

House Calendar

Tuesday March 13, 2018

70th DAY OF THE ADJOURNED SESSION

House Convenes at 10:00 A.M.

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ACTION CALENDAR

UNFINISHED BUSINESS OF MARCH 12, 2018

Third Reading

H. 378

An act relating to the creation of the Artificial Intelligence Commission

H. 615

An act relating to prohibiting the use of drones near correctional facilities

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An act relating to creating a voluntary pollinator-friendly standard for solar arrays

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An act relating to miscellaneous agricultural subjects

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H. 906

An act relating to professional licensing for service members and veterans.

(Rep. Christie of Hartford will speak for the Committee on General; Housing; and Military Affairs.)

H. 907

An act relating to improving rental housing safety.

(Rep. Stevens of Waterbury will speak for the Committee on General; Housing; and Military Affairs.)

H. 908

An act relating to the Administrative Procedure Act.

(Rep. Kitzmiller of Montpelier will speak for the Committee on Government Operations.)

H. 909

An act relating to technical and clarifying changes in transportation-related laws.

(Rep. Brennan of Colchester will speak for the Committee on Transportation.)

H. 910

An act relating to the Open Meeting Law and the Public Records Act.

(Rep. Harrison of Chittenden will speak for the Committee on Government Operations.)

Favorable with Amendment

H. 599

An act relating to games of chance organized by nonprofit organizations

Rep. Smith of Derby, for the Committee on General; Housing; and Military Affairs, recommends the bill be amended as follows:

First: In Sec. 1, 13 V.S.A. § 2143, by striking out subdivision (a)(1)(B) in its entirety and inserting in lieu thereof a new subdivision (a)(1)(B) to read:

(B) A nonprofit organization, as defined in 31 V.S.A. § 1201(5), may organize and execute and a member of that organization may participate in lotteries, raffles, and other games of chance in which all of the proceeds are awarded as prizes to the members that participated. An individual who is not a member of the nonprofit organization shall not be allowed to participate in a lottery, raffle, or other game of chance organized under this subdivision (B).

Second: In Sec. 1, 13 V.S.A. § 2143, after subdivision (d)(4) and prior to the ellipsis, by inserting the following:

(e) Games of chance shall be limited as follows:

(1) All Except as otherwise provided pursuant to subdivision (a)(1)(B) of this section, all proceeds raised by a game of chance shall be used exclusively for charitable, religious, educational, and civic undertakings after deducting:

(Committee Vote: 9-0-2)

H. 620

An act relating to State-owned airports and economic development

Rep. Kimbell of Woodstock, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. STATE ECONOMIC DEVELOPMENT MARKETING PLAN;

MARKETING OF STATE-OWNED AIRPORTS

(a)(1) On or before January 15, 2019, the Secretary of Commerce and Community Development (Secretary), in consultation with the Secretary of Transportation, the legislative body of the municipality in which the airport is located, regional development corporations, regional planning commissions, the Vermont Chamber of Commerce, the Vermont Aviation Council, State airport committees, and any other interested persons, shall update the State's Economic Development Marketing Plan to incorporate the marketing of State-owned airports.

(2) In updating the Marketing Plan, the Secretary shall consider the State Aviation Systems Plan and shall address economic development opportunities with respect to each State-owned airport, including the recruitment and expansion of businesses involved in the development and commercialization of next-generation aeronautics technologies.

(b) On or before January 15, 2019, the Secretary shall submit the updated Marketing Plan to the House Committee on Commerce and Economic Development, the Senate Committee on Economic Development, Housing and General Affairs, and the House and Senate Committees on Transportation.

Sec. 2. CHARGING STATIONS AND RENEWABLE ENERGY PLANTS

AT STATE-OWNED AIRPORTS; FEASIBILITY EVALUATION

(a) As used in this section:

(1) "Renewable energy" shall have the same meaning as in 30 V.S.A. § 8002.

(2) "Renewable energy generating plant" means real and personal property, including any equipment, structure, or facility, used for or directly related to the generation of electricity from renewable energy.

(b) On or before January 15, 2019, for each State-owned airport, the Agency of Transportation shall evaluate the feasibility of:

(1) the installation of electric vehicle charging stations at the airport;

(2) the installation of electric aircraft charging stations at the airport;

and

(3) the siting of one or more renewable energy generating plants at the airport.

Sec. 3. 5 V.S.A. § 807 is amended to read:

§ 807. LEASE FOR AIRCRAFT HANGARS AND OTHER STRUCTURES;
LEASE TO BUSINESS ENTITIES

(a) A designated area or areas on the airport may be leased to a person for the purpose of constructing aircraft hangars, repair shops, or other structures compatible with the use and operation of the airport.

(b) A designated area or areas on the airport may also be leased to any business entity consistent with Federal Aviation Administration requirements.

Sec. 4. DEVELOPMENT OF AEROSPACE SECTOR IN VERMONT;
APPROPRIATION

(a) In fiscal year 2019, the amount of \$25,000.00 is appropriated from the General Fund to the Vermont Chamber of Commerce to continue its activities to promote development of the Vermont aerospace sector and associated supply chain throughout the State.

(b) The General Assembly intends that both the appropriation in subsection (a) of this section as well as the 2017 extension of the aviation sales and use tax exemption in 32 V.S.A. § 9741(29) promote development of the Vermont aerospace sector and associated supply chain throughout the State.

Sec. 5. EFFECTIVE DATES

(a) This section and Secs. 1–3 shall take effect on passage.

(b) Sec. 4 shall take effect on July 1, 2018.

(Committee Vote: 10-0-1)

Rep. Dakin of Colchester, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Commerce and Economic Development and when further amended as follows:

By striking out Secs. 4–5 in their entirety and inserting in lieu thereof the following:

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

H. 660

An act relating to establishing the Geographic Justice Criminal Code
Reclassification Commission

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

Sec. 1. COMMISSION ON SENTENCING DISPARITIES AND CRIMINAL CODE RECLASSIFICATION

(a) Findings. The General Assembly finds:

(1) Vermont lacks a structured criminal offense system that organizes criminal penalties in a manner that appropriately and effectively reflects levels of culpability and maximizes the uniform application of criminal law throughout the State. Contrary to most states and the Model Penal Code, Vermont does not have a classification system that places every crime into a category that attempts to correlate its severity with the appropriate punishment. Rather, each offense is distinct for purposes of imprisonment and fine amount, and most offenses have a statutory maximum term of imprisonment but no minimum or recommended average. Nor has Vermont ever comprehensively reviewed its criminal statutes in order to ensure that statutory sentences reflect current knowledge and do not perpetuate archaic crimes.

(2) This structure has resulted in a lack of uniformity in Vermont's sentencing practices. Comparable crimes in different regions of the State result in very different sentences, leading to a perception that geographic justice is a systemic problem. Because of the broad sentencing range, many sentences fall far outside statewide averages without any particular circumstances that would explain the departure. Overincarceration often results, with too many offenders sentenced for overly lengthy periods for crimes for which such punishments have not been shown to produce efficient results.

(3) The circumstances are ripe for a thorough review of Vermont's criminal sentencing law and practice in order to ensure that the justice system efficiently deploys limited resources to protect public safety, reduce recidivism, and promote geographic consistency.

(b) Creation. There is created the Commission on Sentencing Disparities and Criminal Code Reclassification to improve the consistent and uniform application of criminal justice throughout Vermont by reviewing Vermont's criminal offenses and placing each one in a standardized penalty classification system.

(c) Membership. The Commission shall be composed of the following 12 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;

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

(3) the Attorney General or designee;

(4) the Defender General or designee;

(5) a retired judge appointed by the Chief Superior Judge;

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

(7) the Executive Director of the Vermont Center for Crime Victim Services or designee; and

(8) the Executive Director of the Vermont Crime Research Group or designee.

(d) Powers and duties.

(1) The Commission 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 Commission shall propose legislation that places each of Vermont's criminal statutes into one of the classification offense categories it identifies.

(2) When determining the appropriate category for each offense, the Commission shall consider whether the existing statutory penalties for the offense are appropriate or in need of adjustment better to reflect prevailing average sentencing practices and the effective uses of criminal punishment. For purposes of this analysis, the Commission shall for each offense consider the average sentence and the average amount of time actually served. If the Commission is unable to determine an appropriate classification for a particular offense, the Commission shall indicate multiple classification possibilities for that offense. Unless there is a compelling rationale, the Commission shall not propose establishing new mandatory minimum sentences or increasing existing minimum or maximum sentences.

(3) For purposes of the classification system developed pursuant to this section, the Commission 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; and

(D) the decriminalization of some or all fine-only offenses and the transferal of them to the Judicial Bureau for consideration as civil offenses.

(e) Assistance. The Commission 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, formerly incarcerated Vermonters, and any other person who would be of assistance to the Commission.

(f) Report. On or before November 30, 2019, the Commission shall submit a report consisting of proposed legislation to the House and Senate Committees on Judiciary.

(g) Meetings.

(1) The Commission 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 Commission shall cease to exist on July 15, 2020.

(h) Reimbursement. 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. 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 reimbursement of expenses pursuant to 32 V.S.A. § 1010.

Sec. 2. 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 establishing the Commission on Sentencing Disparities and Criminal Code Reclassification”

(Committee Vote: 11-0-0)

Rep. Hooper of Montpelier, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Judiciary and when further amended as follows:

First: In Sec.1, subsection (c), by striking subdivisions (1) and (2) in their

entirety and inserting in lieu thereof new subdivisions (1) and (2) to read as follows:

(1) two current members of the House of Representatives, one who is a member of the Committee on Judiciary and one who is a member of the Committee on Corrections and Institutions, who shall be appointed by the Speaker of the House;

(2) two current members of the Senate, one who is a member of the Committee on Judiciary and one who is a member of the Committee on Institutions, who shall be appointed by the Committee on Committees;

Second: In Sec. 1, subsection (g), by striking subdivision (3)) in its entirety and inserting in lieu thereof the following:

(3) The Commission shall cease to exist on July 15, 2020.

(4) The Commission shall meet no more than 8 times when the General Assembly is not in session.

(Committee Vote: 11-0-0)

H. 707

An act relating to the prevention of sexual harassment

Rep. Head of South Burlington, for the Committee on General; Housing; and Military Affairs, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 495h is amended to read:

§ 495h. SEXUAL HARASSMENT

(a)(1) All employers, employment agencies, and labor organizations have an obligation to ensure a workplace free of sexual harassment.

(2) All persons who engage a person to perform work or services have an obligation to ensure a working relationship with that person that is free from sexual harassment.

* * *

~~(c)(1) Employers shall provide individual copies of their written policies to current employees no later than November 1, 1993, and to new employees upon their being hired. Employers who have provided individual written notice to all employees within the 12 months prior to October 1, 1993, shall be exempt from having to provide an additional notice during the 1993 calendar year.~~

(2) If an employer makes changes to its policy against sexual harassment, it shall provide to all employees a written copy of the updated

policy.

* * *

(f)(1) Employers and labor organizations are encouraged to conduct an education and training program within one year after September 30, 1993 for all current employees and members, and for all new employees and members thereafter within one year of commencement of employment, that includes at a minimum all the information outlined in this section within one year after commencement of employment.

(2) Employers and labor organizations are encouraged to conduct an annual education and training program for all employees and members that includes at a minimum all the information outlined in this section.

(3) Employers are encouraged to conduct additional training for current supervisory and managerial employees and members within one year of September 30, 1993, and for new supervisory and managerial employees and members within one year of after commencement of employment or membership, which should include at a minimum the information outlined in subsection (b) of this section and, the specific responsibilities of supervisory and managerial employees, and the methods actions that these employees must take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints.

(4) Employers, labor organizations, and appropriate State agencies are encouraged to cooperate in making this training available.

(g)(1) An employer shall not require any employee or prospective employee, as a condition of employment, to sign an agreement or waiver that does either of the following:

(A) prohibits, prevents, or otherwise restricts the employee or prospective employee from opposing, disclosing, reporting, or participating in an investigation of sexual harassment; or

(B) except as otherwise permitted by State or federal law, purports to waive a substantive or procedural right or remedy available to the employee with respect to a claim of sexual harassment.

(2) Any provision of an agreement that violates subdivision (1) of this subsection shall be void and unenforceable.

(h)(1) An agreement to settle a claim of sexual harassment shall not prohibit, prevent, or otherwise restrict the employee from working for the employer or any parent company, subsidiary, division, or affiliate of the employer.

(2) An agreement to settle a sexual harassment claim shall expressly

state that:

(A) it does not prohibit, prevent, or otherwise restrict the employee from doing either of the following:

(i) lodging a complaint of sexual harassment committed by any person with the Attorney General, a State's Attorney, the Human Rights Commission, the Equal Employment Opportunity Commission, or any other State or federal agency; or

(ii) testifying, assisting, or participating in any manner with an investigation related to a claim of sexual harassment conducted by the Attorney General, a State's Attorney, the Human Rights Commission, the Equal Employment Opportunity Commission, or any other State or federal agency; and

(B) it does not waive any rights or claims that may arise after the date the settlement agreement is executed.

(3) Any provision of an agreement to settle a sexual harassment claim that violates subdivision (1) or (2) of this subsection shall be void and unenforceable.

(4) Nothing in subdivision (2) of this subsection shall be construed to prevent an agreement to settle a sexual harassment claim from waiving or releasing the claimant's right to seek or obtain any remedies relating to sexual harassment of the claimant by another party to the agreement that occurred before the date on which the agreement is executed.

(i)(1)(A) For the purpose of assessing compliance with the provisions of this section, the Attorney General or designee, or, if the employer is the State, the Human Rights Commission or designee, may, with 48 hours' notice, at reasonable times and without unduly disrupting business operations enter and inspect any place of business or employment, question any person who is authorized by the employer to receive or investigate complaints of sexual harassment, and examine an employer's records, policies, procedures, and training materials related to the prevention of sexual harassment and the requirements of this section. As used in this subsection, the term "records" includes de-identified data regarding the number of complaints of sexual harassment received and the resolution of each complaint.

(B) The employer shall at reasonable times and without unduly disrupting business operations make any persons who are authorized by the employer to receive or investigate complaints of sexual harassment and any records, policies, procedures, and training materials related to the prevention of sexual harassment and the requirements of this section available to the Attorney General or designee or, if the employer is the State, the Human

Rights Commission or designee.

(2) Following an inspection and examination pursuant to subdivision (1) of this subsection, the Attorney General or the Human Rights Commission shall notify the employer of the results of the inspection and examination, including any issues or deficiencies identified, provide resources regarding practices and procedures for the prevention of sexual harassment that the employer may wish to adopt or utilize, and identify any technical assistance that the Attorney General or the Human Rights Commission may be able to provide to help the employer address any identified issues or deficiencies. If the Attorney General or the Human Rights Commission determines that it is necessary to ensure the employer's workplace is free from sexual harassment, the employer may be required, for a period of up to three years, to provide an annual education and training program that satisfies the provisions of subsection (f) of this section to all employees or to conduct an annual, anonymous working-climate survey, or both.

(j) The Attorney General shall adopt rules as necessary to implement the provisions of this section.

Sec. 2. 21 V.S.A. § 495b is amended to read:

§ 495b. PENALTIES AND ENFORCEMENT

(a)(1) The Attorney General or a State's Attorney may enforce the provisions of this subchapter by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458-2461 as though an unlawful employment practice were an unfair act in commerce. Any employer, employment agency, or labor organization complained against shall have the same rights and remedies as specified therein. The Superior Courts are authorized to impose the same civil penalties and investigation costs and to order other relief to the State of Vermont or an aggrieved employee for violations of this subchapter as they are authorized to impose or order under the provisions of 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the Superior Courts may order restitution of wages or other benefits on behalf of an employee and may order reinstatement and other appropriate relief on behalf of an employee.

(2) Any charge or formal complaint filed by the Attorney General or a State's Attorney against a person for unlawful discrimination or sexual harassment in violation of the provisions of this chapter shall include a statement setting forth the prohibition against retaliation pursuant to subdivision 495(a)(8) of this title.

* * *

Sec. 3. 9 V.S.A. § 4552 is amended to read:

§ 4552. DUTIES; JURISDICTION

* * *

(b)(1) The Commission shall have jurisdiction to investigate and enforce complaints of unlawful discrimination in violation of chapter 139 of this title, discrimination in public accommodations and rental and sale of real estate. The Commission shall also have jurisdiction when the party complained against is a State agency in matters for which the Attorney General would otherwise have jurisdiction under subsection (c) of this section.

(2) In any case relating to unlawful discrimination or sexual harassment in violation of 21 V.S.A. § 495 et seq. that the Commission has jurisdiction over pursuant to this subsection, it shall include a statement setting forth the prohibition against retaliation pursuant to 21 V.S.A. § 495(a)(8) with any formal complaint that is sent to a respondent.

(c) All complaints of unlawful discrimination in violation of 21 V.S.A. §§ 495 et seq. and 710, the Fair Employment Practices Act and the provisions for workers' compensation discrimination, respectively, and of 21 V.S.A. § 471 et seq. shall be referred to the Attorney General's office, for investigation and enforcement.

Sec. 4. ATTORNEY GENERAL; HUMAN RIGHTS COMMISSION;

ENHANCED REPORTING OF DISCRIMINATION AND SEXUAL HARASSMENT

(a) On or before December 15, 2018, the Attorney General and the Human Rights Commission shall develop and implement enhanced mechanisms for employees and members of the public to submit complaints of discrimination and sexual harassment in employment or in the course of a working relationship.

(b) The methods shall include, at a minimum, an easy-to-use portal on the Attorney General's or Human Rights Commission's website and a telephone hotline. Each method shall provide a clear statement that information submitted may be referred to the Office of the Attorney General, a State's Attorney, the Vermont Human Rights Commission, the Equal Employment Opportunity Commission, or another State or federal agency that has jurisdiction over the complaint.

Sec. 5. OUTREACH REGARDING ENHANCED REPORTING

MECHANISMS

On or before December 15, 2018, the Vermont Commission on Women, in

consultation with the Attorney General and the Human Rights Commission, shall develop and implement an outreach and education program designed to make Vermont employees, employers, businesses, and members of the public aware of:

(1) the methods for reporting employment and work-related discrimination and sexual harassment; and

(2) where to find information regarding:

(A) the laws related to employment and work-related discrimination and sexual harassment; and

(B) best practices for preventing employment and work-related discrimination and sexual harassment.

Sec. 6. REPORT REGARDING ENHANCED REPORTING MECHANISMS

On or before January 15, 2020, the Attorney General, in consultation with the Human Rights Commission and the Vermont Commission on Women, shall submit to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs a report regarding the implementation of the enhanced reporting mechanisms for instances of employment and work-related discrimination and sexual harassment. The report shall include:

(1) a detailed description of how any existing reporting mechanisms were enhanced and any new reporting mechanisms that were implemented;

(2) a summary of changes, if any, in the annual number of complaints of employment and work-related discrimination and sexual harassment received and the number of complaints resulting in an investigation, settlement, or State court action during calendar years 2018 and 2019 in comparison to calendar years 2016 and 2017;

(3) the number of employees and other persons that reported employment or work-related discrimination or sexual harassment to their employer, supervisor, or the person for whom they were working prior to making a complaint in comparison to the number that did not, and the reasons that employees and other persons gave for not reporting the discrimination or sexual harassment to their employer, supervisor, or the person for whom they were working prior to making a complaint; and

(4) any suggestion for legislative action to enhance further the reporting mechanisms or to reduce the amount of employment and work-related discrimination and sexual harassment.

Sec. 7. 21 V.S.A. § 495n is added to read:

§ 495n. SEXUAL HARASSMENT COMPLAINTS FILED IN SUPERIOR COURT; NOTICE TO ATTORNEY GENERAL AND HUMAN RIGHTS COMMISSION

(a) A person that files a claim of sexual harassment pursuant to section 495b of this subchapter in which neither the Attorney General nor the Human Rights Commission is a party shall provide notice of the action to the Attorney General and the Human Rights Commission within 14 days after filing the complaint. The notice may be submitted electronically and shall include a copy of the filed complaint.

(b)(1) Upon receiving notice of a complaint in which the State is a party, the Human Rights Commission may elect to:

(A) intervene in the action to seek remedies pursuant to section 495b of this subchapter; or

(B) without becoming a party to the action, file a statement with the court addressing questions of law related to the provisions of this subchapter.

(2) Upon receiving notice of a complaint in which the State is not a party, the Attorney General may elect to:

(A) intervene in the action to seek remedies pursuant to section 495b of this subchapter; or

(B) without becoming a party to the action, file a statement with the court addressing questions of law related to the provisions of this subchapter.

Sec. 8. COMMISSIONER OF LABOR; POSTER

On or before September 15, 2018, the Commissioner of Labor shall update the model policy and model poster created pursuant to 21 V.S.A. § 495h(d) to reflect the provisions of this act.

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee Vote: 10-0-1)

H. 802

An act relating to rural economic development infrastructure districts

Rep. Sheldon of Middlebury, for the Committee on Commerce and Economic Development, recommends the bill be amended as follows:

Sec. 1. 24 V.S.A. § 5704 is amended to read:

§ 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~~ The board shall draft the district's bylaws specifying the size, composition, quorum requirements, and manner of appointing and removing members to the ~~permanent governing board, including nonvoting, at-large board members.~~ The bylaws shall require that a majority of the board shall be appointed annually by the legislative bodies of the underlying municipalities appoint board members and fill board member vacancies. Board members appointed by the underlying municipalities may appoint additional, nonvoting, at-large board members and fill at-large board member vacancies. Board members, including at-large members, are not required to be residents of an underlying municipality. However, a majority of the board shall be residents of an underlying municipality. 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. At-large board members shall serve one-year terms, and shall be eligible to serve successive terms.~~ 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~~ after 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. The board shall elect from among its members a chair, vice chair, clerk, and treasurer. The board shall establish the fiscal year of the district and shall adopt rules of parliamentary procedure.~~ 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.

(f) Definition. For purposes of this section and section 5709 of this chapter, after a district has been established pursuant to section 5702 of this chapter, "voter" means a board member or subscriber or customer of a service provided by the district. "Voter" does not mean an at-large board member unless the vote is taken at an annual or special meeting and the at-large board member is a subscriber or customer of a service provided by the district.

Sec. 2. 24 V.S.A. § 5705 is amended to read:

§ 5705. OFFICERS

(a) Generally. The ~~district~~ board 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 to 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~~ elected 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.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

H. 856

An act relating to miscellaneous amendments to municipal law

Rep. LaClair of Barre Town, for the Committee on Government Operations, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Municipal Elections and Appointments * * *

Sec. 1. 17 V.S.A. § 2651a is amended to read:

§ 2651a. CONSTABLES; APPOINTMENT; REMOVAL

(a)(1) A town may vote by Australian ballot at an annual meeting to authorize the ~~selectmen~~ selectboard to appoint a first constable, and if needed a second constable, in which case at least a first constable shall be appointed.

(2) A constable so appointed may be removed by the ~~selectmen~~ selectboard for just cause after notice and hearing.

(3) When a town votes to authorize the ~~selectmen~~ selectboard to appoint

constables, the ~~selectmen's~~ selectboard's authority to make such appointments shall remain in effect until the town rescinds that authority by the majority vote of the ~~legal~~ registered voters present and voting at an annual meeting, duly warned for that purpose.

(b) Notwithstanding the provisions of subsection (a) to the contrary, a vote to authorize the ~~selectmen~~ selectboard to appoint constables shall become effective only upon a two-thirds vote of those present and voting, if a written protest against the authorization is filed with the ~~legislative body~~ selectboard at least 15 days before the vote by at least five percent of the voters of the municipality town.

(c) The authority to authorize the selectboard to appoint the constable as provided in this section shall extend to all towns except those that have a charter that specifically provides for the election or appointment of the office of constable.

Sec. 2. 17 V.S.A. § 2651b is amended to read:

§ 2651b. ELIMINATION OF OFFICE OF AUDITOR; APPOINTMENT OF PUBLIC ACCOUNTANT

(a)(1) A town may vote by ballot at an annual meeting to eliminate the office of town auditor.

(2)(A) If a town votes to eliminate the office of town auditor, the selectboard shall contract with a public accountant, licensed in this State, to perform an annual financial audit of all funds of the town except the funds audited pursuant to 16 V.S.A. § 323.

(B) Unless otherwise provided by law, the selectboard shall provide for all other ~~auditor~~ auditor's duties to be performed.

(3) A vote to eliminate the office of town auditor shall remain in effect until rescinded by majority vote of the ~~legal~~ registered voters present and voting, by ballot, at an annual meeting duly warned for that purpose.

(b) The term of office of any auditor in office on the date a town votes to eliminate that office shall expire on the 45th day after such vote or on the date upon which the selectboard enters into a contract with a public accountant under this section, whichever occurs first.

(c) The authority to vote to eliminate the office of town auditor as provided in this section shall extend to all towns except those towns that have a charter that specifically provides for the election or appointment of the office of town auditor.

Sec. 3. 17 V.S.A. § 2651c is amended to read:
§ 2651c. LACK OF ELECTED LISTER; APPOINTMENT OF LISTER;

ELIMINATION OF OFFICE

(a)(1) Notwithstanding any other provisions of law to the contrary and except as provided in subsection (b) of this section, in the event the board of listers of a ~~municipality~~ town falls below a majority and the selectboard is unable to find a person or persons to appoint as a lister or listers under the provisions of 24 V.S.A. § 963, the selectboard may appoint an assessor to perform the duties of a lister as set forth in ~~Title 32 V.S.A. chapter 121, subchapter 2~~ until the next annual meeting.

(2) The appointed person need not be a resident of the ~~municipality~~ town and shall have the same powers and be subject to the same duties and penalties as a duly elected lister for the ~~municipality~~ town.

(b)(1) A town may vote by ballot at an annual meeting to eliminate the office of lister.

(2)(A) If a town votes to eliminate the office of lister, the selectboard shall contract with or employ a professionally qualified assessor, who need not be a resident of the town.

(B) The assessor shall have the same powers, discharge the same duties, proceed in the discharge thereof in the same manner, and be subject to the same liabilities as are prescribed for listers or the board of listers under the provisions of Title 32.

(2)(3) A vote to eliminate the office of lister shall remain in effect until rescinded by majority vote of the ~~legal~~ registered voters present and voting at an annual meeting warned for that purpose.

(3)(c) The term of office of any lister in office on the date a town votes to eliminate that office shall expire on the 45th day after the vote or on the date upon which the selectboard appoints an assessor under this subsection, whichever occurs first.

(4)(d) The authority to vote to eliminate the office of lister as provided in this ~~subsection~~ section shall extend to all towns except those towns that have a charter that specifically provides for the election or appointment of the office of lister.

Sec. 4. 17 V.S.A. § 2651d is amended to read:

§ 2651d. COLLECTOR OF DELINQUENT TAXES; APPOINTMENT;
REMOVAL

(a)(1) A municipality may vote at an annual or special municipal meeting to authorize the legislative body to appoint a collector of delinquent taxes, who may be the municipal treasurer.

(2) A collector of delinquent taxes so appointed may be removed by the legislative body for just cause after notice and hearing.

(b) When a municipality votes to authorize the legislative body to appoint a collector of delinquent taxes, the legislative body's authority to make such appointment shall remain in effect until the municipality rescinds that authority by the majority vote of the ~~legal~~ registered voters present and voting at an annual or special meeting, duly warned for that purpose.

Sec. 5. 17 V.S.A. § 2651e is amended to read:

§ 2651e. MUNICIPAL CLERK; APPOINTMENT; REMOVAL

(a)(1) A municipality may vote at an annual meeting to authorize the legislative body to appoint the municipal clerk.

(2) A municipal clerk so appointed may be removed by the legislative body for just cause after notice and hearing.

(b) A vote to authorize the legislative body to appoint the municipal clerk shall remain in effect until rescinded by the majority vote of the ~~legal~~ registered voters present and voting at an annual or special meeting, duly warned for that purpose.

(c) The term of office of a municipal clerk in office on the date a municipality votes to allow the legislative body to appoint a municipal clerk shall expire 45 calendar days after the vote or on the date upon which the legislative body appoints a municipal clerk under this section, whichever occurs first, unless a petition for reconsideration or rescission is filed in accordance with section 2661 of this title.

(d) The authority to authorize the legislative body to appoint the municipal clerk as provided in this section shall extend to all municipalities except those that have a charter that specifically provides for the election or appointment of the office of municipal clerk.

Sec. 6. 17 V.S.A. § 2651f is amended to read:

§ 2651f. MUNICIPAL TREASURER; APPOINTMENT; REMOVAL

(a)(1) A municipality may vote at an annual meeting to authorize the legislative body to appoint the municipal treasurer.

(2) A treasurer so appointed may be removed by the legislative body for just cause after notice and hearing.

(b) A vote to authorize the legislative body to appoint the treasurer shall remain in effect until rescinded by the majority vote of the ~~legal~~ registered voters present and voting at an annual or special meeting, duly warned for that purpose.

(c) The term of office of a treasurer in office on the date a municipality votes to allow the legislative body to appoint a treasurer shall expire 45 calendar days after the vote or on the date upon which the legislative body appoints a treasurer under this section, whichever occurs first, unless a petition for reconsideration or rescission is filed in accordance with section 2661 of this title.

(d) The authority to authorize the legislative body to appoint the treasurer as provided in this section shall extend to all municipalities except those that have a charter that specifically provides for the election or appointment of the office of municipal treasurer.

* * * Local Incompatible Offices * * *

Sec. 7. 17 V.S.A. § 2647 is amended to read:

§ 2647. INCOMPATIBLE OFFICES

(a)(1) An auditor shall not be town clerk, town treasurer, selectboard member, first constable, collector of current or delinquent taxes, trustee of public funds, town manager, road commissioner, water commissioner, sewage system commissioner, sewage disposal commissioner, cemetery commissioner, or town district school director; nor shall a spouse of or any person assisting any of these officers in the discharge of official duties be eligible to hold office as auditor.

(2) A selectboard member or school director shall not be first constable, collector of taxes, town treasurer, assistant town treasurer, auditor, or town agent. A selectboard member shall not be lister or assessor.

(3) A cemetery commissioner or library trustee shall not be town treasurer, assistant town treasurer, or auditor.

(4) A town manager shall not hold any elective office in ~~the~~ that town or town school district.

(5) Election officers at local elections shall be disqualified as provided in section 2456 of this title.

* * *

* * * Smoking on Municipal Grounds * * *

Sec. 8. 18 V.S.A. § 1742 is amended to read:

§ 1742. RESTRICTIONS ON SMOKING IN PUBLIC PLACES

(a) The possession of lighted tobacco products or use of tobacco substitutes in any form is prohibited in:

(1) the common areas of all enclosed indoor places of public access and

publicly owned buildings and offices;

(2) all enclosed indoor places in lodging establishments used for transient traveling or public vacationing, such as resorts, hotels, and motels, including sleeping quarters and adjoining rooms rented to guests;

(3) designated smoke-free areas of property or grounds owned by or leased to the State or a municipality; and

(4) any other area within 25 feet of State-owned buildings and offices, except that to the extent that any portion of the 25-foot zone is not on State property, smoking is prohibited only in that portion of the zone that is on State property unless the owner of the adjoining property chooses to designate his or her property smoke-free.

* * *

* * * Animal Pounds * * *

Sec. 9. 20 V.S.A. chapter 191, subchapter 2 is amended to read:

Subchapter 2. Pounds and Impounding

Article 1. General Provisions

§ 3381. MAINTENANCE OF POUNDS

(a)(1) Each organized town shall maintain as many good and sufficient pounds as it may need for the impounding of beasts animals liable to be impounded.

(2) The pound may be kept in an adjacent town if the adjacent town consents and the poundkeeper may be a resident of an adjacent town.

(b) Each town may regulate the operation of its pounds except as to matters regulated by statute law.

§ 3382. ~~PENALTY FOR FAILURE TO MAINTAIN POUND~~

~~If a town, for the term of six months at one time, is without such pound, it shall be fined \$30.00. [Repealed.]~~

* * *

Sec. 10. LEGISLATIVE COUNCIL; CONFORMING REVISIONS;
20 V.S.A. CHAPTER 191, SUBCHAPTER 2; REPLACE “BEAST”
WITH “ANIMAL”

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall replace “beast” with “animal” and “beasts” with “animals” throughout 20 V.S.A. chapter 191, subchapter 2 (pounds and impounding), provided the revisions have no other effect on the meaning of

the affected statutes.

* * * Assistant Town Clerks * * *

Sec. 11. 24 V.S.A. § 1171 is amended to read:

§ 1171. DUTIES OF ASSISTANT CLERK

(a) ~~Such~~ The assistant clerk shall be sworn and is authorized to perform the recording and filing duties of the town clerk, to issue licenses and certified copies of records, and, in the absence, death, or disability of the town clerk, is further authorized to perform all other duties of ~~such~~ the clerk.

(b) ~~If there is a vacancy in the office of town clerk dies,~~ the authority of the assistant town clerk to perform the duties of the town clerk shall continue until a successor is appointed by the selectboard under section 963 of this title.

* * * Municipal Managers * * *

Sec. 12. 24 V.S.A. § 1236 is amended to read:

§ 1236. POWERS AND DUTIES IN PARTICULAR

The manager shall have authority and it shall be his or her duty:

* * *

(4) To have charge and supervision of all public town buildings, and repairs thereon, ~~and repairs of buildings of the town school district upon requisition of the school directors;~~ and all building done undertaken by the town ~~or town school district,~~ unless otherwise ~~specialy voted~~ provided for by the selectboard, shall be done under his or her charge and supervision.

* * *

(8) To supervise and expend all special appropriations of the town, as if the same were a separate department of the town, unless otherwise ~~voted~~ provided for by the town selectboard.

* * *

* * * Municipal Finances * * *

Sec. 13. 24 V.S.A. chapter 51 is amended to read:

CHAPTER 51. FINANCES; ACCOUNTS AND AUDITS

Subchapter 1. Taxes

* * *

§ 1533. TOWN BOARD FOR THE ABATEMENT OF TAXES

(a) The board of civil authority, with the listers and the town treasurer,

shall constitute a board for the abatement of town, ~~town school district,~~ and ~~current use~~ property taxes and water and sewer charges.

(b) The act of a majority of a quorum at a meeting shall be treated as the act of the board. This quorum requirement need not be met if the town treasurer, a majority of the listers, and a majority of the selectboard are present at the meeting.

* * *

§ 1535. ABATEMENT

(a) The board may abate in whole or part taxes, water charges, sewer charges, interest, ~~or~~ and collection fees, other than those arising out of a corrected classification of homestead or nonresidential property, accruing to the town in the following cases:

- (1) taxes or charges of persons who have died insolvent;
- (2) taxes or charges of persons who have removed from the State;
- (3) taxes or charges of persons who are unable to pay their taxes or charges, interest, and collection fees;
- (4) taxes in which there is manifest error or a mistake of the listers;
- (5) taxes or charges upon real or personal property lost or destroyed during the tax year;
- (6) the exemption amount available under 32 V.S.A. § 3802(11) to persons otherwise eligible for exemption who file a claim on or after May 1 but before October 1 due to the claimant's sickness or disability or other good cause as determined by the board of abatement; but that exemption amount shall be reduced by 20 percent of the total exemption for each month or portion of a month the claim is late filed;
- (7), (8) [Repealed.]
- (9) taxes or charges upon a mobile home moved from the town during the tax year as a result of a change in use of the mobile home park land or parts thereof, or closure of the mobile home park in which the mobile home was sited, pursuant to 10 V.S.A. § 6237.

(b) The board's abatement of an amount of tax or charge shall automatically abate any uncollected interest and fees relating to that amount.

(c) The board shall, in any case in which it abates taxes or charges, interest, or collection fees accruing to the town, or denies an application for abatement, state in detail in writing the reasons for its decision.

(d)(1) The board may order that any abatement as to an amount or amounts

already paid be in the form of a refund or in the form of a credit against the tax or charge for the next ensuing tax year, or charge billing cycle and for succeeding tax years or billing cycles if required to use up the amount of the credit.

(2) Whenever a municipality votes to collect interest on overdue taxes pursuant to 32 V.S.A. § 5136, interest in a like amount shall be paid by the municipality to any person for whom an abatement has been ordered.

(3) Interest on taxes or charges paid and subsequently abated shall accrue from the date payment was due or made, whichever is later. However, abatements issued pursuant to subdivision (a)(5) of this section need not include the payment of interest.

(4) When a refund has been ordered, the board shall draw an order on the town treasurer for ~~such~~ payment of the refund.

* * *

Subchapter 3. Orders Drawn by ~~Selectboard~~ Municipal Bodies

* * *

§ 1622. TOWN ORDERS; RECORD

(a)(1) The chair of the selectboard shall keep or cause to be kept a single record of all orders drawn by the board showing the number, date, to whom payable, for what purpose, and the amount of each ~~such~~ order.

(2) All other officers authorized by law to draw orders upon the town treasurer shall keep or cause to be kept a like record.

(b) Such records shall be submitted to the town auditors annually on or before February 1.

(c) If the records of orders named in this section are made by an assistant clerk, the assistant clerk shall not be the town treasurer, ~~or the wife or husband spouse of such~~ the town treasurer, or any person acting in the capacity of clerk for the town treasurer.

§ 1623. SIGNING ORDERS

(a) The selectboard may do either of the following:

(1) Authorize one or more members of the board to examine and allow claims against the town for town expenses and draw orders for such claims to the party entitled to payment.

(A) Orders shall state definitely the purpose for which ~~they are~~ each is drawn and shall serve as full authority to the treasurer to make the payments.

(B) The selectboard shall be provided with a record of orders drawn

under this subdivision (1) whenever orders are signed by less than a majority of the board; ~~or~~.

(2) Submit to the town treasurer a certified copy of those portions of the selectboard minutes, properly signed by the clerk and chair or by a majority of the board, showing to whom and for what purpose each payment is to be made by the treasurer. The certified copy of the minutes shall serve as full authority to the treasurer to make the approved payments.

(b) This section shall apply to all municipal public bodies authorized by law to draw orders on the municipal treasurer.

* * *

Subchapter. 5. Auditors and Audits

* * *

§ 1684. TRUST ASSETS; INDEBTEDNESS

The auditors shall make a detailed statement showing:

(1) ~~The~~ the condition of all trust funds in which the town is interested ~~with and~~ a list of the assets of such funds, including the account of receipts and disbursements for the preceding year;

(2) ~~What~~ what bonds of the town ~~or town school district~~ are outstanding ~~with and~~ the rate of interest and the amount thereof; and

(3) ~~What interest bearing~~ what interest-bearing notes or orders of the town ~~or town school district~~ are outstanding ~~with and~~ the serial number, date, amount, payee, and rate of interest of each, and the total amount thereof.

* * * Penalties for Municipal Violations * * *

Sec. 14. 24 V.S.A. § 1974 is amended to read:

§ 1974. ENFORCEMENT OF CRIMINAL ORDINANCES

(a)(1) The violation of a criminal ordinance or rule adopted by a municipality under this chapter shall be a misdemeanor.

(2) The criminal ordinance or rule may provide for a fine or imprisonment, but no fine ~~may shall~~ exceed ~~\$500.00~~ \$800.00, nor may any term of imprisonment exceed one year.

(3) Each day the violation continues shall constitute a separate offense.

* * *

Sec. 15. 24 V.S.A. § 2201 is amended to read:

§ 2201. THROWING, DEPOSITING, BURNING, AND DUMPING

REFUSE; PENALTY; SUMMONS AND COMPLAINT

(a)(1) Prohibition. Every person shall be responsible for proper disposal of his or her own solid waste. A person shall not throw, dump, deposit, or cause, or permit to be thrown, dumped, or deposited any solid waste as defined in 10 V.S.A. § 6602, refuse of whatever nature, or any noxious thing in or on lands or waters of the State outside a solid waste management facility certified by the Agency of Natural Resources.

* * *

(b) Prosecution of violations. A person who violates a provision of this section commits a civil violation and shall be subject to a civil penalty of not more than ~~\$500.00~~ \$800.00.

(1) This violation shall be enforceable in the Judicial Bureau pursuant to the provisions of 4 V.S.A. chapter 29 in an action that may be brought by a municipal attorney, a solid waste management district attorney, an environmental enforcement officer employed by the Agency of Natural Resources, a grand juror, ~~or~~ a designee of the legislative body of the municipality, or ~~by~~ any duly authorized law enforcement officer.

(2) If the throwing, placing, or depositing was done from a snowmobile, vessel, or motor vehicle, except a motor bus, there shall be a rebuttable presumption that the throwing, placing, or depositing was done by the operator of ~~such~~ the snowmobile, vessel, or motor vehicle.

(3) Nothing in this section shall be construed as affecting the operation of an automobile graveyard or salvage yard as defined in section 2241 of this title, nor shall anything in this section be construed as prohibiting the installation and use of appropriate receptacles for solid waste provided by the State or towns.

* * *

Sec. 16. 24 V.S.A. § 2297a is amended to read:

§ 2297a. ENFORCEMENT OF SOLID WASTE ORDINANCE BY TOWN,
CITY, OR INCORPORATED VILLAGE

(a) Solid waste order. A legislative body may issue and enforce a solid waste order in accordance with this section. A solid waste order may include a directive that the respondent take actions necessary to achieve compliance with the ordinance, to abate hazards created as a result of noncompliance, or to restore the environment to the condition existing before the violation and may include a civil penalty of not more than ~~\$500.00~~ \$800.00 for each violation and in the case of a continuing violation, not more than \$100.00 for each succeeding day. In determining the amount of civil penalty to be ordered, the

legislative body shall consider the following:

- (1) the degree of actual or potential impact on public health, safety, welfare, and the environment resulting from the violation;
- (2) whether the respondent has cured the violation;
- (3) the presence of mitigating circumstances;
- (4) whether the respondent knew or had reason to know the violation existed;
- (5) the respondent's record of compliance;
- (6) the economic benefit gained from the violation;
- (7) the deterrent effect of the penalty;
- (8) the costs of enforcement;
- (9) the length of time the violation has existed.

* * *

(e) Contents of proposed order. A proposed order shall include:

* * *

(5) if applicable, a civil penalty of not more than ~~\$500.00~~ \$800.00 for each violation and in the case of a continuing violation, not more than \$100.00 for each succeeding day.

* * * Road Commissioner Compensation * * *

Sec. 17. 32 V.S.A. § 1225 is amended to read:

§ 1225. TOWN ROAD COMMISSIONER

The compensation of a town road commissioner shall be fixed by the selectboard, ~~shall not be less than \$2.00 per day for time actually spent, and shall be paid out of the Transportation Fund.~~

* * * Property Appraisal Appeals * * *

Sec. 18. 32 V.S.A. § 4404 is amended to read:

§ 4404. APPEALS FROM LISTERS AS TO GRAND LIST

(a) Within 14 days after the date of notice thereof, a person aggrieved by the final decision of the listers under the provisions of section 4221 of this title, may appeal in writing therefrom to the board of civil authority, by lodging his or her appeal with the town clerk, who shall record the same in the book containing the abstract of individual lists. The grounds upon which ~~such~~ the appeal is based shall therein be briefly set forth.

(b)(1) The town clerk forthwith shall call a meeting of the board to hear and determine such appeals, which shall be held at ~~such a~~ such a time, not later than 14 days after the last date allowed for notice of appeal, and at ~~such a~~ such a place within the town as that he or she shall designate.

(2) Notice of ~~such the~~ the time and place shall be given by posting a warning therefor in three or more public places in ~~such the~~ the town, and by mailing a copy of ~~such the~~ the warning, postage prepaid, to each member of the board, the agent of the town to prosecute and defend suits, the chair of the board of listers, and to all persons so appealing.

(c)(1) The ~~Board~~ board shall meet at the time and place so designated, and on that day and from day to day thereafter shall hear and determine ~~such the~~ the appeals until all questions and objections are heard and decided.

(2)(A) Each property, the appraisal of which is being appealed, shall be inspected by a committee of not less than three members of the board ~~who~~. At least one lister shall be allowed to attend the inspection. The committee shall report to the board within 30 days from the hearing on the appeal and before the final decision pertaining to the property is given.

(B) If, after notice, the appellant refuses to allow an inspection of the property or attendance of at least one lister as required under this subsection, including the interior and exterior of any structure on the property, the appeal shall be deemed withdrawn.

(3) The board shall, within 15 days from the time of the report, certify in writing its notice of decision, with reasons, in the premises, and shall file ~~such the~~ the notice with the town clerk, who shall thereupon record the same in the book wherein the appeal was recorded and forthwith notify the appellant in writing of the action of ~~such the~~ the board, by certified mail.

(4)(A) If the board does not substantially comply with the requirements of this subsection and if the appeal is not withdrawn by filing written notice of withdrawal with the board or deemed withdrawn as provided in this subsection, the grand list of the appellant for the year for which appeal is being made shall remain at the amount set before the appealed change was made by the listers; except, if there has been a complete reappraisal, the grand list of the appellant for the year for which appeal is being made shall be set at a value ~~which that~~ that will produce a tax liability equal to the tax liability for the preceding year.

(B) The town clerk shall immediately record the same in the book wherein the appeal was recorded and forthwith notify the appellant in writing of ~~such the~~ the action, by certified mail. Thereupon the appraisal so determined pursuant to this subsection shall become a part of the grand list of such person.

(d) Listers and agents to prosecute and defend suits wherein a town is interested shall not be eligible to serve as members of the board while convened to hear and determine ~~such~~ those appeals nor shall an appellant, or his or her servant, agent, or attorney be eligible to serve as a member of the ~~Board~~ board while convened to hear and determine any appeals. However, listers and agents to prosecute and defend suits wherein a town is interested shall be given the opportunity to defend the appraisals in question.

* * * State Holidays * * *

Sec. 19. 1 V.S.A. § 371 is amended to read:

§ 371. LEGAL HOLIDAYS

(a) The following shall be legal holidays:

New Year's Day, January 1;

Martin Luther King, Jr.'s Birthday, the third Monday in January;

~~Lincoln's Birthday, February 12;~~

~~Washington's Birthday~~ Presidents' Day, the third Monday in February;

Town Meeting Day, the first Tuesday in March;

Memorial Day, the last Monday in May;

Independence Day, July 4;

Bennington Battle Day, August 16;

Labor Day, the first Monday in September;

Columbus Day, the second Monday in October;

Veterans' Day, November 11;

Thanksgiving Day, the fourth Thursday in November;

Christmas Day, December 25.

* * *

* * * Effective Date * * *

Sec. 20. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee Vote: 10-0-1)

Amendment to be offered by Rep. Graham of Williamstown to the recommendation of amendment of the Committee on Government Operations:

First: In Sec. 5, 17 V.S.A. § 2651e (municipal clerk; appointment; removal), by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c) ~~The term of office of a elected~~ municipal clerk in office on the date a municipality votes to allow the legislative body to appoint a municipal clerk shall ~~expire 45 calendar days after the vote or on the date upon which be permitted to serve the remainder of his or her term.~~ Provided, however, that unless the vote to allow the legislative body appoints a to appoint the municipal clerk under this section, whichever occurs first, unless a petition for reconsideration or rescission is filed is rescinded in accordance with section 2661 of this title, the legislative body may remove the elected clerk for just cause after notice and hearing.

Second: In Sec. 6, 17 V.S.A. § 2651f (municipal treasurer; appointment; removal), by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c) ~~The term of office of a elected~~ treasurer in office on the date a municipality votes to allow the legislative body to appoint a treasurer shall ~~expire 45 calendar days after the vote or on the date upon which be permitted to serve the remainder of his or her term.~~ Provided, however, that unless the vote to allow the legislative body appoints a to appoint the treasurer under this section, whichever occurs first, unless a petition for reconsideration or rescission is filed is rescinded in accordance with section 2661 of this title, the legislative body may remove the elected treasurer for just cause after notice and hearing.

H. 874

An act relating to inmate access to prescription drugs

Rep. Taylor of Colchester, for the Committee on Corrections and Institutions, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 28 V.S.A. § 801 is amended to read:

§ 801. MEDICAL CARE OF INMATES

* * *

(e)(1) Except as otherwise provided in this subsection, an offender who is admitted to a correctional facility while under the medical care of a licensed physician, a licensed physician assistant, or a licensed advanced practice

registered nurse, ~~or a licensed nurse practitioner~~ and who is taking medication at the time of admission pursuant to a valid prescription as verified by the inmate's pharmacy of record, primary care provider, other licensed care provider, or as verified by the Vermont Prescription Monitoring System or other prescription monitoring or information system shall be entitled to continue that medication and to be provided that medication by the Department pending an evaluation by a licensed physician, a licensed physician assistant, ~~a licensed nurse practitioner~~, or a licensed advanced practice registered nurse.

(2) ~~However,~~ Notwithstanding subdivision (e)(1) of this section, the Department may defer provision of a validly prescribed medication in accordance with this subsection if, in the clinical judgment of a licensed physician, a physician assistant, ~~a nurse practitioner~~, or an advanced practice registered nurse, it is not in the inmate's best ~~interest~~ interests to continue the medication at that time.

(3) The licensed practitioner who makes the clinical judgment to discontinue a medication shall enter cause the reason for the discontinuance to be entered into the inmate's permanent medical record, specifically stating the reason for the discontinuance. If the inmate provides a signed release of information, the Department shall follow up in writing with the practitioner who prescribed the medication to notify him or her of the decision. The inmate shall also be provided with a specific explanation of the decision, both orally and in writing.

(4) It is not the intent of the General Assembly that this subsection shall create a new or additional private right of action.

* * *

Sec. 2. DATA COLLECTION

(a) The Department of Corrections shall collect information on: how often a medication for which an inmate has a valid prescription is continued or discontinued upon incarceration at each correctional facility, the name of the medication, and the reason for discontinuance.

(b) The Department shall collect this information for a period of at least six months and provide a written report of its findings based on the data collected, including a breakdown by correctional facility of record, to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on or before January 31, 2019. Prior to finalizing the report, the Department shall consult with the Prisoners' Rights Office and Disability Rights Vermont.

(c) Nothing in this section shall require the Department to reveal

individually identifiable health information in violation of State or federal law.

Sec. 3. EFFECTIVE DATES

(a) This section and Sec. 2 shall take effect on passage.

(b) Sec. 1 shall take effect on July 1, 2018.

(Committee Vote: 9-0-2)

Favorable

H. 771

An act relating to the Vermont National Guard

Rep. Fields of Bennington, for the Committee on General; Housing; and Military Affairs, recommends the bill ought to pass.

(Committee Vote: 9-0-2)

H. 894

An act relating to pensions, retirement, and setting the contribution rates for municipal employees.

(Rep. Devereux of Mount Holly will speak for the Committee on Government Operations.)

Rep. Lucke of Hartford, for the Committee on Ways and Means, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

Senate Proposal of Amendment

H. 150

An act relating to parole eligibility

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

In Sec. 3 (EFFECTIVE DATE), by striking out the following: “2017” and inserting in lieu thereof the following: 2018

(For text see House Journal April 18, 2017)

NEW BUSINESS

Committee Bill for Second Reading

H. 912

An act relating to the health care regulatory duties of the Green Mountain Care Board.

(Rep. Donahue of Northfield will speak for the Committee on Health Care.)

H. 913

An act relating to boards and commissions.

(Rep. Gannon of Wilmington will speak for the Committee on Government Operations.)

H. 914

An act relating to reporting requirements for the second year of the Vermont Medicaid Next Generation ACO Pilot Project.

(Rep. Christensen of Weathersfield will speak for the Committee on Health Care.)

H. 915

An act relating to the protection of pollinators.

(Rep. Smith of New Haven will speak for the Committee on Agriculture and Forestry.)

H. 916

An act relating to increasing the moral obligation authority of the Vermont Economic Development Authority.

(Rep. O'Sullivan of Burlington will speak for the Committee on Commerce and Economic Development.)

H. 917

An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

(Rep. Murphy of Fairfax will speak for the Committee on Transportation.)

H. 918

An act relating to taxation of aircraft fuel.

(Rep. Savage of Swanton will speak for the Committee on Transportation.)

H. 919

An act relating to workforce development.

(Rep. Botzow of Pownal will speak for the Committee on Commerce and Economic Development.)

Favorable with Amendment

H. 429

An act relating to establishment of a communication facilitator program

Rep. Sibia of Dover, for the Committee on Energy and Technology, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 218a(d) is amended to read:

(d) The Department of Public Service shall establish the Vermont Telecommunications Relay Service Advisory Council composed of the following members: one representative of the Department of Public Service, ~~who shall act as chair and who shall be~~ designated by the Commissioner of Public Service; one representative of the Department of Disabilities, Aging, and Independent Living, ~~who shall act as vice chair~~; two representatives of the deaf community; one member of the community of people who are hard of hearing or have a speech limitation; one representative of a company providing local exchange service within the State; and one representative of an organization currently providing telecommunications relay services. The Council shall elect from among its members a chair and vice chair. Meetings shall be convened at the call of the Chair or a majority of the members of the Council. The Council shall meet not more than six times a year. The members of the Council who are not officers or employees of the State shall receive per diem compensation and expense reimbursement in amounts authorized by 32 V.S.A. § 1010(b). The costs of ~~such~~ the compensation and reimbursement, and any other necessary administrative costs shall be included within the contract entered into under subsection (c) of this section. The Council shall advise the Department of Public Service and the contractor for telecommunications relay services on all matters concerning the implementation and administration of the State's telecommunications relay service.

Sec. 2. COMMUNICATION FACILITATOR PROGRAM; STUDY

The Commissioner of Public Service, in consultation with the Commissioner of Disabilities, Aging, and Independent Living, shall make findings and recommendations regarding the establishment a communication facilitator program in Vermont that would enable members of the DeafBlind community to make telephone calls. The Commissioner shall solicit input from representatives or members of the DeafBlind community in Vermont and shall take into consideration similar programs offered in other jurisdictions. The Commissioner's findings shall include the administrative and implementation costs of the program; the number of individuals in the

DeafBlind community in Vermont; expected participation in the program; and an assessment of whether there are grant opportunities to help defray program costs. The Commissioner's recommendations shall include a funding source for the program. The Commissioner shall report his or her findings and recommendations on or before December 15, 2018 to the House Committees on Energy and Technology and on Human Services and the Senate Committees on Finance and on Health and Welfare.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 8-0-0)

H. 548

An act relating to limiting additional TIF districts

Rep. Marcotte of Coventry, for the Committee on Commerce and Economic Development, recommends the bill be amended as follows:

That the bill be amended by striking out Sec. 2, effective date, in its entirety and inserting after Sec. 1 the following:

Sec. 2. TAX INCREMENT FINANCING; METRICS; REPORT

(a) On or before December 15, 2018, the Vermont Economic Progress Council, in consultation with the Agency of Commerce and Community Development, the Department of Taxes, the State Auditor, the consulting Legislative Economist, and the Joint Fiscal Office, shall develop metrics to evaluate:

(1) the regional and statewide economic impact of existing tax increment financing districts; and

(2) the projected regional and statewide economic benefits that would result from a newly created tax increment financing district.

(b) On or before January 15, 2019, the Vermont Economic Progress Council shall prepare and present 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 draft legislation incorporating the metrics described in subsection (a) of this section as part of the criteria used to evaluate a municipality's application for a tax increment financing district.

Sec. 3. TAX INCREMENT FINANCING; SMALL TOWN; STUDY

(a) On or before January 15, 2019, the Agency of Commerce and Community Development, in consultation with interested stakeholders, shall

study the creation of a tax increment financing program or alternative economic development tool that achieves a similar goal that would be targeted at promoting economic development and affordable housing in towns with a population at or below 4,000. The study may include:

(1) options for how to sustain a tax increment financing district or alternative economic development program in towns with a small tax base; and

(2) a consideration of whether a population size at or below 4,000 would be appropriate for the program.

(b) The Secretary of Commerce and Community Development shall submit a report 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 with recommendations on the feasibility of the program described in subsection (a) of this section, and if feasible, how the program would be implemented.

Sec. 4. 24 V.S.A. § 1892 is amended to read:

§ 1892. CREATION OF DISTRICT

* * *

~~(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. [Repealed.]~~

~~(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). [Repealed.]~~

Sec. 5. 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 tax increment financing districts”

(Committee Vote: 9-1-1)

H. 560

An act relating to household products containing hazardous substances

Rep. Sullivan of Burlington, for the Committee on Natural Resources; Fish; and Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Thousands of household products sold in the State contain substances designated as hazardous under State or federal law.

(2) Vermont’s hazardous waste regulations establish specific requirements for the management of hazardous waste, including a prohibition on disposal in landfills.

(3) Leftover household products, known as household hazardous waste (HHW), are regulated through a requirement that municipal solid waste management entities (SWMEs) include provisions in solid waste implementation plans for the management and diversion of unregulated hazardous waste. The State solid waste management plan also will require the SWMEs to each hold four HHW collection events every year.

(4) Many SWMEs already offer more than four HHW collection events each year, and five of the SWMEs have established permanent facilities for the regular collection of HHW.

(5) HHW collection events or permanent facilities are expensive to operate, and SWMEs spend approximately \$1.6 million a year to manage HHW, costs that are subsequently passed on to the residents of Vermont

through taxes or disposal charges.

(6) As a result of the failure to divert HHW, it is estimated that 640 tons or more per year of HHW are being disposed of in landfills.

(7) There is general agreement among the SWMEs and the Agency of Natural Resources that additional collection sites and educational and informational activities are necessary to capture more of the HHW being disposed of in landfills.

(8) Funding constraints are a current barrier to new collection sites and educational and informational activities.

(9) HHW released into the environment can contaminate air, groundwater, and surface waters, thereby posing a significant threat to the environment and public health.

(10) To improve diversion of HHW from landfills, reduce the financial burden on SWMEs, taxpayers, and the cost of the overall system of managing HHW, and lessen the environmental and public health risk posed by improperly disposed of HHW, the Secretary of Natural Resources shall convene the Working Group on Household Hazardous Waste to recommend how best to manage and fund HHW in the State.

(11) If the Working Group on Household Hazardous Waste fails to provide recommendations, the State shall implement a program to require the manufacturers of household products containing a hazardous substance to implement a stewardship organization to collect household products containing a hazardous substance free of charge to the public.

Sec. 2. AGENCY OF NATURAL RESOURCES WORKING GROUP ON HOUSEHOLD HAZARDOUS WASTE

(a) The Secretary of Natural Resources shall convene the Working Group on Household Hazardous Waste to review alternatives for the management and funding of household hazardous waste collection in the State. It is the intent of the General Assembly that the Working Group will involve a representative group of stakeholders with interest in the management of household hazardous waste. On or before January 15, 2019, the Secretary of Natural Resources shall submit to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy a report on agreement within the Working Group, or lack thereof, recommending how the State should manage and fund household hazardous waste. If agreement is reached, the report shall include:

(1) a review of the stewardship organization requirements of 10 V.S.A. chapter 164B, as enacted in Sec. 3 of this act, and make recommendations on

how to efficiently and effectively implement the requirements in 10 V.S.A. chapter 164B including any changes necessary to implement or improve the chapter; and

(2) an evaluation of alternative methods for easing the financial burden to municipalities and providing convenient access for collection of household hazardous waste.

(b) As used in this section, “household hazardous waste” shall have the same meaning as set forth in 10 V.S.A. § 6602, and shall include waste from conditionally exempt generators.

Sec. 3. 10 V.S.A. chapter 164B is added to read:

CHAPTER 164B. COLLECTION AND MANAGEMENT OF
HOUSEHOLD HAZARDOUS PRODUCTS

§ 7181. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Natural Resources.

(2) “Consumer product” means any product that is regularly used or purchased to be used for personal, family, or household purposes.

(3)(A) “Covered household hazardous product” means a consumer product offered for retail sale that is contained in the receptacle in which the product is offered for retail sale, if the product has any of the following characteristics:

(i) The physical properties of the product meet the criteria for characteristic wastes under the federal Resource Conservation and Recovery Act of 1976, Pub. L. No. 94-580, as amended, including ignitability, corrosivity, reactivity, or toxicity as defined in 40 C.F.R. §§ 261.20-261.24.

(ii) The physical properties of the product meet the criteria for designation as a class 2, 3, 4, 5, 6, or 8 hazardous material, as defined in 49 C.F.R. part 173, by the U.S. Department of Transportation under the Hazardous Materials Transportation Act of 1975, 49 U.S.C. §§ 5101-5128, as amended.

(iii) The product is a marine pollutant as defined in 49 C.F.R. § 171.8.

(iv) The product is a hazardous waste under chapter 159 of this title or rules adopted under that chapter.

(B) “Covered product” does not mean:

(i) A primary battery or rechargeable battery.

(ii) A lamp that contains mercury.

(iii) A thermostat that contains mercury.

(iv) Architectural paint as that term is defined in section 6672 of this chapter.

(v) Covered electronic devices as that term is defined in section 7551 of this title.

(iv) A pharmaceutical drug.

(v) A pesticide regulated by the Secretary of Agriculture, Food and Markets.

(vi) Products that are intended to be rubbed, poured, sprinkled on, sprayed on, introduced into, or otherwise applied to the human body or any part of a human for cleansing, moisturizing, sun protection, beautifying, promoting attractiveness, or altering appearance, unless designated as a hazardous material or a hazardous waste by the Secretary of Natural Resources.

(4) “Covered entity” means any person who presents to a collection facility that is included in an approved plan any number of covered household hazardous products.

(5) “Manufacturer” means a person who:

(A) manufactures or manufactured a covered household hazardous product under its own brand or label for sale in the State;

(B) sells in the State under its own brand or label a covered household hazardous product produced by another supplier;

(C) owns a brand that it licenses or licensed to another person for use on a covered household hazardous product sold in the State;

(D) imports into the United States for sale in the State a covered household hazardous product manufactured by a person without a presence in the United States;

(E) manufactures a covered household hazardous product for sale in the State without affixing a brand name; or

(F) assumes the responsibilities, obligations, and liabilities of a manufacturer as defined under subdivisions (A) through (E) of this subdivision (5), provided that the Secretary may enforce the requirements of this chapter against a manufacturer defined under subdivisions (A) through (E) of this subdivision (5) if a person who assumes the manufacturer’s responsibilities fails to comply with the requirements of this chapter.

(6) “Program year” means the period from January 1 through December 31.

(7) “Retailer” means a person who sells a covered household hazardous product in the State through any means, including a sales outlet, a catalogue, the telephone, the Internet, or any electronic means.

(8) “Secretary” means the Secretary of Natural Resources.

(9) “Sell” or “sale” means any transfer for consideration of title or of the right to use by lease or sales contract a covered household hazardous product to a person in the State of Vermont. “Sell” or “sale” does not include the sale, resale, lease, or transfer of a used covered household hazardous product or a manufacturer’s wholesale transaction with a distributor or a retailer.

(10) “Stewardship organization” means an organization, association, or entity that has developed a system, method, or other mechanism that assumes the responsibilities, obligations, and liabilities under this chapter of multiple manufacturers of covered household hazardous products.

§ 7182. SALE OF COVERED HOUSEHOLD HAZARDOUS PRODUCT;

STEWARDSHIP ORGANIZATION REGISTRATION

(a) Sale prohibited. Beginning on January 1, 2021, except as set forth under section 7188 of this title, a manufacturer of a covered household hazardous product shall not sell, offer for sale, or deliver to a retailer for subsequent sale a covered household hazardous product unless all the following have been met:

(1) The manufacturer is participating in a stewardship organization implementing an approved collection plan.

(2) The name of the manufacturer, the manufacturer’s brand, and the name of the covered household hazardous product are submitted to the Agency of Natural Resources by a stewardship organization and listed on the stewardship organization’s website as covered by an approved plan.

(3) The stewardship organization in which the manufacturer participates has submitted an annual report under section 7185 of this title.

(4) The stewardship organization in which the manufacturer participates has conducted a plan audit consistent with the requirements of subsection 7185(b) of this title.

(b) Stewardship organization registration requirements.

(1) Beginning on January 1, 2020 and annually thereafter, a stewardship organization shall file a registration form with the Secretary. The Secretary

shall provide the registration form to a stewardship organization. The registration form shall include:

(A) a list of the manufacturers participating in the stewardship organization;

(B) a list of the brands of each manufacturer participating in the stewardship organization;

(C) a list of the covered household hazardous products of each manufacturer participating in the stewardship organization;

(D) the name, address, and contact information of a person responsible for ensuring the manufacturer's compliance with this chapter;

(E) a description of how the stewardship organization meets the requirements of subsection 7184(b) of this title, including any reasonable requirements for participation in the stewardship organization; and

(F) the name, address, and contact information of a person for a nonmember manufacturer to contact regarding how to participate in the stewardship organization to satisfy the requirements of this chapter.

(2) A renewal of a registration without changes may be accomplished through notifying the Agency of Natural Resources on a form provided by the Agency.

§ 7183. COLLECTION PLANS

(a) Collection plan required. Prior to July 1, 2020, a stewardship organization representing manufacturers of covered household hazardous products shall submit a collection plan to the Secretary for review.

(b) Collection plan; minimum requirements. Each stewardship plan shall include, at a minimum, all of the following requirements:

(1) A list of the manufacturers, brands, and products participating in the plan and a methodology for adding and removing manufacturers and notifying the Agency of new participants.

(2) Free collection of covered household hazardous products. The collection program shall provide for free collection from covered entities of covered household hazardous products. A stewardship organization shall accept all covered household hazardous products collected from a covered entity and shall not refuse the collection of a covered household hazardous product based on the brand or manufacturer of the covered household hazardous product. The collection program shall also provide for the payment of collection, processing, and end-of-life management of the covered household hazardous product. Collection costs include facility and equipment

costs, maintenance, and labor.

(3) Convenient collection location. The stewardship organization shall develop a collection program that:

(A) allows all municipal collection programs and facilities to opt to be part of a collection plan;

(B) at a minimum, has not less than one collection program in each county, provided that stewardship organizations shall have until July 1, 2023 to establish permanent collection programs in counties that currently lack a program. Prior to establishment of a permanent collection program in a county that currently lacks a program, the stewardship organization shall hold at least four collection events per year for the collection of covered household hazardous products; and.

(C) maintains the current level of convenience provided by programs in operation prior to July 1, 2020 that are identified as collection programs under the plan.

(4) Public education and outreach. The collection plan shall include an education and outreach program that may include media advertising, retail displays, articles in trade and other journals and publications, and other public educational efforts. The education and outreach program shall include a website to notify the public of the following:

(A) that there is a free collection program for covered household hazardous products;

(B) the location and hours of operation of collection points and how a covered entity can access this collection program;

(C) the special handling considerations associated with covered household hazardous products; and

(D) source reduction information for consumers to reduce leftover covered household products.

(5) Compliance with appropriate environmental standards. In implementing a collection plan, a stewardship organization shall comply with all applicable laws related to the collection, transportation, and disposal of hazardous waste. A stewardship organization shall comply with any special handling or disposal standards established by the Secretary for covered household hazardous products or for the collection plan of the manufacturer.

(6) Method of disposition. The plan shall describe how covered household hazardous products will be managed in the most environmentally and economically sound manner, including following the waste-management hierarchy. The management of covered household hazardous products under

the plan shall use management activities that promote source reduction, reuse, recycling, energy recovery, and disposal. Collected covered household hazardous products shall be recycled when technically and economically feasible.

(7) Roles and responsibilities. A stewardship plan shall list all key participants in the covered household hazardous products collection chain, including;

(A) the name and location of the collection facilities accepting covered household hazardous products under the plan and the address and contact information for each facility;

(B) the name and contact information of the contractor responsible for transporting the covered household hazardous products; and

(C) the name and address of the recycling and disposal facilities where the covered household hazardous products collected are deposited.

(8) Participation rate. A stewardship plan shall include a collection participation rate as a performance goal for covered household hazardous products based on the participation rate determined by the number of total participants in the collection plan during a program year divided by the total number of households in the State. If a stewardship organization does not meet its participation rate, the Secretary may require the stewardship organization to revise the collection plan to provide for one or more of the following additional public education and outreach, additional collection events, or additional hours of operation for collection sites.

(9) Plan funding. The plan shall describe how the stewardship organization will fund the implementation of the plan and collection under the plan including the costs for education and outreach, collection, processing, and end-of-life management of the covered household hazardous product. Collection costs include facility and equipment costs, maintenance, and labor. The plan must include how municipalities will be compensated for all costs associated with collection of covered household hazardous products.

(c) Term of collection plan. A collection plan approved by the Secretary under section 7187 of this title shall have a term not to exceed five years, provided that the manufacturer remains in compliance with the requirements of this chapter and the terms of the approved plan.

(d) Plan implementation. A stewardship organization shall implement a collection plan by no later than January 1, 2021.

§ 7184. STEWARDSHIP ORGANIZATIONS

(a) Participation in a stewardship organization. A manufacturer shall meet

the requirements of this chapter by participating in a stewardship organization that undertakes the responsibilities under sections 7182, 7183, and 7185 of this title.

(b) Qualifications for a stewardship organization. To qualify as a stewardship organization under this chapter, an organization shall:

(1) commit to assume the responsibilities, obligations, and liabilities of all manufacturers participating in the stewardship organization;

(2) not create unreasonable barriers for participation in the stewardship organization; and

(3) maintain a public website that lists all manufacturers and manufacturers' brands and products covered by the stewardship organization's approved collection plan.

§ 7185. ANNUAL REPORT; PLAN AUDIT

(a) Annual report. On or before March 1, 2022, and annually thereafter, a stewardship organization of manufacturers of covered household hazardous products shall submit a report to the Secretary that contains all of the following:

(1) A description of the collection program.

(2) The volume or weight by hazard category of covered household hazardous products collected, the disposition of the collected covered household hazardous products, and the number of covered entities participating at each collection facility or collection event from which the covered household hazardous products were collected.

(3) An estimate of the weight or volume by hazard category of covered household hazardous products sold in the State in the previous calendar year by manufacturer participating in stewardship organization's collection plan. Sales data and other confidential business information provided under this section shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential. Confidential information shall be redacted from any final public report.

(4) A comparison of the plan's participation rate compared to actual participation rate and how the program will be improved if the participation rate goal was not met.

(5) A description of the methods used to reduce, reuse, collect, transport, recycle, and process the covered household hazardous products.

(6) The cost of implementing the stewardship plan including the costs of administration, collection, transportation, recycling, disposal, and education

and outreach.

(7) A description and evaluation of the success of the education and outreach materials.

(8) Recommendations for any changes to the program.

(b) Plan audit. On or before March 1, 2026 and every five years thereafter, a stewardship organization of manufacturers of covered household hazardous products shall hire an independent third party to audit the plan and the plan's operation. The auditor shall examine the effectiveness of the program in collecting and disposing of covered household hazardous products. The auditor shall examine the cost-effectiveness of the program and compare it to that of collection programs for covered household hazardous products in other jurisdictions. The auditor shall make recommendations to the Secretary on ways to increase the program's efficacy and cost-effectiveness.

(c) Public posting. A stewardship organizations shall post a report or audit required under this section to the website of the stewardship organization.

§ 7186. ANTITRUST; CONDUCT AUTHORIZED

(a) Activity authorized. A manufacturer, group of manufacturers, or stewardship organization implementing or participating in an approved stewardship plan under this chapter for the collection, transport, processing, and end-of-life management of covered household hazardous products is individually or jointly immune from liability for conduct under State laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce under 9 V.S.A. chapter 63, subchapter 1, to the extent that the conduct is reasonably necessary to plan, implement, and comply with the stewardship organization's chosen system for managing discarded covered household hazardous products.

(b) Limitations on antitrust activity. Subsection (a) of this section shall not apply to an agreement among producers, groups of manufacturers, retailers, wholesalers, or stewardship organizations affecting the price of covered household hazardous product or any agreement restricting the geographic area in which or customers to whom covered household hazardous product shall be sold.

§ 7187. AGENCY RESPONSIBILITIES

(a) Review and approve collection plans. The Secretary shall review and approve or deny collection plans submitted under section 7183 of this title. The Secretary shall approve a collection plan if the Secretary finds that the plan:

(1) complies with the requirements of subsection 7183(a) of this title.

(2) provides adequate notice to the public of the collection opportunities available for covered household hazardous products.

(3) ensures that collection of covered household hazardous products will occur in an environmentally sound fashion that is consistent with the law or with any special handling requirements adopted by the Secretary.

(4) promotes the collection and disposal of covered household hazardous products.

(b) Plan amendment. The Secretary, in his or her discretion or at the request of a manufacturer or a stewardship organization, may require a stewardship organization to amend an approved plan. Plan amendments shall be subject to the public input provisions of subsection (c) of this section.

(c) Public input. The Secretary shall establish a process under which a collection plan for covered household hazardous products is available for public review and comment for 30 days prior to plan approval or amendment. In establishing such a process, the Secretary shall consult with interested persons, including manufacturers, environmental groups, wholesalers, retailers, municipalities, and solid waste districts.

(d) Registrations. The Secretary shall accept, review, and approve or deny registrations required by this chapter. The Secretary may revoke a registration of a stewardship organization for actions that are unreasonable, unnecessary, or contrary to the requirements or the policy of this chapter.

(e) Supervisory capacity. The Secretary shall act in a supervisory capacity over the actions of a stewardship organization registered under this section. In acting in this capacity, the Secretary shall review the actions of the stewardship organization to ensure that they are reasonable, necessary, and limited to carrying out requirements of and policy established by this chapter.

(f) Special handling requirements. The Secretary may adopt, by rule, special handling requirements for the collection, transport, and disposal of covered household hazardous products.

§ 7188. RETAILER OBLIGATIONS

(a) Sale prohibited. Except as set forth under subsection (b) of this section, beginning on January 1, 2021, no retailer shall sell or offer for sale a covered household hazardous product unless the retailer has reviewed the stewardship organization website required in subsection 7184(b) of this title to determine that the manufacturer of the covered household hazardous product is implementing an approved collection plan or is a member of a stewardship organization.

(b) Inventory exception; expiration or revocation of manufacturer

registration. A retailer shall not be responsible for an unlawful sale of a covered household hazardous product under this subsection if:

(1) the retailer purchased the covered household hazardous product prior to January 1, 2021; or

(2) the manufacturer's collection plan expired or was revoked, and the retailer took possession of the in-store inventory of covered household hazardous product prior to the expiration or revocation of the manufacturer's collection plan.

§ 7189. OTHER DISPOSAL PROGRAMS

A municipality or other public agency shall not require covered entities to use public facilities to dispose of covered household hazardous products to the exclusion of other lawful programs available. A municipality and other public agencies are encouraged to work with manufacturers to assist them in meeting their collection and disposal obligations under this chapter. Nothing in this chapter prohibits or restricts the operation of any program collecting and disposing of covered household hazardous products in addition to those provided by manufacturers or prohibits or restricts any persons from receiving, collecting, transporting, or disposing of covered household hazardous products, provided that all other applicable laws are met.

§ 7190. RULEMAKING

The Secretary of Natural Resources may adopt rules to implement the requirements of this chapter.

Sec. 4. AGENCY OF NATURAL RESOURCES RECOMMENDATION OF REGISTRATION FEE FOR COVERED HOUSEHOLD HAZARDOUS PRODUCTS

On or before January 15, 2021, the Secretary of Natural Resources shall submit to the House Committees on Ways and Means and on Natural Resources, Fish, and Wildlife and the Senate Committees on Finance and on Natural Resources and Energy a recommended fee for the registration of stewardship organizations under the covered household hazardous product program under 10 V.S.A. chapter 164B.

Sec. 5. 10 V.S.A. § 6621a(a) is amended to read:

(a) In accordance with the following schedule, no person shall knowingly dispose of the following materials in solid waste or in landfills:

* * *

(5) Paint (~~whether water-based~~ water-based or ~~oil-based~~), oil-based;

paint thinner_; paint remover_; stains_; and varnishes. This prohibition shall not apply to solidified ~~water-based~~ water-based paint in quantities of less than one gallon, nor shall this prohibition apply to solidified ~~water-based~~ water-based paint in quantities greater than one gallon if those larger quantities are from a waste stream that has been subject to an effective paint reuse program, as determined by the Secretary.

(6) Nickel-cadmium batteries, small sealed lead acid batteries, nonconsumer mercuric oxide batteries, and any other battery added by the Secretary by rule.

* * *

(8) Banned electronic devices. After January 1, 2011_; computers; peripherals; computer monitors; cathode ray tubes; televisions; printers; personal electronics such as personal digital assistants and personal music players; electronic game consoles; printers; fax machines; wireless telephones; telephones; answering machines; videocassette recorders; digital versatile disc players; digital converter boxes; stereo equipment; and power supply cords (as used to charge electronic devices).

* * *

(12) Covered household hazardous products after January 1, 2021.

Sec. 6. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

* * *

(27) 10 V.S.A. chapter 123, relating to threatened and endangered species; ~~and~~

(28) 30 V.S.A. § 255, relating to regional coordination to reduce greenhouse gases; and

(29) 10 V.S.A. chapter 164B, relating to collection and management of covered household hazardous products.

* * *

Sec. 7. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

(a) This chapter shall govern all appeals of an act or decision of the

Secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

(1) The following provisions of this title:

* * *

(U) chapter 168 (product stewardship for primary batteries and rechargeable batteries);

(V) chapter 164B (collection and management of covered household hazardous products).

(2) 29 V.S.A. chapter 11 (management of lakes and ponds).

(3) 24 V.S.A. chapter 61, subchapter 10 (relating to salvage yards).

* * *

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 6-1-2)

H. 639

An act relating to banning cost-sharing for all breast imaging services

Rep. Dunn of Essex, for the Committee on Health Care, recommends the bill be amended as follows:

In Sec. 2, effective dates, by striking out “October 1, 2018” both times it appears and inserting in lieu thereof “January 1, 2019” and by striking out “October 1, 2019” the one time it appears and inserting in lieu thereof “January 1, 2020”

(Committee Vote: 8-3-0)

H. 676

An act relating to miscellaneous energy subjects

Rep. Yantachka of Charlotte, for the Committee on Energy and Technology, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 248(s) is amended to read:

(s) This subsection sets minimum setback requirements that shall apply to in-state ground-mounted solar electric generation facilities approved under this section, unless the facility is installed on a canopy constructed on an area primarily used for parking vehicles that is in existence or permitted on the date the application for the facility is filed.

* * *

Sec. 2. 30 V.S.A. § 248b is amended to read:

§ 248b. FEES; AGENCY OF NATURAL RESOURCES; PARTICIPATION
IN SITING PROCEEDINGS

(a) Establishment. This section establishes fees for the purpose of supporting the role of the Agency of Natural Resources (the Agency) in reviewing applications for in-state facilities under sections 248 and 248a of this title.

* * *

(d) Electric and natural gas facilities. This subsection sets fees for applications under section 248 of this title.

(1) There shall be no fee for an electric generation facility less than or equal to ~~139~~ 50 kW in plant capacity, for roof-mounted photovoltaic systems of any capacity up to and including 500 kW, or for an application filed under subsection 248(k), (l), or (n) of this title.

(2) The fee for electric generation facilities greater than ~~139~~ 50 kW through five MW in plant capacity shall be calculated as follows, except that in no event shall the fee exceed \$15,000.00:

(A) An electric generation facility from 51 kW through 139 kW in plant capacity, \$2.00 per kW.

(B) An electric generation facility from 140 kW through 450 kW in plant capacity, \$3.00 per kW.

~~(B)~~(C) An electric generation facility from 451 kW through 2.2 MW in plant capacity, \$4.00 per kW.

~~(C)~~(D) An electric generation facility from 2.201 MW through five MW in plant capacity, \$5.00 per kW.

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee Vote: 8-0-0)

H. 696

An act relating to establishing a State individual mandate

Rep. Briglin of Thetford, for the Committee on Health Care, recommends the bill be amended by striking all after the enacting clause and inserting in

lieu thereof the following:

Sec. 1. 32 V.S.A. chapter 244 is added to read:

CHAPTER 244. REQUIREMENT TO MAINTAIN
MINIMUM ESSENTIAL COVERAGE

§ 10451. DEFINITIONS

As used in this chapter:

(1) “Applicable individual” means, with respect to any month, an individual other than the following:

(A) an individual with a religious conscience exemption;

(B) an individual not lawfully present in the United States; or

(C) an individual for any month if for the month the individual is incarcerated, other than incarceration pending the disposition of charges.

(2) “Eligible employer-sponsored plan” shall have the same meaning as in 26 U.S.C. § 5000A, as amended, and as in effect on December 31, 2017, and any related regulations.

(3)(A) “Minimum essential health coverage” shall have the same meaning as in 26 U.S.C. § 5000A, as amended, and as in effect on December 31, 2017, and any related regulations.

§ 10452. REQUIREMENT TO MAINTAIN MINIMUM ESSENTIAL COVERAGE

An applicable individual shall ensure that the individual and any dependent of the individual who is also an applicable individual is covered at all times under minimum essential coverage.

Sec. 2. INDIVIDUAL MANDATE WORKING GROUP; REPORT

(a) Creation. There is created the Individual Mandate Working Group to develop recommendations regarding administration and enforcement of the individual mandate to maintain minimum essential health coverage.

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

(1) the Secretary of Human Services or designee;

(2) the Commissioner of Financial Regulation or designee;

(3) the Commissioner of Taxes or designee;

(4) the Chair of the Green Mountain Care Board or designee;

(5) the Chief Health Care Advocate or designee; and

(6) one representative of each health insurer offering qualified health benefit plans through the Vermont Health Benefit Exchange.

(c) Powers and duties. The Working Group shall develop recommendations regarding administration and enforcement of the individual mandate to maintain minimum essential health coverage, including:

(1) enforcement mechanisms, such as financial penalties for failure to maintain minimum essential health coverage;

(2) additional forms of coverage that should or should not be considered minimum essential coverage;

(3) exemptions from compliance with the individual mandate, including exemptions related to religion, affordability, hardship, and short gaps in coverage; and

(4) procedures for administration of the individual mandate and for collection of any financial penalties by the Department of Taxes.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Green Mountain Care Board, the Department of Vermont Health Access, the Department of Financial Regulation, and the Department of Taxes.

(e) Report. On or before November 1, 2018, the Working Group shall provide its recommendations for administration and enforcement of the individual mandate to the House Committees on Health Care and on Ways and Means, the Senate Committees on Health and Welfare and on Finance, the Joint Fiscal Committee, and the Health Reform Oversight Committee.

(f) Meetings.

(1) The Chair of the Green Mountain Care Board or designee shall call the first meeting of the Working Group to occur on or before July 1, 2018.

(2) The Working Group shall cease to exist on January 1, 2019.

Sec. 3. EFFECTIVE DATES

(a) Sec. 1 (32 V.S.A. chapter 144) shall take effect on January 1, 2019.

(b) Secs. 2 (Individual Mandate Working Group) and this section shall take effect on passage.

(Committee Vote: 10-1-0)

H. 710

An act relating to beer and wine franchises

Rep. Scheuermann of Stowe, for the Committee on General; Housing; and

Military Affairs, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. REDESIGNATION; ADDITION OF SUBCHAPTER

7 V.S.A. chapter 23, subchapter 1, which shall include 7 V.S.A. §§ 701-709, is added to read:

Subchapter 1. General Provisions

Sec. 2. 7 V.S.A. § 701 is amended to read:

§ 701. DEFINITIONS

As Except as otherwise provided pursuant to section 752 of this chapter, as used in this chapter:

* * *

(7) “Wholesale dealer” means a packager licensed pursuant to section 272 of this title or a wholesale dealer licensed pursuant to section 273 of this title.

Sec. 3. 7 V.S.A. § 702 is amended to read:

§ 702. PROHIBITED ACTS BY MANUFACTURER

A manufacturer shall not:

* * *

(3) fail or refuse to deliver promptly to a wholesale dealer after the receipt of its order any malt beverages or vinous beverages when the product is publicly advertised available for immediate sale.

Sec. 4. 7 V.S.A. chapter 23, subchapter 2 is added to read:

Subchapter 2. Small Manufacturers and Certificate of Approval Holders

§ 751. APPLICATION

(a) The provisions of this subchapter shall apply to any franchise between a wholesale dealer and either:

(1) a certificate of approval holder that produces or distributes not more than 50,000 barrels of malt beverages and whose products comprise three percent or less of the wholesale dealer’s total annual sales of malt beverages by volume; or

(2) a manufacturer that produces not more than 50,000 barrels of malt beverages and whose products comprise three percent or less of the wholesale dealer’s total annual sales of malt beverages by volume.

(b) The provisions of sections 702, 705, and 706 of this title shall apply to

any franchise that is subject to the provisions of this subchapter.

(c)(1) The amount of malt beverages manufactured by a certificate of approval holder or manufacturer shall include the worldwide, aggregate amount of all brands of malt beverages that are manufactured directly or indirectly, by or on behalf of the certificate of approval holder or manufacturer, and any entity that controlled, was controlled by, or was under common control with the certificate of approval holder or manufacturer during the year.

(2) The amount of malt beverages distributed by a certificate of approval holder shall include the aggregate amount of all brands of malt beverages distributed by or on behalf of the certificate of approval holder both inside and outside Vermont.

§ 752. DEFINITIONS

As used in this subchapter:

(1) “Barrel” means 31 gallons of malt beverages.

(2) “Certificate of approval holder” means a holder of a certificate of approval issued by the Liquor Control Board pursuant to section 274 of this title that produces or distributes not more than 50,000 barrels of malt beverages or per year and whose products comprise three percent or less of a wholesale dealer’s total annual sales of malt beverages by volume.

(3) “Compensation” means the cost of a wholesale dealer’s laid-in inventory related to a franchise that has been or is about to be terminated plus five times the average annual gross profits earned by the wholesale dealer on the sale of products pursuant to the franchise during the last three fiscal years or, if the franchise has not been in existence for three years, the period of time during which the franchise has been in existence. “Gross profits” shall equal the revenue earned by the wholesale dealer on the sale of products pursuant to the franchise minus the cost of those products, including shipping and taxes.

(4) “Franchise” means an agreement governing a relationship between a wholesale dealer and a certificate of approval holder or manufacturer that was entered into on or after January 1, 2019 and has existed for at least one year and has one or more of the following characteristics:

(A) the wholesale dealer is granted the right to offer and sell the brands of malt beverages offered by the certificate of approval holder or manufacturer;

(B) the wholesale dealer, as an independent business, constitutes a component of a certificate of approval holder’s or manufacturer’s distribution system;

(C) 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;

(D) the wholesale dealer's business is substantially reliant on the certificate of approval holder or manufacturer for the continued supply of malt beverages; and

(E) the certificate of approval holder or manufacturer has granted the wholesale dealer a license to use a trade name, trade mark, service mark, or related characteristic, and there is a community of interest in the marketing of goods or services at wholesale, retail, by lease, or otherwise.

(5) "Manufacturer" means a manufacturer licensed pursuant to section 271 of this title that produces not more than 50,000 barrels of malt beverages per year and whose products comprise three percent or less of a wholesale dealer's total annual sales of malt beverages by volume.

§ 753. CANCELLATION OF FRANCHISE

(a) A certificate of approval holder or manufacturer may cancel, terminate, refuse to continue, or cause a wholesale dealer to relinquish a franchise as provided pursuant to the terms of a written franchise between the certificate of approval holder or manufacturer and the wholesale dealer.

(b) In the absence of a provision of a franchise governing termination for good cause, or if the franchise between the parties is not in writing, the certificate of approval holder or manufacturer may cancel, terminate, refuse to continue, or cause the wholesale dealer to relinquish the franchise for good cause as provided pursuant to section 754 of this subchapter.

(c) In the absence of a provision of a franchise governing termination for no cause, or if the franchise between the parties is not in writing, the certificate of approval holder or manufacturer may cancel, terminate, refuse to continue, or cause the wholesale dealer to relinquish the franchise for no cause as provided pursuant to section 755 of this subchapter.

§ 754. CANCELLATION FOR GOOD CAUSE; NOTICE;

RECTIFICATION

(a)(1) Except as otherwise provided pursuant to subsection 753(a) of this subchapter and subsection (d) of this section, a certificate of approval holder or manufacturer that wishes to terminate or cancel a franchise for good cause shall provide the franchisee with at least 120 days' written notice of the intent to terminate or cancel the franchise.

(2) The notice shall state the causes and reasons for the intended termination or cancellation.

(b) A franchisee shall have 120 days in which to rectify any claimed deficiency.

(c) The Superior Court, upon petition and after providing both parties with notice and opportunity for a hearing, shall determine whether good cause exists to allow termination or cancellation of the franchise.

(d) The notice provisions of subsection (a) of this section may be waived if the reason for termination or cancellation 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 providing the required notice would do irreparable harm to the marketing of its product.

§ 755. CANCELLATION FOR NO CAUSE; NOTICE; COMPENSATION

Except as otherwise provided pursuant to subsection 753(a) of this subchapter, a certificate of approval holder or manufacturer that wishes to terminate or cancel a franchise for no cause shall:

(1) provide the franchisee with written notice of the intent to cancel or terminate the franchise at least 30 days before the date on which the franchise shall terminate; and

(2) on or before the date the franchise shall be canceled or terminated, pay, or have paid on its behalf by a designated wholesale dealer, compensation for the franchisee's interest in the franchise.

§ 756. SALE OR TRANSFER BY WHOLESALE DEALER

(a)(1) In the absence of a provision of the franchise to the contrary, or if the franchise between the parties is not in writing, a wholesale dealer wishing to sell or otherwise transfer its interests in a franchise shall give at least 90 days' written notice of the proposed sale or transfer to the certificate of approval holder or manufacturer.

(2) 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) If the certificate of approval holder or manufacturer opposes the proposed sale or transfer to the proposed transferee, the certificate of approval holder or manufacturer may either:

(1) prevent the proposed sale or transfer from occurring by paying compensation for the wholesale dealer's interest in the franchise in the same manner as if the franchise were being terminated for no cause pursuant to section 755 of this subchapter; or

(2) not less than 60 days before the date of the proposed sale or transfer, file a petition with the Superior Court that clearly states the certificate of approval holder's or manufacturer's reasons for resisting the proposed sale or transfer.

(c)(1) Upon receipt of a petition pursuant to subdivision (b)(2) of this section, the 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 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 that will protect the legitimate interests of the certificate of approval holder or manufacturer.

(2) If the Superior Court finds the proposed transferee is qualified to operate the franchise, it shall approve the transfer of the franchise to the proposed transferee.

§ 757. MERGER OF FRANCHISOR

In the absence of a provision of the franchise to the contrary, or if the franchise between the parties is not in writing, the merger of a certificate of approval holder or manufacturer with a third party shall not void the franchise unless good cause is shown pursuant to section 754 of this subchapter, or the franchise is terminated pursuant to section 755 of this subchapter.

§ 758. HEIRS, SUCCESSORS, AND ASSIGNS

In the absence of a provision of the franchise to the contrary, or if the franchise between the parties is not in writing, the provisions of this subchapter shall apply to the heirs, successors, and assigns of any party to a franchise that is subject to this subchapter.

Sec. 5. 7 V.S.A. § 759 is added to read:

§ 759. WRITTEN AGREEMENT

All franchises entered into pursuant to this subchapter shall be in writing.

Sec. 6. 7 V.S.A. § 752 is amended to read:

§ 752. DEFINITIONS

As used in this subchapter:

* * *

(4) "Franchise" means ~~an~~ a written agreement governing a relationship between a wholesale dealer and a certificate of approval holder or manufacturer that was entered into after January 1, 2019 and has existed for at

least one year and has one or more of the following characteristics:

* * *

Sec. 7. 7 V.S.A. § 753 is amended to read:

§ 753. CANCELLATION OF FRANCHISE

(a) A certificate of approval holder or manufacturer may cancel, terminate, refuse to continue, or cause a wholesale dealer to relinquish a franchise as provided pursuant to the terms of a ~~written~~ franchise between the certificate of approval holder or manufacturer and the wholesale dealer.

(b) In the absence of a provision of a franchise governing termination for good cause, ~~or if the franchise between the parties is not in writing,~~ the certificate of approval holder or manufacturer may cancel, terminate, refuse to continue, or cause the wholesale dealer to relinquish the franchise for good cause as provided pursuant to section 754 of this subchapter.

(c) In the absence of a provision of a franchise governing termination for no cause, ~~or if the franchise between the parties is not in writing,~~ the certificate of approval holder or manufacturer may cancel, terminate, refuse to continue, or cause the wholesale dealer to relinquish the franchise for no cause as provided pursuant to section 755 of this subchapter.

Sec. 8. 7 V.S.A. § 756 is amended to read:

§ 756. SALE OR TRANSFER BY WHOLESALE DEALER

(a)(1) In the absence of a provision of the franchise to the contrary, ~~or if the franchise between the parties is not in writing,~~ a wholesale dealer wishing to sell or otherwise transfer its interests in a franchise shall give at least 90 days' written notice of the proposed sale or transfer to the certificate of approval holder or manufacturer.

* * *

Sec. 9. 7 V.S.A. § 757 is amended to read:

§ 757. MERGER OF FRANCHISOR

In the absence of a provision of the franchise to the contrary, ~~or if the franchise between the parties is not in writing,~~ the merger of a certificate of approval holder or manufacturer with a third party shall not void the franchise unless good cause is shown pursuant to section 754 of this subchapter, or the franchise is terminated pursuant to section 755 of this subchapter.

Sec. 10. 7 V.S.A. § 758 is amended to read:

§ 758. HEIRS, SUCCESSORS, AND ASSIGNS

In the absence of a provision of the franchise to the contrary, ~~or if the~~

~~franchise between the parties is not in writing,~~ the provisions of this subchapter shall apply to the heirs, successors, and assigns of any party to a franchise that is subject to this subchapter.

Sec. 11. TRANSITION TO WRITTEN CONTRACTS

(a) A certificate of approval holder or manufacturer and a wholesale dealer who are parties to a franchise agreement that was entered into before January 1, 2019 and is not in writing shall negotiate a written franchise agreement to take effect on or before July 1, 2022.

(b) If the certificate of approval holder or manufacturer and the wholesale dealer are unable to reach agreement on the terms of a written franchise agreement on or before July 1, 2022 or if the parties mutually agree that the franchise shall not continue beyond that date, the franchise shall be deemed to terminate on July 1, 2022 and the certificate of approval holder or manufacturer shall pay the wholesale dealer compensation for its interest in the franchise in the same manner as if the franchise were terminated for no cause pursuant to 7 V.S.A. § 755.

(c) As used in this section,

(1) “certificate of approval holder” has the same meaning as in 7 V.S.A. § 752;

(2) “manufacturer” has the same meaning as in 7 V.S.A. § 752; and

(2) “wholesale dealer” has the same meaning as in 7 V.S.A. § 701.

Sec. 12. EFFECTIVE DATES

(a) This section and Secs. 1, 2, 3, 4, and 11 shall take effect on January 1, 2019.

(b) The remaining sections shall take effect on July 1, 2022.

(Committee Vote: 7-2-2)

H. 739

An act relating to energy productivity investments under the self-managed energy efficiency program

Rep. Sibia of Dover, for the Committee on Energy and Technology, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 209 is amended to read:

§ 209. JURISDICTION; GENERAL SCOPE

* * *

(j) Self-managed energy efficiency programs.

(1) There shall be a class of self-managed energy efficiency programs for transmission and industrial electric ratepayers only.

(2) The Commission, by order, shall enact this class of programs.

(3) Entities approved to participate in the self-managed energy efficiency program class shall be exempt from all statewide charges under subdivision (d)(3) of this section that support energy efficiency programs performed by or on behalf of Vermont electric utilities. If an electric ratepayer approved to participate in this program class also is a customer of a natural gas utility, the ratepayer shall be exempt from all charges under subdivision (d)(3) of this section or contained within the rates charged by the natural gas utility to the ratepayer that support energy efficiency programs performed by or on behalf of that utility, provided that the ratepayer complies with this subsection.

(4) All of the following shall apply to a class of programs under this subsection:

(A) A member of the transmission or industrial electric rate classes shall be eligible to apply to participate in the self-managed energy efficiency program class if the charges to the applicant, or to its predecessor in interest at the served property, under subdivision (d)(3) of this section were a minimum of:

(i) \$1.5 million during calendar year 2008; or

(ii) \$1.5 million during calendar year 2017.

(B) A cost-based fee to be determined by the Commission shall be charged to the applicant to cover the administrative costs, including savings verification, incurred by the Commission and Department. The Commission shall determine procedures for savings verification. Such procedures shall be consistent with savings verification procedures established for entities appointed under subdivision (d)(2) of this section.

(C) An applicant shall demonstrate to the Commission that it has a comprehensive energy management program with annual objectives. Achievement of certification of ISO standard 14001 shall be eligible to satisfy the requirements of having a comprehensive program.

(D) An applicant eligible pursuant to subdivision (A)(i) of this subdivision (j)(4) shall commit to an annual average energy efficiency investment in energy efficiency and productivity programs and measures during each three-year period that the applicant participates in the program of not less than \$1 million. An applicant eligible pursuant to subdivision (A)(ii) of this subdivision (j)(4) shall commit to an annual average investment

in energy efficiency and productivity programs and measures during each three-year period that the applicant participates in the program of not less than \$500,000.00. To achieve the exemption from energy efficiency charges related to natural gas under subdivision (3) of this subsection (j), ~~the~~ an applicant shall make an additional annual energy efficiency investment in an amount not less than \$55,000.00. As used in this subsection (j), “productivity programs and measures” means investments that reduce the amount of energy required to produce a unit of product.

(E) Participation in the self-managed program includes efficiency and productivity programs and measures applicable to electric and other forms of energy. A participant may balance efficiency investments in such programs and measures across all types of energy or fuels without limitations.

(F) A participant shall provide to the Commission and Department annually an accounting of energy investments in energy efficiency and productivity programs and measures and the resultant energy savings in the form prescribed by the Commission, which may conduct reasonable audits to ensure the accuracy of the data provided.

(G) The Commission shall report to the General Assembly annually by on or before April 30 concerning the prior calendar year’s class of self-managed energy efficiency programs. The report shall include identification of participants, their annual investments, and resulting savings, and any actions taken to exclude entities from the program.

(H) Upon approval of an application by the Commission, the applicant shall be able to participate in the class of self-managed energy efficiency programs.

(I) On a determination that, for a given three-year period, a participant in the self-managed efficiency program class did not meet or has not met the commitment required by subdivision ~~(4)(D)~~ of this ~~subsection~~ subdivision (j)(4), the Commission shall terminate the participant’s eligibility for the self-managed program class.

(i) On such termination, the former participant will be subject fully to the then existing charges applicable to its rate class without exemption under subdivision (3) of this subsection (j), and within 90 days ~~of~~ after such termination shall pay:

(I) the difference between the investment it made pursuant to the self-managed energy efficiency program during the three-year period of noncompliance and the full amount of the charges and rates related to energy efficiency it would have incurred during that period absent exemption under subdivision (3) of this subsection (j); and

(II) the difference between the investment it made pursuant to the program within the current three-year period, if different from the period of noncompliance, and the full amount of the charges and rates related to energy efficiency it would have incurred during the current period absent exemption under subdivision (3) of this subsection (j).

(ii) Payments under subdivision ~~(4)(I)(i)~~ of this ~~subsection (j)~~ subdivision (4)(I) shall be made to the entities to which the full amount of charges and rates would have been paid absent exemption under subdivision (3) of this subsection (j).

(iii) A former participant may not reapply for membership in the self-managed program after termination under this subdivision (4)(I).

(J) A participant in the self-managed program class may request confidentiality of data it reports to the Commission if the data would qualify for exemption from disclosure under 1 V.S.A. § 317. If such confidentiality is requested, the Commission shall disclose the data only in accordance with a protective agreement approved by the Commission and signed by the recipient of the data, unless a court orders otherwise.

(K) Any data not subject to a confidentiality request under subdivision ~~(4)(J)~~ of this ~~subsection~~ subdivision (4) will be a public record.

(L) A participant in the self-managed program class may submit projects to the independent system operator of New England, including through recognized aggregators, for payments under that operator's forward capacity market program, and shall invest such payments in electric or fuel efficiency.

(M) A participant in the self-managed program class may receive funding from an energy program administered by a government or other entity ~~which~~ that is not the participant ~~but~~ and may ~~not~~ count such funds received as part of the annual commitment to its self-managed energy efficiency program.

* * *

Sec. 2. ENERGY SAVINGS ACCOUNT PARTNERSHIP PILOT

(a) Definitions. As used in this section:

(1) "ACCD" means the Agency of Commerce and Community Development under 3 V.S.A. chapter 47.

(2) "Commission" means the Public Utility Commission under 30 V.S.A. § 3.

(3) "Customer" means a commercial or industrial electric customer that is located in a service territory in which Efficiency Vermont delivers energy

efficiency programs and measures and that does not qualify for SMEEP.

(4) “Customer EEC Funds” means a customer’s EEC payments during the period of the ESA partnership project.

(5) “Department” means the Department of Public Service under 3 V.S.A. § 212 and 30 V.S.A. § 1.

(6) “EEC” means an energy efficiency charge on a customer’s retail electric bill under 30 V.S.A. § 209(d).

(7) “Efficiency Vermont” or “EVT” means the EEU whose appointment under 30 V.S.A § 209(d)(2) includes the delivery of programs and measures to customers of multiple electric distribution utilities.

(8) “Energy efficiency utility” or “EEU” means an entity appointed to deliver energy efficiency and conservation programs and measures under 30 V.S.A. § 209(d)(2).

(9) “ESA” means an energy savings account under 30 V.S.A. § 209(d)(3)(B).

(10) “ESA Partnership Pilot” means the three-year pilot program established by this section.

(11) “Productivity measures” means investments that reduce the amount of energy required to produce a unit of product.

(12) “SMEEP” means the self-managed energy efficiency program established under 30 V.S.A. § 209(j).

(13) “Standing committees of jurisdiction” means the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy.

(14) “Unregulated fuel” shall have the same meaning as in 30 V.S.A. § 209(e).

(b) ESA Partnership Pilot; establishment. On or before July 1, 2019, the Commission by rule or order shall establish a three-year pilot program for customers to self-direct the use of their Customer EEC Funds, working with EVT. The total amount of Customer EEC Funds available in the pilot program each year shall not exceed \$2 million. The pilot program established under this section shall be an expansion of the ESA option under which:

(1) Notwithstanding any contrary provision of 30 V.S.A. § 209(d)(3)(B), the customer shall be able to receive an amount equal to 100 percent of its Customer EEC Funds to pay for the full cost of projects that are eligible under subdivision (3) of this subsection; for technical assistance and other services from Efficiency Vermont; and for evaluation, measurement, and

verification activity conducted by the Department or EVT.

(2) The customer may receive payments in advance of project completion from EVT based on the energy management plan submitted under subsection (d) of this section, estimated project costs, and projected energy savings. However, a customer shall not receive advance payments from EVT that exceed the amount of Customer EEC Funds the customer has already paid.

(3) Notwithstanding any contrary provision of 30 V.S.A. § 209, the Customer EEC Funds may be used for one or more of the following: electric energy efficiency, thermal energy and process-fuel efficiency for unregulated fuels, productivity measures, demand management, and energy storage that provides benefits to the customer and its interconnecting utility.

(c) Methodology for evaluation, measurement, and verification. In its rule or order under subsection (b) of this section, the Commission shall establish a methodology for evaluation, measurement, and verification of projects implemented under the pilot that is consistent with the requirements of 30 V.S.A. § 218c and that includes cost-effectiveness screening that values energy savings across the customer's energy portfolio and non-energy benefits such as economic development. As used in this subsection, "economic development" includes job creation, job retention, and capital investment.

(1) This methodology may be considered for future establishment of EEU performance criteria under 30 V.S.A. § 209(d).

(2) EVT and the Department shall evaluate and verify the electricity savings of each project funded under the ESA Partnership Pilot with no less rigor than is required by the Independent System Operator of New England (ISO-NE) for the ISO-NE's forward capacity market.

(c) Competitive solicitation. A customer shall apply to participate in the ESA Partnership Pilot through a competitive solicitation process conducted jointly by EVT, the Department, and ACCD.

(1) Promptly after the Commission's rule or order under subsection (b) of this section becomes effective, EVT, the Department, and ACCD shall establish criteria for customer selection that are consistent with that rule or order and that take into account energy efficiency and economic development.

(2) On establishment of the selection criteria, EVT, the Department, and ACCD jointly shall issue a request for proposals (RFP) from customers seeking to participate in the ESA Partnership Pilot.

(3) EVT, the Department, and ACCD jointly shall select customers to participate in the ESA Partnership Pilot from among the customers that timely submit proposals in response to the RFP and shall notify the Commission of the selected customers.

(4) If EVT, the Department, and ACCD are unable to resolve an issue arising under this subsection, they shall bring the issue to the Commission for resolution.

(5) Customer selection under this subsection shall be completed before July 1, 2019.

(d) Energy management plans. Working with EVT, each customer selected for the ESA Partnership Pilot shall develop an energy management plan for the three-year period of the pilot with projects to be implemented, energy savings targets, and a timeline for projects and investments. A copy of each plan shall be submitted to the Commission, the Department, and ACCD.

(e) Other EEU services. A customer that participates in the ESA Partnership Pilot shall not be eligible for other EEU services, except for an EEU appointed to deliver natural gas efficiency programs and measures.

(f) Other funding. A customer that participates in the ESA Partnership Pilot may receive funding from an energy program administered by a government or other person that is not the participant, including an EEU appointed to deliver natural gas efficiency services, but shall not count such funds as part of the investment commitment of the ESA Partnership Pilot.

(g) Unused funds. At the end of the ESA Partnership Pilot, any Customer EEC Funds that have not been expended or committed under the pilot shall revert to use for systemwide energy efficiency programs and measures.

(h) Annual reports. On or before each November 1 from 2020 through 2022, the EVT and the selected customers jointly shall submit written progress reports to the Commission, the Department, and the standing committees of jurisdiction that include projects under the ESA Partnership Pilot and their associated energy and cost savings. A customer's projects under the pilot and the associated data and results shall be made public through this report. However, a customer may request that the Commission order customer-specific data to be used in preparing a report under this subsection be kept confidential if the data would qualify for exemption from disclosure under 1 V.S.A. § 317. If the Commission issues such an order, the data subject to the order shall be disclosed only in accordance with a protective agreement approved by the Commission and signed by the recipient of the data, unless a court directs otherwise.

(i) Evaluation; recommendation. On completion of the ESA Partnership Pilot, the Commission shall conduct or shall have a third party conduct an independent evaluation of the ESA Partnership Pilot and, after considering the results of that evaluation, shall submit a written recommendation to the standing committees of jurisdiction on whether to continue the program

conducted under this section and, if so, under what recommended conditions and revisions, if any. The Commission shall submit this recommendation on or before January 15, 2023.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee Vote: 8-0-0)

H. 767

An act relating to adopting the ThinkVermont Innovation Initiative

Rep. Myers of Essex, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. THINKVERMONT INNOVATION INITIATIVE

(a) Purpose.

(1) The ThinkVermont Innovation Initiative is created to respond to the growth needs of Vermont small businesses with 20 or fewer employees by funding innovative strategies that accelerate small business growth and meet the project criteria specified in this section.

(2) The Initiative shall enable the State to invest in projects with grants that can be accessed more quickly and with fewer restrictions than traditional federal initiatives.

(b) Process; grant distribution.

(1) The Secretary of Commerce and Community Development, in consultation with the Vermont Economic Progress Council shall:

(A) adopt a schedule and process for accepting, reviewing, and approving grant proposals on a competitive basis;

(B) distribute grants across geographic areas of the State; and

(C) distribute grants across diverse industries, sectors, and business types, including for-profit and nonprofit organizations.

(2)(A) A grant shall provide funding in only one fiscal year.

(B) A recipient shall be eligible for a grant through the Initiative in not more than two fiscal years.

(c) Funding; matching requirements.

(1) The Secretary shall reserve not less than 10 percent of the funding through the Initiative for microgrants of not more than \$10,000.00.

(2) The Secretary shall require a grant recipient to provide matching funds for a grant as follows:

(A) for a microgrant reserved under subdivision (3) of this subsection, a funding match of 25 percent of the value of the grant; and

(B) for all other grants, a funding match of 100 percent of the value of the grant.

(d) Eligibility criteria. To be eligible for a grant, a project shall:

(1) provide workforce training that is not eligible for funding through another State or federal program and that serves an immediate employer need to fill one or more job vacancies;

(2) enable a business to attract, retain, or support remote workers in Vermont;

(3) establish or enhance a facility that attracts small companies or remote workers, or both, including generator and maker spaces, co-working spaces, remote work hubs, and innovation spaces, with special emphasis on facilities that promote colocation of nonprofit, for-profit, and government entities;

(4) enable or support deployment of broadband telecommunications connectivity;

(5) leverage economic development funding outside State government, including the federal New Market Tax Credit program and Small Business Innovation Research grants;

(6) support growth in Vermont's aerospace, aviation, or aviation technology sectors; or

(7) provide technical assistance to support small business growth.

(e) Outcomes; measures. The Secretary shall adopt measures to evaluate a grant to determine its impact, including job growth measured at one-, three-, and five-year intervals.

(f) Appropriation. In fiscal year 2019, the amount of \$400,000.00 is appropriated from the General Fund to the Agency of Commerce and Community Development to implement the ThinkVermont Innovation Initiative pursuant to this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee Vote: 10-0-1)

H. 777

An act relating to the Clean Water State Revolving Loan Fund

Rep. Shaw of Pittsford, for the Committee on Corrections and Institutions, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. § 4751 is amended to read:

§ 4751. DECLARATION OF POLICY

It is hereby declared to be in the public interest to foster and promote timely expenditures by municipalities for water systems, ~~water pollution abatement and control facilities~~ clean water projects, and solid waste management, each of which is declared to be an essential governmental function when undertaken and implemented by a municipality. It is also declared to be in the public interest to promote expenditures for certain existing privately owned public water systems and certain privately owned ~~wastewater and public and potable water supply systems~~ to bring those systems into compliance with federal and State standards and to protect public health and the environment. Additionally, it is declared to be in the public interest to promote public-private partnerships and expenditures by private entities for clean water projects to protect and improve the quality of waters of the State.

Sec. 2. 24 V.S.A. § 4752 is amended to read:

§ 4752. DEFINITIONS

As used in this chapter:

* * *

(10) ~~“Privately owned wastewater system” means a privately owned wastewater system, that receives primarily domestic type wastes. [Repealed.]~~

(11) ~~“Water pollution abatement and control facilities”~~ “Clean water project” means “water pollution abatement and control facilities,” as defined in 10 V.S.A. § 1571, and such equipment, conveyances, ~~and~~ structural or nonstructural facilities ~~owned or operated by a municipality,~~ and natural resources projects that are needed for and appurtenant to the prevention, management, treatment, storage, or disposal of stormwater, sewage, or waste, or that provide water quality benefits, including a wastewater treatment facility, combined sewer separation facilities, an indirect discharge system, a wastewater system, flood resiliency work related to a structural facility, or a groundwater protection project.

* * *

(17) “Natural resources project” means a project to protect, conserve, or

restore natural resources, including the acquisition of easements and land, for the purpose of providing water quality benefits.

(18) “Sponsorship program” means an arrangement in which natural resources projects are paired with water pollution abatement and control facilities projects, as defined in 10 V.S.A. § 1571, for the purposes of water quality improvement. Under the sponsorship program, a municipality may obtain a loan for both a natural resources project and a water pollution abatement and control facilities project. The loan rate and terms shall be adjusted to forgive all or a portion of the natural resources project over the life of the loan. Only municipalities and non-profit organizations may receive funds under a sponsorship program.

Sec. 3. 24 V.S.A. § 4753 is amended to read:

§ 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

(a) There is hereby established a series of special funds to be known as:

(1) The Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund, which shall be used, consistent with federal law, to provide loans ~~to municipalities and State agencies~~ for planning and construction of ~~water pollution abatement and control facilities~~ clean water projects, including acquisitions of project-related easements, land, options to purchase land, and temporary or permanent rights-of-way, and for implementing related management programs.

(2) The Vermont Pollution Control Revolving Fund, which shall be used to provide loans to municipalities and State agencies for planning and construction of ~~water pollution abatement and control facilities~~ clean water projects, including acquisitions of project-related easements, land, options to purchase land, and temporary or permanent rights-of-way.

* * *

Sec. 4. 24 V.S.A. § 4754 is amended to read:

§ 4754. LOAN APPLICATION

A municipality may apply for a loan, the proceeds of which shall be used to acquire, design, plan, construct, enlarge, repair, or improve ~~a publicly owned water pollution abatement and pollution control facility~~ a clean water project, public water supply systems as defined in subdivision 4752(9) of this title, or a solid waste handling and disposal facility, or certain privately owned ~~wastewater systems~~ clean water projects as described in section 4763 of this title, or to implement a related management program. In addition, the loan proceeds shall be used to pay the outstanding balance of any engineering planning advances made to the municipal applicant under this chapter and

determined by the Secretary to be due and payable following construction of the improvements to be financed by the proceeds of the loan. The Bond Bank may prescribe any form of application or procedure required of a municipality for a loan hereunder. ~~Such~~ The application shall include such information as the Bond Bank shall deem necessary for the purpose of implementing this chapter.

Sec. 5. 24 V.S.A. § 4755(a) is amended to read:

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

* * *

(4) Notwithstanding any other provisions of law, municipal legislative bodies may execute notes and incur debt on behalf of municipalities:

(A) with voter approval at a duly warned meeting, for amounts less than \$75,000.00; ~~or~~

(B) by increasing previously approved bond authorizations by up to \$75,000.00 to cover unanticipated project costs or the cost of directly and functionally related enhancements; or

(C) without voter approval, in an amount which does not exceed an amount to be forgiven or cancelled upon the completion of a natural resources project under the sponsorship program.

* * *

Sec. 6. 24 V.S.A. § 4758(a) is amended to read:

(a) Periodically, and at least annually, the Secretary shall prepare and certify to the Bond Bank a project priority list of those municipalities whose ~~publicly owned projects, or privately owned wastewater systems,~~ clean water projects are eligible for financing or assistance under this chapter. In determining financing availability for ~~water pollution abatement and control facilities~~ clean water projects under this ~~chapter~~ chapter subchapter, the Secretary shall apply the criteria adopted pursuant to 10 V.S.A. § 1628.

Sec. 7. 24 V.S.A. § 4763 is amended to read:

§ 4763. ~~LOANS FOR PRIVATELY OWNED WASTEWATER SYSTEMS~~
TO MUNICIPALITIES FOR PRIVATELY OWNED CLEAN
WATER PROJECTS

(a) Where the ~~secretary~~ Secretary has determined that ~~the construction,~~

~~repair, or replacement of a privately-owned wastewater system~~ a privately owned clean water project is the preferred alternative to abate or control a pollution problem or to provide water quality benefits, a loan may be made to a municipality from the Vermont ~~environmental protection agency (EPA)~~ pollution control revolving fund Environmental Protection Agency Pollution Control Revolving Fund established in section 4753 of this title. In such cases, the following conditions shall apply:

(1) Guaranteed repayment of the loan will be based on a municipal bond, but actual repayment may be made with funds from the owner, as set forth in an agreement between the owner and the municipality.

(2) In all cases, there shall be a binding agreement between the owner and the municipality that provides for the proper operation and maintenance of the ~~privately-owned wastewater system~~ privately owned clean water project for at least the term of the loan.

(3) All conditions and limitations of section 4755 of this title apply to loans made under this section.

(4) No construction loan shall be made to a municipality under this subsection, nor shall any part of any revolving loan made under this subsection be expended until all of the following take place:

(A) The ~~secretary~~ Secretary certifies to the ~~bond bank~~ Bond Bank that all land use, subdivision, public building, and water supply and wastewater permits necessary to construct and operate ~~the any~~ improvements to be financed by the loan have been issued to the owner of the ~~privately-owned wastewater system~~ privately owned clean water project.

(B) The applicant municipality certifies to the ~~bond bank~~ Bond Bank that the ~~private system~~ owner has secured all ~~state~~ State and federal permits, licenses, and approvals necessary to construct and operate the ~~improvements~~ clean water project to be financed by the loan.

(C) The ~~secretary~~ Secretary certifies to the ~~bond bank~~ Bond Bank that the loan eligibility priority established under section 4758 of this title entitles the applicant municipality to immediate financing or assistance under this chapter.

(D) The applicant municipality, in the case of applications by towns, cities, and incorporated villages, and with respect to all loans awarded after July 1, 1992, certifies to the ~~bond bank~~ Bond Bank that the project conforms to a duly adopted capital budget and program, consistent with chapter 117 of this title, for meeting the pollution control needs of the municipality.

(E) The applicant municipality, in the case of an application by a district, certifies to the ~~bond bank~~ Bond Bank that the project conforms to a

capital budget and program duly adopted by the district in accordance with the provisions of its charter.

(b) The ~~bond bank~~ Bond Bank may make loans to a municipality for the preparation of final engineering plans and specifications for the construction of a ~~privately-owned wastewater system~~ privately owned clean water project or element of such a project in the same manner as set forth in subsection 4756(b) of this title.

Sec. 8. 24 V.S.A. § 4763a is redesignated to read:

§ 4763a. LOANS TO MUNICIPALITIES FOR PRIVATELY OWNED POTABLE WATER SUPPLIES

Sec. 9. 24 V.S.A. § 4763c is redesignated to read:

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

Sec. 10. 24 V.S.A. chapter 120, subchapter 3 is redesignated to read:

Subchapter 3. Private Loans for Privately Owned Public Water Systems

Sec. 11. 24 V.S.A. chapter 120, subchapter 4 is added to read:

Subchapter 4. Private Loans for Clean Water Projects

§ 4780. ELIGIBILITY AND LOAN APPLICATION

(a) The Vermont Economic Development Authority (VEDA) is authorized to make loans on behalf of the State to private entities for a clean water project; provided, however, that no State funds are used. Such loans shall be issued and administered by VEDA pursuant to this subchapter.

(b) A private entity may apply to VEDA for a loan from the Vermont Environmental Protection Agency Pollution Control Revolving Fund, established in section 4753 of this title, for a clean water project. The loan proceeds shall be used to acquire, design, plan, construct, enlarge, repair, improve, or implement a clean water project. Loan proceeds shall not be used for operation and maintenance expenses or laboratory fees for monitoring.

(c) The Secretary and VEDA may prescribe any form of application or procedure for a loan hereunder, request from an applicant any information deemed necessary to implement this subchapter, and impose an application fee and an administrative fee determined reasonable and necessary to cover administrative costs. Fee proceeds shall be deposited in the administrative fee account established in subsection 4755(a) of this chapter.

§ 4782. CONDITIONS OF LOAN AGREEMENT

(a) VEDA may make loans to applicants on behalf of the State for one or more of the purposes set forth in subsection 4781(b) of this title. Each loan shall be made subject to the following conditions:

(1) The loan shall be evidenced by a note payable over a term not to exceed 30 years. Repayment shall commence not later than one year after completion of the project for which loan funds have been issued.

(2) The loan shall be secured with assets as determined by VEDA. VEDA may also require that the applicant assign all or a portion of any revenues from the clean water project as security for the loan or may require the establishment of a reserve fund.

(3) The rate of interest charged for loans shall be set by the State Treasurer, taking into consideration prevailing borrowing rates available to similarly situated applicants from private lenders and the administrative fees to be charged to applicants. VEDA, in cooperation with the Secretary, shall periodically recommend interest rates to be set by the State Treasurer that are the lowest practicable rates consistent with maintaining the long-term integrity of the Fund. The interest rate set by the State Treasurer may be less than the prevailing borrowing rates available to similarly situated applicants from private lenders, but not less than zero percent.

(b) The loan agreement shall specify the terms and conditions of the loan and its repayment by the applicant, as well as other terms and conditions determined necessary by the Secretary and VEDA.

(c) Disbursement of loan proceeds shall be based on certification to the Secretary and VEDA by the loan recipient demonstrating that the costs for which reimbursement is requested have been incurred and paid by the recipient. The recipient shall provide supporting evidence of payment upon the request of VEDA. Partial disbursements of loan proceeds shall be made not more frequently than monthly.

(d) Interim financing charges or short-term interest costs may constitute an allowable cost of a project for which a loan is extended, provided VEDA approved in advance the terms, conditions, interest rate, and other related matters concerning the financing or interest cost. In the event short-term financing is unavailable to the applicant, VEDA may make interim loan disbursements not more frequently than monthly to the applicant and its general contractor as co-payees upon submission of a certified request for payment supported by actual invoices or other evidence satisfactory to VEDA of costs incurred.

(e) VEDA shall have the right prior to making any disbursement of the loan proceeds to require confirmation from an independent registered

professional engineer that any work has been performed according to project plans and specifications approved by the Secretary.

(f) VEDA may require as part of the loan agreement that the applicant cause an audit of the project costs to be prepared and approved by VEDA prior to VEDA's making final payment of the loan amount.

(g) In the event of default, any amounts owed upon the loan shall be considered a debt for the purposes of 32 V.S.A. § 5932(4). VEDA may recover such debt pursuant to the setoff debt collection remedy established under 32 V.S.A. §§ 5933 and 5934.

§ 4783. QUALIFICATIONS FOR ELIGIBILITY; CERTIFICATION

No loan to an applicant shall be made under this subchapter until:

(1) The applicant has certified all of the following to VEDA:

(A) all State and federal permits and licenses necessary to undertake the project for which financing has been sought will be obtained prior to the expenditure of construction funds under the loan;

(B) the applicant has sufficient means to pay the principal and interest on the loans and to pay any anticipated costs of operating and maintaining the financed project;

(C) if the applicant is subject to the jurisdiction of the Public Utility Commission under 30 V.S.A §§ 102 and 203(6), the applicant has obtained the following approvals, if such approvals are necessary for the project, and has provided VEDA with copies of those approvals:

(i) the certificate of public good issued by the Public Utility Commission pursuant to 30 V.S.A. § 231 (public good) and 30 V.S.A. § 108 (approving the loan); and

(ii) the decision and order of the Public Utility Commission approving rates that are to be charged by the applicant.

(D) the municipality or municipalities in which the clean water project is located have provided a letter of support for the project.

(2) The Secretary has certified to VEDA that the applicant and the project qualify for financing or assistance under section 4784 of this title and that the project has priority for receipt of financial assistance.

§ 4784. LOAN PRIORITIES

(a) The Secretary shall at least annually prepare and certify to VEDA a list of privately owned clean water projects, ranked in priority order, that are eligible for financial assistance under this subchapter.

(b) In determining financing ability for clean water projects under this subchapter, the Secretary shall apply the criteria adopted pursuant to 10 V.S.A. § 1628; provided, however:

(1) No privately owned clean water project authorized under this subchapter shall be prioritized above a municipal clean water project.

(2) No more than 20 percent of the funds identified in the annual State intended use plan (IUP) and allocated for clean water projects may be used for loans to privately owned clean water projects, unless there occurs a surplus of funds, in which case those funds may be used to fund additional privately owned clean water projects.

§ 4785. LIABILITY AGAINST DEFAULT

Under no circumstance shall the State become responsible for owning or operating a clean water project when the loan recipient defaults on a loan obligation or abandons the project.

§ 4786. ACTION FOR RECEIVERSHIP

Upon default of a loan, VEDA shall have the right to petition the Superior Court in the county in which the clean water project is located, or the Public Utility Commission for projects subject to the jurisdiction of the Commission, to appoint a receiver.

§ 4787. LOAN CONSOLIDATION

Loans, or the outstanding balance of loans, made for the purpose of preparing engineering plans for a project may be consolidated with any subsequent loans for construction.

* * * Sunset of Loans to Private Entities* * *

Sec. 12. SUSPENSION OF PRIVATE LOANS FOR CLEAN WATER PROJECTS

(a) Neither the Vermont Economic Development Authority (VEDA) nor the Secretary of Natural Resources shall accept, review, or act on any applications for loans to private entities under 24 V.S.A. chapter 120, subchapter 4 submitted after June 30, 2023. However, VEDA and the Secretary shall continue to review and act on initial applications submitted on or before June 30, 2023, as well as any amendments to timely initial applications.

(b) It is the intent of the General Assembly that the private loans under 24 V.S.A. chapter 120, subchapter 4, the expansion of 24 V.S.A. chapter 120 to provide funding for natural resources projects, and the sponsorship program defined at 24 V.S.A. § 4752(18) shall all be reviewed during the 2023

legislative session.

* * * Technical Corrections * * *

Sec. 13. 24 V.S.A. § 4764 is amended to read:

§ 4764. PLANNING

(a) Engineering planning advance. A municipality or a combination of two or more municipalities desiring an advance of funds for engineering planning for public water supply systems, as defined in subdivision 4752(9) of this title, or improvements, or for ~~water pollution abatement and control facilities~~ clean water projects or improvements, may apply to the Department for an advance under this chapter. As used in this subsection, “engineering planning” may include source exploration, surveys, reports, designs, plans, specifications, or other engineering services necessary in preparation for construction of the types of systems or facilities referred to in this section.

* * *

Sec. 14. 24 V.S.A. § 4766 is amended to read:

§ 4766. AWARD OF ADVANCE

(a) The Department may award an engineering planning advance, as defined in section 4764 of this title, in an amount determined by standards established by the Department, and pursuant to the following:

(1) for public water supply systems, as defined in subdivision 4752(9) of this title, when it finds the same to be necessary in order to preserve or enhance the quality of water provided to the inhabitants of the municipality, or to alleviate an adverse public health condition, or to allow for orderly development and growth of the municipality, except that no funds may be awarded until the Department determines that the applicant has complied with the provisions of 10 V.S.A. § 1676a, unless such funds are solely for the purpose of determining the effect of the proposed project on agriculture; or

(2) for planning of ~~water pollution abatement and control facilities~~ clean water projects, in order to enable a municipality to comply with water quality standards established under 10 V.S.A. chapter 47.

* * *

Sec. 15. 10 V.S.A. § 1251(18) is amended to read:

§ 1251. DEFINITIONS

Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context:

* * *

(18) “Pollution abatement facilities” means municipal sewage treatment plants, pumping stations, interceptor and outfall sewers, and attendant facilities as prescribed by the Department to abate pollution of the waters of the State. [Repealed.]

* * *

Sec. 16. 10 V.S.A. § 1259(j) is amended to read:

(j) No person shall discharge waste from hydraulic fracturing, as that term is defined in 29 V.S.A. § 503, into or from a pollution abatement facility, as that term is defined in section ~~1251~~ 1278 of this title.

Sec. 17. 10 V.S.A. § 1278 is amended to read:

§ 1278. OPERATION, MANAGEMENT, AND EMERGENCY RESPONSE
PLANS FOR POLLUTION ABATEMENT FACILITIES

(a) Findings. The General Assembly finds that the State shall protect Vermont’s lakes, rivers, and streams from pollution by implementing programs to prevent sewage spills to Vermont waters and by requiring emergency planning to limit the damage from spills which do occur. In addition, the General Assembly finds it to be cost-effective and generally beneficial to the environment to continue State efforts to ensure energy efficiency in the operation of treatment facilities.

(b) Planning requirement. Effective July 1, 2007, the Secretary of Natural Resources shall as part of a permit issued under section 1263 of this title, require a pollution abatement facility, as that term is defined in ~~section 1251 of this title~~ section, to prepare and implement an operation, management, and emergency response plan for those portions of each pollution abatement facility that include the treatment facility, the sewage pumping stations, and the sewer line stream crossing. As used in this section, “pollution abatement facility” means municipal sewage treatment plants, pumping stations, interceptor and outfall sewers, and attendant facilities as prescribed by the Department to abate pollution of the waters of the State.

(c) Collection system planning. As of July 1, 2010, the Secretary of Natural Resources, as part of a permit issued under section 1263 of this title, shall require a pollution abatement facility, as that term is defined in ~~section 1251 of this title~~ subsection (b) of this section, to prepare and implement an operation, management, and emergency response plan for that portion of each pollution abatement facility that includes the sewage collection systems. The requirement to develop a plan under this subsection shall be included in a permit issued under section 1263 of this title, and a plan developed under this subsection shall be subject to public review and inspection.

* * *

Sec. 18. 10 V.S.A. § 1622 is amended to read:

§ 1622. ELIGIBLE PROJECTS

As used in this subchapter, eligible project costs for water pollution abatement and control facilities projects shall include equipment, conveyances, and structural or nonstructural facilities needed for and appurtenant to the prevention, management, treatment, storage, or disposal of sewage, waste, or stormwater, and the associated costs, including planning and design costs, necessary to construct the improvements, including costs to acquire land for the project.

Sec. 19. 24 V.S.A. § 4771(a) is amended to read:

(a) VEDA may make loans to applicants on behalf of the State for one or more of the purposes set forth in subsection 4770(b) of this title. Each such loan shall be made subject to the following conditions:

* * *

(4) The rate of interest charged for loans shall be set by the State Treasurer, taking into consideration prevailing borrowing rates available to similarly situated applicants from private lenders and administrative fees to be charged to applicants. VEDA, in cooperation with the Secretary, shall periodically recommend interest rates to be set by the State Treasurer which are the lowest practicable rates consistent with maintaining the long-term integrity of the Fund. The interest rate set by the State Treasurer may be less than the prevailing borrowing rates available to similarly situated applicants from private lenders, but not less than zero percent.

(5)(A) Notwithstanding subdivision (4) of this subsection, a privately owned nonprofit community type system may qualify for a 30-year loan term at an interest rate, plus administrative fee, to be established by the Secretary of Natural Resources ~~which~~ that shall be no more than three percent or less than minus three percent, provided that the applicant system meets the income level and annual household user cost requirements of a disadvantaged municipality as defined in subdivision 10 V.S.A. § 1571(9)(A), and at least 80 percent of the residential units served by the water system is continuously occupied by local residents and at least 80 percent of the water produced is for residential use.

(B) [Repealed.]

(C) If the Secretary determines that a privately owned nonprofit community type system qualifies for a loan under this subdivision, the Secretary shall certify the loan term and interest rate to VEDA. In no instance

shall the annual interest rate, plus an administrative fee, be less than is necessary to achieve an annual household user cost equal to one percent of the median household income of the applicant water system computed in the same manner as prescribed in subdivision ~~10 V.S.A. § 1624(b)(2)(B)~~ 4763c(b)(2) of this title.

Sec. 20. EFFECTIVE DATE

This act shall take effect on passage.

(**Committee Vote: 9-0-2**)

H. 785

An act relating to housing and affordability

Rep. Sheldon of Middlebury, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. § 4752 is amended to read:

§ 4752. DEFINITIONS

As used in this chapter:

* * *

(13) ~~“Potable water supply facilities” means municipal water sources, water treatment plants, structures, pipe lines, storage facilities, pumps, and attendant facilities necessary to develop a source of water and to treat and convey it in proper quantity and quality for public use within a municipality~~ has the same meaning as in 10 V.S.A. § 1972.

* * *

(17) “Designer” means a person authorized to design wastewater systems and potable water supplies as identified in 10 V.S.A. § 1975.

Sec. 2. 24 V.S.A. § 4753 is amended to read:

§ 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

(a) There is hereby established a series of special funds to be known as:

* * *

(10) The Vermont Wastewater and Potable Water Revolving Loan Fund, which shall be used to provide loans to individuals, in accordance with section 4763b of this title, for the design and construction of repairs to or replacement of wastewater systems and potable water supplies when the wastewater system or potable water supply is a failed system or supply as defined in 10 V.S.A. § 1972, or when a designer demonstrates that the wastewater system or potable

water supply has a high probability of failing. The amount of up to \$275,000.00 from the fees collected pursuant to 3 V.S.A. § 2822(j)(4) shall be deposited on an annual basis into this Fund at the beginning of each fiscal year to ensure a minimum balance of available funds of \$275,000.00 exists for each fiscal year.

* * *

Sec. 3. 24 V.S.A. § 4763b is amended to read:

§ 4763b. LOANS TO INDIVIDUALS FOR FAILED WASTEWATER
SYSTEMS AND FAILED POTABLE WATER SUPPLIES

(a) Notwithstanding any other provision of law, when the wastewater system or potable water supply serving only ~~one single-family residence on its own lot~~ single-family and multifamily residences either meets the definition of a failed supply or system in 10 V.S.A. § 1972 or is demonstrated by a designer to have a high probability of failing, the Secretary of Natural Resources may lend monies to ~~the owner of the residence~~ an owner of one or more of the residences from the Vermont Wastewater and Potable Water Revolving Loan Fund established in section 4753 of this title. In such cases, the following conditions shall apply:

(1) ~~loans a loan may only be made to households with an owner with a~~ household income equal to or less than 200 percent of the State average median household income;

(2) ~~loans a loan may only be made to households where the recipient of the loan resides in the residence~~ an owner who resides in one of the residences served by the failed supply or system on a year-round basis;

(3) ~~loans a loan may only be made if the owner of the residence to an~~ owner who has been denied financing for the repair, replacement, or construction due to involuntary disconnection by at least one other financing entity;

(4) ~~when the failed supply or system also serves residences owned by persons other than the loan applicant, a loan may only be made for an~~ equitable share of the cost to repair or replace the failed supply or system that is determined through agreement of all of the owners of residences served by the failed system or supply;

(5) no construction loan shall be made to an individual under this subsection, nor shall any part of any revolving loan made under this subsection be expended, until all of the following take place:

(A) the Secretary of Natural Resources determines that if a wastewater system and potable water supply permit is necessary for the design

and construction of the project to be financed by the loan, the permit has been issued to the owner of the failed system or supply; and

(B) the individual applying for the loan certifies to the Secretary of Natural Resources that the proposed project has secured all State and federal permits, licenses, and approvals necessary to construct and operate the project to be financed by the loan;

~~(5)~~(6) all funds from the repayment of loans made under this section shall be deposited into the Vermont Wastewater and Potable Water Revolving Loan Fund.

(b) The Secretary of Natural Resources shall establish standards, policies, and procedures as necessary for the implementation of this section. The Secretary may establish criteria to extend the payment period of a loan or to waive all or a portion of the loan amount.

Sec. 4. EFFECTIVE DATE

This act shall take effect upon passage.

(Committee Vote: 10-0-1)

H. 854

An act relating to promoting television and film production

Rep. Sullivan of Dorset, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. WORKFORCE DEVELOPMENT OPPORTUNITIES;

TELEVISION AND FILM PRODUCTION

The Department of Labor, in partnership with the Agency of Commerce and Community Development and the Career Pathways Coordinator within the Agency of Education, shall have the authority to explore means to expand and encourage apprenticeship, CTE, Career Pathways, and continuing education opportunities in television and film production. The Department and its partners shall have the further authority to conduct outreach to middle school, high school, and postsecondary students to gauge interest and need for opportunities in this field.

Sec. 2. TELEVISION AND FILM PRODUCTION; RECRUITMENT

STRATEGY; IMPACT STATEMENT

On or before January 15, 2019, the Agency of Commerce and Community Development shall consider and report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic

Development, Housing and General Affairs on a recommended strategy for attracting television and film production activities to Vermont and include an economic impact statement specifying potential revenues from increased activities.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

Favorable

H. 404

An act relating to Medicaid reimbursement for long-acting reversible contraceptives

Rep. Christensen of Weathersfield, for the Committee on Health Care, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

Action Postponed Until March 14, 2018

Committee Bill for Second Reading

H. 903

An act relating to regenerative farming.

(Rep. Smith of New Haven will speak for the Committee on Agriculture and Forestry.)

NOTICE CALENDAR

Favorable with Amendment

H. 730

An act relating to State response to waters in crisis

Rep. Ode of Burlington, for the Committee on Natural Resources; Fish; and Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. chapter 47, subchapter 2A is added to read:

Subchapter 2A. Lake in Crisis

§ 1310. DESIGNATION OF LAKE IN CRISIS

(a) The Secretary of Natural Resources (Secretary) shall review whether a lake in the State should be designated as a lake in crisis upon the Secretary's own motion or upon petition of 15 or more persons or a selectboard of a municipality in which the lake or a portion of the lake is located.

(b) The Secretary shall designate a lake as a lake in crisis if, after review under subsection (a) of this section, the Secretary determines that:

(1) the lake or segments of the lake have been listed as impaired;

(2) the condition of the lake will cause:

(A) a potential harm to the public health; and

(B) a risk of damage to the environment or natural resources; and

(3) a municipality in which the lake or a portion of the lake is located has reduced the valuation of real property due to the condition of the lake.

§ 1311. STATE RESPONSE TO A LAKE IN CRISIS

(a) Adoption of crisis response plan. When a lake is declared in crisis, the Secretary shall within 90 days after the designation of the lake in crisis issue a comprehensive crisis response plan for the management of the lake in crisis in order to improve water quality in the lake or to mitigate or eliminate the potential harm to public health or the risk of damages to the environment or natural resources. The Secretary shall coordinate with the Secretary of Agriculture, Food and Markets, and the Secretary of Transportation in the development of the crisis response plan. The crisis response plan shall require implementation of one or both of the following in the watershed of the lake in crisis:

(1) water quality requirements not set forth in existing statute or rule that are designed to address specific harms to public health or risks to the environment or natural resources; or

(2) implementation of or compliance with existing water quality requirements under one or more of the following:

(A) water quality requirements under chapter 47 of this title, including requiring a property owner to obtain a permit or implement best management practices for the discharge or stormwater runoff from any size of impervious surfaces if the Secretary determines that the treatment of the discharge or stormwater runoff is necessary to reduce the adverse impacts to water quality of the discharge or stormwater on the lake in crisis;

(B) agricultural water quality requirements under 6 V.S.A. chapter 215, including best management practices under 6 V.S.A. § 4810 to reduce runoff from the farm; or

(C) water quality requirements adopted under section 1264 of this section for stormwater runoff from municipal or State roads.

(b) Agency cooperation and services. All other State agencies shall cooperate with the Secretary in responding to the lake in crisis, and the

Secretary shall be entitled to seek technical and scientific input or services from the Agency of Agriculture, Food and Markets, the Agency of Transportation, or other necessary State agencies.

§ 1312. LAKE IN CRISIS ORDER

(a) Lake in crisis order. The Secretary, after consultation with the Secretary of Agriculture, Food and Markets, may issue a lake in crisis order to require a person to:

(1) take an action identified in the lake in crisis response plan;

(2) cease any acts, discharges, or processes contributing to the impairment of the lake in crisis;

(3) mitigate a significant contributor of a pollutant to the lake in crisis; or

(4) conduct testing, sampling, monitoring, surveying, or other analytical operations required to determine the nature, extent, duration, or severity of the potential harm to the public health or a risk of damage to the environment or natural resources.

(b) Notice. Prior to issuing a lake in crisis order under this section, the Secretary shall provide notice as provided in this subsection.

(1) The Secretary shall prepare a notice of intent to seek the order, setting forth the reasons to believe a lake in crisis order should be issued.

(2) The notice of intent, together with the supporting evidence and a statement of procedural rights available under this section, shall be served on the person or persons against whom the lake in crisis order is sought in accordance with the procedures set forth in Vermont Rules of Civil Procedure.

(3) Upon request of a person against whom a lake in crisis order is sought, the Secretary shall hold a hearing. At the hearing, the person against whom the order is sought shall be given an opportunity to rebut the allegations and demonstrate that the Secretary should not issue the lake in crisis order against the person.

(c) Phosphorus practices. If the source of pollution in the lake in crisis includes phosphorus from a specific source, the Secretary shall issue a lake in crisis order requiring the source of phosphorus in the watershed to implement practices that reduce the phosphorus loads to the lake.

(d) Term of order. When the Secretary issues a lake in crisis order under this section, the order shall include a term for the duration of any water quality requirement in the order.

§ 1313. ASSISTANCE

(a) A person subject to a lake in crisis order shall be eligible for technical and financial assistance from the Secretary to be paid from the Lake in Crisis Response Program Fund. The Secretary shall adopt by procedure the process for application for assistance under this section.

(b) State financial assistance awarded under this section shall be in the form of a grant. An applicant for a State grant shall pay at least 35 percent of the total eligible project cost. The dollar amount of a State grant shall be equal to the total eligible project cost, less 35 percent of the total as paid by the applicant, and less the amount of any federal assistance awarded.

(c) A grant awarded under this section shall comply with all terms and conditions for the issuance of State grants.

§ 1314. FUNDING OF STATE RESPONSE TO A LAKE IN CRISIS

(a) Initial response. Upon designation of a lake in crisis, the Secretary, notwithstanding the requirement of 32 V.S.A. § 706, may transfer the balances of appropriations not to exceed \$50,000.00 made under any appropriation act for the support of the Agency from one department or other unit of the Agency to fund the initial response to the lake in crisis.

(b) Long-term funding. In the subsequent budget submitted to the General Assembly under 32 V.S.A. § 701, the Secretary of Administration shall propose appropriations to the Lake in Crisis Response Program Fund to implement fully the crisis response plan for the lake in crisis, including recommended appropriations from one or more of the following:

(1) the Clean Water Fund established under section 1389 of this title;

(2) the Environmental Contingency Fund established under section 1289 of this title;

(3) the Vermont Housing and Conservation Trust Fund established under section 312 of this title;

(4) capital funds and other monies available from the Secretary of Agriculture, Food and Markets for water quality programs or projects;

(5) capital funds and other monies available from the Secretary of Natural Resources for water quality programs or projects; and

(6) General Fund appropriations.

§ 1315. LAKE IN CRISIS RESPONSE PROGRAM FUND

(a) There is created a special fund known as the Lake in Crisis Response Program Fund to be administered by the Secretary of Natural Resources. The Fund shall consist of funds that may be appropriated by the General Assembly.

(b) The Secretary shall use monies deposited in the Fund for the Secretary's implementation of a crisis response plan for a lake in crisis and for financial assistance under section 1313 of this title to persons subject to a lake in crisis order.

(c) Notwithstanding the requirements of 32 V.S.A. § 588(3) and (4), interest earned by the Fund and the balance of the Fund at the end of the fiscal year shall be carried forward in the Fund and shall not revert to the General Fund.

§ 1316. PUBLIC HEARING; TRANSPARENCY

The Secretary shall hold at least one public hearing in the watershed of the lake in crisis and shall provide an opportunity for public notice and comment for each water quality program, project, or crisis order proposed for implementation in the watershed of the lake in crisis.

Sec. 2. LAKE CARMI; LAKE IN CRISIS

The General Assembly declares Lake Carmi as a lake in crisis under 10 V.S.A. chapter 47, subchapter 2A. The crisis response plan for Lake Carmi shall include implementation of runoff controls.

Sec. 3. 10 V.S.A. § 8003(a) is amended to read:

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

- (1) 10 V.S.A. chapter 23, relating to air quality;
- (2) 10 V.S.A. chapter 32, relating to flood hazard areas;
- (3) 10 V.S.A. chapters 47 and 56, relating to water pollution control, water quality standards, and public water supply, and lakes in crisis;

* * *

Sec. 4. 10 V.S.A. § 8503(a) is amended to read:

(a) This chapter shall govern all appeals of an act or decision of the Secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

- (1) The following provisions of this title:
 - (A) chapter 23 (air pollution control);
 - (B) chapter 50 (aquatic nuisance control);

- (C) chapter 41 (regulation of stream flow);
- (D) chapter 43 (dams);
- (E) chapter 47 (water pollution control; lakes in crisis);

* * *

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 7-1-1)

Rep. Feltus of Lyndon, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Natural Resources; Fish; and Wildlife and when further amended as follows:

First: In Sec. 1, in 10 V.S.A. § 1314, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) Initial response. Upon designation of a lake in crisis, the Secretary may, for the purposes of the initial response to the lake in crisis, expend up to \$50,000.00 appropriated to the Agency of Natural Resources from the Clean Water Fund for authorized contingency spending.

Second: In Sec. 1, in 10 V.S.A. § 1315, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) There is created a special fund known as the Lake in Crisis Response Program Fund to be administered by the Secretary of Natural Resources. The Fund shall consist of:

- (1) funds that may be appropriated by the General Assembly; and
- (2) other gifts, donations, or funds received from any source, public or private, dedicated for deposit into the Fund.

(Committee Vote: 9-1-1)

Ordered to Lie

H. 167

An act relating to alternative approaches to addressing low-level illicit drug use.

Pending Question: Shall the House concur in the Senate Proposal of Amendment?

H. 219

An act relating to the Vermont spaying and neutering program.

Pending Question: Shall the House concur in the Senate Proposal of Amendment?

S. 103

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

Pending Question: Shall the House concur in the Senate proposal of amendment to the House proposal of amendment??

S. 267

An act relating to timing of a decree nisi in a divorce proceeding.

Pending Question: Second Reading?

For Informational Purposes

The Joint Fiscal Committee has received the following grant from the Administration for review and approval:

JFO #2911 – \$30,000 from the High Meadow Fund to the VT Agency of Agriculture, Food and Markets. The funding will be used as a private match to supplement State funds dedicated to the Local Food Market Development Grant program. This program exists to help eligible VT farmers, businesses and value-chain facilitators reach new markets. The FY18 grants will be targeted towards infrastructure development, technology and market access/development within eligible entities. \$30k in State funding is dedicated to this initiative in FY18.

[JFO received 2/22/18]

Information Notice

CROSS OVER DATES

The Joint Rules Committee established the following Crossover deadlines:

(1) All **House** bills must be reported out of the last committee of reference including the Committees on Appropriations and Ways and Means, except as provided below in (2) on or before **Friday, March 2, 2018**, and filed with the Clerk so they may be placed on the Calendar for Notice the next legislative day.

(2) All **House** bills referred pursuant to House Rule 35(a) to the Committees on Appropriations and Ways and Means must be reported out by the last of those committees on or before **Friday, March 16, 2018**, and filed with the Clerk so they may be placed on the Calendar for Notice the next legislative day.