meetings.

(2) Other members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than seven meetings.

* * * Educational and Training Programs for College Credit * * *

Sec. 43. APPROPRIATION TO THE VERMONT STATE COLLEGES TO EXPAND EDUCATION AND TRAINING EVALUATION SERVICES PROGRAM

The sum of $20,000.00 is appropriated from the Next Generation Initiative Fund created pursuant to 16 V.S.A. § 2887 to the Vermont State Colleges for the purpose of providing funding for the Colleges' Education and Training Evaluation Services Program. The Vermont State Colleges shall use the appropriation to evaluate or reevaluate educational and training programs for college credit at no cost or at a reduced cost to the programs being evaluated. The Vermont State Colleges shall identify training programs in the skilled trades, including the plumbing and electrical trades, to receive these evaluation services. The Vermont State Colleges shall, on or before January 15, 2018, issue a report to the House and Senate Committees on Education describing how the funds appropriated pursuant to this section have been spent, how any remaining funds appropriated pursuant to this section will be spent, and the number and nature of the programs evaluated or reevaluated and the results of the evaluations.

* * * Student Enrollment; Small School Grant * * *

Sec. 44. 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; and

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

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

(2) "Enrollment" means the number of students who are enrolled in a school operated by the district on October 1. A student shall be counted as one whether the student is enrolled as a full-time or part-time student. Students enrolled in prekindergarten programs shall not be counted.

(3) "Two-year average enrollment" means the average enrollment of the two most recently completed school years.

(4) "Average grade size" means two-year average enrollment divided by the number of grades taught in the district on October 1. For purposes of this calculation, kindergarten and prekindergarten programs shall be counted together as one grade.

* * *

* * * Prekindergarten Programs; STARS ratings * * *

Sec. 45. 16 V.S.A. § 829(c) is amended to read:

(c) Prequalification. Pursuant to rules jointly developed and overseen by the Secretaries of Education and of Human Services and adopted by the State Board pursuant to 3 V.S.A. chapter 25, the Agencies jointly may determine that a private or public provider of prekindergarten education is qualified for purposes of this section and include the provider in a publicly accessible database of prequalified providers. At a minimum, the rules shall define the process by which a provider applies for and maintains prequalification status, shall identify the minimum quality standards for prequalification, and shall include the following requirements:

(1) A program of prekindergarten education, whether provided by a school district or a private provider, shall have received:

(A) National Association for the Education of Young Children (NAEYC) accreditation; or

(B) at least four stars in the Department for Children and Families' STARS system with a plan to get to at least two points in each of the five arenas; or

(C) three stars in the STARS system if the provider has developed a plan, approved by the Commissioner for Children and Families and the Secretary of Education, to achieve four or more stars with at least two points in each of the five arenas in no more than ~~two~~ three years ~~with at least two points in each of the five arenas~~, and the provider has met intermediate milestones.

* * * Student Rights; Freedom of Expression * * *

Sec. 46. 16 V.S.A. chapter 42 is added to read:

CHAPTER 42. STUDENT RIGHTS

§ 1623. FREEDOM OF EXPRESSION

(a) Findings.

(1) The General Assembly finds that freedom of expression and freedom of the press are fundamental principles in our democratic society granted to every citizen of the nation by the First Amendment to the U.S. Constitution and to every resident of this State by Vt. Const. Ch. I, Art. 13.

(2) These freedoms provide all citizens, including students, with the right to engage in robust and uninhibited discussion of issues.

(3) The General Assembly intends to ensure free speech and free press protections for both public school students and students at public institutions of higher education in this State in order to encourage students to become educated, informed, and responsible members of society.

(b) Definitions. As used in this chapter:

(1) "Media adviser" means an individual employed, appointed, or designated by a school or its governing body to supervise or provide instruction relating to school-sponsored media.

(2) "School" means a public school operating in the State.

(3) "School-sponsored media" means any material that is prepared, written, published, or broadcast as part of a school-supported program or activity by a student journalist and is distributed or generally made available as part of a school-supported program or activity to an audience beyond the classroom in which the material is produced.

(4) "Student journalist" means a student enrolled at a school who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.

(5) "Student supervisor" is a student who is responsible for editing school-sponsored media.

(c)(1) Subject to subsection (e) of this section, a student journalist may exercise freedom of speech and freedom of the press in school-sponsored media.

(2) Subdivision (1) of this subsection shall not be construed to be limited by the fact that the school-sponsored media are:

(A) supported financially by a school or its governing body, or by use of facilities owned by the school; or

(B) produced in conjunction with a class in which the student journalist is enrolled.

(d)(1) Subject to subsection (e) of this section, the student supervisors of school-sponsored media are responsible for determining the content of their respective media.

(2) Subject to subdivision (1) of this subsection, a media adviser may teach professional standards of English and journalism to student journalists.

(e) This section shall not be construed to authorize or protect content of school-sponsored media that:

(1) is libelous or slanderous;

(2) constitutes an unwarranted invasion of privacy;

(3) may be defined as obscene, gratuitously profane, threatening, or intimidating;

(4) may be defined as harassment, hazing, or bullying under section 11 of this title;

(5) violates federal or State law; or

(6) creates the imminent danger of materially or substantially disrupting the ability of the school to perform its educational mission.

(f) A school is prohibited from subjecting school-sponsored media, other than that listed in subsection (e) of this section, to prior restraint. A school may restrain the distribution of content in student media described in subsection (e), provided that the school's administration shall have the burden of providing lawful justification without undue delay. Content shall not be suppressed solely because it involves political or controversial subject matter, or is critical of the school or its administration.

(g) A student journalist may not be disciplined for acting in accordance with this section.

(h) A media adviser may not be dismissed, suspended, disciplined, reassigned, or transferred for:

(1) taking reasonable and appropriate action to protect a student journalist for engaging in conduct protected by this section; or

(2) refusing to infringe on conduct that is protected by this section, by the first amendment to the U.S. Constitution, or by the Vermont Constitution.

(i) Each school or its governing body shall adopt a written policy consistent with the provisions of this section.

(j) No expression made by students in school-sponsored media shall be deemed to be an expression of school policy.

Sec. 47. 16 V.S.A. § 180 is added to read:

§ 180. STUDENT RIGHTS—FREEDOM OF EXPRESSION

(a) Findings.

(1) The General Assembly finds that freedom of expression and freedom of the press are fundamental principles in our democratic society granted to every citizen of the nation by the First Amendment to the U.S. Constitution and to every resident of this State by Vt. Const. Ch. I, Art. 13.

(2) These freedoms provide all citizens, including students, with the right to engage in robust and uninhibited discussion of issues.

(3) The General Assembly intends to ensure free speech and free press protections for both public school students and students at public institutions of higher education in this State in order to encourage students to become educated, informed, and responsible members of society.

(b) Definitions. As used in this chapter:

(1) "Media adviser" means an individual employed, appointed, or designated by a school or its governing body to supervise or provide instruction relating to school-sponsored media.

(2) "School" means a public postsecondary school operating in the State.

(3) "School-sponsored media" means any material that is prepared, written, published, or broadcast as part of a school-supported program or activity by a student journalist and is distributed or generally made available as part of a school-supported program or activity to an audience beyond the classroom in which the material is produced.

(4) "Student journalist" means a student enrolled at a school who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.

(5) "Student supervisor" is a student who is responsible for editing school-sponsored media.

(c)(1) Subject to subsection (e) of this section, a student journalist may exercise freedom of speech and freedom of the press in school-sponsored media.

(2) Subdivision (1) of this subsection shall not be construed to be limited by the fact that the school-sponsored media are:

(A) supported financially by a school or its governing body, or by use of facilities owned by the school; or

(B) produced in conjunction with a class in which the student journalist is enrolled.

(d)(1) Subject to subsection (e) of this section, the student supervisors of school-sponsored media are responsible for determining the content of their respective media.

(2) Subject to subdivision (1) of this subsection, a media adviser may teach professional standards of English and journalism to student journalists.

(e) This section shall not be construed to authorize or protect content of school-sponsored media that:

(1) is libelous or slanderous;

(2) constitutes an unwarranted invasion of privacy;

(3) may be defined as obscene, gratuitously profane, threatening, or intimidating;

(4) may be defined as harassment, hazing, or bullying under section 11 of this title;

(5) violates federal or State law; or

(6) creates the imminent danger of materially or substantially disrupting the ability of the school to perform its educational mission.

(f) Absent a showing that a particular publication will cause direct, immediate, and irreparable harm that would warrant the issuance of a prior restraint order against the private media, school officials are not authorized to censor or subject to prior restraint the content of school-sponsored media. Content shall not be suppressed solely because it involves political or controversial subject matter, or is critical of the school or its administration.

(g) A student journalist may not be disciplined for acting in accordance with this section.

(h) A media adviser may not be dismissed, suspended, disciplined, reassigned, or transferred for:

(1) taking reasonable and appropriate action to protect a student journalist for engaging in conduct protected by this section; or

(2) refusing to infringe on conduct that is protected by this section, by the first amendment to the U.S. Constitution, or by the Vermont Constitution.

(i) Each school or its governing body shall adopt a written policy consistent with the provisions of this section.

(j) No expression made by students in school-sponsored media shall be deemed to be an expression of school policy.

* * * Effective Dates * * *

Sec. 48. EFFECTIVE DATES

(a) This section and Secs. 2–27, 29–35, and 37–47 shall take effect on passage.

(b) Sec. 28 (State-placed students) shall take effect beginning with the 2017–2018 school year.

(c) Sec. 36 (Postsecondary Institutions; Closing) shall take effect on October 1, 2017.

PHILIP E. BARUTH
REBECCA A. BALINT
KEVIN J. MULLIN

Committee on the part of the Senate

DAVID D. SHARPE
EMILY J. LONG
ALBERT E. PEARCE

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative on a roll call, Yeas 27, Nays 0.

Senator Baruth 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, Branagan, Bray, Brooks, Campion, Clarkson, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pearson, Rodgers, Sears, Sirotkin, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Collamore, Pollina, Starr.

Rules Suspended; Bills Messaged

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

S. 22, S. 33, H. 513.

Recess

On motion of Senator Ashe the Senate recessed until 3:45 P.M.

Called to Order

The Senate was called to order by the President.

Proposal of Amendment; Bill Passed in Concurrence with Proposals of Amendment; Bill Messaged

H. 29.

House bill entitled:

An act relating to permitting Medicare supplemental plans to offer expense discounts.

Was taken up.

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

First: In Sec. 2, findings, by striking out subdivision (3) in its entirety and renumbering subdivision (4) to be subdivision (3)

Second: In Sec. 3, Green Mountain Care Board; Health Care Professional Payment Parity Work Group, in subsection (b), by inserting a new subdivision (5) to read as follows:

(5) a practicing physician employed by a hospital-owned practice, appointed by the Vermont Medical Society;

And by renumbering the remaining subdivisions to be numerically correct.

Thereupon, Senator White, moved to amend the proposal of amendment of Senator Sirotkin in the *second* proposal of amendment by striking out the following: (5) a practicing physician employed by a hospital-owned practice, appointed by the Vermont Medical Society; and inserting in lieu thereof the following: (5) a representative of physicians employed by hospital-owned practices, appointed by the Vermont Medical Society;

Which was agreed to.

Thereupon, the question, Shall the bill be amended as recommended by Senator Sirotkin, as amended?, was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senators White, Ayer, Balint, Benning, Branagan, Clarkson, Collamore, Flory, Mazza, Nitka, Rodgers, Starr and Westman moved to amend the Senate proposal of amendment by striking out Sec. 4, reimbursement amounts for newly acquired or newly affiliated practices, in its entirety and inserting in lieu thereof the following:

Sec. 4. [Deleted.]

Which was disagreed to on a division of the Senate Yeas 12, Nays 14.

Thereupon, pending the question, Shall the bill be read a third time?, Senators Ayer, White, Balint, Branagan, Bray, Collamore, Clarkson, Flory and McCormack moved to amend the Senate proposal of amendment by striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. GREEN MOUNTAIN CARE BOARD; HEALTH CARE PROFESSIONAL PAYMENT PARITY WORK GROUP

(a) The Green Mountain Care Board shall convene the Health Care Professional Payment Parity Work Group to:

(1) examine the reasons why health care professionals in independent practices are closing their practices or joining hospital-owned practices, or both;

(2) identify the causes and extent of disparities in reimbursement amounts to health care professionals for providing the same services in different settings; and

(3) determine how best to ensure more fair and equitable reimbursement amounts to health care professionals for providing the same services in different settings.

(b) The Work Group shall be composed of the following members:

(1) the Chair of the Green Mountain Care Board or designee;

(2) the Commissioner of Vermont Health Access or designee;

(3) a representative of each commercial health insurer with 5,000 or more covered lives in Vermont;

(4) a representative of independent physician practices, appointed by Health First;

(5) a representative of physicians employed by hospital-owned practices, appointed by the Vermont Medical Society;

(6) a representative of the University of Vermont Medical Center;

(7) a representative of Vermont's community hospitals, appointed by the Vermont Association of Hospitals and Health Systems;

(8) a representative of Vermont's critical access hospitals, appointed by the Vermont Association of Hospitals and Health Systems;

(9) a representative of each accountable care organization in this State;

(10) a representative of Vermont's federally qualified health centers and rural health clinics, appointed by the Bi-State Primary Care Association;

(11) a representative of naturopathic physicians, appointed by the Vermont Association of Naturopathic Physicians;

(12) a representative of chiropractors, appointed by the Vermont Chiropractic Association; and

(13) the Chief Health Care Advocate or designee from the Office of the Health Care Advocate.

(c) The Green Mountain Care Board, in consultation with the other members of the Work Group, shall:

(1) examine hospital acquisitions and transfers of health care professionals to understand the reasons why health care professionals in independent practices choose to become employed by hospitals and hospital-owned practices and the net effect of these transitions on growth in health care spending across the entire health care system;

(2) analyze the retention of independent practices and health care professionals in this State, including assessing the factors that may influence health care professionals' choice of practice location and ownership, such as administrative burden, schedule flexibility, compensation and benefits, financial risks, and business and contracting complexities; and

(3) develop a plan for reimbursing health care professionals in a more fair and equitable manner, including the following:

(A) proposing a process for reducing existing disparities in reimbursement amounts for health care professionals across all settings by the maximum achievable amount over three years, beginning on or after February 1, 2018, which shall include:

(i) establishing a process for and evaluating the potential impacts of increasing the reimbursement amounts for lower-paid providers and reducing the reimbursement amounts for the highest-paid providers;

(ii) evaluating the potential impact of requiring health insurers to modify their reimbursement amounts to health care professionals across all settings for nonemergency evaluation and management office visits codes to the amount of the insurer's average payment for that code across all settings in Vermont on January 1, 2017 or on another specified date;

(iii) ensuring that there will be no negative net impact on reimbursement amounts for health care professionals in independent practices and at community hospitals;

(iv) ensuring that there will be no increase in medical costs or health insurance premiums as a result of the adjusted reimbursement amounts;

(v) considering the impact of the adjusted reimbursement amounts on the implementation of value-based reimbursement models, including the all-payer model; and

(vi) developing an oversight and enforcement mechanism through which the Green Mountain Care Board shall evaluate the alignment between reimbursement amounts to providers, hospital budget revenues, and health insurance premiums;

(B) identifying the time frame for adjusting the reimbursement amounts for each category of health care services; and

(C) enforcement and accountability provisions to ensure measurable results.

(d)(1) The Green Mountain Care Board shall provide an update on its progress toward achieving provider payment parity at each meeting of the Health Reform Oversight Committee between May 2017 and January 2018.

(2) On or before November 1, 2017, the Green Mountain Care Board shall submit to the Health Reform Oversight Committee, the House Committee on Health Care, and the Senate Committees on Health and Welfare and on Finance the following:

(A) a final timeline and implementation plan for achieving provider payment parity;

(B) the estimated financial savings to the health care system from reducing payment disparities and recommendations for reallocation of those funds to underfunded segments of the health care delivery system; and

(C) proposals for any necessary legislative changes to implement the provider payment parity plan and to reallocate funds within the health care system.

(e) Implementation of the provider payment parity plan shall begin on February 1, 2018 to provide the General Assembly with an opportunity to review the plan, direct modifications to the plan, and take legislative action if needed.

Which was disagreed to on a roll call, Yeas 11, Nays 18.

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

Roll Call

Those Senators who voted in the affirmative were: Ayer, Balint, Benning, Branagan, Bray, Clarkson, Collamore, Flory, McCormack, Nitka, White.

Those Senators who voted in the negative were: Ashe, Baruth, Brooks, Campion, Cummings, Degree, Ingram, Lyons, MacDonald, Mazza, Mullin, Pearson, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman.

The Senator absent and not voting was: Kitchel.

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

Rules Suspended; House Proposal of Amendment Concurred In

S. 95.

Pending entry on the Calendar for notice, on motion of Senator Ayer, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to sexual assault nurse examiners.

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. chapter 167, subchapter 5 is amended to read:

Subchapter 5. Sexual Assault Nurse Examiners

§ 5431. DEFINITION; CERTIFICATION

(a) As used in this subchapter, "SANE" means a sexual assault nurse examiner.

(b) A person licensed under 26 V.S.A. chapter 28 (nursing) may obtain a specialized certification from the SANE Program as a sexual assault nurse examiner if he or she demonstrates compliance with the requirements for specialized certification as established by the SANE Board.

§ 5432. SANE BOARD

(a) The SANE Board is created for the purpose of ~~regulating sexual assault nurse examiners~~ advising the Sexual Assault Nurse Examiners Program.

(b) The SANE Board shall be composed of the following members:

(1) the Executive Director of the Vermont State Nurses Association or designee;

(2) the President of the Vermont Association of Hospitals and Health Systems;

(3) the Director of the Vermont Forensic Laboratory or designee;

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

(5) an attorney with experience prosecuting sexual assault crimes, appointed by the Attorney General;

(6) the Executive Director of the Vermont Center for Crime Victim Services or designee;

(7) a law enforcement officer assigned to one of Vermont's special units of investigation, appointed by the Commissioner of Public Safety;

(8) a law enforcement officer employed by a municipal police department, appointed by the Executive Director of the Vermont Criminal Justice Training Council;

(9) three sexual assault nurse examiners, appointed by the Attorney General;

(10) a ~~physician~~ health care provider as defined in 18 V.S.A. § 9402 whose practice includes the care of victims of sexual assault, appointed by the ~~Vermont Medical Society~~ Commissioner of Health;

(11) a pediatrician whose practice includes the care of victims of sexual assault, appointed by the Vermont Chapter of the American Academy of Pediatrics;

(12) the Coordinator of the Vermont Victim Assistance Program or designee;

(13) the President of the Vermont Alliance of Child Advocacy Centers or designee;

(14) the Chair of the Vermont State Board of Nursing or designee; ~~and~~

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

(16) the Commissioner of Health or designee.

(c) The SANE Board shall advise the SANE Program on the following:

(1) statewide program priorities;

(2) training and educational requirements;

(3) a standardized sexual assault protocol and kit to be used by all physicians and hospitals in this State when providing forensic examinations of victims of alleged sexual offenses; and

(4) statewide policy development related to sexual assault nurse examiner programs.

§ 5433. SANE PROGRAM CLINICAL COORDINATOR

~~A grant program shall be established by~~ A clinical coordinator position shall be funded by either the Vermont Center for Crime Victim Services~~, subject to available funding, to fund a clinical coordinator position~~ or through other identified State funding options for the purpose of staffing the SANE ~~program~~ Program. The position shall be contracted through the Vermont Network Against Domestic and Sexual Violence. The Clinical Coordinator shall consult with the SANE Board in performing the following duties:

(1) overseeing the recruitment and retention of SANEs in the State of Vermont;

(2) administering a statewide ~~training~~ educational program, including:

(A) the initial SANE certification training;

(B) ongoing training to ensure currency of practice for SANEs; and

(C) advanced training programs as needed;

(3) providing consultation ~~and~~, technical assistance, and training to SANEs and acute care hospitals regarding the ~~standardized sexual assault protocol~~ standards of care for sexual assault patients; ~~and~~

(4) providing training and outreach to criminal justice and community-based agencies as needed; and

(5) coordinating and managing a system for ensuring best practices;

(6) granting certifications, pursuant to section 5431 of this title, to candidates who demonstrate compliance with the requirements for specialized certification as established by the SANE Board.

§ 5434. ~~SANE BOARD DUTIES~~

~~(a) A person licensed under 26 V.S.A. chapter 28 (nursing) may obtain a specialized certification as a sexual assault nurse examiner if he or she demonstrates compliance with the requirements for specialized certification as established by the SANE Board by rule.~~

~~(b) The SANE Board shall adopt the following by rule:~~

~~(1) educational requirements for obtaining specialized certification as a sexual assault nurse examiner and statewide standards for the provision of education;~~

~~(2) continuing education requirements and clinical experience necessary for maintenance of the SANE specialized certification;~~

~~(3) a standardized sexual assault protocol and kit to be used by all physicians and hospitals in this State when providing forensic examinations of victims of alleged sexual offenses;~~

~~(4) a system of monitoring for compliance; and~~

~~(5) processes for investigating complaints, revoking certification, and appealing decisions of the Board.~~

~~(c) The SANE Board may investigate complaints against a sexual assault nurse examiner and may revoke certification as appropriate.~~ [Repealed.]

§ 5435. ACCESS TO A SEXUAL ASSAULT NURSE EXAMINER

(a) On or before September 1, 2017, the Vermont Association of Hospitals and Health Systems (VAHHS) and the Vermont SANE Program shall enter into a memorandum of understanding (MOU) to ensure improved access to sexual assault nurse examiners (SANE) for victims of sexual assault in underserved regions. Improved access may include all acute care hospitals to provide patients with care from a paid employee who is also a certified sexual assault nurse examiner or access to a shared regional staffing pool that includes certified sexual assault nurse examiners.

(b) The Vermont SANE Program shall develop and offer an annual training regarding standards of care and forensic evidence collection to emergency department appropriate health care providers at acute care hospitals in Vermont. Personnel who are certified sexual assault nurse examiners shall not be subject to this subsection.

(c) On or before January 1, 2018, the SANE Program shall report to the General Assembly on training participation rates pursuant to subsection (b) of this section.

Sec. 2. SEXUAL ASSAULT EVIDENCE KITS; STUDY COMMITTEE

(a) Creation. There is created the Sexual Assault Evidence Kit Study Committee for the purpose of conducting a comprehensive examination of issues related to sexual assault evidence kits.

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

(1) the Director of the Vermont Forensic Laboratory or designee;

(2) the Executive Director of the Vermont Center for Crime Victims Services or designee;

(3) the Commissioner of Health or designee;

(4) a representative of the Vermont Sexual Assault Nurse Examiners (SANE) Program;

(5) a representative of the county special investigative units appointed by the Executive Director of the State's Attorneys and Sheriffs; and

(6) a law enforcement professional appointed by the Commissioner of Public Safety.

(c) Powers and duties. The Committee shall address the following issues:

(1) the current practices for kit tracking;

(2) the effectiveness and cost of a system allowing for the online completion of sexual assault evidence kit documentation with electronic notification after reports are submitted;

(3) the feasibility and cost of a web-based tracking system to allow agencies involved in the response and prosecution of sexual assault to track sexual assault evidence kits, pediatric sexual assault evidence kits, and toxicology kits using a bar code number uniquely assigned to each kit;

(4) the effectiveness and challenges of the current system of police transport of evidence kits from hospitals to the Vermont Forensic Laboratory; and

(5) the feasibility and cost of alternative methods of transport of sexual assault evidence kits such as mail, delivery service, or courier.

(d) Assistance. The Center for Crime Victim Services shall convene the first meeting of the Committee and provide support services.

(e) Report. On or before November 1, 2017, the SANE Program, on behalf of the Committee, shall submit a written report to the House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare.

(f) Meetings.

(1) The Center for Crime Victim Services shall call the first meeting of the Committee to occur on or before August 1, 2017.

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

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

(4) The Committee shall cease to exist on January 15, 2018.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

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

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 75.

Pending entry on the Calendar for notice, on motion of Senator Rodgers, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to aquatic nuisance species control.

Was taken up for immediate consideration.

Senator Rodgers, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

S. 75. An act relating to aquatic nuisance species control.

Respectfully reports that it has met and considered the same and recommends that the Senate accede to the House's proposal of amendment with further amendment thereto as follows:

First: In Sec. 2, 10 V.S.A. § 1454, in subsection (c), after "(c)" and before "It shall be a violation" by striking out "Aquatic nuisance species inspection

station." and inserting in lieu thereof No-cost boat wash; aquatic nuisance species inspection station. and after "other equipment inspected, and" and before "decontaminated at an approved" by striking out the following: , if determined necessary,

Second: In Sec. 4, 10 V.S.A. § 1461, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) The Secretary of Natural Resources shall establish a training program regarding how to decontaminate vessels, motor vehicles, trailers, and other equipment to prevent the spread of aquatic plants, aquatic plant parts, and aquatic nuisance species. The training program shall instruct participants regarding how to address noncompliance with the requirements of section 1454 of this title, including how:

(1) operators of the inspection station do not have authority to board a vessel unless authorized by the vessel owner; and

(2) operators of the inspection station do not have law enforcement authority to mandate compliance with the requirements of section 1454 of this title.

Third: In Sec. 4, 10 V.S.A. § 1461, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d) A lake association or municipality approved to operate an aquatic nuisance species inspection station under subsection (c) of this section shall provide persons who will operate the aquatic nuisance species inspection station with training materials furnished by the Secretary regarding how to conduct the inspection and decontamination of vessels, motor vehicles, trailers, and other equipment for the presence of aquatic plants, aquatic plant parts, and aquatic nuisance species.

Fourth: By striking out Sec. 7 in its entirety and inserting in lieu thereof the following:

Sec. 7. USE OF BOTTOM BARRIERS WITHOUT PERMIT

(a) The Secretary of Natural Resources shall not require an aquatic nuisance control permit under 10 V.S.A. § 1455 for the use of up to 15 bottom barriers on an inland lake to control nonnative aquatic nuisance species, provided that:

(1) the bottom barriers are managed and controlled by a lake association;

(2) each bottom barrier shall be of no greater size than 14 feet by 14 feet;

(3) the bottom barriers are not installed in an area where they:

(A) create a hazard to public health; or

(B) unreasonably impede boating or navigation;

(4) the lake association notifies the Secretary of the use of the barriers:

(A) three days prior to placement of the barriers in a water if the Secretary has identified the water as containing threatened or endangered species; or

(B) on the day the barriers are placed in the water if the Secretary has not identified the water as containing threatened or endangered species; and

(5) the Secretary may require the removal of the bottom barriers upon a determination that the barriers pose a threat to a threatened or endangered species.

(b) The Secretary of Natural Resources shall designate an e-mail address, telephone number, or other publicly available method by which a lake association may provide the notice required by this section seven days a week.

JOHN S. RODGERS
BRIAN A. CAMPION
CHRISTOPHER A. BRAY

Committee on the part of the Senate

MARY M. SULLIVAN
DAVID L. DEEN
TREVOR J. SQUIRRELL

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Bills Messaged

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

S. 75, S. 95, H. 29.

Recess

On motion of Senator Ashe the Senate recessed until 5:30 P.M.

Called to Order

The Senate was called to order by the President *pro tempore*.

Message from the House No. 68

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, 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. 100. An act relating to promoting affordable and sustainable housing.

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 the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 9. An act relating to the preparation of poultry products.

And has adopted the same on its part.

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. 134. An act relating to court diversion and pretrial services.

And has adopted the same on its part.

Message from the House No. 69

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, 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 proposal of amendment to Senate bill of the following title:

S. 52. An act relating to the Public Service Board and its proceedings.

And has concurred therein.

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

S. 133. An act relating to examining mental health care and care coordination.

And has concurred therein.

Senate 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 on the part of the Senate:

By Senators Nitka, Clarkson and McCormack,

By Rep. Kimbell,

S.C.R. 14.

Senate concurrent resolution recognizing the establishment of the Coolidge Scholars Program and congratulating the first class of Coolidge Scholars..

By Senators Clarkson and McCormack,

S.C.R. 15.

Senate concurrent resolution designating October 16, 2017 as John Brown Day in Vermont..

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 Reps. Rachelson and others,

H.C.R. 158.

House concurrent resolution honoring John Bisbee for his nearly three decades of extraordinary public service as a guardian ad litem.

By Rep. Bancroft,

H.C.R. 159.

House concurrent resolution congratulating the Westford School Periodic Pandas on their selection as semifinalists in the FIRSTLEGO League Global Innovation Award competition.

By Reps. Morrissey and others,

By Senators Campion, Collamore, Flory, Mullin and Sears,

H.C.R. 160.

House concurrent resolution congratulating The Bank of Bennington on its 100th anniversary.

By Reps. Burditt and others,

By Senators Collamore, Flory and Mullin,

H.C.R. 161.

House concurrent resolution honoring Summer Stoutes of Tinmouth for her selfless generosity as a kidney donor and congratulating Brent Garrow on his successful transplant surgery recovery and resumption of his firefighting and law enforcement careers.

By Reps. Hebert and others,

By Senators Balint and White,

H.C.R. 162.

House concurrent resolution honoring Ron Stahley for his insightful public education leadership.

By All Members of the House,

H.C.R. 163.

House concurrent resolution commemorating the 75th anniversary of the U.S. Navy Construction Battalions, the Seabees.

By Reps. Ancel and others,

By Senators Ayer, Lyons and Mullin,

H.C.R. 164.

House concurrent resolution honoring former Representative Paul Harrington on his outstanding public policy career.

By Rep. Haas,

By Senators Clarkson, McCormack and Nitka,

H.C.R. 165.

House concurrent resolution congratulating the Bethel Public Library on its125th anniversary.

By Reps. Marcotte and Viens,

By Senators Rodgers and Starr,

H.C.R. 166.

House concurrent resolution honoring Newport City Fire Department members 1st Assistant Chief Phil Laramie, Captain Kevin LaCoss, Lieutenant Andrew Carbine, and Firefighter Ryan Abel on their heroic rescue in Coventry.

By Rep. Yacovone,

H.C.R. 167.

House concurrent resolution honoring Lila M. Richardson on the completion of her distinguished career as a Vermont Legal Aid attorney.

By Reps. Van Wyck and Lanpher,

H.C.R. 168.

House concurrent resolution in memory of Robert Harvey Beach Sr..

By Rep. Ode,

H.C.R. 169.

House concurrent resolution congratulating the 2016 Burlington High School Seahorses Division I championship boys' soccer team.

By Reps. Stevens and others,

By Senators Brooks, Cummings and Pollina,

H.C.R. 170.

House concurrent resolution honoring Sue Duprat on her outstanding varsity athletics coaching and administrative career.

By Reps. Grad and others,

By Senators Brooks, Cummings and Pollina,

H.C.R. 171.

House concurrent resolution congratulating Lisa A.M. Atwood and Amy L. Rex on being named corecipients of the 2017 Robert F. Pierce Secondary School Principal of the Year Award.

By Reps. Grad and others,

By Senators Brooks, Cummings and Pollina,

H.C.R. 172.

House concurrent resolution congratulating Duane Pierson on receiving the 2017 Henry R. Giaguque Vermont Elementary Principal of the Year Award.

By Reps. Higley and Strong,

By Senators Rodgers and Starr,

H.C.R. 173.

House concurrent resolution honoring the extraordinary public service and sacrifice of the Morse family of Jay and congratulating Helen (Sargent) Morse on her 95th birthday.

By Reps. Stevens and others,

By Senators Brooks, Cummings and Pollina,

H.C.R. 174.

House concurrent resolution congratulating the 2017 Harwood Union High School Highlanders State championship boys' alpine skiing team.

By Reps. Brennan and others,

By Senators Collamore, Flory, Mazza and Mullin,

H.C.R. 175.

House concurrent resolution congratulating Vermonters Brennon Crossmon, Jacobi Lafferty, and Ethan Whalen on their outstanding athletic performances at the 2017 Elks Hoop Shoot Finals.

By Reps. Canfield and others,

By Senators Collamore, Flory and Mullin,

H.C.R. 176.

House concurrent resolution commemorating the centennial anniversary of the Fair Haven Grade School.

By Reps. Long and others,

By Senators Balint and White,

H.C.R. 177.

House concurrent resolution congratulating Grace Cottage Hospital on being recognized as one of the nation's top 20 critical access hospitals for patient satisfaction.

By Reps. Beck and others,

By Senators Kitchel, Benning and Branagan,

H.C.R. 178.

House concurrent resolution congratulating St. Johnsbury Academy on its 175th anniversary.

By Reps. Morrissey and others,

By Senators Campion and Sears,

H.C.R. 179.

House concurrent resolution honoring John Miner for his three decades of outstanding leadership in support of Vermont's Vietnam Veterans.

By Reps. Morrissey and others,

By Senators Campion and Sears,

H.C.R. 180.

House concurrent resolution congratulating Mary Ellen Sennett of Bennington on her 100th birthday.

By Reps. Masland and Briglin,

By Senator MacDonald,

H.C.R. 181.

House concurrent resolution congratulating the 2017 Thetford Academy Panthers Division III championship girls' basketball team.

By Reps. Browning and others,

By Senators Campion and Sears,

H.C.R. 182.

House concurrent resolution congratulating Arlington Memorial High School on its receipt of a 2017 U.S. News & World Report Best High School in America Silver Medal.

By Reps. Quimby and others,

By Senators Benning and Kitchel,

H.C.R. 183.

House concurrent resolution congratulating the 2016 St. Johnsbury Babe Ruth League 13-years-of-age State championship baseball team.

By Reps. Quimby and others,

By Senators Benning and Kitchel,

H.C.R. 184.

House concurrent resolution congratulating Lucinda Storz of Kirby on winning her third consecutive Vermont Scripps Spelling Bee championship.

By Reps. Dunn and others,

H.C.R. 185.

House concurrent resolution thanking David and June Keenan of Essex for their generous donation to the State House art collection of a Keith Rocco print depicting the Battle of Cedar Creek.

By Reps. Keefe and others,

By Senators Campion, Sears, Clarkson and Nitka,

H.C.R. 186.

House concurrent resolution in memory of Vermont skiing legend Wendell Cram.

By Reps. Toleno and others,

By Senators Balint and White,

H.C.R. 187.

House concurrent resolution congratulating Stephen Rice on winning the 2016 Arthur Williams Award for Meritorious Service to the Arts.

By Reps. Miller and Morrissey,

By Senators Campion and Sears,

H.C.R. 188.

House concurrent resolution congratulating former Fire Chief Ronald P. Lindsey Sr. on the 50th anniversary of his service with the Shaftsbury Fire Department.

By Reps. Belaski and Bartholomew,

H.C.R. 189.

House concurrent resolution honoring Duane "Buster" Bandy of Windsor for his outstanding municipal public service.

By Reps. Brumsted and others,

By Senators Lyons and Ingram,

H.C.R. 190.

House concurrent resolution honoring Robert Mason for his unique leadership in the Chittenden South Supervisory Union.

Adjournment

On motion of Senator Mazza, the Senate adjourned, to reconvene on Monday, May 8, 2017, at four o'clock in the afternoon.

MONDAY, MAY 8, 2017

The Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 70

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, 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. 233. An act relating to protecting working forests and habitat.

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

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

S. 61. An act relating to offenders with mental illness.

And has concurred therein.

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

H. 59. An act relating to technical corrections.

H. 111. An act relating to vital records.

H. 218. An act relating to the adequate shelter of dogs and cats.

H. 411. An act relating to miscellaneous energy issues.

And has severally concurred therein.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 74. An act relating to domestic and sexual violence.

And has adopted the same on its part.

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. 112. An act relating to creating the Spousal Support and Maintenance Task Force.

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

Rep. Lalonde of South Burlington
Rep. Viens of Newport City
Rep. Jessup of Middlesex

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

H.C.R. 158. House concurrent resolution honoring John Bisbee for his nearly three decades of extraordinary public service as a guardian ad litem.

H.C.R. 159. House concurrent resolution congratulating the Westford School Periodic Pandas on their selection as semifinalists in the FIRSTLEGO League Global Innovation Award competition.

H.C.R. 160. House concurrent resolution congratulating The Bank of Bennington on its 100th anniversary.

H.C.R. 161. House concurrent resolution honoring Summer Stoutes of Tinmouth for her selfless generosity as a kidney donor and congratulating Brent Garrow on his successful transplant surgery recovery and resumption of his firefighting and law enforcement careers.

H.C.R. 162. House concurrent resolution honoring Ron Stahley for his insightful public education leadership.

H.C.R. 163. House concurrent resolution commemorating the 75th anniversary of the U.S. Navy Construction Battalions, the Seabees.

H.C.R. 164. House concurrent resolution honoring former Representative Paul Harrington on his outstanding public policy career.

H.C.R. 165. House concurrent resolution congratulating the Bethel Public Library on its125th anniversary.

H.C.R. 166. House concurrent resolution honoring Newport City Fire Department members 1st Assistant Chief Phil Laramie, Captain Kevin LaCoss, Lieutenant Andrew Carbine, and Firefighter Ryan Abel on their heroic rescue in Coventry.

H.C.R. 167. House concurrent resolution honoring Lila M. Richardson on the completion of her distinguished career as a Vermont Legal Aid attorney.

H.C.R. 168. House concurrent resolution in memory of Robert Harvey Beach Sr..

H.C.R. 169. House concurrent resolution congratulating the 2016 Burlington High School Seahorses Division I championship boys' soccer team.

H.C.R. 170. House concurrent resolution honoring Sue Duprat on her outstanding varsity athletics coaching and administrative career.

H.C.R. 171. House concurrent resolution congratulating Lisa A.M. Atwood and Amy L. Rex on being named corecipients of the 2017 Robert F. Pierce Secondary School Principal of the Year Award.

H.C.R. 172. House concurrent resolution congratulating Duane Pierson on receiving the 2017 Henry R. Giaguque Vermont Elementary Principal of the Year Award.

H.C.R. 173. House concurrent resolution honoring the extraordinary public service and sacrifice of the Morse family of Jay and congratulating Helen (Sargent) Morse on her 95th birthday.

H.C.R. 174. House concurrent resolution congratulating the 2017 Harwood Union High School Highlanders State championship boys' alpine skiing team.

H.C.R. 175. House concurrent resolution congratulating Vermonters Brennon Crossmon, Jacobi Lafferty, and Ethan Whalen on their outstanding athletic performances at the 2017 Elks Hoop Shoot Finals.

H.C.R. 176. House concurrent resolution commemorating the centennial anniversary of the Fair Haven Grade School.

H.C.R. 177. House concurrent resolution congratulating Grace Cottage Hospital on being recognized as one of the nation's top 20 critical access hospitals for patient satisfaction.

H.C.R. 178. House concurrent resolution congratulating St. Johnsbury Academy on its 175th anniversary.

H.C.R. 179. House concurrent resolution honoring John Miner for his three decades of outstanding leadership in support of Vermont's Vietnam Veterans.

H.C.R. 180. House concurrent resolution congratulating Mary Ellen Sennett of Bennington on her 100th birthday.

H.C.R. 181. House concurrent resolution congratulating the 2017 Thetford Academy Panthers Division III championship girls' basketball team.

H.C.R. 182. House concurrent resolution congratulating Arlington Memorial High School on its receipt of a 2017 U.S. News & World Report Best High School in America Silver Medal.

H.C.R. 183. House concurrent resolution congratulating the 2016 St. Johnsbury Babe Ruth League 13-years-of-age State championship baseball team.

H.C.R. 184. House concurrent resolution congratulating Lucinda Storz of Kirby on winning her third consecutive Vermont Scripps Spelling Bee championship.

H.C.R. 185. House concurrent resolution thanking David and June Keenan of Essex for their generous donation to the State House art collection of a Keith Rocco print depicting the Battle of Cedar Creek.

H.C.R. 186. House concurrent resolution in memory of Vermont skiing legend Wendell Cram.

H.C.R. 187. House concurrent resolution congratulating Stephen Rice on winning the 2016 Arthur Williams Award for Meritorious Service to the Arts.

H.C.R. 188. House concurrent resolution congratulating former Fire Chief Ronald P. Lindsey Sr. on the 50th anniversary of his service with the Shaftsbury Fire Department.

H.C.R. 189. House concurrent resolution honoring Duane "Buster" Bandy of Windsor for his outstanding municipal public service.

H.C.R. 190. House concurrent resolution honoring Robert Mason for his unique leadership in the Chittenden South Supervisory Union.

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

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

S.C.R. 14. Senate concurrent resolution recognizing the establishment of the Coolidge Scholars Program and congratulating the first class of Coolidge Scholars.

S.C.R. 15. Senate concurrent resolution designating October 16, 2017 as John Brown Day in Vermont.

And has adopted the same in concurrence.

Message from the House No. 71

A message was received from the House of Representatives by Ms. Melissa Kucserik, its First 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. 103. An act relating to the regulation of toxic substances and hazardous materials.

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 the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 508. An act relating to building resilience for individuals experiencing adverse childhood experiences.

And has adopted the same on its part.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 513. An act relating to making miscellaneous changes to education law.

And has adopted the same on its part.

Adjournment

On motion of Senator Kitchel, the Senate adjourned until ten o'clock in the morning on Wednesday, May 10, 2017.

WEDNESDAY, MAY 10, 2017

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.

Bill Referred

House bill of the following title was read the first time and referred:

H. 233.

An act relating to protecting working forests and habitat.

To the Committee on Rules.

Bill Passed in Concurrence with Proposal of Amendment

H. 143.

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

An act relating to automobile insurance requirements and transportation network companies.

Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 503.

Senator Sears, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

H. 503. An act relating to bail.

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

* * * Release Prior to Trial * * *

Sec. 1. 13 V.S.A. § 7551 is amended to read:

§ 7551. APPEARANCE BONDS; GENERALLY

(a) A bond given by a person charged with a criminal offense or by a witness in a criminal prosecution under section 6605 of this title, conditioned for the appearance of the person or witness before the court in cases where the offense is punishable by fine or imprisonment, and in appealed cases, shall be taken to the ~~district or superior court~~ Criminal Division of the Superior Court where the prosecution is pending, and shall remain binding upon parties until discharged by the court or until sentencing. The person or witness shall appear at all required court proceedings.

(b) No bond may be imposed at the initial appearance of a person charged with a misdemeanor if the person was cited for the offense in accordance with Rule 3 of the Vermont Rules of Criminal Procedure. This subsection shall not be construed to restrict the court's ability to impose conditions on such persons to reasonably ensure his or her appearance at future proceedings or to reasonably protect the public in accordance with section 7554 of this title.

Sec. 2. 28 V.S.A. § 301 is amended to read:

§ 301. SUMMONS OR ARREST OF PROBATIONER

* * *

(2) Arrest or citation of person on probation. Any correctional officer may arrest a probationer without a warrant if, in the judgment of the correctional officer, the probationer has violated a condition or conditions of

his or her probation other than a condition that the probationer pay restitution; or may deputize any other law enforcement officer to arrest a probationer without a warrant by giving him or her a written statement setting forth that the probationer has, in the judgment of the correctional officer, violated a condition or conditions of his or her probation other than a condition that the probationer pay restitution. The written statement delivered with the person by the arresting officer to the supervising officer of the correctional facility to which the person is brought for detention shall be sufficient warrant for detaining him or her. In lieu of arrest, a correctional officer may issue a probationer a citation to appear for arraignment. In deciding whether to arrest or issue a citation, an officer shall consider whether issuance of a citation will reasonably ensure the probationer's appearance at future proceedings and reasonably protect the public.

* * *

(4) Detention pending hearing for probationer. Pending arraignment for any charge of violation, the probationer shall ~~continue~~ to be detained at a correctional facility unless issued a citation by a correctional officer. Thereafter, the court may release the probationer pursuant to 13 V.S.A. § 7554. There shall be no right to bail or release, unless the person is on probation for a nonviolent misdemeanor or nonviolent felony ~~and the probation violation did not constitute a new crime~~.

(5)(A) At arraignment, if the court finds that bail or conditions of release will reasonably ensure the probationer's appearance at future proceedings and conditions of release will reasonably protect the public, the court shall release a probationer who is on probation for a nonviolent misdemeanor or nonviolent felony pursuant to 13 V.S.A. § 7554.

(B) As used in this ~~subdivision~~ section:

~~(A)~~(i) "Nonviolent felony" means a felony offense ~~which~~ that is not a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

~~(B)~~(ii) "Nonviolent misdemeanor" means a misdemeanor offense ~~which~~ that is not a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64 or 13 V.S.A. § 1030.

Sec. 3. PRETRIAL COMMUNICATIONS RECOMMENDATIONS

The Court Administrator, the Department of State's Attorneys and Sheriffs, the Office of the Defender General, and the Vermont Chapter of the American Civil Liberties Union shall work together and with other interested parties to examine options for facilitating pretrial communication between the courts and

defendants with a goal of reducing the risk of nonappearance by defendants. The parties jointly shall provide options and costs of such options to the Joint Committee on Justice Oversight on or before October 15, 2017.

* * * Regulated Drugs * * *

Sec. 4. 18 V.S.A. § 4233a is added to read:

§ 4233a. FENTANYL

(a) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing fentanyl shall be imprisoned not more than three years or fined not more than $75,000.00, or both. A person knowingly and unlawfully selling fentanyl shall be imprisoned not more than five years or fined not more than $100,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of four milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 10 years or fined not more than $250,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of 20 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 20 years or fined not more than $1,000,000.00, or both.

(4) In lieu of a charge under this subsection, but in addition to any other penalties provided by law, a person knowingly and unlawfully selling or dispensing any regulated drug containing a detectable amount of fentanyl shall be imprisoned not more than five years or fined not more than $250,000.00, or both.

(b) Trafficking. A person knowingly and unlawfully possessing fentanyl in an amount consisting of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl with the intent to sell or dispense the fentanyl shall be imprisoned not more than 30 years or fined not more than $1,000,000.00, or both. There shall be a permissive inference that a person who possesses fentanyl in an amount of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl intends to sell or dispense the fentanyl. The amount of possessed fentanyl under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be not less than 70 milligrams in the aggregate.

(c) Transportation into the State. In addition to any other penalties provided by law, a person knowingly and unlawfully transporting more than 20 milligrams of fentanyl into Vermont with the intent to sell or dispense the fentanyl shall be imprisoned not more than 10 years or fined not more than $100,000.00, or both.

Sec. 5. 18 V.S.A. § 4234 is amended to read:

§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

* * *

(b) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be imprisoned not more than three years or fined not more than $75,000.00, or both. A person knowingly and unlawfully selling a depressant, stimulant, or narcotic drug, other than fentanyl, cocaine, or heroin, shall be imprisoned not more than five years or fined not more than $25,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 100 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than 10 years or fined not more than $100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 1,000 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than 20 years or fined not more than $500,000.00, or both.

Sec. 6. 13 V.S.A. § 1404 is amended to read:

§ 1404. CONSPIRACY

(a) A person is guilty of conspiracy if, with the purpose that an offense listed in subsection (c) of this section be committed, that person agrees with one or more persons to commit or cause the commission of that offense, and at least two of the co-conspirators are persons who are neither law enforcement officials acting in official capacity nor persons acting in cooperation with a law enforcement official.

(b) No person shall be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done by the defendant or by a co-conspirator, other than a law enforcement official acting in an official capacity or a person acting in cooperation with a law enforcement official, and subsequent to the defendant's entrance into the conspiracy. Speech alone may not constitute an overt act.

(c) This section applies only to a conspiracy to commit or cause the commission of one or more of the following offenses:

(1) murder in the first or second degree;

(2) arson under sections 501-504 and 506 of this title;

(3) sexual exploitation of children under sections 2822, 2823, and 2824 of this title;

(4) receiving stolen property under sections 2561-2564 of this title; or

(5) an offense involving the sale, delivery, manufacture, or cultivation of a regulated drug or an offense under:

(A) 18 V.S.A. § 4230(c), relating to trafficking in marijuana;

(B) 18 V.S.A. § 4231(c), relating to trafficking in cocaine;

(C) 18 V.S.A. § 4233(c), relating to trafficking in heroin;

(D) 18 V.S.A. § 4234(b)(3), relating to unlawful selling or dispensing of a depressant, stimulant, or narcotic drug, other than fentanyl, heroin or cocaine; ~~or~~

(E) 18 V.S.A. § 4234a(c), relating to trafficking in methamphetamine; or

(F) 18 V.S.A. § 4233a(c), relating to trafficking in fentanyl.

Sec. 7. 18 V.S.A. § 4234b is amended to read:

§ 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

* * *

(c) Electronic registry system.

(1)(A) Retail establishments shall use an electronic registry system to record the sale of products made pursuant to subsection (b) of this section. The electronic registry system shall have the capacity to block a sale of nonprescription drug products containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base that would result in a purchaser exceeding the lawful daily or monthly amount. The system shall contain an override function that may be used by an agent of a retail establishment who is dispensing the drug product and who has a reasonable fear of imminent bodily harm to his or her person or to another person if the transaction is not completed. The system shall create a record of each use of the override mechanism.

(B) The electronic registry system shall be available free of charge to the State of Vermont, retail establishments, and local law enforcement agencies.

(C) The electronic registry system shall operate in real time to enable communication among in-state users and users of similar systems in neighboring states.

(D) The State shall use the National Precursor Log Exchange (NPLEx) online portal or its equivalent to host Vermont's electronic registry system.

(2)(A) Prior to completing a sale under subsection (b) of this section, a retail establishment shall require the person purchasing the drug product to present a current, valid government-issued identification document. The retail establishment shall record in the electronic registry system:

(i) the name and address of the purchaser;

(ii) the name of the drug product and quantity of ephedrine, pseudoephedrine, and phenylpropanolamine base sold in grams;

(iii) the date and time of purchase;

(iv) the form of identification presented, the issuing government entity, and the corresponding identification number; and

(v) the name of the person selling or furnishing the drug product.

(B)(i) If the retail establishment experiences an electronic or mechanical failure of the electronic registry system and is unable to comply with the electronic recording requirement, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until the retail establishment is able to comply fully with this subsection (c).

(ii) If the region of the State where the retail establishment is located does not have broadband Internet access, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until broadband Internet access becomes accessible in that region. At that time, the retail establishment shall come into compliance with this subsection (c).

(C) A retail establishment shall maintain all records of drug product purchases made pursuant to this subsection (c) for a minimum of two years.

(3) A retail establishment shall display a sign at the register provided by NPLEx or its equivalent to notify purchasers of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine base that:

(A) the purchase of the drug product or products shall result in the purchaser's identity being listed on a national database; and

(B) the purchaser has the right to request the transaction number for any purchase that was denied pursuant to this subsection (c).

(4) Except as provided in subdivision (5) of this subsection (c), a person or retail establishment that violates this subsection shall:

(A) for a first violation be assessed a civil penalty of not more than $100.00; and

(B) for a second or subsequent violation be assessed a civil penalty of not more than $500.00.

(d) This section shall not apply to a manufacturer ~~which~~ that has obtained an exemption from the Attorney General of the United States under Section 711(d) of the federal Combat Methamphetamine Epidemic Act of 2005.

(e) As used in this section:

(1) "Distributor" means a person, other than a manufacturer or wholesaler, ~~who~~ that sells, delivers, transfers, or in any manner furnishes a drug product to any person ~~who~~ that is not the ultimate user or consumer of the product.

(2) "Knowingly" means having actual knowledge of the relevant facts.

(3) "Manufacturer" means a person ~~who~~ that produces, compounds, packages, or in any manner initially prepares a drug product for sale or use.

(4) "Wholesaler" means a person, other than a manufacturer, ~~who~~ that sells, transfers, or in any manner furnishes a drug product to any other person for the purpose of being resold.

Sec. 8. USE OF U.S. FOOD AND DRUG ADMINISTRATION-APPROVED DRUGS CONTAINING CANNABIDIOL

(a) Upon approval by the U.S. Food and Drug Administration (FDA) of one or more prescription drugs containing cannabidiol, the following activities shall be lawful in Vermont:

(1) the clinically appropriate prescription for a patient of an FDA-approved prescription drug containing cannabidiol by a health care provider licensed to prescribe medications in this State and acting within his or her authorized scope of practice;

(2) the dispensing, pursuant to a valid prescription, of an FDA-approved prescription drug containing cannabidiol to a patient or a patient's authorized representative by a pharmacist or by another health care provider licensed to dispense medications in this State and acting within his or her authorized scope of practice;

(3) the possession and transportation of an FDA-approved prescription drug containing cannabidiol by a patient to whom a valid prescription was issued or by the patient's authorized representative;

(4) the possession and transportation of an FDA-approved prescription drug containing cannabidiol by a licensed pharmacy or wholesaler in order to facilitate the appropriate dispensing and use of the drug; and

(5) the use of an FDA-approved prescription drug containing cannabidiol by a patient to whom a valid prescription was issued, provided the patient uses the drug only for legitimate medical purposes in conformity with instructions from the prescriber and dispenser.

(b) Upon approval by the U.S. Food and Drug Administration of one or more prescription drugs containing cannabidiol, the Department of Health shall amend its rules to conform to the provisions of subsection (a) of this section.

* * * Impaired Driving * * *

Sec. 9. 23 V.S.A. § 1202 is amended to read:

§ 1202. CONSENT TO TAKING OF TESTS TO DETERMINE BLOOD ALCOHOL CONTENT OR PRESENCE OF OTHER DRUG

(a)(1) Implied consent. Every person who operates, attempts to operate, or is in actual physical control of any vehicle on a highway in this State is deemed to have given consent to an evidentiary test of that person's breath for the purpose of determining the person's alcohol concentration or the presence of other drug in the blood. The test shall be administered at the direction of a law enforcement officer.

(2) Blood test. If breath testing equipment is not reasonably available or if the officer has reason to believe that the person is unable to give a sufficient sample of breath for testing or if the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, the person is deemed to have given consent to the taking of an evidentiary sample of blood. If in the officer's opinion the person is incapable of decision or unconscious or dead, it is deemed that the person's consent is given and a sample of blood shall be taken. A blood test sought pursuant to this subdivision (2) shall be obtained pursuant to subsection (f) of this section.

(3) Evidentiary test. The evidentiary test shall be required of a person when a law enforcement officer has reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title.

(4) Fatal collision or incident resulting in serious bodily injury. The evidentiary test shall also be required if the person is the surviving operator of a motor vehicle involved in a fatal incident or collision or an incident or collision resulting in serious bodily injury and the law enforcement officer has reasonable grounds to believe that the person has any amount of alcohol or other drug in his or her system.

(b) ~~If the person refuses to submit to an evidentiary test it shall not be given, except as provided in subsection (f) of this section, but the~~ A refusal to take a breath test may be introduced as evidence in a criminal proceeding.

* * *

(f) If a blood test is sought from a person pursuant to subdivision (a)(2) of this section, or if a person who has been involved in an accident or collision resulting in serious bodily injury or death to another refuses an evidentiary test, a law enforcement officer may apply for a search warrant pursuant to Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of blood for an evidentiary test. If a blood sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test. Once a law enforcement official begins the application process for a search warrant, the law enforcement official is not obligated to discontinue the process even if the person later agrees to provide an evidentiary breath sample. The limitation created by Rule 41(g) of the Vermont Rules of Criminal Procedure regarding blood specimens shall not apply to search warrants authorized by this section.

* * *

* * * Humane and Proper Treatment of Animals * * *

Sec. 10. 13 V.S.A. chapter 8 is amended to read:

CHAPTER 8. HUMANE AND PROPER TREATMENT OF ANIMALS

Subchapter 1. Cruelty to Animals

§ 351. DEFINITIONS

As used in this chapter:

(1) "Animal" means all living sentient creatures, not human beings.

* * *

(19) "Sexual conduct" means:

(A) any act between a person and animal that involves contact between the mouth, sex organ, or anus of a person and the mouth, sex organ, or anus of an animal; or

(B) without a bona fide veterinary or animal husbandry purpose, the insertion, however slight, of any part of a person's body or of any instrument, apparatus, or other object into the vaginal or anal opening of an animal.

* * *

§ 352. CRUELTY TO ANIMALS

A person commits the crime of cruelty to animals if the person:

(1) intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner;

(2) overworks, overloads, tortures, torments, abandons, administers poison to, cruelly beats or mutilates an animal, or exposes a poison with intent that it be taken by an animal;

* * *

(10) uses a live animal as bait or lure in a race, game, or contest, or in training animals in a manner inconsistent with 10 V.S.A. Part 4 ~~of Title 10~~ or the rules adopted thereunder;

(11)(A) engages in sexual conduct with an animal;

(B) possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent that it be used for sexual conduct;

(C) organizes, promotes, conducts, aids, abets, or participates in as an observer an act involving any sexual conduct with an animal;

(D) causes, aids, or abets another person to engage in sexual conduct with an animal;

(E) permits sexual conduct with an animal to be conducted on premises under his or her charge or control; or

(F) advertises, offers, or accepts the offer of an animal with the intent that it be subject to sexual conduct in this State.

§ 352a. AGGRAVATED CRUELTY TO ANIMALS

A person commits the crime of aggravated cruelty to animals if the person:

(1) kills an animal by intentionally causing the animal undue pain or suffering;

(2) intentionally, maliciously, and without just cause tortures, mutilates, or cruelly beats an animal; or

(3) intentionally injures or kills an animal that is in the performance of official duties while under the supervision of a law enforcement officer.

* * *

§ 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

(a) Penalties.

(1) Except as provided in subdivision (3) ~~or,~~ (4), or (5) 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~~ five 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~~ ten years or a fine of not more than $7,500.00, or both.

* * *

(5) A person who violates subdivision 352(1) of this title by intentionally killing or attempting to kill an animal belonging to another or subdivision 352(2) of this title by torturing, administering poison to, or cruelly beating or mutilating an animal shall be imprisoned not more than two years or fined not more than $5,000.00, or both.

* * *

* * * Electronic Monitoring * * *

Sec. 11. 13 V.S.A. § 7554b is amended to read:

§ 7554b. HOME DETENTION PROGRAM

(a) Definition. As used in this section, "home detention" means a program of confinement and supervision that restricts a defendant to a preapproved residence continuously, except for authorized absences, and is enforced by appropriate means of surveillance and electronic monitoring by the Department of Corrections. The court may authorize scheduled absences such as work, school, or treatment. Any changes in the schedule shall be solely at the discretion of the Department of Corrections. A defendant who is on home detention shall remain in the custody of the Commissioner of Corrections with conditions set by the ~~Court~~ court.

(b) Procedure. ~~The~~ At the request of the court, the Department of Corrections, or the defendant, the status of a defendant who is detained pretrial ~~for more than seven days~~ in a correctional facility for lack of bail may be reviewed by the ~~Court~~ court to determine whether the defendant is appropriate for home detention. ~~The request for review may be made by either the Department of Corrections or the defendant. After~~ At arraignment or after a hearing, the court may order that the defendant be released to the Home Detention Program, providing that the ~~Court~~ court finds placing the defendant on home detention will reasonably assure his or her appearance in ~~Court~~ court

when required and the proposed residence is appropriate for home detention. In making such a determination, the court shall consider:

* * *

(d) Credit for time served. A defendant shall receive credit for a sentence of imprisonment for time served in the Home Detention Program.

Sec. 12. ELECTRONIC MONITORING

(a) The Commissioner of Corrections shall establish an active electronic monitoring program with real-time enforcement. The Commissioner of Corrections, in consultation with the Department of State's Attorneys and Sheriffs, may contract with a third party to implement the program.

(b) The Electronic Monitoring Program described in subsection (a) of this section may be used to monitor, in lieu of incarcerating in a facility, the following populations:

(1) offenders in the custody of the Commissioner who are eligible for the Home Detention Program described in 13 V.S.A. § 7554b; and

(2) offenders in the custody of the Commissioner, including the following target populations:

(A) offenders who are eligible for home confinement furlough, as described in 28 V.S.A. § 808b;

(B) offenders who are past their minimum sentence and are deemed appropriate for the Program by the Commissioner of Corrections; or

(C) offenders who are eligible for reintegration furlough, as described in 28 V.S.A. § 808c.

(c) An offender shall only be eligible for the Electronic Monitoring Program described in subsection (a) of this section if electronic monitoring equipment is fully functional in the geographic area where the offender will be located.

Sec. 13. EFFECTIVE DATES

This section and Secs. 7 (ephedrine and pseudoephedrine), 9 (impaired driving), and 12 (electronic monitoring) shall take effect on passage. The remaining sections shall take effect on July 1, 2017.

And that after passage the title of the bill be amended to read:

An act relating to criminal justice.

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

Committee on the part of the Senate

MARTIN J. LALONDE
CHARLES W. CONQUEST
CHARLES H. SHAW

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

House Proposal of Amendment Concurred In

S. 131.

House proposal of amendment to Senate bill entitled:

An act relating to State's Attorneys and sheriffs.

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:

* * * Retirement and Benefits * * *

Sec. 1. 3 V.S.A. § 455 is amended to read:

§ 455. DEFINITIONS

(a) As used in this subchapter:

* * *

(9) "Employee" shall mean:

(A) Any regular officer or employee of the Vermont Historical Society or ~~in~~ a department other than a person included under subdivision (B) of this subdivision (9), who is employed for not less than 40 calendar weeks in a year. "Employee" includes deputy State's Attorneys, victim advocates employed by a State's Attorney pursuant to 13 V.S.A. § 5306, secretaries employed by a State's Attorney pursuant to 32 V.S.A. § 1185, and other positions created within the State's Attorneys' offices that meet the eligibility requirements for membership in the Retirement System.

(B) Any regular officer or employee of the Department of Public Safety assigned to police and law enforcement duties, including the Commissioner of Public Safety appointed before July 1, 2001; but, irrespective of the member's classification, shall not include any member of the General

Assembly as such, any person who is covered by the Vermont Teachers' Retirement System, any person engaged under retainer or special agreement or C beneficiary employed by the Department of Public Safety for not more than 208 hours per year, or any person whose principal source of income is other than State employment. In all cases of doubt, the Retirement Board shall determine whether any person is an employee as defined in this subchapter. Also included under this subdivision are employees of the Department of Liquor Control who exercise law enforcement powers, employees of the Department of Fish and Wildlife assigned to law enforcement duties, motor vehicle inspectors, full-time deputy sheriffs compensated by the State of Vermont whose primary function is transports, full-time members of the Capitol Police force, investigators employed by the Criminal Division of the Office of the Attorney General, Department of State's Attorneys, Department of Health, or Office of the Secretary of State, who have attained Level III law enforcement officer certification from the Vermont Criminal Justice Training Council, who are required to perform law enforcement duties as the primary function of their employment, and who may be subject to mandatory retirement permissible under 29 U.S.C. § 623(j), who are first included in membership of the system on or after July 1, 2000. Also included under this subdivision are full-time firefighters employed by the State of Vermont and the Defender General.

* * *

Sec. 2. 3 V.S.A. § 631 is amended to read:

§ 631. GROUP INSURANCE FOR STATE EMPLOYEES; SALARY DEDUCTIONS FOR INSURANCE, SAVINGS PLANS, AND CREDIT UNIONS

(a)(1) The Secretary of Administration may contract on behalf of the State with any insurance company or nonprofit association doing business in this State to secure the benefits of franchise or group insurance. Beginning July 1, 1978, the terms of coverage under the policy shall be determined under section 904 of this title, but it may include:

* * *

(2)(A)(i) ~~The~~ As used in this section, the term "employees" ~~as used in this section shall include among others~~ includes any class or classes of elected or appointed officials, ~~but it~~ State's Attorneys, sheriffs, employees of State's Attorney's offices whose compensation is administered through the State of Vermont payroll system, except contractual and temporary employees, and deputy sheriffs paid by the State of Vermont pursuant to 24 V.S.A. § 290(b). The term "employees" shall not include members of the General Assembly as such, ~~nor shall it include~~ any person rendering service on a retainer or fee

basis, members of boards or commissions, or persons other than employees of the Vermont Historical Society, the Vermont Film Corporation, the Vermont State Employees' Credit Union, Vermont State Employees' Association, and the Vermont Council on the Arts, whose compensation for service is not paid from the State Treasury, ~~nor shall it include~~ or any elected or appointed official unless the official is actively engaged in and devoting substantially full-time to the conduct of the business of his or her public office.

(ii) For purposes of group hospital-surgical-medical expense insurance, the term "employees" shall include employees as defined in subdivision (i) of this subdivision (2)(A) and former employees as defined in this subdivision who are retired and are receiving a retirement allowance from the Vermont State Retirement System or the State Teachers' Retirement System of Vermont and, for the purposes of group life insurance only, are retired on or after July 1, 1961, and have completed 20 creditable years of service with the State before their retirement dates and are insured for group life insurance on their retirement dates.

(iii) For purposes of group hospital-surgical-medical expense insurance only, the term "employees" shall include employees as defined in subdivision (i) of this subdivision (2)(A) and employees who are receiving a retirement allowance based upon their employment with the Vermont State Employees' Association, the Vermont State Employees' Credit Union, the Vermont Council on the Arts, as long as they are covered as active employees on their retirement date, and:

~~(i)~~(I) they have at least 20 years of service with that employer; or

~~(ii)~~(II) have attained 62 years of age, and have at least 15 years of service with that employer.

* * *

* * * Collective Bargaining * * *

Sec. 3. 3 V.S.A. § 902 is amended to read:

§ 902. DEFINITIONS

As used in this chapter:

* * *

(2) "Collective bargaining~~,~~" or "bargaining collectively" means the process of negotiating terms, tenure, or conditions of employment between the State of Vermont, the Vermont State Colleges, ~~or~~ the University of Vermont, or the Department of State's Attorneys and Sheriffs and representatives of employees with the intent to arrive at an agreement ~~which~~ that, when reached, shall be reduced to writing.

* * *

(5) "State employee" means any individual employed on a permanent or limited status basis by the State of Vermont, the Vermont State Colleges, ~~or~~ the University of Vermont, or the State's Attorneys' offices, including permanent part-time employees, and an individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, but excluding an individual:

(A) exempt or excluded from the State classified service under the provisions of section 311 of this title, except that the State Police in the Department of Public Safety~~, and~~; employees of the Defender General, excluding attorneys employed directly by the Defender General and attorneys contracted to provide legal services; deputy State's Attorneys; and employees of State's Attorneys' offices are included within the meaning of "State employee";

* * *

(7) "Employer" means the State of Vermont, excluding the Legislative and Judiciary Departments, represented by the Governor or ~~the Governor's~~ designee, the Office of the Defender General represented by the Defender General or ~~the Defender General's~~ designee, ~~and~~ Vermont State Colleges~~,~~ represented by the Chancellor or ~~the Chancellor's~~ designee, and the University of Vermont~~,~~ represented by the President or ~~the President's~~ designee. With respect to employees of State's Attorneys' offices, "employer" means the Department of State's Attorneys and Sheriffs represented by the Executive Director or designee.

* * *

(10) "Person~~,~~" includes one or more individuals, the State of Vermont, Vermont State Colleges, University of Vermont, Department of State's Attorneys and Sheriffs, employee organizations, labor organizations, partnerships, corporations, legal representatives, trustees, or any other natural or legal entity whatsoever.

* * *

Sec. 4. 3 V.S.A. § 904 is amended to read:

§ 904. SUBJECTS FOR BARGAINING

(a) All matters relating to the relationship between the employer and employees shall be the subject of collective bargaining except those matters ~~which~~ that are prescribed or controlled by statute. ~~Such~~ The matters appropriate for collective bargaining to the extent they are not prescribed or controlled by statute include:

(1) wages, salaries, benefits, and reimbursement practices relating to necessary expenses and the limits of reimbursable expenses;

(2) minimum hours per week;

(3) working conditions;

(4) overtime compensation and related matters;

(5) leave compensation and related matters;

(6) reduction-in-force procedures;

(7) grievance procedures, including whether an appeal to the Vermont Labor Relations Board or binding arbitration, or both, will constitute the final step in a grievance procedure;

(8) terms of coverage and amount of employee financial participation in insurance programs, except that the Department of State's Attorneys and Sheriffs and the deputy State's Attorneys and other employees of the State's Attorneys' offices shall not bargain in relation to terms of coverage;

(9) rules ~~and regulations~~ for personnel administration, except the following: rules ~~and regulations~~ relating to persons exempt from the classified service under section 311 of this title and rules ~~and regulations~~ relating to applicants for employment in State service and employees in an initial probationary status, including any extension or extensions thereof, provided ~~such~~ the rules ~~and regulations~~ are not discriminatory by reason of an applicant's race, color, creed, sex, ~~or~~ national origin, sexual orientation, gender identity, ancestry, place of birth, age, or physical or mental condition; and

(10) the manner in which to enforce an employee's obligation to pay the collective bargaining service fee.

(b) This chapter shall not be construed to be in derogation of~~,~~ or contravene the spirit and intent of the merit system principles and the personnel laws.

Sec. 5. 3 V.S.A. § 905 is amended to read:

§ 905. MANAGEMENT RIGHTS

(a) The Governor~~,~~ or ~~a person or persons designated by the Governor,~~ designee for the State of Vermont, ~~and~~ the ~~provost,~~ Chancellor or ~~a person or persons designated by the provost~~ designee for Vermont State Colleges ~~and~~, the President~~,~~ or ~~a person or persons designated by the President~~ designee for the University of Vermont, and the Executive Director or designee for the Department of State's Attorneys and Sheriffs shall act as the employer representatives in collective bargaining negotiations and administration. The representative shall be responsible for ~~insuring~~ ensuring consistency in the terms and conditions in various agreements throughout the State service~~,~~

~~insuring~~ and ensuring compatibility with merit system statutes and principles~~,~~ and shall not agree to any terms or conditions for which there are not adequate funds available.

* * *

Sec. 6. 3 V.S.A. § 906 is added to read:

§ 906. DESIGNATION OF MANAGERIAL, SUPERVISORY, AND CONFIDENTIAL EMPLOYEES

(a) The Commissioner of Human Resources shall determine those positions in the classified service whose incumbents the Commissioner believes should be designated as managerial, supervisory, or confidential employees. Any disputes arising ~~therefrom~~ from the determination shall be finally resolved by the Board.

(b) The Executive Director of the Department of State's Attorneys and Sheriffs may determine positions in the State's Attorneys' offices whose incumbents the Executive Director believes should be designated as managerial, supervisory, or confidential employees. Any disputes arising from the determination shall be finally resolved by the Board.

Sec. 7. 3 V.S.A. § 908 is added to read:

§ 908. DESIGNATION OF STATE'S ATTORNEYS' EMPLOYEES; STATEWIDE BARGAINING RIGHTS

Employees of the State's Attorney's offices shall be part of one or more statewide bargaining units, as determined to be appropriate by the Board pursuant to sections 927 and 941 of this title, for the purpose of bargaining collectively pursuant to this chapter.

Sec. 8. 3 V.S.A. § 925 is amended to read:

§ 925. MEDIATION; FACT FINDING

* * *

(k) In the case of the State of Vermont or the Department of State's Attorneys and Sheriffs, the decision of the Board shall be final, and the terms of the chosen agreement shall be binding on each party, subject to appropriations in accordance with subsection 982(d) of this title. In the case of the University of Vermont or the Vermont State Colleges, the decision of the Board shall be final and binding on each party.

* * *

Sec. 9. 3 V.S.A. § 982 is amended to read:

§ 982. AGREEMENTS; LIMITATIONS, RENEGOTIATION, AND RENEWAL

* * *

(c)(1) Except in the case of the Vermont State Colleges or the University of Vermont, agreements between the State and certified bargaining units ~~which~~ that are not arrived at under the provisions of subsection 925(i) of this title shall, after ratification by the appropriate unit memberships, be submitted to the Governor who shall request sufficient funds from the General Assembly to implement the agreement. If the General Assembly appropriates sufficient funds, the agreement shall become effective at the beginning of the next fiscal year. If the General Assembly appropriates a different amount of funds, the terms of the agreement affected by that appropriation shall be renegotiated based on the amount of funds actually appropriated by the General Assembly, and the agreement with the negotiated changes shall become effective at the beginning of the next fiscal year.

(2)(A) Agreements between the Department of State's Attorneys and Sheriffs and the certified bargaining units that are not arrived at under the provisions of subsection 925(i) of this title shall, after ratification by the appropriate unit memberships, be submitted to the Governor and the General Assembly.

(B) The Executive Director of the Department of State's Attorneys and Sheriffs shall request sufficient funds from the General Assembly to implement the agreement. If the General Assembly appropriates sufficient funds, the agreement shall become effective at the beginning of the next fiscal year. If the General Assembly appropriates a different amount of funds, the terms of the agreement affected by that appropriation shall be renegotiated based on the amount of funds actually appropriated by the General Assembly, and the agreement with the negotiated changes shall become effective at the beginning of the next fiscal year.

* * *

(g) In the event the State of Vermont, the Department of State's Attorneys and Sheriffs, the University of Vermont, and the Vermont State Colleges as employer and the collective bargaining unit are unable to arrive at an agreement and there is not an existing agreement in effect, the existing contract shall remain in force until a new contract is ratified by the parties. However, nothing in this subsection shall prohibit the parties from agreeing to a modification of certain provisions of the existing contract which, as amended, shall remain in effect until a new contract is ratified by the parties.

* * *

Sec. 10. 13 V.S.A. § 5306 is amended to read:

§ 5306. VICTIM ADVOCATES

In order to carry out the provisions of the victims assistance program, ~~state's attorneys~~ State's Attorneys are authorized to hire victim advocates who shall serve at their pleasure unless otherwise modified by a collective bargaining agreement entered into pursuant to 3 V.S.A. chapter 27. Nothing in this section shall be construed to limit the subjects for bargaining pursuant to 3 V.S.A. § 904.

Sec. 11. 32 V.S.A. § 1185 is amended to read:

§ 1185. OFFICE EXPENSES

* * *

(b)(1) Secretaries shall be hired by and shall serve at the pleasure of the State's Attorney unless otherwise modified by a collective bargaining agreement entered into pursuant to 3 V.S.A. chapter 27. Secretaries shall be State employees paid by the State, and shall receive those benefits available to other classified State employees who are similarly situated but they shall not be subject to the rules provided for under 3 V.S.A. chapter 13. The compensation of each Secretary shall be determined by the Commissioner of Human Resources with the approval of the Governor unless otherwise determined through collective bargaining pursuant to 3 V.S.A. chapter 27. In fixing compensation, there shall be taken into consideration, among other things, the volume of work requiring the services of the Secretary and whether the services are on a full- or part-time basis.

(2) Nothing in this subsection shall be construed to limit the subjects for bargaining pursuant to 3 V.S.A. § 904.

Sec. 12. 24 V.S.A. § 363 is amended to read:

§ 363. DEPUTY STATE'S ATTORNEYS

(a) A State's Attorney may appoint as many deputy State's Attorneys as necessary for the proper and efficient performance of his or her office~~, and with the approval of the Governor, fix their pay not to exceed that of the State's Attorney making the appointment,~~ and may remove them at pleasure.

(b) The pay for deputy State's Attorneys shall be fixed by the Executive Director of the Department of State's Attorneys and Sheriffs or through collective bargaining pursuant to 3 V.S.A. chapter 27, but it shall not exceed the pay of the State's Attorney making the appointment. Deputy State's Attorneys shall be compensated only for periods of actual performance of the

duties of ~~such~~ the office. Deputy State's Attorneys shall be reimbursed for their necessary expenses incurred in connection with their official duties when approved by the State's Attorneys and the Commissioner of Finance and Management.

(c) Deputy State's Attorneys shall exercise all the powers and duties of the State's Attorneys except the power to designate someone to act in the event of their own disqualification.

(d) Deputy State's Attorneys may not enter upon the duties of the office until they have taken the oath or affirmation of allegiance to the State and the oath of office required by the Constitution, and until ~~such~~ the oath together with their appointment is filed for record with the county clerk. If appointed and under oath, a deputy State's Attorney may prosecute cases in another county if the State's Attorney in the other county files the deputy's appointment in the other county clerk's office. In case of a vacancy in the office of State's Attorney, the appointment of the deputy shall expire upon the appointment of a new State's Attorney.

Sec. 13. 24 V.S.A. § 367 is amended to read:

§ 367. DEPARTMENT OF STATE'S ATTORNEYS AND SHERIFFS

* * *

(c)(1) The Executive Director shall prepare and submit all budgetary and financial materials and forms which are required of the head of a department of State government with respect to all State funds appropriated for all of the Vermont State's Attorneys and sheriffs. At the beginning of each fiscal year, the Executive Director, with the approval of the Executive Committee, shall establish allocations for each of the State's Attorneys' offices from the State's Attorneys' appropriation. Thereafter, the Executive Director shall exercise budgetary control over these allocations and the general appropriation for State's Attorneys. The Executive Director shall monitor the sheriff's transport budget and report to the sheriffs on a monthly basis the status of the budget. He or she shall provide centralized support services for the State's Attorneys and sheriffs with respect to budgetary planning, training, and office management, and perform such other duties as the Executive Committee directs. The Executive Director may employ clerical staff as needed to carry out the functions of the Department.

(2) The Executive Director shall prepare and submit a funding request to the Governor and the General Assembly for the purpose of securing General Fund appropriations for any increased costs related to a collective bargaining agreement and to the Department's contract bargaining and administration.

* * *

Sec. 14. ADJUSTMENT FOR INITIAL CONTRACT

For increased costs related to the initial collective bargaining agreement that the Department of State's Attorneys and Sheriffs enters into pursuant to this act, including the costs of bargaining, implementation, and contract administration, the Department may prepare and submit a funding request to the General Assembly during the budget adjustment process if the timing of the implementation of the agreement does not permit the Department to secure sufficient funding during the regular budgetary process.

Sec. 15. EXISTING BARGAINING UNITS; DECERTIFICATION

On the effective date of this act, the existing bargaining units and the related certifications of an exclusive bargaining representative for the deputy State's Attorneys, victim advocates, and secretaries employed by the Chittenden County State's Attorney and Franklin County State's Attorney shall be dissolved and the members of those bargaining units shall be eligible to organize and bargain collectively under the provisions of the State Employees Labor Relations Act, 3 V.S.A. chapter 27.

* * * Effective Date * * *

Sec. 16. EFFECTIVE DATE

This act shall take effect on passage.

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

Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 9.

Senator Starr, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

S. 9. An act relating to the preparation of poultry products.

Respectfully reports that it has met and considered the same and recommends that the House accede to the Senate proposal of amendment with further amendment thereto as follows:

First: In Sec. 2, 6 V.S.A. § 3312, in subdivision (c)(2)(B), after "may use" and before "plastic sheeting" by striking out "food-grade" and inserting in lieu thereof "heavy duty"

Second: In Sec. 2, 6 V.S.A. § 3312, in subdivision (c)(2), by striking out subdivision (K) in its entirety and inserting in lieu thereof the following:

(K) clothing worn by persons who handle poultry products shall be of material that is cleanable or disposable, and garments shall be cleaned or changed as often as necessary to prevent adulteration of poultry products or the creation of insanitary conditions.

Third: In Sec. 2, 6 V.S.A. § 3312, by adding a subsection (h) to read as follows:

(h) Approved label. Prior to selling poultry products slaughtered pursuant to the exemption in subsection (c) or (d) of this section, a poultry producer shall submit to the Secretary for approval a copy of the label that the poultry producer proposes to use for compliance with the requirements of subsection (e) of this section.

ROBERT A. STARR
FRANCIS K. BROOKS
CAROLYN WHITNEY BRANAGAN

Committee on the part of the Senate

SUSAN M. BUCKHOLZ
JOHN L. BARTHOLOMEW
TERRY E. NORRIS

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 16.

Senator Sears, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

S. 16. An act relating to expanding patient access to the Medical Marijuana Registry.

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

Sec. 1. 18 V.S.A. § 4472 is amended to read:

§ 4472. DEFINITIONS

As used in this subchapter:

(1)(A) "Bona fide health care professional-patient relationship" means a treating or consulting relationship of not less than three months' duration, in the course of which a health care professional has completed a full assessment of the registered patient's medical history and current medical condition, including a personal physical examination.

(B) The three-month requirement shall not apply if:

(i) a patient has been diagnosed with:

(I) a terminal illness;

(II) cancer; or

(III) acquired immune deficiency syndrome; ~~or~~

~~(IV) is currently under hospice care.~~

(ii) a patient is currently under hospice care;

~~(ii)~~(iii) a patient had been diagnosed with a debilitating medical condition by a health care professional in another jurisdiction in which the patient had been formerly a resident and the patient, now a resident of Vermont, has the diagnosis confirmed by a health care professional in this State or a neighboring state as provided in subdivision (6) of this section, and the new health care professional has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination~~.~~;

~~(iii)~~(iv) a patient who is already on the ~~registry~~ Registry changes health care professionals three months or less prior to the annual renewal of the patient's registration, provided the patient's new health care professional has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination~~.~~;

(v) a patient is referred by his or her health care professional to another health care professional who has completed advanced education and clinical training in specific debilitating medical conditions, and that health care professional conducts a full assessment of the patient's medical history and current medical condition, including a personal physical examination; or

(vi) a patient's debilitating medical condition is of recent or sudden onset.

* * *

(4) "Debilitating medical condition~~,~~" ~~provided that, in the context of the specific disease or condition described in subdivision (A) or (B) of this subdivision (4), reasonable medical efforts have been made over a reasonable amount of time to relieve the symptoms,~~ means:

(A) cancer, multiple sclerosis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, glaucoma, Crohn's disease, Parkinson's disease, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms; ~~or~~

(B) post-traumatic stress disorder, provided the Department confirms the applicant is undergoing psychotherapy or counseling with a licensed mental health care provider; or

(C) a disease~~,~~ or medical condition~~,~~ or its treatment that is chronic, debilitating, and produces one or more of the following intractable symptoms: cachexia or wasting syndrome; chronic pain; severe nausea; or seizures.

(5) "Dispensary" means a ~~nonprofit entity~~ business organization registered under section 4474e of this title ~~which~~ that acquires, possesses, cultivates, manufactures, transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center and to his or her registered caregiver for the registered patient's use for symptom relief. ~~A dispensary may provide marijuana for symptom relief to registered patients at only one facility or location, but may have a second location associated with the dispensary where the marijuana is cultivated or processed. Both locations are considered to be part of the same dispensary.~~ A dispensary may serve patients and caregivers at not more than two locations, as approved by the Department in consideration of factors provided in subsection 4474f(e) of this title, and may cultivate and process marijuana at a separate location from where patients and caregivers are served. All locations shall be considered part of the same dispensary operation under one registration.

(6) "Financier" means a person, other than a financial institution as defined in 8 V.S.A. § 11101, that makes an investment in, or a gift, loan, or other financing to, another person with the expectation of a financial return. If a financier is a business organization, as used in this chapter, the term "financier" includes each owner and principal of that organization.

~~(6)~~(7)(A) "Health care professional" means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a naturopathic physician under 26 V.S.A. chapter 81, an individual certified as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an advanced practice registered nurse under 26 V.S.A. chapter 28.

(B) This definition includes individuals who are professionally licensed under substantially equivalent provisions in New Hampshire, Massachusetts, or New York.

~~(7)~~(8) "Immature marijuana plant" means a female marijuana plant that has not flowered and which does not have buds that may be observed by visual examination.

~~(8)~~(9) "Marijuana" shall have the same meaning as provided in subdivision 4201(15) of this title.

~~(9)~~(10) "Mature marijuana plant" means a female marijuana plant that has flowered and ~~which~~ that has buds that may be observed by visual examination.

(11) "Mental health care provider" means a person licensed to practice medicine who specializes in the practice of psychiatry; a psychologist, a psychologist-doctorate, or a psychologist-master as defined in 26 V.S.A. § 3001; a clinical social worker as defined in 26 V.S.A. § 3201; or a clinical mental health counselor as defined in 26 V.S.A. § 3261.

(12) "Ounce" means 28.35 grams.

(13) "Owner" means:

(A) a person that has a direct or beneficial ownership interest of ten percent or more in a business organization, including attribution of the ownership interests of a spouse or domestic partner, parent, spouse's or domestic partner's parent, sibling, and children; or

(B) a person that has the power to direct, or cause the direction of, the management and policies of a business organization, including through the ownership of voting securities, by contract, or otherwise.

~~(10)~~(14) "Possession limit" means the amount of marijuana collectively possessed between the registered patient and the patient's registered caregiver ~~which~~ that is no more than two mature marijuana plants, seven immature plants, and two ounces of usable marijuana.

(15) "Principal" means a person that has the authority to conduct, manage, or supervise the operation of a business organization, and includes the president, vice president, secretary, treasurer, manager, or similar executive officer of a business organization; a director of a business corporation,

nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; a manager of a manager-managed limited liability company; and a general partner of a partnership, limited partnership, or limited liability partnership.

~~(11)~~(16) "Registered caregiver" means a person who is at least 21 years of age, has met eligibility requirements as determined by the Department in accordance with this chapter, and ~~who~~ has agreed to undertake responsibility for managing the well-being of a registered patient with respect to the use of marijuana for symptom relief.

~~(12)~~(17) "Registered patient" means a resident of Vermont who has been issued a registration card by the Department ~~of Public Safety,~~ identifying the person as having a debilitating medical condition pursuant to the provisions of this subchapter. "Resident of Vermont" means a person whose domicile is Vermont.

~~(13)~~(18) "Secure indoor facility" means a building or room equipped with locks or other security devices that permit access only by a registered caregiver~~,~~ or registered patient~~, or a principal officer or employee of a dispensary~~.

~~(14)~~(19) "Transport" means the movement of marijuana and marijuana-infused products from registered growing locations to their associated dispensaries, between dispensaries, to registered patients and registered caregivers in accordance with delivery protocols, or as otherwise allowed under this subchapter.

~~(15)~~(20) "Usable marijuana" means the dried leaves and flowers of marijuana, and any mixture or preparation thereof, and does not include the seeds, stalks, and roots of the plant.

~~(16)~~(21) "Use for symptom relief" means the acquisition, possession, cultivation, use, transfer, or transportation of marijuana~~,~~ or of paraphernalia relating to the administration of marijuana to alleviate the symptoms or effects of a registered patient's debilitating medical condition ~~which~~ that is in compliance with all the limitations and restrictions of this subchapter.

Sec. 2. 18 V.S.A. § 4473 is amended to read:

§ 4473. REGISTERED PATIENTS; QUALIFICATION STANDARDS AND PROCEDURES

* * *

(b) The Department of Public Safety shall review applications to become a registered patient using the following procedures:

(1) A patient with a debilitating medical condition shall submit a signed application for registration to the Department. ~~A patient's initial application to the registry shall be notarized, but subsequent renewals shall not require notarization.~~ If the patient is under 18 years of age, the application must be signed by both the patient and a parent or guardian. The application shall require identification and contact information for the patient and the patient's registered caregiver applying for authorization under section 4474 of this title, if any, and the patient's designated dispensary under section 4474e of this title, if any. The applicant shall attach to the application a medical verification form developed by the Department pursuant to subdivision (2) of this subsection.

(2) The Department of Public Safety shall develop a medical verification form to be completed by a health care professional and submitted by a patient applying for registration in the program. The form shall include:

(A) A cover sheet ~~which~~ that includes the following:

(i) A statement of the penalties for providing false information.

(ii) Definitions of the following statutory terms:

(I) "Bona fide health care professional-patient relationship" as defined in section 4472 of this title.

(II) "Debilitating medical condition" as defined in section 4472 of this title.

(III) "Health care professional" as defined in section 4472 of this title.

(iii) A statement that the medical verification form is not considered a prescription and that the only purpose of the medical verification form is to confirm that the applicant patient has a debilitating medical condition.

(B) A verification sheet ~~which~~ that includes the following:

(i) A statement that a bona fide health care professional-patient relationship exists under section 4472 of this title~~,~~ or that, under subdivision (3)(A) of this subsection (b), the debilitating medical condition is of recent or sudden onset~~, and the patient has not had a previous health care professional who is able to verify the nature of the disease and its symptoms~~.

(ii) ~~A statement that reasonable medical efforts have been made over a reasonable amount of time without success to relieve the symptoms.~~ [Repealed.]

(iii) A statement that the patient has a debilitating medical condition as defined in section 4472 of this title, including the specific disease

or condition ~~which~~ that the patient has and whether the patient meets the criteria under section 4472.

(iv) A signature line ~~which~~ that provides in substantial part: "I certify that I meet the definition of 'health care professional' under 18 V.S.A. § 4472, that I am a health care professional in good standing in the State of ..... , and that the facts stated above are accurate to the best of my knowledge and belief."

(v) The health care professional's contact information, license number, category of his or her health care profession as defined in subdivision 4472(6) of this title, and contact information for the out-of-state licensing agency, if applicable. The Department ~~of Public Safety~~ shall adopt rules for verifying the goodstanding of out-of-state health care professionals.

(vi) A statement that the medical verification form is not considered a prescription and that the only purpose of the medical verification form is to confirm that the applicant patient has a debilitating medical condition.

(3)(A) The Department ~~of Public Safety~~ shall transmit the completed medical verification form to the health care professional and contact him or her for purposes of confirming the accuracy of the information contained in the form. ~~The Department may approve an application, notwithstanding the six-month requirement in section 4472 of this title, if the Department is satisfied that the medical verification form confirms that the debilitating medical condition is of recent or sudden onset, and that the patient has not had a previous health care professional who is able to verify the nature of the disease and its symptoms~~.

(B) If the health care professional is licensed in another state as provided section 4472 of this title, the Department shall verify that the health care professional is in good standing in that state.

* * *

Sec. 3. 18 V.S.A. § 4474(c)(1) is amended to read:

(c)(1) Except as provided in subdivision (2) of this subsection, a registered caregiver may serve only one registered patient at a time, and a registered patient may have only one registered caregiver at a time. A registered patient may serve as a registered caregiver for one other registered patient.

Sec. 4. 18 V.S.A. § 4474d is amended to read:

§ 4474d. LAW ENFORCEMENT VERIFICATION OF INFORMATION; RULEMAKING

* * *

(b) In response to a person-specific or property-specific inquiry by a law enforcement officer or agency made in the course of a bona fide investigation or prosecution, the Department may verify the identities and registered property addresses of the registered patient and the patient's registered caregiver, a dispensary, ~~and the principal officer, the Board members,~~ and an owner, a principal, a financier, and the employees of a dispensary.

(c) The Department shall maintain a separate secure electronic database accessible to law enforcement personnel 24 hours a day that uses a unique identifier system to allow law enforcement to verify that a person or entity is a registered patient, a registered caregiver, a dispensary, ~~or the principal officer, a board member~~ an owner, a principal, a financier, or an employee of a dispensary.

* * *

Sec. 5. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

* * *

(b)~~(1) A dispensary shall be operated on a nonprofit basis for the mutual benefit of its patients but need not be recognized as a tax-exempt organization by the Internal Revenue Service.~~

~~(2)~~ A dispensary shall have a sliding-scale fee system that takes into account a registered patient's ability to pay.

* * *

(d)(1) A dispensary shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and shall ensure that each location has an operational security alarm system. All cultivation of marijuana shall take place in ~~an enclosed~~ a secure, locked facility which is either indoors or ~~otherwise~~ outdoors, but not visible to the public and ~~which~~ that can only be accessed by ~~principal officers and~~ the owners, principals, financiers, and employees of the dispensary who have valid registry identification cards. An outdoor facility is not required to have a roof, provided all other requirements are met. The Department ~~of Public Safety~~ shall perform an annual on-site assessment of each dispensary and may perform on-site assessments of a dispensary without limitation for the purpose of determining compliance with this subchapter and any rules adopted pursuant to this subchapter and may enter a dispensary at any time for such purpose. During an inspection, the Department may review the dispensary's confidential records, including its dispensing records, which shall track transactions according to registered patients' ~~registry~~ Registry identification numbers to protect their confidentiality.

* * *

(f) A person may be denied the right to serve as an owner, ~~a~~ principal ~~officer, board member~~, financier, or employee of a dispensary because of the person's criminal history record in accordance with section 4474g of this title and rules adopted by the Department of Public Safety pursuant to that section.

(g)(1) A dispensary shall notify the Department ~~of Public Safety~~ within 10 days of when ~~a principal officer, board member,~~ an owner, principal, financier, or employee ceases to be associated with or work at the dispensary. His or her ~~registry~~ Registry identification card shall be deemed null and void, and the person shall be liable for any penalties that may apply.

(2) A dispensary shall notify the Department ~~of Public Safety~~ in writing of the name, address, and date of birth of any proposed new ~~principal officer, board member~~ owner, principal, financier, or employee and shall submit a fee for a new ~~registry~~ Registry identification card before a new ~~principal officer, board member~~ owner, principal, financier, or employee begins his or her official duties related to the dispensary and shall submit a complete set of fingerprints for ~~the~~ each prospective ~~principal officer, board member~~ owner, principal, financier, or employee who is a natural person.

* * *

(k)(1) No dispensary~~, principal officer, board member~~ or owner, principal, or financier of a dispensary shall:

* * *

(B) acquire usable marijuana or marijuana plants from any source other than registered dispensary ~~principal officers, board members~~ owners, principals, financiers, or employees who cultivate marijuana in accordance with this subchapter;

(C) dispense more than two ounces of usable marijuana to a registered patient directly or through the qualifying patient's registered caregiver during a 30-day period;

(D) dispense an amount of usable marijuana to a qualifying patient or a designated caregiver that the ~~principal officer, board member~~ owner, principal, financier, or employee knows would cause the recipient to possess more marijuana than is permitted under this subchapter;

(E) dispense marijuana to a person other than a registered patient who has designated the dispensary to provide for his or her needs or other than the patient's registered caregiver.

(2) A person found to have violated subdivision (1) of this subsection may no longer serve as ~~a principal officer, board member~~ an owner, principal,

financier, or employee of any dispensary, and such person's ~~registry~~ Registry identification card shall be immediately revoked by the Department ~~of Public Safety~~.

(l)(1) A registered dispensary shall not be subject to the following, provided that it is in compliance with this subchapter:

(A) prosecution for the acquisition, possession, cultivation, manufacture, transfer, transport, supply, sale, or dispensing of marijuana, marijuana-infused products, or marijuana-related supplies for symptom relief in accordance with the provisions of this subchapter and any rule adopted by the Department ~~of Public Safety~~ pursuant to this subchapter;

(B) inspection and search, except pursuant to this subchapter or upon a search warrant issued by a court or judicial officer;

(C) seizure of marijuana, marijuana-infused products, and marijuana-related supplies, except upon a valid order issued by a court;

(D) imposition of any penalty or ~~denied~~ denial of any right or privilege, including imposition of a civil penalty or disciplinary action by an occupational or professional licensing board or entity, solely for acting in accordance with this subchapter to assist registered patients or registered caregivers.

(2) No ~~principal officer, board member~~ owner, principal, financier, or employee of a dispensary shall be subject to arrest, prosecution, search, seizure, or penalty in any manner or ~~denied~~ denial of any right or privilege, including civil penalty or disciplinary action by an occupational or professional licensing board or entity, solely for working for or with a dispensary to engage in acts permitted by this subchapter.

* * *

Sec. 6. 18 V.S.A. § 4474f is amended to read:

§ 4474f. DISPENSARY APPLICATION, APPROVAL, AND REGISTRATION

* * *

(b)(1) ~~Within 30 days of the adoption of rules, the Department shall begin accepting applications for the operation of dispensaries. Within 365 days of the effective date of this section, the Department shall grant registration certificates to four dispensaries, provided at least four applicants apply and meet the requirements of this section. No~~ Except as provided in subdivision (2) of this subsection, no more than ~~four~~ five dispensaries shall hold valid registration certificates at one time. Any time a dispensary registration certificate is revoked, is relinquished, or expires, the Department shall accept

applications for a new dispensary. ~~If at any time after one year after the effective date of this section fewer than four dispensaries hold valid registration certificates in Vermont, the Department of Public Safety shall accept applications for a new dispensary.~~

(2) Once the Registry reaches 7,000 registered patients, the number of dispensary registrations shall expand to six and the Department shall begin accepting applications forthwith.

* * *

(c) Each application for a dispensary registration certificate shall include all of the following:

(1) a nonrefundable application fee in the amount of $2,500.00 paid to the Department ~~of Public Safety~~;

(2) the legal name~~, articles of incorporation, and bylaws~~ of the dispensary and the organizational documents that create the dispensary, govern its operation and internal affairs, and govern relations between and among its owners;

(3) the proposed physical address of the dispensary, if a precise address has been determined or, if not, the general location where it would be located;

(4) a description of the ~~enclosed~~ secure, locked facility where marijuana will be grown, cultivated, harvested, or otherwise prepared for distribution by the dispensary;

(5) the name, address, and date of birth of each ~~principal officer and board member~~ owner, principal, and financier of the dispensary who is a natural person and a complete set of fingerprints for each of them;

(6) proposed security and safety measures, which shall include at least one security alarm system for each location and planned measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana;

(7) proposed procedures to ensure accurate record-keeping.

(d) Any time one or more dispensary registration applications are being considered, the Department ~~of Public Safety~~ shall solicit input from registered patients and registered caregivers.

(e) Each time a dispensary certificate is granted, the decision shall be based on the overall health needs of qualified patients. The following factors shall weigh heavily in the consideration of an application:

(1) geographic convenience to patients from throughout the State of Vermont to a dispensary if the applicant were approved;

(2) the entity's ability to provide an adequate supply to the registered patients in the State;

(3) the entity's ability to demonstrate ~~its board members'~~ that its owners, principals, and financiers have sufficient experience running a ~~nonprofit organization or~~ business;

(4) the comments, if any, of registered patients and registered caregivers regarding which applicant should be granted a registration certificate;

(5) the sufficiency of the applicant's plans for record-keeping, which records shall be considered confidential health care information under Vermont law and are intended to be deemed protected health care information for purposes of the federal Health Insurance Portability and Accountability Act of 1996, as amended;

(6) the sufficiency of the applicant's plans for safety and security, including the proposed location and security devices employed.

(f) The Department ~~of Public Safety~~ may deny an application for a dispensary if it determines that an applicant's criminal history record indicates that the ~~person's~~ association of an owner, principal, or financier with a dispensary would pose a demonstrable threat to public safety.

(g) After a dispensary is approved but before it begins operations, it shall submit the following to the Department:

(1) the legal name ~~and articles of incorporation~~ of the dispensary and the organizational documents that create the dispensary, govern its operation and internal affairs, and govern relations between and among its owners;

(2) the physical address of the dispensary;

(3) the name, address, and date of birth of each ~~principal officer and board member~~ owner, principal, and financier of the dispensary along with a complete set of fingerprints for each;

(4) a registration fee of $20,000.00 for the first year of operation, and an annual fee of $25,000.00 in subsequent years.

Sec. 7. 18 V.S.A. § 4474g is amended to read:

§ 4474g. DISPENSARY REGISTRY IDENTIFICATION CARD; CRIMINAL BACKGROUND CHECK

(a) Except as provided in subsection (b) of this section, the Department ~~of Public Safety~~ shall issue each ~~principal officer, Board member~~ owner, principal, financier, and employee of a dispensary a ~~registry~~ Registry identification card or renewal card within 30 days of receipt of the person's name, address, and date of birth and a fee of $50.00. The fee shall be paid by

the dispensary and the cost shall not be passed on to ~~a principal officer, Board member~~ an owner, principal, financier, or employee. A person shall not serve as ~~principal officer, Board member~~ an owner, principal, financier, or employee of a dispensary until that person has received a ~~registry~~ Registry identification card issued under this section. Each card shall specify whether the cardholder is ~~a principal officer, Board member~~ an owner, principal, financier, or employee of a dispensary and shall contain the following:

(1) the name, address, and date of birth of the person;

(2) the legal name of the dispensary with which the person is affiliated;

(3) a random identification number that is unique to the person;

(4) the date of issuance and the expiration date of the ~~registry~~ Registry identification card; and

(5) a photograph of the person.

(b) Prior to acting on an application for a ~~registry~~ Registry identification card, the Department ~~of Public Safety~~ shall obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each applicant shall consent to the release of criminal history records to the Department on forms developed by the Vermont Crime Information Center.

(c) When the Department ~~of Public Safety~~ obtains a criminal history record, the Department shall promptly provide a copy of the record to the applicant and to the ~~principal officer and Board~~ owner, principal, or financier of the dispensary if the applicant is to be an employee. The Department shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Department.

(d) The Department ~~of Public Safety~~ shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this subchapter.

(e) The Department ~~of Public Safety~~ shall not issue a ~~registry~~ Registry identification card to any applicant who has been convicted of a drug-related offense or a violent felony or who has a pending charge for such an offense. ~~For purposes of~~ As used in this subchapter, "violent felony" means a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

(f) The Department ~~of Public Safety~~ shall adopt rules for the issuance of a ~~registry~~ Registry identification card and shall set forth standards for determining whether an applicant should be denied a ~~registry~~ Registry

identification card because his or her criminal history record indicates that the person's association with a dispensary would pose a demonstrable threat to public safety. The rules shall consider whether a person who has a conviction for an offense not listed in subsection (e) of this section has been rehabilitated. A conviction for an offense not listed in subsection (e) of this section shall not automatically disqualify a person for a ~~registry~~ Registry identification card. A dispensary may deny a person the opportunity to serve as a ~~Board~~ board member or an employee based on his or her criminal history record. An applicant who is denied a ~~registry~~ Registry identification card may appeal the ~~Department of Public Safety's~~ Department's determination in Superior Court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(g) A ~~registration~~ Registry identification card of ~~a principal officer, Board member~~ an owner, principal, or financier, or employee shall expire one year after its issuance or upon the expiration of the registered organization's registration certificate, whichever occurs first.

Sec. 8. 18 V.S.A. § 4474h is amended to read:

§ 4474h. PATIENT DESIGNATION OF DISPENSARY

(a) A registered patient or his or her caregiver may obtain marijuana only from the patient's designated dispensary and may designate only one dispensary. ~~If a registered patient designates a dispensary, the patient and his or her caregiver may not grow marijuana or obtain marijuana or marijuana-infused products for symptom relief from any source other than the designated dispensary.~~ A registered patient who wishes to change his or her dispensary shall notify the Department ~~of Public Safety~~ in writing on a form issued by the Department and shall submit with the form a fee of $25.00. The Department shall issue a new identification card to the registered patient within 30 days of receiving the notification of change in dispensary. The registered patient's previous identification card shall expire at the time the new identification card takes effect. A registered patient shall submit his or her expired identification card to the Department within 30 days of expiration. A registered patient shall not change his or her designated dispensary more than once in any 30-day period.

* * *

Sec. 9. 6 V.S.A. chapter 5 is amended to read:

CHAPTER 5. CENTRAL TESTING LABORATORY

§ 121. CREATION AND PURPOSE

There is created within the Agency of Agriculture, Food and Markets a central testing laboratory for the purpose of providing agricultural ~~and~~, environmental, and other necessary testing services.

§ 122. FEES

Notwithstanding 32 V.S.A. § 603, the Agency shall establish fees for providing agricultural ~~and,~~ environmental, and other necessary testing services at the request of private individuals and State agencies. The fees shall be reasonably related to the cost of providing the services. Fees collected under this chapter shall be credited to a special fund which shall be established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and which shall be available to the Agency to offset the cost of providing the services.

§ 123. REGULATED DRUGS

(a) Except as provided in subsection (b) of this section, the provisions of 18 V.S.A. chapter 84 shall not apply to the Secretary or designee in the otherwise lawful performance of his or her official duties requiring the possession or control of regulated drugs.

(b) The central testing laboratory shall obtain a certificate of approval from the Department of Health pursuant to 18 V.S.A. § 4207.

(c) As used in this section, "regulated drug" shall have the same meaning as in 18 V.S.A. § 4201.

Sec. 10. MARIJUANA-INFUSED PRODUCT TESTING; REPORT

The General Assembly recognizes the importance of independent testing of marijuana-infused products sold by dispensaries to determine proper labeling of products in compliance with 18 V.S.A. § 4474e. Therefore, the Agency of Agriculture, Food and Markets and the Department of Public Safety, in consultation with registered dispensaries, shall report their recommendations to the Joint Legislative Justice Oversight Committee and the General Assembly no later than October 15, 2017 on the following:

(1) Who should be responsible for testing marijuana-infused products.

(2) The approved methods and frequency of testing.

(3) Estimated costs associated with such testing and how these costs should be funded.

(4) If testing will be done through an independent testing entity, the process by which the State will certify such entities and oversee such testing.

(5) How to implement a weights and measures program for medical marijuana dispensaries.

Sec. 11. AUTHORITY FOR CURRENTLY REGISTERED DISPENSARY ORGANIZED AS A NONPROFIT CORPORATION TO CONVERT TO FOR-PROFIT ENTITY.

(a) Notwithstanding the provisions of Title 11B and any other rule to the contrary, a dispensary organized as a nonprofit corporation and registered pursuant to 18 V.S.A. chapter 86 may convert to any type of domestic organization pursuant to and in accordance with 11A V.S.A. chapter 11 as if the dispensary were a domestic organization, except that the dispensary shall approve a plan of conversion pursuant to 11A V.S.A. § 11.04 by a majority vote of its board of directors and may otherwise disregard any provision of 11A V.S.A. chapter 11 that relates to shareholders.

(b) Notwithstanding 18 V.S.A. § 4474e or any rule to the contrary, the converted domestic corporation may continue to operate on a for-profit basis in accordance with the terms of its registration, 18 V.S.A. chapter 86, and any rules adopted pursuant to that chapter.

Sec. 12. MEDICAL MARIJUANA REGISTRY; WEB PAGE

The Department of Public Safety and the Agency of Digital Services shall develop an independent web page for the Medical Marijuana Registry, separate from any other registry or program administered by the Department, that is up-to-date and user-friendly on or before September 30, 2017 and shall report to the General Assembly on activation of the web page at such time.

Sec. 13. DEPARTMENT OF PUBLIC SAFETY

The Department of Public Safety shall begin to accept applications for the additional dispensary on July 1, 2017.

Sec. 14. EFFECTIVE DATES

(a) This section and Secs. 9–13 shall take effect on passage.

(b) The remaining sections of this act shall take effect on July 1, 2017.

RICHARD W. SEARS
JOSEPH C. BENNING
JEANETTE K. WHITE

Committee on the part of the Senate

ANN D. PUGH
SANDY J. HAAS
FRANCIS M. MCFAUN

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 50.

Senator Ingram, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

S. 50. An act relating to insurance coverage for telemedicine services delivered in or outside a health care facility.

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

Sec. 1. 8 V.S.A. § 4100k is amended to read:

§ 4100k. COVERAGE OF HEALTH CARE SERVICES DELIVERED THROUGH TELEMEDICINE ~~SERVICES~~

(a) All health insurance plans in this State shall provide coverage for ~~telemedicine~~ health care services delivered through telemedicine by a health care provider at a distant site to a patient ~~in a health care facility~~ at an originating site to the same extent that the ~~services would be covered~~ plan would cover the services if they were provided through in-person consultation.

(b) A health insurance plan may charge a deductible, co-payment, or coinsurance for a health care service provided through telemedicine so long as it does not exceed the deductible, co-payment, or coinsurance applicable to an in-person consultation.

(c) A health insurance plan may limit coverage to health care providers in the plan's network ~~and may require originating site health care providers to document the reason the services are being provided by telemedicine rather than in person~~. A health insurance plan shall not impose limitations on the number of telemedicine consultations a covered person may receive that exceed limitations otherwise placed on in-person covered services.

(d) Nothing in this section shall be construed to prohibit a health insurance plan from providing coverage for only those services that are medically necessary and are clinically appropriate for delivery through telemedicine, subject to the terms and conditions of the covered person's policy.

(e) A health insurance plan may reimburse for teleophthalmology or teledermatology provided by store and forward means and may require the distant site health care provider to document the reason the services are being provided by store and forward means.

(f) Nothing in this section shall be construed to require a health insurance plan to reimburse the distant site health care provider if the distant site health care provider has insufficient information to render an opinion.

(g) In order to facilitate the use of telemedicine in treating substance use disorder, when the originating site is a health care facility, health insurers and the Department of Vermont Health Access shall ensure that ~~both the treating clinician and the hosting facility~~ the health care provider at the distant site and the health care facility at the originating site are both reimbursed for the services rendered, unless the health care providers at both the ~~host and service~~ distant and originating sites are employed by the same entity.

(h) As used in this subchapter:

(1) "Distant site" means the location of the health care provider delivering services through telemedicine at the time the services are provided.

(2) "Health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well as Medicaid and any other public health care assistance program offered or administered by the State or by any subdivision or instrumentality of the State. The term does not include policies or plans providing coverage for specified disease or other limited benefit coverage.

~~(2)~~(3) "Health care facility" shall have the same meaning as in 18 V.S.A. § 9402.

~~(3)~~(4) "Health care provider" means a person, partnership, or corporation, other than a facility or institution, that is licensed, certified, or otherwise authorized by law to provide professional health care services in this State to an individual during that individual's medical care, treatment, or confinement.

(5) "Originating site" means the location of the patient, whether or not accompanied by a health care provider, at the time services are provided by a health care provider through telemedicine, including a health care provider's office, a hospital, or a health care facility, or the patient's home or another nonmedical environment such as a school-based health center, a university-based health center, or the patient's workplace.

(6) "Store and forward" means an asynchronous transmission of medical information to be reviewed at a later date by a health care provider at a distant site who is trained in the relevant specialty and by which the health care

provider at the distant site reviews the medical information without the patient present in real time.

~~(4)~~(7) "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. 2. 18 V.S.A. § 9361 is amended to read:

§ 9361. HEALTH CARE PROVIDERS ~~PROVIDING~~ DELIVERING HEALTH CARE SERVICES THROUGH TELEMEDICINE OR BY STORE AND FORWARD ~~SERVICES~~ MEANS

(a) As used in this section, "distant site," "health care provider," "originating site," "store and forward," and "telemedicine" shall have the same meanings as in 8 V.S.A. § 4100k.

(b) Subject to the limitations of the license under which the individual is practicing, a health care provider licensed in this ~~state~~ State may prescribe, dispense, or administer drugs or medical supplies, or otherwise provide treatment recommendations to a patient after having performed an appropriate examination of the patient ~~either~~ in person, through telemedicine, or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically. Treatment recommendations made via electronic means, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional provider-patient settings. ~~For purposes of this subchapter, "telemedicine" shall have the same meaning as in 8 V.S.A. § 4100k.~~

(c)(1) A health care provider delivering health care services through telemedicine shall obtain and document a patient's oral or written informed consent for the use of telemedicine technology prior to delivering services to the patient.

(A) The informed consent for telemedicine services shall be provided in accordance with Vermont and national policies and guidelines on the appropriate use of telemedicine within the provider's profession and shall include, in language that patients can easily understand:

(i) an explanation of the opportunities and limitations of delivering health care services through telemedicine;

(ii) informing the patient of the presence of any other individual who will be participating in or observing the patient's consultation with the

provider at the distant site and obtaining the patient's permission for the participation or observation; and

(iii) assurance that all services the health care provider delivers to the patient through telemedicine will be delivered over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

(B) For services delivered through telemedicine on an ongoing basis, the health care provider shall be required to obtain consent only at the first episode of care.

(2) The provider shall include the patient's written consent in the patient's medical record or document the patient's oral consent in the patient's medical record.

(3) A health care provider delivering telemedicine services through a contract with a third-party vendor shall comply with the provisions of this subsection (c) to the extent permissible under the terms of the contract. If the contract requires the health care provider to use the vendor's own informed consent provisions instead of those set forth in this subsection (c), the health care provider shall be deemed to be in compliance with the requirements of this subsection (c) if he or she adheres to the terms of the vendor's informed consent policies.

(4) Notwithstanding any provision of this subsection (c) to the contrary, a health care provider shall not be required to obtain a patient's informed consent for the use of telemedicine in the following circumstances:

(A) in the case of a medical emergency;

(B) for the second certification of an emergency examination determining whether an individual is a person in need of treatment pursuant to section 7508 of this title; or

(C) for a psychiatrist's examination to determine whether an individual is in need of inpatient hospitalization pursuant to 13 V.S.A. § 4815(g)(3).

(d) Neither a health care provider nor a patient shall create or cause to be created a recording of a provider's telemedicine consultation with a patient.

~~(b)~~(e) A patient receiving teleophthalmology or teledermatology by store and forward means shall be informed of the right to receive a consultation with the distant site health care provider and shall receive a consultation with the distant site health care provider upon request. If requested, the consultation with the distant site health care provider may occur either at the time of the initial consultation or within a reasonable period of time ~~of~~ following the

patient's notification of the results of the initial consultation. Receiving teledermatology or teleophthalmology by store and forward means shall not preclude a patient from receiving real time telemedicine or face-to-face services with the distant site health care provider at a future date. Originating site health care providers involved in the store and forward process shall ~~ensure~~ obtain informed consent from the patient as described in subsection (c) of this section. ~~For purposes of this subchapter, "store and forward" shall have the same meaning as in 8 V.S.A. § 4100k.~~

Sec. 3. REPEAL

33 V.S.A. § 1901i (Medicaid coverage for primary care telemedicine) is repealed.

Sec. 4. EFFECTIVE DATES

(a) Sec. 1 (health insurance coverage) shall take effect on October 1, 2017 and shall apply to Medicaid on that date and to all other health insurance plans on or after October 1, 2017 on the date a health insurer issues, offers, or renews the health insurance plan, but in no event later than October 1, 2018.

(b) Secs. 2 (health care providers providing telemedicine), 3 (repeal) and this section shall take effect on October 1, 2017.

CLAIRE D. AYER
VIRGINIA V. LYONS
DEBORAH J. INGRAM

Committee on the part of the Senate

TIMOTHY C. BRIGLIN
SARAH L. COPELAND-HANZAS
ANNMARIE CHRISTENSEN

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 134.

Senator Benning, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

S. 134. An act relating to court diversion and pretrial services.

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

Sec. 1. FINDINGS; INTENT

(a) The General Assembly finds:

(1) According to numerous studies over many years, pretrial diversion programs result in outcomes for participants that are better than incarceration, including reducing the likelihood that participants commit future crimes and improving substance abuse and mental health outcomes. For example, according to a study of the New York City Jail Diversion Project, 12 months after their offense, offenders who go through a diversion program are less likely to reoffend, spend less time in prison, have received more treatment, and are less likely to suffer drug relapses. In addition, a study in the *Journal of the American Academy of Psychiatry and the Law* indicates that diversion programs reduce the amount of time participants spend in jail for future offenses from an average of 173 days to an average of 40 days during the year after the offense. Research also demonstrates that offenders who have participated in diversion programs are better able to find employment.

(2) Diversion programs benefit the criminal justice system by reducing costs and allowing resources to be allocated more efficiently for more serious offenders. According to studies by the Urban Institute and the National Alliance on Mental Illness, diversion programs reduce costs and improve outcomes by allowing offenders with mental illness to receive more appropriate treatment outside the criminal justice system. As reported in the *Psychiatric Rehabilitation Journal*, diversion programs reduce costs by decreasing the need for and use of hospitalization and crisis services by offenders.

(b) It is the intent of the General Assembly that:

(1) Sec. 2 of this act result in an increased use of the diversion program throughout the State and a more consistent use of the program between different regions of the State;

(2) the Office of the Attorney General collect data pursuant to 3 V.S.A. § 164(d) on diversion program use, including the effect of this act on use of the program statewide and in particular regions of the State; and

(3) consideration be given to further amending the diversion program statutes before Sec. 2 of this act sunsets on July 1, 2020, if it is determined that Sec. 2 of this act did not produce the intended increases in diversion program usage.

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

§ 164. ADULT COURT DIVERSION ~~PROJECT~~ PROGRAM

(a) The Attorney General shall develop and administer an adult court diversion ~~project~~ program in all counties. The ~~project~~ program shall be operated through the juvenile diversion project ~~and shall be designed to assist adults who have been charged with a first or second misdemeanor or a first nonviolent felony~~. The Attorney General shall adopt only such rules as are necessary to establish an adult court diversion ~~project~~ program for adults, in compliance with this section.

(b) The program shall be designed for two purposes:

(1) To assist adults who have been charged with a first or a second misdemeanor or a first nonviolent felony.

(2) To assist adults with substance abuse or mental health treatment needs regardless of the person's prior criminal history record. Programming for these persons is intended to support access to appropriate treatment or other resources with the aim of improving the person's health and reducing future adverse involvement in the justice system. A person charged with a felony offense that is a listed crime pursuant to 13 V.S.A. § 5301 shall not be eligible under this section.

(c) The ~~adult court diversion project administered by the Attorney General~~ program shall encourage the development of diversion ~~projects~~ programs in local communities through grants of financial assistance to municipalities, private groups or other local organizations. The Attorney General may require local financial contributions as a condition of receipt of ~~project~~ program grants.

(d) The Office of the Attorney General shall develop program outcomes following the designated State of Vermont performance accountability framework and, in consultation with the Department of State's Attorneys and Sheriffs, the Office of the Defender General, the Center for Crime Victim Services, and the Judiciary, report annually on or before December 1 to the General Assembly on services provided and outcome indicators.

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

(1) The diversion ~~project~~ program shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. The prosecuting attorney may refer a person to diversion either before or after arraignment and shall notify in writing the diversion program and the court of his or her intention to refer the person to diversion. If a person is charged with a qualifying crime as defined in 13 V.S.A. § 7601(4)(A), the prosecutor shall provide the person with the opportunity to

participate in the court diversion program unless the prosecutor states on the record at arraignment or a subsequent hearing why a referral to the program would not serve the ends of justice. If the prosecuting attorney refers a case to diversion, the prosecuting attorney may release information to the victim upon a showing of legitimate need and subject to an appropriate protective agreement defining the purpose for which the information is being released and in all other respects maintaining the confidentiality of the information; otherwise files held by the court, the prosecuting attorney, and the law enforcement agency related to the charges shall be confidential and shall remain confidential unless:

(A) the Board declines to accept the case;

(B) the person declines to participate in diversion;

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

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

(2) Alleged offenders shall be informed of their right to the advice and assistance of private counsel or the public defender at all stages of the diversion process, including the initial decision to participate, and the decision to accept the adult diversion contract, so that the candidate may give informed consent.

(3) The participant shall be informed that his or her selection of the adult diversion contract is voluntary.

(4) Each State's Attorney, in cooperation with the Office of the Attorney General and the adult court diversion ~~project~~ program, shall develop clear criteria for deciding what types of offenses and offenders will be eligible for diversion; however, the State's Attorney shall retain final discretion over the referral of each case for diversion.

(5) All information gathered in the course of the adult diversion process shall be held strictly confidential and shall not be released without the participant's prior consent (except that research and reports that do not require or establish the identity of individual participants are allowed).

(6) Information related to the present offense that is divulged during the adult diversion program shall not be used ~~in the prosecutor's case~~ against the person in the person's criminal or juvenile case for any purpose, including impeachment or cross-examination. However, the fact of participation and success, or reasons for failure, may become part of the prosecutor's records.

(7)(A) The adult court diversion ~~project~~ program shall maintain sufficient records so that the reasons for success or failure of the program in

particular cases and overall can be investigated by program staff. These records shall include a centralized statewide filing system that will include the following information about individuals who have successfully completed an adult court diversion program:

(i) name and date of birth;

(ii) offense charged and date of offense;

(iii) place of residence;

(iv) county where diversion process took place; and

(v) date of completion of diversion process.

(B) These records shall not be available to anyone other than the participant and his or her attorney, State's Attorneys, the Attorney General and directors of adult court diversion ~~projects~~ programs.

(8) Adult court diversion ~~projects~~ programs shall be set up to respect the rights of participants.

(9) Each participant shall pay a fee to the local adult court diversion ~~project~~ program. The amount of the fee shall be determined by ~~project~~ program officers or employees based upon the financial capabilities of the participant. The fee shall not exceed $300.00. The fee shall be a debt due from the participant, and payment of such shall be required for successful completion of the program. Notwithstanding 32 V.S.A. § 502(a), fees collected under this subdivision shall be retained and used solely for the purpose of the court diversion program.

~~(d)~~(f) The Attorney General is authorized to accept grants and gifts for the purposes of this section, such acceptance being pursuant to 32 V.S.A. § 5.

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

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

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

(3) rehabilitation of the participant has been attained to the satisfaction of the court.

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

~~(g)~~(i) Inspection of the files and records included in the order may thereafter be permitted by the court only upon petition by the participant who is the subject of such records, and only to those persons named therein.

~~(h)~~(j) The process of automatically sealing records as provided in this section shall only apply to those persons who completed diversion on or after July 1, 2002. Any person who completed diversion prior to July 1, 2002 must apply to the court to have his or her records sealed. Sealing shall occur if the requirements of subsection ~~(e)~~(g) of this section are met.

~~(i)~~(k) Subject to the approval of the Attorney General, the Vermont Association of Court Diversion Programs may develop and administer programs to assist persons under this section charged with delinquent, criminal, and civil offenses.

Sec. 3. 13 V.S.A. § 7554c is amended to read:

§ 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

(a)(1) The objective of a pretrial risk assessment is to provide information to the ~~Court~~ court for the purpose of determining whether a person presents a risk of nonappearance ~~or a threat to public safety~~ or a risk of re-offense so the ~~Court~~ court can make an appropriate order concerning bail and conditions of pretrial release. The assessment shall not assess victim safety or risk of lethality in domestic assaults.

(2) The objective of a pretrial needs screening is to obtain a preliminary indication of whether a person has a substantial substance abuse or mental health issue that would warrant a subsequent court order for a more detailed clinical assessment.

(3) Participation in a risk assessment or needs screening pursuant to this section does not create any entitlement for the assessed or screened person.

(b)(1) ~~A~~ Except as provided in subdivision (2) of this subsection, a person ~~whose offense or status falls into any of the following categories shall be offered a risk assessment and, if deemed appropriate by the pretrial monitor, a needs screening prior to arraignment:~~

~~(A) misdemeanors and felonies, excluding listed crimes and drug trafficking, cited into court; and~~

~~(B) persons who are arrested and lodged and unable to post bail within 24 hours of lodging, excluding persons who are charged with an offense for which registration as a sex offender is required upon conviction pursuant to subchapter 3 of chapter 167 of this title or an offense punishable by up to life imprisonment~~ who is arrested, lodged, and unable to post bail within 24 hours of lodging shall be offered a risk assessment and, if deemed appropriate by the pretrial services coordinator, a needs screening prior to arraignment.

(2) ~~As used in this section, "listed crime" shall have the same meaning as provided in section 5301 of this title and "drug trafficking" means offenses listed as such in Title 18~~ A person charged with an offense for which registration as a sex offender is required pursuant to subchapter 3 of chapter 167 of this title or an offense punishable by a term of life imprisonment shall not be eligible under this section.

(3) ~~Unless ordered as a condition of release under section 7554 of this title, participation~~ Participation in risk assessment or needs screening shall be voluntary and a person's refusal to participate shall not result in any criminal legal liability to the person.

(4) In the event an assessment or screening cannot be obtained prior to arraignment, the risk assessment and needs screening shall be conducted as soon as practicable.

(5) A person who qualifies pursuant to ~~subdivisions (1)(A)-(D)~~ subdivision (1) of this subsection and who has an additional pending charge or a violation of probation shall not be excluded from being offered a risk assessment or needs screening unless the other charge is a listed crime.

(6)~~(A) The Administrative Judge and Court Administrator, in consultation with the Secretary of Human Services and the Commissioner of Corrections, shall develop a statewide plan for the phased, consistent rollout of the categories identified in subdivisions (1)(A) through (D) of this subsection, in the order in which they appear in this subsection. The Administrative Judge and Court Administrator shall present the plan to the Joint Legislative Corrections Oversight Committee on or before October 15, 2014~~ Any person charged with a criminal offense, except those persons identified in subdivision (b)(2) of this section, may choose to engage with a pretrial services coordinator.

~~(B) All persons whose offense or status falls into one of the categories shall be eligible for a risk assessment or needs screening on or after October 15, 2015. Prior to that date, a person shall not be guaranteed the offer of a risk assessment or needs screening solely because the person's offense or status falls into one of the categories. Criminal justice professionals charged with implementation shall adhere to the plan.~~

(c) The results of the risk assessment and needs screening shall be provided to the person and his or her attorney, the prosecutor, and the ~~Court~~ court. Pretrial services coordinators may share information only within the limitations of subsection (e) of this section.

(d)(1) At arraignment, ~~in consideration of the risk assessment and needs screening,~~ the ~~Court~~ court may order ~~the~~ a person to ~~comply with~~ do the following ~~conditions~~:

(A) meet with a pretrial ~~monitor~~ services coordinator on a schedule set by the ~~Court~~ court; ~~and~~

(B) participate in a needs screening with a pretrial services coordinator; and

(C) participate in a clinical assessment by a substance abuse or mental health treatment provider and follow the recommendations of the provider.

(2) The ~~Court~~ court may order the person to ~~follow the recommendation of the pretrial monitor if the person has completed a risk assessment or needs screening~~ engage in pretrial services. Pretrial services may include the pretrial services coordinator:

(A) supporting the person in meeting conditions of release imposed by the court, including the condition to appear for judicial proceedings; and

(B) connecting the person with community-based treatment programs, rehabilitative services, recovery supports, and restorative justice programs.

(3) If possible, the ~~Court~~ court shall set the date and time for the clinical assessment at arraignment. In the alternative, the pretrial ~~monitor~~ services coordinator shall coordinate the date, time, and location of the clinical assessment and advise the ~~Court~~ court, the person and his or her attorney, and the prosecutor.

(4) ~~The conditions~~ An order authorized in subdivision (1) or (2) of this subsection shall be in addition to any ~~other~~ conditions of release permitted by law and shall not limit the ~~Court~~ court in any way. Failure to comply with a court order authorized by subdivision (1) or (2) of this subsection shall not constitute a violation of section 7559 of this title.

(5) This section shall not be construed to limit a court's authority to impose conditions pursuant to section 7554 of this title.

(e)(1) Information obtained from the person during the risk assessment or needs screening shall be exempt from public inspection and copying under the Public Records Act and, except as provided in subdivision (2) of this subsection, only may be used for determining bail, conditions of release, and appropriate programming for the person in the pending case. The information a pretrial services coordinator may report is limited to whether a risk assessment indicates risk of nonappearance, whether further substance use assessment or treatment is indicated, whether mental health assessment or treatment is indicated, whether a person participated in a clinical assessment, and whether further engagement with pretrial services is recommended, unless the person provides written permission to release additional information. Information related to the present offense directly or indirectly derived from the risk assessment, needs screening, or other conversation with the pretrial services coordinator shall not be used against the person in the person's criminal or juvenile case for any purpose, including impeachment or cross-examination. However, the fact of participation or nonparticipation in risk assessment or needs screening may be used in subsequent proceedings. The immunity provisions of this subsection apply only to the use and derivative use of information gained as a proximate result of the risk assessment ~~or,~~ needs screening, or other conversation with the pretrial services coordinator.

(2) The person shall retain all of his or her due process rights throughout the risk assessment and needs screening process and may release his or her records at his or her discretion.

(3) ~~The Vermont Supreme Court in accordance with judicial rulemaking as provided in 12 V.S.A. § 1 shall promulgate and the Department of Corrections in accordance with the Vermont Administrative Procedure Act pursuant to 3 V.S.A. chapter 25 shall adopt rules related to the custody, control, and preservation of information consistent with the confidentiality requirements of this section. Emergency rules adopted prior to January 1, 2015 pursuant to this section shall be considered to meet the "imminent peril" standard under 3 V.S.A. § 844(a).~~ All records of information obtained during risk assessment or needs screening shall be stored in a manner making them accessible only to the Director of Pretrial Services and Pretrial Service Coordinators for a period of three years, after which the records shall be maintained as required by sections 117 and 218 of this title and any other State law. The Director of Pretrial Services shall be responsible for the destruction of records when ordered by the court.

(f) The Attorney General's Office shall:

(1) contract for or otherwise provide the pretrial services described in this section, including performance of risk assessments, needs screenings, and pretrial monitoring services, and

(2) develop pretrial services outcomes following the designated State of Vermont performance accountability framework and, in consultation with the Department of State's Attorneys and Sheriffs, the Office of the Defender General, the Center for Crime Victim Services, and the Judiciary, report annually on or before December 1 to the General Assembly on services provided and outcome indicators.

Sec. 4. MISDEMEANOR POSSESSION OF DRUGS; PRETRIAL SERVICES; REPORT

(a) It is the intent of the General Assembly to encourage persons cited or arrested for a misdemeanor drug possession charge the opportunity to engage with pretrial services, and, if appropriate, enter treatment, and that, in turn, a person who complies with such conditions be eligible for dismissal of the charge.

(b) The Attorney General, the Defender General, and the Executive Director of the Department of State's Attorneys and Sheriffs shall work collaboratively to develop a specific legislative proposal to accomplish this intent with an implementation date of July 1, 2018 and report to the Senate and House Committees on Judiciary and on Appropriations, the Senate Committee on Health and Welfare, and the House Committee on Human Services on or before November 1, 2017.

Sec. 5. LEGISLATIVE FINDINGS

The General Assembly finds that:

(1) According to Michael Botticelli, former Director of the Office of National Drug Control Policy, the National Drug Control Strategy recommends treating "addiction as a public health issue, not a crime." Further, the strategy "rejects the notion that we can arrest and incarcerate our way out of the nation's drug problem."

(2) Vermont Chief Justice Paul Reiber has declared that "the classic approach of 'tough on crime' is not working in [the] area of drug policy" and that treatment-based models are proving to be a more effective approach for dealing with crime associated with substance abuse.

(3) A felony conviction record is a significant impediment to gaining and maintaining employment and housing, yet we know that stable employment and housing are an essential element to recovery from substance abuse and desistance of criminal activity that often accompanies addiction.

(4) In a 2014 study by the PEW Research Center, 67 percent of people polled said government should focus more on providing treatment to people who use illicit drugs and less on punishment. The Center later reported that states are leading the way in reforming drug laws to reflect this opinion: State-level actions have included lowering penalties for possession and use of illegal drugs, shortening mandatory minimums or curbing their applicability, removing automatic sentence enhancements, and establishing or extending the jurisdiction of drug courts and other alternatives to the regular criminal justice system.

(5) Vermont must look at alternative approaches to the traditional criminal justice model for addressing low-level illicit drug use if it is going to reduce the effects of addiction and addiction-related crime in this State.

Sec. 6. STUDY

(a) The Office of Legislative Council shall examine the issue of a public health approach to low-level possession and use of illicit drugs in Vermont as an alternative to the traditional criminal justice model, looking to trends both nationally and internationally, with a goal of providing policymakers a range of approaches to consider during the 2018 legislative session.

(b) The Office of Legislative Council shall report its findings to the General Assembly on or before December 15, 2017.

Sec. 7. SUNSET

Sec. 2 of this act shall be repealed on July 1, 2020.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

JEANETTE K. WHITE
JOSEPH C. BENNING
ALICE W. NITKA

Committee on the part of the Senate

CHARLES W. CONQUEST
THOMAS B. BURDITT
SELENE COLBURN

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 22.

Pending entry on the Calendar for notice, on motion of Senator White, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council.

Was taken up for immediate consideration.

Senator White, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

H. 22. An act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council.

Respectfully reports that it has met and considered the same and recommends that the House accede to the Senate proposals of amendment and that the bill be further amended in Sec. 1, 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), in section 2406 (permitted Council sanctions), in subsection (b) (intended revocation; temporary voluntary surrender), in subdivision (1)(C), in the last sentence, following "the Council may modify its findings and decision on the basis of additional evidence" by inserting , but shall not be bound by any outcome of the labor proceeding

JEANETTE K. WHITE
BRIAN P. COLLAMORE
CHRISTOPHER A. PEARSON

Committee on the part of the Senate

MAIDA F. TOWNSEND
ROBERT B. LACLAIR
MARCIA L. GARDNER

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Bills Messaged

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

S. 9, S. 16, S. 50, S. 131, S. 134, H. 22, H. 143, H. 503.

Adjournment

On motion of Senator Mazza, the Senate adjourned until two o'clock in the afternoon.

Called to Order

The Senate was called to order by the President.

House Proposal of Amendment Concurred In with Amendment

S. 8.

House proposal of amendment to Senate bill entitled:

An act relating to establishing the State Ethics Commission and standards of governmental ethical conduct.

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:

* * * Former Legislators and Executive Officers; Lobbying Restriction * * *

Sec. 1. 2 V.S.A. § 266 is amended to read:

§ 266. PROHIBITED CONDUCT

* * *

(b)(1) A legislator or an Executive officer, for one year after leaving office, shall not be a lobbyist in this State.

(2) The prohibition set forth in subdivision (1) of this subsection shall not apply to a lobbyist exempted under section 262 of this chapter.

(c) As used in this section~~, "candidate's~~:

(1) "Candidate's committee," "contribution," and "legislative leadership political committee" shall have the same meanings as in 17 V.S.A. ~~§ 2901~~ chapter 61 (campaign finance).

(2) "Executive officer" means:

(A) the Governor, Lieutenant Governor, Treasurer, Secretary of State, Auditor of Accounts, or Attorney General; or

(B) under the Office of the Governor, an agency secretary or deputy or a department commissioner or deputy.

* * * Former Executive Officers; Postemployment Restrictions * * *

Sec. 2. 3 V.S.A. § 267 is added to read:

§ 267. EXECUTIVE OFFICERS; POSTEMPLOYMENT RESTRICTIONS

(a) Prior participation while in State employ.

(1) An Executive officer, for one year after leaving office, shall not, for pecuniary gain, be an advocate for any private entity before any public body or the General Assembly or its committees regarding any particular matter in which:

(A) the State is a party or has a direct and substantial interest; and

(B) the Executive officer had participated personally and substantively while in State employ.

(2) The prohibition set forth in subdivision (1) of this subsection applies to any matter the Executive officer directly handled, supervised, or managed, or gave substantial input, advice, or comment, or benefited from, either through discussing, attending meetings on, or reviewing materials prepared regarding the matter.

(b) Prior official responsibility. An Executive officer, for one year after leaving office, shall not, for pecuniary gain, be an advocate for any private entity before any public body or the General Assembly or its committees regarding any particular matter in which the officer had exercised any official responsibility.

(c) Exemption. The prohibitions set forth in subsections (a) and (b) of this section shall not apply if the former Executive officer's only role as an advocate would exempt that former officer from registration and reporting under 2 V.S.A. § 262.

(d) Public body enforcement. A public body shall disqualify a former Executive officer from his or her appearance or participation in a particular matter if the officer's appearance or participation is prohibited under this section.

(e) Definitions. As used in this section:

(1) "Advocate" means a person who assists, defends, or pleads.

(2) "Executive officer" means:

(A) the Governor, Lieutenant Governor, Treasurer, Secretary of State, Auditor of Accounts, or Attorney General; or

(B) under the Office of the Governor, an agency secretary or deputy or a department commissioner or deputy.

(3) "Private entity" means any person, corporation, partnership, joint venture, or association, whether organized for profit or not for profit, except one specifically chartered by the State of Vermont or that relies upon taxes for at least 50 percent of its revenues.

(4) "Public body" means any agency, department, division, or office and any board or commission of any such entity, or any independent board or commission, in the Executive Branch of the State.

* * * State Office and Legislative Candidates; Disclosure Form * * *

Sec. 3. 17 V.S.A. § 2414 is added to read:

§ 2414. CANDIDATES FOR STATE AND LEGISLATIVE OFFICE; DISCLOSURE FORM

(a) Each candidate for State office, State Senator, or State Representative shall file with the officer with whom consent of candidate forms are filed, along with his or her consent, a disclosure form prepared by the State Ethics Commission that contains the following information in regard to the previous calendar year:

(1) Each source, but not amount, of personal income of the candidate or of his or her spouse or domestic partner, or the candidate together with his or her spouse or domestic partner, that totals more than $5,000.00, ranked in order from highest to lowest income, including any of the sources meeting that total described as follows:

(A) employment, including the employer or business name and address and, if self-employed, a description of the nature of the self-employment without needing to disclose any individual clients; and

(B) investments, described generally as "investment income."

(2) Any board, commission, or other entity that is regulated by law or that receives funding from the State on which the candidate served and the candidate's position on that entity.

(3) Any company of which the candidate or his or her spouse or domestic partner, or the candidate together with his or her spouse or domestic partner, owned more than 10 percent.

(4) Any lease or contract with the State held or entered into by:

(A) the candidate or his or her spouse or domestic partner; or

(B) a company of which the candidate or his or her spouse or domestic partner, or the candidate together with his or her spouse or domestic partner, owned more than 10 percent.

(b) In addition, if a candidate's spouse or domestic partner is a lobbyist, the candidate shall disclose that fact and provide the name of his or her spouse or domestic partner and, if applicable, the name of his or her lobbying firm.

(c)(1) A senatorial district clerk or representative district clerk who receives a disclosure form under this section shall forward a copy of the disclosure to the Secretary of State within three business days of receiving it.

(2) The Secretary of State shall post a copy of any disclosure forms he or she receives under this section on his or her official State website.

(d) As used in this section:

(1) "Domestic partner" means an individual with whom the candidate has an enduring domestic relationship of a spousal nature, as long as the candidate and the domestic partner:

(A) have shared a residence for at least six consecutive months;

(B) are at least 18 years of age;

(C) are not married to or considered a domestic partner of another individual;

(D) are not related by blood closer than would bar marriage under State law; and

(E) have agreed between themselves to be responsible for each other's welfare.

(2) "Lobbyist" and "lobbying firm" shall have the same meanings as in 2 V.S.A. § 261.

* * * Campaign Finance; Contractor Contribution Restrictions * * *

Sec. 4. 17 V.S.A. § 2950 is added to read:

§ 2950. STATE OFFICERS AND STATE OFFICE CANDIDATES; CONTRACTOR CONTRIBUTION RESTRICTIONS

(a) Contributor restrictions on contracting.

(1) If a person makes a contribution to a State officer or a candidate for a State office, or if his, her, or its principal or spouse makes such a contribution, that person shall not negotiate or enter into a sole source contract valued at $50,000.00 or more or multiple sole source contracts valued in the aggregate at $100,000.00 or more with that State office or with the State on behalf of that office within one year following:

(A) that contribution, if the contribution was made to the incumbent State officer; or

(B) the beginning of the term of the office, if the contribution was made to a candidate for the State office who is not the incumbent.

(2) The prohibition set forth in subdivision (1) of this subsection shall end after the applicable one-year period described in subdivision (1) or upon the State officer vacating the office, whichever occurs first.

(b) Contractor restrictions on contributions.

(1)(A) A person who enters into a sole source contract valued at $50,000.00 or more or multiple sole source contracts valued in the aggregate at $100,000.00 or more with the office of a State officer or with the State on behalf of that office, or that person's principal or spouse, shall not make a contribution to a candidate for that State office or to that State officer.

(B) The candidate for State office or his or her candidate's committee or the State officer shall not solicit or accept a contribution from a person if that candidate, candidate's committee, or State officer knows the person is prohibited from making that contribution under this subdivision (1).

(2) The prohibitions set forth in subdivision (1) of this subsection shall be limited to a period beginning from the date of execution of the contract and ending with the completion of the contract.

(c) As used in this section:

(1) "Contract" means a "contract for services," as that term is defined in 3 V.S.A. § 341.

(2) "Person's principal" means an individual who:

(A) has a controlling interest in the person, if the person is a business entity;

(B) is the president, chair of the board, or chief executive officer of a business entity or is any other individual that fulfills equivalent duties as a president, chair of the board, or chief executive officer of a business entity;

(C) is an employee of the person and has direct, extensive, and substantive responsibilities with respect to the negotiation of the contract; or

(D) is an employee of a business entity whose compensation is determined directly, in whole or in part, by the award or payment of contracts by the State to the entity employing the employee. A regular salary that is paid irrespective of the award or payment of a contract with the State shall not constitute "compensation" under this subdivision (D).

Sec. 4a. 3 V.S.A. § 347 is added to read:

§ 347. CONTRACTOR CONTRIBUTION RESTRICTIONS

The Secretary of Administration shall include in the terms and conditions of sole source contracts a self-certification of compliance with the contractor contribution restrictions set forth in 17 V.S.A. § 2950.

* * * Campaign Finance Investigations; Reports to Ethics Commission * * *

Sec. 5. 17 V.S.A. § 2904 is amended to read:

§ 2904. CIVIL INVESTIGATION

(a)(1) The Attorney General or a State's Attorney, whenever he or she has reason to believe any person to be or to have been in violation of this chapter or of any rule ~~or regulation~~ made pursuant to this chapter, may examine or cause to be examined by any agent or representative designated by him or her for that purpose any books, records, papers, memoranda, or physical objects of any nature bearing upon each alleged violation and may demand written responses under oath to questions bearing upon each alleged violation.

* * *

(5) Nothing in this subsection is intended to prevent the Attorney General or a State's Attorney from disclosing the results of an investigation conducted under this section, including the grounds for his or her decision as to whether to bring an enforcement action alleging a violation of this chapter or of any rule ~~or regulation~~ made pursuant to this chapter.

* * *

Sec. 6. 17 V.S.A. § 2904a is added to read:

§ 2904a. REPORTS TO STATE ETHICS COMMISSION

Upon receipt of a complaint made in regard to a violation of this chapter or of any rule made pursuant to this chapter, the Attorney General or a State's Attorney shall:

(1) Forward a copy of the complaint to the State Ethics Commission established in 3 V.S.A. chapter 31. The Attorney General or State's Attorney shall provide this information to the Commission within 10 days of his or her receipt of the complaint.

(2) File a report with the Commission regarding his or her decision as to whether to bring an enforcement action as a result of that complaint. The Attorney General or State's Attorney shall make this report within 10 days of that decision.

Sec. 7. 3 V.S.A. Part 1, chapter 31 is added to read:

CHAPTER 31. GOVERNMENTAL ETHICS

Subchapter 1. General Provisions

§ 1201. DEFINITIONS

As used in this chapter:

(1) "Candidate" and "candidate's committee" shall have the same meanings as in 17 V.S.A. § 2901.

(2) "Commission" means the State Ethics Commission established under subchapter 3 of this chapter.

(3) "Executive officer" means:

(A) a State officer; or

(B) under the Office of the Governor, an agency secretary or deputy or a department commissioner or deputy.

(4)(A) "Gift" means anything of value, tangible or intangible, that is bestowed for less than adequate consideration.

(B) "Gift" does not mean printed educational material such as books, reports, pamphlets, or periodicals.

(5) "Governmental conduct regulated by law" means conduct by an individual in regard to the operation of State government that is restricted or prohibited by law and includes:

(A) bribery pursuant to 13 V.S.A. § 1102;

(B) neglect of duty by public officers pursuant to 13 V.S.A. § 3006 and by members of boards and commissions pursuant to 13 V.S.A. § 3007;

(C) taking illegal fees pursuant to 13 V.S.A. § 3010;

(D) false claims against government pursuant to 13 V.S.A. § 3016;

(E) owning or being financially interested in an entity subject to a department's supervision pursuant to section 204 of this title;

(F) failing to devote time to duties of office pursuant to section 205 of this title;

(G) engaging in retaliatory action due to a State employee's involvement in a protected activity pursuant to subchapter 4A of chapter 27 of this title;

(H) a former legislator or former Executive officer serving as a lobbyist pursuant to 2 V.S.A. § 266(b); and

(I) a former Executive officer serving as an advocate pursuant to section 267 of this title.

(6) "Lobbyist" shall have the same meaning as in 2 V.S.A. § 261.

(7) "Political committee" and "political party" shall have the same meanings as in 17 V.S.A. § 2901.

(8) "State officer" means the Governor, Lieutenant Governor, Treasurer, Secretary of State, Auditor of Accounts, or Attorney General.

§ 1202. STATE CODE OF ETHICS

The Ethics Commission, in consultation with the Department of Human Resources, shall adopt by rule a State Code of Ethics that sets forth general principles of governmental ethical conduct.

Subchapter 2. Disclosures

§ 1211. EXECUTIVE OFFICERS; BIENNIAL DISCLOSURE

(a) Biennially, each Executive officer shall file with the State Ethics Commission a disclosure form that contains the following information in regard to the previous calendar year:

(1) Each source, but not amount, of personal income of the officer or of his or her spouse or domestic partner, or the officer together with his or her spouse or domestic partner, that totals more than $5,000.00, ranked in order from highest to lowest income, including any of the sources meeting that total described as follows:

(A) employment, including the employer or business name and address and, if self-employed, a description of the nature of the self-employment without needing to disclose any individual clients; and

(B) investments, described generally as "investment income."

(2) Any board, commission, or other entity that is regulated by law or that receives funding from the State on which the officer served and the officer's position on that entity.

(3) Any company of which the officer or his or her spouse or domestic partner, or the officer together with his or her spouse or domestic partner, owned more than 10 percent.

(4) Any lease or contract with the State held or entered into by:

(A) the officer or his or her spouse or domestic partner; or

(B) a company of which the officer or his or her spouse or domestic partner, or the officer together with his or her spouse or domestic partner, owned more than 10 percent.

(b) In addition, if an Executive officer's spouse or domestic partner is a lobbyist, the officer shall disclose that fact and provide the name of his or her spouse or domestic partner and, if applicable, the name of his or her lobbying firm.

(c)(1) An officer shall file his or her disclosure on or before January 15 of the odd-numbered year or, if he or she is appointed after January 15, within 10 days after that appointment.

(2) An officer who filed this disclosure form as a candidate in accordance with 17 V.S.A. § 2414 in the preceding year and whose disclosure information has not changed since that filing may update that filing to indicate that there has been no change.

(d) As used in this section:

(1) "Domestic partner" means an individual with whom the Executive officer has an enduring domestic relationship, as long as the officer and the domestic partner:

(A) have shared a residence for at least six consecutive months;

(B) are at least 18 years of age;

(C) are not married to or considered a domestic partner of another individual;

(D) are not related by blood closer than would bar marriage under State law; and

(E) have agreed between themselves to be responsible for each other's welfare.

(2) "Lobbyist" and "lobbying firm" shall have the same meanings as in 2 V.S.A. § 261.

§ 1212. COMMISSION MEMBERS AND EXECUTIVE DIRECTOR; BIENNIAL DISCLOSURE

(a) Biennially, each member of the Commission and the Executive Director of the Commission shall file with the Executive Director a disclosure form that contains the information that Executive officers are required to disclose under section 1211 of this subchapter.

(b) A member and the Executive Director shall file their disclosures on or before January 15 of the first year of their appointments or, if the member or

Executive Director is appointed after January 15, within 10 days after that appointment, and shall file subsequent disclosures biennially thereafter.

§ 1213. DISCLOSURES; GENERALLY

(a) The Executive Director of the Commission shall prepare on behalf of the Commission any disclosure form required to be filed with it and the candidate disclosure form described in 17 V.S.A. § 2414, and shall make those forms available on the Commission's website.

(b) The Executive Director shall post a copy of any disclosure form the Commission receives on the Commission's website.

Subchapter 3. State Ethics Commission

§ 1221. STATE ETHICS COMMISSION

(a) Creation. There is created within the Executive Branch an independent commission named the State Ethics Commission to accept, review, make referrals regarding, and track complaints of alleged violations of governmental conduct regulated by law, of the Department of Human Resources Code of Ethics, and of the State's campaign finance law set forth in 17 V.S.A. chapter 61; to provide ethics training; and to issue guidance and advisory opinions regarding ethical conduct.

(b) Membership.

(1) The Commission shall be composed of the following five members:

(A) a chair of the Commission, who shall be appointed by the Chief Justice of the Supreme Court and who shall have a background or expertise in ethics;

(B) one member appointed by the League of Women Voters of Vermont, who shall be a member of the League;

(C) one member appointed by the Board of Directors of the Vermont Society of Certified Public Accountants, who shall be a member of the Society;

(D) one member appointed by the Board of Managers of the Vermont Bar Association, who shall be a member of the Association; and

(E) one member appointed by the Board of Directors of the Vermont Human Resource Association, who shall be a member of the Association.

(2) A member shall not:

(A) hold any office in the Legislative, Executive, or Judicial Branch of State government or otherwise be employed by the State;

(B) hold or enter into any lease or contract with the State, or have a controlling interest in a company that holds or enters into a lease or contract with the State;

(C) be a lobbyist;

(D) be a candidate for State or legislative office; or

(E) hold any office in a State or legislative office candidate's committee, a political committee, or a political party.

(3) A member may be removed for cause by the remaining members of the Commission in accordance with the Vermont Administrative Procedure Act.

(4)(A) A member shall serve a term of three years and until a successor is appointed. A term shall begin on January 1 of the year of appointment and run through December 31 of the last year of the term. Terms of members shall be staggered so that not all terms expire at the same time.

(B) A vacancy created before the expiration of a term shall be filled in the same manner as the original appointment for the unexpired portion of the term.

(C) A member shall not serve more than two consecutive terms. A member appointed to fill a vacancy created before the expiration of a term shall not be deemed to have served a term for the purpose of this subdivision (C).

(c) Executive Director.

(1) The Commission shall be staffed by an Executive Director who shall be appointed by and serve at the pleasure of the Commission and who shall be a part-time exempt State employee.

(2) The Executive Director shall maintain the records of the Commission and shall provide administrative support as requested by the Commission, in addition to any other duties required by this chapter.

(d) Confidentiality. The Commission and the Executive Director shall maintain the confidentiality required by this chapter.

(e) Meetings. Meetings of the Commission:

(1) shall be held at least quarterly for the purpose of the Executive Director updating the Commission on his or her work;

(2) may be called by the Chair and shall be called upon the request of any other two Commission members; and

(3) shall be conducted in accordance with 1 V.S.A. § 172.

(f) Reimbursement. Each member of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

§ 1222. COMMISSION MEMBER DUTIES AND PROHIBITED CONDUCT

(a) Conflicts of interest.

(1) Prohibition; recusal.

(A) A Commission member shall not participate in any Commission matter in which he or she has a conflict of interest and shall recuse himself or herself from participation in that matter.

(B) The failure of a Commission member to recuse himself or herself as described in subdivision (A) of this subdivision (1) may be grounds for the Commission to discipline or remove that member.

(2) Disclosure of conflict of interest.

(A) A Commission member who has reason to believe he or she has a conflict of interest in a Commission matter shall disclose that he or she has that belief and disclose the nature of the conflict of interest. Alternatively, a Commission member may request that another Commission member recuse himself or herself from a Commission matter due to a conflict of interest.

(B) Once there has been a disclosure of a member's conflict of interest, members of the Commission shall be afforded the opportunity to ask questions or make comments about the situation to address the conflict.

(C) A Commission member may be prohibited from participating in a Commission matter by at least three other members of the Commission.

(3) Postrecusal or -prohibition procedure. A Commission member who has recused himself or herself or was prohibited from participating in a Commission matter shall not sit or deliberate with the Commission or otherwise act as a Commission member on that matter.

(4) Definition. As used in this subsection, "conflict of interest" means an interest of a member that is in conflict with the proper discharge of his or her official duties due to a significant personal or financial interest of the member, of a person within the member's immediate family, or of the member's business associate. "Conflict of interest" does not include any interest that is not greater than that of any other persons generally affected by the outcome of a matter.

(b) Gifts. A Commission member shall not accept a gift given by virtue of his or her membership on the Commission.

§ 1223. PROCEDURE FOR HANDLING COMPLAINTS

(a) Accepting complaints.

(1) On behalf of the Commission, the Executive Director shall accept complaints from any source regarding governmental ethics in any of the three branches of State government or of the State's campaign finance law set forth in 17 V.S.A. chapter 61.

(2) Complaints shall be in writing and shall include the identity of the complainant.

(b) Preliminary review by Executive Director. The Executive Director shall conduct a preliminary review of complaints made to the Commission in order to take action as set forth in this subsection, which shall include referring complaints to all relevant entities.

(1) Governmental conduct regulated by law.

(A) If the complaint alleges a violation of governmental conduct regulated by law, the Executive Director shall refer the complaint to the Attorney General or to the State's Attorney of jurisdiction, as appropriate.

(B) The Attorney General or State's Attorney shall file a report with the Executive Director regarding his or her decision as to whether to bring an enforcement action as a result of a complaint referred under subdivision (A) of this subdivision (1) within 10 days of that decision.

(2) Department of Human Resources Code of Ethics.

(A) If the complaint alleges a violation of the Department of Human Resources Code of Ethics, the Executive Director shall refer the complaint to the Commissioner of Human Resources.

(B) The Commissioner shall report back to the Executive Director regarding the final disposition of a complaint referred under subdivision (A) of this subdivision (2) within 10 days of that final disposition.

(3) Campaign finance.

(A) If the complaint alleges a violation of campaign finance law, the Executive Director shall refer the complaint to the Attorney General or to the State's Attorney of jurisdiction, as appropriate.

(B) The Attorney General or State's Attorney shall file a report with the Executive Director regarding his or her decision as to whether to bring an enforcement action as a result of a complaint referred under subdivision (A) of this subdivision (3) as set forth in 17 V.S.A. § 2904a.

(4) Legislative and Judicial Branches; attorneys.

(A) If the complaint is in regard to conduct committed by a State Senator, the Executive Director shall refer the complaint to the Senate Ethics Panel and shall request a report back from the Panel regarding the final disposition of the complaint.

(B) If the complaint is in regard to conduct committed by a State Representative, the Executive Director shall refer the complaint to the House Ethics Panel and shall request a report back from the Panel regarding the final disposition of the complaint.

(C) If the complaint is in regard to conduct committed by a judicial officer, the Executive Director shall refer the complaint to the Judicial Conduct Board and shall request a report back from the Board regarding the final disposition of the complaint.

(D) If the complaint is in regard to an attorney employed by the State, the Executive Director shall refer the complaint to the Professional Responsibility Board and shall request a report back from the Board regarding the final disposition of the complaint.

(E) If any of the complaints described in subdivisions (A)–(D) of this subdivision (4) also allege that a crime has been committed, the Executive Director shall also refer the complaint to the Attorney General and the State's Attorney of jurisdiction.

(5) Closures. The Executive Director shall close any complaint that he or she does not refer as set forth in subdivisions (1)–(4) of this subsection.

(c) Confidentiality. Complaints and related documents in the custody of the Commission shall be exempt from public inspection and copying under the Public Records Act and kept confidential.

§ 1224. COMMISSION ETHICS TRAINING

At least annually, in collaboration with the Department of Human Resources, the Commission shall make available to State officers and State employees training on issues related to governmental ethics. The training shall include topics related to those covered in any guidance or advisory opinion issued under section 1225 of this subchapter.

§ 1225. EXECUTIVE DIRECTOR GUIDANCE AND ADVISORY OPINIONS

(a) Guidance.

(1) The Executive Director may issue to an Executive officer or other State employee, upon his or her request, guidance regarding any provision of this chapter or any issue related to governmental ethics.

(2) The Executive Director may consult with members of the Commission and the Department of Human Resources in preparing this guidance.

(3) Guidance issued under this subsection shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential unless the receiving entity has publicly disclosed it.

(b) Advisory opinions.

(1) The Executive Director may issue advisory opinions that provide general advice or interpretation regarding this chapter or any issue related to governmental ethics.

(2) The Executive Director may consult with members of the Commission and the Department of Human Resources in preparing these advisory opinions.

(3) The Executive Director shall post on the Commission's website any advisory opinions that he or she issues.

§ 1226. COMMISSION REPORTS

Annually, on or before January 15, the Commission shall report to the General Assembly regarding the following issues:

(1) Complaints. The number and a summary of the complaints made to it, separating the complaints by topic, and the disposition of those complaints, including any prosecution, enforcement action, or dismissal. This summary of complaints shall not include any personal identifying information.

(2) Guidance. The number and a summary of the guidance documents the Executive Director issued, separating the guidance by topic. This summary of guidance shall not include any personal identifying information.

(3) Recommendations. Any recommendations for legislative action to address State governmental ethics or provisions of campaign finance law.

* * * Implementation * * *

Sec. 8. APPLICABILITY OF EMPLOYMENT RESTRICTIONS

The provisions of Secs. 1 and 2 of this act that restrict employment shall not apply to any such employment in effect on the effective date of those sections.

Sec. 9. STATE ETHICS COMMISSION; STATE CODE OF ETHICS; RULE-MAKING PROCEDURE REQUIREMENTS

On or before July 1, 2018 and prior to prefiling of a rule under 3 V.S.A. § 837, the Ethics Commission shall submit to the House and Senate Committees on Government Operations the draft rule creating the State Code of Ethics described in 3 V.S.A. § 1202 in Sec. 7 of this act.

Sec. 10. IMPLEMENTATION OF THE STATE ETHICS COMMISSION

(a) The State Ethics Commission, created in Sec. 7 of this act, is established on January 1, 2018.

(b) Members of the Commission shall be appointed on or before October 15, 2017 in order to prepare as they deem necessary for the establishment of the Commission, including the hiring of the Commission's Executive Director. Terms of members shall officially begin on January 1, 2018.

(c)(1) In order to stagger the terms of the members of the State Ethics Commission as described in 3 V.S.A. § 1221(b)(4)(A) in Sec. 7 of this act, the initial terms of those members shall be as follows:

(A) the Chief Justice of the Supreme Court shall appoint the Chair for a three-year term;

(B) the League of Women Voters of Vermont shall appoint a member for a two-year term;

(C) the Board of Directors of the Vermont Society of Certified Public Accountants shall appoint a member for a one-year term;

(D) the Vermont Bar Association shall appoint a member for a three-year term; and

(E) the Board of Directors of the Vermont Human Resource Association shall appoint a member for a two-year term.

(2) After the expiration of the initial terms set forth in subdivision (1) of this subsection, Commission member terms shall be as set forth in 3 V.S.A. § 1221(b)(4)(A) in Sec. 7 of this act.

Sec. 11. CREATION OF STAFF POSITION FOR STATE ETHICS COMMISSION

One part-time exempt Executive Director position is created in the State Ethics Commission set forth in Sec. 7 of this act by using an existing position in the position pool.

Sec. 12. BUILDINGS AND GENERAL SERVICES; SPACE ALLOCATION

The Commissioner of Buildings and General Services shall allocate space for the State Ethics Commission established in Sec. 7 of this act. This space shall be allocated on or before October 15, 2017.

Sec. 13. STATE ETHICS COMMISSION FUNDING SOURCE SURCHARGE; REPEAL

(a) Surcharge.

(1) Notwithstanding the provisions of 3 V.S.A. § 2283(c) setting forth the purpose and rate of charges collected in the Human Resource Services Internal Service Fund, in fiscal year 2018 and thereafter, a surcharge of up to 2.3 percent, but no greater than the cost of the activities of the State Ethics Commission set forth in Sec. 7 of this act, on the per-position portion of the charges authorized in 3 V.S.A. § 2283(c)(2) shall be assessed to all Executive Branch agencies, departments, and offices and shall be paid by all assessed entities solely with State funds.

(2) The amount collected shall be accounted for within the Human Resource Services Internal Service Fund and used solely for the purposes of funding the activities of the State Ethics Commission set forth in Sec. 7 of this act.

(b) Repeal. This section shall be repealed on June 30, 2020.

* * * Municipal Ethics and Conflicts of Interest * * *

Sec. 14. 24 V.S.A. § 1984 is amended to read:

§ 1984. CONFLICT OF INTEREST PROHIBITION

(a)(1) ~~A~~ Each town, city, ~~or~~ and incorporated village, by majority vote of those present and voting at an annual or special meeting warned for that purpose, ~~may~~ shall adopt a conflict of interest prohibition for its elected and appointed officials, which shall contain:

~~(1)~~(A) A definition of "conflict of interest."

~~(2)~~(B) A list of the elected and appointed officials covered by such prohibition.

~~(3)~~(C) A method to determine whether a conflict of interest exists.

~~(4)~~(D) Actions that must be taken if a conflict of interest is determined to exist.

~~(5)~~(E) A method of enforcement against individuals violating such prohibition.

(2) The requirement set forth in subdivision (1) of this subsection shall not apply if, pursuant to the provisions of subdivision 2291(20) of this title, the municipality has established a conflict of interest policy that is in substantial compliance with subdivision (1).

(b)(1) Unless the prohibition adopted pursuant to subsection (a) of this section contains a different definition of "conflict of interest," for the purposes of a prohibition adopted under this section, "conflict of interest" means a direct personal or pecuniary interest of a public official, or the official's spouse, household member, business associate, employer, or employee, in the outcome of a cause, proceeding, application, or any other matter pending before the

official or before the agency or public body in which the official holds office or is employed.

(2) "Conflict of interest" does not arise in the case of votes or decisions on matters in which the public official has a personal or pecuniary interest in the outcome, such as in the establishment of a tax rate, that is no greater than that of other persons generally affected by the decision.

Sec. 15. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(20) To establish a conflict-of-interest policy to apply to all elected and appointed officials of the town, city, or incorporated village or ethical conduct policies to apply to all elected and appointed officials and employees of the municipality, or both.

* * *

Sec. 16. GENERAL ASSEMBLY; RECOMMENDATION REGARDING MUNICIPAL ETHICS

The General Assembly recommends that each town, city, and incorporated village adopt ethical conduct policies for its elected and appointed officials and employees.

Sec. 17. TRANSITIONAL PROVISION; MUNICIPAL ETHICS COMPLAINTS; SECRETARY OF STATE; ETHICS COMMISSION; REPORTS

(a) Until December 15, 2020, the Secretary of State shall accept complaints in writing regarding municipal governmental ethical conduct and:

(1) forward those complaints to the applicable municipality; and

(2) report those complaints annually on or before December 15 to the Executive Director of the State Ethics Commission in the form requested by the Executive Director.

(b) The State Ethics Commission shall include a summary of these municipal complaints and any recommendations for legislative action in regard to municipal ethics along with its report of complaints and recommendations described in Sec. 7 of this act in 3 V.S.A. § 1226(1) and (3) (Commission reports; complaints; recommendations).

* * * Effective Dates * * *

Sec. 18. EFFECTIVE DATES

This act shall take effect as follows:

(1) The following sections shall take effect on July 1, 2017:

(A) Sec. 1, 2 V.S.A. § 266 (former legislators and Executive officers; lobbying; prohibited employment); and

(B) Sec. 2, 3 V.S.A. § 267 (former Executive officers; prohibited employment).

(2) The following sections shall take effect on January 1, 2018:

(A) Sec. 3, 17 V.S.A. § 2414 (candidates for State and legislative office; disclosure form);

(B) Sec. 6, 17 V.S.A. § 2904a (Attorney General or State's Attorney; campaign finance; reports to State Ethics Commission); and

(C) Sec. 7, 3 V.S.A. Part 1, chapter 31 (governmental ethics).

(3) Secs. 4, 17 V.S.A. § 2950 (State officers and State office candidates; contractor contribution restrictions) and 4a, 3 V.S.A. § 347 (contractor contribution restrictions) shall take effect on December 16, 2018.

(4) Sec. 14, 24 V.S.A. § 1984 (municipalities; conflict of interest prohibition) shall take effect on July 1, 2019.

(5) This section and all other sections shall take effect on passage.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator White moved that the Senate concur in the House proposal of amendment with further proposals of amendment thereto as follows:

First: In Sec. 3, 17 V.S.A. § 2414 (candidates for State and legislative office; disclosure form), in subsection (a), by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) Each source, but not amount, of personal income of the candidate and of his or her spouse or domestic partner, and of the candidate together with his or her spouse or domestic partner, that totals more than $5,000.00, including any of the sources meeting that total described as follows:

Second: In Sec. 3, 17 V.S.A. § 2414 (candidates for State and legislative office; disclosure form), by adding a new subsection to be subsection (c) to read as follows:

(c) In addition, each candidate for State office shall attach to the disclosure form described in subsection (a) of this section a copy of his or her most recent U.S. Individual Income Tax Return Form 1040; provided, however, that the candidate may redact from that form the following information:

(1) the candidate's Social Security Number and that of his or her spouse, if applicable;

(2) the names of any dependent and the dependent's Social Security Number; and

(3) the signature of the candidate and that of his or her spouse, if applicable.

And by relettering the remaining subsections to be alphabetically correct.

Third: In Sec. 3, 17 V.S.A. § 2414 (candidates for State and legislative office; disclosure form), in subsection (c) (relettered subsection (d)), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2)(A) The Secretary of State shall post a copy of any disclosure forms and tax returns he or she receives under this section on his or her official State website.

(B) Prior to posting, the Secretary shall redact from a tax return the information permitted to be redacted under subsection (c) of this section, if the candidate fails to do so.

Fourth: In Sec. 7, 3 V.S.A. chapter 31, by striking out section 1202 (State Code of Ethics) in its entirety and inserting in lieu thereof a new section 1202 to read as follows:

§ 1202. STATE CODE OF ETHICS

The Ethics Commission, in consultation with the Department of Human Resources, shall create and maintain a State Code of Ethics that sets forth general principles of governmental ethical conduct.

Fifth: In Sec. 7, 3 V.S.A. chapter 31, in section 1211 (Executive officers; biennial disclosure), in subsection (a), by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) Each source, but not amount, of personal income of the officer and of his or her spouse or domestic partner, and of the officer together with his or her spouse or domestic partner, that totals more than $5,000.00, including any of the sources meeting that total described as follows:

Sixth: In Sec. 7, 3 V.S.A. chapter 31, in section 1211 (Executive officers; biennial disclosure), in subdivision (d)(1) ("domestic partner" definition),

following "an enduring domestic relationship" by inserting the following: of a spousal nature

Seventh: In Sec. 7, 3 V.S.A. chapter 31, in section 1221 (State Ethics Commission), in subsection (b) (membership), in subdivision (1), by striking out subparagraph (A) in its entirety and inserting in lieu thereof a new subparagraph (A) to read as follows:

(A) one member appointed by the Chief Justice of the Supreme Court;

Eighth: In Sec. 7, 3 V.S.A. chapter 31, in section 1221 (State Ethics Commission), in subsection (b) (membership), by inserting a new subdivision (2) to read as follows:

(2) The Commission shall elect the Chair of the Commission from among its membership.

And by renumbering the remaining subdivisions to be numerically correct.

Ninth: In Sec. 7, 3 V.S.A. chapter 31, in section 1224 (Commission ethics training), in the first sentence, following "the Commission shall make available to" by striking out "State officers" and inserting in lieu thereof the following: legislators, State officers,

Tenth: By striking out Sec. 9 (State Ethics Commission; State Code of Ethics; rule-making procedure requirements) in its entirety and inserting in lieu thereof a new Sec. 9 to read:

Sec. 9. STATE ETHICS COMMISSION; STATE CODE OF ETHICS; PROCEDURE FOR CREATION

(a) The State Ethics Commission shall create a draft of the State Code of Ethics in consultation with the Department of Human Resources as described in 3 V.S.A. § 1202 in Sec. 7 of this act and submit that draft to the House and Senate Committees on Government Operations for their review on or before March 15, 2018.

(b) After considering any recommendations by those Committees, the Commission shall create its final version of the State Code of Ethics on or before July 1, 2018.

Eleventh: In Sec. 10 (implementation of the State Ethics Commission), in subsection (b), in the first sentence, following "including the hiring of the Commission's Executive Director" by inserting the following: and electing the Chair of the Commission

Twelfth: In Sec. 10 (implementation of the State Ethics Commission), in subsection (c), in subdivisions (1) and (2), by striking out "3 V.S.A.

§ 1221(b)(4)(A)" and inserting in lieu thereof the following: 3 V.S.A. § 1221(b)(5)(A)

Thirteenth: In Sec. 10 (implementation of the State Ethics Commission), in subdivision (c)(1)(A), following "the Chief Justice of the Supreme Court shall appoint" by striking out "the Chair" and inserting in lieu thereof the following: a member

Fourteenth: In Sec. 17 (transitional provision; municipal ethics complaints; Secretary of State; Ethics Commission; reports), by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) The State Ethics Commission shall include a summary of these municipal complaints along with its report of complaints described in 3 V.S.A. § 1226(1) (Commission reports; complaints) in Sec. 7 of this act.

Which was agreed to.

Appointment 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:

The nomination of

Harrison, Wendy of Brattleboro - Member, Transportation Board - December 12, 2016, to February 28, 2019.

Was confirmed by the Senate.

The nomination of

Heald, Francis of Island Pond - Member, Travel Information Council – July 1, 2016, to February 28, 2018.

Was confirmed by the Senate.

The nomination of

Kennett, Elizabeth of Rochester - Member, Travel Information Council - June 14, 2016, to February 28, 2018.

Was confirmed by the Senate.

The nomination of

Kittell, Vanessa of East Fairfield - Chair, Transportation Board – December 12, 2016, to February 28, 2019.

Was confirmed by the Senate.

The nomination of

Lauzon, Thomas of Barre - Member, Travel Information Council – July 1, 2016, to February 28, 2018.

Was confirmed by the Senate.

The nomination of

Gallagher, Thomas of St. Albans - Member, Vermont Economic Development Authority - July 1, 2016, to June 30, 2022.

Was confirmed by the Senate.

The nomination of

Gibbons, Kenneth of Hyde Park - Member, Vermont Educational and Health Buildings Financing Agency - July 1, 2016, to January 31, 2022.

Was confirmed by the Senate.

The nomination of

Graves, Leon of Fairfield - Member, Vermont Economic Development Authority - July 1, 2016, to June 30, 2022.

Was confirmed by the Senate.

The nomination of

Kurtzman, Daniel of Canaan - Member, Vermont Economic Development Authority - July 1, 2016, to June 30, 2022.

Was confirmed by the Senate.

The nomination of

Tuttle, Michael of South Burlington - Member, Vermont Economic Development Authority - September 12, 2016, to June 30, 2020.

Was confirmed by the Senate.

The nomination of

Wisloski, Stephen of South Burlington - Member, Vermont Educational and Health Buildings Financing Agency - June 14, 2016, to February 28, 2019.

Was confirmed by the Senate.

The nomination of

Terry, Faith of Middlebury - Member, Transportation Board – September 12, 2016, to February 28, 2019.

Was confirmed by the Senate.

The nomination of

Weinstein, Heather of Montpelier - Member, Community High School of Vermont Board - December 12, 2016, to February 28, 2017.

Was confirmed by the Senate.

Rules Suspended; Bill Messaged

On motion of Senator Mazza, the rules were suspended, and the following bill was ordered messaged to the House forthwith:

S. 8.

Recess

On motion of Senator Mazza the Senate recessed until 4:00 P.M.

Called to Order

The Senate was called to order by the President.

Adjournment

On motion of Senator Ashe, the Senate adjourned until ten o'clock in the morning.

THURSDAY, MAY 11, 2017

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Senator Deborah J. Ingram of Chittenden District.

Message from the House No. 72

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

Mr. President:

I am directed to inform the Senate that:

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. 112. An act relating to creating the Spousal Support and Maintenance Task Force.

And has adopted the same on its part.

Message from the House No. 73

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

Mr. President:

I am directed to inform the Senate that:

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. 34. An act relating to cross-promoting development incentives and State policy goals.

And has adopted the same on its part.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 100.

House proposal of amendment to Senate bill entitled:

An act relating to promoting affordable and sustainable housing.

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:

* * * Vermont Housing and Conservation Board;
Housing Bond Proceeds for Affordable Housing * * *

Sec. 1. FINDINGS AND PURPOSE; AFFORDABLE HOUSING BOND

(a) Findings.

(1) The General Assembly finds that investments are needed to help house the most vulnerable as well as creating more homes for workers.

(2) The shortage of affordable and available homes has been highlighted recently by:

(A) the Vermont Futures Project of the Vermont Chamber of Commerce, which set a growth target of 5,000 new and improved housing units annually;

(B) a national consultant's recommendations for a Roadmap to End Homelessness, which calls for, over the next five years, 368 new units for permanent supportive housing and 1,251 new homes affordable to families with income that is not more than 30 percent of the median; and

(C) the 2015 statewide housing needs assessment by Bowen National Research, which found the largest gaps in housing affordable to households with income below 30 percent of median and households with income between 85 percent and 120 percent of median, and found a lack of housing availability across the income spectrum.

(b) Purpose. The purpose of this act is to promote the development and improvement of housing for Vermonters.

Sec. 2. 10 V.S.A. § 314 is added to read:

§ 314. AFFORDABLE HOUSING BOND; INVESTMENT

The Vermont Housing and Conservation Board shall use the proceeds of bonds, notes, and other obligations issued by the Vermont Housing Finance Agency pursuant to subdivision 621(22) of this title and transferred to the Vermont Housing and Conservation Trust Fund to fund the creation and improvement of owner-occupied and rental housing for Vermonters with very low to middle income, in areas targeted for growth and reinvestment, as follows:

(1) not less than 25 percent of the housing shall be targeted to Vermonters with very low income, meaning households with income below 50 percent of area median income;

(2) not less than 25 percent of the housing shall be targeted to Vermonters with moderate income, meaning households with income between 80 and 120 percent of area median income; and

(3) the remaining housing shall be targeted to Vermonters with income that is less than or equal to 120 percent of area median income, consistent with the provisions of this chapter.

Sec. 3. 10 V.S.A. § 323 is amended to read:

§ 323. ANNUAL REPORT

Prior to January 31 of each year, the ~~board~~ Board shall submit a report concerning its activities to the ~~governor~~ Governor and ~~legislative committees on agriculture, natural resources and energy, appropriations, ways and means, finance, and institutions~~ to the House Committees on Agriculture and Forestry, on Appropriations, on Corrections and Institutions, on Natural Resources, Fish and Wildlife, and on Ways and Means and the Senate Committees on Agriculture, on Appropriations, on Finance, on Institutions, and on Natural Resources and Energy. The report shall include~~, but not be limited to,~~ the following:

(1) a list and description of activities funded by the ~~board~~ Board during the preceding year, including commitments made to fund projects through

housing bond proceeds pursuant to section 314 of this title, and project descriptions, levels of affordability, and geographic location;

* * *

* * * Allocation of Property Transfer Tax Revenues * * *

Sec. 4. 32 V.S.A. § 9610 is amended to read:

§ 9610. REMITTANCE OF RETURN AND TAX; INSPECTION OF RETURNS

(a) Not later than 30 days after the receipt of any property transfer return, a town clerk shall file the return in the office of the town clerk and electronically forward a copy of the acknowledged return to the Commissioner; provided, however, that with respect to a return filed in paper format with the town, the Commissioner shall have the discretion to allow the town to forward a paper copy of that return to the ~~department~~ Department.

(b) The copies of property transfer returns in the custody of the town clerk may be inspected by any member of the public.

(c) Prior to distributions of property transfer tax revenues under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), and ~~32 V.S.A. §~~ subdivision 435(b)(10) of this title, ~~one~~ two percent of the revenues received from the property transfer tax shall be deposited in a special fund in the Department of Taxes for Property Valuation and Review administration costs.

(d)(1) Prior to any distribution of property transfer tax revenue under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), subdivision 435(b)(10) of this title, and subsection (c) of this section, $2,500,000.00 of the revenue received from the property transfer tax shall be transferred to the Vermont Housing Finance Agency to pay the principal of and interest due on the bonds, notes, and other obligations authorized to be issued by the Agency pursuant to 10 V.S.A. § 621(22), the proceeds of which the Vermont Housing and Conservation Board shall use to create affordable housing pursuant to 10 V.S.A. § 314.

(2) As long as the bonds, notes, and other obligations incurred pursuant to subdivision (1) of this subsection remain outstanding, the rate of tax imposed pursuant to section 9602 of this title shall not be reduced below a rate estimated, at the time of any reduction, to generate annual revenues of at least $12,000,000.00.

* * * Vermont Housing Finance Agency; Authority to Issue Bonds for Affordable Housing * * *

Sec. 5. 10 V.S.A. § 621 is amended to read:

§ 621. GENERAL POWERS AND DUTIES

The Agency shall have all of the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including without limitation those general powers provided a business corporation by 11A V.S.A. § 3.02 and those general powers provided a nonprofit corporation by 11B V.S.A. § 3.02 and including, without limiting the generality of the foregoing, the power to:

* * *

(21) use funds received from real estate trust and escrow accounts established under 26 V.S.A. § 2214(c), IORTA funds, for down payment and closing cost assistance with priority given to persons and families at or below 90 percent of median income and to persons and families purchasing perpetually affordable housing;

(22) issue bonds, notes, and other obligations secured by the property transfer tax revenues transferred to the Agency pursuant to 32 V.S.A. § 9610(d).

Sec. 6. 10 V.S.A. § 631(l) is added to read:

(l)(1) The bonds, notes, and other obligations authorized to be issued pursuant to subdivision 621(22) of this title shall be secured by a pledge of the property transfer tax revenues to be transferred to the Agency pursuant to 32 V.S.A. § 9610(d) and shall mature on or before June 30, 2039.

(2) The Agency may issue the bonds, notes, and other obligations in one or more series at one time or from time to time, provided that the aggregate annual debt service on the bonds, notes, and other obligations shall not exceed $2,500,000.00 at any time.

(3) The Agency shall transfer the proceeds of the bonds, notes, and other obligations, less issuance fees and costs and required reserves, to the Vermont Housing and Conservation Trust Fund established pursuant to section 312 of this title for use by the Vermont Housing and Conservation Board as provided in section 314 of this title.

(4) The Agency, the Vermont Housing and Conservation Board, and the State Treasurer may execute one or more agreements governing the terms and conditions under which the property transfer tax revenues that secure the bonds, notes, and obligations shall be transferred to the Agency, and any other issues they determine appropriate.

* * * Funding for Affordable Housing Bond Program;
Allocation of Revenues; Intent * * *

Sec. 7. INTENT; FUNDING FOR AFFORDABLE HOUSING BOND PROGRAM; ALLOCATION OF PROPERTY TRANSFER TAX REVENUES

(a) Revenues from the property transfer tax, before the passage of this act, were allocated pursuant to statute as follows:

(1) The first two percent was deposited in a special fund in the Department of Taxes for Property Valuation and Review administration costs pursuant to 32 V.S.A. § 9610(c).

(2) Of the remaining 98 percent of the revenues:

(A) 17 percent was deposited in the Municipal and Regional Planning Fund created in 24 V.S.A. § 4306.

(B) 50 percent was deposited in the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312.

(C) 33 percent was deposited in the General Fund created in 32 V.S.A. § 435.

(b) Pursuant to Sec. 4 of this act, in 32 V.S.A. § 9610(d), the first $2,500,000.00 of revenue generated from the property transfer tax is transferred to the Vermont Housing Finance Agency to service the bonds, notes, and other obligations incurred by the Agency pursuant to 10 V.S.A. § 621(22), the proceeds of which the Vermont Housing and Conservation Board shall use to create affordable housing pursuant to 10 V.S.A. § 314.

(c) Transferring the first $2,500,000.00 of property transfer tax revenues to the Vermont Housing Finance Agency for debt service reduces the amount of revenues available for allocation to the respective statutory recipients identified in subsection (a) of this section.

(d) To compensate for this reduction of available property transfer tax revenue, it is the intent of the General Assembly through this act to provide for the transfer of $2,500,000.00 to the Vermont Housing and Conservation Trust Fund, as follows:

(1) Sec. D.100(a)(2) of H.518 (2017) appropriates $11,304,840.00 in fiscal year 2018 from the Vermont Housing and Conservation Trust Fund to the Vermont Housing and Conservation Board. Upon the effective date of this act, the Board shall transfer the amount of $1,500,000.00 back to the Vermont Housing and Conservation Trust Fund, resulting in a fiscal year 2018 total appropriation to the Board of $9,804,840.00. In fiscal year 2018 only, the

Commissioner of Taxes shall transfer the amount of $1,500,000.00 from the Vermont Housing and Conservation Trust Fund to the General Fund.

(2) As provided in Sec. 9 of this act, from July 1, 2017 until July 1, 2039, pursuant to 32 V.S.A. § 9602a, the first $1,000,000.00 in revenue generated by the clean water surcharge of 0.2 percent shall be transferred to the Vermont Housing and Conservation Trust Fund. In fiscal year 2018 only, the Commissioner of Taxes shall transfer the amount of $1,000,000.00 from the Vermont Housing and Conservation Trust Fund to the General Fund.

* * * Clean Water Surcharge; Repeal of 2018 Sunset * * *

Sec. 8. REPEAL; SUNSET OF CLEAN WATER SURCHARGE

2015 Acts and Resolves No. 64, Sec. 39 (sunset of clean water surcharge in 2018) is repealed.

* * * Clean Water Surcharge; Allocation of First $1 Million in Revenue until 2039 * * *

Sec. 9. 32 V.S.A. § 9602a is amended 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 or the first $200,000.00 in value of property transferred if the purchaser obtains a purchase money mortgage funded in part with a homeland grant through the Vermont Housing and Conservation Trust Fund or which the Vermont Housing and Finance Agency or U.S. Department of Agriculture and Rural Development has committed to make or purchase. 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, except for the first $1,000,000.00 of revenue generated by the surcharge, which shall be deposited in the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312.

* * * Clean Water Surcharge; Allocation of Revenue after 2039 * * *

Sec. 10. 32 V.S.A. § 9602a is amended 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 or the first $200,000.00 in value of property transferred if the purchaser obtains a purchase money mortgage funded in part with a homeland grant through the Vermont Housing and Conservation Trust Fund or which the Vermont Housing and Finance Agency or U.S. Department of Agriculture and Rural Development has committed to make or purchase. 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~~, except for the first $1,000,000.00 of revenue generated by the surcharge, which shall be deposited in the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312~~.

* * * Repeal of Affordable Housing Bond Provisions After Life of Bond * * *

Sec. 11. REPEAL

The following shall be repealed on July 1, 2039:

(1) 10 V.S.A. § 314 (Vermont Housing and Conservation Board; affordable housing bond and investments).

(2) 10 V.S.A. § 621(22) (Vermont Housing Finance Agency (VHFA) authority to issue debt obligations secured by property transfer tax).

(3) 10 V.S.A. § 631(l) (debt obligations issued by VHFA).

(4) 32 V.S.A. § 9610(d) (property transfer tax priority for affordable housing debt repayment).

* * * Effective Dates * * *

Sec. 12. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except for Sec. 10 (allocating total clean water surcharge revenue to Clean Water Fund), which shall take effect on July 1, 2039.

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

House Proposal of Amendment Referred

S. 103.

House proposal of amendment to Senate bill entitled:

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

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:

* * * Toxics Use Reduction and Reporting * * *

Sec. 1. 10 V.S.A. § 6633 is added to read:

§ 6633. INTERGOVERNMENTAL COMMITTEE ON CHEMICAL MANAGEMENT

(a) Creation. There is created the Intergovernmental Committee on Chemical Management in the State to:

(1) evaluate chemical inventories in the State on an annual basis;

(2) identify potential risks to human health and the environment from chemical inventories in the State; and

(3) propose measures or mechanisms to address the identified risks from chemical inventories in the State.

(b) Membership. The Intergovernmental Committee on Chemical Management shall be composed of the following nine members:

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

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

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

(4) the Secretary of Natural Resources or designee;

(5) the Commissioner of Health or designee;

(6) the Commissioner of Labor or designee;

(7) the Commissioner of Public Safety or designee;

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

(9) the Commissioner of Information and Innovation, or the Commissioner of the successor department, or designee.

(c) Powers and duties. The Intergovernmental Committee on Chemical Management shall:

(1) Convene a citizen advisory panel to provide input and expertise to the Committee. The citizen advisory panel shall consist of persons with expertise in;

(A) toxicology;

(B) environmental law;

(C) manufacturing products;

(D) environmental health;

(E) public health;

(F) risk analysis;

(G) maternal and child health care;

(H) occupational health;

(I) industrial hygiene;

(J) public policy;

(K) chemical management by academic institutions;

(L) retail sales; and

(M) development and administration of information reporting technology or databases.

(2) Monitor actions taken by the U.S. Environmental Protection Agency (EPA) to regulate chemicals under the Toxic Substances Control Act, 15 U.S.C. chapter 53, and notify relevant State agencies of any EPA action relevant to the jurisdiction of the agency.

(3) Annually review chemical inventories in the State in relation to emerging scientific evidence in order to identify chemicals of high concern not regulated by the State.

(d) Assistance. The Intergovernmental Committee on Chemical Management shall have the administrative, technical, and legal assistance of the Agency of Natural Resources; the Agency of Agriculture, Food and Markets; the Department of Health; the Department of Public Safety; the Department of Labor; the Agency of Commerce and Community Development; and the Department of Information and Innovation. The Intergovernmental Committee on Chemical Management shall have the assistance of the Office of Legislative Council for legislative drafting and the assistance of the Joint Fiscal Office for the fiscal and economic analyses.

(e) Report. On or before January 15, and annually thereafter, the Intergovernmental Committee on Chemical Management shall report to the

Senate Committees on Natural Resources and Energy; on Health and Welfare; and on Economic Development, Housing and General Affairs and the House Committees on Natural Resources, Fish and Wildlife; on Human Services; and on Commerce and Economic Development regarding the actions of the Committee. The provisions of 2 V.S.A. § 20(d) regarding expiration of required reports shall not apply to the report to be made under this section. The report shall include:

(1) an estimate or summary of the known chemical inventories in the State, as determined by metrics or measures established by the Committee;

(2) a summary of any change under federal statute or rule affecting the regulation of chemicals in the State;

(3) recommended legislative or regulatory action to address the risks posed by new or emerging chemicals of high concern; and

(4) recommended legislative or regulatory action to reduce health risks from exposure to chemicals of high concern and reduce risks of harm to the natural environment.

(f) Meetings.

(1) The Secretary of Natural Resources shall be the chair of the Intergovernmental Committee on Chemical Management.

(2) The Secretary of Natural Resources shall call the first meeting of the Intergovernmental Committee on Chemical Management to occur on or before July 1, 2017.

(3) A majority of the membership of the Intergovernmental Committee on Chemical Management shall constitute a quorum.

(4) The Intergovernmental Committee on Chemical Management shall meet no more than four times in a calendar year.

(g) Authority of agencies. The establishment of the Intergovernmental Committee on Chemical Management shall not limit the independent authority of a State agency to regulate chemical use or management under existing State or applicable federal law.

Sec. 2. INTERGOVERNMENTAL COMMITTEE ON CHEMICAL MANAGEMENT; REPORT ON TOXIC USE REDUCTION AND REPORTING

On or before February 15, 2018, after consultation with the citizen advisory panel and as part of the first report required under 10 V.S.A. § 6633(e), the Intergovernmental Committee on Chemical Management shall:

(1) Recommend how the State shall establish a centralized or unified electronic reporting system to facilitate compliance by businesses and other entities with chemical reporting and other regulatory requirements in the State. The recommendation shall:

(A) identify a State agency or department to establish and administer the reporting system;

(B) estimate the staff and funding necessary to administer the reporting system;

(C) propose how businesses and the public can access information submitted to or maintained as part of the reporting systems, including whether access to certain information or categories of information should be limited due to statutory requirements, regulatory requirements, trade secret protection, or other considerations;

(D) propose how information maintained as part of the reporting system can be accessed, including whether the information should be searchable by: chemical name, common name, brand name, product model, Global Product Classification (GPC) product brick description, standard industrial classification, chemical facility, geographic area, zip code, or address;

(E) propose how manufacturers of consumer products or subsets of consumer products shall report or notify the State of the presence of designated chemicals of concern in a consumer product and how information reported by manufacturers is made available to the public;

(F) propose a method for displaying information or filtering or refining search results so that information maintained on the reporting system can be accessed or identified in a serviceable or functional manner for all users of the system, including governmental agencies or departments, commercial and industrial businesses reporting to the system, nonprofit associations, and citizens; and

(G) estimate a timeline for establishment of the reporting system.

(2) Recommend statutory amendments and regulatory revisions to existing State recordkeeping and reporting requirements for chemicals, hazardous materials, and hazardous wastes in order to facilitate assessment of risks to human health and the environment posed by the use of chemicals in the State. The recommendations shall include:

(A) the thresholds or amounts of chemicals used, manufactured, or distributed, and hazardous materials and hazardous wastes generated or managed in the State that require recordkeeping and reporting;

(B) the persons or entities using, manufacturing, or distributing chemicals and generating or managing hazardous materials and hazardous wastes that are subject to recordkeeping and reporting requirements; and

(C) any changes required to streamline and modernize existing recordkeeping and reporting requirements to facilitate compliance by businesses and other entities.

(3) Recommend amendments to the requirements for Toxic Use Reduction and Hazardous Waste Reduction under 10 V.S.A. chapter 159, subchapter 2 that shall include:

(A) The list of chemicals or materials subject to the reporting and planning requirements. The list of chemicals or materials shall include and be in addition to the chemicals or substances listed under Title III, Section 313 of the Superfund Amendments and Reauthorization Act of 1986 and 18 V.S.A. § 1773 (chemicals of high concern to children).

(B) The thresholds or amounts of chemicals used or hazardous waste generated by a person that require reporting and planning.

(C) The information to be reported, including:

(i) the quantity of hazardous waste generated and the quantity of hazardous waste managed during a year;

(ii) the quantity of toxic substances, or raw material resulting in hazardous waste, used during a year;

(iii) an assessment of the effect of each hazardous waste reduction measure and toxics use reduction measure implemented; and

(iv) a description of factors during a year that have affected toxics use, hazardous waste generation, releases into the environment, and on-site and off-site hazardous waste management.

(D) The persons or entities using chemicals or generating hazardous waste that are subject to reporting and planning;

(E) Proposed revisions to the toxic chemical or hazardous waste reduction planning requirements, including conditions or criteria that qualify a person to complete a plan.

(F) Any changes to streamline and modernize the program to improve its effectiveness.

(4) Draft legislation to implement the Committee's recommendations under subdivisions (1), (2), and (3) of this section.

* * * Testing Groundwater * * *

Sec. 3. 10 V.S.A. § 1982 is added to read:

§ 1982. TESTING OF GROUNDWATER SOURCES

(a) Definition. As used in this section, "groundwater source" means that portion of a potable water supply that draws water from the ground, including a drilled well, shallow well, driven well point, or spring.

(b) Testing prior to new use. Prior to use of a new groundwater source as a potable water supply, the person who owns or controls the groundwater source shall test the groundwater source for the parameters set forth in subsection (c) of this section.

(c) Parameters of testing. A water sample collected under this section shall be analyzed for, at a minimum: arsenic, lead, uranium, gross alpha radiation, total coliform bacteria, total nitrate and nitrite, fluoride, manganese, and any other parameters required by the Agency by rule. The Agency by rule may require testing for a parameter by region or specific geographic area of concern.

(d) Submission of test results. Results of the testing required under subsection (b) shall be submitted, on a form provided by the Department of Health, to the Department of Health and, when required by the Secretary pursuant to a permit, to the Secretary.

(e) Rulemaking. The Secretary, after consultation with the Department of Health, the Wastewater and Potable Water Supply Technical Advisory Committee, private laboratories, and other interested parties, shall adopt by rule requirements regarding:

(1) when, prior to use of a new groundwater source, the test required under subsection (b) of this section shall be conducted;

(2) who shall be authorized to sample the source for the test required under subsections (b) and (c) of this section, provided that the rule shall include the person who owns or controls the groundwater source and licensed well drillers among those authorized to sample the source;

(3) how a water sample shall be collected in order to comply with the requirements of the analyses to be performed; and

(4) any other requirements necessary to implement this section.

(f) Marketability of title. Noncompliance with the requirements of this section shall not affect the marketability of title or create a defect in title of a property, provided water test results required under this section are forwarded, prior to the conveyance of the property, to the Department of Health and, when required by the Secretary pursuant to a permit, to the Agency.

Sec. 4. AGENCY OF NATURAL RESOURCES; GROUNDWATER SOURCE TESTING; RULEMAKING

The Secretary of Natural Resources shall commence rulemaking under 10 V.S.A. § 1982 on or before July 1, 2017. The Secretary shall adopt rules under 10 V.S.A. § 1982 on or before January 1, 2018.

Sec. 5. 18 V.S.A. § 501b is amended to read:

§ 501b. CERTIFICATION OF LABORATORIES

(a) The ~~commissioner~~ Commissioner may certify a laboratory that meets the standards currently in effect of the National Environmental Laboratory Accreditation Conference and is accredited by an approved National Environmental Laboratory Accreditation Program accrediting authority or its equivalent to perform the testing and monitoring:

(1) required under 10 V.S.A. chapter 56 and the federal Safe Drinking Water Act; and

(2) of water from a potable water supply, as that term is defined in 10 V.S.A. § 1972(6).

(b)(1) The ~~commissioner~~ Commissioner may by order suspend or revoke a certificate granted under this section, after notice and opportunity to be heard, if the ~~commissioner~~ Commissioner finds that the certificate holder has:

(A) submitted materially false or materially inaccurate information; or

(B) violated any material requirement, restriction, or condition of the certificate; or

(C) violated any statute, rule, or order relating to this title.

(2) The order shall set forth what steps, if any, may be taken by the certificate holder to relieve the holder of the suspension or enable the certificate holder to reapply for certification if a previous certificate has been revoked.

(c) A person may appeal the suspension or revocation of the certificate to the ~~board~~ Board under section 128 of this title.

* * *

(f) A laboratory certified to conduct testing of groundwater sources or water supplies ~~from~~ for use by a potable water supply, as that term is defined in 10 V.S.A. § 1972(6), including under the requirements of 10 V.S.A. § 1982, shall submit the results of groundwater analyses to the ~~department of health and the agency of natural resources~~ Department of Health in a format required by the ~~department of health~~ Department of Health.

Sec. 6. 10 V.S.A. § 1974 is amended to read:

§ 1974. EXEMPTIONS

Notwithstanding any other requirements of this chapter, the following projects and actions are exempt:

* * *

(8) From the permit required for operation of failed supply under subdivision 1973(a)(4) of this tittle for the use or operation of a failed supply that consists of only one groundwater source that provides water to only one single family residence.

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

Sec. 7. 18 V.S.A. § 1775(b) is amended to read:

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

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

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

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

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

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

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

Sec. 8. 18 V.S.A. § 1776 is amended to read:

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

* * *

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

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

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

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

(C) disrupts the endocrine system;

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

(E) is a persistent bioaccumulative toxic.

(2) The chemical has been found through:

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

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

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

* * *

(d) Rule to regulate sale or distribution.

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

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

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

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

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

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

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

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

(3) A rule adopted under this section may:

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

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

(4) In any rule adopted under this subsection, the Commissioner shall adopt reasonable time frames for manufacturers, distributors, and retailers to comply with the requirements of the rules. No prohibition on sale or manufacture of a children's product in the State shall take effect sooner than two years after the adoption of a rule adopted under this section unless the Commissioner determines that an earlier effective date is required to protect human health and the new effective date is established by rule.

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

* * *

* * * Effective Dates * * *

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 1 (Intergovernmental Committee on Chemical Management), 2 (report on toxic use reduction and reporting), and 4 (groundwater testing rulemaking) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2018, except that 10 V.S.A. § 1982(e) in Sec. 3 shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Ashe, the bill was referred to the Committee on Health and Welfare.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 112.

Pending entry on the Calendar for notice, on motion of Senator White, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to creating the Spousal Support and Maintenance Task Force.

Was taken up for immediate consideration.

Senator White, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

S.112. An act relating to creating the spousal support and maintenance task force.

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

Sec. 1. SPOUSAL SUPPORT AND MAINTENANCE TASK FORCE

(a) Creation. There is created the Spousal Support and Maintenance Task Force for the purpose of reviewing and making legislative recommendations to Vermont's laws concerning spousal support and maintenance.

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

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

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

(3) a Superior Court judge who has significant experience in the Family Division of Superior Court appointed by the Chief Justice;

(4) the Chief Superior Judge;

(5) two experienced family law attorneys appointed by the Family Law Section of the Vermont Bar Association;

(6) a representative of Vermont Alimony Reform who is domiciled in Vermont; and

(7) the Executive Director of the Vermont Commission on Women or a designee who is domiciled in Vermont.

(c) Powers and duties. The Task Force shall make legislative recommendations to Vermont's spousal support and maintenance laws aimed to improve clarity, fairness, predictability, and consistency across the State in recognition of changes to the family structure in recent decades. The Task Force may hold public hearings and shall consider:

(1) perspectives from stakeholders and interested parties; and

(2) spousal support and maintenance laws in other states and any relevant reports or analysis on alimony.

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

(e) Recommendation. On or before December 1, 2017, the Task Force shall submit its recommendations for any legislative action to the Senate and House Committees on Judiciary.

(f) Meetings.

(1) The Superior Court judge appointed in accordance with subdivision (b)(3) of this section shall serve as chair.

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

(3) The Task Force shall cease to exist on March 1, 2018.

(g) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Task Force shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than six regular meetings and two public hearings. No meeting shall be held on the same day as a public hearing, and the Task Force shall endeavor to hold the public hearings in geographically diverse parts of the State.

(2) Other members of the Task Force 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 six regular meetings and two public hearings.

Sec. 2. 15 V.S.A. § 752 is amended to read:

§ 752. MAINTENANCE

(a) In an action under this chapter, the court may order either spouse to make maintenance payments, either rehabilitative or permanent in nature, to the other spouse if it finds that the spouse seeking maintenance:

(1) lacks sufficient income~~,~~ or property, or both, including property apportioned in accordance with section 751 of this title, to provide for his or her reasonable needs; and

(2) is unable to support himself or herself through appropriate employment at the standard of living established during the civil marriage or is the custodian of a child of the parties.

(b) The maintenance order shall be in such amounts and for such periods of time as the court deems just, after considering all relevant factors, including~~, but not limited to~~:

(1) the financial resources of the party seeking maintenance, the property apportioned to the party, the party's ability to meet his or her needs independently, and the extent to which a provision for support of a child living with the party contains a sum for that party as custodian;

(2) the time and expense necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;

(3) the standard of living established during the civil marriage;

(4) the duration of the civil marriage;

(5) the age and the physical and emotional condition of each spouse;

(6) the ability of the spouse from whom maintenance is sought to meet his or her reasonable needs while meeting those of the spouse seeking maintenance; ~~and~~

(7) inflation with relation to the cost of living~~.~~; and

(8) the following guidelines:

Length of marriage	% of the difference between parties' gross incomes	Duration of alimony award as % length of marriage
0 to <5 years	0–20%	No alimony or short-term alimony up to one year
5 to <10 years	15–35%	20–50% (1–5 yrs)
10 to <15 years	20–40%	40–60% (3–9 yrs)
15 to <20 years	24–45%	40–70% (6–14 yrs)
20+ years	30–50%	45% (9–20+ yrs)

Sec. 3. REPEAL

On July 1, 2019, 15 V.S.A. § 752(b)(8) (spousal support and maintenance guidelines) is repealed.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

JEANETTE K. WHITE
RICHARD W. SEARS
MARGARET K FLORY

Committee on the part of the Senate

MARTIN J. LALONDE
GARY G. VIENS
KIMBERLY JESSUP

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 238.

Appearing on the Calendar for notice, on motion of Senator Clarkson, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to modernizing and reorganizing Title 7.

Was taken up for immediate consideration.

Senator Clarkson, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

H. 238. An act relating to modernizing and reorganizing Title 7.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment, and that the bill be further amended as follows:

First: Before Sec. 1, 7 V.S.A. § 1, construction, by inserting reader assistance to read:

* * * Modernization and Reorganization of Title 7 * * *

Second: In Sec. 2, 7 V.S.A. § 2, definitions, in subdivision (20), by striking out the word "three" and inserting in lieu thereof the following: two-and-one-half

Third: By striking out Sec. 4, 7 V.S.A. § 4, wine and beer auctions, in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. 7 V.S.A. § 4 is amended to read:

§ 4. NONPROFIT ORGANIZATIONS; ~~WINE AND BEER~~ ALCOHOLIC BEVERAGE AUCTIONS; FUNDRAISING

(a) A nonprofit organization qualified for tax exempt status pursuant to Section 501(c) of the federal Internal Revenue Code, as amended, in the discretion of the ~~commissioner~~ Commissioner, may auction ~~vinous or malt beverages, or both,~~ alcoholic beverages to the public without a license, provided that:

(1) Prior to the auction, the organization provides written notification of the auction accompanied by documentation of its nonprofit status satisfactory to the ~~commissioner~~ Commissioner.

(2) The ~~commissioner~~ Commissioner approves the organization's nonprofit qualifications and the organization's ~~right~~ proposal to auction ~~vinous or malt~~ alcoholic beverages.

(3) The profits from the ~~auction sale of~~ auctioned beverages are used solely for the expenses of the nonprofit organization related to ~~conduct~~ conducting the ~~sale~~ auction or for the nonprofit purposes of the organization.

(b) A person who donates ~~vinous or malt~~ alcoholic beverages to a nonprofit organization for an auction under this section is not required to be licensed under this ~~chapter~~ title.

(c) A licensee under this title may donate alcoholic beverages to a nonprofit organization pursuant to this section, provided the licensee pays to the ~~state~~ State all the taxes that would be due ~~as~~ if the alcoholic beverages had been sold in the course of the licensee's business.

* * *

Fourth: By striking out Sec. 9, 7 V.S.A. § 64, sale of malt beverages in kegs, in its entirety and inserting in lieu thereof a new Sec. 9 to read as follows:

Sec. 9. 7 V.S.A. § 64 is amended to read:

§ 64. SALE OF MALT BEVERAGES AND VINOUS BEVERAGES IN KEGS

(a) ~~As used in this section, "keg" means a reusable container capable of holding at least five gallons of malt beverage.~~

~~(b)~~ A keg shall be sold by a ~~second class~~ second-class or fourth-class licensee only under the following conditions:

(1) The keg shall be tagged in a manner and with a label approved by the ~~board~~ Liquor Control Board. The label shall be supplied and securely affixed to the keg by the wholesale dealer, or in the case of a second-class license issued for the premises of a licensed manufacturer or a fourth-class licensee, by the manufacturer.

(2) A ~~person~~ purchaser shall exhibit ~~proper proof~~ a valid authorized form of identification upon demand of a licensee or an agent of a licensee. If the ~~person~~ purchaser fails to provide ~~such proof~~ a valid authorized form of identification, the licensee shall be entitled to refuse to sell the keg to the ~~person~~ individual. As used in this subsection, "~~proper proof~~ a valid authorized

form of identification" ~~means a photographic motor vehicle operator's license, a liquor control photographic identification card, a valid passport, a United States military identification card or a photographic nondriver motor vehicle identification card obtained from the department of motor vehicles~~ has the same meaning as in section 589 of this title.

(3) The purchaser shall complete a form, provided by the ~~board~~ Board, ~~which~~ that includes at least the name, address, and date of birth of the purchaser as they appear on the purchaser's ~~proper proof~~ valid authorized form of identification and the identification number of the keg. The form shall also include the provisions of this section and the penalties for a violation of ~~these provisions~~ this section. The licensee shall retain the form for 90 days after return of the keg.

(4) The licensee shall collect a deposit of at least $25.00 which shall be returned to the purchaser upon return of the keg with the label intact.

~~(c)~~(b) A licensee shall not:

(1) sell a keg without a legible label attached; or

(2) return a deposit on a keg ~~which~~ that is returned without the label intact.

~~(d)~~(c) Any person, other than ~~the wholesaler~~ a wholesale dealer or manufacturer, who intentionally removes or defaces the label attached to a keg shall be imprisoned not more than two years or fined not more than $1,000.00, or both.

Fifth: In Sec. 23, 7 V.S.A. § 204 (as redesignated), fees for licenses and permits, in the section catchline before the words "FEES FOR LICENSES" by inserting the words APPLICATION AND RENEWAL and in subsection (a), after the words "The following fees shall be paid" by inserting the words when applying for a new license or permit or to renew a license or permit

Sixth: In Sec. 37, 7 V.S.A. § 241, fourth-class licenses, after subdivision (b)(2), by inserting a subdivision (b)(3) to read as follows:

(3) At each licensed location, a fourth-class licensee may, pursuant to section 64 of this title, sell malt beverages or vinous beverages, or both, by the keg.

Seventh: In Sec. 52, 7 V.S.A. § 255, retail alcoholic beverage tasting permits, in subparagraph (b)(1)(A), after the words "The permit authorizes the employees of the second-class licensee" by inserting the words or of a designated manufacturer or rectifier

Eighth: In Sec. 90, 7 V.S.A. § 572 (as redesignated), proceeds of sale of condemned vehicle, in subdivision (a)(1), by striking out the word "judgement" and inserting in lieu thereof the word judgment

Ninth: In Sec. 117, 7 V.S.A. § 660 (as redesignated), advertising, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) ~~Advertising~~ Notwithstanding subsection (a) of this section, advertising of ~~malt or vinous~~ alcoholic beverages on ~~vehicles~~ a motor vehicle lawfully transporting alcoholic beverages or on a vehicle drawn by horses shall be permitted.

Tenth: In Sec. 118, 7 V.S.A. § 661 (as redesignated), violations of title, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) The provisions of subsection (b) of this section shall not apply to a violation of subsection 1005(a) of this title, relating to purchase of tobacco products by a person ~~less than~~ under 18 years of age.

Eleventh: In Sec. 120, 7 V.S.A. § 65 (as redesignated), purchase of kegs, after the words "second-class" by inserting the words or fourth-class

Twelfth: In Sec. 137, 7 V.S.A. § 1007, furnishing tobacco to persons under 18 years of age, in subdivision (b)(1), before the words "17 years of age" by inserting: who are 16 or

Thirteenth: By striking out Sec. 163, effective date, in its entirety and inserting in lieu thereof reader assistance and six new sections to be Secs. 163–168 to read as follows:

Sec. 163. 7 V.S.A. § 5 is added to read:

§ 5. DEPARTMENT OF LIQUOR CONTROL; RAFFLES FOR RIGHT TO PURCHASE RARE AND UNUSUAL PRODUCTS

(a) Notwithstanding any provision of 13 V.S.A. chapter 51 to the contrary, the Department of Liquor Control may conduct raffles for the right to purchase certain rare and unusual spirits and fortified wines that are acquired by the Liquor Control Board. A raffle conducted pursuant to this section shall meet the following requirements:

(1) Tickets to enter the raffle shall only be available for purchase to a member of the general public who is 21 years of age or older.

(2) Tickets for the raffle shall be sold at a price fixed by the Commissioner.

(3) All notices or advertisements relating to the raffle shall clearly state:

(A) the price of a raffle ticket;

(B) the date of the drawing;

(C) the sales price of each rare and unusual spirit or fortified wine; and

(D) that the winning prize will be the right to purchase the rare and unusual spirit or fortified wine for the specified sales price.

(4) No Board member or employee of the Department and no immediate family member of a Board member or employee of the Department shall be permitted to enter the raffle.

(b) The proceeds from the sale of tickets for each raffle shall be deposited in the Liquor Control Enterprise Fund established pursuant to section 112 of this title.

(c) As used in this section, "rare and unusual spirits and fortified wines" means spirits and fortified wines that are distributed or allocated to the Board in an amount that is insufficient for general distribution to local agency stores and for which the Commissioner determines that an extraordinary level of public demand exists.

Sec. 164. PROCEEDS FROM SALE OF RAFFLE TICKETS FOR PURCHASE OF RARE AND UNUSUAL PRODUCTS; REPORT

On or before January 15, 2018, the Commissioner of Liquor Control shall submit a written report regarding raffles conducted by the Department pursuant to 7 V.S.A. § 5, including the number of products for which a raffle was conducted, the total number of tickets sold, and the proceeds from the sales of raffle tickets to the House Committees on Appropriations and on General, Housing and Military Affairs and the Senate Committees on Appropriations and on Economic Development, Housing and General Affairs.

* * * Casino Events Hosted by Nonprofit Organizations * * *

Sec. 165. 13 V.S.A. § 2143 is amended to read:

§ 2143. NONPROFIT ORGANIZATIONS

(a) Notwithstanding the provisions of this chapter, a nonprofit organization, as defined in 32 V.S.A. § 10201(5), may organize and execute, and an individual may participate in lotteries, raffles, or other games of chance for the purpose of raising funds to be used in charitable, religious, educational, and civic undertakings or used by fraternal organizations to provide direct support to charitable, religious, educational, or civic undertakings with which they are affiliated. Except as provided in subsection (d) of this section, gambling

machines and other mechanical devices described in section 2135 of this title shall not be utilized under authority of this section.

* * *

(d) Casino events shall be limited as follows:

(1) A location may be the site of no more than:

(A) one casino event in any calendar quarter; or

(B) three casino events in any calendar year, as long as there are at least 15 days between each event.

(2) A location that is owned by a nonprofit, as defined in 32 V.S.A. § 10201(5), may be the site of no more than ~~three casino events in any calendar quarter and no more than 12 casino events in any calendar year~~ two casino events in any calendar month as long as there are at least ~~15~~ 10 days between each event.

(3) A nonprofit organization, as defined in 32 V.S.A. § 10201(5), may organize and execute no more than~~:~~

~~(A)~~ one casino event in any calendar ~~quarter; or~~

~~(B) three casino events in any calendar year, as long as there are at least 15 days between each event~~ month.

(4) ~~For the purposes of~~ As used in this subsection, "casino event" means an event held during any 24-hour period at which any game of ~~change~~ chance is conducted except those prohibited by ~~13 V.S.A. §~~ subdivision 2135(a)(1) or (2) of this title. A "casino event" shall not include a fair, bazaar, field days, agricultural exposition, or similar event ~~which~~ that utilizes a wheel of fortune, chuck-a-luck, or other such games commonly conducted at such events, or break-open tickets, bingo, a lottery, or a raffle.

(e) Games of chance shall be limited as follows:

(1) All proceeds raised by a game of chance shall be used exclusively for charitable, religious, educational, and civic undertakings after deducting:

(A) reasonable expenses, as determined by fair market value, of purchasing or renting materials and equipment used for the game of chance ~~and~~, of printing advertisements, and of the direct purchase of advertising through established media, such as newspapers, radio, and television; and

(B) reasonable expenses, as determined by fair market value, for rent for the premises on which the game of ~~change~~ chance is executed~~, except that rent paid prior to August 1, 1994, pursuant to a written lease in effect on June 1, 1994, and not subject to cancellation, may be deducted, whether or not such~~

~~rent is reasonable,~~ and repairs and upkeep to the premises for nonprofit organizations having ownership in premises; and

(C) prizes awarded to players as limited in subdivision (4) of this subsection (e); and

(D) payments to persons as limited in subdivision (2) of this subsection (e).

* * *

(6) A nonprofit organization shall not organize and execute games of chance on more than two days in any calendar week, nor shall games of chance be organized and executed at any location on more than two days in any calendar week, except that:

(A) Casino events may be conducted only as permitted under subsection (d) of this section.

* * *

(D) Agricultural fairs ~~qualified to receive a State stipend pursuant to 31 V.S.A. § 617~~ that are registered with the Agency of Agriculture, Food and Markets may organize and execute games of chance for not more than 12 consecutive days during the fair once each calendar year.

* * *

* * * Task Force to Create the Department of Liquor and Lottery * * *

Sec. 166. FINDINGS AND PURPOSE

(a) The General Assembly finds:

(1) The Department of Liquor Control and the State Lottery serve similar roles in Vermont's government by generating significant revenue for the State through the sales of a controlled product.

(2) The Department of Liquor Control is responsible for enforcing Vermont's laws related to alcoholic beverages and tobacco.

(3) The Department is overseen by the Liquor Control Board, which also grants alcohol and tobacco licenses, serves as a quasi-judicial body to adjudicate violations by licensees, and adopts rules necessary to implement the alcoholic beverage and tobacco laws. The Liquor Control Board is composed of five members that are appointed by the Governor for staggered five-year terms. Each member receives per diem compensation for attendance at meetings.

(4) The Lottery Commission oversees and manages the Vermont Lottery and adopts rules necessary to operate it. It is composed of five members that

are appointed by the Governor for three-year terms. Each member receives per diem compensation for attendance at meetings.

(5) The respective responsibilities and duties of the Liquor Control Board and Lottery Commission place significant demands on their part-time, volunteer members.

(6) The similarities between the roles and functions of the Department of Liquor Control and the Liquor Control Board, and the State Lottery and the Lottery Commission create the opportunity for the two entities to merge and collaborate in carrying out their respective functions and missions.

(b) Accordingly, it is the intent of the General Assembly to:

(1) create a combined Department of Liquor and Lottery that will be a successor to and continuation of the Department of Liquor Control and the State Lottery; and

(2) create a Board of Liquor and Lottery that shall be the successor to and a continuation of the Liquor Control Board and the Lottery Commission.

Sec. 167. DEPARTMENT OF LIQUOR AND LOTTERY; TASK FORCE; REPORT

(a) Creation. There is created the Department of Liquor and Lottery Task Force to develop a plan and draft legislation necessary to merge the Department of Liquor Control and the State Lottery into the Department of Liquor and Lottery.

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

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

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

(3) the Chair of the Liquor Control Board or designee;

(4) the Chair of the Lottery Commission or designee; and

(5) two members appointed by the Governor.

(c) Powers and duties. The Task Force shall develop a plan and legislation necessary to merge the Department of Liquor Control and the State Lottery and create a new Department of Liquor and Lottery on or before July 1, 2018. In particular, the Task Force shall carry out the following duties:

(1) identify and examine efficiencies that can be realized through the combination of the Department of Liquor Control's and the State Lottery's

administrative, licensing, regulatory, and educational functions, as well as in the marketing, warehousing, distribution, sales, and control of alcoholic beverages and lottery products;

(2) identify and examine long-term efficiencies that can be realized by merging the Department of Liquor Control with the State Lottery;

(3) examine the current role, functions, and composition of the Liquor Control Board and the Lottery Commission, and determine:

(A) how each body's role, functions, or composition will be affected by their combination; and

(B) the limitations or barriers to combining the two bodies and how those limitations or barriers can be addressed;

(4) examine whether the Board of Liquor and Lottery should be a full-time, professional board;

(5) identify and examine the positive and negative impacts of creating the Department of Liquor and Lottery with respect to the State's ability to control the distribution of alcoholic beverages, tobacco products, and lottery products without diminishing the Department of Liquor Control's and State Lottery's respective contributions to the General Fund and the Education Fund; and

(6) develop a plan and draft legislation necessary to accomplish on or before July 1, 2018 the merger of the Department of Liquor Control and the Liquor Control Board with the State Lottery and the Lottery Commission in order to create the Department of Liquor and Lottery and the Board of Liquor and Lottery. The draft legislation shall include provisions that would:

(A) On July 1, 2018:

(i) Combine the Department of Liquor Control and the State Lottery to create a Department of Liquor and Lottery, which shall include a Division of Liquor Control to administer and carry out the laws relating to alcohol and tobacco set forth in Title 7 and a Division of Lottery to administer and carry out the laws relating to the State Lottery set forth in 31 V.S.A. chapter 14.

(ii) Combine the Liquor Control Board and the Lottery Commission to create a Board of Liquor and Lottery.

(B) Provide that:

(i) The Board of Liquor and Lottery shall be the successor to and a continuation of the Liquor Control Board and the Lottery Commission.

(ii) The rules of the Liquor Control Board and the Lottery Commission in effect on July 1, 2018 shall become the rules of either the Board of Liquor and Lottery or the Department of Liquor and Lottery until they are amended or repealed.

(iii)(I) The Department of Liquor and Lottery shall be a successor to and a continuation of the Department of Liquor Control and the State Lottery.

(II) All positions and appropriations of the Department of Liquor Control and the State Lottery shall be transferred to the Department of Liquor and Lottery.

(iv)(I) The Commissioner of Liquor Control shall become the Commissioner of Liquor and Lottery, and shall direct and supervise the Department of Liquor and Lottery subject to the direction of the Board of Liquor and Lottery.

(II) The Commissioner of Liquor and Lottery shall assume the powers, duties, rights, and responsibilities of the Commissioner of Liquor Control and the Director of the State Lottery.

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

(e) Report. On or before January 15, 2018, the Task Force shall submit a written report to the Governor, the House Committees on General, Housing and Military Affairs and on Government Operations, and the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations with its findings and a plan and draft legislation necessary to create on or before July 1, 2018 the Department of Liquor and Lottery and the Board of Liquor and Lottery. The Task Force's report may take the form of draft legislation.

(f) Meetings.

(1) The members from the House and the Senate shall call the first meeting of the Task Force to occur on or before September 1, 2017.

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

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

(4) The Task Force shall cease to exist on January 15, 2018.

(g) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Task Force shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than six meetings.

(2) Other members of the Task Force 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 six meetings.

* * * Effective Date * * *

Sec. 168. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

ALISON CLARKSON
PHILIP E. BARUTH
RICHARD J. MCCORMACK

Committee on the part of the Senate

HELEN J. HEAD
THOMAS S. STEVENS
DIANA E. GONZALEZ

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 515.

Senator Lyons, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

H. 515. An act relating to executive branch and judiciary fees.

Respectfully reports that it has met and considered the same and recommends that the House accede to the Senate Proposal of Amendment and that the bill be further amended as follows:

First: In Sec. 5, 18 V.S.A. § 4354, by striking out the following: "~~shall be renewable~~ may be renewed" and inserting in lieu thereof the following: shall be ~~renewable~~ renewed

Second: By striking out Sec. 6, short-term rental working group; report, in its entirety and inserting in lieu thereof the following:

Sec. 6. SHORT-TERM RENTAL WORKING GROUP; REPORT

(a) Creation. There is created the Short-Term Rental Working Group within the Department of Health for the purpose of making recommendations regarding the short-term rental industry in Vermont, including an evaluation of:

(1) the impact of short-term rentals on revenues of the State;

(2) necessary precautions to protect the health and safety of the transient, traveling, or vacationing public;

(3) policies implemented in other states and municipalities regarding short-term rentals; and

(4) alternative definitions of "short-term rental" to that enacted in 18 V.S.A. § 4301.

(b)(1) Membership. The Working Group shall be composed of the following members:

(A) the Commissioner of Health or designee; and

(B) the Executive Director of the Department of Public Safety's Fire Safety Division or designee.

(2) The Commissioner of Health shall invite at least the following representatives to participate in the Working Group:

(A) the Commissioner of Taxes or designee;

(B) a representative of the Vermont Chamber of Commerce;

(C) three representatives of Vermont's short-term rental industry;

(D) a representative of local government; and

(E) a representative of the Vermont Lodging Association.

(c) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Department of Health.

(d) Report. On or before October 1, 2017, the Working Group shall submit a written report to the House Committee on Human Services and the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.

(e) Meetings.

(1) The Commissioner of Health or designee shall call the first meeting of the Working Group to occur on or before August 1, 2017.

(2) The Commissioner of Health or designee shall be the Chair.

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

(4) The Working Group shall cease to exist on October 31, 2017.

(f) Definitions. As used in this section:

(1) "Lodging establishment" means the same as in 18 V.S.A. § 4301(9).

(2) "Short-term rental" means the same as in 18 V.S.A. § 4301(14).

VIRGINIA V. LYONS
ANN E. CUMMINGS
BRIAN A. CAMPION

Committee on the part of the Senate

SAMUEL R. YOUNG
THERESA A. WOOD
FRED K. BASER

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Appointments Confirmed

The following Gubernatorial appointments were confirmed separately by the Senate, upon full reports given by the Committees to which they were referred:

The nomination of

Valerio, Matthew of Proctor - Defender General - March 1, 2017, to February 28, 2021.

Was confirmed by the Senate.

The nomination of

Knight, Wendy of Panton - Commissioner, Tourism and Marketing, Department of - March 31, 2017, to February 28, 2019.

Was confirmed by the Senate.

The nominations of

Snelling, Diane of Hinesburg - Chair, Natural Resources Board – January 5, 2017, to February 28, 2017.

Snelling, Diane of Hinesburg - Chair, Natural Resources Board – March 1, 2017, to February 28, 2019.

Were collectively confirmed by the Senate.

The nomination of

Snyder, Michael of Stowe - Commissioner, Department of Forests, Parks and Recreation - January 5, 2017, to February 28, 2019.

Was confirmed by the Senate.

The nomination of

Haskell, Sabina of Burlington - Chair, Vermont State Lottery Commission - March 1, 2017, to February 29, 2020.

Was confirmed by the Senate.

The nomination of

Goldstein, Joan of Royalton - Commissioner, Department of Economic Development - April 6, 2017, to February 28, 2019.

Was confirmed by the Senate.

The nomination of

Boedecker, Emily of Montpelier - Commissioner, Department of Environmental Conservation - March 1, 2017, to February 28, 2019.

Was confirmed by the Senate.

The nomination of

Fastiggi, Beth of Burlington - Commissioner, Department of Human Resources - March 27, 2017, to February 28, 2019.

Was confirmed by the Senate.

The nominations of

Ide, Robert of Peacham - Commissioner, Department of Motor Vehicles - January 5, 2017, to February 28, 2017.

Ide, Robert of Peacham - Commissioner, Department of Motor Vehicles - March 1, 2017, to February 28, 2019.

Were collectively confirmed by the Senate.

The nominations of

Pieciak, Michael of Winooski - Commissioner, Financial Regulations, Department of - January 5, 2017, to February 28, 2017.

Pieciak, Michael of Winooski - Commissioner, Financial Regulations, Department of - March 1, 2017, to February 28, 2019.

Were collectively confirmed by the Senate.

The nominations of

Samson, Kaj of Montpelier - Commissioner, Taxes, Department of - January 5, 2017, to February 28, 2017.

Samson, Kaj of Montpelier - Commissioner, Taxes, Department of – March 1, 2017, to February 28, 2019.

Were collectively confirmed by the Senate.

The nominations of

Anderson, Thomas of Stowe - Commissioner, Department of Public Safety - January 5, 2017, to February 28, 2017.

Anderson, Thomas of Stowe - Commissioner, Department of Public Safety - March 1, 2017, to February 28, 2019.

Were collectively confirmed by the Senate.

The nomination of

Menard, Lisa of Waterbury - Commissioner, Department of Corrections - April 7, 2017, to February 28, 2019.

Was confirmed by the Senate.

Committee of Conference Appointed

S. 100.

An act relating to promoting affordable and sustainable housing.

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

Senator Mullin
Senator Cummings
Senator Sirotkin

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 Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 100, H. 238, H. 515.

Adjournment

On motion of Senator Ashe, the Senate adjourned until two o'clock and thirty minutes in the afternoon.

Called to Order

The Senate was called to order by the President.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 34.

Pending entry on the Calendar for notice, on motion of Senator Pollina, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to cross-promoting development incentives and State policy goals.

Was taken up for immediate consideration.

Senator Pollina, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

S. 34. An act relating to cross-promoting development incentives and State policy goals.

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

* * * Rural Economic Development Initiative * * *

Sec. 1. 10 V.S.A. chapter 15, subchapter 4 is added to read:

Subchapter 4. Rural Economic Development Initiative

§ 325m. RURAL ECONOMIC DEVELOPMENT INITIATIVE

(a) Definitions. As used in this subchapter:

(1) "Industrial park" means an area of land permitted as an industrial park under chapter 151 of this title or under 24 V.S.A. chapter 117, or under both.

(2) "Rural area" means a county of the State designated as "rural" or "mostly rural" by the U.S. Census Bureau in its most recent decennial census.

(3) "Small town" means a town in the State with a population of less than 5,000 at the date of the most recent U.S. Census Bureau decennial census.

(b) Establishment. There is created within the Vermont Housing and Conservation Board a Rural Economic Development Initiative to promote and facilitate community economic development in the small towns and rural areas of the State. The Rural Economic Development Initiative shall collaborate with municipalities, businesses, industrial parks, regional development corporations, and other appropriate entities to access funding and other assistance available to small towns and businesses in rural areas of the State when existing State resources or staffing assistance is not available.

(c) Services; access to funding.

(1) The Rural Economic Development Initiative shall provide the following services to small towns and businesses in rural areas:

(A) identification of grant or other funding opportunities available to small towns, businesses in rural areas, and industrial parks in small towns and rural areas that facilitate business development, siting of businesses, workforce development, broadband deployment, infrastructure development, or other economic development opportunities;

(B) technical assistance to small towns, businesses in rural areas, and industrial parks in small towns and rural areas in writing grants, accessing and completing the application process for identified grants or other funding opportunities, including writing applications for grants or other funding, coordination with providers of grants or other funding, strategic planning for the implementation or timing of activities funded by grants or other funding, and compliance with the requirements of grant awards or awards of other funding.

(2) In providing services under this subsection, the Rural Economic Development Initiative shall give first priority to projects that have received necessary State or municipal approval and that are ready for construction or implementation.

(d) Services; business development. The Rural Economic Development Initiative shall provide small towns and rural areas with services to facilitate business development in these areas. These services shall include:

(1) Identifying businesses or business types suitable for a small town, rural areas, industrial parks in a small town or rural area, or coworker spaces or generator spaces in rural areas. In identifying businesses or business types, the Rural Economic Development Initiative shall seek to:

(A) identify businesses or business types in the following priority areas:

(i) milk plants, milk handlers, or dairy products, as those terms are defined in 6 V.S.A. § 2672;

(ii) the outdoor equipment or recreation industry;

(iii) the value-added forest products industry;

(iv) the value-added food industry;

(v) phosphorus removal technology; and

(vi) composting facilities.

(B) explore with a small town or rural area whether underused or closed school buildings are appropriate sites for coworker or generator spaces.

(2) Recommending available grants, tax credits, or other incentives that a small town or rural area can use to attract businesses.

(3) In providing services under this subsection, the Rural Economic Development Initiative shall coordinate with the Secretary of Commerce and Community Development in order to avoid duplication by the Rural Economic Development Initiative of business recruitment and workforce development services provided by the Agency of Commerce and Community Development.

(e) Report. Beginning on January 15, 2018, and annually thereafter, the Rural Economic Development Initiative shall submit to the Senate Committees on Agriculture and on Economic Development, Housing and General Affairs and the House Committees on Agriculture and Forestry and on Commerce and Economic Development a report regarding the activities and progress of the Initiative. The report shall include:

(1) a summary of the Initiative's activities in the preceding calendar year;

(2) an evaluation of the effectiveness of the services provided by the Initiative to small towns, rural areas, and industrial parks;

(3) a summary of the Initiative's progress in attracting priority businesses to small towns and rural areas;

(4) an accounting of the grants or other funding that the Initiative facilitated or provided assistance with;

(5) an accounting of the funds acquired by the Rural Economic Development Initiative for administration of grants or other funding mechanisms and whether these funds are sufficient to offset the cost of the Rural Economic Development Initiative; and

(6) recommended changes to the program, including proposed legislative amendments to further economic development in small towns and rural areas in the State.

Sec. 2. FUNDING; LEGISLATIVE INTENT; RURAL ECONOMIC DEVELOPMENT INITIATIVE

It is the intent of the General Assembly that $75,000.00 appropriated to the Agency of Agriculture, Food and Markets in fiscal year 2018 shall be allocated by the Agency of Agriculture, Food and Markets to the Vermont Housing and Conservation Board for implementation of the Rural Economic Development Initiative under 10 V.S.A. chapter 15, subchapter 4.

* * * Vermont Milk Commission * * *

Sec. 3. VERMONT MILK COMMISSION; EQUITABLE DAIRY PRICING

On or before October 1, 2017, the Secretary of Agriculture, Food and Markets shall convene the Vermont Milk Commission under 6 V.S.A. chapter 161 to review and evaluate proposals that enhance and stabilize the dairy industry in Vermont and New England and that may be appropriate for inclusion in the federal Farm Bill 2018. The Secretary of Agriculture, Food and Markets shall submit to the congressional delegation of Vermont proposals that the Milk Commission recommends for inclusion in the federal Farm Bill 2018.

* * * Cross-promotion of Development Programs * * *

Sec. 4. EXECUTIVE BRANCH CROSS-PROMOTION OF LOAN, GRANT, AND INCENTIVE PROGRAMS

(a) The General Assembly finds that it is within the authority of the Executive Branch to manage a process of continuous improvement for agency and statewide programs and operations. While undertaking these efforts, the Executive Branch shall ensure that State loan, grant, and other incentive programs cross-promote:

(1) the availability of financial and technical assistance from the State through education and outreach materials; and

(2) the State policies funded by State incentive programs, including the adoption of renewable energy, rural economic development, public access to conserved lands, and water quality improvements.

(b) The Secretary of Administration shall provide material or information regarding the cross-promotion of State policies on State websites and within application materials available to the public regarding State loan, grant, and other incentive programs.

* * * Energy Efficiency * * *

Sec. 5. REPORT; ENERGY EFFICIENCY CHARGE; COMMERCIAL AND INDUSTRIAL CUSTOMERS

(a) On or before January 15, 2018, the Commissioner of Public Service (the Commissioner) shall submit a report with recommendations as described in subsection (b) of this section.

(1) In preparing the report, the Commissioner shall consult with the Secretary of Commerce and Community Development, the energy efficiency utilities (EEU) appointed under 30 V.S.A. § 209(d)(2), the regional development corporations, the Public Service Board, and other affected persons.

(2) The Commissioner shall submit the report to the Senate Committees on Finance, on Natural Resources and Energy, and on Agriculture and the House Committees on Ways and Means, on Energy and Technology, on Commerce and Economic Development, and on Agriculture and Forestry.

(b) The report shall provide the Commissioner's recommendations on:

(1) Whether and how to increase the use by commercial and industrial customers of self-administered efficiency programs under 30 V.S.A. § 209(d) and (j), including:

(A) Potential methods and incentives to increase participation in self-administration of energy efficiency, including:

(i) Potential changes to the eligibility criteria for existing programs.

(ii) Use of performance-based structures.

(iii) Self-administration of energy efficiency by a commercial and industrial customer, with payment of an energy efficiency charge (EEC) amount only for technical assistance by an EEU, if the customer demonstrates that it possesses in-house expertise that supports such self-administration and implements energy efficiency measures that the customer demonstrates are cost-effective and save energy at a benefit-cost ratio similar to the EEU.

(B) The potential inclusion of such methods and incentives in EEU demand resource plans.

(C) Periodic reporting by the EEUs of participation rates in self-administration of energy efficiency by commercial and industrial customers located in the small towns in the State's rural areas. As used in this subdivision (C):

(i) "Rural area" means a county of the State designated as "rural" or "mostly rural" by the U.S. Census Bureau in its most recent decennial census.

(ii) "Small town" means a town in a rural area of the State with a population of less than 5,000 at the date of the most recent U.S. Census Bureau decennial census.

(2) The potential establishment of a multiyear pilot program that allows a category of commercial and industrial customers to apply the total amount of their Energy Efficiency Charge (EEC), for the period of the pilot, to investments that reduce the customer's total energy consumption.

(A) The goal of such a program would be to reduce significantly all energy costs for the customer, and to transform the energy profile of the customer such that significant savings would be generated and endure over the long term. Customers in the program would receive the full amount of their EEC contributions, for the period of the pilot, in the form of direct services and incentives provided by an EEU, which would consider how to lower customers' bills cost-effectively across electric, heating, transportation, and process fuels using energy efficiency, demand management, energy storage, fuel switching, and on-site renewable energy.

(B) In the report, the Commissioner shall consider:

(i) the definition of eligible commercial and industrial customers;

(ii) the potential establishment and implementation of such a program in a manner similar to an economic development rate for the EEU;

(iii) the interaction of such a program with the existing programs for self-managed energy efficiency under 30 V.S.A. § 209(d), including the Energy Savings Account, Self-Managed Energy Efficiency, and Customer Credit Programs;

(iv) the benefits and costs of such a program, including:

(I) a reduction in the operating costs of participating customers;

(II) the effect on job retention and creation and on economic development;

(III) the effect on greenhouse gas emissions;

(IV) the effect on systemwide efficiency benefits that would otherwise be obtained with the EEC funds, such as avoided supply costs, avoided transmission and distribution costs, avoided regional network service charges, and lost revenues from the regional forward-capacity market;

(V) the potential impact on commercial and industrial customers that may not be eligible to participate in such a program;

(VI) the extent to which such a program may result in cost shifts or subsidization among rate classes, and methods for avoiding or mitigating these effects;

(VII) the effect on the budgets developed through the demand resource planning process;

(VIII) the costs of administration;

(IX) any other benefits and costs of the potential program; and

(v) the consistency of such a program with least-cost planning as defined in 30 V.S.A. § 218c; with State energy goals and policy set forth in 10 V.S.A. §§ 578, 580, and 581 and 30 V.S.A. §§ 202a and 218e; and with the State energy plans adopted pursuant to 30 V.S.A. §§ 202 and 202b.

(c) The report submitted under this section shall include a proposed timeline to phase in the recommendations contained in the report. In developing this timeline, the Commissioner shall consider the impact to the established budgets of the EEUs, the regulatory requirements applicable to the EEUs, and the value of rapid implementation of the recommendations.

Sec. 6. 30 V.S.A. § 209(d)(3) is amended to read:

(3) Energy efficiency charge; regulated fuels. In addition to its existing authority, the Board may establish by order or rule a volumetric charge to customers for the support of energy efficiency programs that meet the requirements of section 218c of this title, with due consideration to the State's energy policy under section 202a of this title and to its energy and economic policy interests under section 218e of this title to maintain and enhance the State's economic vitality. The charge shall be known as the energy efficiency charge, shall be shown separately on each customer's bill, and shall be paid to a fund administrator appointed by the Board and deposited into ~~an~~ the Electric Efficiency Fund. When such a charge is shown, notice as to how to obtain information about energy efficiency programs approved under this section shall be provided in a manner directed by the Board. This notice shall include, at a minimum, a toll-free telephone number, and to the extent feasible shall be on the customer's bill and near the energy efficiency charge.

* * *

* * * Environmental Permitting * * *

Sec. 7. 3 V.S.A. § 2822(j) is amended to read:

(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.

(1) For air pollution control permits or registrations issued under 10 V.S.A. chapter 23:

(A) Base service fees. Any persons subject to the provisions of 10 V.S.A. § 556 shall submit with each permit application or with each request for a permit amendment, a base service fee in accordance with the base fee schedule in subdivision (i) of this subdivision (1)(A). Prior to taking final action under 10 V.S.A. § 556 on any application for a permit for a nonmajor stationary source or on any request for an amendment of a permit for such a source, the Secretary shall assess each applicant for any additional fees due to the Agency, assessed in accordance with the base fee schedule and the supplementary fee schedule in subdivision (ii) of this subdivision (1)(A). The applicant shall submit any fees so assessed to the Secretary prior to issuance of the final permit, notwithstanding the provisions of subsection (i) of this section. The base fee schedule and the supplementary fee schedule are applicable to all applications on which the Secretary makes a final decision on or after the date on which this section is operative.

(i) Base fee schedule

(I) Application for permit to construct or modify source	
(aa) Major stationary source	$ 15,000.00
(bb) Nonmajor stationary source	$ 2,000.00
(cc) A source of emissions from anaerobic digestion of agricultural products, agricultural by-products, agricultural waste, or food waste	$ 1,000.00
(II) Amendments Change in business name, division name, or plant name; mailing address; or company stack designation; or other administrative amendments	$ 150.00

(ii) Supplementary fee schedule for nonmajor stationary sources

(I) Engineering review	$ 2,000.00
(II) Air quality impact analysis Review refined modeling	$ 2,000.00
(III) Observe and review source emission testing	$ 2,000.00
(IV) Audit performance of continuous emissions monitors	$ 2,000.00
(V) Audit performance of ambient air monitoring	$ 2,000.00
(VI) Implement public comment requirement	$ 500.00

(B) Annual registration. Any person required to register an air contaminant source under 10 V.S.A. § 555(c) shall annually pay the following:

(i) A base fee where the sum of a source's emissions of sulfur dioxide, particulate matter, carbon monoxide, nitrogen oxides, and hydrocarbons is:

(I) ten tons or greater: $1,500.00;

(II) less than ten tons but greater than or equal to five tons: $1,000.00; and

(III) less than five tons: $500.00.

(ii) Where the sum of a source's emissions of sulfur dioxide, particulate matter, carbon monoxide, nitrogen oxides, and hydrocarbons is greater than or equal to five tons: an annual registration fee that is $0.0335 per pound of such emissions except that a plant producing renewable energy as defined in 30 V.S.A. § 8002 shall pay an annual fee not exceeding $64,000.00.

(C) Anaerobic digesters. Notwithstanding the requirements of subdivisions (1)(A) and (B) of this subsection (j), a person required to register an air contaminant source under 10 V.S.A. § 555(c) or subject to the requirements of 10 V.S.A. § 556 shall not be subject to supplementary fees assessed under subdivision (1)(A)(ii) of this subsection (j) and shall pay an annual registration fee not exceeding $1,000.00 when the source of the emissions is the anaerobic digestion of agricultural products, agricultural by-products, agricultural waste, or food waste.

* * *

* * * Phosphorus Removal Technology; Grants * * *

Sec. 8. 6 V.S.A. § 4828 is amended to read:

§ 4828. CAPITAL EQUIPMENT ASSISTANCE PROGRAM

(a) It is the purpose of this section to provide assistance to contract applicators, nonprofit organizations, and farms to purchase or use innovative equipment that will aid in the reduction of surface runoff of agricultural wastes to State waters, improve water quality of State waters, reduce odors from manure application, separate phosphorus from manure, decrease greenhouse gas emissions, and reduce costs to farmers.

(b) The capital equipment assistance program is created in the Agency of Agriculture, Food and Markets to provide farms, nonprofit organizations, and custom applicators in Vermont with State financial assistance for the purchase of new or innovative equipment to improve manure application, separation of phosphorus from manure, or nutrient management plan implementation.

(c) Assistance under this section shall in each fiscal year be allocated according to the following priorities and as further defined by the Secretary:

(1) First priority shall be given to capital equipment to be used on farm sites that are serviced by custom applicators, phosphorus separation equipment providers, and nonprofit organizations and that are located in descending order within the boundaries of:

(A) the Lake Champlain Basin;

(B) the Lake Memphremagog Basin;

(C) the Connecticut River Basin; and

(D) the Hudson River Basin.

(2) Next priority shall be given to capital equipment to be used at a farm site ~~which~~ that is located in descending order within the boundaries of:

(A) the Lake Champlain Basin;

(B) the Lake Memphremagog Basin;

(C) the Connecticut River Basin; and

(D) the Hudson River Basin.

(d) An applicant for a State grant under this section to purchase or implement phosphorus removal technology or equipment shall pay 10 percent of the total eligible project cost. The dollar amount of a State grant to purchase or implement phosphorus removal technology or equipment shall be equal to the total eligible project cost, less 10 percent of the total as paid by the applicant, and shall not exceed $300,000.00.

* * * Forestry Equipment * * *

Sec. 9. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(51) The following machinery, including repair parts, used for timber cutting, timber removal, and processing of timber or other solid wood forest products intended to be sold ultimately at retail: skidders with grapple and cable, feller bunchers, cut-to-length processors, forwarders, delimbers, loader slashers, log loaders, whole-tree chippers, stationary screening systems, and firewood processors, elevators, and screens. The Department of Taxes shall publish guidance relating to the application of this exemption.

Sec. 10. 32 V.S.A. § 9706(kk) is added to read:

(kk) The statutory purpose of the exemption for timber cutting, removal, and processing machinery in subdivision 9741(51) of this title is to promote Vermont's commercial timber and forest products economy.

* * * Workers' Compensation * * *

Sec. 11. WORKERS' COMPENSATION; INDUSTRIES AND OCCUPATIONS WITH HIGH RISK, HIGH PREMIUMS, AND FEW POLICYHOLDERS; STUDY; REPORT

(a) The Commissioner of Financial Regulation, in consultation with the Commissioner of Labor, the Secretary of Agriculture, Food and Markets, the Commissioner of Forests, Parks and Recreation, the National Council on Compensation Insurance, and other interested stakeholders, shall identify and study industries and occupations in Vermont that experience a high risk of workplace and on-the-job injuries and whose workers' compensation insurance is characterized by high premiums and few policyholders in the insurance pool. The industries and occupations addressed in the study shall include, among others, agriculture and farming, logging and log hauling, as well as arborists, roofers, and occupations in sawmills and wood manufacturing operations. In particular, the Commissioner shall:

(1) examine differences in the potential for loss, premium rates, and experience and participation in the workers' compensation marketplace between the industries and occupations identified, and the average for all industries and occupations in Vermont;

(2) study potential methods for reducing workers' compensation premium rates and costs for high-risk industries and occupations, including risk pooling between multiple high-risk industries or occupations, creating self-insured trusts, creating voluntary safety certification programs, and programs or best practices employed by other states; and

(3) model the potential impact on workers' compensation premiums and costs from each of the methods identified pursuant to subdivision (2) of this subsection.

(b) On or before November 15, 2017, the Commissioner of Financial Regulation shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance regarding his or her findings and any recommendations for legislative action to reduce the workers' compensation premium rates and costs for the industries identified in the study.

* * * Repeals * * *

Sec. 12. REPEALS

(a) 10 V.S.A. chapter 15, subchapter 4 (Rural Economic Development Initiative) shall be repealed on July 1, 2021; and

(b) 6 V.S.A. § 4828(d) (phosphorus removal grant criteria) shall be repealed on July 1, 2023.

* * * Effective Dates * * *

Sec. 13. EFFECTIVE DATES

(a) This section and Sec. 3 (Vermont Milk Commission) shall take effect on passage.

(b) Sec. 7 (environmental permitting) shall take effect January 1, 2018.

(c) All other sections shall take effect on July 1, 2017.

And that after passage the title of the bill be amended to read:

An act relating to rural economic development.

ANTHONY POLLINA
BRIAN P. COLLAMORE
ROBERT A. STARR

Committee on the part of the Senate

RICHARD H. LAWRENCE
STEPHEN A. CARR
LINDA JOY SULLIVAN

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Messaged

H. 495.

Pending entry on the Calendar for notice, on motion of Senator Collamore, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to miscellaneous agriculture subjects.

Was taken up for immediate consideration.

Senator Collamore, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

H. 495. An act relating to miscellaneous agriculture subjects.

Respectfully reports that it has met and considered the same and recommends that the House accede to the Senate proposal of amendment with further amendment thereto as follows:

First: By striking out Sec. 10 (subsurface tile drains) in its entirety and inserting in lieu thereof the following:

Sec. 10. AGENCY OF AGRICULTURE, FOOD AND MARKETS REPORT; SUBSURFACE TILE DRAINAGE; NUTRIENT MANAGEMENT PLANS

(a) On or before November 15, 2017, the Secretary of Agriculture, Food and Markets (Secretary) shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry a report recommending:

(1) whether and how the Secretary will collect information regarding subsurface tile drains on farms in the State; and

(2) whether and how nutrient management plans and nutrient management data acquired by the Secretary shall be available for public inspection and copying under the Public Records Act.

(b) In addressing whether and how to map subsurface tile drains, the report shall provide:

(1) the rationale for why information regarding subsurface tile drains should be collected;

(2) how the Secretary would require the collection of information regarding subsurface tile drains on farms in the State;

(3) what information regarding subsurface tile drains that would be required to be submitted to the Secretary;

(4) who would be required to submit information to the Secretary;

(5) when information would be required to be reported, including a schedule for implementation of any required reporting; and

(6) how the Secretary would utilize subsurface tile drain information.

(c) In addressing whether and how nutrient management plans and nutrient management data shall be available for public inspection and copying under the Public Records Act, the report shall include:

(1) The Secretary's recommendation of whether the information should be exempt from inspection and copying under the Public Records Act, including the rationale for the recommendation; and

(2) a proposal on how to implement the Secretary's recommendation.

Second: By striking out Sec. 18a (nutrient management plan confidentiality) and its reader assistance in their entireties and inserting in lieu thereof the following:

Sec. 18a. [Deleted.]

BRIAN P. COLLAMORE
ANTHONY POLLINA
ROBERT A. STARR

Committee on the part of the Senate

HARVEY T. SMITH
THOMAS A. BOCK
MARK A. HIGLEY

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Thereupon, on motion of Senator Mazza, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Recess

On motion of Senator Mazza the Senate recessed until 3:00 P.M.

Called to Order

The Senate was called to order by the President.

Recess

On motion of Senator Mazza the Senate recessed until 4:00 p.m.

Called to Order

The Senate was called to order by the President.

Recess

The Chair declared a recess 5:15 P.M.

Called to Order

The Senate was called to order by the President.

Message from the House No. 74

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, 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 proposal of amendment to Senate proposal of amendment to House proposal of amendment to Senate bill of the following title:

S. 22. An act relating to increased penalties for possession, sale, and dispensation of fentanyl.

And has concurred therein.

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

S. 8. An act relating to establishing the State Ethics Commission and standards of governmental ethical conduct.

And has concurred therein.

Adjournment

On motion of Senator Ashe, the Senate adjourned until nine o'clock in the morning.

FRIDAY, MAY 12, 2017

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Recess

The Chair declared a recess 9:20 A.M.

Called to Order

The Senate was called to order by the President.

Message from the House No. 75

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

Mr. President:

I am directed to inform the Senate that:

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. 136. An act relating to miscellaneous consumer protection provisions.

And has adopted the same on its part.

House Proposals of Amendment; Consideration Interrupted by Recess

H. 509.

House proposals of amendment to Senate bill entitled:

An act relating to calculating statewide education tax rates.

Were taken up.

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

First: By inserting two new sections to be numbered Secs. 2a and 2b to read as follows:

* * *Education Fund allocation; sales and use tax* * *

Sec. 2a. 16 V.S.A. § 4025 is amended to read:

§ 4025. EDUCATION FUND

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

* * *

(6) ~~Thirty-five~~ Thirty-seven percent of the revenues raised from the sales and use tax imposed by 32 V.S.A. chapter 233.

* * *

Sec. 2b. 32 V.S.A. § 435 is amended to read:

* * *

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

* * *

(11) ~~65~~ 63 percent of the revenue from sales and use taxes levied pursuant to chapter 233 of this title;

* * *

Second: By striking out Secs. 3–5 in their entirety, and inserting a reader assistance and inserting in lieu thereof three new sections to be numbered Secs. 3–5 to read as follows:

* * * Unfunded Mandates* * *

Sec. 3. 32 V.S.A. § 305b is added to read:

§ 305b. UNFUNDED EDUCATION MANDATE AMOUNT TRANSFER

Not more than 30 days after the end of each annual legislative session of the General Assembly, the Joint Fiscal Office and the Secretary of Administration, in consultation with the Secretary of Education and with the Secretary of Human Services as appropriate, shall estimate the "unfunded education mandate amount." This estimate shall equal the total dollar amount necessary for supervisory unions and school districts to perform any action that is required pursuant to legislation enacted during that annual legislative session that has a related direct cost but does not have a specifically identified appropriation for fulfilling that obligation. The estimate shall be for the fiscal year commencing on July 1 of the following year. The Joint Fiscal Office and the Secretary of Administration shall present to the Emergency Board at its July meeting an estimate of the unfunded education mandate amount and the Emergency Board shall determine the unfunded education mandate amount. The Governor's budget report required under section 306 of this title shall include a transfer of this amount from the General Fund pursuant to 16 V.S.A. § 4025(a)(2) for the fiscal year commencing on July 1 of the following year.

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

§ 4025. EDUCATION FUND

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

* * *

(2) For each fiscal year, the amount of the general funds appropriated or transferred to the Education Fund shall be ~~$305,900,000.00, to be~~:

(A) the total of $305,900,000.00 plus the unfunded education mandate amount, as defined in subsection (e) of this section;

(B) increased annually beginning for fiscal year 2018 by the consensus Joint Fiscal Office and Administration determination of the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis through the fiscal year for which the payment is being determined~~,~~;

(C) plus an additional one-tenth of one percent.

* * *

(e) As used in this section, "unfunded education mandate amount" shall mean the amount appropriated by the General Assembly in any fiscal year for the purpose of providing funding for supervisory unions and school districts to perform any action that is required pursuant to legislation and that has a related direct cost but does not otherwise have a specifically identified appropriation for fulfilling that obligation. The "unfunded education mandate amount" shall include the cumulative amount of these appropriations for all fiscal years in which they are made.

Sec. 5. 16 V.S.A. § 4028(d) is amended to read:

(d) Notwithstanding 2 V.S.A. § 502(b)(2), the Joint Fiscal Office shall prepare a fiscal note for any legislation that requires a supervisory union or school district to perform any action ~~with an associated~~ that has a related direct cost~~,~~ but does not ~~provide money or a funding mechanism~~ have a specifically identified appropriation for fulfilling that obligation. Any fiscal note prepared under this subsection shall identify whether or not the estimated costs would be considered part of the "unfunded education mandate amount" under 32 V.S.A. § 305b for the next fiscal year. Any fiscal note prepared under this subsection shall be completed no later than the date that the legislation is considered for a vote in the first committee to which it is referred.

Third: In Sec. 1, subdivision (1), by striking out the following: "$10,015.00" and inserting in lieu thereof the following: $10,077.00, and in subdivision (2), by striking out the following: "$11,820.00" and inserting in lieu thereof the following: $11,851.00

Fourth: In Sec. 2, by striking out the following: "$1.563" and inserting in lieu thereof the following: $1.555

Fifth: By striking out Sec. 7, working group, and its reader assistance, and Sec. 8, effective date, and its reader assistance, in their entireties and inserting in lieu thereof reader assistance headings and Secs. 7–8 to read as follows:

* * * Health Care Transition * * *

Sec. 7. SAVINGS FROM HEALTH CARE TRANSITION

(a) As of January 1, 2018, all school employees will be on new health care plans. The new health plans cover the same health care services and networks, but they have lower premium costs. The new plans also create higher out-of-pocket exposure through deductibles and co-payment requirements. However, because the premiums for these plans are markedly lower, there are opportunities to keep employees' out-of-pocket costs at current levels while also realizing up to $26 million in annual savings. Based on the data from finalized contracts to date, these savings may result in substantially fewer health care costs than districts have budgeted for fiscal year 2018.

(b) On or before June 30, 2017 or 30 days after the adoption of its annual budget, whichever is later, each supervisory district, supervisory union, and school district shall submit to the Secretary of Education and the Commissioner of Finance and Management a report documenting its actual health care costs for calendar years 2016 and 2017 and its budgeted health care costs for 2018. This report shall be on a form prescribed by the Commissioner of Finance and Management and shall specify the employee contribution and employer contribution totals for each calendar year.

(c) Not later than 60 days after the adoption of all collective bargaining agreements covering health care benefits for school employees for plan year 2018, each supervisory district, supervisory union, and school district shall submit to the Secretary of Education and the Commissioner of Finance and Management, a report documenting its anticipated health care costs for fiscal year 2018, based on the new collective bargaining agreements covering plan year 2018. This report shall be on a form prescribed by the Commissioner of Finance and Management and shall specify the actual employee contribution and employer contribution totals for plan year 2018.

(d) Notwithstanding any other provision of law, for fiscal year 2018 only, the State shall offset the amount of savings between budgeted and actual costs for health care benefits and coverage against the fiscal year 2018 payment to each supervisory district, supervisory union, or school district; provided, however, the State shall withhold any payment due to a supervisory district, supervisory union, or school district after January 1, 2018, until it has received the report required pursuant to subsections (b) and (c) of this section. The savings offset under this subsection shall remain in the Education Fund in an effort to lower property tax rates in fiscal year 2019.

(e) The Agency of Education shall develop a system for tracking the amount of savings offset for each school district under subsection (d) in fiscal year 2018. Notwithstanding any other provision of law, for each school district for which savings were offset under subsection (d), the Agency of Education shall pay a grant to that district in fiscal year 2019, in an amount equal to the offset savings. The grant shall be paid after the school district budget for fiscal year 2019 is approved by voters and reported to the Agency of Education, and the grant shall be reflected in the homestead property tax rate and income percentage used for that school district in fiscal year 2019.

* * * Effective Dates * * *

Sec. 8. EFFECTIVE DATES

(a) Sec. 2a and 2b (Education Fund allocation) shall take effect July 1, 2018 and apply to fiscal year 2019 and after.

(b) This section, Sec. 6a (calculation of rates in certain districts), and Sec. 7 (healthcare transition) shall take effect on passage.

(c) The remaining sections of this act shall take effect on July 1, 2017 and apply to fiscal year 2018 and after.

Thereupon, pending the question, Shall the Senate concur in the House proposals of amendment?, Senators Ashe, Ayer, Balint, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, Nitka, Pearson, Pollina, Sears, Sirotkin, Starr and White moved that the Senate concur with the House proposal of amendment to the Senate proposal of amendment, with further amendments as follows:

First: In Sec. 1, subdivision (1), by striking out the following: "$10,077.00" and inserting in lieu thereof the following: $10,280.00, and in subdivision (2), by striking out the following: "$11,851.00" and inserting in lieu thereof the following: $12,132.00

Second: By striking out the reader assistance and Secs. 2a and 2b (sales and use tax allocation) in their entirety and inserting in lieu thereof new Secs. 2a and 2b to read as follows:

Sec. 2a. [Deleted.]

Sec. 2b. [Deleted.]

Third: By striking out the reader assistance and Secs. 3 through 5 (unfunded mandates) in their entirety and inserting in lieu thereof new Secs. 3 through 5 to read as follows:

Sec. 3. [Deleted.]

Sec. 4. [Deleted.]

Sec. 5. [Deleted.]

Fourth: By striking out Sec. 7 (health care transition) in its entirety and inserting in lieu thereof the following:

Sec. 7. SAVINGS FROM HEALTH CARE TRANSITION

(a)(1) As a result of the Affordable Care Act, as of January 1, 2018, all school employees will be on new health care plans. The new health plans cover the same health care services and networks, but they have lower premium costs. The new plans also create higher out-of-pocket exposure through deductibles and co-payment requirements. However, because the premiums for these plans are markedly lower, there are opportunities to keep employees' out-of-pocket costs at current levels while also realizing up to $26,000,000.00 in annual savings, which would equal approximately $13,000,000.00 in savings for the second half of fiscal year 2018. These health care savings are returned to taxpayers by reducing homestead property tax rates for fiscal year 2018.

(2) These health care savings can be achieved by an 80/20 employer/employee premium split pegged to the Gold CDHP plan in plan year 2018, and employer contributions toward employees' out-of-pocket costs in amounts that hold school employees harmless over the out-of-pocket exposure for plan year 2017.

(b)(1) For fiscal year 2018 only, each supervisory union and school district shall be responsible for achieving through health care savings an amount equal to a proportional share of $13,000,000.00. Savings shall not be achieved by reducing any expenditure related to direct instructional services. For fiscal year 2019 and after, the budgets for all supervisory unions and school districts shall continue to reflect these health care savings.

(2) The Secretary of Administration, in collaboration with the Agency of Education, shall consult with the Vermont Education Health Initiative to determine the proportional amount of total health care savings that each supervisory union or school district shall be responsible for achieving in fiscal year 2018 based on the assumptions described in subdivision (a)(2) of this section and on the number of covered employees per plan tier in each supervisory union or school district in plan year 2017.

(3) On or before June 1, 2017, the Agency of Education shall notify each supervisory union or school district of the amount of health care savings for which it is responsible pursuant to subdivision (2) of this subsection.

(c) Notwithstanding any other provision of law, for fiscal year 2018 only, the State shall reduce the amount of education payments to supervisory unions and schools districts authorized by 16 V.S.A. chapter 133 by $13,000,000.00,

by subtracting the amount of savings allocated to each supervisory union or school district in subsection (b) of this section from the payments due to that supervisory union or school district.

(d) As used in this section, the terms "supervisory union" and "school district" shall have the same meaning as in 16 V.S.A. § 11.

Fifth: By striking out Sec. 8 (effective dates) in its entirety and inserting in lieu thereof two new sections to be Secs. 8 and 9 to read as follows:

Sec. 8. VERMONT EDUCATIONAL HEALTH BENEFITS COMMISSION

(a) The Vermont Educational Health Benefits Commission is created to determine whether and how to establish a single statewide health benefit plan for all teachers, administrators, and municipal school employees in this State.

(b) The Commission shall comprise the following 10 members:

(1) four members of the labor organization representing the majority of teachers, administrators, and municipal school employees in this State, appointed by its membership;

(2) one member on behalf of all other labor organizations representing teachers, administrators, and municipal school employees in this State, jointly appointed by their membership;

(3) three members of the nonprofit organization representing Vermont's school boards, appointed by that organization's members; and

(4) two members of the nonprofit organization representing Vermont's superintendents, appointed by that organization's members.

(c) The Commission shall determine the advantages and disadvantages of establishing a single statewide health benefit plan for all teachers, administrators, and municipal school employees in this State, including considering transition issues, potential savings from avoided negotiation expenses, whether to use income-sensitized premiums, ways to address benefit disparities between bargaining units, ways to address disparities between districts, property tax implications, and issues related to uninsured school employees.

(d) On or before November 15, 2017, the Commission shall provide its findings and recommendations, along with any necessary proposed legislation regarding the establishment of a statewide health benefit plan for all teachers, administrators, and municipal school employees in this State, to the House Committees on Education, on General, Housing and Military Affairs, and on Ways and Means and the Senate Committees on Education, on Economic Development, Housing and General Affairs, and on Finance.

Sec. 9. EFFECTIVE DATES

(a) This section, Sec. 6a (calculation of rates in certain districts), and Sec. 7 (health care transition) shall take effect on passage.

(b) Sec. 8 (Vermont Educational Health Benefits Commission) shall take effect on passage, with the first meeting of the Commission to occur on or before July 1, 2017.

(c) The remaining sections of this act shall take effect on July 1, 2017 and apply to fiscal year 2018 and after.

Thereupon, pending the question, Shall the Senate concur in to the House proposal of amendment to the Senate with further proposal of amendment, on motion of Senator Degree the Senate recessed until noon.

Called to Order

The Senate was called to order by the President.

Consideration Resumed; House Proposals of Amendment to Senate Proposal of Amendment Concurred in with further Proposals of Amendment; Rules Suspended; Bill Messaged

H. 509.

Consideration was resumed on House bill entitled:

An act relating to calculating statewide education tax rates.

Thereupon, pending the question, Shall the Senate propose to the House to amend the House proposals of amendment to the Senate proposal of amendment with further proposals of amendment as proposed by Senators Ashe, Ayer, Balint, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, Nitka, Pearson, Pollina, Sears, Sirotkin, Starr and White?, Senator Branagan moved to divide the question and vote on the *fifth* proposal of amendment separately.

Thereupon, the *fifth* proposal of amendment was agreed to on a roll call, Yeas 28, Nays 1.

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, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

The Senator who voted in the negative was: Pearson.

The Senator absent and not voting was: Benning.

Thereupon, the question, Shall the Senate propose to the House to amend the House proposals of amendment to the Senate proposal of amendment with further proposals of amendment as proposed by Senators Ashe, Ayer, Balint, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, Nitka, Pearson, Pollina, Sears, Sirotkin, Starr and White?, in the *first* through *fourth* proposals of amendment?, were agreed to on a roll call, Yeas 20, Nays 9.

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, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, Nitka, Pearson, Pollina, Sears, Sirotkin, Starr, White.

Those Senators who voted in the negative were: Branagan, Collamore, Degree, Flory, Mazza, McCormack, Mullin, Rodgers, Westman.

The Senator absent and not voting was: Benning.

Thereupon, the question, Shall the Senate propose to the House to amend the House proposals of amendment to the Senate proposal of amendment with further proposals of amendment as proposed by Senators Ashe, Ayer, Balint, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, Nitka, Pearson, Pollina, Sears, Sirotkin, Starr and White?, as amended, was agreed to.

Thereupon, on motion of Senator Ashe, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Adjournment

On motion of Senator Ashe, the Senate adjourned until two o'clock in the afternoon.

Afternoon

The Senate was called to order by the President.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 136.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to miscellaneous consumer protection provisions.

Was taken up for immediate consideration.

Senator Sirotkin, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

S. 136. An act relating to miscellaneous consumer protection provisions.

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

Sec. 1. SUNRISE REVIEW; REPORT

(a) Upon completion of its sunrise review concerning construction contractors, the Office of Professional Regulation (the Office), in addition to the House and Senate Committees on Government Operations, shall submit its sunrise report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

(b) As part of its review and report, the Office shall compile information on how other states address consumer protection in home improvement contracts, including whether contracts should be in writing and at what threshold amount, and how such protections should be incorporated into any regulatory structure recommended by the Office.

Sec. 2. 8 V.S.A. § 10404 is amended to read:

§ 10404. HOME LOAN ESCROW ACCOUNTS

* * *

(c) A lender shall not require a borrower to deposit into an escrow account any greater sum than is sufficient to pay taxes, insurance premiums, and other charges with respect to the residential real estate, subject to the following additional charges:

(1) a lender may require aggregate annual deposits no greater than the reasonably estimated total annual charges plus ~~one-twelfth~~ one–sixth of such total; and

(2) a lender may require monthly deposits no greater than one-twelfth of the reasonably estimated total annual charges plus an amount needed to maintain an additional account balance no greater than ~~one-twelfth~~ one–sixth of such total.

* * *

(g)(1) At least annually, at the completion of the escrow account computation year, a lender shall conduct an escrow account analysis to determine the borrower's monthly escrow account payments for the next computation year based on the borrower's current tax liability, if made available to the lender either by the borrower or the municipality, after any applicable adjustment for a State credit on property taxes.

(2) Upon receipt of a revised property tax bill, the lender shall review the property tax bill and, upon verifying that it has been reduced since the date of the last escrow account analysis, the lender shall, within 30 days of receiving the bill, conduct a new escrow account analysis, recalculate the borrower's monthly escrow payment, and notify the borrower of any change.

(3) ~~The lender shall provide~~ At least annually, and whenever an escrow account analysis is conducted or upon request of the borrower, the lender shall provide to the borrower financial statements relating to the borrower's escrow account in a manner and on a form ~~approved by the Commissioner~~ consistent with the federal Real Estate Settlement Procedures Act. The lender shall not charge the borrower for the preparation and transmittal of such statements.

* * *

Sec. 3. FANTASY SPORTS; FINDINGS AND PURPOSE

(a) Findings. The General Assembly finds:

(1) Participation in online fantasy sports contests throughout the nation has grown significantly in recent years and it is estimated that approximately 80,000 Vermonters have participated in at least one fantasy sports contest.

(2) At least 10 states have now recognized fantasy sports as a legal, regulated activity, and legislation has been introduced in many more states to recognize, regulate, and tax the activity in order to identify contest operators, ensure fair play, and protect consumers.

(3) Given the widespread participation in online fantasy sports contests, Vermont should carefully consider how best to regulate fantasy sports contests, register fantasy sports contest operators, and provide necessary protection for Vermont consumers.

(b) Purpose. The purpose of Sec. 3 of this act is to direct the Attorney General and the Executive Branch to consider and propose an appropriate registration fee and tax framework for fantasy sports contests.

Sec. 4. FANTASY SPORTS CONTESTS; PROPOSALS

On or before December 15, 2017, the Secretary of Administration shall submit to the House Committee on Ways and Means and the Senate Committee on Finance a proposal for fantasy sports contests concerning:

(1) any amendments to the registration requirements or registration fee imposed in Sec. 5 of this act; and

(2) an appropriate percentage tax on an appropriate measure of revenue.

Sec. 5. 9 V.S.A. chapter 116 is added to read:

CHAPTER 116. FANTASY SPORTS CONTESTS

§ 4185. DEFINITIONS

As used in this chapter:

(1) "Computer script" means a list of commands that can be executed by a program, scripting engine, or similar mechanism that a fantasy sports player can use to automate participation in a fantasy sports contest.

(2) "Confidential fantasy sports contest information" means nonpublic information available to a fantasy sports operator that relates to a fantasy sports player's activity in a fantasy sports contest and that, if disclosed, may give another fantasy sports player an unfair competitive advantage in a fantasy sports contest.

(3) "Fantasy sports contest" means a virtual or simulated sporting event governed by a uniform set of rules adopted by a fantasy sports operator in which:

(A) a fantasy sports player may earn one or more cash prizes or awards, the value of which a fantasy sports operator discloses in advance of the contest;

(B) a fantasy sports player uses his or her knowledge and skill of sports data, performance, and statistics to create and manage a fantasy sports team;

(C) a fantasy sports team earns fantasy points based on the sports performance statistics accrued by individual athletes or teams, or both, in real world sporting events;

(D) the outcome is determined by the number of fantasy points earned; and

(E) the outcome is not determined by the score, the point spread, the performance of one or more teams, or the performance of an individual athlete in a single real world sporting event.

(4) "Fantasy sports operator" means a person that offers to members of the public the opportunity to participate in a fantasy sports contest for consideration.

(5) "Fantasy sports player" means an individual who participates in a fantasy sports contest for consideration.

(6) "Location percentage" mean the percentage, rounded to the nearest tenth of a percent, of the total of all entry fees collected from fantasy sports players located in Vermont, divided by the total entry fees collected from all fantasy sports players in fantasy sports contests.

(7) "Net fantasy sports contest revenues" means the amount equal to the total of all entry fees that a fantasy sports operator collects from all fantasy sports players, less the total of all sums paid out as winnings to all fantasy sports players, multiplied by the location percentage for Vermont.

§ 4186. CONSUMER PROTECTION

(a) A fantasy sports operator shall adopt commercially reasonable policies and procedures to:

(1) prevent participation in a fantasy sports contest it offers to the public with a cash prize of $5.00 or more by:

(A) the fantasy sports operator;

(B) an employee of the fantasy sports operator or a relative of the employee who lives in the same household; or

(C) a professional athlete or official who participates in one or more real world sporting events in the same sport as the fantasy sports contest;

(2) prevent the disclosure of confidential fantasy sports contest information to an unauthorized person;

(3) require that a fantasy sports player is 18 years of age or older, and verify the age of each player using one or more commercially available databases, which government or business regularly use to verify and authenticate age and identity;

(4) limit and disclose to prospective players the number of entries a fantasy sports player may submit for each fantasy sports contest;

(5) limit a fantasy sports player to not more than one username or account;

(6) prohibit the use of computer scripts that provide a player with a competitive advantage over another player;

(7) segregate player funds from operational funds, or maintain a reserve in the form of cash, cash equivalents, payment processor receivables, payment processor reserves, an irrevocable letter of credit, a bond, or a combination thereof in an amount that equals or exceeds the amount of deposits in fantasy sports player accounts, for the benefit and protection of fantasy sports player funds held in their accounts; and

(8) notify fantasy sports players that winnings of a certain amount may be subject to income taxation.

(b) A fantasy sports operator shall have the following duties:

(1) The operator shall provide a link on its website to information and resources addressing addiction and compulsive behavior and where to seek assistance with these issues in Vermont and nationally.

(2)(A) The operator shall enable a fantasy sports player to restrict irrevocably his or her own ability to participate in a fantasy sports contest, for a period of time the player specifies, by submitting a request to the operator through its website or by online chat with the operator's agent.

(B) The operator shall provide to a player who self-restricts his or her participation information concerning:

(i) available resources addressing addiction and compulsive behavior;

(ii) how to close an account and restrictions on opening a new account during the period of self-restriction;

(iii) requirements to reinstate an account at the end of the period; and

(iv) how the operator addresses reward points and account balances during and after the period of self-restriction, and when the player closes his or her account.

(3) The operator shall provide a player access to the following information for the previous six months:

(A) a player's play history, including money spent, games played, previous line-ups, and prizes awarded;

(B) a player's account details, including deposit amounts, withdrawal amounts, and bonus information, including amounts remaining for a pending bonus and amounts released to the player.

(c)(1) A fantasy sports operator shall contract with a third party to perform an annual independent audit, consistent with the standards established by the American Institute of Certified Public Accountants, to ensure compliance with the requirements in this chapter.

(2) The fantasy sports operator shall submit the results of the independent audit to the Attorney General.

(d) A fantasy sports operator shall not extend credit to a fantasy sports player.

(e) A fantasy sports operator shall not offer a fantasy sports contest based on the performance of participants in college, high school, or youth athletic events.

§ 4187. FAIR AND TRUTHFUL ADVERTISING

(a) A fantasy sports operator shall not depict in an advertisement to consumers in this State:

(1) minors, other than professional athletes who may be minors;

(2) students;

(3) schools or colleges; or

(4) school or college settings, provided that incidental depiction of nonfeatured minors does not violate this section.

(b) A fantasy sports operator shall not state or imply in an advertisement to consumers in this State endorsement by:

(1) minors, other than professional athletes who may be minors;

(2) collegiate athletes;

(3) colleges; or

(4) college athletic associations.

(c)(1) A fantasy sports operator shall include in an advertisement to consumers in this State information concerning assistance available to problem gamblers, or shall direct consumers to a reputable source of that information.

(2) If an advertisement is of insufficient size or duration to provide the information required in subdivision (1) of this subsection, the advertisement shall refer to a website or application that does prominently include such information.

(d) A fantasy sports operator shall only make representations concerning winnings that are accurate, not misleading, and capable of substantiation at the time of the representation. For purposes of this subsection, an advertisement is misleading if it makes representations about average winnings without equally prominently representing the average net winnings of all players.

§ 4188. EXEMPTION

The provisions of 13 V.S.A. chapter 51, relating to gambling and lotteries, shall not apply to a fantasy sports contest.

§ 4189. REGISTRATION

In addition to applicable requirements under Titles 11–11C for a business organization doing business in this State to register with the Secretary of State, on or before October 15 of each year in which a fantasy sports operator offers a fantasy sports contest to consumers in this State, the operator shall file an annual registration with the Secretary of State on a form adopted for that purpose and pay to the Secretary an annual registration fee in the amount of $5,000.00.

§ 4190. ENFORCEMENT

(a) A person that violates a provision of this chapter commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(b) The Attorney General has the authority to adopt rules to implement the provisions of this chapter and to conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under chapter 63, subchapter 1 of this title.

Sec. 6. EFFECTIVE DATES

(a) This section shall take effect on passage.

(b) Secs. 1–4 shall take effect on July 1, 2017.

(c) Sec. 5 (fantasy sports contests) shall take effect on January 1, 2018, except that 9 V.S.A. § 4189 (registration requirement) shall take effect on passage.

MICHAEL D. SIROTKIN
PHILIP E. BARUTH
ALISON CLARKSON

Committee on the part of the Senate

MICHAEL J. MARCOTTE
JEAN D. O'SULLIVAN
MATTHEW HILL

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Recess

On motion of Senator Ashe the Senate recessed until 4:00 P.M.

Called to Order

The Senate was called to order by the President.

Adjournment

On motion of Senator Ashe, the Senate adjourned, to reconvene on Monday, May 15, 2017, at nine o'clock in the morning.

MONDAY, MAY 15, 2017

The Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 76

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

Mr. President:

I am directed to inform the Senate that:

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 238. An act relating to modernizing and reorganizing Title 7.

And has adopted the same on its part.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 495. An act relating to miscellaneous agriculture subjects.

And has adopted the same on its part.

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. 100. An act relating to promoting affordable and sustainable housing.

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

Rep. Young of Glover
Rep. Sullivan of Burlington
Rep. Wright of Burlington

Adjournment

On motion of Senator Baruth, the Senate adjourned until four o'clock and thirty minutes in the afternoon on Tuesday, May 16, 2017.

TUESDAY, MAY 16, 2017

Pursuant to Rule 8 of the Senate Rules, in the absence of the President and the President *pro tempore*, the time for convening of the Senate having been set at 4:30 P.M., the Senate was called to order by John H. Bloomer, Jr., Secretary of the Senate.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 77

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

Mr. President:

I am directed to inform the Senate that:

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 171. An act relating to expungement.

And has adopted the same on its part on May 5, 2017.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 22. An act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council.

And has adopted the same on its part on May 10, 2017.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 503. An act relating to bail.

And has adopted the same on its part on May 10, 2017.

Adjournment

On motion of Senator Brooks, the Senate adjourned until four o'clock and thirty minutes in the afternoon on Wednesday, May 17, 2017.

WEDNESDAY, MAY 17, 2017

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. 78

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, 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 proposal of amendment to Senate proposal of amendment to House bill entitled:

H. 509. An act relating to calculating statewide education tax rates.

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. Head of South Burlington
Rep. Sharpe of Bristol

Committee of Conference Appointed

H. 509.

An act relating to calculating statewide education tax rates.

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

Senator Cummings
Senator Baruth
Senator Kitchel

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

Adjournment

On motion of Senator Balint, the Senate adjourned until one o'clock in the afternoon on Thursday, May 18, 2017.

THURSDAY, MAY 18, 2017

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.

Recess

On motion of Senator Balint the Senate recessed until 2:30 P.M.

Called to Order

The Senate was called to order by the President.

Recess

The Chair declared a recess until the fall of the gavel.

Called to Order

The Senate was called to order by the President.

Recess

The Chair declared a recess 4:00 P.M.

Called to Order

The Senate was called to order by the President.

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the seventeenth day of May, 2017, he approved and signed bills originating in the Senate of the following titles:

S. 14. An act relating to expanding the Vermont Practitioner Recovery Network.

S. 96. An act relating to a news media privilege.

Message from the House No. 79

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

Mr. President:

I am directed to inform the Senate that:

The Governor has informed the House that on May 17, 2017, he approved and signed bills originating in the House of the following title:

H. 50. An act relating to the telecommunications siting law.

H. 58. An act relating to permanent licenses for persons 66 years of age or older.

H. 184. An act relating to evaluation of suicide profiles.

H. 230. An act relating to consent by minors for mental health treatment related to sexual orientation and gender identity.

H. 241. An act relating to the charter of the Central Vermont Solid Waste Management District.

H. 312. An act relating to retirement and pensions.

H. 327. An act relating to the charter of the Northeast Kingdom Solid Waste Management District.

H. 462. An act relating to social media privacy for employees.

H. 494. An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

H. 520. An act relating to approval of amendments to the charter of the Town of Stowe.

H. 524. An act relating to approval of amendments to the charter of the Town of Hartford.

H. 536. An act relating to approval of amendments to the charter of the Town of Colchester.

Appointments Confirmed

The following Gubernatorial appointments were confirmed separately by the Senate, upon full reports given by the Committees to which they were referred:

The nominations of

Gobeille, Al of Shelburne - Secretary, Agency of Human Services - January 5, 2017, to February 28, 2017.

Gobeille, Al of Shelburne - Secretary, Agency of Human Services - March 1, 2017, to February 28, 2019.

Were collectively agreed to on a roll call, Yeas 25, Nays 0.

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: Ayer, Baruth, Benning, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, Mazza, McCormack, Mullin, Nitka, Pollina, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Ashe, Balint, MacDonald, Pearson, Rodgers.

The nomination of

Fenster, David of Middlebury - Superior Judge - December 28, 2016, to March 31, 2022.

Was confirmed on a roll call, Yeas 26, Nays 0.

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: Ayer, Baruth, Benning, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Ashe, Balint, Pearson, Rodgers.

The nomination of

Mann, Elizabeth of Norwich - Superior Judge - December 28, 2016, to March 31, 2019.

Was confirmed by the Senate on a roll call, Yeas 26, Nays 0.

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: Ayer, Baruth, Benning, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Ashe, Balint, Pearson, Rodgers.

The nominations of

Flynn, Joe of South Hero - Secretary, Agency of Transportation – January 5, 2017, to February 28, 2017.

Flynn, Joe of South Hero - Secretary, Agency of Transportation – March 1, 2017, to February 28, 2019.

Were collectively agreed to on a roll call, Yeas 25, Nays 0.

Senator Mazza 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, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Sears, Sirotkin, Starr, Westman.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Ashe, Balint, Pearson, Rodgers, White.

The nomination of

Holcombe, Rebecca of Norwich - Secretary, Agency of Education - March 1, 2017, to February 28, 2019.

Was confirmed by the Senate on a roll call, Yeas 28, Nays 0.

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

Roll Call

Those Senators who voted in the affirmative were: Ayer, Balint, Baruth, Benning, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pearson, Pollina, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Ashe, Rodgers.

The nomination of

Quinn, John of Northfield - Secretary, Agency of Digital Services – April 24, 2017, to February 28, 2019.

Was confirmed by the Senate on a roll call, Yeas 28, Nays 0.

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

Roll Call

Those Senators who voted in the affirmative were: Ayer, Balint, Baruth, Benning, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pearson, Pollina, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Ashe, Rodgers.

Recess

The Chair declared a recess to the fall of the gavel.

Called to Order

The Senate was called to order by the President.

Message from the House No. 80

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

Mr. President:

I am directed to inform the Senate that:

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. 135. An act relating to promoting economic development.

And has adopted the same on its part.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 135.

Pending entry on the Calendar for notice, on motion of Senator Mullin, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to promoting economic development.

Was taken up for immediate consideration.

Senator Mullin, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

S. 135. An act relating to promoting economic development.

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

* * * Vermont Employment Growth Incentive Program * * *

Sec. A.1. 32 V.S.A. chapter 105 is amended to read:

CHAPTER 105. VERMONT EMPLOYMENT GROWTH INCENTIVE PROGRAM

* * *

§ 3332. APPLICATION; APPROVAL CRITERIA

(a) Application.

(1) A business may apply for an incentive in one or more years of an award period by submitting an application to the Council in the format the Council specifies for that purpose.

(2) For each award year the business applies for an incentive, the business shall:

(A) specify a payroll performance requirement;

(B) specify a jobs performance requirement or a capital investment performance requirement, or both; and

(C) provide any other information the Council requires to evaluate the application under this subchapter.

(b) Mandatory criteria. The Council shall not approve an application unless it finds:

(1) Except as otherwise provided for an enhanced incentive for a business in a qualifying labor market area under section 3334 of this title, the new revenue the proposed activity ~~generates~~ would generate to the State ~~exceeds~~ would exceed the costs of the activity to the State.

(2) The host municipality welcomes the new business.

(3) ~~The~~ Pursuant to a self-certification or other documentation the Council requires by rule or procedure, the business attests to the best of its knowledge:

(A) the business is not a named party to an administrative order, consent decree, or judicial order issued by the State or a subdivision of the State, or if a named party, that the business is in compliance with the terms of such an order or decree;

(B) the business complies with applicable State laws and regulations; and

(C) the proposed economic activity ~~conforms~~ would conform to applicable town and regional plans and with applicable State laws and regulations.

(4) If the business proposes to expand within a limited local market, an incentive would not give the business an unfair competitive advantage over other Vermont businesses in the same or similar line of business and in the same limited local market.

(5) But for the incentive, the proposed economic activity:

(A) would not occur; or

(B) would occur in a significantly different manner that is significantly less desirable to the State.

* * *

§ 3334. ENHANCED INCENTIVE FOR A BUSINESS IN A QUALIFYING LABOR MARKET AREA

(a) The Council may increase the value of an incentive for a business that is located in a labor market area in which:

(1) the average annual unemployment rate is greater than the average annual unemployment rate for the State; or

(2) the average annual wage is less than the average annual wage for the State.

(b) In each calendar year, the amount by which the Council may increase the value of all incentives pursuant to this section is:

(1) $1,500,000.00 for one or more initial approvals; and

(2) $1,000,000.00 for one or more final approvals.

(c) The Council may increase the cap imposed in subdivision (b)(2) of this section by not more than $500,000.00 upon application by the Governor to, and approval of, the Joint Fiscal Committee.

(d) In evaluating the Governor's request, the Committee shall consider the economic and fiscal condition of the State, including recent revenue forecasts and budget projections.

(e) The Council shall provide the Committee with testimony, documentation, company-specific data, and any other information the Committee requests to demonstrate that increasing the cap will create an opportunity for return on investment to the State.

(f) The purpose of the enhanced incentive for a business in a qualifying labor market area is to increase job growth in economically disadvantaged regions of the State, as provided in subsection (a) of this section.

§ 3335. ENHANCED INCENTIVE FOR ENVIRONMENTAL TECHNOLOGY BUSINESS

(a) As used in this section, an "environmental technology business" means a business that:

(1) is subject to income taxation in Vermont; and

(2) seeks an incentive for economic activity in Vermont that the Secretary of Commerce and Community Development certifies is primarily research, design, engineering, development, or manufacturing related to one or more of the following:

(A) waste management, including waste collection, treatment, disposal, reduction, recycling, and remediation;

(B) natural resource protection and management, including water and wastewater purification and treatment, air pollution control and prevention or remediation, soil and groundwater protection or remediation, and hazardous waste control or remediation;

(C) energy efficiency or conservation;

(D) clean energy, including solar, wind, wave, hydro, geothermal, hydrogen, fuel cells, waste-to-energy, or biomass.

(b) The Council shall consider and administer an application from an environmental technology business pursuant to the provisions of this subchapter, except that:

(1) the business's potential share of new revenue growth shall be 90 percent; and

(2) to calculate qualifying payroll, the Council shall:

(A) determine the background growth rate in payroll for the applicable business sector in the award year;

(B) multiply the business's full-time payroll for the award year by 20 percent of the background growth rate; and

(C) subtract the product from the payroll performance requirement for the award year.

(c) The purpose of the enhanced incentive for an environmental technology business is to promote the growth of businesses in Vermont that both create and sustain high quality jobs and improve the natural environment.

* * *

§ 3338. CLAIMING AN INCENTIVE; ANNUAL FILING WITH DEPARTMENT OF TAXES

(a) On or before April 30 following each year of the utilization period, a business with an approved application shall submit an incentive claim to the Department of Taxes.

(b) A business shall include:

(1) the information the Department requires, including the information required in section 5842 of this title and other documentation concerning payroll, jobs, and capital investment necessary to determine whether the business earned the incentive specified for an award year and any installment payment for which the business is eligible; and

(2) a self-certification or other documentation the Department requires by rule or procedure, by which the business attests to the best of its knowledge that:

(A) the business is not a named party to an administrative order, consent decree, or judicial order issued by the State or a subdivision of the State, or if a named party, that the business is in compliance with the terms of such an order or decree; and

(B) the business complies with applicable State laws and regulations.

(c) The Department may consider an incomplete claim to be timely filed if the business files a complete claim within the additional time allowed by the Department in its discretion.

(d) Upon finalizing its review of a complete claim, the Department shall:

(1) notify the business and the Council whether the business is entitled to an installment payment for the applicable year; and

(2) make an installment payment to which the business is entitled.

(e) The Department shall not pay interest on any amounts it holds or pays for an incentive or installment payment pursuant to this subchapter.

§ 3339. RECAPTURE; REDUCTION; REPAYMENT

(a) Recapture.

(1) The Department of Taxes may recapture the value of one or more installment payments a business has claimed, with interest, if:

(A) the business fails to file a claim as required in section 3338 of this title; ~~or~~

(B) during the utilization period, the business experiences:

(i) a 90 percent or greater reduction from base employment; or

(ii) if it had no jobs at the time of application, a 90 percent or greater reduction from the sum of its job performance requirements; or

(C) the Department determines that during the application or claims process the business knowingly made a false attestation that the business:

(i) was not a named party to, or was in compliance with, an administrative order, consent decree, or judicial order issued by the State or a subdivision of the State: or

(ii) was in compliance with State laws and regulations.

(2) If the Department determines that a business is subject to recapture under subdivision (1) of this subsection, the business becomes ineligible to earn or claim an additional incentive or installment payment for the remainder of the utilization period.

(3) Notwithstanding any other statute of limitations, the Department may commence a proceeding to recapture amounts under subdivision (1) of this subsection as follows:

(A) under subdivision (1)(A) of this subsection, no later than three years from the last day of the utilization period; and

(B) under subdivision (1)(B) of this subsection, no later than three years from date the business experiences the reduction from base employment, or three years from the last day of the utilization period, whichever occurs first.

(b) Reduction; recapture. If a business fails to make capital investments that equal or exceed the sum of its capital investment performance requirements by the end of the award period:

(1) The Department shall:

(A) calculate a reduced incentive by multiplying the combined value of the business's award period incentives by the same proportion that the business's total actual capital investments bear to the sum of its capital investment performance requirements; and

(B) reduce the value of any remaining installment payments for which the business is eligible by the same proportion.

(2) If the value of the installment payments the business has already received exceeds the value of the reduced incentive, then:

(A) the business becomes ineligible to claim any additional installment payments for the award period; and

(B) the Department shall recapture the amount by which the value of the installment payments the business has already received exceeds the value of the reduced incentive.

(c) Tax liability.

(1) A person who has the duty and authority to remit taxes under this title shall be personally liable for an installment payment that is subject to recapture under this section.

(2) For purposes of this section, the Department of Taxes may use any enforcement or collection action available for taxes owed pursuant to chapter 151 of this title.

* * *

* * * VEGI; Confidentiality * * *

Sec. A.2. 32 V.S.A. § 3102 is amended to read:

§ 3102. CONFIDENTIALITY OF TAX RECORDS

(a) No present or former officer, employee, or agent of the Department of Taxes shall disclose any return or return information to any person who is not an officer, employee, or agent of the Department of Taxes except in accordance with the provisions of this section. A person who violates this section shall be fined not more than $1,000.00 or imprisoned for not more than

one year, or both; and if the offender is an officer or employee of this State, he or she shall, in addition, be dismissed from office and be incapable of holding any public office for a period of five years thereafter.

* * *

(d) The Commissioner shall disclose a return or return information:

* * *

(5) to the Attorney General, if such return or return information relates to chapter 205 of this title or 33 V.S.A. chapter 19, subchapters 1A and 1B, for purposes of investigating potential violations of and enforcing 7 V.S.A. chapter 40, 20 V.S.A. chapter 173, subchapter 2A, and 33 V.S.A. chapter 19, subchapters 1A and 1B;

(6) to the Vermont Economic Progress Council, provided that the disclosure relates to a successful business applicant under chapter 105, subchapter 2 of this title and the incentive it has claimed is reasonably necessary for the Council to perform its duties under that subchapter.

(e) The Commissioner may, in his or her discretion and subject to such conditions and requirements as he or she may provide, including any confidentiality requirements of the Internal Revenue Service, disclose a return or return information:

* * *

(11) To the Joint Fiscal Office or its agent, provided that the disclosure relates to a successful business applicant under chapter 105, subchapter 2 of this title and the incentive it has claimed and is reasonably necessary for the Joint Fiscal Office or its agent to perform the duties authorized by the Joint Fiscal Committee or a standing committee of the General Assembly under that subchapter; to the Auditor of Accounts for the performance of duties under section 163 of this title; and to the Department of Economic Development for the purposes of subsection 5922(f) of this title~~; and to the Vermont Economic Progress Council, provided that the disclosure relates to a successful business applicant under chapter 105, subchapter 2 of this title and the incentive it has claimed and is reasonably necessary for the Council to perform its duties under that subchapter~~.

* * *

Sec. A.3. VERMONT EMPLOYMENT GROWTH INCENTIVE; WAGE REPORTING; RECOMMENDATION

On or before January 15, 2018, the Agency of Commerce and Community Development, in collaboration with the Department of Labor, shall submit to the House Committee on Commerce and Economic Development and the

Senate Committee on Economic Development, Housing and General Affairs a report concerning the Vermont Employment Growth Incentive Program specifying means by which the Vermont Economic Progress Council can report aggregate information on the wages and benefits for jobs created through the Program.

* * * Rural Economic Development Infrastructure Districts * * *

Sec. B.1. 24 V.S.A. chapter 138 is added to read:

CHAPTER 138. RURAL ECONOMIC DEVELOPMENT INFRASTRUCTURE DISTRICTS

§ 5701. PURPOSE

The purpose of this chapter is to enable formation of special municipal districts to finance, own, and maintain infrastructure that provides economic development opportunities in rural and underresourced areas of the State, including areas within one or more municipalities. Specifically, this chapter provides mechanisms for public and private partnerships, including opportunities for tax-incentivized financing and voluntary citizen engagement, to help overcome density and economic hardship.

§ 5702. ESTABLISHMENT; GENERAL PROVISIONS

(a) Establishment. Upon written application by 20 or more voters within a proposed district or upon its own motion, the legislative body of a municipality may establish a rural economic development infrastructure district. The application shall describe the infrastructure to be built or acquired; the plan for financing its acquisition; the anticipated economic benefit; the source of revenues for loan, bond, or lease payments; and plans for retention and disbursement of excess revenues, if any. The application also shall clearly state that the proposed district shall not have authority to levy taxes upon the grand list and may not levy service charges or fees upon any underlying municipality except for services used by such municipality, its own officers, and employees in the operation of municipal functions. Notice of establishment of a district shall be recorded as provided in subsection (e) of this section, posted in at least three public places within the municipality for at least 30 days, and published in a newspaper of general circulation within the municipality not more than 10 days from the date of establishment by the legislative body. Following 40 days from the later of the date of establishment by the legislative body of the municipality or an affirmative vote under subdivision (d)(1) or (2) of this section, the district shall be deemed to be a body politic and corporate, capable of exercising those powers and prerogatives explicitly granted by the legislative body of the municipality in accordance with this chapter and the district's establishment application.

(b) Districts involving more than one municipality. Where the limits of a proposed district include two or more municipalities, or portions of two or more municipalities, the application required by this section shall be made to and considered by the legislative body of each such municipality.

(c) Alteration of district limits. The legislative body of a municipality in which a district is located may alter the limits of a district upon application to the governing board of the district, provided the governing board gives prior written consent. A district expansion need not involve contiguous property. Notice of an alteration of the limits of a district shall be recorded as provided in subsection (e) of this section, posted in at least three public places within the municipality for at least 30 days, and published in a newspaper of general circulation within the municipality not more than 10 days from the date of the legislative body's decision to alter the limits of a district.

(d)(1) Contestability. If a petition signed by five percent of the voters of the municipality objecting to the proposed establishment or alteration of limits of a district is presented to the municipal clerk within 30 days of the date of posting and publication of the notice required by subsection (a) or (c) of this section, as applicable, the legislative body of the municipality shall cause the question of whether the municipality shall establish or alter the limits of the district to be considered at a meeting called for that purpose. The district shall be established in accordance with the application or the limits altered unless a majority of the voters of the municipality present and voting votes to disapprove such establishment or alteration of limits.

(2) If a petition signed by five percent of the voters of the municipality objecting to a legislative body's decision denying the establishment or the alteration of limits of a district is presented to the municipal clerk within 30 days of the legislative body's decision, the legislative body shall cause the question of whether the municipality shall establish or alter the limits of the district to be considered at an annual or special meeting called for that purpose.

(e) Recording. A record of the establishment of a district and any alteration of district limits made by a legislative body shall be filed with the clerk of each municipality in which the district is located, and shall be recorded with the Secretary of State.

§ 5703. LIMITATIONS; TAXES; INDEBTEDNESS; EMINENT DOMAIN

Notwithstanding any grant of authority in this chapter to the contrary:

(1) A district shall not accept funds generated by the taxing or assessment power of any municipality in which it is located.

(2) A district shall not have the power to levy, assess, apportion, or collect any tax upon property within the district, nor upon any of its underlying municipalities, without specific authorization of the General Assembly.

(3) All obligations of the district, including financing leases, shall be secured by and payable only out of the assets of or revenues or monies in the district, including revenue generated by an enterprise owned or operated by the district.

(4) A district shall not have powers of eminent domain.

§ 5704. GOVERNING BOARD; COMPOSITION; MEETINGS; REPORT

(a) Governing board. The legislative power and authority of a district and the administration and the general supervision of all fiscal, prudential, and governmental affairs of a district shall be vested in a governing board, except as otherwise specifically provided in this chapter.

(b) Composition. The first governing board of the district shall consist of four to eight members appointed in equal numbers by the legislative bodies of the underlying municipalities. It shall draft the district's bylaws specifying the size, composition, quorum requirements, and manner of appointing members to the permanent governing board. The bylaws shall require that a majority of the board shall be appointed annually by the legislative bodies of the underlying municipalities. Board members shall serve staggered, three-year terms, and shall be eligible to serve successive terms. The legislative bodies of the municipalities in which the district is located shall fill board vacancies, and may remove board members at will. Any bylaws developed by the governing board under this subsection shall be submitted for approval to the legislative bodies of the municipalities within the district and shall be considered duly adopted 45 days from the date of submission, provided none of the legislative bodies disapprove of the bylaws.

(c) First meeting. The first meeting of the district shall be called upon 30 days' posted and published notice by a presiding officer of a legislative body in which the district is located. Voters within a municipality in which the district is located are eligible to vote at annual and special district meetings. At the first meeting of the district, and at each subsequent annual meeting, there shall be elected from among board members a chair, vice chair, clerk, and treasurer who shall assume their respective offices upon election. At the first meeting, the fiscal year of the district shall be established and rules of parliamentary procedure shall be adopted. Prior to assuming their offices, officers may be required to post bond in such amounts as determined by resolution of the board. The cost of such bond shall be borne by the district.

(d) Annual and special meetings. Unless otherwise established by the voters, the annual district meeting shall be held on the second Monday in January and shall be warned by the clerk or, in the clerk's absence or neglect, by a member of the board. Special meetings shall be warned in the same manner on application in writing by five percent of the voters of the district. A warning for a district meeting shall state the business to be transacted. The time and place of holding the meeting shall be posted in two or more public places in the district not more than 40 days nor less than 30 days before the meeting and recorded in the office of the clerk before the same is posted.

(e) Annual report. The district shall report annually to the legislative bodies and the citizens of the municipalities in which the district is located on the results of its activities in support of economic growth, job creation, improved community efficiency, and any other benefits incident to its activities.

§ 5705. OFFICERS

(a) Generally. The district shall elect at its first meeting and at each annual meeting thereafter a chair, vice chair, clerk, and treasurer, who shall hold office until the next annual meeting and until others are elected. The board may fill a vacancy in any office.

(b) Chair. The chair shall preside at all meetings of the board and make and sign all contracts on behalf of the district upon approval by the board. The chair shall perform all duties incident to the position and office as required by the general laws of the State.

(c) Vice chair. During the absence of or inability of the chair to render or perform his or her duties or exercise his or her powers, the same shall be performed and exercised by the vice chair and when so acting, the vice chair shall have all the powers and be subject to all the responsibilities given to or imposed upon the chair. During the absence or inability of the vice chair to render or perform his or her duties or exercise his or her powers, the board shall elect from among its members an acting vice chair who shall have the powers and be subject to all the responsibilities given or imposed upon the vice chair.

(d) Clerk. The clerk shall keep a record of the meetings, votes, and proceedings of the district for the inspection of its inhabitants.

(e) Treasurer. The treasurer of the district shall be appointed by the board, and shall serve at its pleasure. The treasurer shall have the exclusive charge and custody of the funds of the district and shall be the disbursing officer of the district. When warrants are authorized by the board, the treasurer may sign, make, or endorse in the name of the district all checks and orders for the

payment of money and pay out and disburse the same and receipt therefor. The treasurer shall keep a record of every obligation issued and contract entered into by the district and of every payment made. The treasurer shall keep correct books of account of all the business and transactions of the district and such other books and accounts as the board may require. The treasurer shall render a statement of the condition of the finances of the district at each regular meeting of the board and at such other times as required of the treasurer. The treasurer shall prepare the annual financial statement and the budget of the district for distribution, upon approval of the board, to the legislative bodies of district members. Upon the treasurer's termination from office by virtue of removal or resignation, the treasurer shall immediately pay over to his or her successor all of the funds belonging to the district and at the same time deliver to the successor all official books and papers.

§ 5706. AUDIT

Once the district becomes operational, the board shall cause an audit of the financial condition of the district to be performed annually by an independent professional accounting firm. The results of the audit shall be provided to the governing board and to the legislative bodies of the municipalities in which the district is located.

§ 5707. COMMITTEES

The board has authority to establish one or more committees and grant and delegate to them such powers as it deems necessary. Members of an executive committee shall serve staggered terms and shall be board members. Membership on other committees established by the board is not restricted to board members.

§ 5708. DISTRICT POWERS

A district created under this chapter has the power to:

(1) exercise independently and in concert with other municipalities any other powers which are necessary or desirable for the installation, ownership, operation, maintenance, and disposition of infrastructure promoting economic development in rural areas and matters of mutual concern and that are exercised or are capable of exercise by any of its members;

(2) enter into municipal financing agreements as provided by sections 1789 and 1821–1828 of this title, or other provisions authorizing the pledge of district assets or net revenue, or alternative means of financing capital improvements and operations;

(3) purchase, sell, lease, own, acquire, convey, mortgage, improve, and use real and personal property in connection with its purpose;

(4) enter into contracts for any term or duration;

(5) operate, cause to be operated, or contract for the construction, ownership, management, financing, and operation of an enterprise which a municipal corporation is authorized by law to undertake;

(6) hire employees and fix the compensation and terms of employment;

(7) contract with individuals, corporations, associations, authorities, and agencies for services and property, including the assumption of the liabilities and assets thereof, provided that no assumed liability shall be a general obligation of a municipality in which the district is located;

(8) contract with the State of Vermont, the United States of America, or any subdivision or agency thereof for services, assistance, and joint ventures;

(9) contract with any municipality for the services of any officers or employees of that municipality useful to it;

(10) promote cooperative arrangements and coordinated action among its members and other public and private entities;

(11) make recommendations for review and action to its members and other public agencies that perform functions within the region in which its members are located;

(12) sue and be sued; provided, however, that the property and assets of the district, other than such property as may be pledged as security for a district obligation, shall not be subject to levy, execution, or attachment;

(13) appropriate and expend monies; provided, however, that no appropriation shall be funded or made in reliance upon any taxing authority of the district;

(14) establish sinking and reserve funds for retiring and securing its obligations;

(15) establish capital reserve funds and make deposits in them;

(16) solicit, accept, and administer gifts, grants, and bequests in trust or otherwise for its purpose;

(17) enter into an interstate compact consistent with the purposes of this chapter, subject to the approval of the Vermont General Assembly and the U. S. Congress;

(18) develop a public sewer or water project, provided the legislative body and the planning commission for the municipality in which the sewer or water project is proposed to be located confirm in writing that such project conforms with any duly adopted municipal plan, and the regional planning

commission confirms in writing that such project conforms with the duly adopted regional plan;

(19) exercise all powers incident to a public corporation, but only to the extent permitted in this chapter;

(20) adopt a name under which it shall be known and shall conduct business; and

(21) make, establish, alter, amend, or repeal ordinances, regulations, and bylaws relating to matters contained in this chapter and not inconsistent with law.

§ 5709. DISSOLUTION

(a) If the board by resolution approved by a two-thirds vote determines that it is in the best interests of the public, the district members, and the district that such district be dissolved, and if the district then has no outstanding obligations under pledges of district assets or revenue, long-term contracts, or contracts subject to annual appropriation, or will have no such debt or obligation upon completion of the plan of dissolution, it shall prepare a plan of dissolution and thereafter adopt a resolution directing that the question of such dissolution and the plan of dissolution be submitted to the voters of the district at a special meeting thereof duly warned for such purpose. If a majority of the voters of the district present and voting at such special meeting shall vote to dissolve the district and approve the plan of dissolution, the district shall cease to conduct its affairs except insofar as may be necessary for the winding up of them. The board shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the district and to the Secretary of State and shall proceed to collect the assets of the district and apply and distribute them in accordance with the plan of dissolution.

(b) The plan of dissolution shall:

(1) identify and value all unencumbered assets;

(2) identify and value all encumbered assets;

(3) identify all creditors and the nature or amount of all liabilities and obligations;

(4) identify all obligations under long-term contracts and contracts subject to annual appropriation;

(5) specify the means by which assets of the district shall be liquidated and all liabilities and obligations paid and discharged, or adequate provision made for the satisfaction of them;

(6) specify the means by which any assets remaining after discharge of all liabilities shall be liquidated if necessary; and

(7) specify that any assets remaining after payment of all liabilities shall be apportioned and distributed among the district members according to a formula based upon population.

(c) When the plan of dissolution has been implemented, the board shall adopt a resolution certifying that fact to the district members whereupon the district shall be terminated, and notice thereof shall be delivered to the Secretary of the Senate and the Clerk of the House of Representatives in anticipation of confirmation of dissolution by the General Assembly.

* * * Public Retirement * * *

Sec. C.1. THE GREEN MOUNTAIN SECURE RETIREMENT PLAN

(a) The State of Vermont shall, consistent with federal law and regulation, adopt and implement a voluntary Multiple Employer Plan (MEP) public retirement plan, which shall remain in compliance with federal law and regulations once implemented, and shall be called the "Green Mountain Secure Retirement Plan."

(b) The Plan shall be designed and implemented based upon the following guiding principles:

(1) Simplicity: the Plan should be easy for participants to understand.

(2) Affordability: the Plan should be administered to maximize cost effectiveness and efficiency.

(3) Ease of access: the Plan should be easy to join.

(4) Trustworthy oversight: the Plan should be administered by an organization with unimpeachable credentials.

(5) Protection from exploitation: the Plan should protect its participants, particularly the elderly, from unscrupulous business practices and individuals.

(6) Portability: the Plan should not depend upon employment with a specific firm or organization.

(7) Choice: the Plan should provide sufficient investment alternatives to be suitable for individuals with distinct goals, but not too many options to induce analysis paralysis.

(8) Voluntary: the Plan should not be mandatory but autoenrollment should be used to increase participation.

(9) Financial education and financial literacy: the Plan should assist the individual in understanding his or her financial situation.

(10) Sufficient savings: the Plan should encourage adequate savings in retirement combined with existing pension savings and Social Security.

(11) Additive not duplicative: the Plan should not compete with existing private sector solutions.

(12) Use of pretax dollars: contributions to the Plan should be made using pretax dollars.

(c) The Plan shall:

(1) be available on a voluntary basis to:

(A) employers:

(i) with 50 employees or fewer; and

(ii) that do not currently offer a retirement plan to their employees; and

(B) self-employed individuals;

(2) automatically enroll all employees of employers that choose to participate in the MEP;

(3) allow employees the option of withdrawing their enrollment and ending their participation in the MEP;

(4) be funded by employee contributions with an option for future voluntary employer contributions; and

(5) be overseen by a board:

(A) that shall:

(i) set program terms;

(ii) prepare and design plan documents; and

(iii) be authorized to appoint an administrator to assist in the selection of investments, managers, custodians, and other support services; and

(B) that shall be composed of seven members as follows:

(i) an individual with investment experience, to be appointed by the Governor;

(ii) an individual with private sector retirement plan experience, to be appointed by the Governor;

(iii) an individual with investment experience, to be appointed by the State Treasurer;

(iv) an individual who is an employee or retiree, to be appointed by the State Treasurer;

(v) an individual who is an employee advocate or consumer advocate, to be appointed by the Speaker of the House;

(vi) an individual who is an employer with 50 employees or fewer and who does not offer a retirement plan to his or her employees, to be appointed by the Committee on Committees; and

(vii) the State Treasurer, who shall serve as chair.

(C) that shall, on or before January 15, 2020 and every year thereafter, report to the House and Senate Committees on Government Operations concerning the Green Mountain Secure Retirement Plan, including:

(i) the number of employers and self-employed individuals participating in the plan;

(ii) the total number of individuals participating in the plan;

(iii) the number of employers and self-employed individuals who are eligible to participate in the plan but who do not participate;

(iv) the number of employers and self-employed individuals, and the number of employees of participating employers who have ended their participation during the preceding 12 months;

(v) the total amount of funds contributed to the Plan during the preceding 12 months;

(vi) the total amount of funds withdrawn from the Plan during the preceding 12 months;

(vii) the total funds or assets under management by the Plan;

(viii) the average return during the preceding 12 months;

(ix) the costs of administering the Plan;

(x) the Board's assessment concerning whether the Plan is sustainable and viable;

(xi) once the marketplace is established:

(I) the number of individuals participating;

(II) the number and nature of plans offered; and

(III) the Board's process and criteria for vetting plans; and

(xii) any other information the Board considers relevant, or that the Committee requests.

(D) for attendance at meetings, members of the Board who are not employees of the State of Vermont, and who are not otherwise compensated by their employer or other organization, shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010 and shall be reimbursed for mileage and travel expenses.

(d) The State of Vermont shall implement the "Green Mountain Secure Retirement Plan" on or before January 15, 2019, based on the recommendations of the Public Retirement Plan Study Committee as set forth in 2016 Acts and Resolves No. 157, Sec. F.1.

Sec. C.2. 2016 Acts and Resolves No. 157, Sec. F.1 is amended to read:

Sec. F.1. INTERIM STUDY ON THE FEASIBILITY OF ESTABLISHING A PUBLIC RETIREMENT PLAN

(a) Creation of Committee.

(1) There is created ~~a~~ the Public Retirement Plan Study Committee to evaluate the feasibility of establishing a public retirement plan.

(2) It is the intent of the General Assembly that the Committee continue the work of the Public Retirement Plan Study Committee created in 2014 Acts and Resolves No. 179, Sec. C.108, as amended by 2015 Acts and Resolves No. 58, Sec. C.100, which ceased to exist on January 15, 2016, and to develop specific recommendations concerning the design, creation, and implementation of the Multiple Employer Plan (MEP), pursuant to Sec. C.1 of S.135 (2017) as enacted and as set forth in the January 6, 2017 report issued by the Committee.

(b) Membership.

(1) The Public Retirement Plan Study Committee shall be composed of eight members as follows:

(A) the State Treasurer or designee;

(B) the Commissioner of Labor or designee;

(C) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(D) an individual with private sector experience in the area of providing retirement products and financial services to small businesses, to be appointed by the Speaker;

(E) an individual with experience or expertise in the area of the financial needs of an aging population, to be appointed by the Committee on Committees;

(F) an individual with experience or expertise in the area of the financial needs of Vermont youth or young working adults, to be appointed by the Treasurer;

(G) a representative of employers, to be appointed by the Speaker; and

(H) a representative of employees who currently lack access to employer-sponsored retirement plans, to be appointed by the Committee on Committees.

(2) Unless another appointee is specified pursuant to the authority granted under subdivision (1) of this subsection, the members of the Public Retirement Plan Study Committee created in 2014 Acts and Resolves No. 179, Sec. C.108, as amended by 2015 Acts and Resolves No. 58, Sec. C.100, which ceased to exist on January 15, 2016, shall serve as the members of the Committee created pursuant to this section.

(c) Powers and duties.

(1)(A) The Committee shall ~~study the feasibility of establishing a~~ develop specific recommendations concerning the design, creation, and implementation time line of the Multiple Employer Plan (MEP) public retirement plan~~, including the following~~ pursuant to Sec. C.1 of S.135 (2017) as enacted, which shall:

~~(i) the access Vermont residents currently have to employer-sponsored retirement plans and the types of employer-sponsored retirement plans;~~

~~(ii) data and estimates on the amount of savings and resources Vermont residents will need for a financially secure retirement;~~

~~(iii) data and estimates on the actual amount of savings and resources Vermont residents will have for retirement, and whether those savings and resources will be sufficient for a financially secure retirement;~~

~~(iv) current incentives to encourage retirement savings, and the effectiveness of those incentives;~~

~~(v) whether other states have created a public retirement plan and the experience of those states;~~

~~(vi) whether there is a need for a public retirement plan in Vermont;~~

~~(vii) whether a public retirement plan would be feasible and effective in providing for a financially secure retirement for Vermont residents;~~

~~(viii) other programs or incentives the State could pursue in combination with a public retirement plan, or instead of such a plan, in order to encourage residents to save and prepare for retirement; and~~ be available on a voluntary basis to:

(I) employers:

(aa) with 50 employees or fewer; and

(bb) that do not currently offer a retirement plan to their employees; and

(II) self-employed individuals;

(ii) automatically enroll all employees of employers that choose to participate in the MEP;

(iii) allow employees the option of withdrawing their enrollment and ending their participation in the MEP;

(iv) be funded by employee contributions with an option for future voluntary employer contributions; and

(v) be overseen by a board that shall:

(I) set program terms;

(II) prepare and design plan documents; and

(III) be authorized to appoint an administrator to assist in the selection of investments, managers, custodians, and other support services.

(B) ~~if the Committee determines that a public retirement plan is necessary, feasible, and effective, the Committee shall study:~~

~~(i) potential models for the structure, management, organization, administration, and funding of such a plan;~~

~~(ii) how to ensure that the plan is available to private sector employees who are not covered by an alternative retirement plan;~~

~~(iii) how to build enrollment to a level where enrollee costs can be lowered;~~

~~(iv) whether such a plan should impose any obligation or liability upon private sector employers;~~ The Committee, and thereafter the board that will oversee the MEP, shall study and make specific recommendations concerning:

(i) options to provide access to retirement plans to individuals who are not eligible to participate in, or choose not to participate in, the MEP public retirement plan, including alternative plans and options vetted by the board that

shall oversee the MEP, and which private sector plans and options shall be provided through a marketplace implemented no earlier than one year after the MEP begins;

(ii) options for paying for the costs of administering the MEP for the period during which program costs may exceed revenues, including allowing financial service providers to subsidize costs in exchange for longer term contracts;

(iii) if after three years there remain significant numbers of Vermonters who are not covered by a retirement plan, methods to increase participation in the MEP; and

(iv) any other issue the Committee deems relevant.

(2) The Committee shall:

(A) continue monitoring U.S. Department of Labor guidance concerning State Savings Programs for Non-Governmental Employees regarding ERISA rules and other pertinent areas of analysis;

(B) further analyze the relationship between the role of states and the federal government; and

(C) continue its collaboration with educational institutions, other states, and national stakeholders.

(3) The Committee shall have the assistance of the staff of the Office of the Treasurer, the Department of Labor, and the Department of Disabilities, Aging, and Independent Living.

(d) Report. On or before January 15, 2018, the Committee shall report to the General Assembly its findings and ~~any~~ recommendations ~~for legislative action~~. In its report, the Committee shall state its findings as to every factor set forth in ~~subdivision~~ subdivisions (c)(1)(A) ~~of this section, whether it recommends that a public retirement plan be created, and the reasons for that recommendation. If the Committee recommends that a public retirement plan be created, the Committee's report shall include specific recommendations as to the factors listed in subdivision~~ and (c)(1)(B) of this section.

(e) Meetings; term of Committee; Chair. The Committee may meet as frequently as necessary to perform its work and shall cease to exist on January 15, 2018. The State Treasurer shall serve as Chair of the Committee and shall call the first meeting.

(f) Reimbursement. For attendance at meetings, members of the Committee who are not employees of the State of Vermont shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010 and shall be reimbursed for mileage and travel expenses.

* * * Workers' Compensation; VOSHA * * *

Sec. D.1. 21 V.S.A. § 210 is amended to read:

§ 210. PENALTIES

(a) Upon issuance of a citation under this chapter, the Review Board is authorized to assess civil penalties for grounds provided in this subsection. In assessing civil penalties, the Review Board shall follow to the degree practicable the federal procedures prescribed in rules ~~promulgated~~ adopted under the Act. The Review Board shall give due consideration to the appropriateness of the penalty with respect to the size of the business or operation of the employer being assessed, the gravity of the violation, the good faith of the employer, and the history of previous violations. Civil penalties shall be paid to the Commissioner for deposit with the State Treasurer, and may be recovered in a civil action in the name of the State of Vermont brought in any court of competent jurisdiction. The Commissioner shall not reduce the assessed penalties in any fiscal year by more than 50 percent.

(1) Any employer ~~who~~ that willfully or repeatedly violates the requirements of this Code or any standard~~,~~ or rule adopted, or order ~~promulgated~~ issued pursuant to this Code ~~or regulations prescribed pursuant to this Code~~ may be assessed a civil penalty of not more than ~~$70,000.00~~ $126,749.00 for each violation, but not less than $5,000.00 for each willful violation.

(2) Any employer ~~who~~ that has received a citation for a serious violation of the requirements of this Code, or any standard~~,~~ or rule adopted, or order ~~promulgated~~ issued pursuant to this Code~~, or of any regulations prescribed pursuant to this Code~~, shall be assessed a civil penalty of up to ~~$7,000.00~~ $12,675.00 for each violation.

(3) Any employer ~~who~~ that has received a citation for a violation of the requirements of this Code, or any standard~~,~~ or rule adopted, or order ~~promulgated~~ issued pursuant to this Code ~~or of regulations prescribed pursuant to this Code~~, ~~and such violation~~ if the violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of up to ~~$7,000.00~~ $12,675.00 for each such violation.

(4) Any employer ~~who~~ that fails to correct a violation for which a citation has been issued within the period permitted for its correction, which period shall not begin to run until the date of the final order of the Review Board, in the case of any review proceeding under section 226 of this title initiated by the employer in good faith and not solely for delay or avoidance of penalties, may be assessed a civil penalty of not more than ~~$7,000.00~~ $12,675.00 for each day during which the failure or violation continues.

(5) Any employer ~~who~~ that willfully violates any standard~~,~~ or rule adopted, or order ~~promulgated~~ issued pursuant to this Code, and that violation caused death to any employee, shall, upon conviction, be punished by a fine of not more than ~~$20,000.00~~ $126,749.00 or by imprisonment for not more than one year, or by both.

* * *

(8) Any employer ~~who~~ that violates any of the posting requirements, as prescribed under the provisions of this Code, shall be assessed a civil penalty of up to ~~$7,000.00~~ $12,675.00 for each violation.

(9)(A) As provided under the federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and the Act, the penalties provided in subdivisions (1), (2), (3), (4), (5), and (8) of this subsection shall annually, on January 1, be adjusted to reflect the increase in the Consumer Price Index, CPI-U, U.S. City Average, not seasonally adjusted, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous December 1.

(B) The Commissioner shall calculate and publish the adjustment to the penalties on or before January 1 of each year, and the penalties shall apply to fines imposed on or after that date.

* * *

Sec. D.2. 21 V.S.A. § 711 is amended to read:

§ 711. WORKERS' COMPENSATION ADMINISTRATION FUND

(a) A Workers' Compensation Administration Fund is created pursuant to 32 V.S.A. chapter 7, subchapter 5 to be expended by the Commissioner for the administration of the workers' compensation and occupational disease programs. The Fund shall consist of contributions from employers made at a rate of ~~1.75~~ 1.4 percent of the direct calendar year premium for workers' compensation insurance, one percent of self-insured workers' compensation losses, and one percent of workers' compensation losses of corporations approved under this chapter. Disbursements from the Fund shall be on warrants drawn by the Commissioner of Finance and Management in anticipation of receipts authorized by this section.

* * *

* * * Workforce Development; Career Technical Education * * *

Sec. E.1. STATE WORKFORCE DEVELOPMENT SYSTEM; REPORT

(a) Under 10 V.S.A. § 540, as the leader of workforce education and training in the State of Vermont, the Commissioner of Labor, in collaboration with the State Workforce Development Board, has the duty to:

(1) advise the Governor on the establishment of an integrated system of workforce education and training for Vermont;

(2) create and maintain an inventory of all existing workforce education and training programs and activities in the State;

(3) use data to ensure that State workforce education and training activities are aligned with the needs of the available workforce, the current and future job opportunities in the State, and the specific credentials needed to achieve employment in those jobs;

(4) develop a State plan, as required by federal law, to ensure that workforce education and training programs and activities in the State serve Vermont citizens and businesses to the maximum extent possible;

(5) ensure coordination and nonduplication of workforce education and training activities;

(6) identify best practices and gaps in the delivery of workforce education and training programs;

(7) design and implement criteria and performance measures for workforce education and training activities; and

(8) establish goals for the integrated workforce education and training system.

(b) Consistent with these duties, the Commissioner of Labor and the State Workforce Development Board shall convene a working group on State workforce development composed of the following:

(1) the Commissioner of Labor or Deputy;

(2) a subgroup of at least seven members of the State Workforce Development Board who are appointed by the Board, and who shall serve in addition to the Commissioner and the Secretaries specified in this subsection, or their deputies if applicable, and shall include:

(A) the Chair of the State Workforce Development Board, who shall serve as the Chair of the working group; and

(B) at least one member who represents the interests of organized labor and employees;

(3) the Secretary of Commerce and Community Development or Deputy;

(4) the Secretary of Education or Deputy.

(5) the Secretary of Human Services or Deputy;

(6) a member of the Vermont Senate who is a member of the State Workforce Development Board, designated by the Senate Committee on Committees; and

(7) a member of the Vermont House of Representatives who is a member of the State Workforce Development Board, designated by the Speaker of the House.

(c) The working group, in collaboration with relevant State agencies, stakeholders, and workforce education and training providers, shall:

(1) assess Vermont's current workforce education, development, and training program and resource allocations;

(2) identify efficiencies and delivery models that more effectively allocate, reallocate, redirect, and deploy these resources to more dynamically serve the needs of Vermonters and Vermont employers; and

(3) design two or more options, at least one of which is not primarily based upon restructuring State agencies and departments, for a State workforce development system that:

(A) aligns State efforts to train, employ, and improve the wages of Vermont's workforce and ensure collaboration and sustainable interagency partnerships within government;

(B) coordinates within and across State government a comprehensive workforce development strategy that grows the workforce, recruits new workers to the State, and meets employers' workforce needs;

(C) aligns to the needs of employers and current or prospective employees through systematic and ongoing engagement and partnership;

(D) serves two customers with equal energy: the current or prospective employee and the employer;

(E) is engaged at the State and local levels with employers on an ongoing basis to ensure alignment with the workforce needs of employers; and

(F) expands access and accelerates Career and Technical Education to Vermont students in grades 9–12 and to Vermont adults.

(d)(1) The working group shall have the administrative support of the State Workforce Development Board, which shall organize and convene meetings of the group.

(2) The working group shall have the technical support and related subject matter expertise of the Department of Labor and the Agencies of Commerce and Community Development, of Education, and of Human Services.

(3) The working group shall have the legal and fiscal support of the Office of Legislative Council and the Joint Fiscal Office as is necessary for the purposes of preparing proposed legislation for submission to the General Assembly.

(e) In order to perform its duties pursuant to this act, the working group shall have the authority to request and gather data and information as it determines is necessary from entities that conduct workforce education and training programs and activities, including agencies, departments, and programs within the Executive Branch, and from nongovernmental entities that receive State-controlled funding. Unless otherwise exempt from public disclosure pursuant to State or federal law, a workforce education and training provider shall provide the data and information requested by the working group within a reasonable time.

(f) For attendance at meetings during adjournment of the General Assembly, legislative members of the working group shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than five meetings, provided this limitation shall not apply to a meeting of the working group that occurs on the same date as a meeting of the full State Workforce Development Board for which the member is receiving compensation.

(g) On or before November 15, 2017, the Commissioner of Labor and the working group on State workforce development shall report to the Senate Committee on Economic Development, Housing and General Affairs and to the House Committee on Commerce and Economic Development on the implementation of this section and any recommendations for legislative action.

Sec. E.2. 10 V.S.A. § 543 is amended to read:

§ 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT PROGRAMS

(a) Creation. There is created ~~a~~ the Workforce Education and Training Fund in the Department of Labor to be managed in accordance with 32 V.S.A. chapter 7, subchapter 5.

(b) Purposes. The Department shall use the Fund for the following purposes:

(1) training for Vermont workers, including those who are unemployed, underemployed, or in transition from one job or career to another;

(2) internships to provide students with work-based learning opportunities with Vermont employers;

(3) apprenticeship, preapprenticeship, and industry-recognized credential training; and

(4) other workforce development initiatives related to current and future job opportunities in Vermont as determined by the Commissioner of Labor.

(c) Administrative and other support. The Department of Labor shall provide administrative support for the grant award process. When appropriate and reasonable, the State Workforce ~~Investment~~ Development Board and all other public entities involved in economic development and workforce education and training shall provide other support in the process.

(d) Eligible activities.

(1) The Department, in collaboration with the Agency of Education when applicable, shall grant awards from the Fund to employers and entities, including private, public, and nonprofit entities, institutions of higher education, high schools, K–12 school districts, supervisory unions, technical centers, and workforce education and training programs that:

(A) create jobs, offer education, training, apprenticeship, preapprenticeship and industry-recognized credentials, mentoring, career planning, or work-based learning activities, or any combination;

(B) employ student-oriented approaches to workforce education and training; and

(C) link workforce education and economic development strategies.

(2) The Department may fund programs or projects that demonstrate actual increased income and economic opportunity for employees and employers for more than one year.

(3) The Department may fund student internships and training programs that involve the same employer in multiple years, with approval of the Commissioner.

(e) [Repealed].

(f) Awards. The Commissioner of Labor, in consultation with the Chair of the State Workforce Development Board, shall develop award criteria and may grant awards to the following:

(1) Training Programs.

(A) Public, private, and nonprofit entities, including employers and education and training providers, for existing or new training programs that enhance the skills of Vermont workers and:

(i) train workers for trades or occupations that are expected to lead to jobs paying at least 200 percent of the current minimum wage or at least 150 percent if benefits are included; this requirement may be waived when warranted based on regional or occupational wages or economic reality;

(ii) do not duplicate, supplant, or replace other available training funded with public money;

(iii) provide a project timeline, including performance goals, and identify how the effectiveness and outcomes of the program will be measured, including for the individual participants, the employers, and the program as a whole; and

(iv) articulate the need for the training and the direct connection between the training and the job.

(B) The Department shall grant awards under this subdivision (1) to programs or projects that:

(i) offer innovative programs of intensive, student-centric, competency-based education, training, apprenticeship, preapprenticeship and industry-recognized credentials, mentoring, or any combination of these;

(ii) address the needs of workers who are unemployed, underemployed, or ~~are~~ at risk of becoming unemployed, and workers who are in transition from one job or career to another;

(iii) address the needs of employers to hire new employees~~,~~ or retrain incumbent workers, when the employer has demonstrated a need not within the normal course of business, with priority to training that results in new or existing job openings for which the employer intends to hire; or

(iv) in the discretion of the Commissioner, otherwise serve the purposes of this chapter.

(2) Vermont Strong Internship Program. Funding for eligible internship programs and activities under the Vermont Strong Internship Program established in section 544 of this title.

(3) Apprenticeship Program. The Vermont Apprenticeship Program established under 21 V.S.A. chapter 13. Awards under this subdivision may be used to fund the cost of apprenticeship-related instruction provided by the Department of Labor.

(4) Career Focus and Planning programs. In collaboration with the Agency of Education, funding for one or more programs that institute career training and planning for young Vermonters, beginning in middle school.

Sec. E.3. CAREER PATHWAYS COORDINATOR

(a) Notwithstanding any provision of law to the contrary, the Secretary of Administration shall have the authority to create a two-year limited service position, subject to available funding, of Career Pathways Coordinator within the Agency of Education.

(b) The Career Pathways Coordinator shall work under the direction of the State Director for Career Technical Education, and his or her duties shall include the following:

(1) serve as the interagency point person for the development of a State-approved Career Pathways System;

(2) convene stakeholders across the Department of Labor, the Agency of Commerce and Community Development, the Agency of Education, the Agency of Human Services, the Statewide Workforce Development Board, Career Technical Education Centers, employers, postsecondary partners, and related entities in order to create a series of career pathways;

(3) curriculum development, stakeholder engagement, process documentation, and identification of key performance indicators, outcomes collection and reporting;

(4) engage statewide education, employer, and workforce organizations to co-develop statewide career pathways models and exemplars;

(5) identify target populations and entry points;

(6) review and develop competency models, required skill sets, and appropriate credentials at each step of a career pathway, in partnership with business and industry representatives;

(7) coordinate employer validation of competencies and pathways;

(8) develop targeted career ladders and lattices, including stackable skills and industry-recognized credentials;

(9) work with CTE Directors to design and endorse elements of Career Pathways;

(10) use labor market information and other relevant data to identify critical Career Pathways for the State; and

(11) advise the Career Technical Education Director on the funding, governance, and access to career technical education in Vermont.

* * * Heating Fuel and Service Workforce Training Pilot Project * * *

Sec. E.4. HEATING FUEL AND SERVICE WORKFORCE TRAINING PILOT PROJECT

(a) Findings and purpose.

(1) Vermont's heating fuel and service companies provide high-skill, high-demand jobs, many of which do not require a college degree but pay over $20.00 per hour and include benefits.

(2) Vermont's heating fuel and service companies have a significant need for new employees. More than two-thirds of these companies report that there is a lack of qualified applicants for heating technician jobs, and more than half report a lack of qualified drivers.

(3) The purpose of this section is to create a partnership between the State and the industry to identify prospective employees, provide them with training and skills necessary for currently available jobs, and provide employers with a skilled workforce.

(b) The Department of Labor, in collaboration with the regional Career Technical Education and Training Centers and the Vermont Fuel Dealers Association, shall establish a Heating Fuel and Service Workforce Training Pilot Project, consistent with the following:

(1) The Department, CTE Centers, Adult Technical Education Providers, and the Association shall:

(A) advertise the availability of workforce training in the field of heating fuel and service;

(B) organize informational sessions, meetings, and other group and individual opportunities for prospective trainees and interested heating and fuel service companies to connect; and

(C) coordinate matches between trainees and employers.

(2) In the event of a successful match, the Department shall facilitate the negotiation and execution of training and employment agreements, pursuant to which:

(A) a prospective trainee agrees to pursue specified training, education, or certification necessary to meet the employer's workforce need;

(B) the Department agrees to provide educational and administrative support to the trainee and 50 percent of the cost of training; and

(C) the employer agrees to provide 50 percent of the cost of training and to employ the trainee upon the successful completion of training, passage

of an examination, attainment of a required certification, or a combination of these.

(3) The Association, in collaboration with the CTE Centers and subject to approval by the Department, shall provide education and training that meet the needs of trainees and employers.

(c) The Department shall have the authority to use available private, State, and federal funding to implement the provisions of this section.

(d) On or before January 15, 2018, the Department shall submit a report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development addressing the implementation of this section, the profile of trainees and employers that participated, and any recommendations for further action.

* * * CTE Dual Enrollment * * *

Sec. E.5. CTE DUAL ENROLLMENT MEMORANDA OF UNDERSTANDING

(a) Pursuant to 16 V.S.A. § 944(e), the Agency of Education shall assist the University of Vermont and the Vermont State Colleges in developing memoranda of understanding with each regional CTE center and each comprehensive high school, as defined in 16 V.S.A. § 1522, to facilitate dual enrollment under section 944.

(b) The University of Vermont and the Vermont State Colleges shall enter into memoranda of understanding, as developed with the Agency, with each regional CTE center.

(c) On or before January 15, 2018, the Secretary of Education shall provide a progress report on the status of the memoranda of understanding to the House and Senate Committees on Education, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development, Housing and General Affairs.

* * * Minimum Wage and Benefits Cliff * * *

Sec. F.1. MINIMUM WAGE AND BENEFITS CLIFF STUDY

(a) Creation. There is created a Minimum Wage Study Committee.

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

(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.

(c) Powers and duties. The Committee shall study the following issues:

(1) the minimum wage in Vermont and livable wage in Vermont in relation to real cost of living;

(2) the economic effects of small to large increases in the Vermont minimum wage, including in relation to the minimum wage in neighboring states;

(3) how the potential for improving economic prosperity for Vermonters with low and middle income through the Vermont Earned Income Tax Credit might interact with raising the minimum wage;

(4) working in direct collaboration with the Department for Children and Families and the Joint Fiscal Office, the State's public benefit structure and recommended methods for mitigating or eliminating the benefit cliffs experienced by working Vermonters receiving public assistance or earning below the livable wage, or both, to enhance work incentives;

(5) the effects of potential reductions in federal transfer payments as the minimum wage increases, and impacts of possible reductions in federal benefits due to changes in federal law;

(6) ways to offset losses in State and federal benefits through State benefit programs or State tax policy; and

(7) further research to better understand the maximum beneficial minimum wage level in Vermont.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Joint Fiscal Office, the Office of Legislative Council, the Department of Labor, the Department of Taxes, and the Agency of Human Services.

(e) Report. On or before December 1, 2017, the Committee shall submit a written report with its findings and any recommendations for legislative action to the Senate Committee on Economic Development, Housing and General Affairs, and the House Committee on General, Housing and Military Affairs.

(f) Meetings.

(1) The Joint Fiscal Office shall convene the first meeting of the Committee on or before July 15, 2017.

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

(3) The members of the Committee shall select a chair at its first meeting.

(4) The Committee shall cease to exist on December 1, 2017.

(g) Reimbursement. For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than five meetings.

* * * Financial Technology * * *

Sec. G.1. FINANCIAL TECHNOLOGY

(a) The General Assembly finds:

(1) The field of financial technology is rapidly expanding in scope and application.

(2) These developments present both opportunities and challenges.

(3) On the opportunity side, Vermont has been a leader in previous innovations in finance in contexts such as captive insurance.

(4) The existing Vermont legislation on blockchain technology and other aspects of e-finance have given Vermont the potential for leadership in this new era of innovation as well, with the possibility of expanded economic activity in the financial technology sector that would provide opportunities for employment, tax revenues, and other benefits.

(5) Furthermore, it is important for Vermonters that these developments proceed in ways that do not create avoidable risks for individuals and enterprises in the new e-economy.

(6) The legislative and regulatory response in Vermont will be critical to our ability to embrace the benefits of financial technology and to avoid challenges it may create.

(b)(1) In order to permit the legislature to respond to these developing opportunities and concerns on an informed basis, on or before November 30, 2017, the Center for Legal Innovation at Vermont Law School, in consultation with the Commissioner of Financial Regulation, the Secretary of Commerce and Community Development, and the Attorney General, shall submit a report to the General Assembly that includes:

(A) findings and recommendations on the potential opportunities and risks presented by developments in financial technology;

(B) suggestions for an overall policy direction and proposals for legislative and regulatory action that would effectively implement that policy direction; and

(C) measurable goals and outcomes that would indicate success in the implementation of such a policy.

(2) In developing the background for this report, the Center, Commissioner, Secretary, and Attorney General may consult such other constituencies and stakeholders within and outside the State as they may determine will be helpful to their considerations.

* * * Municipal Outreach; Sewerage and Water Service Connections * * *

Sec. H.1. AGENCY OF NATURAL RESOURCES; EDUCATION AND OUTREACH; DELEGATION; SEWERAGE AND WATER SERVICE CONNECTIONS

(a) The Secretary of Natural Resources, after consultation with the Vermont League of Cities and Towns, shall conduct outreach and education for municipalities regarding the ability of a municipality under 10 V.S.A. § 1976 to be delegated the authority to permit the connection of a municipal sewer or water service line to subdivided land, a building, or a campground.

(b) The education and outreach shall specify the conditions or requirements for delegation, how a municipality can seek delegation, and contact information or other resource to provide additional information regarding delegation. The education and outreach may include educational materials, workshops, or classes regarding the ability of a municipality to be delegated under 10 V.S.A. § 1976 the permitting of sewer and water service connection.

(c) On or before January 15, 2018, the Secretary of Natural Resources shall submit a report to the Senate Committees on Natural Resources and Energy and on Economic Development, Housing and General Affairs and the House Committees on Natural Resources, Fish and Wildlife and on Commerce and Economic Development summarizing the education and outreach conducted or planned by the Secretary under the requirements of this section and whether any municipality has sought delegation of sewer and water service connection permitting under 10 V.S.A. § 1976 since the effective date of this act.

* * * Municipal Land Use and Development; Affordable Housing * * *

Sec. H.2. 24 V.S.A. § 4303 is amended to read:

§ 4303. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context otherwise requires:

(1) "Affordable housing" means either of the following:

(A) ~~Housing that is owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or~~

~~80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household's gross annual income.~~ Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

(B) ~~Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income.~~ Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

* * *

* * * Act 250; Priority Housing Projects * * *

Sec. H.3. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

In this chapter:

* * *

(3)(A) "Development" means each of the following:

* * *

(iv) The construction of housing projects such as cooperatives, condominiums, or dwellings, or construction or maintenance of mobile homes or mobile home parks, with 10 or more units, constructed or maintained on a tract or tracts of land, owned or controlled by a person, within a radius of five miles of any point on any involved land, and within any continuous period of five years. However:

(I) A priority housing project shall constitute a development under this subdivision (iv) only if the number of housing units in the project is:

(aa) ~~275 or more, in a municipality with a population of 15,000 or more;~~ [Repealed.]

(bb) ~~150 or more, in a municipality with a population of 10,000 or more but less than 15,000;~~ [Repealed.]

(cc) 75 or more, in a municipality with a population of 6,000 or more but less than 10,000~~;~~.

(dd) 50 or more, in a municipality with a population of 3,000 or more but less than 6,000~~;~~.

(ee) 25 or more, in a municipality with a population of less than 3,000~~; and~~.

(ff) ~~notwithstanding~~ Notwithstanding subdivisions ~~(aa)~~(cc) through (ee) of this subdivision (3)(A)(iv)(I), 10 or more if the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision if the Division for Historic Preservation has determined that the proposed demolition will have no adverse effect, will have no adverse effect if specified conditions are met, or will have an adverse effect that will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document.

(II) The determination of jurisdiction over a priority housing project shall count only the housing units included in that discrete project.

(III) Housing units in a priority housing project shall not count toward determining jurisdiction over any other project.

* * *

(D) The word "development" does not include:

* * *

(viii)(I) The construction of a priority housing project in a municipality with a population of 10,000 or more.

(II) If the construction of a priority housing project in this subdivision (3)(D)(viii) involves demolition of one or more buildings that are listed or eligible to be listed on the State or National Register of Historic Places, this exemption shall not apply unless the Division for Historic Preservation has made the determination described in subdivision (A)(iv)(I)(ff) of this subdivision (3) and any imposed conditions are enforceable in the manner set forth in that subdivision.

* * *

(27) "Mixed income housing" means a housing project in which the following apply:

(A) Owner-occupied housing. At the option of the applicant, owner-occupied housing may be characterized by either of the following:

(i) at least 15 percent of the housing units have a purchase price ~~which~~ that at the time of first sale does not exceed 85 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency; or

(ii) at least 20 percent of the housing units have a purchase price ~~which~~ that at the time of first sale does not exceed 90 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency~~;~~.

(B) Rental ~~Housing~~ housing. At least 20 percent of the housing units that are rented constitute affordable housing and have a duration of affordability of ~~no~~ not less than ~~20~~ 15 years.

(28) "Mixed use" means construction of both mixed income housing and construction of space for any combination of retail, office, services, artisan, and recreational and community facilities, provided at least 40 percent of the gross floor area of the buildings involved is mixed income housing. "Mixed use" does not include industrial use.

(29) "Affordable housing" means either of the following:

(A) ~~Housing that is owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household's gross annual income.~~ Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

(B) ~~Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income.~~ Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

* * *

(35) "Priority housing project" means a discrete project located on a single tract or multiple contiguous tracts of land that consists exclusively of:

(A) mixed income housing or mixed use, or any combination thereof, and is located entirely within a designated downtown development district, designated new town center, designated growth center, or designated village center that is also a designated neighborhood development area under 24 V.S.A. chapter 76A; or

(B) mixed income housing and is located entirely within a designated Vermont neighborhood or designated neighborhood development area under 24 V.S.A. chapter 76A.

* * *

Sec. H.4. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

(a) No person shall sell or offer for sale any interest in any subdivision located in this State, or commence construction on a subdivision or development, or commence development without a permit. This section shall not prohibit the sale, mortgage, or transfer of all, or an undivided interest in all, of a subdivision unless the sale, mortgage, or transfer is accomplished to circumvent the purposes of this chapter.

* * *

(o) If a ~~downtown development district~~ designation pursuant to 24 V.S.A. ~~§ 2793~~ chapter 76A is removed, subsection (a) of this section shall apply to any subsequent substantial change to a priority housing project that was originally exempt pursuant to subdivision 6001(3)(A)(iv)(I) of this title on the basis of that designation.

(p)(1) No permit or permit amendment is required for any change to a project that is located entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, if the change consists exclusively of any combination of mixed use and mixed income housing, and the cumulative changes within any continuous period of five years, commencing on or after the effective date of this subsection, remain below ~~the~~ any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title.

(2) No permit or permit amendment is required for a priority housing project in a designated center other than a downtown development district if the project remains below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title and will comply with all conditions of any existing permit or permit amendment issued under this chapter that applies to the tract or tracts on which the project will be located. If such a

priority housing project will not comply with one or more of these conditions, an application may be filed pursuant to section 6084 of this title.

* * *

Sec. H.5. 10 V.S.A. § 6084 is amended to read:

§ 6084. NOTICE OF APPLICATION; HEARINGS, COMMENCEMENT OF REVIEW

* * *

(f) This subsection concerns an application for a new permit amendment to change the conditions of an existing permit or existing permit amendment in order to authorize the construction of a priority housing project described in subdivision 6081(p)(2) of this title.

(1) The District Commission may authorize a district coordinator to issue such an amendment, without notice and a hearing, if the applicant demonstrates that all parties to the existing permit or existing permit amendment, which contains the condition or conditions proposed to be changed, or their successors in interest have consented to the proposed changes to conditions relative to the criteria for which the party obtained party status.

(2) If the applicant is not able to obtain the consent of a party or parties or their successors in interest with respect to one or more of the conditions in the existing permit or permit amendment proposed to be changed, the applicant shall file a permit application pursuant to this section. However, review by the District Commission shall be limited to whether the changes to conditions not consented to by the party or parties or their successors in interest enable positive findings to be made under subsection 6086(a) and are authorized under subsection 6086(c) of this title.

Sec. H.6. 30 V.S.A. § 55 is added to read:

§ 55. PRIORITY HOUSING PROJECTS; STRETCH CODE

A priority housing project as defined in 10 V.S.A. § 6001 shall meet or exceed the stretch codes established under this subchapter by the Department of Public Service.

* * * ACCD; Publication of Median Household Income and Qualifying Costs for Affordable Housing * * *

Sec. H.7. 3 V.S.A. § 2472 is amended to read:

§ 2472. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

(a) The Department of Housing and Community Development is created within the Agency of Commerce and Community Development. The Department shall:

* * *

(5) In conjunction with the Vermont Housing Finance Agency, annually publish data and information to enable the public to determine income levels and costs for owner-occupied and rental housing to qualify as affordable housing, as defined in 24 V.S.A. § 4303 and 10 V.S.A. § 6001(29), including:

(A) the median income for each Vermont county, as defined by the U.S. Department of Housing and Urban Development;

(B) the standard metropolitan statistical area median income for each municipality located in such an area, as defined by the U.S. Department of Housing and Urban Development; and

(C) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

* * *

* * * Downtown Tax Credits * * *

Sec. H.8. 32 V.S.A. § 5930ee is amended to read:

§ 5930ee. LIMITATIONS

Beginning in fiscal year 2010 and thereafter, the State Board may award tax credits to all qualified applicants under this subchapter, provided that:

(1) the total amount of tax credits awarded annually, together with sales tax reallocated under section 9819 of this title, does not exceed ~~$2,200,000.00~~ $2,400,000.00;

* * *

Sec. H.9. 32 V.S.A. § 5930bb(a) is amended to read:

(a) Qualified applicants may apply to the State Board to obtain the tax credits provided by this subchapter for a qualified project at any time before ~~one year after~~ the completion of the qualified project.

* * * Tax Credit for Affordable Housing; Captive Insurance Companies * * *

Sec. H.10. 32 V.S.A. § 5930u is amended to read:

§ 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

(a) As used in this section:

* * *

(5) "Credit certificate" means a certificate issued by the allocating agency to a taxpayer that specifies the amount of affordable housing tax credits that can be applied against the taxpayer's individual or corporate income tax,

or franchise, captive insurance premium, or insurance premium tax liability as provided in this subchapter.

* * *

(c) Amount of credit. A taxpayer who makes an eligible cash contribution shall be entitled to claim against the taxpayer's individual income, corporate, franchise, captive insurance premium, or insurance premium tax liability a credit in an amount specified on the taxpayer's credit certificate. The first-year allocation of a credit amount to a taxpayer shall also be deemed an allocation of the same amount in each of the following four years.

* * *

* * * Vermont State Housing Authority; Powers * * *

Sec. H.11. 24 V.S.A. § 4005 is amended to read:

§ 4005. VERMONT STATE HOUSING AUTHORITY; ESTABLISHMENT, MEMBERS, POWERS

* * *

(e) Notwithstanding any provision of law, no person~~, domestic or foreign,~~ shall be authorized to administer allocations of money under 42 U.S.C.A. § 1437a or 1437f or other federal statute authorizing rental subsidies for the benefit of persons of low or moderate income, except:

(1) ~~a subcontractor of~~ the State Authority; ~~or~~

(2) a State public body authorized by law to administer such allocations;

(3) a person authorized to administer such allocations pursuant to an agreement with the State Authority; or

(4) an organization, of which the State Authority is a promoter, member, associate, owner, or manager, that is authorized by a federal agency to administer such allocations in this State.

(f) In addition to the powers granted by this chapter, the State Authority shall have all the powers necessary or convenient for the administration of federal monies pursuant to subsection (e) of this section, including the power:

(1) to enter into one or more agreements for the administration of federal monies;

(2) to be a promoter, partner, member, associate, owner, or manager of any partnership, limited liability company, joint venture, association, trust, or other organization;

(3) to conduct its activities, locate offices, and exercise the powers granted by this title within or outside this State;

(4) to carry on a business in the furtherance of its purposes; and

(5) to do all things necessary or convenient, consistent with law, to further the activities and affairs of the Authority.

* * * Repeal of Sunset on Sales and Use Tax Exemption; Airplanes and Airplane Parts * * *

Sec. I.1. REPEALS

The following are repealed:

(1) 2007 Acts and Resolve No. 81, Secs. 7a (amendment to sales tax exemption for aircraft parts) and 7b (effective date).

(2) 2008 Acts and Resolve No. 190, Sec. 43 (effective date).

* * * Tax Increment Financing Districts * * *

Sec. J.1. TAX INCREMENT FINANCING; FINDINGS

The General Assembly finds that the State of Vermont has an important role to play in creating the infrastructure necessary to support downtown development and revitalization, particularly in distressed communities.

Sec. J.2. 24 V.S.A. § 1892 is amended to read:

§ 1892. CREATION OF DISTRICT

(a) Upon a finding that such action will serve the public purposes of this subchapter and subject to subsection (d) of this section, the legislative body of any municipality may create within its jurisdiction a special district to be known as a tax increment financing district. The district shall be described by its boundaries and the properties therein and the district boundary shall be shown on a plan entitled "Proposed Tax Increment Financing District (municipal name), Vermont." The legislative body shall hold one or more public hearings, after public notice, on the proposed plan.

* * *

(d) The following municipalities have been authorized to use education tax increment financing for a tax increment financing district~~, and the Vermont Economic Progress Council is not authorized to approve any additional tax increment financing districts even if one of the districts named in this subsection is terminated pursuant to subsection 1894(a) of this subchapter~~:

(1) the City of Burlington, Downtown;

(2) the City of Burlington, Waterfront;

(3) the Town of Milton, North and South;

(4) the City of Newport;

(5) the City of Winooski;

(6) the Town of Colchester;

(7) the Town of Hartford;

(8) the City of St. Albans;

(9) the City of Barre; ~~and~~

(10) the Town of Milton, Town Core; and

(11) the City of South Burlington.

(e) On or before January 15, 2018, the Joint Fiscal Office, with the assistance of the consulting Legislative Economist, the Department of Taxes, the State Auditor, and the Agency of Commerce and Community Development in consultation with the Vermont Economic Progress Council, shall examine and report to the General Assembly on the use of both tax increment financing districts and other policy options for State assistance to municipalities for funding infrastructure in support of economic development and the capacity of Vermont to utilize TIF districts moving forward.

(f) The report shall include:

(1) a recommendation for a sustainable statewide capacity level for TIFs or comparable economic development tools and relevant permitting criteria;

(2) the positive and negative impacts on the State's fiscal health of TIFs and other tools, including the General Fund and Education Fund;

(3) the economic development impacts on the State of TIFs and other tools, both positive and negative;

(4) the mechanics for ensuring geographic diversity of TIFs or other tools throughout the State; and

(5) the parameters of TIFs and other tools in other states.

(g) Beginning in 2019 and annually thereafter, on or before January 15 of each year, the Joint Fiscal Office, with the assistance of the consulting Legislative Economist, the Department of Taxes, and the Agency of Commerce and Community Development in consultation with the Vermont Economic Progress Council, shall examine the recommendations and conclusions of the tax increment financing capacity study and report created pursuant to subsection (e) of this section, and shall submit to the Emergency Board and to the House Committees on Commerce and Economic

Development and on Ways and Means and the Senate Committees on Economic Development, Housing and General Affairs and on Finance an updated summary report that includes:

(1) an assessment of any material changes from the initial report concerning TIFs and other tools and an assessment of the health and sustainability of the tax increment financing system in Vermont;

(2) short-term and long-term projections on the positive and negative fiscal impacts of the TIF districts or other tools, as applicable, that are currently active or authorized in the State;

(3) a review of the size and affordability of the net indebtedness for TIF districts and an estimate of the maximum amount of new long-term net debt that prudently may be authorized for TIF districts or other tools in the next fiscal year.

(h) Annually, based on the analysis and recommendations included in the reports required in this section, the General Assembly shall consider the amount of new long-term net debt that prudently may be authorized for TIF districts in the next fiscal year and determine whether to expand the number of TIF districts or similar economic development tools in addition to the previously approved districts referenced in subsection (d) of this section and the six additional districts authorized by 32 V.S.A. § 5404a(f).

Sec. J.3. 24 V.S.A. § 1894 is amended to read:

§ 1894. POWER AND LIFE OF DISTRICT

* * *

(b) Use of the education property tax increment. For only debt incurred within the period permitted under subdivision (a)(1) of this section after creation of the district, and related costs, up to ~~75~~ 70 percent of the education tax increment may be retained for up to 20 years, beginning with the education tax increment generated the year in which the first debt incurred for improvements financed in whole or in part with incremental education property tax revenue. Upon incurring the first debt, a municipality shall notify the Department of Taxes and the Vermont Economic Progress Council of the beginning of the 20-year retention period of education tax increment.

(c) Use of the municipal property tax increment. For only debt incurred within the period permitted under subdivision (a)(1) of this section after creation of the district, and related costs, not less than ~~an equal share~~ 85 percent of the municipal tax increment ~~pursuant to subsection (f) of this section~~ shall be retained to service the debt, beginning the first year in which debt is incurred, pursuant to subsection (b) of this section.

* * *

(f) ~~Equal share required~~ Required share of increment. If any tax increment utilization is approved pursuant to 32 V.S.A. § 5404a(h), ~~no~~ not more than ~~75~~ 70 percent of the State property tax increment and ~~no~~ not less than ~~an equal percent~~ 85 percent of the municipal tax increment may be approved by the Council or used by the municipality to service this debt.

* * *

Sec. J.4. 32 V.S.A. § 5404a is amended to read:

§ 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT FINANCING DISTRICTS

* * *

(f) A municipality that establishes a tax increment financing district under 24 V.S.A. chapter 53, subchapter 5 shall collect all property taxes on properties contained within the district and apply ~~up to 75~~ not more than 70 percent of the State education property tax increment, and not less than 85 percent of the municipal property tax increment, ~~as defined in 24 V.S.A. § 1896~~ to repayment of financing of the improvements and related costs for up to 20 years pursuant to 24 V.S.A. § 1894, if approved by the Vermont Economic Progress Council pursuant to this section, subject to the following:

(1) In a municipality with one or more approved districts, the Council shall not approve an additional district until the municipality retires the debt incurred for all of the districts in the municipality.

(2) The Council shall not approve more than six districts in the State, and not more than two per county, provided:

(A) The districts listed in 24 V.S.A. § 1892(d) shall not be counted against the limits imposed in this subdivision (2).

(B) The Council shall consider complete applications in the order they are submitted, except that if during any calendar month the Council receives applications for more districts than are actually available in a county, the Council shall evaluate each application and shall approve the application that, in the Council's discretion, best meets the economic development needs of the county.

(C) If, while the General Assembly is not in session, the Council receives applications for districts that would otherwise qualify for approval but, if approved, would exceed the six-district limit in the State, the Council shall make one or more presentations to the Emergency Board concerning the applications, and the Emergency Board may, in its discretion, increase the six-district limit.

(3)(A) A municipality shall immediately notify the Council if it resolves not to incur debt for an approved district within five years of approval or a five-year extension period as required in 24 V.S.A. § 1894.

(B) Upon receiving notification pursuant to subdivision (3)(A) of this subsection, the Council shall terminate the district and may approve a new district, subject to the provisions of this section and 24 V.S.A. chapter 53, subchapter 5.

* * *

(h) Criteria for approval. To approve utilization of incremental revenues pursuant to subsection (f) of this section, the Vermont Economic Progress Council shall do all the following:

(1)(A) Review each application to determine that the ~~new real property~~ infrastructure improvements proposed to serve the tax increment financing district and the proposed development in the district would not have occurred as proposed in the application, or would have occurred in a significantly different and less desirable manner than as proposed in the application, but for the proposed utilization of the incremental tax revenues.

(B) The review shall take into account:

~~(A)~~(i) the amount of additional time, if any, needed to complete the proposed development within the tax increment district and the amount of additional cost that might be incurred if the project were to proceed without education property tax increment financing;

~~(B)~~(ii) how the proposed development components and size would differ, if at all, including, if applicable to the development, in the number of units of affordable housing, as defined in 24 V.S.A. § 4303, without education property tax increment financing; and

~~(C)~~(iii)(I) the amount of additional revenue expected to be generated as a result of the proposed development;

(II) the percentage of that revenue that shall be paid to the ~~education fund~~ Education Fund;

(III) the percentage that shall be paid to the municipality; and

(IV) the percentage of the revenue paid to the municipality that shall be used to pay financing incurred for development of the tax increment financing district.

* * *

(3) Location criteria. Determine that each application meets ~~one~~ at least two of the following three criteria:

(A) The development ~~or redevelopment~~ is:

(i) compact~~,~~;

(ii) high density~~,~~; ~~and~~ or

(iii) located in or near existing industrial areas.

(B) The proposed district is within an approved growth center, designated downtown, designated village center, ~~or~~ new town center, or neighborhood development area.

(C) The development will occur in an area that is economically distressed, which for the purposes of this subdivision means that the ~~area has experienced patterns of increasing unemployment, a drop in average wages, or a decline in real property values~~ municipality in which the area is located has at least one of the following:

(i) a median family income that is not more than 80 percent of the statewide median family income as reported by the Vermont Department of Taxes for the most recent year for which data are available;

(ii) an annual average unemployment rate that is at least one percent greater than the latest annual average statewide unemployment rate as reported by the Vermont Department of Labor; or

(iii) a median sales price for residential properties under six acres that is not more than 80 percent of the statewide median sales price for residential properties under six acres as reported by the Vermont Department of Taxes.

(4) Project criteria. Determine that the proposed development within a tax increment financing district will accomplish at least three of the following five criteria:

(A) The development within the tax increment financing district clearly requires substantial public investment over and above the normal municipal operating or bonded debt expenditures.

(B) The development includes new or rehabilitated affordable housing ~~that is affordable to the majority of the residents living within the municipality and is developed at a higher density than at the time of application. "Affordable" has the same meaning as in 10 V.S.A. § 6001(29),~~ as defined in 24 V.S.A. § 4303.

(C) The project will affect the remediation and redevelopment of a brownfield located within the district. As used in this section, "brownfield" means an area in which a hazardous substance, pollutant, or contaminant is or may be present, and that situation is likely to complicate the expansion, development, redevelopment, or reuse of the property.

(D) The development will include at least one entirely new business or business operation or expansion of an existing business within the district, and this business will provide new, quality, full-time jobs that meet or exceed the prevailing wage for the region as reported by the ~~department of labor~~ Department of Labor.

(E) The development will enhance transportation by creating improved traffic patterns and flow or creating or improving public transportation systems.

Sec. J.5. IMPLEMENTATION

Secs. J.1– J.4 of this act shall apply only to tax increment financing district applications filed, and districts approved, on or after the date of passage of this act.

Sec. J.6. 24 V.S.A. chapter 53, subchapter 5 is redesignated to read:

Subchapter 5. Statewide Tax Increment Financing

Sec. J.7. 24 V.S.A. chapter 53, subchapter 6 is added to read:

Subchapter 6. Municipal Tax Increment Financing

§ 1903. DEFINITIONS

As used in this subchapter:

(1) "District" or "TIF" means a tax increment financing district.

(2) "Improvements" means the installation, new construction, or reconstruction of infrastructure to benefit a municipal tax increment financing district, including utilities, transportation, public facilities and amenities, land and property acquisition and demolition, and site preparation.

(3) "Legislative body" means the mayor and alderboard, the city council, the selectboard, or the president and trustees of an incorporated village, as appropriate.

(4) "Municipality" means a city, town, or incorporated village.

(5) "Original taxable value" means the total valuation as determined in accordance with 32 V.S.A. chapter 129 of all taxable real property located within the tax increment financing district as of the creation date as set forth in section 1904 of this subchapter, provided that no parcel within the district shall be divided or bisected by the district boundary.

(6) "Related costs" means expenses incurred and paid by the municipality, exclusive of the actual cost of constructing and financing improvements, that are directly related to the creation and implementation of a municipal tax increment financing district, including reimbursement of sums

previously advanced by the municipality for those purposes, direct municipal expenses such as departmental or personnel costs related to creating or administering the project, and audit costs allocable to the district.

§ 1904. MUNICIPAL TAX INCREMENT FINANCING DISTRICT

(a) General authority. Notwithstanding any provision of subchapter 5 of this chapter or 32 V.S.A. § 5404a to the contrary, upon approval of the legislative body of any municipality, a municipality may create a municipal tax increment financing district, and may incur debt to provide funding for improvements and related costs for the district.

(b) Municipal approval; voter approval.

(1) The legislative body of the municipality shall hold one or more public hearings to consider a municipal tax increment financing plan. Following public notice, hearing, and opportunity to comment, the legislative body of the municipality may grant approval of the plan.

(2) When adopted by the act of the legislative body of that municipality, the plan shall be recorded with the municipal clerk and lister or assessor, and the creation of the district shall occur at 12:01 a.m. on April 1 of the calendar year so voted by the municipal legislative body.

(3) The municipality may only incur debt for the project if the voters of the municipality approve the debt obligation by a majority vote at a regular or special meeting for which voting upon the debt obligation was properly warned.

(4) Following final voter approval, the municipality has up to five years to incur debt pursuant to the financing plan.

(c) Life of district.

(1) A municipality may incur indebtedness against revenues of the municipal tax increment financing district over any period authorized by the legislative body of the municipality.

(2) Any indebtedness incurred under subdivision (1) of this subsection may be retired over any period authorized by the legislative body of the municipality.

(3) The district shall continue until the date and hour the indebtedness is retired or, if no debt is incurred, after the period authorized by the legislative body of the municipality to incur indebtedness.

(d) Financing. During the life of an active district, the following apply, notwithstanding any provision of law to the contrary:

(1) Valuation.

(A) Within 30 days of voter approval pursuant to subsection (b) of this section, the lister or assessor for a municipality shall certify to the legislative body of the municipality the original taxable value of a tax increment financing district as of the date the voters approved the debt obligation.

(B) On or before June 30 following voter approval and annually thereafter, the lister or assessor shall assess and certify to the legislative body the current value of a project parcel.

(2) Tax rate.

(A) The lister or assessor shall use the original taxable value of a project parcel when computing the municipal tax rate.

(B) When calculating the amount of tax due on a project parcel, the treasurer shall apply the municipal tax rate to the current assessed value, rather than the original taxable value.

(3) Tax increment.

(A) The "tax increment" is the amount of tax paid on a project parcel, as calculated pursuant to subdivision (2)(B) of this subsection (d) using the current assessed value, that exceeds the amount of tax that would have been due if the tax rate were applied to the original taxable value.

(B) The municipality may retain any share of the municipal tax increment to service the debt, beginning the first year in which debt is incurred.

(C) A municipal tax increment financing district created pursuant to this subchapter is not authorized to retain any education property tax increment.

(D) A municipality shall segregate the tax increment in a special account and in its official books and records.

(4) Use of tax increment.

(A) As of each date the municipality receives a tax payment and retains a portion of the tax increment pursuant to this section, the municipality shall use the portion of the municipal tax increment that is necessary to pay costs actually incurred as of that date for debt service and related costs.

(B) If, after paying for improvements and related costs, there remains any excess portion of the tax increment, the municipality may retain the

increment to prepay principal and interest on the financing, use for future financing payments, or use for defeasance of the financing.

(e) Annual audit.

(1) The municipality shall ensure that the segregated account for the tax increment financing district required by this section is subject to the annual audit requirements prescribed in sections 1681 and 1690 of this title.

(2) Any audit procedures shall include verification of the original taxable value and current assessed value, expenditures for project debt service and related costs, annual and total tax increment funds generated, and allocation of tax increment funds.

Secs. K.1–K.3. [Deleted.]

* * * Opportunity Economy * * *

Sec. L.1. MICROBUSINESS DEVELOPMENT PROGRAM; FINDINGS; APPROPRIATION

(a) Findings. The General Assembly finds:

(1) Since 1989, the Microbusiness Development Program has provided free business technical assistance, including training and counseling, as well as access to capital to Vermonters with low income.

(2) The Vermont Community Action Agencies work in conjunction with many partners, including other service providers, State agencies, business technical assistance providers, and both traditional and alternative lenders.

(3) Each year the Program:

(A) enables the creation or expansion of an average of 145 businesses across Vermont;

(B) supports the creation of 84 new jobs; and

(C) provides access to more than $1,100,000.00 in capital.

(4) The average cost per job created through the Program is less than $3,600.00.

(b) Intent. It is the intent of the General Assembly to provide additional funding, subject to available resources, for the regional Microbusiness Development Programs pursuant to 3 V.S.A. § 3722.

* * * Funding Priorities * * *

Sec. M.1. SMALL BUSINESS DEVELOPMENT CENTER

In fiscal year 2018, it is the intent of the General Assembly to provide funding, subject to available resources, to the Vermont Small Business

Development Center for the purpose of increasing the number of business advisors, with priority to underserved regions of the State.

Sec. M.2. ECONOMIC DEVELOPMENT MARKETING

(a) The Agency of Commerce and Community Development shall have the authority, and may use available funds, to:

(1) implement the Department of Economic Development's economic development marketing plan to attract and retain residents and businesses to Vermont, highlighting the many positive features that make Vermont a great place to live, work, and do business; and

(2) prioritize marketing tactics with the potential to shift most efficiently and effectively perceptions about Vermont as a place to live and work, and that will form a set of marketing assets and strategic framework to sustain Department of Economic Development activities beyond initial implementation.

(b) Funds available to implement this section may be matched with federal funds, special funds, grants, donations, and private funds. To increase the amount and effectiveness of marketing activities conducted, the Agency shall collaborate with private sector partners to maximize State marketing resources and to enable Vermont businesses to align their own brand identities with the Vermont brand, enhancing the reputations of both the business and the State.

(c) Prior to taking any action pursuant to subsection (a) of this section, including issuing any requests for proposals for contracts or grants to partner with the Department in implementing this section, the Secretary of Commerce and Community Development shall adopt relevant outcomes, performance measures, and indicators in order to:

(1) clearly articulate the goals and expectations for the State's economic development marketing plan and its implementation, for any contracts or grants with the Department, and for the activities of the Department and its partners; and

(2) enable the General Assembly to evaluate the performance and effectiveness of the plan and its implementation and of the activities of the Department and its partners undertaken pursuant to this section.

* * * Effective Dates * * *

Sec. N.1. EFFECTIVE DATES

(a) This section and Secs C.1–C.2 (public retirement); D.1–D.2 (VOSHA and workers' compensation); E.1 (workforce development system); F.1 (minimum wage and benefits cliff study); and H.11 (Vermont State Housing Authority) shall take effect on passage.

(b) The remaining provisions of this act shall take effect on the date of enactment of the fiscal year 2018 annual budget bill.

KEVIN J. MULLIN
REBECCA A. BALINT
MICHAEL D. SIROTKIN

Committee on the part of the Senate

WILLIAM G. F. BOTZOW
MICHAEL J. MARCOTTE
JAMES O. CONDON

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative on a roll call, Yeas 29, Nays 0.

Senator Mullin 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, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pearson, Pollina, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Rodgers.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Messaged

H. 516.

Pending entry on the Calendar for notice, on motion of Senator Cummings, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to miscellaneous tax changes.

Was taken up for immediate consideration.

Senator Cummings, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

H. 516. An act relating to miscellaneous tax changes.

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

* * * Administrative and Technical Provisions * * *

Sec. 1. 7 V.S.A. § 423(a) is amended to read:

(a) The ~~Commissioner of Taxes and the~~ Liquor Control Board shall adopt such rules as ~~they deem~~ it deems necessary for the proper administration and collection of the tax imposed under section 422 of this title.

Sec. 2. 24 V.S.A. § 1168 is amended to read:

§ 1168. RETURN OF NAMES OF LISTERS TO DIRECTOR OF THE DIVISION OF PROPERTY VALUATION AND REVIEW

After each annual meeting, a town clerk shall report forthwith ~~in writing~~ electronically to the Director of the Division of Property Valuation and Review the name of each lister therein, his or her post office address, and the length of his or her term of office. In like manner, ~~such~~ a town clerk shall notify the Director of the Division of Property Valuation and Review of any lister appointed to fill a vacancy.

Sec. 3. 32 V.S.A. § 3102 is amended to read:

§ 3102. CONFIDENTIALITY OF TAX RECORDS

(a) No present or former officer, employee, or agent of the Department of Taxes shall disclose any return or return information to any person who is not an officer, employee, or agent of the Department of Taxes except in accordance with the provisions of this section. A person who violates this section shall be fined not more than $1,000.00 or imprisoned for not more than one year, or both; and if the offender is an officer or employee of this State, he or she shall, in addition, be dismissed from office and be incapable of holding any public office for a period of five years thereafter.

(b) The following definitions shall apply for purposes of this ~~section~~ chapter:

(1) "Person" shall include any individual, firm, partnership, association, joint stock company, corporation, trust, estate, or other entity.

(2) "Return" means any tax return, declaration of estimated tax, license application, report, or similar document, including attachments, schedules, and transmittals, filed with the Department of Taxes.

(3) "Return information" includes a person's name, address, date of birth, Social Security or federal identification number or any other identifying number; information as to whether or not a return was filed or required to be filed; the nature, source or amount of a person's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liabilities, tax payments, deficiencies or over-assessments; and any other data, from any source, furnished to or prepared or collected by the Department of Taxes with respect to any person.

(4) "Tax administration" means the verification of a tax return or claim for credit, rebate or refund; the investigation, assessment, determination, litigation or collection of a tax liability of any person; the investigation or prosecution of a tax-related crime; or the enforcement of a tax statute.

(5) "Commissioner" means the Commissioner of Taxes appointed under section 3101 of this title or any officer, employee or agent of the Department of Taxes authorized by the Commissioner (directly or indirectly by one or more redelegations of authority) to perform any function of the Commissioner.

(6) "State" means any sovereign body politic, including the United States, any state or territory thereof, and any foreign country or state or province thereof.

(7) "Authorized representative" means any person who would be considered a designee of the taxpayer under 26 U.S.C. § 6103(c). The signature of a notary public shall not be required for a person to be considered an "authorized representative."

* * *

(e) The Commissioner may, in his or her discretion and subject to such conditions and requirements as he or she may provide, including any confidentiality requirements of the Internal Revenue Service, disclose a return or return information:

* * *

(17) To the Department of Financial Regulation, if such return or return information relates to the tax on premiums of captive insurance companies contained in 8 V.S.A. chapter 141, to the tax on surplus lines under 8 V.S.A. § 5035, to the tax on the direct placement of insurance under 8 V.S.A. § 5036, or to the tax on insurance premiums under section 8551 of this title.

(18) To the Agency of Natural Resources, if such return or return information relates to the tax on hazardous waste under chapter 237 of this title, or to the franchise tax on waste facilities under subchapter 13 of chapter 151 of this title.

(19) To the Vermont Student Assistance Corporation if such return or return information is necessary to verify eligibility for the matching allocation required by 16 V.S.A. § 2880d(c).

* * *

Sec. 4. 32 V.S.A. § 5914(a) is amended to read:

(a) An S corporation which engages in activities in Vermont which would subject a C corporation to the requirement to file a return under section 5862 of this title shall file with the Commissioner an annual return, in the form prescribed by the Commissioner, on or before the due date prescribed for the filing of ~~C corporation returns under section 5862~~ S corporation returns under subsection 6072(b) of the Internal Revenue Code. The return shall set forth the name, address, and Social Security or federal identification number of each shareholder; the income attributable to Vermont and income not attributable to Vermont with respect to each shareholder as determined under this subchapter; and such other information as the Commissioner may by regulation prescribe. The S corporation shall, on or before the day on which such return is filed, furnish to each person who was a shareholder during the year a copy of such information shown on the return as the Commissioner may by regulation prescribe.

Sec. 5. 32 V.S.A. § 9243(a) is amended to read:

(a) Where the meals and rooms tax liability under this chapter for the immediately preceding full calendar year has been (or would have been in cases when the business was not operating for the entire year) $500.00 or less, the gross receipts taxes imposed by this chapter shall be due and payable in quarterly installments on or before the 25th day of the calendar month succeeding the quarter ending the last day of March, June, September, and December of each year. In all other cases, the gross receipts tax imposed by this chapter shall be due and payable monthly on or before the 25th (23rd of February) day of the month following the month for which the tax is due. The Commissioner may authorize payment of the tax due by electronic funds transfer. The Commissioner may require payment by electronic funds transfer from any taxpayer who is required by federal tax law to pay any federal tax in that manner, or from any taxpayer who has submitted to the Department of Taxes two or more protested or otherwise uncollectible checks with regard to any State tax payment in the prior two years. Each operator shall make out and sign under the pains and penalties of perjury a return for each quarter or month.

The return shall be filed with the Commissioner on a form prescribed by the Commissioner. The Commissioner shall distribute return forms to the operators, upon request, but no operator shall be excused from liability for failure to file a return or pay the tax because he or she has failed to receive a form. A remittance for the amount of taxes shall accompany each quarterly or monthly return. Returns shall be made on forms provided by the Commissioner. Payment of taxes by electronic funds transfer does not affect the requirement to file returns.

Sec. 6. 32 V.S.A. § 9606(e) is amended to read:

(e) The Commissioner of Taxes is authorized to disclose to any person any information appearing on a property transfer tax return, including statistical information derived therefrom, and such information derived from research into information appearing on property transfer tax returns as is necessary to determine if the property being transferred is subject to 10 V.S.A. chapter 151, except the Commissioner shall not disclose the Social Security number, federal identification number, e-mail address, or telephone number of any person pursuant to this subsection.

Sec. 7. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect for taxable year ~~2015~~ 2016, but without regard to federal income tax rates under 26 U.S.C. § 1, are hereby adopted for the purpose of computing the tax liability under this chapter.

Sec. 8. 32 V.S.A. § 7442a(c) is added to read:

(c) All values shall be as finally determined for federal estate tax purposes.

Sec. 9. 33 V.S.A. § 1959(a) is amended to read:

(a)(1) The annual assessment for each ambulance agency shall be 3.3 percent of the ambulance agency's annual net patient revenues for services delivered to patients in Vermont during the most recent annual fiscal period. As used in this section, "net patient revenues" means the total amount of payments an ambulance agency received during the fiscal period from Medicaid, Medicare, commercial insurance, and all other payers as payment for services rendered. The term does not include municipal appropriations, donations from any source, or any other funding unrelated to the delivery of health care services.

(2) The Department shall determine the appropriate fiscal period as necessary to ensure compliance with federal law.

(3) Ambulance agencies shall remit the assessment amount to the Department annually on or before March 31, beginning with March 31, 2017.

Sec. 10. 32 V.S.A. § 5400(i) is added to read:

(i) The statutory purpose of subdivision 5401(10)(D) of this title is to support Vermont's ski industry and to encourage personal property investments and improvements at ski resorts.

Sec. 11. 3 V.S.A. chapter 10 is added to read:

CHAPTER 10. FEDERAL TAX INFORMATION

§ 241. BACKGROUND INVESTIGATIONS

(a) "Federal tax information" or "FTI" means returns and return information as defined in 26 U.S.C. § 6103(b) that are received directly from the Internal Revenue Service or obtained through an IRS-authorized secondary source, that are in the Recipient's possession or control, and that are subject to the confidentiality protections and safeguarding requirements of the Internal Revenue Code and corresponding federal regulations and guidance.

(b) As used in this chapter, "Recipient" means the following authorities of the Executive Branch of State government that receive FTI:

(1) Agency of Human Services, including:

(A) Department for Children and Families;

(B) Department of Health;

(C) Department of Mental Health; and

(D) Department of Vermont Health Access.

(2) Department of Labor.

(3) Department of Motor Vehicles.

(4) Department of Taxes.

(c) The Recipient shall conduct an initial background investigation of any prospective employee, volunteer, contractor, or subcontractor, to whom the Recipient will permit access to FTI for the purpose of assessing the individual's fitness to be permitted access to FTI.

(d) The Recipient shall request and obtain from the Vermont Crime Information Center (VCIC) the Federal Bureau of Investigation and State and local law enforcement criminal history records based on fingerprints for the purpose of conducting a background investigation under this section.

(e) The Recipient shall sign and keep a user agreement with the VCIC.

(f) A request made under subsection (d) of this section shall be accompanied by a release signed by the individual on a form provided by the VCIC, a set of the individual's fingerprints, and a fee established by the VCIC that shall reflect the cost of obtaining the record. The fee for a current or prospective employee shall be paid by the Recipient. The release form to be signed by the individual shall include a statement informing the individual of:

(1) the right to challenge the accuracy of the record by appealing to the VCIC pursuant to rules adopted by the Commissioner of Public Safety; and

(2) the Recipient's policy regarding background investigations and the maintenance and destruction of records.

(g) Upon completion of a criminal history record check under subsection (d) of this section, the VCIC shall send to the Recipient either a notice that no record exists or a copy of the record. If a copy of a criminal history record is received, the Recipient shall forward it to the individual and shall inform the individual in writing of:

(1) the right to challenge the accuracy of the record by appealing to the VCIC pursuant to rules adopted by the Commissioner of Public Safety; and

(2) the Recipient's policy regarding background investigations and the maintenance and destruction of records.

(h) Criminal history records and information received under this chapter are exempt from public inspection and copying under the Public Records Act and shall be kept confidential by the Recipient, except to the extent that federal or State law authorizes disclosure of such records or information to specifically designated persons.

(i) The Recipient shall adopt policies in consultation with the Department of Human Resources to carry out this chapter and to guide decisions based on the results of any background investigation conducted under this chapter.

* * * Property Taxes; Reporting Education Fund Impact of TIFs * * *

Sec. 11a. 32 V.S.A. § 305b is added to read:

§ 305b. EDUCATION PROPERTY TAX INCREMENT; EMERGENCY BOARD ESTIMATE

Annually, at the January meeting of the Emergency Board held pursuant to section 305a of this title, the Joint Fiscal Office and the Secretary of Administration shall provide to the Emergency Board a consensus estimate of the impact on the Education Fund resulting from tax increment financing districts authorized pursuant to 24 V.S.A. chapter 53 and section 5404a of this

title. The estimate shall be for the succeeding fiscal year. The Emergency Board shall adopt an official estimate of the impact on the Education Fund at the January meeting.

* * * Games of Chance * * *

Sec. 12. 13 V.S.A. § 2143 is amended to read:

§ 2143. NONPROFIT ORGANIZATIONS

(a) Notwithstanding the provisions of this chapter, a nonprofit organization, as defined in ~~32 V.S.A. § 10201(5)~~ 31 V.S.A. § 1201(5), may organize and execute, and an individual may participate in lotteries, raffles or other games of chance for the purpose of raising funds to be used in charitable, religious, educational, and civic undertakings or used by fraternal organizations to provide direct support to charitable, religious, educational, or civic undertakings with which they are affiliated. Except as provided in subsection (d) of this section, gambling machines and other mechanical devices described in section 2135 of this title shall not be utilized under authority of this section.

* * *

(d) Casino events shall be limited as follows:

* * *

(2) A location that is owned by a nonprofit, as defined in ~~32 V.S.A. § 10201(5)~~ 31 V.S.A. § 1201(5), may be the site of no more than three casino events in any calendar quarter and no more than 12 casino events in any calendar year as long as there are at least 15 days between each event.

(3) A nonprofit organization, as defined in ~~32 V.S.A. § 10201(5)~~ 31 V.S.A. § 1201(5), may organize and execute no more than:

(A) one casino event in any calendar quarter; or

(B) three casino events in any calendar year, as long as there are at least 15 days between each event.

* * *

(e) Games of chance shall be limited as follows:

* * *

(6) A nonprofit organization shall not organize and execute games of chance on more than two days in any calendar week, nor shall games of chance be organized and executed at any location on more than two days in any calendar week, except that:

(A) Casino events may be conducted only as permitted under subsection (d) of this section.

(B) Break-open tickets may be purchased and distributed only as provided in ~~32 V.S.A. chapter 239~~ 31 V.S.A. chapter 23.

(C) A nonprofit organization may organize and execute games of chance on three consecutive days not more than twice in any calendar year as long as there are at least 90 days between each event.

(D) Agricultural fairs qualified to receive a State stipend pursuant to 31 V.S.A. § 617 may organize and execute games of chance for not more than 12 consecutive days during the fair once each calendar year.

(E) A nonprofit organization may organize and execute games of chance at a location used by another nonprofit organization which results in the location being used on more than two days a week if all the nonprofit organizations using the location were in existence as of January 1, 1994, and are not affiliated with each other or under common control.

* * *

Sec. 13. 31 V.S.A. chapter 23 is added to read:

CHAPTER 23. GAMES OF CHANCE

§ 1201. DEFINITIONS

As used in this chapter:

(1) "Break-open ticket" means a lottery utilizing a card or ticket of the so-called pickle card, jar ticket, or break-open variety commonly bearing the name "Lucky 7," "Nevada Club," "Victory Bar," "Texas Poker," "Triple Bingo," or any other name.

(2) "Commissioner" means the Commissioner of Liquor Control.

(3)(A) "Distributor" means a person that purchases break-open tickets from a manufacturer and sells or distributes break-open tickets at wholesale in Vermont. "Distributor" shall include any officer, employee, or agent of a corporation or dissolved corporation that has a duty to act for the corporation in complying with the requirements of this chapter.

(B) "Distributor" shall not include a person who distributes only jar tickets that are used only for merchandise prizes.

(4) "Manufacturer" means a person that designs, assembles, fabricates, produces, constructs, or who otherwise prepares a break-open ticket for sale to a distributor.

(5) "Nonprofit organization" means a nonprofit corporation that is qualified for tax exempt status under I.R.C. § 501(c), as amended, and that has engaged, in good faith, in charitable, religious, educational, or civic activities in Vermont on a regular basis during the preceding year. "Nonprofit organization" also includes churches, schools, fire departments, municipalities, fraternal organizations, and organizations that operate agricultural fairs or field days, and that have engaged, in good faith, in charitable, religious, educational, or civic activities in Vermont on a regular basis during the preceding year. An organization shall be considered a nonprofit organization under this subdivision only if it certifies annually, on a form with whatever information is required by the Commissioner, how it meets the definition under this subdivision.

§ 1202. LICENSE REQUIRED

(a) Manufacture. Break-open tickets sold in Vermont shall be manufactured only by a person licensed by the Commissioner. A licensed manufacturer shall sell break-open tickets only to distributors licensed under this chapter. A distributor licensed under this chapter shall purchase break-open tickets only from a manufacturer licensed under this chapter.

(b) Distribution. A distributor who sells or distributes break-open tickets for resale in Vermont shall be licensed by the Commissioner, and shall also be:

(1) a natural person who is a resident of Vermont;

(2) a partnership in which the majority of partners are residents of Vermont;

(3) a corporation incorporated under the laws of Vermont, provided that a majority of the ownership interest is held by residents of Vermont; or

(4) a person who is not a resident of Vermont and whose state of residence allows residents or corporations of Vermont to distribute break-open tickets in that state under similar terms and conditions as provided under this chapter.

§ 1203. DISTRIBUTION; RETAIL PURCHASE AND SALE

(a) Only nonprofit organizations may purchase break-open tickets from a distributor licensed under this chapter.

(b) No person, other than a licensed distributor or a nonprofit organization acting under subsection (f) of this section, shall distribute a box of break-open tickets. No person shall distribute a box of break-open tickets unless the box bears indicia as required by the Commissioner. No person shall distribute or sell a break-open ticket at retail unless the ticket bears a unique serial number.

(c) A distributor licensed under this chapter may sell break-open tickets only to nonprofit organizations as defined in subdivision 1201(5) of this chapter, except that a person other than a licensed distributor may sell such tickets to a licensed distributor upon written approval of the Commissioner.

(d) Only nonprofit organizations may sell break-open tickets at retail.

(e) Break-open tickets shall not be sold at premises licensed to sell alcoholic beverages except:

(1) at clubs as defined in 7 V.S.A. § 2(7); or

(2) a nonprofit organization may sell break-open tickets at premises licensed to sell alcoholic beverages if, notwithstanding 13 V.S.A. § 2143(e) of this chapter, all proceeds from the sale of break-open tickets are used by the nonprofit organization exclusively for charitable, religious, educational, and civic undertakings, with only the following costs deducted from the proceeds:

(A) actual cost of the break-open tickets;

(B) the prizes awarded;

(C) reasonable legal fees necessary to organize the nonprofit organization and to ensure compliance with all legal requirements; and

(D) reasonable accounting fees necessary to account for the proceeds from the sale of break-open tickets.

(f) A nonprofit organization that sells break-open tickets, other than a club as defined in 7 V.S.A. § 2(7), shall report to the Department of Liquor Control on a quarterly basis the number of tickets purchased and distributed, and the corresponding serial numbers of those tickets, the amount of revenue realized by the nonprofit organization, and the amounts accounted for under subdivisions (e)(2)(A)–(D) of this section. The nonprofit organization shall also identify an individual from the organization responsible for the reporting requirements under this subsection. If the Department of Liquor Control determines that a nonprofit organization has failed to comply with the requirements of this subsection, the Department of Liquor Control shall notify the nonprofit organization and any licensed distributors of this failure, and any licensed distributor that continues to sell break-open tickets to that nonprofit organization after notice shall be considered in violation of the requirements of this chapter, until the Department of Liquor Control has determined the nonprofit organization is back in compliance with this subsection.

(g) The provisions of this chapter regarding sales and purchases of break-open tickets also apply to transfers of break-open tickets for no charge.

§ 1204. LICENSE REQUIREMENTS; FEES

(a) Upon application and payment of the fee, the Commissioner may issue the following licenses to qualified applicants:

(1) Manufacturer annual license: $3,000.00

(2) Distributor annual license: $2,000.00

(b) A license shall not be granted to an individual who has been convicted of a felony within five years of the license application nor to an entity in which any partner, officer, or director has been convicted of a felony within five years of the application.

(c) Licenses issued under this section may be renewed annually on October 1, upon reapplication and payment of the licensing fee.

(d) All fees collected pursuant to this section shall be deposited into the Liquor Control Enterprise Fund.

§ 1205. RECORDS; REPORT

(a) Each distributor and manufacturer licensed under this chapter shall maintain records and books relating to the distribution and sale of break-open tickets and to any other expenditure required by the Commissioner. A licensee shall make its records and books available to the Commissioner for auditing.

(b) Each licensed distributor shall file with the Commissioner on the same schedule as the distributor files sales tax returns the following information for the preceding reporting period:

(1) The names of organizations to which boxes of break-open tickets were sold.

(2) The number of boxes of break-open tickets sold to each organization.

(3) The ticket denomination and serial numbers of tickets for each box.

(c) Records and reports filed under this section shall be designated confidential unless, under State or federal law or regulation, the record or information may be disclosed to specifically designated persons.

(d) Notwithstanding subsection (c) of this section, the Commissioner of Liquor Control shall provide the records and reports filed under this section to the Attorney General, upon request.

§ 1206. ENFORCEMENT

(a) Any person who intentionally violates section 1203 of this chapter shall be fined not more than $500.00.

(b) Any person who intentionally violates section 1202, 1204, or 1205 of this title shall be fined not more than $10,000.00 for the first offense and fined not more than $20,000.00 or imprisoned not more than one year, or both, for each subsequent offense.

(c) In addition to the criminal penalties provided under subsections (a) and (b) of this section, any person who violates a provision of this chapter shall be subject to one or more of the following penalties:

(1) Revocation or suspension by the Commissioner of a license granted pursuant to this chapter.

(2) Confiscation of break-open tickets or confiscation of the revenues derived from the sale of those tickets, or both.

§ 1207. APPEALS

Any licensee aggrieved by an action taken under subsection 1206(c) of this chapter and any person aggrieved by the Commissioner's refusal to issue or renew a license under this chapter may appeal in writing to the Commissioner for review of such action. The Commissioner shall thereafter grant a hearing subject to the provisions of 3 V.S.A. chapter 25 upon the matter and notify the aggrieved person in writing of his or her determination. The Commissioner's determination may be appealed within 30 days to the Washington Superior Court or the Superior Court of the county in which the taxpayer resides or has a place of business.

§ 1208. RULEMAKING

The Department of Liquor Control may regulate the licensing and reporting requirements of manufacturers and distributors of break-open tickets under this chapter. The Commissioner of Liquor Control may adopt rules for licensure and indicia for boxes of break-open tickets, for record keeping relating to the distribution and sale of break-open tickets, and the remittance of net proceeds from sales of break-open tickets to the intended eligible charitable recipients. The rules shall permit no proceeds to be retained by the operators of for-profit bars, except for:

(1) the actual cost of the break-open tickets;

(2) the prizes awarded; and

(3) any sales tax due on the sale of break-open tickets under 32 V.S.A. chapter 233.

* * * Income Tax; Adjusted Gross Income * * *

Sec. 13a. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

(21) "Taxable income" means, in the case of an individual, federal ~~taxable~~ adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

(A) Increased by the following items of income (to the extent such income is excluded from federal adjusted gross income):

(i) interest income from non-Vermont state and local obligations; and

(ii) dividends or other distributions from any fund to the extent they are attributable to non-Vermont state or local obligations;

~~(iii) the amount of State and local income taxes deducted from federal adjusted gross income for the taxable year, but in no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; and~~

~~(iv) the amount of total itemized deductions, other than deductions for State and local income taxes, medical and dental expenses, or charitable contributions, deducted from federal adjusted gross income for the taxable year, that is in excess of two and one-half times the standard deduction allowable to the taxpayer;~~ and

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from U.S. government obligations;

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend income: either the first $5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on

an exchange, or any other financial instruments; regardless of whether sold by an individual or business; and provided that the total amount of decrease under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income; and

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and

(C) Decreased by the following exemptions and deductions:

(i) the amount of personal exemptions taken at the federal level;

(ii) for taxpayers who do not itemize at the federal level, the amount of the standard deduction taken at the federal level; and

(iii) for taxpayers who itemize at the federal level:

(I) the amount of federally itemized deductions for medical and dental expenses and charitable contributions;

(II) the total amount of federally itemized deductions, other than deductions for State and local income taxes, medical and dental expenses, and charitable contributions, deducted from federal adjusted gross income for the taxable year, but in no event shall the amount under this subdivision exceed two and one-half times the federal standard deduction allowable to the taxpayer; and

(III) in no event shall the total amount of deductions allowed under subdivisions (I) and (II) of this subdivision (21)(C)(iii) reduce the total amount of itemized deductions below the federal standard deduction allowable to the taxpayer.

* * *

(27)(A) For the purposes of ~~subdivision~~ subdivisions (21)(B)(ii)(I), (21)(B)(ii)(II), (28)(B)(ii)(I), and (28)(B)(ii)(II) of this section, the sale of a farm shall mean the disposition of real and personal property owned by a farmer as that term is defined in subsection 3752(7) of this title and used by the farmer in the business of farming as that term is defined in 26 C.F.R. § 1.175-3.

(B) For the purposes of ~~subdivision (21)(B)(ii)(I)~~ subdivisions (21)(B)(ii)(II) and (28)(B)(ii)(II) of this section, the sale of standing timber shall mean the disposition of standing timber by an owner of timber that would give rise to the owner recognizing a capital gain or loss as defined in 26 U.S.C. § 631(b).

(28) "Taxable income" means, in the case of an estate or a trust, federal taxable income determined without regard to 26 U.S.C. § 168(k) and:

(A) increased by the following items of income:

(i) interest income from non-Vermont state and local obligations;

(ii) dividends or other distributions from any fund to the extent they are attributable to non-Vermont state or local obligations; and

(iii) the amount of State and local income taxes deducted from federal gross income for the taxable year; and

(B) decreased by the following items of income:

(i) income from U.S. government obligations;

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h), reduced by the total amount of any qualified dividend income: either the first $5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business; and provided that the total amount of decrease under this subdivision (28)(B)(ii) shall not exceed 40 percent of federal taxable income; and

(iii) recapture of State and local income tax deductions not taken against Vermont income tax.

* * * Health Care Provisions; Health IT-Fund * * *

Sec. 14. 2013 Acts and Resolves No. 73, Sec. 60(10) is amended to read:

(10) Secs. 48-51 (health claims tax) shall take effect on July 1, 2013 and 52 and 53 (health claims sunset) shall take effect on July 1, ~~2017~~ 2018.

Sec. 15. HEALTH INFORMATION TECHNOLOGY REPORT

(a) The Secretaries of Administration and of Human Services shall conduct a comprehensive review of the State's Health-IT Fund established by 32 V.S.A. § 10301, Health Information Technology Plan established by 18 V.S.A. § 9351, and Vermont Information Technology Leaders administered pursuant to 18 V.S.A. § 9352.

(b) The report shall:

(1) review the need for a State-sponsored Health-IT Fund;

(2) review how past payments from the Fund have or have not promoted the advancement of health information technology adoption and utilization in Vermont;

(3) review the past development, approval process, and use of the Vermont Health Information Technology Plan;

(4) review the Vermont Information Technology Leaders (VITL) organization, including:

(A) its maintenance and operation of Vermont's Health Information Exchange (VHIE);

(B) the organization's ability to support current and future health care reform goals;

(C) defining VITL's core mission;

(D) identifying the level of staffing necessary to support VITL in carrying out its core mission; and

(E) examining VITL's use of its staff for activities outside its core mission;

(5) recommend whether to continue the Health-IT Fund, including with its current revenue source as set forth in 32 V.S.A § 10402;

(6) recommend any changes to the structure of VITL, including whether it should be a public or private entity, and any other proposed modifications to 18 V.S.A § 9352;

(7) review property and ownership of the VHIE, including identifying all specific tangible and intangible assets that comprise or support the VHIE (especially in regards to VITL's current and previous agreements with the State), and the funding sources used to create this property;

(8) evaluate approaches to health information exchange in other states, including Maine and Michigan, in order to identify opportunities for reducing duplication in Vermont's health information exchange infrastructure; and

(9) recommend any accounting or financial actions the State should take regarding State-owned tangible and intangible assets that comprise or support the VHIE.

(c) On or before November 15, 2017, the Secretaries of Administration and of Human Services shall submit this report to the House Committees on Health Care, on Appropriations, on Energy and Technology, and on Ways and Means and the Senate Committees on Health and Welfare, on Appropriations, and on Finance.

* * * Health Care Provisions; GMCB Bill Backs * * *

Sec. 15a. GREEN MOUNTAIN CARE BOARD; FISCAL YEAR 2018 BILL BACK ALLOCATION

(a) Notwithstanding any provision of 18 V.S.A. § 9374(h) to the contrary and except as otherwise provided in subsection (b) of this section, for fiscal year 2018 only, expenses incurred by the Green Mountain Care Board to obtain information, analyze expenditures, review hospital budgets, and for any other contracts authorized by the Board shall be borne as follows:

(1) 40 percent by the State from State monies;

(2) 15 percent by the hospitals; and

(3) 45 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125, health insurance companies licensed under 8 V.S.A. chapter 101, and health maintenance organizations licensed under 8 V.S.A. chapter 139.

(b) The Board may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subsection (a) of this section if, in the Board's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State.

(c) Expenses under subdivision (a)(3) of this section shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section shall include major medical, comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care or limited benefits, disability, credit or stop loss, or excess loss insurance coverage.

* * * Health Care Provisions; Employer Assessment * * *

Sec. 16. 32 V.S.A. chapter 245 is added to read:

CHAPTER 245. HEALTH CARE FUND CONTRIBUTION ASSESSMENT

§ 10501. PURPOSE

For the purpose of more equitably distributing the costs of health care to uninsured residents of this State, an employers' health care fund contribution is established to provide a fair and reasonable method for sharing health care costs with employers that do not offer their employees health care coverage and employers that offer insurance but whose employees enroll in Medicaid.

§ 10502. DEFINITIONS

As used in this chapter:

(1) "Employee" means an individual who is:

(A) 18 years of age or older for all of a calendar quarter,

(B) employed full-time or part-time, and

(C) reported by an employer for purposes of complying with Vermont unemployment compensation law pursuant to 21 V.S.A. chapter 17.

(2) "Employer" means a person who is required to furnish unemployment insurance coverage pursuant to 21 V.S.A. chapter 17.

(3)(A) "Full-time equivalent" or "FTE" means the number of employees expressed as the number of employee hours worked during a calendar quarter divided by 520. The FTE calculation shall be based on a 40-hour work week. No more than one FTE may be assessed against an individual employee, regardless of the actual number of hours worked by that employee during the calendar quarter.

(B) The hours worked during a calendar quarter means hours worked during all pay periods in that quarter for which gross wages were reported and paid. Unworked hours, such as vacation or sick time, may be excluded from the FTE calculation.

(C) "Full-time equivalent" shall not include any employee hours attributable to a seasonal employee or part-time employee of an employer who offers health care coverage to all of its regular full-time employees, provided that the seasonal employee or part-time employee has health care coverage under either a private plan or any public plan except Medicaid.

(4) "Health care coverage" shall mean any private or public plan that includes both hospital and physician services.

(5) "Part-time employee" shall mean an employee who works for an employer for fewer than 30 hours a week or fewer than 390 hours in a calendar quarter.

(6) "Seasonal employee" means an employee who:

(A) works for an employer for 20 weeks or fewer in a calendar year; and

(B) works in a job scheduled to last 20 weeks or fewer.

(7) "Uncovered employee" means:

(A) an employee of an employer who does not offer to pay any part of the cost of health care coverage for its employees;

(B) an employee who is not eligible for health care coverage offered by an employer to any other employees; or

(C) an employee who is offered and is eligible for coverage by the employer but elects not to accept the coverage and:

(i) is enrolled in Medicaid;

(ii) has no other health care coverage under either a private or public plan except Medicaid; or

(iii) has purchased health insurance coverage as an individual through the Vermont Health Benefit Exchange.

§ 10503. HEALTH CARE FUND CONTRIBUTION ASSESSMENT

(a) The Commissioner of Taxes shall assess and an employer shall pay a quarterly Health Care Fund contribution for each full-time equivalent uncovered employee employed during that quarter in excess of four full-time equivalent employees.

(b) The amount of the contribution shall be $158.77 for each full-time equivalent employee in excess of four. Starting in calendar year 2018, the amount of the contribution shall be adjusted by a percentage equal to any percentage change in premiums for the second lowest-cost silver-level plan in the Vermont Health Benefit Exchange.

(c) Health Care Fund contribution assessments under this chapter shall be determined on a calendar quarter basis, due and payable on or before the 25th day of the calendar month succeeding the close of each quarter. All administrative provisions of chapter 151 of this title shall apply to this chapter, except penalty and interest shall apply according to chapter 103 of this title.

(d) Revenues from the Health Care Fund contributions collected shall be deposited into the State Health Care Resources Fund established under 33 V.S.A. § 1901d.

(e)(1) Notwithstanding any provision of law to the contrary, the Department of Taxes shall provide the Joint Fiscal Office with all returns or return information relating to the Health Care Fund contribution assessment except information that would identify a taxpayer. The information sharing required by this subsection shall occur quarterly within a reasonable time following the return due date for each quarter.

(2) When handling information shared pursuant to this subsection, the Joint Fiscal Office shall be subject to the same requirements and penalties as employees of the Department of Taxes under section 3102 of this title. It shall be considered an unauthorized disclosure for an officer, employee, or agent of the Joint Fiscal Office to disclose returns or return information provided pursuant to this subsection that does not combine a taxpayer's information with at least nine other taxpayers.

§ 10504. HOURS WORKED BY UNCOVERED EMPLOYEES; CALCULATION AND REPORTING

(a) Employers shall report to the Department of Taxes the number of hours worked by each uncovered employee on a return provided by the Department. The return shall be filed at the same time payment is required under subsection 10503(c) of this chapter, shall be filed electronically, and shall include any information required by the Commissioner.

(b) Quarterly health care contributions shall be calculated in the following manner:

(1) An employer shall divide the total hours worked by all uncovered employees during a quarter by 520, to represent one full-time equivalent employee. The employer shall then round the resulting number down to the nearest whole number and subtract four. The employer shall then multiply the resulting number by the amount established under subsection 10503(b) of this chapter to determine the amount of assessment due for the quarter.

(A) For full-time salaried employees, employers shall use 520 hours a quarter for the total hours worked.

(B) For all employees who worked more than 520 hours in a quarter, employers shall use 520 hours a quarter for the total hours worked.

(2) The Commissioner shall provide an electronic declaration of health care coverage form for employers to collect the health coverage statuses of their employees for purposes of this assessment. The form shall preserve the confidentiality of the type of coverage possessed by the employee and the employer shall only use the form for purposes of this assessment.

(A) An employer shall annually obtain a declaration of health care coverage from every employee who is not enrolled in a plan offered by the employer.

(B) An employer shall maintain declarations of health care coverage for a minimum of three years in a manner reasonably available for review and audit.

(C) Employees for whom no declaration of coverage is obtained shall be treated as uncovered.

(c) In the case of an employee leasing agreement, leased employees shall be considered employees of a client company and not employees of an employee leasing company.

§ 10505. HEALTH BENEFIT COSTS

(a) Employers shall provide their employees with an annual statement indicating:

(1) the total monthly premium cost paid for any employer-sponsored health benefit plan;

(2) the employer's share and the employee's share of the total monthly premium; and

(3) any amount the employer contributes toward the employee's cost-sharing requirement or other out-of-pocket expenses.

(b) Notwithstanding the provisions of subsection (a) of this section, an employer who reports the cost of coverage under an employer-sponsored health benefit plan as required by 26 U.S.C. § 6051(a)(14) shall be deemed to be in full compliance with the requirements of this section.

Sec. 17. 32 V.S.A. § 3102(d) is amended to read:

(d) The Commissioner shall disclose a return or return information:

* * *

(5) to the Attorney General, if such return or return information relates to chapter 205 of this title or 33 V.S.A. chapter 19, subchapters 1A and 1B, for purposes of investigating potential violations of and enforcing 7 V.S.A. chapter 40, 20 V.S.A. chapter 173, subchapter 2A, and 33 V.S.A. chapter 19, subchapters 1A and 1B; and

(6) to the Joint Fiscal Office pursuant to 32 V.S.A. § 10503(e) and subject to the conditions and limitations specified in that subsection.

* * * Health Care Provisions; Home Health Agency Provider Tax * * *

Sec. 18. 33 V.S.A. § 1951 is amended to read:

§ 1951. DEFINITIONS

As used in this subchapter:

(1) "Assessment" means a tax levied on a health care provider pursuant to this chapter.

(2)(A) "~~Core home~~ Home health ~~care~~ services" means any of the following:

(i) those medically necessary, intermittent, skilled ~~nursing, home health aide, therapeutic, and personal care attendant services, provided exclusively in the home by home health agencies. Core home health services do not include private duty nursing, hospice, homemaker, or physician~~

~~services, or services provided under early periodic screening, diagnosis, and treatment (EPSDT), traumatic brain injury (TBI), high technology programs, or services provided by a home for persons who are terminally ill as defined in subdivision 7102(3) of this title~~ home health services provided by Medicare-certified home health agencies of the type covered under Title XVIII (Medicare) or XIX (Medicaid) of the Social Security Act;

(ii) services covered under the adult and pediatric High Technology Home Care programs as of January 1, 2015;

(iii) personal care, respite care, and companion care services provided through the Choices for Care program contained within Vermont's Global Commitment to Health Section 1115 demonstration; and

(iv) hospice services.

(B) The term "home health services" shall not include any other service provided by a home health agency, including:

(i) private duty services;

(ii) case management services, except to the extent that such services are performed in order to establish an individual's eligibility for services described in subdivision (A) of this subdivision (2);

(iii) homemaker services;

(iv) adult day services;

(v) group-directed attendant care services;

(vi) primary care services;

(vii) nursing home room and board when a hospice patient is in a nursing home; and

(viii) health clinics, including occupational health, travel, and flu clinics.

(C) The term "home health services" shall not include any services provided by a home health agency under any other program or initiative unless the services fall into one or more of the categories described in subdivision (A) of this subdivision (2). Other programs and initiatives include:

(i) the Flexible Choices or Assistive Devices options under the Choices for Care program contained within Vermont's Global Commitment to Health Section 1115 demonstration;

(ii) services provided to children under the early and periodic screening, diagnostic, and treatment Medicaid benefit;

(iii) services provided pursuant to the Money Follows the Person demonstration project;

(iv) services provided pursuant to the Traumatic Brain Injury Program; and

(v) maternal-child wellness services, including services provided through the Nurse Family Partnership program.

* * *

(10) "Net ~~operating~~ patient revenues" means a provider's gross charges related to patient care services less any deductions for bad debts, charity care, contractual allowances, and other payer discounts.

* * *

Sec. 18a. 33 V.S.A. § 1955a is amended to read:

§ 1955a. HOME HEALTH AGENCY ASSESSMENT

(a)(1) ~~Beginning October 1, 2011, each~~ Each home health agency's assessment shall be ~~19.30~~ 4.25 percent of its net ~~operating~~ patient revenues from ~~core~~ home health ~~care~~ services~~, excluding revenues for services provided under Title XVIII of the federal Social Security Act; provided, however, that each home health agency's annual assessment shall be limited to no more than six percent of its annual net patient revenue~~ provided exclusively in Vermont.

(2) On or before May 1 of each year, each home health agency shall provide to the Department a copy of its most recent audited financial statement prepared in accordance with generally accepted accounting principles. The amount of the tax shall be determined by the Commissioner based on the home health net patient revenue attributable to services reported on the agency's ~~most recent audited~~ financial ~~statements~~ statement ~~at the time of submission, a copy of which shall be provided on or before May 1 of each year to the Department~~.

(3) For providers who ~~begin~~ began operations as a home health agency after January 1, 2005, the tax shall be assessed as follows:

~~(1)~~(A) Until such time as the home health agency submits audited financial statements for its first full year of operation as a home health agency, the Commissioner, in consultation with the home health agency, shall annually estimate the amount of tax payable and shall prescribe a schedule for interim payments.

~~(2)~~(B) At such time as the full-year audited financial statement is filed, the final assessment shall be determined, and the home health agency shall pay any underpayment or the Department shall refund any overpayment. The

assessment for the State fiscal year in which a provider commences operations as a home health agency shall be prorated for the proportion of the State fiscal year in which the new home health agency was in operation.

* * *

Sec. 18b. 2016 Acts and Resolves No. 134, Sec. 32 is amended to read:

Sec. 32. HOME HEALTH AGENCY ASSESSMENT FOR FISCAL ~~YEARS~~ YEAR 2017 ~~AND 2018~~

Notwithstanding any provision of 33 V.S.A. § 1955a(a) to the contrary, for fiscal ~~years~~ year 2017 ~~and 2018~~ only, the amount of the home health agency assessment under 33 V.S.A. § 1955a for each home health agency shall be 3.63 percent of its annual net patient revenue.

Sec. 18c. TRANSITIONAL PROVISION FOR FISCAL YEAR 2018

Notwithstanding any provision of 33 V.S.A. § 1955a(a)(2) to the contrary, for fiscal year 2018 only, the Commissioner of Vermont Health Access may determine the amount of a home health agency's provider tax based on such documentation as the Commissioner deems acceptable.

Sec. 18d. REPEAL

33 V.S.A. § 1955a (home health agency assessment) is repealed on July 1, 2019.

* * * Sales and Use Tax; Aircraft * * *

Sec. 19. 32 V.S.A. § 9741(29) is amended to read:

(29) Aircraft, but not drones, sold to a person which holds itself out to the general public as engaging in air commerce, for use primarily in the carriage of persons or property for compensation or hire; and parts, machinery, and equipment to be installed in any aircraft, other than drones.

* * * Strategies for Increased Collections * * *

Sec. 20. 32 V.S.A. § 5870 is amended to read:

§ 5870. REPORTING USE TAX ON INDIVIDUAL INCOME TAX RETURNS

(a) 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 a percentage of their ~~Vermont~~ adjusted gross income ~~indexed annually~~ determined under subsection (b) of this section, 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.

(b) The amount of use tax a taxpayer may elect to report under subsection (a) of this section shall be ~~0.20~~ 0.10 percent of their ~~Vermont~~ adjusted gross income ~~in tax year 2016, increased for each subsequent tax year by a percentage that is twice the change in the annual national Consumer Price Index for goods and services published by the U.S. Bureau of Labor Statistics, from tax year 2016 to the tax year in which the indexing calculation is being made~~; provided however, that a taxpayer shall not be required to pay more than $500.00 for use tax liability under this subsection, arising from total purchases of items with a purchase price of $1,000.00 or less.

Sec. 21. INCREASING USE TAX COMPLIANCE

32 V.S.A. § 5870 provides that the Commissioner of Taxes "shall provide that individuals report use tax on their State individual income tax returns." In an effort to increase the level of use tax compliance, the Department of Taxes shall conduct an outreach and education campaign designed to highlight the use tax liability for taxpayers on their income tax forms, and to increase ease of compliance. These efforts shall be in addition to any current compliance and enforcement efforts.

Sec. 22. 32 V.S.A. § 5862d is amended to read:

§ 5862d. FILING OF FEDERAL FORM 1099

(a) Any individual or business required to file a federal form 1099 with respect to a nonresident who performed services within the State during the taxable year shall file a copy of the form with the Department. The Commissioner may authorize electronic filing of the form.

(b) Any ~~individual or business~~ person required to file information returns pursuant to 26 U.S.C. § 6050W shall within 30 days of the date the filing is due to the Internal Revenue Service file with the Commissioner a duplicate of such information returns on which the recipient has a Vermont address. In addition, at the same time the information in this subsection is required, third-party settlement organizations shall report to the Department of Taxes, and to any participating payee with a Vermont address, any information required by 26 U.S.C. § 6050W with respect to third-party network transactions related to that participating payee, as if the de minimis limitations of 26 U.S.C. § 6050W(e) did not apply, but that the de minimis limitations of 26 U.S.C. § 6041(a) did apply. The Commissioner may adopt rules and authorize electronic filing of the ~~form~~ information required by this subsection.

(c) A failure to provide the information required by subsections (a) and (b) of this section shall be considered a failure to provide a return or return

information required by this chapter, for the purposes of sections 3202, 5863, and 5864 of this title.

Sec. 23. 32 V.S.A. § 9712 is amended to read:

§ 9712. NOTICE REQUIREMENTS FOR NONCOLLECTING VENDORS

* * *

(c) Each noncollecting vendor shall file a copy of the notice required by subsection (b) with the Department of Taxes on or before January 31 of each year. The notice required by this subsection only apply to noncollecting vendors who made $100,000.00 or more of sales into Vermont in the previous calendar year. Failure to file a copy of the notice required by this subsection shall subject the noncollecting vendor to a penalty of $10.00 for each failure, unless the noncollecting vendor shows reasonable cause.

(d) The Commissioner is authorized to adopt rules or procedures or to create forms necessary to implement this section. Penalties imposed under this section shall be subject to the same administrative and appeal provisions of this chapter as if imposed under section 3202 of this title.

Sec. 24. TAX COLLECTIONS

The General Assembly finds that there is a gap between the amount of taxes paid in this State and the amount of taxes due. Therefore, the General Assembly directs the Department of Taxes to use new and existing strategies for collections to close the tax gap during the State fiscal year 2018. The Department of Taxes shall redeploy resources to focus on these strategies with the goal of increasing current collections by $3,175,000.00 in fiscal year 2018.

Sec. 24a. SMALL BUSINESS TAXPAYER OUTREACH AND EDUCATION WORKING GROUP

The Taxpayer Advocate at the Department of Taxes shall convene a working group of interested stakeholders to examine the ways the Department can improve outreach and education to small business taxpayers. On or before November 15, 2017, the Taxpayer Advocate shall report to the House Committee on Ways and Means and the Senate Committee on Finance recommendations to improve the relationship between the Department and small businesses. In considering the recommendations, the Taxpayer Advocate shall examine the following:

(1) identifying complex areas of the law that could be simplified to enhance voluntary compliance;

(2) compiling a list of common issues on which the Department may focus its outreach and education efforts;

(3) considering how the Department can maximize its existing resources to provide additional guidance targeted to small businesses;

(4) directing the Department to identify existing organizations and resources for small businesses and how to provide tax guidance through those organizations;

(5) providing for a plan to contact and provide direction to new small businesses in Vermont within one year of their operation in the State;

(6) recommending guidelines to forgive tax penalties and interest under certain circumstances; and

(7) making other recommendations as appropriate.

* * * Clean Water * * *

Sec. 25. STATE TREASURER; PUBLIC GOOD PAYMENTS; WATER QUALITY REVENUE BOND

On or before January 15, 2018, the State Treasurer shall recommend to the House Committees on Ways and Means and on Corrections and Institutions and the Senate Committees on Finance and on Institutions whether public good benefits payments made to the State for water quality as a condition of a certificate of public good issued by the Public Service Board provide sufficient revenue to leverage the issuance of a revenue bond to fund water quality improvements in the State through the Clean Water Fund. In developing a recommendation, the State Treasurer shall review all final and proposed public good payments for water quality required by the Public Service Board, including all payments for pollution abatement in, restoration of, and enhancement of State waters and what is necessary to ensure their deposit in the Clean Water Fund.

Sec. 26. WORKING GROUP ON WATER QUALITY FUNDING

(a) Establishment. There is established the Working Group on Water Quality Funding to develop recommendations for equitable and effective long-term funding methods to support clean water efforts in Vermont.

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

(1) the Secretary of Natural Resources or designee;

(2) one member from the Vermont League of Cities and Towns, appointed by the Board of Directors of that organization;

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

(4) a representative of the Vermont Center for Geographic Information;

(5) the Commissioner of Taxes or designee;

(6) one member representing commercial or industrial business interests in the State, to be appointed by the Governor, after consultation with other business groups in the State;

(c) Advisory Council. The Working Group shall be assisted by an Advisory Council to be made up of:

(1) the State Treasurer or designee;

(2) the Secretary of Transportation or designee;

(3) one member from the Vermont Municipal Clerks and Treasurers Association appointed by the Executive Board of that organization;

(4) one member from the Vermont Mayors Coalition appointed by that organization;

(5) a representative of an environmental advocacy group appointed by the Speaker of the House;

(6) a representative of the agricultural community appointed by the Vermont Association of Conservation Districts; and

(7) a representative of University of Vermont Extension appointed by the President Pro Tempore of the Senate.

(d) Powers and duties. The Working Group on Water Quality Funding shall recommend to the General Assembly draft legislation to establish equitable and effective long-term funding methods to support clean water efforts in Vermont.

(e) Consultation with Advisory Council. The Working Group shall meet at least three times with the Advisory Council for input on the report to be submitted to the General Assembly under subsection (f) of this section. The Advisory Council's comments shall be included in the final report.

(f) Report. On or before November 15, 2017, the Working Group on Water Quality Funding shall submit to the General Assembly a summary of its activities, an evaluation of existing sources of funding, and draft legislation to establish equitable and effective long-term funding methods to support clean water efforts in Vermont.

(g) Meetings.

(1) The Secretary of Natural Resources shall call the first meeting of the Working Group to occur on or before July 1, 2017.

(2) The Secretary of Natural Resources shall be the Chair of the Working Group.

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

(4) The Working Group shall cease to exist on March 1, 2018.

(5) No specific state appropriations shall be used to support the working group or advisory council.

(h) Assistance. The Working Group on Water Quality Funding shall have the administrative, technical, and legal assistance of the Agency of Natural Resources and the Department of Taxes. The Working Group on Water Quality Funding shall have the technical assistance of the Vermont Center for Geographic Information or designee.

* * * Property Tax Appeals * * *

Sec. 27. 32 V.S.A. § 5412 is amended to read:

§ 5412. REDUCTION OF LISTED VALUE AND RECALCULATION OF EDUCATION TAX LIABILITY

(a)(1) If a listed value is reduced as the result of an appeal or court action~~,~~ ~~and if the municipality files a written request with the Commissioner within 30 days after the date of the determination, entry of the final order, or settlement agreement~~ ~~if the Commissioner determines that the settlement value is the fair market value of the parcel, the Commissioner~~ made pursuant to section 4461 of this title, a municipality may submit a request for the Director of Property Valuation and Review to recalculate its education property tax liability for the education grand list value lost due to a determination, declaratory judgment, or settlement. The Director shall recalculate the municipality's education property tax liability for ~~the~~ each year at issue, in accord with the reduced valuation, provided that:

(A) ~~the~~ The reduction in valuation is the result of an appeal under chapter 131 of this title to the Director of Property Valuation and Review or to a court, with no further appeal available with regard to that valuation, or any judicial decision with no further right of appeal, or a settlement of either an appeal or court action if the ~~Commissioner~~ Director determines that the settlement value is the fair market value of the parcel~~;~~.

(B) ~~the~~ The municipality ~~notified the Commissioner of the appeal or court action, in writing,~~ ~~within 10 days after notice of the appeal was filed under section 4461 of this title or after the complaint was served; and~~ submits the request on or before January 15 for a request involving an appeal or court action resolved within the previous calendar year.

(C) ~~as a result of the valuation reduction of the parcel, the value of the municipality's grand list is reduced at least one percent.~~ [Repealed.]

(D) The Director determines that the municipality's actions were consistent with best practices published by the Property Valuation and Review in consultation with the Vermont Assessors and Listers Association. The municipality shall have the burden of showing that its actions were consistent with the Director's best practices.

(2) A determination of the Director made under subdivision (1) of this subsection may be appealed within 30 days by an aggrieved municipality to the Commissioner for a hearing to be held in accordance with 3 V.S.A. §§ 809–813. The Commissioner's determination may be further appealed to Superior Court, which shall review the Commissioner's determination using the record that was before the Commissioner. The Commissioner's determination may only be overturned for abuse of discretion.

(3) ~~The municipality's~~ Upon the Director's request, a municipality submitting a request under subdivision (1) of this subsection shall include a copy of the agreement, determination or final order, and any other documentation necessary to show the existence of these conditions.

(b) To the extent that the municipality has paid that liability, the ~~Commissioner~~ Director shall allow a credit for any reduction in education tax liability against the next ensuing year's education tax liability ~~or, at the request of the municipality, may refund to the municipality an amount equal to the reduction in education tax liability~~.

(c) If a listed value is increased as the result of an appeal under chapter 131 of this title or court action, whether adjudicated or settled and the ~~Commissioner~~ Director determines that the settlement value is the fair market value of the parcel, with no further appeal available with regard to that valuation, the ~~Commissioner~~ Director shall recalculate the municipality's education property tax for each year at issue, in accord with the increased valuation, and shall assess the municipality for the additional tax at the same time the ~~Commissioner~~ Director assesses the municipality's education tax liability for the next ensuing year, unless the resulting assessment would be less than $300.00. Payment under this section shall be due with the municipality's education tax liability for the next ensuing year.

(d) Recalculation of education property tax under this section shall have no effect other than to reimburse or assess a municipality for education property tax changes ~~which~~ that result from property revaluation.

(e) A reduction made under this section shall be an amount equal to the loss in education grand list value multiplied by the tax rate applicable to the subject property in the year the request is submitted. However, the total amount for all reductions made under this section in one year shall not exceed $100,000.00. If total reductions for a calendar year would exceed this amount, the Director

shall instead prorate the reductions proportionally among all municipalities eligible for a reduction so that total reductions equal $100,00.00.

(f) Prior to the issuance of a final administrative determination or judicial order, a municipality may request that the Director certify that best practices were followed for purposes of meeting the requirements of subdivision (a)(1)(D) of this section. The Director may choose to grant certification, deny certification, or refrain from a decision until a request is submitted under subdivision (a)(1) of this section. The Director shall consider the potential impact on the Education Fund, the unique character of the subject property or properties, and any extraordinary circumstances when deciding whether to grant certification under this subsection. The Director shall be bound by a decision to grant certification unless the municipality agrees to a settlement after such certification was made.

Sec. 28. GRAND LIST LITIGATION ASSISTANCE; STUDY

(a) The Attorney General, in consultation with the Vermont League of Cities and Towns, property owners, and other interested stakeholders, shall study approaches to assisting municipalities with expenses incurred during litigation pursuant to 32 V.S.A. chapter 131, including assigning an Assistant Attorney General to the Division of Property Valuation and Review to support municipalities litigating complex matters.

(b) On or before December 1, 2017, the Attorney General shall submit a report to the Senate Committee on Finance and the House Committee on Ways and Means on the findings of the study described in subsection (a) of this section. The report shall include recommendations for legislative action based on the findings of the study.

Sec. 29. REIMBURSEMENT OF EDUCATION TAX LIABILITY; REPORT

(a) On or before December 1, 2019, the Director of Property Valuation and Review shall submit a report to the Senate Committee on Finance and the House Committee on Ways and Means on the reimbursement of education tax liabilities to municipalities pursuant to Sec. 27 of this act.

(b) The report shall include:

(1) the annual number of reductions to the education grand list;

(2) the annual amount reimbursed to municipalities from the Education Fund; and

(3) the annual increase, if any, to the education grand list.

Sec. 29a. COMPENSATION FOR OVERPAYMENT

Notwithstanding any other provision of law, the sum of $56,791.80 shall be transferred from the Education Fund to the Town of Georgia in fiscal year 2018 to compensate the town for an overpayment of education taxes in fiscal year 2017 due to an erroneous classification of certain property.

* * * Property and Debt of Merging Districts * * *

Sec. 29b. TRANSFER OF PROPERTY AND DEBT OF MERGED DISTRICTS

(a) Notwithstanding any other provision of law, under 16 V.S.A. § 706b(6)–(8), a study committee report may provide terms for transferring the ownership of capital assets, and the liability for any associated debt, from the merging districts to the towns within the merging district where those assets are fixed. A study committee report may also provide terms for leases governing the management of these same capital assets.

(b) A transfer of assets included in a study committee report under this section and approved under 16 V.S.A. chapter 11 shall not be considered a sale for the purpose of the refund upon sale requirement of 16 V.S.A. § 3448(b).

(c) As used in this section, a union school district established under 16 V.S.A. chapter 11 includes a school district voluntarily created pursuant to 2015 Acts and Revolves No. 46, Sec. 6 or 7, or a regional education district, or any other district eligible to receive incentives pursuant to 2010 Acts and Resolves No. 153, as amended by 2012 Acts and Resolves No. 156 and 2013 Acts and Resolves No. 56.

* * * Calculation of Certain Rates; Five Percent Hold Harmless Rule * * *

Sec. 29c. CALCULATION OF TAX RATES FOR MEMBER TOWNS IN VOLUNTARY SCHOOL GOVERNANCE MERGERS.

(a) Definitions. As used in this section:

(1) "Five percent provision" means collectively the provisions in 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No.156, and 2015 Acts and Resolves No. 46, limiting a town's equalized homestead property tax rate increase or decrease, and related household income percentage adjustments to five percent in a single year during the years in which the corresponding tax rate reductions apply to a new union school district's equalized unified homestead property rate.

(2) "Tax rate reductions" means collectively the equalized homestead property tax rate reductions, and related household income percentage reductions, provided for voluntary school governance mergers in 2010 Acts

and Resolves No. 153, 2012 Acts and Resolves No. 156, and 2015 Acts and Resolves No. 46.

(3) "Education spending in the prior fiscal year" means the total education spending of all merging districts in the year prior to merger, divided by the total number of equalized pupils of all the merging districts in the year prior to merger.

(4) "Tax rate of a member town" means collectively the equalized homestead property tax rate, and related household income percentage reductions, for the referenced town.

(b) Tax rate reduction review.

(1) In a fiscal year in which the tax rate reductions are applied to a new union school district, if the district's education spending per equalized pupil increases by four percent or less over its education spending per equalized pupil in the prior fiscal year, then it shall be presumed to not trigger Tax Rate Reduction Review.

(2) In a fiscal year in which the tax rate reductions are applied to a new union school district, if the district's education spending per equalized pupil increases by more than four percent over its education spending per equalized pupil in the prior fiscal year, then it shall be subject to a Tax Rate Reduction Review.

(3) Upon the request of the Secretary, a union school district shall submit its budget to Tax Rate Reduction Review to determine whether its increase in education spending per equalized pupil was beyond the school district's control or for other good cause. In conducting the Review, the Secretary will select three business managers and three superintendents to serve in an advisory role in the Review. The Review shall consider at least the following factors:

(A) the extent to which the increase in education spending per equalized pupil is caused by declining enrollment in the union school district;

(B) the extent to which the increase in education spending per equalized pupil is caused by unifying employee contracts in the course of the union school district formation process; and

(C) the extent to which the increase in education spending per equalized pupil is caused by increases in tuition paid by the union school district.

(4) If, at the conclusion of the Review, the Secretary determines that the union school district's budget contains excessive increases in educational spending per equalized pupil that are within the district's control and are not

supported by good cause, then union school district rates for the fiscal year will be determined as follows:

(A) The tax rate of a member town that would otherwise be increased by no more than five percent shall be increased by no more than five percent plus the difference between a four percent increase in education spending per equalized pupil and the actual increase in the union school district's education spending per equalized pupil.

(B) The tax rate of a member town that would otherwise be decreased by no more than five percent shall be decreased by no more than five percent minus the difference between a four percent increase in education spending per equalized pupil and the actual increase in the union school district's education spending per equalized pupil.

* * * Premium Tax Credit; Captive Insurance Companies * * *

Sec. 30. 8 V.S.A. § 6014(k) is amended to read:

(k) A captive insurance company first licensed under this chapter on or after January 1, ~~2011~~ 2017 shall receive a nonrefundable credit of ~~$7,500.00~~ $5,000.00 applied against the aggregate taxes owed for the first two taxable ~~year~~ years for which the company has liability under this section.

* * * Repeals * * *

Sec. 31. REPEALS

The following are repealed:

(1) 32 V.S.A. chapter 239 (games of chance).

(2) 32 V.S.A. § 10010(c) (requirement that form for payment of land gains tax set out penalties in large type).

(3) 2007 Acts and Resolves No. 81, Secs. 7a (amendment to sales tax exemption for aircraft parts) and 7b (effective date).

(4) 2008 Acts and Resolves No. 190, Sec. 43 (extension of sales tax exemption for aircraft parts).

(5) 21 V.S.A. chapter 25 (Employer Assessment).

* * * Effective Dates * * *

Sec. 32. EFFECTIVE DATES

This act shall take effect on passage except:

(1) Notwithstanding 1 V.S.A. § 214, Sec. 7 (annual update of income tax link to the IRC) shall take effect retroactively on January 1, 2016 and apply to taxable years beginning on and after January 1, 2016.

(2) Notwithstanding 1 V.S.A. § 214, Sec. 8 (estate tax) shall take effect retroactively on January 1, 2016.

(3) Sec. 11 (background checks) shall take effect on passage.

(4) Secs. 12–13 (break-open tickets) and Sec. 31(1) (repeal) shall take effect on September 1, 2017, except the first quarter for which nonprofit organizations shall be required to comply with 31 V.S.A. § 1203(f) shall be the fourth quarter of 2017.

(5) Sec. 13a (adjusted gross income) shall take effect on January 1, 2018 and apply to taxable year 2018 and after.

(6) Sec. 15a (Green Mountain Care Board bill backs) shall take effect on July 1, 2017.

(7) Secs. 16 and 17 (transferring employer assessment from the Department of Labor to the Department of Taxes) and Sec. 31(5) (repeal) shall take effect on January 1, 2018 with the return of the fourth quarter of 2017 being due on January 25, 2018.

(8) Sec. 19 (sales tax exemption for aircraft) shall take effect on September 1, 2017.

(9) Notwithstanding 1 V.S.A. § 214, Sec. 20 (use tax reporting) shall take effect retroactively on January 1, 2017 and apply to returns filed for tax year 2017 and after.

(10) Notwithstanding 1 V.S.A. § 214, Sec. 22 (third party settlement network reporting requirements) shall take effect retroactively on January 1, 2017 and apply to taxable year 2017 and after.

(11) Sec. 23 (additional noncollecting vendor reporting requirements) shall take effect on July 1, 2017.

(12) Sec. 30 (premium tax credit) shall take effect on July 1, 2017.

ANN E. CUMMINGS
MARK A. MACDONALD
DUSTIN ALLARD DEGREE

Committee on the part of the Senate

JANET ANCEL
SAMUEL R. YOUNG
FRED K. BASER

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Thereupon, on motion of Senator Ashe, the rules were suspended and the bill was ordered messaged to the House forthwith.

Recess

On motion of Senator Ashe the Senate recessed until 7:00 P.M.

Called to Order

The Senate was called to order by the President.

Message from the House No. 81

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

Mr. President:

I am directed to inform the Senate that:

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 516. An act relating to miscellaneous tax changes.

And has adopted the same on its part.

Recess

The Chair declared a recess until 7:30 P.M.

Called to Order

The Senate was called to order by the President.

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 33.

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

By Senators Ashe, Balint and Degree,

J.R.S. 33. Joint resolution relating to compensation of Members of the General Assembly during the remainder of the 2017 Session.

Whereas, in order that the 2017 Session of the General Assembly may achieve an orderly adjournment, provide reasonable compensation to Members of the General Assembly for their services, and to preserve the funds of the state, *now therefore be it*

Resolved by the Senate and House of Representatives:

That notwithstanding the provisions of 32 V.S.A. §§ 1051(a)(1) and 1052(a)(1) providing for a weekly rate of compensation, commencing May 8, 2017, Members of the General Assembly shall be entitled to compensation for services equal to a daily rate of one-fourth of the annually adjusted weekly compensation set forth in sections 1051(a)(1) and 1052(a)(1) and reimbursement for expenses at the daily rate established in sections 1051(a)(3) and 1052(b) of Title 32 for each day on which their respective houses shall sit and the member attends for the remainder of the 2017 Session, except that no member shall receive compensation for more than four days in any week.

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 34.

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

By Senator Ashe,

J.R.S. 34. Joint resolution relating to final adjournment of the General Assembly 2017.

Resolved by the Senate and House of Representatives

That when the President of the Senate and the Speaker of the House of Representatives adjourn their respective houses on the eighteenth or nineteenth day of May, 2017 they shall do so to reconvene on the twenty-first day of June, 2017, at ten o'clock in the forenoon if the Governor should fail to approve and sign any bill and should he return it to the house of origin with his objections in writing after such adjournment, or to reconvene on the twenty-third day of October, 2017, at ten o'clock in the forenoon on the joint call of the President *pro tempore* of the Senate and the Speaker of the House, or on the third day of January, 2018, at ten o'clock in the forenoon, if not so jointly called and if the Governor should *not* so return any bill to either house.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 509.

Pending entry on the Calendar for notice, on motion of Senator Cummings, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to calculating statewide education tax rates.

Was taken up for immediate consideration.

Senator Cummings, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

H. 509. An act relating to calculating statewide education tax rates.

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

* * * Yields and Nonresidential Tax Rate * * *

Sec. 1. PROPERTY DOLLAR EQUIVALENT YIELD AND INCOME DOLLAR EQUIVALENT YIELD FOR FISCAL YEAR 2018

Pursuant to 32 V.S.A. § 5402b(b), for fiscal year 2018 only:

(1) the property dollar equivalent yield is $10,160.00; and

(2) the income dollar equivalent yield is $11,990.00.

Sec. 2. NONRESIDENTIAL PROPERTY TAX RATE FOR FISCAL YEAR 2018

For fiscal year 2018 only, the nonresidential education property tax imposed under 32 V.S.A. § 5402(a)(2) shall be reduced from the rate of $1.59 and instead be $1.555 per $100.00.

* * * Education Fund Allocation; Sales and Use Tax * * *

Sec. 3. 16 V.S.A. § 4025 is amended to read:

§ 4025. EDUCATION FUND

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

* * *

(6) ~~Thirty-five~~ Thirty-six percent of the revenues raised from the sales and use tax imposed by 32 V.S.A. chapter 233.

* * *

Sec. 4. 32 V.S.A. § 435(b) is amended to read:

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

* * *

(11) ~~65~~ 64 percent of the revenue from sales and use taxes levied pursuant to chapter 233 of this title;

* * *

* * * Health Benefits Commission* * *

Sec. 5. VERMONT EDUCATIONAL HEALTH BENEFITS COMMISSION

(a) The Vermont Educational Health Benefits Commission is created to determine whether and how to establish a single statewide health benefit plan for all teachers, administrators, and other employees of supervisory unions and school districts.

(b) The Commission shall comprise the following 10 members:

(1) four members of the labor organization representing the majority of teachers, administrators, and other employees of supervisory unions and school districts, appointed by its membership;

(2) one member on behalf of all other labor organizations representing teachers, administrators, and other employees of supervisory unions and school districts, jointly appointed by their membership;

(3) three members of the nonprofit organization representing Vermont's school boards, appointed by that organization's members; and

(4) two members of the nonprofit organization representing Vermont's superintendents, appointed by that organization's members.

(c) The Commission shall determine the advantages and disadvantages of establishing a single statewide health benefit plan for all teachers, administrators, and other employees of supervisory unions and school districts, including considering transition issues, potential savings from avoided negotiation expenses, whether to use income-sensitized premiums, ways to address benefit disparities between bargaining units, ways to address disparities between districts, property tax implications, and issues related to uninsured school employees.

(d) On or before November 15, 2017, the Commission shall provide its findings and recommendations, along with any necessary proposed legislation regarding the establishment of a statewide health benefit plan for all teachers, administrators, and other employees of supervisory unions and school districts, to the House Committees on Education, on General, Housing and Military Affairs, and on Ways and Means and the Senate Committees on Education, on Economic Development, Housing and General Affairs, and on Finance.

(e) As used in this section, the terms "supervisory union" and "school district" shall have the same meaning as in 16 V.S.A. § 11.

* * * Health Care Benefits and Coverage * * *

Sec. 6. HEALTH CARE BENEFITS AND COVERAGE FOR TEACHERS, ADMINISTRATORS, AND OTHER EMPLOYEES OF SUPERVISORY UNIONS AND SCHOOL DISTRICTS

(a) The health care benefit and coverage provisions of a collective bargaining agreement between a supervisory union or school district and its teachers, administrators, or other employees shall expire on or before September 1, 2019.

(b) As used in this section, the terms "supervisory union" and "school district" shall have the same meaning as in 16 V.S.A. § 11.

(c) This section shall not apply to collective bargaining agreements that were, prior to July 1, 2017, either executed or agreed to by a school board negotiations council and employee organization negotiations council pending ratification by the school board and by the bargaining unit or members of the employee organization.

* * * Effective Dates * * *

Sec. 7. EFFECTIVE DATES

(a) This section shall take effect on passage.

(b) Secs. 1 (yields) and 2 (nonresidential rate) shall take effect on July 1, 2017 and apply to fiscal year 2018 and after.

(c) Secs. 3 and 4 (sales tax allocation) shall take effect on July 1, 2018 and apply to fiscal year 2019 and after.

(d) Sec. 5 (Vermont Educational Health Benefits Commission) shall take effect on passage, with the first meeting of the Commission to occur on or before July 1, 2017.

(e) Sec. 6 (health care benefits and coverage) shall take effect on July 1, 2017.

ANN E. CUMMINGS
M. JANE KITCHEL

Committee on the part of the Senate

JANET ANCEL
HELEN J. HEAD
DAVID D. SHARPE

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative on a roll call, Yeas 20, Nays 8.

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, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, McCormack, Nitka, Pearson, Pollina, Sears, Sirotkin, Starr, White.

Those Senators who voted in the negative were: Benning, Branagan, Collamore, Degree, Flory, Mazza, Mullin, Westman.

Those Senators absent and not voting were: Baruth, Rodgers.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 518.

Pending entry on the Calendar for notice, on motion of Senator Kitchel, the rules were suspended and the report of the Committee of Conference on House bill entitled:

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

Was taken up for immediate consideration.

Senator Kitchel, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

H. 518. An act relating to making appropriations for the support of government.

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

Sec. A.100 SHORT TITLE

(a) This bill may be referred to as the BIG BILL – Fiscal Year 2018 Appropriations Act.

Sec. A.101 PURPOSE

(a) The purpose of this act is to provide appropriations for the operations of State government during fiscal year 2018. It is the express intent of the General Assembly that activities of the various agencies, departments, divisions, boards, and commissions be limited to those which can be supported by funds appropriated in this act or other acts passed prior to June 30, 2017. Agency and department heads are directed to implement staffing and service levels at the beginning of fiscal year 2018 so as to meet this condition unless otherwise directed by specific language in this act or other acts of the General Assembly.

Sec. A.102 APPROPRIATIONS

(a) It is the intent of the General Assembly that this act serve as the primary source and reference for appropriations for fiscal year 2018.

(b) The sums herein stated are appropriated for the purposes specified in the following sections of this act. When no time is expressly stated during which any of the appropriations are to continue, the appropriations are single-year appropriations and only for the purpose indicated and shall be paid from funds shown as the source of funds. If in this act there is an error in either addition or subtraction, the totals shall be adjusted accordingly. Apparent errors in referring to section numbers of statutory titles within this act may be disregarded by the Commissioner of Finance and Management.

(c) Unless codified or otherwise specified, all narrative portions of this act apply only to the fiscal year ending on June 30, 2018.

Sec. A.103 DEFINITIONS

(a) As used in this act:

(1) "Encumbrances" means a portion of an appropriation reserved for the subsequent payment of existing purchase orders or contracts. The Commissioner of Finance and Management shall make final decisions on the appropriateness of encumbrances.

(2) "Grants" means subsidies, aid, or payments to local governments, to community and quasi-public agencies for providing local services, and to persons who are not wards of the State for services or supplies and means cash or other direct assistance, including pension contributions.

(3) "Operating expenses" means property management, repair and maintenance, rental expenses, insurance, postage, travel, energy and utilities, office and other supplies, equipment, including motor vehicles, highway materials, and construction, expenditures for the purchase of land and construction of new buildings and permanent improvements, and similar items.

(4) "Personal services" means wages and salaries, fringe benefits, per diems, contracted third-party services, and similar items.

Sec. A.104 RELATIONSHIP TO EXISTING LAWS

(a) Except as specifically provided, this act shall not be construed in any way to negate or impair the full force and effect of existing laws.

Sec. A.105 OFFSETTING APPROPRIATIONS

(a) In the absence of specific provisions to the contrary in this act, when total appropriations are offset by estimated receipts, the State appropriations shall control, notwithstanding receipts being greater or less than anticipated.

Sec. A.106 FEDERAL FUNDS

(a) In fiscal year 2018, the Governor, with the approval of the Legislature or the Joint Fiscal Committee if the Legislature is not in session, may accept federal funds available to the State of Vermont, including block grants in lieu of or in addition to funds herein designated as federal. The Governor, with the approval of the Legislature or the Joint Fiscal Committee if the Legislature is not in session, may allocate all or any portion of such federal funds for any purpose consistent with the purposes for which the basic appropriations in this act have been made.

(b) If, during fiscal year 2018, federal funds available to the State of Vermont and designated as federal in this and other acts of the 2017 session of the Vermont General Assembly are converted into block grants or are abolished under their current title in federal law and reestablished under a new title in federal law, the Governor may continue to accept such federal funds for any purpose consistent with the purposes for which the federal funds were appropriated. The Governor may spend such funds for such purposes for no more than 45 days prior to Legislative or Joint Fiscal Committee approval. Notice shall be given to the Joint Fiscal Committee without delay if the Governor intends to use the authority granted by this section, and the Joint Fiscal Committee shall meet in an expedited manner to review the Governor's request for approval.

Sec. A.107 NEW POSITIONS

(a) Notwithstanding any other provision of law, the total number of authorized State positions, both classified and exempt, excluding temporary positions as defined in 3 V.S.A. § 311(11), shall not be increased during fiscal year 2018 except for new positions authorized by the 2017 session. Limited service positions approved pursuant to 32 V.S.A. § 5 shall not be subject to this restriction, nor shall positions created pursuant to the Position Pilot Program authorized in 2014 Acts and Resolves No. 179, Sec. E.100(d), as amended by 2015 Acts and Resolves No. 4, Sec. 74, and by 2016 Acts and

Resolves No. 172, Sec. E.100.2, and as further amended by Sec. E.100.1 of this act.

Sec. A.108 LEGEND

(a) The bill is organized by functions of government. The sections between B.100 and B.9999 contain appropriations of funds for the upcoming budget year. The sections between E.100 and E.9999 contain language that relates to specific appropriations or government functions, or both. The function areas by section numbers are as follows:

B.100–B.199 and E.100–E.199	General Government
B.200–B.299 and E.200–E.299	Protection to Persons and Property
B.300–B.399 and E.300–E.399	Human Services
B.400–B.499 and E.400–E.499	Labor
B.500–B.599 and E.500–E.599	General Education
B.600–B.699 and E.600–E.699	Higher Education
B.700–B.799 and E.700–E.799	Natural Resources
B.800–B.899 and E.800–E.899	Commerce and Community Development
B.900–B.999 and E.900–E.999	Transportation
B.1000–B.1099 and E.1000–E.1099	Debt Service
B.1100–B.1199 and E.1100–E.1199	One-time and other appropriation actions

(b) The C sections contain any amendments to the current fiscal year, the D sections contain fund transfers and reserve allocations for the upcoming budget year, the F sections contain miscellaneous technical statute corrections, and the I sections contain housing bond authorization.

Sec. B.100 Secretary of administration - secretary's office

Personal services	777,092
Operating expenses	150,120
Total	927,212
Source of funds	
General fund	927,212
Total	927,212

Sec. B.101 Secretary of administration - finance

Personal services	1,187,190
Operating expenses	153,789
Total	1,340,979

Source of funds	
Interdepartmental transfers	1,340,979
Total	1,340,979

Sec. B.102 Secretary of administration - workers' compensation insurance

Personal services	566,009
Operating expenses	226,235
Total	792,244
Source of funds	
Internal service funds	792,244
Total	792,244

Sec. B.103 Secretary of administration - general liability insurance

Personal services	445,807
Operating expenses	43,958
Total	489,765
Source of funds	
Internal service funds	489,765
Total	489,765

Sec. B.104 Secretary of administration - all other insurance

Personal services	22,513
Operating expenses	11,382
Total	33,895
Source of funds	
Internal service funds	33,895
Total	33,895

Sec. B.105 Information and innovation - communications and information technology

Personal services	24,540,424
Operating expenses	15,675,832
Total	40,216,256
Source of funds	
Internal service funds	40,216,256
Total	40,216,256

Sec. B.106 Finance and management - budget and management

Personal services	1,471,321
Operating expenses	202,003
Total	1,673,324
Source of funds	
General fund	1,309,469

Interdepartmental transfers	363,855
Total	1,673,324

Sec. B.107 Finance and management - financial operations

Personal services	2,374,631
Operating expenses	619,703
Total	2,994,334
Source of funds	
Internal service funds	2,994,334
Total	2,994,334

Sec. B.108 Human resources - operations

Personal services	7,612,746
Operating expenses	1,377,239
Total	8,989,985
Source of funds	
General fund	1,968,777
Special funds	277,462
Internal service funds	6,206,438
Interdepartmental transfers	537,308
Total	8,989,985

Sec. B.108.1 Human Resources - VTHR Operations

Personal services	1,802,885
Operating expenses	765,629
Total	2,568,514
Source of funds	
Internal service funds	2,568,514
Total	2,568,514

Sec. B.109 Human resources - employee benefits & wellness

Personal services	1,070,140
Operating expenses	581,803
Total	1,651,943
Source of funds	
Internal service funds	1,651,943
Total	1,651,943

Sec. B.110 Libraries

Personal services	1,759,682
Operating expenses	1,463,407
Grants	148,400
Total	3,371,489

Source of funds	
General fund	2,329,975
Special funds	123,998
Federal funds	820,514
Interdepartmental transfers	97,002
Total	3,371,489

Sec. B.111 Tax - administration/collection

Personal services	14,471,939
Operating expenses	5,117,491
Total	19,589,430
Source of funds	
General fund	18,075,976
Special funds	1,370,888
Interdepartmental transfers	142,566
Total	19,589,430

Sec. B.112 Buildings and general services - administration

Personal services	659,538
Operating expenses	103,275
Total	762,813
Source of funds	
Interdepartmental transfers	762,813
Total	762,813

Sec. B.113 Buildings and general services - engineering

Personal services	2,725,021
Operating expenses	812,504
Total	3,537,525
Source of funds	
General fund	0
Interdepartmental transfers	3,537,525
Total	3,537,525

Sec. B.114 Buildings and general services - information centers

Personal services	3,247,710
Operating expenses	1,560,479
Grants	35,750
Total	4,843,939
Source of funds	
General fund	632,642
Transportation fund	3,886,230
Special funds	325,067
Total	4,843,939

Sec. B.115 Buildings and general services - purchasing

Personal services	1,052,452
Operating expenses	197,598
Total	1,250,050
Source of funds	
General fund	1,250,050
Total	1,250,050

Sec. B.116 Buildings and general services - postal services

Personal services	741,125
Operating expenses	116,121
Total	857,246
Source of funds	
General fund	85,063
Internal service funds	772,183
Total	857,246

Sec. B.117 Buildings and general services - copy center

Personal services	708,890
Operating expenses	162,809
Total	871,699
Source of funds	
Internal service funds	871,699
Total	871,699

Sec. B.118 Buildings and general services - fleet management services

Personal services	759,471
Operating expenses	239,611
Total	999,082
Source of funds	
Internal service funds	999,082
Total	999,082

Sec. B.119 Buildings and general services - federal surplus property

Personal services	32,667
Operating expenses	5,760
Total	38,427
Source of funds	
Enterprise funds	38,427
Total	38,427

Sec. B.120 Buildings and general services - state surplus property

Personal services	142,751
Operating expenses	109,881
Total	252,632
Source of funds	
Internal service funds	252,632
Total	252,632

Sec. B.121 Buildings and general services - property management

Personal services	1,025,441
Operating expenses	864,228
Total	1,889,669
Source of funds	
Internal service funds	1,889,669
Total	1,889,669

Sec. B.122 Buildings and general services - fee for space

Personal services	15,282,330
Operating expenses	14,081,331
Total	29,363,661
Source of funds	
Internal service funds	29,363,661
Total	29,363,661

Sec. B.124 Executive office - governor's office

Personal services	1,412,803
Operating expenses	468,873
Total	1,881,676
Source of funds	
General fund	1,695,176
Interdepartmental transfers	186,500
Total	1,881,676

Sec. B.125 Legislative council

Personal services	3,812,245
Operating expenses	866,666
Total	4,678,911
Source of funds	
General fund	4,678,911
Total	4,678,911

Sec. B.126 Legislature

Personal services	3,932,539
Operating expenses	3,649,343
Total	7,581,882
Source of funds	
General fund	7,581,882
Total	7,581,882

Sec. B.127 Joint fiscal committee

Personal services	1,603,075
Operating expenses	154,661
Total	1,757,736
Source of funds	
General fund	1,757,736
Total	1,757,736

Sec. B.128 Sergeant at arms

Personal services	667,093
Operating expenses	74,252
Total	741,345
Source of funds	
General fund	741,345
Total	741,345

Sec. B.129 Lieutenant governor

Personal services	208,858
Operating expenses	30,097
Total	238,955
Source of funds	
General fund	238,955
Total	238,955

Sec. B.130 Auditor of accounts

Personal services	3,689,915
Operating expenses	158,765
Total	3,848,680
Source of funds	
General fund	400,371
Special funds	53,145
Internal service funds	3,395,164
Total	3,848,680

Sec. B.131 State treasurer

Personal services	3,443,785
Operating expenses	267,689
Total	3,711,474
Source of funds	
General fund	1,006,452
Special funds	2,604,257
Interdepartmental transfers	100,765
Total	3,711,474

Sec. B.132 State treasurer - unclaimed property

Personal services	827,048
Operating expenses	298,653
Total	1,125,701
Source of funds	
Private purpose trust funds	1,125,701
Total	1,125,701

Sec. B.133 Vermont state retirement system

Personal services	5,984,464
Operating expenses	1,314,760
Total	7,299,224
Source of funds	
Pension trust funds	7,299,224
Total	7,299,224

Sec. B.134 Municipal employees' retirement system

Personal services	2,096,238
Operating expenses	751,569
Total	2,847,807
Source of funds	
Pension trust funds	2,847,807
Total	2,847,807

Sec. B.135 State labor relations board

Personal services	208,856
Operating expenses	47,734
Total	256,590
Source of funds	
General fund	247,014
Special funds	6,788
Interdepartmental transfers	2,788
Total	256,590

Sec. B.136 VOSHA review board

Personal services	74,662
Operating expenses	13,543
Total	88,205
Source of funds	
General fund	44,103
Interdepartmental transfers	44,102
Total	88,205

Sec. B.137 Homeowner rebate

Grants	16,600,000
Total	16,600,000
Source of funds	
General fund	16,600,000
Total	16,600,000

Sec. B.138 Renter rebate

Grants	10,500,000
Total	10,500,000
Source of funds	
General fund	3,150,000
Education fund	7,350,000
Total	10,500,000

Sec. B.139 Tax department - reappraisal and listing payments

Grants	3,460,000
Total	3,460,000
Source of funds	
Education fund	3,460,000
Total	3,460,000

Sec. B.140 Municipal current use

Grants	15,283,643
Total	15,283,643
Source of funds	
General fund	15,283,643
Total	15,283,643

Sec. B.141 Lottery commission

Personal services	1,950,778
Operating expenses	1,321,236
Grants	150,000
Total	3,422,014

Source of funds	
Enterprise funds	3,422,014
Total	3,422,014
Sec. B.142 Payments in lieu of taxes	
Grants	7,600,000
Total	7,600,000
Source of funds	
Special funds	7,600,000
Total	7,600,000
Sec. B.143 Payments in lieu of taxes - Montpelier	
Grants	184,000
Total	184,000
Source of funds	
Special funds	184,000
Total	184,000
Sec. B.144 Payments in lieu of taxes - correctional facilities	
Grants	40,000
Total	40,000
Source of funds	
Special funds	40,000
Total	40,000
Sec. B.145 Total general government	
Source of funds	
General fund	80,004,752
Transportation fund	3,886,230
Special funds	12,585,605
Education fund	10,810,000
Federal funds	820,514
Internal service funds	92,497,479
Interdepartmental transfers	7,116,203
Enterprise funds	3,460,441
Pension trust funds	10,147,031
Private purpose trust funds	1,125,701
Total	222,453,956
Sec. B.200 Attorney general	
Personal services	9,260,374
Operating expenses	1,382,078

Grants	26,894
Total	10,669,346
Source of funds	
General fund	4,876,409
Special funds	1,774,350
Tobacco fund	348,000
Federal funds	1,113,091
Interdepartmental transfers	2,557,496
Total	10,669,346

Sec. B.201 Vermont court diversion

Personal services	823,550
Operating expenses	500
Grants	1,996,483
Total	2,820,533
Source of funds	
General fund	2,156,486
Special funds	664,047
Total	2,820,533

Sec. B.202 Defender general - public defense

Personal services	10,815,479
Operating expenses	1,058,134
Total	11,873,613
Source of funds	
General fund	11,283,960
Special funds	589,653
Total	11,873,613

Sec. B.203 Defender general - assigned counsel

Personal services	5,631,235
Operating expenses	49,819
Total	5,681,054
Source of funds	
General fund	5,681,054
Total	5,681,054

Sec. B.204 Judiciary

Personal services	38,277,720
Operating expenses	9,358,344
Grants	76,030
Total	47,712,094
Source of funds	

General fund	42,162,907
Special funds	2,667,460
Federal funds	556,455
Interdepartmental transfers	2,325,272
Total	47,712,094

Sec. B.205 State's attorneys

Personal services	12,440,142
Operating expenses	2,158,949
Total	14,599,091
Source of funds	
General fund	11,733,829
Special funds	123,480
Federal funds	31,000
Interdepartmental transfers	2,710,782
Total	14,599,091

Sec. B.206 Special investigative unit

Personal services	85,000
Operating expenses	1,100
Grants	1,913,000
Total	1,999,100
Source of funds	
General fund	1,999,100
Total	1,999,100

Sec. B.207 Sheriffs

Personal services	4,061,398
Operating expenses	433,009
Total	4,494,407
Source of funds	
General fund	4,494,407
Total	4,494,407

Sec. B.208 Public safety - administration

Personal services	2,624,989
Operating expenses	2,661,095
Total	5,286,084
Source of funds	
General fund	2,896,171
Federal funds	279,160
Interdepartmental transfers	2,110,753
Total	5,286,084

Sec. B.209 Public safety - state police

Personal services	52,941,680
Operating expenses	9,656,601
Grants	759,635
Total	63,357,916
Source of funds	
General fund	35,799,847
Transportation fund	20,250,000
Special funds	3,190,202
Federal funds	2,334,001
Interdepartmental transfers	1,783,866
Total	63,357,916

Sec. B.210 Public safety - criminal justice services

Personal services	9,015,234
Operating expenses	2,346,270
Grants	191,650
Total	11,553,154
Source of funds	
General fund	7,006,967
Special funds	2,134,552
Federal funds	1,516,096
Interdepartmental transfers	895,539
Total	11,553,154

Sec. B.211 Public safety - emergency management and homeland security

Personal services	3,398,216
Operating expenses	1,401,401
Grants	10,100,000
Total	14,899,617
Source of funds	
General fund	516,797
Special funds	300,000
Federal funds	13,798,597
Interdepartmental transfers	284,223
Total	14,899,617

Sec. B.212 Public safety - fire safety

Personal services	6,442,511
Operating expenses	3,083,185
Grants	107,000
Total	9,632,696

Source of funds	
General fund	426,712
Special funds	8,309,126
Federal funds	851,858
Interdepartmental transfers	45,000
Total	9,632,696

Sec. B.215 Military - administration

Personal services	712,974
Operating expenses	359,195
Grants	100,000
Total	1,172,169
Source of funds	
General fund	1,172,169
Total	1,172,169

Sec. B.216 Military - air service contract

Personal services	5,527,805
Operating expenses	1,073,275
Total	6,601,080
Source of funds	
General fund	583,733
Federal funds	6,017,347
Total	6,601,080

Sec. B.217 Military - army service contract

Personal services	7,325,373
Operating expenses	6,008,750
Total	13,334,123
Source of funds	
Federal funds	13,334,123
Total	13,334,123

Sec. B.218 Military - building maintenance

Personal services	884,161
Operating expenses	696,659
Total	1,580,820
Source of funds	
General fund	1,520,820
Special funds	60,000
Total	1,580,820

Sec. B.219 Military - veterans' affairs

Personal services	762,092
Operating expenses	163,245
Grants	94,380
Total	1,019,717
Source of funds	
General fund	794,678
Special funds	125,310
Federal funds	99,729
Total	1,019,717

Sec. B.220 Center for crime victim services

Personal services	1,788,731
Operating expenses	312,067
Grants	11,663,697
Total	13,764,495
Source of funds	
General fund	1,264,140
Special funds	5,132,559
Federal funds	7,367,796
Total	13,764,495

Sec. B.221 Criminal justice training council

Personal services	1,061,527
Operating expenses	1,277,414
Total	2,338,941
Source of funds	
General fund	2,298,555
Interdepartmental transfers	40,386
Total	2,338,941

Sec. B.222 Agriculture, food and markets - administration

Personal services	1,654,766
Operating expenses	288,742
Grants	272,972
Total	2,216,480
Source of funds	
General fund	1,098,695
Special funds	630,066
Federal funds	487,719
Total	2,216,480

Sec. B.223 Agriculture, food and markets - food safety and consumer protection

Personal services	3,939,183
Operating expenses	726,671
Grants	2,750,000
Total	7,415,854
Source of funds	
General fund	2,661,332
Special funds	3,672,807
Federal funds	1,074,715
Interdepartmental transfers	7,000
Total	7,415,854

Sec. B.224 Agriculture, food and markets - agricultural development

Personal services	1,640,008
Operating expenses	1,016,357
Grants	1,170,875
Total	3,827,240
Source of funds	
General fund	1,928,127
Special funds	625,830
Federal funds	1,233,783
Interdepartmental transfers	39,500
Total	3,827,240

Sec. B.225 Agriculture, food and markets - agricultural resource management and environmental stewardship

Personal services	3,344,918
Operating expenses	563,044
Grants	587,000
Total	4,494,962
Source of funds	
General fund	1,852,119
Special funds	1,958,384
Federal funds	477,028
Interdepartmental transfers	207,431
Total	4,494,962

Sec. B.225.1 Agriculture, food and markets - Vermont Agriculture and Environmental Lab

Personal services	1,356,637
Operating expenses	757,396
Total	2,114,033

Source of funds	
General fund	848,119
Special funds	1,207,787
Interdepartmental transfers	58,127
Total	2,114,033

Sec. B.225.2 Agriculture, Food and Markets - Clean Water

Personal services	1,070,182
Operating expenses	266,190
Grants	850,000
Total	2,186,372
Source of funds	
Special funds	2,186,372
Total	2,186,372

Sec. B.226 Financial regulation - administration

Personal services	1,998,578
Operating expenses	198,577
Total	2,197,155
Source of funds	
Special funds	2,197,155
Total	2,197,155

Sec. B.227 Financial regulation - banking

Personal services	1,668,222
Operating expenses	394,337
Total	2,062,559
Source of funds	
Special funds	2,062,559
Total	2,062,559

Sec. B.228 Financial regulation - insurance

Personal services	4,436,994
Operating expenses	555,765
Total	4,992,759
Source of funds	
Special funds	4,921,496
Interdepartmental transfers	71,263
Total	4,992,759

Sec. B.229 Financial regulation - captive insurance

Personal services	4,476,171
Operating expenses	566,984
Total	5,043,155

Source of funds	
Special funds	5,043,155
Total	5,043,155
Sec. B.230 Financial regulation - securities	
Personal services	863,956
Operating expenses	185,402
Total	1,049,358
Source of funds	
Special funds	1,049,358
Total	1,049,358
Sec. B.232 Secretary of state	
Personal services	9,750,435
Operating expenses	2,538,565
Total	12,289,000
Source of funds	
Special funds	11,007,000
Federal funds	1,207,000
Interdepartmental transfers	75,000
Total	12,289,000
Sec. B.233 Public service - regulation and energy	
Personal services	10,273,714
Operating expenses	2,111,355
Grants	3,883,867
Total	16,268,936
Source of funds	
Special funds	13,856,417
Federal funds	1,234,279
ARRA funds	1,120,000
Interdepartmental transfers	41,667
Enterprise funds	16,573
Total	16,268,936
Sec. B.234 Public service board	
Personal services	3,166,727
Operating expenses	481,111
Total	3,647,838
Source of funds	
Special funds	3,647,838
Total	3,647,838

Sec. B.235 Enhanced 9-1-1 Board

Personal services	3,759,427
Operating expenses	362,937
Grants	720,000
Total	4,842,364
Source of funds	
Special funds	4,842,364
Total	4,842,364

Sec. B.236 Human rights commission

Personal services	481,533
Operating expenses	79,095
Total	560,628
Source of funds	
General fund	490,527
Federal funds	70,101
Total	560,628

Sec. B.237 Liquor control - administration

Personal services	3,864,134
Operating expenses	600,485
Total	4,464,619
Source of funds	
Enterprise funds	4,464,619
Total	4,464,619

Sec. B.238 Liquor control - enforcement and licensing

Personal services	2,660,717
Operating expenses	560,506
Total	3,221,223
Source of funds	
Special funds	20,000
Tobacco fund	213,843
Federal funds	312,503
Enterprise funds	2,674,877
Total	3,221,223

Sec. B.239 Liquor control - warehousing and distribution

Personal services	990,624
Operating expenses	422,578
Total	1,413,202
Source of funds	

Enterprise funds	1,413,202
Total	1,413,202

Sec. B.240 Total protection to persons and property

Source of funds	
General fund	147,547,660
Transportation fund	20,250,000
Special funds	83,999,327
Tobacco fund	561,843
Federal funds	53,396,381
ARRA funds	1,120,000
Interdepartmental transfers	13,253,305
Enterprise funds	8,569,271
Total	328,697,787

Sec. B.300 Human services - agency of human services - secretary's office

Personal services	19,186,112
Operating expenses	5,402,146
Grants	7,444,843
Total	32,033,101
Source of funds	
General fund	10,014,889
Special funds	91,017
Tobacco fund	0
Federal funds	19,149,640
Global Commitment fund	453,000
Interdepartmental transfers	2,324,555
Total	32,033,101

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

Operating expenses	846,057
Grants	1,582,497,210
Total	1,583,343,267
Source of funds	
General fund	265,834,181
Special funds	29,496,422
Tobacco fund	21,269,352
State health care resources fund	293,176,780
Federal funds	955,526,532
Interdepartmental transfers	18,040,000
Total	1,583,343,267

Sec. B.302 Rate setting

Personal services	864,718
Operating expenses	97,142
Total	961,860
Source of funds	
General fund	480,930
Federal funds	480,930
Total	961,860

Sec. B.303 Developmental disabilities council

Personal services	290,325
Operating expenses	67,012
Grants	248,388
Total	605,725
Source of funds	
Federal funds	605,725
Total	605,725

Sec. B.304 Human services board

Personal services	682,525
Operating expenses	88,308
Total	770,833
Source of funds	
General fund	409,989
Federal funds	314,044
Interdepartmental transfers	46,800
Total	770,833

Sec. B.305 AHS - administrative fund

Personal services	350,000
Operating expenses	10,150,000
Total	10,500,000
Source of funds	
Interdepartmental transfers	10,500,000
Total	10,500,000

Sec. B.306 Department of Vermont health access - administration

Personal services	177,240,484
Operating expenses	5,542,033
Grants	7,264,742
Total	190,047,259
Source of funds	
General fund	31,518,780

Special funds	3,577,938
Federal funds	139,552,196
Global Commitment fund	7,915,736
Interdepartmental transfers	7,482,609
Total	190,047,259

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

Grants	752,459,668
Total	752,459,668
Source of funds	
Global Commitment fund	752,459,668
Total	752,459,668

Sec. B.308 Department of Vermont health access - Medicaid program - long term care waiver

Grants	196,483,201
Total	196,483,201
Source of funds	
General fund	753,720
Federal funds	896,280
Global Commitment fund	194,833,201
Total	196,483,201

Sec. B.309 Department of Vermont health access - Medicaid program - state only

Grants	50,175,082
Total	50,175,082
Source of funds	
General fund	40,507,054
Global Commitment fund	9,668,028
Total	50,175,082

Sec. B.310 Department of Vermont health access - Medicaid non-waiver matched

Grants	37,213,898
Total	37,213,898
Source of funds	
General fund	13,685,694
Federal funds	23,528,204
Total	37,213,898

Sec. B.311 Health - administration and support

Personal services	7,692,836
Operating expenses	2,999,965
Grants	3,725,000
Total	14,417,801
Source of funds	
General fund	2,646,995
Special funds	1,640,781
Federal funds	6,606,306
Global Commitment fund	3,478,719
Interdepartmental transfers	45,000
Total	14,417,801

Sec. B.312 Health - public health

Personal services	41,822,394
Operating expenses	7,579,809
Grants	36,106,485
Total	85,508,688
Source of funds	
General fund	8,567,428
Special funds	17,443,570
Tobacco fund	1,088,918
Federal funds	44,857,697
Global Commitment fund	12,551,629
Interdepartmental transfers	974,446
Permanent trust funds	25,000
Total	85,508,688

Sec. B.313 Health - alcohol and drug abuse programs

Personal services	3,763,900
Operating expenses	208,810
Grants	49,363,212
Total	53,335,922
Source of funds	
General fund	2,908,535
Special funds	1,084,761
Tobacco fund	949,917
Federal funds	13,197,694
Global Commitment fund	35,195,015
Total	53,335,922

Sec. B.314 Mental health - mental health

Personal services	29,838,587
Operating expenses	3,666,056
Grants	198,405,282
Total	231,909,925
Source of funds	
General fund	4,864,021
Special funds	434,904
Federal funds	6,691,092
Global Commitment fund	219,899,908
Interdepartmental transfers	20,000
Total	231,909,925

Sec. B.316 Department for children and families - administration & support services

Personal services	41,307,378
Operating expenses	10,464,802
Grants	3,678,688
Total	55,450,868
Source of funds	
General fund	30,639,729
Special funds	655,548
Federal funds	23,274,906
Global Commitment fund	664,660
Interdepartmental transfers	216,025
Total	55,450,868

Sec. B.317 Department for children and families - family services

Personal services	31,887,814
Operating expenses	4,723,500
Grants	75,838,377
Total	112,449,691
Source of funds	
General fund	33,280,421
Special funds	1,691,637
Federal funds	26,151,771
Global Commitment fund	51,191,608
Interdepartmental transfers	134,254
Total	112,449,691

Sec. B.318 Department for children and families - child development

Personal services	6,405,300
Operating expenses	802,146
Grants	76,955,662
Total	84,163,108
Source of funds	
General fund	34,716,782
Special funds	1,820,000
Federal funds	36,142,431
Global Commitment fund	11,483,895
Total	84,163,108

Sec. B.319 Department for children and families - office of child support

Personal services	10,242,836
Operating expenses	3,632,098
Total	13,874,934
Source of funds	
General fund	3,478,675
Special funds	455,719
Federal funds	9,552,940
Interdepartmental transfers	387,600
Total	13,874,934

Sec. B.320 Department for children and families - aid to aged, blind and disabled

Personal services	2,182,805
Grants	11,367,424
Total	13,550,229
Source of funds	
General fund	9,649,899
Global Commitment fund	3,900,330
Total	13,550,229

Sec. B.321 Department for children and families - general assistance

Grants	6,927,360
Total	6,927,360
Source of funds	
General fund	5,530,025
Federal funds	1,111,320
Global Commitment fund	286,015
Total	6,927,360

Sec. B.322 Department for children and families - 3SquaresVT

Grants	29,827,906
Total	29,827,906
Source of funds	
Federal funds	29,827,906
Total	29,827,906

Sec. B.323 Department for children and families - reach up

Operating expenses	95,202
Grants	33,735,219
Total	33,830,421
Source of funds	
General fund	6,717,098
Special funds	21,806,288
Federal funds	2,674,594
Global Commitment fund	2,632,441
Total	33,830,421

Sec. B.324 Department for children and families - home heating fuel assistance/LIHEAP

Grants	17,351,664
Total	17,351,664
Source of funds	
Federal funds	17,351,664
Total	17,351,664

Sec. B.325 Department for children and families - office of economic opportunity

Personal services	452,430
Operating expenses	33,444
Grants	9,673,747
Total	10,159,621
Source of funds	
General fund	4,483,212
Special funds	57,990
Federal funds	4,350,903
Global Commitment fund	1,267,516
Total	10,159,621

Sec. B.326 Department for children and families - OEO - weatherization assistance

Personal services	333,097
Operating expenses	56,878

Grants	10,529,067
Total	10,919,042
Source of funds	
Special funds	9,690,895
Federal funds	1,228,147
Total	10,919,042

Sec. B.327 Department for children and families - Woodside rehabilitation center

Personal services	5,515,892
Operating expenses	697,584
Total	6,213,476
Source of funds	
General fund	1,142,720
Global Commitment fund	4,973,756
Interdepartmental transfers	97,000
Total	6,213,476

Sec. B.328 Department for children and families - disability determination services

Personal services	6,023,192
Operating expenses	507,294
Total	6,530,486
Source of funds	
General fund	82,500
Federal funds	6,338,219
Global Commitment fund	109,767
Total	6,530,486

Sec. B.329 Disabilities, aging, and independent living - administration & support

Personal services	31,147,704
Operating expenses	5,194,746
Total	36,342,450
Source of funds	
General fund	15,894,860
Special funds	1,390,457
Federal funds	17,990,849
Interdepartmental transfers	1,066,284
Total	36,342,450

Sec. B.330 Disabilities, aging, and independent living - advocacy and independent living grants

Grants	21,162,885
Total	21,162,885
Source of funds	
General fund	8,403,232
Federal funds	7,148,466
Global Commitment fund	5,611,187
Total	21,162,885

Sec. B.331 Disabilities, aging, and independent living - blind and visually impaired

Grants	1,451,457
Total	1,451,457
Source of funds	
General fund	389,154
Special funds	223,450
Federal funds	593,853
Global Commitment fund	245,000
Total	1,451,457

Sec. B.332 Disabilities, aging, and independent living - vocational rehabilitation

Grants	8,972,255
Total	8,972,255
Source of funds	
General fund	1,371,845
Special funds	70,000
Federal funds	4,552,523
Global Commitment fund	7,500
Interdepartmental transfers	2,970,387
Total	8,972,255

Sec. B.333 Disabilities, aging, and independent living - developmental services

Grants	208,837,426
Total	208,837,426
Source of funds	
General fund	155,125
Special funds	15,463
Federal funds	359,857
Global Commitment fund	208,306,981
Total	208,837,426

Sec. B.334 Disabilities, aging, and independent living - TBI home and community based waiver

Grants	5,647,336
Total	5,647,336
Source of funds	
Global Commitment fund	5,647,336
Total	5,647,336

Sec. B.335 Corrections - administration

Personal services	2,761,226
Operating expenses	238,644
Total	2,999,870
Source of funds	
General fund	2,999,870
Total	2,999,870

Sec. B.336 Corrections - parole board

Personal services	259,000
Operating expenses	81,081
Total	340,081
Source of funds	
General fund	340,081
Total	340,081

Sec. B.337 Corrections - correctional education

Personal services	2,827,819
Operating expenses	510,128
Total	3,337,947
Source of funds	
Education fund	3,189,163
Interdepartmental transfers	148,784
Total	3,337,947

Sec. B.338 Corrections - correctional services

Personal services	108,272,207
Operating expenses	22,048,934
Grants	9,426,638
Total	139,747,779
Source of funds	
General fund	132,862,670
Special funds	629,963
Federal funds	470,962
Global Commitment fund	5,387,869

Interdepartmental transfers	396,315
Total	139,747,779

Sec. B.339 Corrections - Correctional services-out of state beds

Personal services	7,410,632
Total	7,410,632
Source of funds	
General fund	7,410,632
Total	7,410,632

Sec. B.340 Corrections - correctional facilities - recreation

Personal services	447,785
Operating expenses	455,845
Total	903,630
Source of funds	
Special funds	903,630
Total	903,630

Sec. B.341 Corrections - Vermont offender work program

Personal services	1,375,777
Operating expenses	565,784
Total	1,941,561
Source of funds	
Internal service funds	1,941,561
Total	1,941,561

Sec. B.342 Vermont veterans' home - care and support services

Personal services	18,740,073
Operating expenses	4,687,334
Total	23,427,407
Source of funds	
General fund	6,365,116
Special funds	8,474,443
Federal funds	8,176,862
Global Commitment fund	410,986
Total	23,427,407

Sec. B.343 Commission on women

Personal services	300,078
Operating expenses	70,983
Total	371,061
Source of funds	

General fund	371,061
Total	371,061

Sec. B.344 Retired senior volunteer program

Grants	151,096
Total	151,096
Source of funds	
General fund	151,096
Total	151,096

Sec. B.345 Green Mountain Care Board

Personal services	7,312,099
Operating expenses	1,407,428
Total	8,719,527
Source of funds	
General fund	2,119,482
Special funds	3,587,883
Federal funds	226,574
Global Commitment fund	2,567,518
Interdepartmental transfers	218,070
Total	8,719,527

Sec. B.346 Total human services

Source of funds	
General fund	690,747,501
Special funds	105,242,759
Tobacco fund	23,308,187
State health care resources fund	293,176,780
Education fund	3,189,163
Federal funds	1,408,931,087
Global Commitment fund	1,541,149,269
Internal service funds	1,941,561
Interdepartmental transfers	45,068,129
Permanent trust funds	25,000
Total	4,112,779,436

Sec. B.400 Labor - programs

Personal services	30,803,543
Operating expenses	8,195,159
Grants	1,500,000
Total	40,498,702
Source of funds	
General fund	3,282,129

Special funds	3,616,477
Federal funds	31,891,593
Interdepartmental transfers	1,708,503
Total	40,498,702

Sec. B.401 Total labor

Source of funds	
General fund	3,282,129
Special funds	3,616,477
Federal funds	31,891,593
Interdepartmental transfers	1,708,503
Total	40,498,702

Sec. B.500 Education - finance and administration

Personal services	8,878,194
Operating expenses	2,475,753
Grants	17,087,879
Total	28,441,826
Source of funds	
General fund	3,475,789
Special funds	18,430,173
Education fund	1,015,606
Federal funds	2,714,811
Global Commitment fund	260,000
Interdepartmental transfers	2,545,447
Total	28,441,826

Sec. B.501 Education - education services

Personal services	18,581,101
Operating expenses	1,604,659
Grants	125,444,492
Total	145,630,252
Source of funds	
General fund	5,530,968
Special funds	3,808,374
Tobacco fund	750,388
Federal funds	133,477,859
Interdepartmental transfers	2,062,663
Total	145,630,252

Sec. B.502 Education - special education: formula grants

Grants	180,749,796
Total	180,749,796

Source of funds	
Education fund	180,749,796
Total	180,749,796

Sec. B.503 Education - state-placed students

Grants	16,700,000
Total	16,700,000
Source of funds	
Education fund	16,700,000
Total	16,700,000

Sec. B.504 Education - adult education and literacy

Grants	4,254,045
Total	4,254,045
Source of funds	
General fund	787,995
Education fund	2,700,000
Federal funds	766,050
Total	4,254,045

Sec. B.504.1 Education - Flexible Pathways

Grants	7,200,000
Total	7,200,000
Source of funds	
Education fund	7,200,000
Total	7,200,000

Sec. B.505 Education - adjusted education payment

Grants	1,352,200,000
Total	1,352,200,000
Source of funds	
Education fund	1,352,200,000
Total	1,352,200,000

Sec. B.506 Education - transportation

Grants	18,745,381
Total	18,745,381
Source of funds	
Education fund	18,745,381
Total	18,745,381

Sec. B.507 Education - small school grants

Grants	7,600,000
Total	7,600,000
Source of funds	
Education fund	7,600,000
Total	7,600,000

Sec. B.508 Education - capital debt service aid

Grants	25,000
Total	25,000
Source of funds	
Education fund	25,000
Total	25,000

Sec. B.510 Education - essential early education grant

Grants	6,442,927
Total	6,442,927
Source of funds	
Education fund	6,442,927
Total	6,442,927

Sec. B.511 Education - technical education

Grants	13,613,512
Total	13,613,512
Source of funds	
Education fund	13,613,512
Total	13,613,512

Sec. B.513 Appropriation and transfer to education fund

Grants	314,695,753
Total	314,695,753
Source of funds	
General fund	314,695,753
Total	314,695,753

Sec. B.514 State teachers' retirement system

Grants	83,809,437
Total	83,809,437
Source of funds	
General fund	75,912,816
Education fund	7,896,621
Total	83,809,437

Sec. B.514.1 State teachers' retirement system

Personal services	6,192,879
Operating expenses	1,494,552
Total	7,687,431
Source of funds	
Pension trust funds	7,687,431
Total	7,687,431

Sec. B.515 Retired teachers' health care and medical benefits

Grants	27,560,966
Total	27,560,966
Source of funds	
General fund	27,560,966
Education fund	0
Total	27,560,966

Sec. B.516 Total general education

Source of funds	
General fund	427,964,287
Special funds	22,238,547
Tobacco fund	750,388
Education fund	1,614,888,843
Federal funds	136,958,720
Global Commitment fund	260,000
Interdepartmental transfers	4,608,110
Pension trust funds	7,687,431
Total	2,215,356,326

Sec. B.600 University of Vermont

Grants	42,509,093
Total	42,509,093
Source of funds	
General fund	38,462,876
Education fund	0
Global Commitment fund	4,046,217
Total	42,509,093

Sec. B.601 Vermont Public Television

Grants	1
Total	1
Source of funds	
General fund	1
Total	1

Sec. B.602 Vermont state colleges

Grants	27,300,464
Total	27,300,464
Source of funds	
General fund	27,300,464
Education fund	0
Total	27,300,464

Sec. B.602.1 Vermont state colleges - Supplemental Aid

Grants	700,000
Total	700,000
Source of funds	
General fund	700,000
Education fund	0
Total	700,000

Sec. B.603 Vermont state colleges - allied health

Grants	1,157,775
Total	1,157,775
Source of funds	
General fund	748,314
Education fund	0
Global Commitment fund	409,461
Total	1,157,775

Sec. B.605 Vermont student assistance corporation

Grants	19,414,588
Total	19,414,588
Source of funds	
General fund	19,414,588
Education fund	0
Total	19,414,588

Sec. B.606 New England higher education compact

Grants	84,000
Total	84,000
Source of funds	
General fund	84,000
Education fund	0
Total	84,000

Sec. B.607 University of Vermont - Morgan Horse Farm

Grants	1
Total	1
Source of funds	
General fund	1
Total	1

Sec. B.608 Total higher education

Source of funds	
General fund	86,710,244
Education fund	0
Global Commitment fund	4,455,678
Total	91,165,922

Sec. B.700 Natural resources - agency of natural resources - administration

Personal services	3,930,773
Operating expenses	1,090,586
Grants	34,960
Total	5,056,319
Source of funds	
General fund	4,231,479
Special funds	554,112
Federal funds	15,000
Interdepartmental transfers	255,728
Total	5,056,319

Sec. B.701 Natural resources - state land local property tax assessment

Operating expenses	2,493,229
Total	2,493,229
Source of funds	
General fund	2,071,729
Interdepartmental transfers	421,500
Total	2,493,229

Sec. B.702 Fish and wildlife - support and field services

Personal services	16,627,558
Operating expenses	5,223,271
Grants	860,000
Total	22,710,829
Source of funds	
General fund	5,120,337
Special funds	266,350
Fish and wildlife fund	9,329,826

Federal funds	7,865,515
Interdepartmental transfers	127,801
Permanent trust funds	1,000
Total	22,710,829

Sec. B.703 Forests, parks and recreation - administration

Personal services	1,353,932
Operating expenses	785,612
Grants	2,061,750
Total	4,201,294
Source of funds	
General fund	1,480,709
Special funds	1,447,050
Federal funds	1,263,535
Interdepartmental transfers	10,000
Total	4,201,294

Sec. B.704 Forests, parks and recreation - forestry

Personal services	5,345,642
Operating expenses	772,756
Grants	500,000
Total	6,618,398
Source of funds	
General fund	4,638,604
Special funds	347,174
Federal funds	1,362,000
Interdepartmental transfers	195,999
Permanent trust funds	74,621
Total	6,618,398

Sec. B.705 Forests, parks and recreation - state parks

Personal services	7,999,465
Operating expenses	2,603,498
Total	10,602,963
Source of funds	
General fund	555,654
Special funds	10,047,309
Total	10,602,963

Sec. B.706 Forests, parks and recreation - lands administration

Personal services	536,620
Operating expenses	1,201,508
Total	1,738,128

Source of funds	
General fund	501,609
Special funds	144,769
Federal funds	1,073,000
Interdepartmental transfers	18,750
Total	1,738,128

Sec. B.707 Forests, parks and recreation - youth conservation corps

Grants	326,689
Total	326,689
Source of funds	
General fund	48,307
Special funds	188,382
Interdepartmental transfers	90,000
Total	326,689

Sec. B.708 Forests, parks and recreation - forest highway maintenance

Personal services	94,000
Operating expenses	85,925
Total	179,925
Source of funds	
General fund	179,925
Total	179,925

Sec. B.709 Environmental conservation - management and support services

Personal services	5,671,296
Operating expenses	1,510,008
Grants	187,442
Total	7,368,746
Source of funds	
General fund	931,187
Special funds	351,935
Federal funds	702,230
Interdepartmental transfers	5,383,394
Total	7,368,746

Sec. B.710 Environmental conservation - air and waste management

Personal services	12,163,522
Operating expenses	8,258,175
Grants	2,061,047
Total	22,482,744
Source of funds	
General fund	95,050

Special funds	18,252,862
Federal funds	3,944,591
Interdepartmental transfers	190,241
Total	22,482,744

Sec. B.711 Environmental conservation - office of water programs

Personal services	18,132,902
Operating expenses	5,531,907
Grants	24,284,028
Total	47,948,837
Source of funds	
General fund	7,564,123
Special funds	10,876,060
Federal funds	28,447,666
Interdepartmental transfers	1,060,988
Total	47,948,837

Sec. B.713 Natural resources board

Personal services	2,556,391
Operating expenses	410,259
Grants	100,000
Total	3,066,650
Source of funds	
General fund	607,606
Special funds	2,459,044
Total	3,066,650

Sec. B.714 Total natural resources

Source of funds	
General fund	28,026,319
Special funds	44,935,047
Fish and wildlife fund	9,329,826
Federal funds	44,673,537
Interdepartmental transfers	7,754,401
Permanent trust funds	75,621
Total	134,794,751

Sec. B.800 Commerce and community development - agency of commerce and community development - administration

Personal services	3,175,456
Operating expenses	1,206,988
Grants	3,537,627
Total	7,920,071

Source of funds	
General fund	3,707,045
Special funds	4,059,800
Interdepartmental transfers	153,226
Total	7,920,071

Sec. B.801 Economic development

Personal services	2,295,552
Operating expenses	820,188
Grants	3,679,403
Total	6,795,143
Source of funds	
General fund	4,602,224
Special funds	610,350
Federal funds	1,582,569
Total	6,795,143

Sec. B.802 Housing & community development

Personal services	3,643,631
Operating expenses	786,231
Grants	4,258,021
Total	8,687,883
Source of funds	
General fund	2,627,105
Special funds	4,490,916
Federal funds	1,468,739
Interdepartmental transfers	101,123
Total	8,687,883

Sec. B.804 Community development block grants

Grants	6,326,320
Total	6,326,320
Source of funds	
Federal funds	6,326,320
Total	6,326,320

Sec. B.805 Downtown transportation and capital improvement fund

Personal services	98,581
Grants	335,151
Total	433,732
Source of funds	
Special funds	433,732
Total	433,732

Sec. B.806 Tourism and marketing	
Personal services	1,191,303
Operating expenses	1,792,070
Grants	121,880
Total	3,105,253
Source of funds	
General fund	3,075,253
Interdepartmental transfers	30,000
Total	3,105,253
Sec. B.807 Vermont life	
Personal services	715,174
Operating expenses	47,849
Total	763,023
Source of funds	
Enterprise funds	763,023
Total	763,023
Sec. B.808 Vermont council on the arts	
Grants	675,307
Total	675,307
Source of funds	
General fund	675,307
Total	675,307
Sec. B.809 Vermont symphony orchestra	
Grants	141,214
Total	141,214
Source of funds	
General fund	141,214
Total	141,214
Sec. B.810 Vermont historical society	
Grants	996,945
Total	996,945
Source of funds	
General fund	996,945
Total	996,945
Sec. B.811 Vermont housing and conservation board	
Grants	30,839,032
Total	30,839,032
Source of funds	

Special funds	12,150,447
Federal funds	18,688,585
Total	30,839,032

Sec. B.812 Vermont humanities council

Grants	217,959
Total	217,959
Source of funds	
General fund	217,959
Total	217,959

Sec. B.813 Total commerce and community development

Source of funds	
General fund	16,043,052
Special funds	21,745,245
Federal funds	28,066,213
Interdepartmental transfers	284,349
Enterprise funds	763,023
Total	66,901,882

Sec. B.900 Transportation - finance and administration

Personal services	11,835,039
Operating expenses	2,732,631
Grants	55,000
Total	14,622,670
Source of funds	
Transportation fund	13,520,910
Federal funds	1,101,760
Total	14,622,670

Sec. B.901 Transportation - aviation

Personal services	3,502,776
Operating expenses	14,029,319
Grants	204,000
Total	17,736,095
Source of funds	
Transportation fund	4,929,552
Federal funds	12,806,543
Total	17,736,095

Sec. B.902 Transportation - buildings

Operating expenses	1,900,000
Total	1,900,000

Source of funds	
Transportation fund	1,900,000
Total	1,900,000
Sec. B.903 Transportation - program development	
Personal services	53,313,749
Operating expenses	193,926,320
Grants	40,242,156
Total	287,482,225
Source of funds	
Transportation fund	39,895,056
TIB fund	8,198,136
Federal funds	238,291,275
Interdepartmental transfers	239,345
Local match	858,413
Total	287,482,225
Sec. B.904 Transportation - rest areas construction	
Personal services	42,274
Operating expenses	620,726
Total	663,000
Source of funds	
Transportation fund	79,774
Federal funds	583,226
Total	663,000
Sec. B.905 Transportation - maintenance state system	
Personal services	43,638,652
Operating expenses	45,265,393
Grants	421,780
Total	89,325,825
Source of funds	
Transportation fund	87,376,083
Federal funds	1,849,742
Interdepartmental transfers	100,000
Total	89,325,825
Sec. B.906 Transportation - policy and planning	
Personal services	3,804,950
Operating expenses	707,135
Grants	6,084,347
Total	10,596,432
Source of funds	

Transportation fund	2,706,491
Federal funds	7,755,912
Interdepartmental transfers	134,029
Total	10,596,432

Sec. B.907 Transportation - rail

Personal services	6,410,380
Operating expenses	30,670,870
Total	37,081,250
Source of funds	
Transportation fund	18,935,869
TIB fund	2,840,249
Federal funds	15,269,507
Interdepartmental transfers	35,625
Total	37,081,250

Sec. B.908 Transportation - public transit

Personal services	1,137,749
Operating expenses	120,263
Grants	30,874,145
Total	32,132,157
Source of funds	
Transportation fund	7,955,199
Federal funds	24,176,958
Total	32,132,157

Sec. B.909 Transportation - central garage

Personal services	4,459,194
Operating expenses	15,595,717
Total	20,054,911
Source of funds	
Internal service funds	20,054,911
Total	20,054,911

Sec. B.910 Department of motor vehicles

Personal services	18,395,579
Operating expenses	10,906,337
Total	29,301,916
Source of funds	
Transportation fund	27,773,478
Federal funds	1,423,438
Interdepartmental transfers	105,000
Total	29,301,916

Sec. B.911 Transportation - town highway structures

Grants	6,333,500
Total	6,333,500
Source of funds	
Transportation fund	6,333,500
Total	6,333,500

Sec. B.912 Transportation - town highway local technical assistance program

Operating expenses	71,627
Grants	329,066
Total	400,693
Source of funds	
Transportation fund	100,693
Federal funds	300,000
Total	400,693

Sec. B.913 Transportation - town highway class 2 roadway

Grants	7,848,750
Total	7,848,750
Source of funds	
Transportation fund	7,848,750
Total	7,848,750

Sec. B.914 Transportation - town highway bridges

Personal services	3,349,613
Operating expenses	13,074,396
Grants	100,000
Total	16,524,009
Source of funds	
Transportation fund	1,111,449
TIB fund	1,156,927
Federal funds	13,488,269
Local match	767,364
Total	16,524,009

Sec. B.915 Transportation - town highway aid program

Grants	25,982,744
Total	25,982,744
Source of funds	
Transportation fund	25,982,744
Total	25,982,744

Sec. B.916 Transportation - town highway class 1 supplemental grants

Grants	128,750
Total	128,750
Source of funds	
Transportation fund	128,750
Total	128,750

Sec. B.917 Transportation - town highway: state aid for nonfederal disasters

Grants	1,150,000
Total	1,150,000
Source of funds	
Transportation fund	1,150,000
Total	1,150,000

Sec. B.918 Transportation - town highway: state aid for federal disasters

Grants	180,000
Total	180,000
Source of funds	
Transportation fund	20,000
Federal funds	160,000
Total	180,000

Sec. B.919 Transportation - municipal mitigation assistance program

Operating expenses	150,000
Grants	7,632,342
Total	7,782,342
Source of funds	
Transportation fund	1,240,000
Special funds	1,100,000
Federal funds	5,442,342
Total	7,782,342

Sec. B.920 Transportation - public assistance grant program

Operating expenses	640,000
Grants	5,000,000
Total	5,640,000
Source of funds	
Transportation fund	160,000
Special funds	2,000,000
Federal funds	3,000,000
Interdepartmental transfers	480,000
Total	5,640,000

Sec. B.921 Transportation board	
Personal services	205,657
Operating expenses	28,093
Total	233,750
Source of funds	
Transportation fund	233,750
Total	233,750
Sec. B.922 Total transportation	
Source of funds	
Transportation fund	249,382,048
TIB fund	12,195,312
Special funds	3,100,000
Federal funds	325,648,972
Internal service funds	20,054,911
Interdepartmental transfers	1,093,999
Local match	1,625,777
Total	613,101,019
Sec. B.1000 Debt service	
Operating expenses	79,333,039
Total	79,333,039
Source of funds	
General fund	73,989,703
Transportation fund	1,709,452
ARRA funds	1,130,146
TIB debt service fund	2,503,738
Total	79,333,039
Sec. B.1001 Total debt service	
Source of funds	
General fund	73,989,703
Transportation fund	1,709,452
ARRA funds	1,130,146
TIB debt service fund	2,503,738
Total	79,333,039

Sec. B.1100 NEXT GENERATION; APPROPRIATIONS AND TRANSFERS

(a) In fiscal year 2018, $2,909,900 is appropriated or transferred from the Next Generation Initiative Fund created in 16 V.S.A. § 2887 as prescribed:

(1) Workforce education and training. The amount of $1,605,400 as follows:

(A) Workforce Education and Training Fund (WETF). The amount of $1,045,400 is transferred to the Workforce Education and Training Fund created in 10 V.S.A. § 543 and subsequently appropriated to the Department of Labor for workforce education and training. Up to seven percent of the funds may be used for administration of the program. Of this amount, $350,000 shall be allocated for competitive grants for internships through the Vermont Strong Internship Program pursuant to 10 V.S.A. § 544.

(B) Adult Career Technical Education Programs. The amount of $360,000 is appropriated to the Department of Labor in consultation with the State Workforce Development Board. This appropriation is for the purpose of awarding competitive grants to regional technical centers and high schools to provide adult career technical education, as that term is defined in 16 V.S.A. § 1522, to unemployed and underemployed Vermont adults.

(C) The amount of $200,000 is appropriated to the Agency of Commerce and Community Development to issue performance grants to the University of Vermont and the Vermont Center for Emerging Technologies for patent development and commercialization of technology and to enhance the development of high technology businesses and Next Generation employment opportunities throughout Vermont.

(2) Loan repayment. The amount of $30,000 as follows:

(A) Large animal veterinarians' loan forgiveness. The amount of $30,000 is appropriated to the Agency of Agriculture, Food and Markets for a loan repayment program for large animal veterinarians pursuant to 6 V.S.A. § 20.

(3) Scholarships and grants. The amount of $1,274,500 as follows:

(A) Nondegree VSAC grants. The amount of $494,500 is appropriated to the Vermont Student Assistance Corporation. These funds shall be for the purpose of providing nondegree grants to Vermonters to improve job skills and increase overall employability, enabling them to enroll in a postsecondary education or training program, including adult technical education that is not part of a degree or accredited certificate program. A portion of these funds shall be used for grants for indirect educational expenses to students enrolled in training programs. The grants shall not exceed $3,000 per student. None of these funds shall be used for administrative overhead.

(B) National Guard Educational Assistance. The amount of $150,000 is appropriated to Military – administration to be transferred to the

Vermont Student Assistance Corporation for the National Guard Educational Assistance Program established in 16 V.S.A. § 2856.

(C) Dual enrollment programs and need-based stipend. The amount of $600,000 is appropriated to the Agency of Education for dual enrollment programs consistent with 16 V.S.A. § 944(f)(2), and $30,000 is appropriated to the Agency of Education to be transferred to the Vermont Student Assistance Corporation for need-based stipends pursuant to Sec. E.605.1 of this act.

Sec. B.1100.1 DEPARTMENT OF LABOR RECOMMENDATION FOR FISCAL YEAR 2019 NEXT GENERATION FUND DISTRIBUTION

(a) The Department of Labor, in coordination with the Agencies of Commerce and Community Development, of Human Services, and of Education, and in consultation with the State Workforce Development Board, shall recommend to the Governor on or before December 1, 2017 how $2,909,900 from the Next Generation Initiative Fund should be allocated or appropriated in fiscal year 2019 to provide maximum benefit to workforce education and training, participation in secondary or postsecondary education by underrepresented groups, and support for promising economic sectors in Vermont. The State agencies and departments listed herein shall promote actively and publicly the availability of the funds to eligible entities.

Sec. B.1101 FISCAL YEAR 2018 ONE-TIME GENERAL FUND APPROPRIATIONS

(a) Department for Children and Families: The sum of $600,000 in general funds is appropriated to the Department for Children and Families to be used to facilitate the development of two seasonal warming shelters, one in the Rutland district office service area and one in the Barre district office service area to be in place for the 2017-2018 heating season. The Department for Children and Families and the local continuums of care in the Rutland and Barre districts shall report on or before September 15 and November 15, 2017 to the Legislative Joint Fiscal Committee on the progress of the siting and development of seasonal warming shelters in these two areas of the State. The Secretary of Human Services and the Commissioner for Children and Families shall work with hospitals and community organizations to access additional funding, matching funds, and in-kind contributions, and to facilitate siting to expand shelter availability throughout other regions of the State. A report on projected shelter availability for the 2017-2018 heating season shall be submitted to the Legislative Joint Fiscal Committee on or before November 15, 2017.

(b) Agency of Agriculture, Food and Markets: The sum of $25,000 in general funds is appropriated to the Agency of Agriculture, Food and Markets to support the Farms 2+2 Program.

(c) Agency of Agriculture, Food and Markets: The sum of $75,000 in general funds is appropriated to the Agency of Agriculture, Food and Markets for a grant to the Vermont Housing and Conservation Board for federal rural development grant writing assistance.

Sec. B.1102 FISCAL YEAR 2018 MANAGEMENT SAVINGS

(a) The Secretary of Administration shall reduce fiscal year 2018 appropriations and make transfers to the General Fund for a total of $5,000,000. The Administration is not limited to the following proposals to achieve this target, but shall analyze the following for fiscal year 2018 budgetary savings:

(1) the elimination of exempt positions;

(2) savings identified through improved business processes and administrative efficiencies;

(3) administrative or contractual reductions, including savings from improved systems of procurement;

(4) savings in State employee health care costs through increased price awareness;

(5) the Agency of Human Services shall review and quantify savings from improved oversight and fiscal controls in order to prevent fraud and overpayment related to personal care services reimbursed by the departments of the Agency;

(6) review of statewide operating expenses that include:

(A) physical space needs statewide for potential reduction of leased space or divestment of owned real estate where appropriate;

(B) examination of the alignment of the cost control incentives or disincentives in the State's largest internal service fund programs, including fee for space, and innovation and information charges; and

(C) telecommunication services, postage equipment, and other equipment rentals.

(b) The Department of Corrections shall be held harmless from the savings target in subsection (a) of this section due to Corrections-specific existing savings targets contained elsewhere in this act.

(c) Savings identified by the Administration to meet the target in subsection (a) of this section shall be multiyear in nature to the greatest extent possible. The Administration shall provide in the report required in subsection (d) of this section the fully annualized savings for any reductions and transfers that require more time to be fully implemented.

(d) The Secretary shall submit a written report of the appropriations reductions and transfers to the Joint Fiscal Committee in November 2017. The report shall include:

(1) the budgetary changes by agency and department and funding source;

(2) the short- and long-term implications to individuals, organizations, or State systems of each change;

(3) if any identified savings are only one-time in nature, the associated longer term actions that the Secretary recommends to make the savings continue into future years or become permanent; and

(4) if any reductions or transfers require specific statutory changes, these shall be summarized in the report and presented in full to the House and Senate Committees on Appropriations and other relevant standing committees during the 2018 legislative session.

Sec. B.1103 [DELETED]

Sec. B.1104 [DELETED]

Sec. B.1105 [DELETED]

Sec. B.1106 [DELETED]

Sec. B.1107 [DELETED]

Sec. C.100 FISCAL YEAR 2017 ONE-TIME APPROPRIATIONS

(a) In fiscal year 2017, the sum of $1,930,000 in general funds is appropriated to the Secretary of Administration to be carried forward into fiscal year 2018 for distribution to departments to provide funding for changes in employee classification occurring in fiscal year 2017 that are approved in accordance with the collective bargaining agreements.

(b) In fiscal year 2017, the sum of $323,826 in general funds is appropriated to the Judiciary for retroactive docket clerk reclassification.

(c) In fiscal year 2017, the sum of $245,246 in general funds is appropriated to the Attorney General to be carried forward into fiscal year 2018 for tobacco master settlement arbitration or litigation.

(d) In fiscal year 2017, the sum of $100,000 in general funds is appropriated to the Agency of Agriculture, Food and Markets to be carried forward for fiscal year 2018 one-time expenditure by the Vermont Working Lands Enterprise Board established in 6 V.S.A. § 4606 for investments in food and forest system businesses and service providers pursuant to 6 V.S.A. § 4607 and consistent with the funding priorities in 2012 Acts and Resolves No. 142, Sec. 5, as amended by 2014 Acts and Resolves No. 179, Sec. E.224.1.

(e) In fiscal year 2017, the sum of $1,250,000 in general funds is appropriated to the Department of Public Safety to purchase police cruiser and body cameras, including equipment, maintenance, and warranty costs. The first priority for the use of these funds shall be for the State match in fiscal years 2018 and 2019 for federal NHTSA/GHSP funds for cruiser cameras pending a waiver to meet "buy American" federal requirements. Second priority is for cruiser cameras if a waiver is denied. Body cameras may be purchased with any remaining funds.

(f) In fiscal year 2017, the sum of $200,000 in general funds is appropriated to the Department of Buildings and General Services to be used in combination with available capital appropriations for activities to reuse the Southeast State Correctional Facility located in Windsor, Vermont subsequent to a plan specified in Sec. E.335.1 of this act.

(g) In fiscal year 2017, the sum of $250,000 in general funds is appropriated to the Agency of Administration for a one-time grant to the Vermont Law School. This grant will provide a State match toward the $5,000,000 hybrid residential and online program designed to attract new groups of national and international students to enroll in Vermont-based programs at the law school.

(h) In fiscal year 2017, the sum of $260,000 in general funds is appropriated to the Office of the Attorney General to pay costs or liabilities incurred by the Attorney General representing Vermont consumers in pending matters relating to VW and the efficacy of a dietary supplement.

(i) In fiscal year 2017, the sum of $880,000 in general funds is appropriated to the Vermont State Colleges to pay the second of three installments to support the unification of Johnson and Lyndon State Colleges into the new Northern Vermont University.

(j) In fiscal year 2017, the sum of $27,000 in general funds is appropriated to the Department of Buildings and General Services to support the operating expenses of the Bennington Welcome Center. For subsequent fiscal years, operating expenses of the Bennington Welcome Center shall not be supported with supplemental appropriations in addition to the amounts requested by the

Department of Buildings and General Services and approved by the General Assembly in the annual appropriations bill.

(k) In fiscal year 2017, the sum of $150,000 in general funds is appropriated to the Agency of Commerce and Community Development for the Vermont Small Business Development Center for the purpose of increasing the number of business advisors in the State, with priority for underserved regions.

(l) In fiscal year 2017, the sum of $100,000 in general funds is appropriated to the Office of Economic Opportunity in the Department for Children and Families for pass-through grants to the Community Action Agencies to provide funding for the regional Microbusiness Development Programs pursuant to 3 V.S.A. § 3722.

Sec. C.100.1 ECONOMIC DEVELOPMENT MARKETING

(a) In fiscal year 2017, the Agency of Commerce and Community Development is authorized to transfer and carry forward $250,000 of general funds appropriated for the Vermont Training Program to:

(1) implement the Department of Economic Development's economic development marketing plan to attract and retain residents and businesses to Vermont, highlighting the many positive features that make Vermont a great place to live, work, and do business; and

(2) prioritize marketing tactics with the potential to shift most efficiently and effectively perceptions about Vermont as a place to live and work, and that will form a set of marketing assets and strategic framework to sustain Department of Economic Development activities beyond initial implementation.

(b) Funds available to implement this section may be matched with federal funds, special funds, grants, donations, and private funds. To increase the amount and effectiveness of marketing activities conducted, the Agency shall collaborate with private sector partners to maximize State marketing resources and to enable Vermont businesses to align their own brand identities with the Vermont brand, enhancing the reputations of both the business and the State.

(c) Prior to taking any action pursuant to subsection (a) of this section, including issuing any requests for proposals for contracts or grants to partner with the Department in implementing this section, the Secretary of Commerce and Community Development shall adopt relevant outcomes, performance measures, and indicators in order to:

(1) clearly articulate the goals and expectations for the State's economic development marketing plan and its implementation, any contracts or grants with the Department, and for the activities of the Department and its partners; and

(2) enable the General Assembly to evaluate the performance and effectiveness of the plan and its implementation, and of the activities of the Department and its partners undertaken pursuant to this section.

Sec. C.100.2 MEDICAID CARRY FORWARD REQUIREMENT

(a) In fiscal year 2017, the Agency of Human Services shall reserve and carry forward to fiscal year 2018 $1,250,000 of the general funds appropriated in 2016 Acts and Resolves No. 172, Sec. B.301 as amended by 2017 Acts and Resolves No. 3, Sec. 18. The Commissioner of Finance and Management is authorized to adjust fiscal year 2017 Federal Fund and Global Commitment Fund appropriations in the Agency of Human Services and Department of Vermont Health Access to comport with this requirement.

Sec. C.101 2017 Acts and Resolves No. 3, Sec. 60 is amended to read

Sec. 60. FUND TRANSFERS

(a) Notwithstanding any provision of law to the contrary, in fiscal year 2017:

(1) The following amounts shall be transferred to the General Fund from the funds indicated:

21054	Misc. Fines & Penalties	442,849.77
21065	Financial Institute Supervision	728,499.86
21405	Bond Investment Earnings Fund	161,100.90
21550	Land & Facilities Trust Fund	450,000.00
21641	AG – Administrative Special Fund	30,848.02
21638	AG – Fees & Reimbursements -Court Order	(est.) 2,400,000.00
22005	AHS Central Office earned federal receipts	28,040,542.00
50300	Liquor Control Fund	955,000.00
	Caledonia Fair	5,000.00
	North Country Hospital Loan	24,250.00

(2) All or a portion of the unencumbered balances in the Insurance Regulatory and Supervision Fund (Fund Number 21075), the Captive Insurance Regulatory and Supervision Fund (Fund Number 21085), and the Securities Regulatory and Supervision Fund (Fund Number 21080) expected to be approximately ~~$22,452,018~~ $22,732,018 shall be transferred to the General Fund, provided that on or before July 1, 2017, the Commissioner of Financial Regulation certifies to the Joint Fiscal Committee that the transfer of such balances, or any smaller portion deemed proper by the Commissioner, will not

impair the ability of the Department in fiscal year 2018 to provide thorough, competent, fair, and effective regulatory services, or maintain accreditation by the National Association of Insurance Commissioners; and that the Joint Fiscal Committee does not reject such certification.

(3) The following amounts shall be transferred from the General Fund to the funds indicated:

~~21275~~	~~Environmental Contingency Fund~~	~~500,000.00~~
21555	Emergency Relief and Assistance Fund	~~1,176,226.00~~ 2,632,014.00
59500	Single Audit Revolving Fund	196,169.00

* * *

Sec. C.102 VOLKSWAGEN SETTLEMENT

(a) The estimated $4,242,401 multistate settlement from Volkswagen to be received by the State of Vermont in fiscal year 2017 or fiscal year 2018 shall be deposited into the Environmental Contingency Fund (fund 21275). In fiscal year 2018, $1,000,000 shall be transferred to the General Fund, and the balance shall remain in the Environmental Contingency Fund (fund 21275).

Sec. C.103 2017 Acts and Resolves No. 3, Sec. 62 is amended to read:

Sec. 62. EXPENDITURE OF HUMAN SERVICES CASELOAD MANAGEMENT RESERVE

~~(a) In fiscal year 2017, $3,738,117 from the General Fund is appropriated to the Commissioner of Finance and Management for transfer to the Agency of Human Services – Global Commitment to ensure sufficient funding for Global Commitment during fiscal year 2017. Prior to the close of fiscal year 2017, the Commissioner shall determine the amount needed for transfer, and shall provide a written report to the Joint Fiscal Committee of the determination and the amount transferred. Any funds remaining in this appropriation and not transferred shall revert to the General Fund in fiscal year 2017.~~

~~(b) The amount of funds appropriated in subsection (a) of this section shall be unreserved from the Human Services Caseload Reserve established in 32 V.S.A. § 308b. The funds reverted in subsection (a) of this section shall be reserved in the Human Services Caseload Reserve.~~

(a) The amount of $3,738,117 in general funds shall be unreserved from the Human Services Caseload Management Reserve established in 32 V.S.A. § 308b.

(b) At the close of fiscal year 2017 and after meeting the requirements of Sec. C.100.2 of H.518 of the 2017 session, an amount up to $3,738,117 of any unencumbered General Fund appropriation in 2016 Acts and Resolves No. 172, Sec. B.301 as amended by 2017 Acts and Resolves No. 3, Sec. 18, and as

further amended by Sec. C.107 of H.518 of the 2017 session, that would otherwise be authorized to carry forward shall revert to the General Fund and be reserved in the Human Services Caseload Management Reserve established in 32 V.S.A. § 308b.

Sec. C.104 FISCAL YEAR 2017 27/53 RESERVE FUNDING SOURCE TRANSFER

(a) Notwithstanding 2016 Acts and Resolves No. 172, Sec. B.1104 or any other provision of law to the contrary, any General Fund amount reserved in fiscal year 2017 in the 27/53 Reserve created in 32 V.S.A. § 308e shall be unreserved.

(b) In fiscal year 2017, $5,287,591 shall be transferred from the Global Commitment Fund to the General Fund to be reserved in the 27/53 Reserve created in 32 V.S.A. § 308e.

Sec. C.105 2016 Acts and Resolves No. 172, Sec. B.200 as amended by 2017 Acts and Resolves No. 3, Sec. 9 is further amended to read:

Sec. B.200 Attorney general

Personal services	~~9,160,530~~	8,900,530
Operating expenses	1,386,540	1,386,540
Grants	26,894	26,894
Total	~~10,573,964~~	10,313,964
Source of funds		
General fund	~~4,598,420~~	4,338,420
Special funds	2,150,198	2,150,198
Tobacco fund	348,000	348,000
Federal funds	1,067,909	1,067,909
Interdepartmental transfers	2,409,437	2,409,437
Total	~~10,573,964~~	10,313,964

Sec. C.106 2016 Acts and Resolves No. 172, Sec. B.240 as amended by 2017 Acts and Resolves No. 3, Sec. 16 is further amended to read:

Sec. B.240 Total protection to persons and property

Source of funds		
General fund	~~140,870,696~~	140,610,696
Transportation fund	21,150,000	21,150,000
Special funds	83,106,552	83,106,552
Tobacco fund	600,874	600,874
Federal funds	64,642,371	64,642,371
ARRA funds	650,000	650,000
Global Commitment fund	90,278	90,278
Interdepartmental transfers	12,737,631	12,737,631

Enterprise funds	8,032,560	8,032,560
Total	~~331,880,962~~	331,620,962

Sec. C.107 2016 Acts and Resolves No. 172, Sec. B.301 as amended by 2017 Acts and Resolves No. 3, Sec. 18 is further amended to read:

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

Operating expenses	5,529,495	5,529,495
Grants	~~1,596,194,550~~	1,599,932,667
Total		~~1,601,724,045~~
1,605,462,162		
Source of funds		
General fund	~~284,257,664~~	287,995781
Special funds	28,263,866	28,263,866
Tobacco fund	29,716,875	29,716,875
State health care resources fund	297,599,293	297,599,293
Federal funds	961,846,347	961,846,347
Interdepartmental transfers	40,000	40,000
Total		~~1,601,724,045~~
1,605,462,162		

Sec. C.108 2016 Acts and Resolves No. 172, Sec. B.345 as amended by 2017 Acts and Resolves No. 3, Sec. 45 is further amended to read:

Sec. B.345 Green Mountain Care Board

Personal services	~~8,736,409~~	9,131,409
Operating expenses	~~1,230,995~~	835,995
Total		9,967,404
9,967,404		
Source of funds		
General fund	1,401,276	1,401,276
Special funds	2,342,927	2,342,927
Federal funds	448,808	448,808
Global Commitment fund	4,281,832	4,281,832
Interdepartmental transfers	1,492,561	1,492,561
Total		9,967,404
9,967,404		

Sec. C.109 2016 Acts and Resolves No. 172, Sec. B.346 as amended by 2017 Acts and Resolves No. 3, Sec. 46 is further amended to read:

Sec. B.346 Total human services

Source of funds		
General fund	~~693,886,463~~	697,624,580
Special funds	99,545,755	99,545,755

Tobacco fund	33,550,914	33,550,914
State health care resources fund	297,599,293	297,599,293
Education fund	3,109,463	3,109,463
Federal funds	1,391,826,777	1,391,826,777
Global Commitment fund	1,540,769,628	1,540,769,628
Internal service funds	1,908,035	1,908,035
Interdepartmental transfers	24,664,768	24,664,768
Permanent trust funds	25,000	25,000
Total		~~4,086,886,096~~
4,090,624,213		

Sec. C.110 2016 Acts and Resolves No. 172, Sec. B.1000 as amended by 2017 Acts and Resolves No. 3, Sec. 58 is further amended to read:

Sec. B.1000 Debt service

Operating expenses	76,991,491	76,991,491
Total		76,991,491
76,991,491		
Source of funds		
General fund	71,120,080	71,120,080
Transportation fund	1,884,089	1,884,089
Special funds	336,000	336,000
ARRA funds	~~1,149,919~~	1,149,909
TIB debt service fund	2,501,413	2,501,413
Total		76,991,491
76,991,491		

Sec. C.111 2016 Acts and Resolves No. 172, Sec. B.1001 as amended by 2017 Acts and Resolves No. 3, Sec. 59 is further amended to read:

Sec. B.1001 Total debt service

Source of funds		
General fund	71,120,080	71,120,080
Transportation fund	1,884,089	1,884,089
Special funds	336,000	336,000
ARRA funds	~~1,149,919~~	1,149,909
TIB debt service fund	2,501,413	2,501,413
Total		76,991,491
76,991,491		

Sec. C.112 2016 Acts and Resolves No. 172, Sec. B.514 is amended to read:

Sec. B.514 State teachers' retirement system

Grants	~~78,959,576~~	78,659,576
Total	~~78,959,576~~	78,659,576

Source of funds		
General fund	~~78,959,576~~	78,659,576
Total	~~78,959,576~~	78,659,576

Sec. C.113 2016 Acts and Resolves No. 172, Sec. B.515 is amended to read:

Sec. B.515 Retired teachers' health care and medical benefits

Grants	~~22,022,584~~	22,322,584
Total	~~22,022,584~~	22,322,584
Source of funds		
General fund	~~22,022,584~~	22,322,584
Total	~~22,022,584~~	22,322,584

Sec. C.114 2016 Acts and Resolves No. 172, Sec. E.514 is amended to read:

Sec. E.514 State teachers' retirement system

(a) In accordance with 16 V.S.A. § 1944(g)(2), the annual contribution to the State Teachers' Retirement System (STRS) shall be $82,659,576, of which ~~$78,959,576~~ $78,659,576 shall be the State's contribution and ~~$3,700,000~~ $4,000,000 shall be contributed from local school systems or educational entities pursuant to 16 V.S.A. § 1944c.

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Sec. C.115 2016 Acts and Resolves No. 172, Sec. E.515 is amended to read:

Sec. E.515 Retired teachers' health care and medical benefits

(a) In accordance with 16 V.S.A. § 1944b(b)(2), ~~$22,022,584~~ $22,322,584 will be contributed to the Retired Teachers' Health and Medical Benefits plan.

Sec. C.116 32 V.S.A. § 131 is amended to read:

§ 131. COMPOSITION

There shall be an Emergency Board to consist of the Governor, the Chair of the Senate Committee on Finance, the Chair of the Senate Committee on Appropriations, the Chair of the House Committee on Ways and Means, and the Chair of the House Committee on Appropriations; but the Chair of any one of such committees may designate a member of his or her committee who shall be a member of such Board in lieu of the Chair. The Board shall meet at the call of the Governor or a majority of the legislative members of the Board.

Sec. C.117 32 V.S.A. § 306 is amended to read:

§ 306. BUDGET REPORT

(a) The Governor shall submit to the General Assembly, not later than the third Tuesday of every annual session, a budget which shall embody his or her

estimates, requests, and recommendations for appropriations or other authorizations for expenditures from the State Treasury. In the first year of the biennium, the budget shall relate to the two succeeding fiscal years. In the second year of the biennium, it shall relate to the succeeding fiscal year. The budget shall be based upon the official State revenue estimates, including the Medicaid estimated caseloads and per-member per-month expenditures, adopted by the Emergency Board pursuant to section 305a of this title.

* * *

Sec. C.118 2017 Acts and Resolves No. 3, Sec. 68(a) is amended to read:

(a) Notwithstanding any other provisions of law and subject to the approval of the Secretary of Administration, General, Transportation, Transportation Infrastructure Bond, ~~and~~ Education Fund, Clean Water Fund (Fund 21932), and Agricultural Water Quality Fund (Fund 21933) appropriations remaining unexpended on June 30, 2017 in the Executive Branch of State government shall be carried forward and shall be designated for expenditure.

Sec. C.119 2016 Acts and Resolves No. 172, Sec. B.1106(b) as amended by 2017 Acts and Resolves No. 3, Sec. 70 is further amended to read:

(b) The Secretary of Administration shall reduce fiscal year 2017 appropriations and make transfers to the General Fund for a total of $343,369. Savings in the amount of $206,631 are included in the fiscal year 2017 budget adjustment for a total savings of $550,000. The remaining appropriations and transfers for savings ~~associated with positions abolished in subsection (a) of this section~~ shall be made prior to close out of fiscal year 2017 and be reported to the Joint Fiscal Committee at the July 2017 meeting.

Sec. C.120 GENERAL FUND YEAR END CLOSE OUT

(a) In fiscal years 2017 and 2018, after satisfying the requirements of 32 V.S.A. § 308, and after other reserve requirements have been met, the provisions of 32 V.S.A. § 308c(a)(1)-(3) shall not be applied, and any remaining unreserved and undesignated end of fiscal year General Fund surplus shall be reserved in the General Fund Balance Reserve established in 32 V.S.A. § 308c.

Sec. D.100 APPROPRIATIONS; PROPERTY TRANSFER TAX

(a) This act contains the following amounts appropriated from special funds that receive revenue from the property transfer tax. Expenditures from these appropriations shall not exceed available revenues.

(1) The sum of $518,000 is appropriated from the Current Use Administration Special Fund to the Department of Taxes for administration of the Use Tax Reimbursement Program. Notwithstanding 32 V.S.A. § 9610(c),

amounts above $518,000 from the property transfer tax that are deposited into the Current Use Administration Special Fund shall be transferred into the General Fund.

(2) The sum of $11,304,840 is appropriated from the Vermont Housing and Conservation Trust Fund to the Vermont Housing and Conservation Board. Notwithstanding 10 V.S.A. § 312, amounts above $11,304,840 from the property transfer tax that are deposited into the Vermont Housing and Conservation Trust Fund shall be transferred into the General Fund.

(3) The sum of $3,760,599 is appropriated from the Municipal and Regional Planning Fund. Notwithstanding 24 V.S.A. § 4306(a), amounts above $3,760,599 from the property transfer tax that are deposited into the Municipal and Regional Planning Fund shall be transferred into the General Fund. The $3,760,599 shall be allocated as follows:

(A) $2,924,417 for disbursement to regional planning commissions in a manner consistent with 24 V.S.A. § 4306(b);

(B) $457,482 for disbursement to municipalities in a manner consistent with 24 V.S.A. § 4306(b);

(C) $378,700 to the Agency of Commerce and Community Development for the Vermont Center for Geographic Information, established in 10 V.S.A. § 122.

Sec. D.100.1 REPEAL

(a) 2011 Acts and Resolves No. 45, Secs. 35 (repeal of change in allocation of property transfer tax revenue) and 37(10), as amended by 2016 Acts and Resolves No. 172, Sec. D.100.1 (effective date of change in allocation of property transfer tax revenue) are repealed.

Sec. D.100.2 [DELETED]

Sec. D.101 FISCAL YEAR 2018 FUND TRANSFERS, REVERSIONS, AND RESERVES

(a) Notwithstanding any other provision of law, the following amounts are transferred from the funds indicated:

(1) From the General Fund to the Next Generation Initiative Fund established by 16 V.S.A. § 2887: $2,909,900.

(2) 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: $1,225,000.

(3) From the Transportation Fund to the Downtown Transportation and Related Capital Improvement Fund established by 24 V.S.A. § 2796 to be used

by the Vermont Downtown Development Board for the purposes of the Fund: $423,966.

(4) From the Transportation Infrastructure Bond Fund established by 19 V.S.A. § 11f to the Transportation Infrastructure Bonds Debt Service Fund established by 32 V.S.A. § 951a for the purpose of funding fiscal year 2019 transportation infrastructure bonds debt service: $2,504,688.

(b) Notwithstanding any provisions of law to the contrary, in fiscal year 2018:

(1) The following amounts shall be transferred to the General Fund from the funds indicated:

21550	Land & Facilities Trust Fund	429,000.00
21638	AG-Fees & Reimbursements-Court Order	2,000,000.00
21909	Tax Computer System Modernization	798,808.00
21937	GMCB Regulatory and Admin Fund	850,000.00
22005	AHS Central Office earned federal receipts	32,971,342.00
50300	Liquor Control Fund	1,055,000.00
	Caledonia Fair	5,000.00
	North Country Hospital Loan	24,250.00

(c) Notwithstanding any provisions of law to the contrary, in fiscal year 2018:

(1) The following amounts shall revert to the General Fund from the accounts indicated:

1210001000	Legislative Council	150,000.00
1210002000	Legislature	385,000.00
1230001000	Sergeant at Arms	19,000.00
7120890704	International Trade Commission	7,711.88

Sec. D.101.1 ONE-TIME FISCAL YEAR 2018 FUND TRANSFER TO EDUCATION FUND

(a) In fiscal year 2018, the sum of $3,270,000 is transferred from the General Fund to the Education Fund.

Sec. D.101.2 ONE YEAR RESCISSION ELIGIBILITY FOR GENERAL FUND TO EDUCATION FUND TRANSFER

(a) For fiscal year 2018 only and notwithstanding 32 V.S.A. § 704(g)(2), the transfer and appropriation in Sec. B.513 of this act is subject to General Fund rescissions not to exceed one percent of the transfer or the percent that the rescission amount as specified in Sec. D.105(b) of this act is of the total General Fund budget, whichever is less.

(b) Any rescission made to the transfer in subsection (a) of this section shall be subtracted from the base amount used to calculate the General Fund transfer under 16 V.S.A. § 4025(a)(2) for the next fiscal year.

Sec. D.102 TOBACCO LITIGATION SETTLEMENT FUND BALANCE

(a) Notwithstanding 18 V.S.A. § 9502(b), the actual balances at the end of fiscal year 2017 in the Tobacco Litigation Settlement Fund established by 32 V.S.A. § 435a shall remain for appropriation in fiscal year 2018.

Sec. D.103 TRANSFER OF TOBACCO TRUST FUNDS

(a) Notwithstanding 18 V.S.A. § 9502(a)(3) and (4), the actual amount of investment earnings of the Tobacco Trust Fund at the end of fiscal year 2018 and any additional amount necessary to ensure the balance in the Tobacco Litigation Settlement Fund at the close of fiscal year 2018 is not negative shall be transferred in fiscal year 2018 from the Tobacco Trust Fund established by 18 V.S.A. § 9502(a) to the Tobacco Litigation Settlement Fund established by 32 V.S.A. § 435a.

Sec. D.104 HUMAN SERVICES CASELOAD MANAGEMENT RESERVE

(a) The sum of $12,000,000 shall be reserved from the General Fund in the Human Services Caseload Management Reserve established in 32 V.S.A. § 308b.

Sec. D.105 FISCAL YEAR 2018 ONE-TIME CORPORATE TAX REFUND OFFSET

(a) The Administration and Legislative economists have indicated that one-time corporate tax refunds may result in a revenue downgrade for fiscal year 2018. To address the one-time fiscal impacts of this in fiscal year 2018, the following actions are authorized:

(1) As part of the official revenue forecast for fiscal year 2018 under 32 V.S.A § 305a, the Emergency Board at its July 2017 meeting shall hear testimony from the Administration and Legislative economists and adopt a fiscal year 2018 estimate for expected corporate tax refunds above historical trend.

(2) Based on the adopted amount of corporate income tax refunds under subdivision (1) of this subsection, to the extent necessary the following offsets will be made in the order below:

(A) The Commissioner of Finance and Management may review fund balances in State special funds and end of fiscal year 2017 carry forward appropriation balances throughout the Executive Branch. Up to $5,000,000 may be identified for transfer or reversion to the General Fund. To the extent necessary, the Emergency Board will review any proposed fund transfers and

under its authority pursuant to 32 V.S.A. § 133(b) make fund transfers at a meeting scheduled on or before September 15, 2017.

(B) Up to $10,000,000 of the Global Commitment Fund balance may be transferred to the General Fund.

(b) Any other revenue adjustments shall be made in accordance with end of the year revenue offsets and the statutory rescission process under 32 V.S.A. § 704.

Sec. D.106 USE OF HEALTH IT-FUND BALANCE

(a) Notwithstanding 32 V.S.A. § 10301(a), the Agency of Human Services may expend $2,000,000 of the Health IT-Fund as State match for Global Commitment program expenditures in fiscal year 2018 and the sum of $500,000 is transferred from the Health IT-Fund to the General Fund and reserved in the Rainy Day Reserve established in 32 V.S.A. § 308c. It is the intent of the General Assembly to expend an additional $2,000,000 from the Health IT-Fund as State match for Global Commitment program expenditures in fiscal year 2019.

Sec. D.107 FISCAL YEAR 2018 TRANSFER TO THE 27/53 RESERVE

(a) In fiscal year 2018, notwithstanding any other provision of law to the contrary, in order to meet the Medicaid 53rd week reserve requirement of the 27/53 Reserve, the sum of $1,700,000 shall be transferred from the Global Commitment Fund to the General Fund to be reserved in the 27/53 Reserve created in 32 V.S.A. § 308e.

* * * GENERAL GOVERNMENT * * *

Sec. E.100 EXECUTIVE BRANCH POSITION AUTHORIZATIONS

(a) The establishment of the following new permanent classified positions is authorized in fiscal year 2018:

(1) In the Agency of Agriculture, Food and Markets – one (1) Microbiologist.

(2) In the Department of Taxes – two (2) Tax Examiner.

(b) The establishment of the following new permanent exempt position is authorized in fiscal year 2017 as follows:

(1) In the Department of State's Attorneys – one (1) Labor Relations Manager. This position shall be transferred and converted from existing vacant position number 267186 within the Department of State's Attorneys.

(c) The establishment of the following new classified limited services positions is authorized in fiscal year 2017:

(1) In the Department of Military – three (3) Security Guard.

(d) 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, as defined in Sec. A.107 of this act.

Sec. E.100.1 2014 Acts and Resolves No. 179, Sec. E.100(d), as amended by 2015 Acts and Resolves No. 4, Sec. 74, and 2016 Acts and Resolves No.172, Sec. E.100.2, is further amended to read:

(d) Position Pilot Program. A Position Pilot is hereby created to assist participating departments in more effectively managing costs of overtime, compensatory time, temporary employees, and contractual work by removing the position cap with the goal of maximizing resources to the greatest benefit of Vermont taxpayers.

(1) Notwithstanding Sec. A.107 of this act, the Agency of Transportation, the Department for Children and Families, the Agency of Natural Resources, the Department of Buildings and General Services, the Department of Labor, ~~and~~ the Department of Corrections, and the Department of Public Safety shall not be subject to the cap on positions for the duration of the Pilot. The Department of Corrections is authorized to add only Correctional Officer I and II positions.

***

(7) This Pilot shall sunset on July 1, ~~2017~~ 2018, unless extended or modified by the General Assembly.

(8) On or before January 15, 2018 the Commissioner of Human Resources shall provide a report by department on the total number of positions created under the authority of this section to the House and Senate Committees on Appropriations. The Commissioner shall include in the report a recommendation on whether this program should be expanded and continue and, if so, should it be extended but remain in session law or be made permanent by codification in statute.

Sec. E.100.2 REPEAL

(a) 3 V.S.A. § 2222a is repealed.

Sec. E.108 [DELETED]

Sec. E.108.1 CLASSIFICATION SYSTEM PLANNING

(a) As a continuation of classification system analysis begun pursuant to 2015 Acts and Resolves No. 58, Sec. E.100.1, the Department of Human Resources shall issue an RFI for consultant services to assist the Department

with needs assessment, expertise, and project planning necessary to procure a new Classification and Compensation system.

(b) A new Classification and Compensation system shall allow the State to:

(1) develop a broader classification system, utilizing fewer job classifications;

(2) utilize a more modern, flexible, transparent system for managing job evaluation and placement within the classified system; and

(3) provide a contemporary, flexible, easy to understand system for managing pay that effectively combines recognition of competencies, experience or longevity, or both, market parity, and excellence in performance.

(c) The Department shall submit a status report to the General Assembly on or before January 31, 2018 that identifies progress in planning for the development and implementation of a new Classification and Compensation system.

Sec. E.108.2 3 V.S.A. § 310(a) is amended to read:

(a) The Department of Human Resources shall adopt a uniform and equitable plan of classification for each position within State service, now or hereafter created, including positions within the Department of Public Safety, except those positions expressly excluded by section 311 of this title or by other provisions of law. For purposes of internal position alignment and assignment of positions to salary ranges, the plan shall be based upon a ~~point factor~~ job content comparison method of job evaluation. As used in this section, "~~point factor~~ job content comparison method" means a system under which positions are assigned to salary ranges based on a scale of values against which job evaluations of individual positions are compared.

Sec. E.111 Tax – administration/collection

(a) Of this appropriation, $15,000 is from the Current Use Administration Special Fund established by 32 V.S.A. § 9610(c) and shall be appropriated for programming changes to the CAPTAP software used by municipalities for establishing property values and administering their grand lists.

Sec. E.111.1 [DELETED]

Sec. E.113 Buildings and general services – engineering

(a) The $3,537,525 interdepartmental transfer in this appropriation shall be from the General Bond Fund appropriation in the Capital Bill of the 2017 legislative session.

Sec. E.126 2 V.S.A. § 691 is amended to read:

§ 691. COMMITTEE CREATION

There is created a legislative Health Reform Oversight Committee. The Committee shall be composed of the following ~~six~~ eight members:

(1) the Chair of the House Committee on Appropriations;

(2) the Chair of the Senate Committee on Appropriations;

(3) the Chair of the House Committee on Ways and Means;

(4) the Chair of the Senate Committee on Finance;

(5) the Chair of the House Committee on Health Care; ~~and~~

(6) the Chair of the Senate Committee on Health and Welfare;

(7) the Chair of the House Committee on Human Services; and

(8) the Chair of the Senate Committee on Economic Development, Housing and General Affairs.

Sec. E.126.1 [DELETED]

Sec. E.127 [DELETED]

Sec. E.127.1 [DELETED]

Sec. E.133 Vermont state retirement system

(a) Notwithstanding 3 V.S.A. § 473(d), in fiscal year 2018, investment fees shall be paid from the corpus of the Fund.

Sec. E.139 GRAND LIST LITIGATION ASSISTANCE

(a) Of the appropriation in Sec. B.139 of this act, $9,000 shall be transferred to the Attorney General and $26,000 shall be transferred to the Department of Taxes, Division of Property Valuation and Review and reserved and used with any remaining funds from the amount previously transferred for final payment of expenses incurred by the Department or towns in defense of grand list appeals regarding the reappraisals of the hydroelectric plants and other property owned by TransCanada Hydro Northeast, Inc. in the State of Vermont. Expenditures for this purpose shall be considered qualified expenditures under 16 V.S.A. § 4025(c).

Sec. E.142 Payments in lieu of taxes

(a) This appropriation is for State payments in lieu of property taxes under 32 V.S.A. chapter 123, subchapter 4, and the payments shall be calculated in addition to and without regard to the appropriations for PILOT for Montpelier and for correctional facilities elsewhere in this act. Payments in lieu of taxes

under this section shall be paid from the PILOT Special Fund under 32 V.S.A. § 3709.

(b) Total payments in lieu of property taxes under 32 V.S.A. chapter 123, subchapter 4, in fiscal year 2018 to be paid from the PILOT Special Fund under 32 V.S.A. § 3709 include the appropriation of $7,600,000 in Sec. B.142 of this act, the appropriation of $184,000 for the City of Montpelier in Sec. B.143 of this act, the appropriation of $40,000 for correctional facilities in Sec. B.144 of this act, and the appropriation of $146,000 for the supplemental facility payments from the Department of Corrections to the City of Newport and the Town of Springfield in Sec. B.338 of this act.

Sec. E.143 Payments in lieu of taxes – Montpelier

(a) Payments in lieu of taxes under this section shall be paid from the PILOT Special Fund under 32 V.S.A. § 3709.

Sec. E.144 Payments in lieu of taxes – correctional facilities

(a) Payments in lieu of taxes under this section shall be paid from the PILOT Special Fund under 32 V.S.A. § 3709.

* * * PROTECTION TO PERSONS AND PROPERTY * * *

Sec. E.200 Attorney general

(a) Notwithstanding any other provisions of law, the Office of the Attorney General, Medicaid Fraud and Residential Abuse Unit, is authorized to retain, subject to appropriation, one-half of the State share of any recoveries from Medicaid fraud settlements, excluding interest, that exceed the State share of restitution to the Medicaid Program. All such designated additional recoveries retained shall be used to finance Medicaid Fraud and Residential Abuse Unit activities.

(b) Of the revenue available to the Attorney General under 9 V.S.A. § 2458(b)(4), $1,115,500 is appropriated in Sec. B.200 of this act.

Sec. E.204 REPEAL; EXTENSION

(a) 2016 Acts and Resolves No.167, Sec. 2 is amended to read:

Sec. 2. REPEAL

4 V.S.A. § 38 (Judicial Masters) shall be repealed on July 1, ~~2019~~ 2020.

Sec. E.204.1 Vermont Rule of Criminal Procedure 43(a) is amended to read:

(a) Presence Required.

(1) The defendant shall be present at the arraignment, at any subsequent time at which a plea is offered, at every stage of the trial including the

impaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by this rule.

(2) Arraignments shall be in person and shall be on the record and shall not be performed by video conferencing or other electronic means unless the defendant consents. Notwithstanding this subdivision, video conferencing may be used to effect the appearance of the defendant at status conferences, calendar calls, and other proceedings where the presence of the defendant is not required by this rule.

Sec. E.204.2 [DELETED]

Sec. E.207 SHERIFFS' HOURLY PAYMENT PILOT

(a)(1) Notwithstanding any provision of 32 V.S.A. § 1591(2)(A) to the contrary, during fiscal years 2018 and 2019 the Executive Director of the Department of State's Attorneys and Sheriffs shall set rates not to exceed $22 per hour for deputy sheriffs that provide necessary assistance in arresting or transporting prisoners, juveniles, or persons with mental illness. In addition to the rate established in this subdivision, a sheriff's department shall be reimbursed for the actual costs for Social Security and Medicare taxes, workers' compensation premiums, unemployment contributions, and other reasonable expenses, provided the costs are attributable to the services provided, documented in a manner required by the Executive Director, and approved by the Executive Director.

(2) A law enforcement officer shall not receive compensation pursuant to this subsection if otherwise compensated for the hours during which transportation services are performed.

(3) The amounts paid pursuant to this subsection shall not exceed $441,688 in fiscal year 2018 or 2019.

(b) On or before January 15, 2019, the Executive Director of the Department of State's Attorneys and Sheriffs shall submit a written report to the House and Senate Committees on Judiciary and on Appropriations as to the actual monies spent pursuant to this section, the impact on prison transport and the Departmental budget, and any specific recommendations for statutory changes and budget expenditures for the following fiscal years.

Sec. E.208 Public safety – administration

(a) The Commissioner of Public Safety is authorized to enter into a performance-based contract with the Essex County Sheriff's Department to provide law enforcement service activities agreed upon by both the Commissioner of Public Safety and the Sheriff.

Sec. E.209 Public safety – state police

(a) Of this appropriation, $35,000 in special funds shall be available for snowmobile law enforcement activities and $35,000 in general funds shall be available to the Southern Vermont Wilderness Search and Rescue Team, which comprises State Police, the Department of Fish and Wildlife, county sheriffs, and local law enforcement personnel in Bennington, Windham, and Windsor Counties, for snowmobile enforcement.

(b) Of this appropriation, $405,000 is allocated for grants in support of the Drug Task Force and the Gang Task Force. Of this amount, $190,000 shall be used by the Vermont Drug Task Force to fund three town task force officers. These town task force officers shall be dedicated to enforcement efforts with respect to both regulated drugs as defined in 18 V.S.A. § 4201(29) and the diversion of legal prescription drugs. Any unobligated funds may be allocated by the Commissioner to fund the work of the Drug Task Force and to support the efforts of the Mobile Enforcement Team (Gang Task Force), or carried forward.

Sec. E.212 Public safety – fire safety

(a) Of this General Fund appropriation, $55,000 shall be granted to the Vermont Rural Fire Protection Task Force for the purpose of designing dry hydrants.

Sec. E.215 Military – administration

(a) The amount of $250,000 shall be disbursed to the Vermont Student Assistance Corporation for the National Guard Educational Assistance Program established in 16 V.S.A. § 2856. Of this amount, $100,000 shall be general funds from this appropriation, and $150,000 shall be Next Generation special funds, as appropriated in Sec. B.1100(a)(3)(B) of this act.

Sec. E.219 Military – veterans' affairs

(a) Of this appropriation, $1,000 shall be used for continuation of the Vermont Medal Program; $4,800 shall be used for the expenses of the Governor's Veterans' Advisory Council; $7,500 shall be used for the Veterans Day parade; $5,000 shall be used for the Military, Family, and Community Network; and $10,000 shall be granted to the American Legion for the Boys' State and Girls' State programs.

(b) Of this General Fund appropriation, $39,484 shall be deposited into the Armed Services Scholarship Fund established in 16 V.S.A. § 2541.

Sec. E.220 Center for crime victim services

(a) Notwithstanding 20 V.S.A. § 2365(c), the Vermont Center for Crime Victim Services shall transfer $39,895 from the Domestic and Sexual Violence

Special Fund established in 13 V.S.A. § 5360 to the Criminal Justice Training Council for the purpose of funding one-half of the costs of the Domestic Violence Trainer position. The other half of the position will be funded with an appropriation to the Criminal Justice Training Council.

Sec. E.224 Agriculture, food and markets – agricultural development

(a) Of the funds appropriated in Sec. B.224 of this act, the amount of $805,352 in general funds is appropriated for expenditure by the Vermont Working Lands Enterprise Board established in 6 V.S.A. § 4606 for administrative expenses, and investments in food and forest system businesses and service providers pursuant to 6 V.S.A. § 4607 and consistent with the funding priorities in 2012 Acts and Resolves No. 142, Sec. 5, as amended by 2014 Acts and Resolves No. 179, Sec. E.224.1.

Sec. E.233 ENERGY PLANNING SUPPORT; ALLOCATION OF COSTS

(a) During fiscal year 2018, the Commissioner of Public Service, in consultation with the Commissioner of Housing and Community Development, shall award the amount of $300,000 to regional planning commissions established under 24 V.S.A. chapter 117 and to municipalities for the purpose of providing training under 2016 Acts and Resolves No. 174.

(b) In awarding funds under this section, the Commissioners shall consider the need and size of a municipality or region and the availability, if any, of other assistance, expertise, or funds to a municipality or region to implement 2016 Acts and Resolves No. 174.

(c) The Commissioner of Public Service shall allocate costs under subsection (a) of this section to the electric distribution utilities subject to its supervision under Title 30 of the Vermont Statutes Annotated based on their pro rata share of total Vermont retail kilowatt-hour sales for the previous fiscal year. Each of these utilities shall pay its allocation into the State Treasury at such time and in such manner as the Commissioner may direct.

Sec. E.234 [DELETED]

Sec. E.237 LIQUOR CONTROL WAREHOUSE; PRIVATIZATION; MORATORIUM

(a) Notwithstanding any provision of law to the contrary, the Liquor Control Board and the Commissioner of Liquor Control shall not, prior to fiscal year 2019, enter into a privatization contract, as defined in 3 V.S.A. § 341, for the operation of the Liquor Control warehouse.

Sec. E.237.1 LOCAL AGENCY STORES; REQUIREMENTS

(a) Between July 1, 2017 and December 31, 2018, the Liquor Control Board and the Department of Liquor Control shall not spend more for the

purchase of new or replacement signs and displays for local agency stores than the amount of any increase in the budgeted revenues from sales of spirits and fortified wines from fiscal year 2016 to fiscal year 2017.

(b) On or before January 15, 2019, the Commissioner of Liquor Control shall submit to the House Committees on Appropriations and on General, Housing and Military Affairs and the Senate Committees on Appropriations and on Economic Development, Housing and General Affairs a written report that specifies the amount by which revenues from sales of spirits and fortified wines increased from fiscal year 2016 to fiscal year 2017, and any expenditures made by the Board or the Department for the purchase of new or replacement signs and displays for local agency stores.

(c) The Board and the Department shall not require any local agency store to purchase or otherwise pay for any new or replacement signs and displays between July 1, 2017 and December 31, 2018.

* * * HUMAN SERVICES * * *

Sec. E.300 DEPOSIT AND USE OF MASTER SETTLEMENT FUND

(a) Deposit of Master Tobacco Settlement receipts and appropriations of Tobacco Settlement funds in fiscal year 2018 are made, notwithstanding 2013 Acts and Resolves No. 50, Sec. D.104.

Sec. E.300.1 POSITION TRANSFER

(a) The Director of Health Care Reform established in 2011 Acts and Resolves No. 48, Sec. 3b(e) is transferred from the Agency of Administration to the Agency of Human Services.

Sec. E.300.2 3 V.S.A. § 3027 is added to read:

§ 3027. HEALTH CARE SYSTEM REFORM; IMPROVING QUALITY AND AFFORDABILITY

The Director of Health Care Reform in the Agency of Human Services shall be responsible for the coordination of health care system reform efforts among Executive Branch agencies, departments, and offices, and for coordinating with the Green Mountain Care Board established in 18 V.S.A. chapter 220.

Sec. E.300.3 18 V.S.A. § 9491(a) is amended to read:

(a) The ~~director of health care reform~~ Director of Health Care Reform in the ~~agency of administration~~ Agency of Human Services shall oversee the development of a current health care workforce development strategic plan that continues efforts to ensure that Vermont has the health care workforce necessary to provide care to all Vermont residents. The ~~director of health care reform~~ Director of Health Care Reform may designate an entity responsible for

convening meetings and for preparing the draft strategic plan. The Green Mountain Care ~~board~~ Board established in chapter 220 of this title shall review the draft strategic plan and shall approve the final plan and any subsequent modifications.

Sec. E.300.4 18 V.S.A. § 9602(a) is amended to read:

(a) The Agency of ~~Administration~~ Human Services shall ~~establish~~ maintain the Office of the Health Care Advocate by contract with any nonprofit organization.

Sec. E. 300.5 18 V.S.A. § 9607(b)(3) is amended to read:

(3) The Green Mountain Care Board shall administer the bill back authority created in this subsection on behalf of the Agency of ~~Administration~~ Human Services in support of the Agency's contract with the Office of the Health Care Advocate pursuant to section 9602 of this title to carry out the duties set forth in this chapter.

Sec. E.300.6 18 V.S.A. § 9603(c) is amended to read:

(c) The Office of the Health Care Advocate shall be able to speak on behalf of the interests of health care and health insurance consumers and to carry out all duties prescribed in this chapter without being subject to any retaliatory action; provided, however, that nothing in this subsection shall limit the authority of the Agency of ~~Administration~~ Human Services to enforce the terms of the contract.

Sec. E.300.7 18 V.S.A. § 9604 is amended to read:

§ 9604. DUTIES OF STATE AGENCIES

All State agencies shall comply with reasonable requests from the Office of the Health Care Advocate for information and assistance. The Agency of ~~Administration~~ Human Services may adopt rules necessary to ensure the cooperation of State agencies under this section.

Sec. E.300.8 FUNDING FOR THE OFFICE OF THE HEALTH CARE ADVOCATE

(a) Of the funds appropriated in Sec. B.300 of this act, $1,457,406 shall be used for the contract with the Office of the Health Care Advocate.

Sec. E.300.9 [DELETED]

Sec. E.300.10 [DELETED]

Sec. E.300.11 [DELETED]

Sec. E.300.12 [DELETED]

Sec. E.300.13 [DELETED]

Sec. E.300.14 REPEALS

(a) 2014 Acts and Resolves No. 158, Secs. 1–12 (relating to commitment of criminal defendant who is incompetent to stand trial because of traumatic brain injury), and Sec. 16(a) as amended by 2016 Acts and Resolves No. 172, Sec. E.300.3.1 (effective date of Secs. 1–12), are repealed on June 30, 2017.

Sec. E.300.15 COMMISSION ON OFFENDERS WITH MENTAL ILLNESS; REPORT

(a) On or before September 15, 2018, the Commission on Offenders with Mental Illness shall report to the Joint Legislative Justice Oversight Committee recommendations regarding how to define traumatic brain injury for purposes of determining whether as the result of such an injury a criminal defendant was insane at the time of the offense or is incompetent to stand trial. The Commission's report shall identify appropriate treatment options and venues for criminal defendants with traumatic brain injury and shall include the amount of funding required to implement the Commission's recommendations.

Sec. E.300.16 AGENCY OF HUMAN SERVICES; ALIGNMENT OF CARE COORDINATION EFFORTS

(a) The Secretary of Human Services shall conduct a comprehensive review of the Agency's care coordination efforts, including the Vermont Chronic Care Initiative, the Blueprint for Health, the pediatric High Tech Home Care program, and Community Rehabilitation and Treatment, in order to align care coordination services across the Agency's programs and initiatives, reduce duplication of efforts, and ensure that care coordination services are delivered in a consistent manner in order to achieve the best results for Vermonters and to use resources efficiently.

Sec. E.300.17 COMMUNITY GRANT INVENTORY AND PRIORITIZATION

(a) On or before January 1, 2018, the Secretary of Human Services shall submit a report to the House and Senate Committees on Appropriations identifying grants to community partners funded by the General Fund, special funds, or Global Commitment. The report shall prioritize the grants and specify whether the grant provides a match required for federal funding other than Medicaid. The report shall also provide the impact of reducing the funding level of any grants in terms of:

(1) impacts on the safety and welfare of vulnerable Vermont residents;

(2) impacts on the Agency's other community partners;

(3) how a reduction fits within existing statutory guidelines; and

(4) minimizing or avoiding any shift in cost to another department or program of the Agency of Human Services, to another agency or program of State government, or to local government or public schools caused by a grant reduction.

Sec. E.301 Secretary's office – Global Commitment

(a) The Agency of Human Services shall use the funds appropriated in Sec. B.301 of this act for payment of the actuarially certified premium required under the intergovernmental agreement between the Agency of Human Services and the managed care entity, the Department of Vermont Health Access, as provided for in the Global Commitment for Health Waiver (Global Commitment) approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

(b) In addition to the State funds appropriated in this section, a total estimated sum of $26,452,991 is anticipated to be certified as State matching funds under the Global Commitment as follows:

(1) $23,371,400 certified State match available from local education agencies for eligible special education school-based Medicaid services under the Global Commitment. This amount combined with $27,128,600 of federal funds appropriated in Sec. B.301 of this act equals a total estimated expenditure of $50,500,000. An amount equal to the amount of the federal matching funds for eligible special education school-based Medicaid services under Global Commitment shall be transferred from the Global Commitment Fund to the Medicaid Reimbursement Special Fund created in 16 V.S.A. § 2959a.

(2) $3,081,591 certified State match available from local designated mental health and developmental services agencies for eligible mental health services provided under Global Commitment.

Sec. E.301.1 FISCAL YEAR 2018 UNENCUMBERED GENERAL FUND APPROPRIATION

(a) At the close of fiscal year 2018, an amount up to $10,000,000 of any unencumbered General Fund appropriation in Sec. B.301 of this act that would otherwise be authorized to carry forward shall revert to the General Fund and be reserved in the Human Services Caseload Management Reserve established in 32 V.S.A. § 308b.

Sec. E.306 VERMONT HEALTH BENEFIT EXCHANGE RULES

(a) The Agency of Human Services may adopt rules pursuant to 3 V.S.A. chapter 25 to conform Vermont's rules regarding health care eligibility and enrollment and the operation of the Vermont Health Benefit Exchange to federal guidance and regulations. The Agency may use the emergency rules

process pursuant to 3 V.S.A. § 844 prior to June 30, 2018, but only in the event that new federal guidance or regulations require Vermont to amend or adopt its rules in a time frame that cannot be accomplished under the traditional rule-making process. An emergency rule adopted under these exigent circumstances shall be deemed to meet the standard for the adoption of emergency rules required pursuant to 3 V.S.A. § 844(a).

Sec. E.306.1 33 V.S.A. § 1998(f)(3) is amended to read:

(3) To the extent feasible, the Board shall review all drug classes included in the preferred drug list at least every ~~12~~ 24 months and may recommend that the Commissioner make additions to or deletions from the preferred drug list.

Sec. E.306.2 MEDICAID PAYMENT ALIGNMENT

(a) It is the intent of the General Assembly that alignment of the various Medicaid provider payments, as funded in this act, support access to primary care, including access to independent primary care practices and mental health services statewide.

(b) In order to accomplish this, the Department of Vermont Health Access is authorized to make adjustments and transfers within the related appropriated amounts of fiscal year 2018 general funds for these line items in the aggregate as follows:

(1) Adjust the total DSH amount to a level no lower than $27,488,781.

(2) Set a specific limit for annual DSH payments to an in-state academic postgraduate teaching facility within the DSH formula.

(3) Review and adjust current facility-based payments, and specifically evaluate any Medicaid payments that are above the payment from Medicare for the same service in order to further enhance primary care payments in fiscal year 2018.

(c) The Department of Vermont Health Access shall report to the Joint Fiscal Committee in September and November 2017 on any adjustments and transfers made under this authority.

Sec. E.306.3 33 V.S.A. § 1811(d) is amended to read:

(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 health benefit plan offered by the carrier, regardless of any outstanding premium amount a subscriber may owe to the carrier for coverage provided during the previous plan year.

Sec. E.307 2013 Acts and Resolves No. 79, Sec. 53(d), as amended by 2014 Acts and Resolves No. 179, Sec. E.307, as amended by 2015 Acts and Resolves No. 58, Sec. E.307, as amended by 2016 Acts and Resolves No. 172, Sec. E.307.3, is further amended to read:

(d) Secs. 31 (Healthy Vermonters) and 32 (VPharm) shall take effect on January 1, 2014, except that the Agency of Human Services may continue to calculate household income under the rules of the Vermont Health Access Plan after that date if the system for calculating modified adjusted gross income for the Healthy Vermonters and VPharm programs is not operational by that date, but ~~no~~ not later than December 31, ~~2017~~ 2018.

Sec. E.308 NURSING HOME MEDICAID RATES; CASE-MIX SCORES

(a) In order to ensure that eligible Vermont Medicaid beneficiaries have access to high-quality care nursing home services, the Commissioner of Disabilities, Aging, and Independent Living and the Director of the Division of Rate Setting in the Agency of Human Services shall review the Medicaid case-mix scores of nursing homes in Vermont in order to:

(1) determine their overall effectiveness in allocating Medicaid funds to nursing homes fairly; and

(2) assess the extent to which the case-mix scores adequately and appropriately reimburse nursing homes for caring for patients who exhibit challenging behaviors but who have little or no need for assistance with activities of daily living.

(b) The Commissioner and Director shall provide the findings from their assessment and any recommended changes to nursing home rate calculations to the House Committees on Appropriations, on Health Care, and on Human Services and the Senate Committees on Appropriations and on Health and Welfare as part of the Agency of Human Services' fiscal year 2019 budget.

Sec. E.308.1 CHOICES FOR CARE

(a) In the Choices for Care program, "savings" means the difference remaining at the conclusion of fiscal year 2017 between the amount of funds appropriated for Choices for Care, excluding allocations for the provision of acute care services, and the sum of expended and obligated funds, less an amount equal to one percent of the fiscal year 2017 total Choices for Care expenditure. The one percent shall function as a reserve to be used in the event of a fiscal need to freeze Moderate Needs Group enrollment. Savings shall be calculated by the Department of Disabilities, Aging, and Independent Living and reported to the Joint Fiscal Office.

(1) It is the intent of the General Assembly that the Department of Disabilities, Aging, and Independent Living only obligate funds for expenditures approved under current law.

(b)(1) Any funds appropriated for long-term care under the Choices for Care program shall be used for long-term services and supports to recipients. In using these funds, the Department of Disabilities, Aging, and Independent Living shall give priority for services to individuals assessed as having high and highest needs and meeting the terms and conditions of the Choices for Care program within the Global Commitment waiver.

(2)(A) First priority for the use of any savings from the long-term care appropriation after the needs of all individuals meeting the terms and conditions of the waiver have been met shall be given to home- and community-based services.

(B) Savings either shall be one-time investments or shall be used in ways that are sustainable into the future.

(C) The Department may allocate savings between home- and community-based provider rates, base funding to expand capacity to accommodate additional enrollees in home- and community-based services, and equitable funding of adult day providers, including whether some amount, up to 20 percent of the total savings, should be used to increase provider rates. The Department shall provide a report to the House Committee on Human Services and to the Senate Committee on Health and Welfare on the use of savings.

(D) Savings may also be used for quality improvement purposes in nursing homes but shall not be used to increase nursing home rates under 33 V.S.A. § 905.

(E) The Department of Disabilities, Aging, and Independent Living shall not reduce the base funding needed in a subsequent fiscal year prior to calculating savings for the current fiscal year.

(c) The Department, in collaboration with Choices for Care participants, participants' families, and long-term care providers, shall conduct an assessment of the adequacy of the provider system for delivery of home- and community-based services and nursing home services. On or before October 1, 2017, the Department of Disabilities, Aging, and Independent Living shall report the results of this assessment to the House Committees on Appropriations and on Human Services and the Senate Committees on Appropriations and on Health and Welfare in order to inform the reinvestment of savings during the budget adjustment process.

(d) The Commissioner shall determine how to allocate any Choices for Care program savings available at the end of fiscal year 2017 and shall report to the Joint Fiscal Committee at the regularly scheduled September 2017 meeting on these allocations.

(e) Concurrent with the procedures set forth in 32 V.S.A. § 305a, the Joint Fiscal Office and the Secretary of Administration shall provide to the Emergency Board their respective estimates of caseloads and expenditures for programs under the Choices for Care program.

Sec. E.308.2 CODIFICATION OF CHOICES FOR CARE ANNUAL SAVINGS

(a) The Department of Disabilities, Aging, and Independent Living shall make a recommendation to codify the process of determining, allocating, and dispersing any Choices for Care annual savings with its fiscal year 2019 budget presentation.

Sec. E.310 [DELETED]

Sec. E.312 Health – public health

(a) AIDS/HIV funding:

(1) In fiscal year 2018 and as provided in this section, the Department of Health shall provide grants in the amount of $475,000 in AIDS Medication Rebates special funds to the Vermont AIDS service and peer-support organizations for client-based support services. The Department of Health AIDS Program shall meet at least quarterly with the Community Advisory Group (CAG) with current information and data relating to service initiatives. The funds shall be allocated according to an RFP process.

(2) Ryan White Title II funds for AIDS services and the Vermont Medication Assistance Program (VMAP) shall be distributed in accordance with federal guidelines. The federal guidelines shall not apply to programs or services funded solely by State general funds.

(3)(A) The Secretary of Human Services shall immediately notify the Joint Fiscal Committee if at any time there are insufficient funds in VMAP to assist all eligible individuals. The Secretary shall work in collaboration with persons living with HIV/AIDS to develop a plan to continue access to VMAP medications until such time as the General Assembly can take action.

(B) As provided in this section, the Secretary of Human Services shall work in collaboration with the VMAP Advisory Committee, which shall be composed of not less than 50 percent of members who are living with HIV/AIDS. If a modification to the program's eligibility requirements or benefit coverage is considered, the Committee shall make recommendations

regarding the program's formulary of approved medication, related laboratory testing, nutritional supplements, and eligibility for the program.

(4) In fiscal year 2018, the Department of Health shall provide grants in the amount of $100,000 in general funds to Vermont AIDS service organizations and other Vermont HIV/AIDS prevention providers for community-based HIV prevention programs and services. These funds shall be used for HIV/AIDS prevention purposes, including syringe exchange programs; improving the availability of confidential and anonymous HIV testing; prevention work with at-risk groups such as women, intravenous drug users, and people of color; and anti-stigma campaigns. Not more than 15 percent of the funds may be used for the administration of such services by the recipients of these funds. The method by which these prevention funds is distributed shall be determined by mutual agreement of the Department of Health and the Vermont AIDS service organizations and other Vermont HIV/AIDS prevention providers.

(5) In fiscal year 2018, the Department of Health shall provide grants in the amount of $150,000 in general funds to Vermont AIDS service organizations and other Vermont HIV/AIDS prevention providers for syringe exchange programs. The method by which these prevention funds is distributed shall be determined by mutual agreement of the Department of Health, the Vermont AIDS service organizations, and other Vermont HIV/AIDS prevention providers. The performance period for these grants will be State fiscal year 2018. Grant reporting shall include outcomes and results.

(b) Improving outcomes for pregnant women:

(1) Statistics from the Department of Health indicate that rates of women who smoke during pregnancy in Vermont are approximately twice the national average. Although the rates of pregnant women who smoke in Vermont decreased slightly between 2009 and 2014, there is an opportunity to make additional progress on this very important health indicator. The Commissioner shall prioritize funding for tobacco cessation to address the rates of smoking among pregnant women by utilizing evidence-based best practices. Not less than $50,000 of the funding for tobacco cessation and prevention activities in fiscal year 2018 shall be used to implement or expand evidence-based interventions intended to reduce tobacco use among pregnant women. The Commissioner shall report on the specific expenditure of this allocation by functional activity as part of the fiscal year 2019 budget presentation to the General Assembly.

(2) In consultation with Hunger Free Vermont and representatives from community food shelf or nutrition focused organizations, prenatal and postnatal health care providers, and child care providers, the Commissioner of

Health shall develop and implement an outreach plan to Vermonters who are eligible but not enrolled in the Women, Infants and Children (WIC) program.

(3) The Commissioner shall report to the House Committees on Appropriations and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare during fiscal year 2019 budget testimony on the progress made toward reducing the rates of pregnant women who smoke during pregnancy and improving the number of eligible WIC clients who enroll for services.

Sec. E.314 TRANSPORTING PATIENTS

(a) Beginning on July 1, 2017, any new or renewed contracts entered into by the Agency of Human Services with designated professionals or law enforcement officers for transport of persons pursuant to 18 V.S.A. § 7511 or the transport of children pursuant to 33 V.S.A. § 5123 shall include the requirement to comply with the Agency's policies on the use of restraints.

Sec. E.314.1 DESIGNATED AND SPECIALIZED SERVICE AGENCY EMPLOYEE WAGES

(a) A total of $8,370,000 appropriated in Secs. B.314 (Mental Health) and B.333 (Developmental Services) shall be used to increase payments to the designated and specialized service agencies in fiscal year 2018.

(b) It is the intent of the General Assembly that funds allocated in subsection (a) of this section for increased payments to the designated and specialized service agencies in fiscal year 2018 be used to fund or offset the costs of increasing the hourly wages of workers to $14 and to increase the salaries for crisis response and crisis bed personnel in a manner that advances the goal of achieving competitive compensation to regionally equivalent State, health care, or school-based positions of equal skills, credentials, and lengths of employment. It is the sole responsibility of each individual designated and specialized service agency to use the revenue from increased Medicaid payments allocated in subsection (a) of this section to fund increases to worker salaries.

(c) To the extent that sufficient funds are unavailable to further the purposes of this section, the designated and specialized service agencies, in consultation with the Departments of Mental Health and of Disabilities, Aging, and Independent Living, shall reduce services or other operations in proportion to the amount necessary to achieve increased hourly wages. The funding of crisis services shall remain a priority and shall not be compromised as a result of other necessary reductions in services.

Sec. E.314.2 FISCAL YEAR 2019 BUDGETING FOR DESIGNATED AND SPECIALIZED SERVICE AGENCIES

(a) The Secretary of Human Services, in consultation with the Departments of Mental Health and of Disabilities, Aging, and Independent Living, shall estimate the levels of funding necessary to sustain the designated and specialized service agencies' workforce, including increases in the hourly wages of workers to $15, and to increase the salaries for clinical employees and other personnel in a manner that advances the goal of achieving competitive compensation to regionally equivalent State, health care, or school-based positions of equal skills, credentials, and lengths of employment; enable the designated and specialized service agencies to meet their statutorily mandated responsibilities and required outcomes; identify the required outcomes; and establish recommended levels of increased funding for inclusion in the fiscal year 2019 budget.

(b) The Commissioner shall submit the estimates calculated pursuant to subsection (a) of this section on or before December 15, 2017 to the House Committees on Appropriations and on Health Care and to the Senate Committees on Appropriations and on Health and Welfare.

Sec. E.314.3 [DELETED]

Sec. E.314.4 [DELETED]

Sec. E.316 ECONOMIC SERVICES DIVISION; INNOVATION IN DELIVERY OF SERVICES

(a) For the purpose of exploring innovative approaches to the administration of programs within the Department for Children and Families' Economic Services Division, the Commissioner may authorize pilot programs within specific regions of the State that waive Division rules adopted pursuant to 3 V.S.A. chapter 25 in a manner that does not impact program eligibility or benefits. Temporarily waiving some existing rules for a prescribed period of time shall enable the Division to test innovative ideas for improving the delivery of services with the specific goal of achieving more responsive client services and operational efficiencies.

(b) During fiscal year 2018, the Division may propose pilot programs in accordance with the goals described in subsection (a) of this section to the Commissioner for approval. Each proposal shall outline the targeted service area, efficiencies sought, rules to be waived, duration of the program, and evaluation criteria. Notice shall be given to clients affected by a pilot program and to the chairs of the House Committee on Human Services and Senate Committee on Health and Welfare prior to the commencement of the pilot program, including a description of how benefit delivery will be affected, length of the program, and right to a fair hearing.

(c) On or before January 15, 2019, the Commissioner shall submit a report to the House Committee on Human Services and to the Senate Committee on Health and Welfare summarizing the pilot programs implemented pursuant to this section and any findings and recommendations. In the event a particular pilot program is successful at improving the delivery of services to clients, the Commissioner may seek to amend the Division's rules in conformity with the approach used by the pilot program pursuant to 3 V.S.A. chapter 25.

Sec. E.317 USE OF RESIDENTIAL CARE FACILITIES

(a) At a November 2017 meeting of the Joint Legislative Justice Oversight Committee and Joint Legislative Child Protection Oversight Committee, the Commissioner for Children and Families with the assistance of the Departments of Mental Health and of Disabilities, Aging, and Independent Living and the Agency of Education shall present a report on the use of out-of-state and in-state residential placements, including Woodside. The report shall include the following:

(1) utilization for fiscal years 2015, 2016, and 2017, including the number and age of children placed by facility and the total bed days utilized.

(2) for each facility, the average daily costs for specific levels of service or treatment acuity in fiscal years 2015, 2016, and 2017 and the total amount paid to each facility by department and by funding source in fiscal years 2015, 2016, and 2017.

(3) measures used by the Department to determine outcomes for the children placed in these facilities and the cost effectiveness of these facilities, including length of stay, intensity of services provided, reunification of children with their family or home community, or both, relapse or readmittance rates or subsequent involvement with the criminal justice system, or both; and

(4) the specific steps taken over the past three years by the Departments and the Agency to increase community-based supports for youths in custody while reducing use of residential care.

(b) The report shall also be provided to the House Committees on Appropriations, on Judiciary, on Human Services, and on Corrections and Institutions and to the Senate Committees on Appropriations, on Judiciary, on Health and Welfare, and on Institutions.

Sec. E.318 EARLY CARE AND DEVELOPMENT PROGRAM FUNDING

(a) Of the additional $2,500,000 in general funds appropriated in Sec. B.318 of this act:

(1) an amount shall be allocated as needed to bring the baseline year used to determine eligibility for the Child Care Financial Assistance Program

from the Federal Poverty Level (FPL) that was in place in 2016 to the 2017 FPL, which is the most current FPL for State fiscal year 2018; and

(2) the remaining amount shall be used for the Early Care and Development program as specified in Sec. E.318.1 of this act.

Sec. E.318.1 EARLY CARE AND DEVELOPMENT PROGRAM GRANT

(a) In fiscal year 2018 and thereafter, the Department for Children and Families shall award 70 percent of funds designated for the Early Care and Development Program Grants to center-based child care and preschool programs participating in the Step Ahead Recognition System (STARS) and 30 percent of the designated funds to family child care homes participating in STARS in accordance with the formula described in subsection (b) of this section.

(b) The Department's Child Development Division shall calculate eligibility for Early Care and Development Program Grants on a quarterly basis. In determining eligibility, the Division shall consider:

(1) the percent of enrollees receiving a Child Care Financial Assistance Program (CCFAP) subsidy as compared to a center-based child care and preschool program of a family child care home's licensed capacity at a weight of 70 percent;

(2) the average number of enrollees at a center-based child care and preschool program or family child care home receiving a CCFAP subsidy at a weight of 15 percent; and

(3) the average number of infants and toddlers enrolled in a center-based child care and preschool program or family child care home at a weight of 15 percent.

(c) The Division shall provide Early Care and Development Program Grants to eligible child care and preschool programs or family child care homes as funds allow. Center-based child care and preschool programs or family child care homes receiving Early Care and Development Program Grants shall remain in compliance with the Department's rules, continue participation in STARS, and maintain high enrollment of children receiving a CCFAP subsidy.

Sec. E.321 HOUSING ASSISTANCE BENEFITS; FLEXIBILITY PROGRAM; COMMUNITY BASED ALTERNATIVES TO GENERAL ASSISTANCE TEMPORARY HOUSING

(a) For fiscal year 2018, the Agency of Human Services may continue to fund housing assistance programs within the General Assistance program to create flexibility to provide General Assistance benefits, as well as grants to

support the establishment of community-based alternatives for temporary housing as part of the effort to reduce the number of individuals temporarily housed by the General Assistance program. The purpose of these housing assistance programs and community-based alternatives is to mitigate poverty and serve applicants more effectively than they are currently being served with General Assistance funds. Eligible activities shall include, among other things, the provision of shelter, overflow shelter, case management, transitional housing, deposits, down payments, rental assistance, upstream prevention, and related services that ensure that all Vermonters have access to shelter, housing, and the services they need to become safely housed. The Agency may award grants to homeless and housing service providers for eligible activities. Where such housing assistance programs and grants are provided and community-based programs are established, the General Assistance rules will not apply. The assistance provided under this section is not an entitlement and may be discontinued when the appropriation has been fully spent.

(b) The housing assistance and community-based programs may operate in up to 12 districts designated by the Secretary of Human Services. The Agency shall establish goals and procedures for evaluating the program overall, including performance measures that demonstrate program results, and for each district in which the Agency operates the program, it shall establish procedures for evaluating the district program and its effects.

(c) The Agency shall continue to engage interested parties, including both statewide organizations and local agencies, in the design, implementation, and evaluation of housing assistance programs and community-based alternatives to General Assistance temporary housing.

Sec. E.321.1 GENERAL ASSISTANCE HOUSING

(a) Funds appropriated to the Agency of Human Services in the General Assistance program in fiscal year 2018 may be used for temporary housing in catastrophic situations and for vulnerable populations, as defined in rules adopted by the Agency. The Commissioner for Children and Families may, by policy, provide temporary housing for a limited duration in adverse weather conditions when appropriate shelter space is not available.

Sec. E.321.2 33 V.S.A. § 2115 is amended to read:

§ 2115. GENERAL ASSISTANCE PROGRAM REPORT

On or before ~~January 15~~ September 1 of each year, the Commissioner for Children and Families shall submit a written report to the Joint Fiscal Committee; the House Committees on Appropriations, on General, Housing and Military Affairs, and on Human Services; and the Senate Committees on Appropriations and on Health and Welfare ~~containing:~~. The report shall contain the following:

(1) an evaluation of the General Assistance program during the previous fiscal year;

(2) any recommendations for changes to the program; ~~and~~

(3) a plan for continued implementation of the program;

(4) statewide statistics using deidentified data related to the use of emergency housing vouchers during the preceding State fiscal year, including demographic information, client data, shelter and motel usage rates, clients' primary stated cause of homelessness, average lengths of stay in emergency housing by demographic group and by type of housing; and

(5) other information the Commissioner deems appropriate.

Sec. E.324 LIHEAP AND WEATHERIZATION

(a) Notwithstanding 33 V.S.A. § 2501, in fiscal year 2018, the Secretary of Administration may, upon recommendation of the Secretary of Human Services, transfer up to 15 percent of the federal fiscal year 2018 federal Low Income Home Energy Assistance Program (LIHEAP) block grant from the federal funds appropriation in Sec. B.324 of this act to the Home Weatherization Assistance appropriation in Sec. B.326 of this act to be used for weatherization in State fiscal year 2018. An equivalent appropriation transfer shall be made to Sec. B.324 of this act, Low Income Home Energy Assistance Program, from the Home Weatherization Assistance Fund in Sec. B.326 of this act to provide home heating fuel benefits in State fiscal year 2018. At least three days prior to any such transfer being made, the Secretary of Administration shall report the intended transfer to the Joint Fiscal Office and shall report any completed transfers to the Joint Fiscal Committee at its next meeting.

Sec. E.324.1 EXPEDITED CRISIS FUEL ASSISTANCE

(a) The Commissioner for Children and Families or designee may authorize crisis fuel assistance to those income-eligible households that have applied for an expedited seasonal fuel benefit but have not yet received it, if the benefit cannot be executed in time to prevent them from running out of fuel. The crisis fuel grants authorized pursuant to this section count toward the one crisis fuel grant allowed per household for the winter heating season pursuant to 33 V.S.A. § 2609(b).

Sec. E.325 Department for children and families – office of economic opportunity

(a) Of the General Fund appropriation in Sec. B.325 of this act, $1,092,000 shall be granted to community agencies for homeless assistance by preserving existing services, increasing services, or increasing resources available

statewide. These funds may be granted alone or in conjunction with federal Emergency Solutions Grants funds. Grant decisions shall be made with assistance from the Vermont Coalition to End Homelessness.

Sec. E.326 Department for children and families – OEO – weatherization assistance

(a) Of the Special Fund appropriation in Sec. B.326 of this act, $750,000 is for the replacement and repair of home heating equipment.

Sec. E.327 WOODSIDE GLOBAL COMMITMENT FUNDING

(a) Upon any notification by the Centers for Medicare and Medicaid Services or upon determination by the Agency of Human Services that Medicaid funding will not be available to the State for the operation of Woodside Juvenile Rehabilitation Center in fiscal year 2018, the Secretary of Human Services and the Commissioner for Children and Families shall:

(1) immediately inform the Joint Fiscal Committee, the House and Senate Committees on Judiciary, the House Committee on Corrections and Institutions, and the Senate Committee on Institutions of such notification or determination; and

(2) within 30 days of such notification or determination, develop and submit a proposal to the Committees named in subdivision (1) of this subsection that includes:

(A) a plan to suspend operations at the Woodside facility while ensuring alternative placements are made that meet the service needs for the delinquent youths currently placed there; and

(B) a fiscal impact analysis that includes fiscal year 2018 and long term fiscal cost estimates.

Sec. E.335 ELECTRONIC MONITORING

(a) The Commissioner of Corrections shall implement an active electronic monitoring program with real-time enforcement. The Commissioner of Corrections, in consultation with the Department of State's Attorneys and Sheriffs, may contract with a third party to electronically monitor offender positioning.

(b) The Electronic Monitoring Program described in subsection (a) of this section may be used to monitor, in lieu of incarcerating in a facility, the following populations:

(1) offenders in the custody of the Commissioner who are eligible for the Home Detention Program described in 13 V.S.A. § 7554b; and

(2) offenders in the custody of the Commissioner, including the following target populations:

(A) offenders who are eligible for home confinement furlough, as described in 28 V.S.A. § 808b;

(B) offenders who are past their minimum sentence and are deemed appropriate for the Program by the Commissioner of Corrections; or

(C) offenders who are eligible for reintegration furlough, as described in 28 V.S.A. § 808c.

(c) An offender shall only be eligible for the Electronic Monitoring Program described in subsection (a) of this section if electronic monitoring equipment is fully functional in the geographic area where the offender will be located.

Sec. E.335.1 SOUTHEAST STATE CORRECTIONAL FACILITY

(a) Plan. Funding for the Department of Corrections reflects the cessation of operation of the Southeast State Correctional Facility. It is the intent of the General Assembly that the Department develop a plan to provide secure transitional housing for inmates preparing to reenter the community, including the reuse of the Southeast State Correctional Facility for this purpose.

(b) Population. It is the intent of the General Assembly that a reentry facility be available for the following populations:

(1) inmates on the Lack of Housing (B1) list;

(2) moderate- to high-risk inmates who are either past their minimum release date or within 90 days of their release date;

(3) inmates who are eligible for reintegration furlough; and

(4) inmates who have served a significant sentence and are within six months of their release date.

(c) Services. It is the intent of the General Assembly that a reentry facility provides the following prerelease services:

(1) acquisition of identification;

(2) housing identification;

(3) employment readiness and retention;

(4) planning to address transportation barriers;

(5) money management;

(6) transition and reentry case planning;

(7) substance abuse treatment;

(8) work release; and

(9) information technology skills development.

(d) Coordination of services. The Department of Corrections shall coordinate with the community justice centers statewide and the Department of Labor to ensure inmates successfully transition back to society.

(e) Report. The Department of Corrections shall provide a report on the plan to the Joint Legislative Justice Oversight Committee on or before November 1, 2017.

Sec. E.335.2 REDUCTION IN FORCE OF SOUTHEAST STATE CORRECTIONAL FACILITY EMPLOYEES

(a) Permanent status classified State employees who are subject to a reduction in force from their positions at the Southeast State Correctional Facility on or after November 1, 2017, whose reemployment rights have not otherwise terminated, and who have not been reemployed with the State during the two-year reduction in force reemployment rights period, shall be granted a continuation of their reduction in force reemployment rights, in accordance with the provisions of the applicable collective bargaining agreement, but solely to vacant classified bargaining unit positions at any State correctional facility that management intends to fill. All other contractual reduction in force reemployment terms and conditions shall apply.

(b) Permanent status classified State employees employed by the Southeast State Correctional Facility as of November 1, 2017 shall, in accordance with the provisions of the applicable collective bargaining agreement, be eligible to receive one mandatory offer of reemployment to the Southeast State Correctional Facility when it is reused to provide secure transitional housing for inmates preparing to reenter the community. An employee who accepts the mandatory offer of reemployment shall be appointed in accordance with the provisions of the applicable collective bargaining agreement. If an employee who accepts a mandatory offer of reemployment fails the associated working test period, he or she shall be separated from employment and granted full reduction in force reemployment rights in accordance with the applicable collective bargaining agreement.

Sec. E.338 Corrections - correctional services

(a) The special funds appropriation of $146,000 for the supplemental facility payments to Newport and Springfield shall be paid from the PILOT Special Fund under 32 V.S.A. § 3709.

Sec. E.338.1 2008 Acts and Resolves No. 179, Sec. 22(a), as amended by 2010 Acts and Resolves No. 157, Sec. 14, by 2012 Acts and Resolves No. 104, Sec. 38, by 2013 Acts and Resolves No. 41, Sec. 1a, and by 2014 Acts and Resolves No. 194, Sec. 15, is further amended to read:

(a) Secs. 11 and 12 shall take effect on July 1, ~~2017~~ 2021.

Sec. E.338.2 2014 Acts and Resolves No. 131, Sec. 135, as amended by 2015 Acts and Resolves No. 4, Sec. 71, is further amended to read:

Sec. 135. ~~EFFECTIVE DATES~~

~~This act shall take effect on passage, except that Secs. 118a and 118b (amending 18 V.S.A. § 4808 and adding 18 V.S.A. § 4809) shall take effect on July 1, 2017.~~ [Repealed.]

Sec. E.342 Vermont veterans' home – care and support services

(a) The Vermont Veterans' Home shall use the Global Commitment funds appropriated in this section for the purpose of increasing the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

Sec. E.342.1 [DELETED]

Sec. E.345 Green mountain care board

(a) The Green Mountain Care Board shall use the Global Commitment Funds appropriated in Sec. B.345 of this act to encourage the formation and maintenance of public-private partnerships in health care, including initiatives to support and improve the health care delivery system.

Sec. E.345.1 FAIR REIMBURSEMENT REPORT

(a) Utilizing funds appropriated in Section B.345 of this act, the Green Mountain Care Board shall report to the Health Reform Oversight Committee by October 1, 2017 describing what substantial changes have been put into effect to achieve the site-neutral, fair reimbursements for medical services as envisioned in 2014 Acts and Resolves No. 144, Sec. 19, 2015 Acts and Resolves No. 54, Sec. 23, and 2016 Acts and Resolves No. 143, Sec. 5.

Sec. E.345.2 HEALTH INSURANCE REGULATION; MARKET STABILITY

(a) The Green Mountain Care Board, the Departments of Financial Regulation and of Vermont Health Access, and other State agencies and departments with responsibility for the regulation of health insurers and health insurance plans shall, to the maximum extent permitted under federal law, take such actions as are necessary to maintain the existing health care regulatory framework and a stable health insurance market for major medical health insurance in 2017 while the General Assembly is not in session.

* * * LABOR * * *

Sec. E.400 DEPARTMENT OF LABOR; RESTRICTION ON TRANSFER OF AUTHORIZED POSITIONS

(a) Notwithstanding any other provision of law to the contrary, no authorized positions in the Department of Labor or appropriations for authorized positions in the Department of Labor shall be transferred to the Agency of Commerce and Community Development without the approval of the General Assembly or, if the General Assembly is not in session, of the Joint Fiscal Committee.

Sec. E.400.1 APPRENTICESHIP AND YOUTH MENTORING PROGRAM

(a) On or before October 1, 2017, the Department of Labor shall design and begin implementation of the Apprenticeship and Youth Mentoring Program, the purpose of which shall be to provide paid work experiences and paid or unpaid internships for Vermont youths, working with mentoring professionals, that have academic and occupational education as a component, including:

(1) a summer youth employment program for high school juniors and seniors; and

(2) nonseasonal employment, preapprenticeship programs, and on-the-job training, for an at-risk youth employment program targeted for at-risk individuals 18 to 24 years of age.

(b) The Department shall implement the Program using funds from the State's Workforce Innovation and Opportunity Act grant from the U.S. Department of Labor, and other State and federal sources, to the extent allowed under applicable law.

(c) The Department shall design the Program to serve 150 individual Vermonters.

* * * K–12 EDUCATION * * *

Sec. E.500 Education – finance and administration

(a) The Global Commitment funds appropriated in this section will be used for physician claims for determining medical necessity of Individualized Education Program (IEPs). It is the goal of these services to increase the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

Sec. E.500.1 [DELETED]

Sec. E.500.2 16 V.S.A. § 4025(b)(4) is added to read:

(4) To make payments to the Vermont Teachers' Retirement Fund for the normal contribution in accordance with subsection 1944(c) of this title.

Sec. E.502 Education – special education: formula grants

(a) Of the appropriation authorized in this section, and notwithstanding any other provision of law, an amount not to exceed $3,566,029 shall be used by the Agency of Education in fiscal year 2018 as funding for 16 V.S.A. § 2967(b)(2)–(6). In distributing such funds, the Secretary shall not be limited by the restrictions contained within 16 V.S.A. § 2969(c) and (d). In addition to funding for 16 V.S.A. § 2967(b)(2)–(6), up to $192,805 may be used by the Agency of Education for its participation in the higher education partnership plan.

Sec. E.503 Education – state-placed students

(a) The Independence Place Program of the Lund Family Center shall be considered a 24-hour residential program for the purposes of reimbursement of education costs.

Sec. E.504.1 Education – flexible pathways

(a) Of this appropriation, $4,120,000 from the Education Fund shall be distributed to school districts for reimbursement of high school completion services pursuant to 16 V.S.A. § 943(c). Notwithstanding 16 V.S.A. § 4025(b), of this Education Fund appropriation, the amount of:

(1) $600,000 is available for dual enrollment programs consistent with 16 V.S.A. § 944(f)(2), and the amount of $30,000 is available for use pursuant to Sec. E.605.1(a)(2) of this act;

(2) $100,000 is available to support the Vermont Virtual Learning Cooperative at the River Valley Technical Center School District;

(3) $200,000 is available for secondary school reform grants; and

(4) $450,000 is available for the Vermont Academy of Science and Technology and $1,700,000 for Early College pursuant to 16 V.S.A. § 4011(e).

Sec. E.504.2 ADULT DIPLOMA FUNDING

(a) Payment amounts made in section B.504 for the adult diploma program are made notwithstanding 16 V.S.A. § 4011(f).

Sec. E.505 [DELETED]

Sec. E.513 Appropriation and transfer to education

(a) Pursuant to Sec. B.513 of this act and 16 V.S.A. § 4025(a)(2), there is appropriated in fiscal year 2018 from the General Fund for transfer to the Education Fund the amount of $314,695,753.

Sec. E.514 State teachers' retirement system

(a) In accordance with 16 V.S.A. § 1944(g)(2), the annual contribution to the State Teachers' Retirement System (STRS) shall be $88,409,437 of which $83,809,437 shall be the State's contribution and $4,600,000 shall be contributed from local school systems or educational entities pursuant to 16 V.S.A. § 1944c.

(b) In accordance with 16 V.S.A. § 1944(c)(2), of the annual contribution, $8,346,261 is the "normal contribution," and $80,063,176 is the "accrued liability contribution."

Sec. E.515 Retired teachers' health care and medical benefits

(a) In accordance with 16 V.S.A. § 1944b(b)(2), $27,560,966 will be contributed to the Retired Teachers' Health and Medical Benefits plan.

Sec. E.515.1 16 V.S.A. § 1944b is amended to read:

§ 1944b. RETIRED TEACHERS' HEALTH AND MEDICAL BENEFITS FUND

(a) There is established a Retired Teachers' Health and Medical Benefits Fund (Benefits Fund) to pay retired teacher health and medical benefits, including prescription drug benefits, when due in accordance with the terms established by the Board of Trustees of the State Teachers' Retirement System of Vermont pursuant to subsection 1942(p) and subdivision 1944(c)(12) of this title. The Benefits Fund shall be administered by the Treasurer.

(b) The Benefits Fund shall consist of:

(1) all monies remitted to the State on behalf of the members of the State Teachers' Retirement System of Vermont for prescription drug plans pursuant to the Employer Group Waiver Plan with Wrap pursuant to the Medicare Prescription Drug Improvement and Modernization Act of 2003;

(2) any monies appropriated by the General Assembly for the purpose of paying the health and medical benefits for retired members and their dependents provided by subsection 1942(p) and subdivision 1944(c)(12) of this title;

(3) any monies pursuant to subsection (e) of this section;

(4) ~~any monies the General Assembly transfers from the Supplemental Property Tax Relief Fund pursuant to 32 V.S.A. § 6075; and~~ [Repealed.]

(5) any monies pursuant to section 1944d of this title.

(c) No employee contributions shall be deposited in the Benefits Fund.

(d) Interest earned shall remain in the Benefits Fund, and all balances remaining at the end of a fiscal year shall be carried over to the following year; provided, however, that any amounts received in repayment of interfund loans established under subsection (e) of this section may be reinvested by the State Treasurer.

(e)(1) Notwithstanding any provision to the contrary, the State Treasurer is authorized to use interfund loans from the General Fund for payment into the Benefits Fund, which monies shall be identified exclusively for the purposes of payments of retired teacher health and medical benefits pursuant to this section. Any monies borrowed through an interfund loan pursuant to this section shall be paid from monies in the Benefits Fund or from other funds legally available for this purpose. It is the intent of the General Assembly to appropriate sufficient General Fund revenue, after consideration of all other revenue and disbursements, such that the interfund loan shall be paid in full on or before June 30, 2023. The Governor shall include in the annual budget request an amount sufficient to repay any interfund borrowing according to a schedule developed by the State Treasurer. The State Treasurer shall pay the interest and principal as due in accordance with authority granted under 32 V.S.A. § 902(b). The State Treasurer shall assess a rate of interest on the outstanding balance of the interfund loan comparable to the rate paid by private depositories of the State's monies, or to the yield available on investments made pursuant to 32 V.S.A. § 433. No interfund loans made under this authority shall, in the aggregate, exceed ~~$30,000,000.00~~ $28,500,000.00.

(2) For the purposes of this chapter, calculation of the interfund loan limit shall include long-term receivables and payables but shall not include accruals for federal reimbursement of employer group waiver plan receivables pursuant to 16 V.S.A. § 1944b(b)(1), receivables due from local school systems pursuant to 16 V.S.A. § 1944d, or any short-term accruals.

(f) It is the intent of the General Assembly to appropriate the required contributions necessary to pay retired teacher health and medical benefits by combining annual increases in base appropriations, but not from the Education Fund, and surplus revenues as they become available, so that the full cost of retired teacher health and medical benefits payments shall be met in base appropriations by fiscal year ~~2024~~ 2023. To the extent that other revenue sources are identified, the General Fund obligation shall not be reduced, until

all annual disbursements to repay the interfund loan in subsection (e) of this section are satisfied. Contributions to the Benefits Fund shall be irrevocable and it shall be impossible at any time prior to the satisfaction of all liabilities, with respect to employees and their beneficiaries, for any part of the corpus or income of the Benefits Fund to be used for, or diverted to, purposes other than the payment of retiree postemployment benefits to members and their beneficiaries and reasonable expenses of administering the Benefits Fund and related benefit plans.

(g) The Treasurer shall report on the status of the interfund loan balance allowed under this section as part of the annual budget presentation to the General Assembly.

* * * HIGHER EDUCATION * * *

Sec. E.600 University of Vermont

(a) The Commissioner of Finance and Management shall issue warrants to pay one-twelfth of this appropriation to the University of Vermont on or about the 15th day of each calendar month of the year.

(b) Of this appropriation, $380,326 shall be transferred to EPSCoR (Experimental Program to Stimulate Competitive Research) for the purpose of complying with State matching fund requirements necessary for the receipt of available federal or private funds, or both.

(c) If Global Commitment Fund monies are unavailable, the total grant funding for the University of Vermont shall be maintained through the General Fund or other State funding sources.

(d) The University of Vermont will use the Global Commitment funds appropriated in this section to support Vermont physician training. The University of Vermont prepares students, both Vermonters and out-of-state, and awards approximately 100 medical degrees annually. Graduates of this program, currently representing a significant number of physicians practicing in Vermont, deliver high-quality health care services to Medicaid beneficiaries and to uninsured or underinsured persons, or both, in Vermont and across the nation.

Sec. E.600.1 INCREASING VERMONT'S PRIMARY CARE WORKFORCE

(a) Of the Global Commitment funds allocated to the University of Vermont College of Medicine pursuant to this act, at least $750,000 shall be used to support the College of Medicine's new rural medicine health track, which embeds medical students in a rural community for a year-long longitudinal integrated clerkship during which they will be trained in clinical care while engaging with the local community and conducting population

health studies. The goal of the rural medicine health track is to encourage more students to choose careers in primary care in underserved areas of Vermont.

Sec. E.602 Vermont state colleges

(a) The Commissioner of Finance and Management shall issue warrants to pay one-twelfth of this appropriation to the Vermont State Colleges on or about the 15th day of each calendar month of the year.

(b) Of this appropriation, $427,898 shall be transferred to the Vermont Manufacturing Extension Center for the purpose of complying with State matching fund requirements necessary for the receipt of available federal or private funds, or both.

(c) Vermont State Colleges report. On or before January 15, 2018, the Vermont State Colleges shall submit a report to the House and Senate Committees on Appropriations on the use and effect of State funding appropriated to the Vermont State Colleges. This report shall include the following:

(1) Financial statements for the Vermont State Colleges' prior two fiscal years, including balance sheets and profit and loss statements. The financial statements shall identify separately the use of State funding appropriated to the Vermont State Colleges.

(2) For the immediately preceding five school years:

(A) the number of resident and nonresident students who were enrolled, on both a full-time and a part-time basis;

(B) the number of graduate and undergraduate degrees awarded to resident and nonresident students;

(C) student retention rates and the average amount of time to graduation;

(D) the cost of attendance, including:

(i) the average amount of nonloan financial aid awarded;

(ii) the average student debt upon graduation; and

(iii) in- and out-of-state tuition rates and how these compare with regional peer institutions; and

(E) for students that are first in their families to attend college, the information under subdivisions (A) through (D) of this subdivision (2) broken out for this student population.

(3) A description of the Vermont State Colleges' strategic priorities and a status report on the achievement of these priorities, including a description of actions necessary to ensure a healthy and viable Vermont State Colleges system that enables the Colleges to achieve their mission.

Sec. E.603 Vermont state colleges – allied health

(a) If Global Commitment fund monies are unavailable, the total grant funding for the Vermont State Colleges shall be maintained through the General Fund or other State funding sources.

(b) The Vermont State Colleges shall use the Global Commitment funds appropriated in this section to support the dental hygiene, respiratory therapy, and nursing programs which graduate approximately 315 health care providers annually. These graduates deliver direct, high-quality health care services to Medicaid beneficiaries or uninsured or underinsured persons, or both.

Sec. E.605 Vermont student assistance corporation

(a) Of this appropriation, $25,000 is appropriated from the Education Fund to the Vermont Student Assistance Corporation to be deposited into the Trust Fund established in 16 V.S.A. § 2845.

(b) Of this appropriation, not more than $200,000 may be used by the Vermont Student Assistance Corporation for a student aspirational pilot initiative to serve one or more high schools.

(c) Of the appropriated amount remaining after accounting for subsections (a) and (b) of this section, not less than 93 percent of this appropriation shall be used for direct student aid.

(d) Funds available to the Vermont Student Assistance Corporation pursuant to Sec. E.215(a) of this act shall be used for the purposes of 16 V.S.A. § 2856. Any unexpended funds from this allocation shall carry forward for this purpose.

Sec. E.605.1 NEED-BASED STIPEND FOR DUAL ENROLLMENT AND EARLY COLLEGE STUDENTS

(a) The sum of $60,000 shall be transferred to the Vermont Student Assistance Corporation (VSAC) as follows:

(1) $30,000 from Sec. B.1100(a)(3)(C) (Next Generation funds appropriated for dual enrollment and need-based stipend purposes).

(2) $30,000 pursuant to Sec. E.504.1(a)(1) (flexible pathways funds appropriated for dual enrollment and need-based stipend purposes).

(b) The sums transferred to VSAC in this section shall be used to fund a flat-rate, need-based stipend or voucher program for financially needy students enrolled in a dual enrollment course pursuant to 16 V.S.A. § 944 or in early

college pursuant to 16 V.S.A. § 4011(e) to be used for the purchase of books, cost of transportation, and payment of fees. VSAC shall establish the criteria for program eligibility. Funds shall be granted to eligible students on a first-come, first-served basis until funds are depleted.

(c) VSAC shall report on the program to the House Committees on Appropriations and on Commerce and Economic Development and to the Senate Committees on Appropriations and on Economic Development, Housing and General Affairs on or before January 15, 2018.

Sec. E.608 [DELETED]

Sec. E.608.1 [DELETED]

* * * NATURAL RESOURCES * * *

Sec. E.700 32 V.S.A. § 5(a)(3)(A) is amended to read:

(3)(A) This section shall not apply to the following items, if the acceptance of those items will not incur additional expense to the State or create an ongoing requirement for funds, services, or facilities:

(i) the acceptance of grants, gifts, donations, loans, or other things of value with a value of $5,000.00 or less;

(ii) the acceptance by the Department of Forests, Parks and Recreation and the Department of Fish and Wildlife of grants, gifts, donations, loans, or other things of value with a value of $15,000.00 or less; or

(iii) the acceptance by the Vermont Veterans' Home of grants, gifts, donations, loans, or other things of value with a value of $10,000.00 or less.

Sec. E.700.1 10 V.S.A. § 1389a is amended to read:

§ 1389a. CLEAN WATER INVESTMENT REPORT

(a) Beginning on January 15, 2017, and annually thereafter, the ~~Clean Water Fund Board~~ Secretary of Administration 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~~ prior 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.

(b) The Report shall ~~document progress or shortcomings in meeting established indicators for clean water restoration. The Report shall~~ include:

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

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

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

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

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

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

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

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

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

* * * COMMERCE AND COMMUNITY DEVELOPMENT * * *

Sec. E.800 VERMONT LIFE MAGAZINE

(a) The Secretary of Administration with the assistance of the Secretary of Commerce and Community Development shall issue an RFP by September 1, 2017 that seeks bids from interested media parties by December 1, 2017 to maximize the State benefit of Vermont Life magazine by:

(1) sale of Vermont Life magazine as an operating enterprise, or sale of any identifiable Vermont Life assets after the suspension of publication by the State to offset in whole or in part the magazine's existing debt; or

(2) licensing arrangements with entities that would result in payments to the State that reduce over time the magazine's existing debt; or

(3) partnership or operating proposals that continue publication without additional State support and have a high likelihood of eventual positive revenue streams to the State that reduce over time the magazine's existing debt or would result in a future sale of the enterprise sufficient to offset the debt, or both; or

(4) other media and publishing proposals that offset in whole or in part the magazine's existing debt.

(b) Departments of the State are not precluded from submitting bids, but the primary criterion in selecting a proposal will be the financial benefit to the State.

(c) The Secretary of Administration, in consultation with the Secretary of Commerce and Community Development, will analyze the bids received and make a determination of acceptance. The Secretary of Administration, with the approval of the Emergency Board, is authorized to execute a contract regarding the sale, licensing, partnership, or other proposal for Vermont Life to maximize the State benefit.

(d) If the determination is made for the State to continue publication, the full cost of Vermont Life operations shall be covered within the funds appropriated to the Agency in fiscal year 2019 and beyond.

Sec. E.800.1 VERMONT EB-5 REGIONAL CENTER; PLAN FOR REORGANIZATION; REPORT; BUDGET PROPOSAL

(a) On or before December 15, 2017, the Agency of Commerce and Community Development shall consider and adopt and plan for the reorganization and operation of the Vermont EB-5 Regional Center.

(b) The plan shall address specific steps the Agency will take to ensure the Center successfully connects Vermont businesses with investors and effectively markets and promotes economic development opportunities in Vermont.

(c) The Agency shall include in the Governor's budget proposal for fiscal year 2019 a detailed assessment and request for the funding necessary to implement the plan of reorganization required by this section.

Sec. E.804 Community development block grants

(a) Community Development Block Grants shall carry forward until expended.

* * * TRANSPORTATION * * *

Sec. E.904 [DELETED]

Sec. E.909 Transportation – central garage

(a) Of this appropriation, $7,904,353 is appropriated from the Transportation Equipment Replacement Account within the Central Garage Fund for the purchase of equipment as authorized in 19 V.S.A. § 13(b).

Sec. E.915 Transportation – town highway aid program

(a) This appropriation is authorized, notwithstanding the provisions of 19 V.S.A. § 306(a).

* * * MISCELLANEOUS TECHNICAL CORRECTIONS * * *

Sec. F.1 33 V.S.A. § 2604(b) is amended to read:

(b) Fuel cost requirements. The Secretary of Human Services or designee shall by procedure establish a table that contains amounts that will function as a proxy for applicant households' annual heating fuel cost for the previous year. The seasonal fuel expenditure estimates contained within the table shall closely approximate the actual home heating costs experienced by participants in the Home Heating Fuel Assistance Program. ~~Data on actual heating costs collected pursuant to subsection 2602(d) of this title shall be used in lieu of the proxy table when available.~~ The table shall be revised no less frequently than every three years based on data supplied by certified fuel suppliers, the Department of Public Service, and other industry sources to the Office of Home Heating Fuel Assistance. The Secretary or designee shall provide a draft of the table to the Home Energy Assistance Task Force established pursuant to subsection 2602a(c) of this title and solicit input from the Task Force prior to finalizing the table.

Sec. F.2 33 V.S.A. § 2605(a) is amended to read:

(a) The Secretary of Human Services or designee shall by rule establish a table that specifies maximum percentages of applicant households' annual heating fuel costs, based on the proxy table established pursuant to subsection 2604(b) of this title ~~and, when available, the data collected pursuant to subsection 2602(d) of this title,~~ that can be authorized for payment as annual home heating fuel assistance benefits for the following year. The maximum percentages contained within this table shall vary by household size and annual household income. In no instance shall the percentage exceed 90 percent.

Sec. F.3 33 V.S.A. § 2608 is amended to read:

§ 2608. WEATHERIZATION PROGRAM AGREEMENTS

The Director of the Home Energy Assistance Program shall inform the Administrator of the Home Weatherization Assistance Program, established under chapter 25 of this title, of all participants in the Home Heating Fuel Assistance Program ~~and of the information required by subsection 2602(d) of this title~~. The Agency of Human Services shall provide all participants in the Home Heating Fuel Assistance Program with information regarding the efficiency utility established under 30 V.S.A. § 209. All participants in the Home Heating Fuel Assistance Program shall be deemed to comply with any income requirements of the Home Weatherization Program, but to receive weatherization services, recipients shall be required to meet any other eligibility requirements of the Home Weatherization Program. As a condition of receipt of benefits under the Home Heating Fuel Assistance Program, a recipient shall consent to receive services of the Home Weatherization Assistance Program. ~~The Home Weatherization Assistance Program shall use the information required by subsection 2602(d) of this title to determine the number of British thermal units (Btus) needed to heat a square foot of space for each participant in the Home Energy Assistance Program.~~ The Home Weatherization Assistance Program shall give the highest priority to providing services to participants within the Home Heating Fuel Assistance Program and, among those participants, to those who require the ~~most BTUs to heat a square foot of space~~ highest energy usage.

Sec. F.4 33 V.S.A. § 2502(b)(3)(C) is amended to read:

(C) Establishing Program eligibility levels at 80 percent of the area median income, or 80 percent of the State median income, whichever is higher. Subject to the priority under section 2608 of this title given to participants in the Home Heating Fuel Assistance Program, the State program shall, when weighing factors to assign priority to buildings or units eligible for weatherization assistance, assign the greatest weight to those buildings and units that require the ~~most Btus to heat a square foot of space~~ highest energy usage.

Sec. F.5 33 V.S.A. § 2609(a) is amended to read:

(a) Annually, the Secretary of Human Services or designee shall determine an appropriate amount of funds ~~in the Home Heating Fuel Assistance fund~~ to be set aside for expenditure for the crisis fuel assistance component of the Home Heating Fuel Program. The Secretary or designee shall also adopt rules to define crisis situations for the expenditure of the home heating fuel crisis funds, and to establish the income ~~and asset~~ eligibility requirements of households for receipt of crisis Home Heating Fuel Assistance, provided that

no household shall be eligible whose gross household income is greater than 200 percent of the federal poverty level ~~or is in excess of income maximums established by LIHEAP~~ based on the income of all persons residing in the household. To the extent allowed by federal law, the Secretary or designee shall establish by rule a calculation of gross income based on the same rules used in 3SquaresVT, except that the Secretary or designee shall include additional deductions or exclusions from income required by LIHEAP.

Sec. F.6 33 V.S.A. § 2502(d) is amended to read:

(d) Subject to budgetary approval by the General Assembly, or approval by the Emergency Board, amounts in the Home Weatherization Assistance Fund created by section 2501 of this title may be transferred to the Home Heating Fuel Assistance ~~Fund created by section 2603 of this title~~ program, and used for energy assistance to low income persons, provided that such transfer does not reduce the fiscal capacity of the State Office of Economic Opportunity to meet the budgetary obligations of the Weatherization Program as set forth in this chapter, and that in the event of approval by the Emergency Board, the Emergency Board so certifies.

Sec. F.7 33 V.S.A. § 2502(c) is amended to read:

(c) The Secretary of Human Services shall by rule establish rent stabilization agreements and provisions to recapture amounts expended for weatherization of a rental unit which exceed the amount of energy cost reductions projected to be obtained by eligible tenants of the unit. The time periods established for rent stabilization and recapture shall be set taking into account the size of benefits received by tenants and landlords as well as the effect on program participation. Funds recaptured under this section shall be deposited into the Home Weatherization Assistance ~~Trust~~ Fund established under section 2501 of this title.

Sec. F.8 18 V.S.A. § 7254(a) is amended to read:

(a) The ~~director of health care reform~~ Director of Health Care Reform and the ~~commissioners of mental health, of health, and of Vermont health access~~ Commissioners of Mental Health, of Health, and of Vermont Health Access and the Green Mountain Care ~~board~~ Board or designees shall ensure that the redesign of the mental health delivery system established in this chapter is an integral component of the health care reform efforts ~~established in~~ coordinated pursuant to 3 V.S.A. ~~§ 2222a~~ § 3027. Specifically, the ~~director, commissioners, and board~~ Director, Commissioners, and Board shall confer on planning efforts necessary to ensure that the following initiatives are coordinated and advanced:

* * *

Sec. F.9 18 V.S.A. § 9351(b) is amended to read:

(b) The Health Information Technology Plan shall:

* * *

(7) integrate the information technology components of the Blueprint for Health established in chapter 13 of this title, the Agency of Human Services' Enterprise Master Patient Index, and all other Medicaid management information systems being developed by the Department of Vermont Health Access, information technology components of the quality assurance system, the program to capitalize with loans and grants electronic medical record systems in primary care practices, and any other information technology initiatives coordinated ~~by the Secretary of Administration~~ pursuant to 3 V.S.A. ~~§ 2222a~~ § 3027; and

* * *

Sec. F.10 18 V.S.A. § 9416(a) is amended to read:

(a) The ~~commissioner of health~~ Commissioner of Health shall contract with the Vermont Program for Quality in Health Care, Inc. to implement and maintain a statewide quality assurance system to evaluate and improve the quality of health care services rendered by health care providers of health care facilities, including managed care organizations, to determine that health care services rendered were professionally indicated or were performed in compliance with the applicable standard of care, and that the cost of health care rendered was considered reasonable by the providers of professional health services in that area. The ~~commissioner of health~~ Commissioner of Health shall ensure that the information technology components of the quality assurance system comply with, and the ~~commissioner of Vermont health access~~ Commissioner of Vermont Health Access shall ensure such components are incorporated into, the statewide health information technology plan developed under section 9351 of this title and any other information technology initiatives coordinated ~~by the secretary of administration~~ pursuant to 3 V.S.A. ~~§ 2222a~~ § 3027.

*** Effective Dates for Secs. A.100–G.100 ***

Sec. G.100 EFFECTIVE DATES

(a) This section and Secs. C.100 (fiscal year 2017 one-time appropriations), C.100.1 (Economic Development marketing), C.100.2 (Medicaid carry forward requirement), C.101 (fiscal year 2017 fund transfers), C.102 (Volkswagen settlement), C.103 (expenditure of Human Services Caseload Management Reserve), C.104 (fiscal year 2017 27/53 Reserve, transfer), C.105 (fiscal year 2017 Attorney General adjustment), C.106 (fiscal year 2017 Protection function total adjustment), C.107 (fiscal year 2017 Secretary' office,

Global Commitment adjustment), C.108 (fiscal year 2017 Green Mountain Care Board adjustment), C.109 (fiscal year 2017 Human Services function total adjustment), C.110–C.111 (fiscal year 2017 debt service adjustments), C.112–C.115 (fiscal year 2017 teachers' retirement system and health care and medical benefits adjustments), C.116 (Emergency Board composition), C.117 (budget report), C.118 (fiscal year 2017 carry forward authority), C.119 (fiscal year 2017 cost savings), C.120 (General Fund year end close out), D.102 (Tobacco Litigation Settlement Fund balance), E.100(b) (Labor Relations Manager position), E.100(c) (Security Guard positions), E.100(d) (transfer of vacant positions), E.100.1(d)(7) (position pilot program), E.100.2 (repeal), E.300.1–E.300.7 (transfer Director of Health Care Reform to the Agency of Human Services), E.300.14 (repeals), E.308.1 (Choices for Care), E.327 (Woodside Global Commitment funding), and F.1-F.10 (miscellaneous technical statute corrections), shall take effect on passage.

(b) All remaining sections shall take effect on July 1, 2017.

* * *

Sec. H.1 [RESERVED]

* * *

* * * Vermont Housing and Conservation Board;
Housing Bond Proceeds for Affordable Housing * * *

Sec. I.1 FINDINGS AND PURPOSE; AFFORDABLE HOUSING BOND

(a) Findings.

(1) The General Assembly finds that investments are needed to help house the most vulnerable Vermonters as well as creating more homes for workers.

(2) The shortage of affordable and available homes has been highlighted recently by:

(A) the Vermont Futures Project of the Vermont Chamber of Commerce, which set a growth target of 5,000 new and improved housing units annually;

(B) a national consultant's recommendations for a Roadmap to End Homelessness, which calls for, over the next five years, 368 new units for permanent supportive housing and 1,251 new homes affordable to families with income that is not more than 30 percent of the median; and

(C) the 2015 statewide housing needs assessment by Bowen National Research, which found the largest gaps in housing affordable to households with income below 30 percent of median and households with income between

85 percent and 120 percent of median, and found a lack of housing availability across the income spectrum.

(b) Purpose and intent.

(1) The purpose of Secs. I.1–I.12 of this act is to promote the development and improvement of housing for Vermonters.

(2) It is the intent of the General Assembly:

(A) to extend the clean water surcharge to provide an interim source of revenue for addressing water quality issues throughout the State;

(B) to continue its work on identifying a long-term funding source or sources that are sufficient in scope and targeted in design to address these water quality issues; and

(C) once one or more long-term funding sources are identified and enacted, but not later than July 1, 2027, to reduce the amount of the clean water surcharge to 0.04 percent.

Sec. I.2 10 V.S.A. § 314 is added to read:

§ 314. AFFORDABLE HOUSING BOND; INVESTMENT

The Vermont Housing and Conservation Board shall use the proceeds of bonds, notes, and other obligations issued by the Vermont Housing Finance Agency pursuant to subdivision 621(22) of this title and transferred to the Vermont Housing and Conservation Trust Fund to fund the creation and improvement of owner-occupied and rental housing for Vermonters with very low to middle income, in areas targeted for growth and reinvestment, as follows:

(1) not less than 25 percent of the housing shall be targeted to Vermonters with very low income, meaning households with income below 50 percent of area median income;

(2) not less than 25 percent of the housing shall be targeted to Vermonters with moderate income, meaning households with income between 80 and 120 percent of area median income; and

(3) the remaining housing shall be targeted to Vermonters with income that is less than or equal to 120 percent of area median income, consistent with the provisions of this chapter.

Sec. I.3 10 V.S.A. § 323 is amended to read:

§ 323. ANNUAL REPORT

Prior to January 31 of each year, the ~~board~~ Board shall submit a report concerning its activities to the ~~governor~~ Governor and ~~legislative committees~~

~~on agriculture, natural resources and energy, appropriations, ways and means, finance, and institutions~~ to the House Committees on Agriculture and Forestry, on Appropriations, on Corrections and Institutions, on Natural Resources, Fish and Wildlife, and on Ways and Means and the Senate Committees on Agriculture, on Appropriations, on Finance, on Institutions, and on Natural Resources and Energy. The report shall include~~, but not be limited to,~~ the following:

(1) a list and description of activities funded by the ~~board~~ Board during the preceding year, including commitments made to fund projects through housing bond proceeds pursuant to section 314 of this title, and project descriptions, levels of affordability, and geographic location;

* * *

* * * Allocation of Property Transfer Tax Revenues * * *

Sec. I.4 32 V.S.A. § 9610 is amended to read:

§ 9610. REMITTANCE OF RETURN AND TAX; INSPECTION OF RETURNS

(a) Not later than 30 days after the receipt of any property transfer return, a town clerk shall file the return in the office of the town clerk and electronically forward a copy of the acknowledged return to the Commissioner; provided, however, that with respect to a return filed in paper format with the town, the Commissioner shall have the discretion to allow the town to forward a paper copy of that return to the ~~department~~ Department.

(b) The copies of property transfer returns in the custody of the town clerk may be inspected by any member of the public.

(c) Prior to distributions of property transfer tax revenues under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), and ~~32 V.S.A. §~~ subdivision 435(b)(10) of this title, ~~one~~ two percent of the revenues received from the property transfer tax shall be deposited in a special fund in the Department of Taxes for Property Valuation and Review administration costs.

(d)(1) Prior to any distribution of property transfer tax revenue under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), subdivision 435(b)(10) of this title, and subsection (c) of this section, $2,500,000.00 of the revenue received from the property transfer tax shall be transferred to the Vermont Housing Finance Agency to pay the principal of and interest due on the bonds, notes, and other obligations authorized to be issued by the Agency pursuant to 10 V.S.A. § 621(22), the proceeds of which the Vermont Housing and Conservation Board shall use to create affordable housing pursuant to 10 V.S.A. § 314.

(2) As long as the bonds, notes, and other obligations incurred pursuant to subdivision (1) of this subsection remain outstanding, the rate of tax imposed pursuant to section 9602 of this title shall not be reduced below a rate estimated, at the time of any reduction, to generate annual revenues of at least $12,000,000.00.

* * * Vermont Housing Finance Agency; Authority to Issue Bonds for Affordable Housing * * *

Sec. I.5 10 V.S.A. § 621 is amended to read:

§ 621. GENERAL POWERS AND DUTIES

The Agency shall have all of the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including without limitation those general powers provided a business corporation by 11A V.S.A. § 3.02 and those general powers provided a nonprofit corporation by 11B V.S.A. § 3.02 and including, without limiting the generality of the foregoing, the power to:

* * *

(21) use funds received from real estate trust and escrow accounts established under 26 V.S.A. § 2214(c), IORTA funds, for down payment and closing cost assistance with priority given to persons and families at or below 90 percent of median income and to persons and families purchasing perpetually affordable housing;

(22) issue bonds, notes, and other obligations secured by the property transfer tax revenues transferred to the Agency pursuant to 32 V.S.A. § 9610(d).

Sec. I.6 10 V.S.A. § 631(l) is added to read:

(l)(1) The bonds, notes, and other obligations authorized to be issued pursuant to subdivision 621(22) of this title shall be secured by a pledge of the property transfer tax revenues to be transferred to the Agency pursuant to 32 V.S.A. § 9610(d) and shall mature on or before June 30, 2039.

(2) The Agency may issue the bonds, notes, and other obligations in one or more series at one time or from time to time, provided that the aggregate annual debt service on the bonds, notes, and other obligations shall not exceed $2,500,000.00 at any time.

(3) The Agency shall transfer the proceeds of the bonds, notes, and other obligations, less issuance fees and costs and required reserves, to the Vermont Housing and Conservation Trust Fund established pursuant to section 312 of this title for use by the Vermont Housing and Conservation Board as provided in section 314 of this title.

(4) The Agency, the Vermont Housing and Conservation Board, and the State Treasurer may execute one or more agreements governing the terms and conditions under which the property transfer tax revenues that secure the bonds, notes, and obligations shall be transferred to the Agency, and any other issues they determine appropriate.

* * * Funding for Affordable Housing Bond Program; Allocation of Revenues; Intent * * *

Sec. I.7 INTENT; FUNDING FOR AFFORDABLE HOUSING BOND PROGRAM; ALLOCATION OF PROPERTY TRANSFER TAX REVENUES

(a) Revenues from the property transfer tax, before the passage of this act, were allocated pursuant to statute as follows:

(1) The first two percent was deposited in a special fund in the Department of Taxes for Property Valuation and Review administration costs pursuant to 32 V.S.A. § 9610(c).

(2) Of the remaining 98 percent of the revenues:

(A) 17 percent was deposited in the Municipal and Regional Planning Fund created in 24 V.S.A. § 4306.

(B) 50 percent was deposited in the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312.

(C) 33 percent was deposited in the General Fund created in 32 V.S.A. § 435.

(b) Pursuant to Sec. I.4 of this act, in 32 V.S.A. § 9610(d), the first $2,500,000.00 of revenue generated from the property transfer tax is transferred to the Vermont Housing Finance Agency to service the bonds, notes, and other obligations incurred by the Agency pursuant to 10 V.S.A. § 621(22), the proceeds of which the Vermont Housing and Conservation Board shall use to create affordable housing pursuant to 10 V.S.A. § 314.

(c) Transferring the first $2,500,000.00 of property transfer tax revenues to the Vermont Housing Finance Agency for debt service reduces the amount of revenues available for allocation to the respective statutory recipients identified in subsection (a) of this section.

(d) To compensate for this reduction of available property transfer tax revenue, it is the intent of the General Assembly through this act to provide for the transfer of $2,500,000.00 to the Vermont Housing and Conservation Trust Fund, as follows:

(1) Sec. D.100 of this act appropriates $11,304,840.00 in fiscal year 2018 from the Vermont Housing and Conservation Trust Fund to the Vermont Housing and Conservation Board. Upon the effective date of this act, the Board shall transfer the amount of $1,500,000.00 back to the Vermont Housing and Conservation Trust Fund, resulting in a fiscal year 2018 total appropriation to the Board of $9,804,840.00. In fiscal year 2018 only, the Commissioner of Taxes shall transfer the amount of $1,500,000.00 from the Vermont Housing and Conservation Trust Fund to the General Fund.

(2) As provided in Sec. I.9 of this act, from July 1, 2017 until July 1, 2027, pursuant to 32 V.S.A. § 9602a, the Commissioner of Taxes shall annually transfer the first $1,000,000.00 in revenue generated by the clean water surcharge of 0.2 percent to the Vermont Housing and Conservation Trust Fund. In fiscal year 2018 only, the Commissioner shall transfer the amount of $1,000,000.00 from the Vermont Housing and Conservation Trust Fund to the General Fund.

(3) After July 1, 2027, pursuant to 32 V.S.A. § 9602a as amended in Sec. I.10 of this act, the Commissioner of Taxes shall annually transfer the $1,000,000.00 in total revenue generated by the clean water surcharge of 0.04 percent to the Vermont Housing and Conservation Trust Fund.

(4) As provided in Sec. I.11 of this act, the clean water surcharge will be repealed in its entirety on July 1, 2039.

* * * Clean Water Surcharge; Repeal of 2018 Sunset * * *

Sec. I.8 REPEAL; SUNSET OF CLEAN WATER SURCHARGE

(a) 2015 Acts and Resolves No. 64, Sec. 39 (sunset of clean water surcharge in 2018) is repealed.

* * * Clean Water Surcharge; Allocation of First $1 Million in Revenue until 2027 * * *

Sec. I.9 32 V.S.A. § 9602a is amended 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 or the first $200,000.00 in value of property transferred if the purchaser obtains a purchase money mortgage funded in part with a homeland grant through the Vermont Housing and Conservation Trust Fund or which the Vermont Housing and Finance Agency or U.S. Department of Agriculture and Rural Development has committed to make or purchase. 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, except for the first $1,000,000.00 of revenue generated by the surcharge, which shall be deposited in the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312.

* * * Clean Water Surcharge; Allocation of Revenue to Vermont Housing and Conservation Trust Fund in 2027 * * *

Sec. I.10 32 V.S.A. § 9602a is amended to read:

§ 9602a. CLEAN WATER SURCHARGE

There shall be a surcharge of ~~0.2~~ 0.04 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 or the first $200,000.00 in value of property transferred if the purchaser obtains a purchase money mortgage funded in part with a homeland grant through the Vermont Housing and Conservation Trust Fund or which the Vermont Housing and Finance Agency or U.S. Department of Agriculture and Rural Development has committed to make or purchase. 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, except for the first $1,000,000.00 of revenue generated by the surcharge, which shall be deposited~~ in the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312.

* * * Repeal of Affordable Housing Bond Provisions After Life of Bond * * *

Sec. I.11 REPEAL

(a) The following shall be repealed on July 1, 2039:

(1) 10 V.S.A. § 314 (Vermont Housing and Conservation Board; affordable housing bond and investments).

(2) 10 V.S.A. § 621(22) (Vermont Housing Finance Agency (VHFA) authority to issue debt obligations secured by property transfer tax).

(3) 10 V.S.A. § 631(l) (debt obligations issued by VHFA).

(4) 32 V.S.A. § 9610(d) (property transfer tax priority for affordable housing debt repayment).

(5) 32 V.S.A. § 9602a (clean water surcharge).

* * * Effective Dates for Secs. I.1–I.12 * * *

Sec. I.12 EFFECTIVE DATES

(a) Secs. I.1–I.12 of this act shall take effect on July 1, 2017, except that Sec. I.10 (allocating clean water surcharge revenue to Vermont Housing and Conservation Trust Fund) shall take effect on July 1, 2027.

And by renumbering all of the sections of the bill to be numerically correct (including internal references) and adjusting all of the totals to be arithmetically correct.

M. JANE KITCHEL
RICHARD W. SEARS
RICHARD A. WESTMAN

Committee on the part of the Senate

CATHERINE B. TOLL
PETER J. FAGAN
MARY S. HOOPER

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, 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, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: Benning, Branagan, Collamore, Degree, Flory, Mullin.

Those Senators absent and not voting were: Baruth, Rodgers.

Rules Suspended; Bills Messaged

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

H. 509, H. 518.

Rules Suspended; Bill Delivered

On motion of Senator Ashe, the rules were suspended, and the following bill was ordered delivered to the Governor forthwith:

S. 135.

Senate 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 on the part of the Senate:

By Senator Mazza,

By Rep. Condon,

S.C.R. 16.

Senate concurrent resolution honoring the Martin Family for its pioneering role in Vermont television broadcasting.

By Senators Mullin, Collamore and Flory,

S.C.R. 17.

Senate concurrent resolution congratulating and thanking all the participants in the 25th Annual Letter Carriers' Food Drive in Rutland County.

Secretary Directed to Inform the House of Completion of Business

On motion of Senator Ashe, the Secretary was directed to inform the House that the Senate has completed the business of the session and is ready to adjourn pursuant to the provisions of J.R.S. 34.

Committee Appointed to Inform Governor of Completion of Business

On motion of Senator Ashe, the President appointed the following four Senators as members of a committee to wait upon His Excellency, Philip B. Scott, the Governor, and inform him that the Senate has completed the business of the session and is ready to adjourn pursuant to the provisions of J.R.S. 34:

Senator Ashe
Senator Mazza
Senator Balint
Senator Degree