House Calendar

Thursday, March 21, 2024

79th DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 P.M.

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H. 121

An act relating to enhancing consumer privacy

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

Sec. 1. 9 V.S.A. chapter 61A is added to read:

CHAPTER 61A. VERMONT DATA PRIVACY ACT

§ 2415. DEFINITIONS

As used in this chapter:

(1) "Abortion" has the same meaning as in section 2492 of this title.

(2)(A) "Affiliate" means a legal entity that shares common branding with another legal entity or controls, is controlled by, or is under common control with another legal entity.

(B) As used in subdivision (A) of this subdivision (2), "control" or "controlled" means:

(i) ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a company;

(ii) control in any manner over the election of a majority of the directors or of individuals exercising similar functions; or

(iii) the power to exercise controlling influence over the management of a company.

(3) "Authenticate" means to use reasonable means to determine that a request to exercise any of the rights afforded under subdivisions 2418(a)(1)–(5) of this title is being made by, or on behalf of, the consumer who is entitled to exercise the consumer rights with respect to the personal data at issue.

(4) "Biometric data" means personal data generated from the technological processing of an individual's unique biological, physical, or physiological characteristics that is linked or reasonably linkable to an individual, including:

(A) iris or retina scans;

(B) fingerprints;

(C) facial or hand mapping, geometry, or templates;

(D) vein patterns;

(E) voice prints;

(F) gait or personally identifying physical movement or patterns;

(G) depictions, images, descriptions, or recordings; and

(H) data derived from any data in subdivision (G) of this subdivision (4), to the extent that it would be reasonably possible to identify the specific individual from whose biometric data the data has been derived.

(5) "Broker-dealer" has the same meaning as in 9 V.S.A. § 5102.

(6) "Business associate" has the same meaning as in HIPAA.

(7) "Child" has the same meaning as in COPPA.

(8)(A) "Consent" means a clear affirmative act signifying a consumer's freely given, specific, informed, and unambiguous agreement to allow the processing of personal data relating to the consumer.

(B) "Consent" may include a written statement, including by electronic means, or any other unambiguous affirmative action.

(C) "Consent" does not include:

(i) acceptance of a general or broad terms of use or similar document that contains descriptions of personal data processing along with other, unrelated information;

(ii) hovering over, muting, pausing, or closing a given piece of content; or

(iii) agreement obtained through the use of dark patterns.

(9)(A) "Consumer" means an individual who is a resident of the State.

(B) "Consumer" does not include an individual acting in a commercial or employment context or as an employee, owner, director, officer, or contractor of a company, partnership, sole proprietorship, nonprofit, or government agency whose communications or transactions with the controller occur solely within the context of that individual's role with the company, partnership, sole proprietorship, nonprofit, or government agency.

(10) "Consumer health data" means any personal data that a controller uses to identify a consumer's physical or mental health condition or diagnosis, including gender-affirming health data and reproductive or sexual health data.

(11) "Consumer health data controller" means any controller that, alone or jointly with others, determines the purpose and means of processing consumer health data.

(12) "Consumer reporting agency" has the same meaning as in the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f);

(13) "Controller" means a person who, alone or jointly with others, determines the purpose and means of processing personal data.

(14) "COPPA" means the Children's Online Privacy Protection Act of 1998, 15 U.S.C. § 6501–6506, and any regulations, rules, guidance, and exemptions promulgated pursuant to the act, as the act and regulations, rules, guidance, and exemptions may be amended.

(15) "Covered entity" has the same meaning as in HIPAA.

(16) "Credit union" has the same meaning as in 8 V.S.A. § 30101.

(17) "Dark pattern" means a user interface designed or manipulated with the substantial effect of subverting or impairing user autonomy, decision-making, or choice and includes any practice the Federal Trade Commission refers to as a "dark pattern."

(18) "Decisions that produce legal or similarly significant effects concerning the consumer" means decisions made by the controller that result in the provision or denial by the controller of financial or lending services, housing, insurance, education enrollment or opportunity, criminal justice, employment opportunities, health care services, or access to essential goods or services.

(19) "De-identified data" means data that does not identify and cannot reasonably be used to infer information about, or otherwise be linked to, an identified or identifiable individual, or a device linked to the individual, if the controller that possesses the data:

(A)(i) takes reasonable measures to ensure that the data cannot be used to re-identify an identified or identifiable individual or be associated with an individual or device that identifies or is linked or reasonably linkable to an individual or household;

(ii) for purposes of this subdivision (A), "reasonable measures" shall include the de-identification requirements set forth under 45 C.F.R.

§ 164.514 (other requirements relating to uses and disclosures of protected health information);

(B) publicly commits to process the data only in a de-identified fashion and not attempt to re-identify the data; and

(C) contractually obligates any recipients of the data to satisfy the criteria set forth in subdivisions (A) and (B) of this subdivision (19).

(20) "Financial institution":

(A) as used in subdivision 2417(a)(12) of this title, has the same meaning as in 15 U.S.C. § 6809; and

(B) as used in subdivision 2417(a)(14) of this title, has the same meaning as in 8 V.S.A. § 11101.

(21) "Gender-affirming health care services" has the same meaning as in 1 V.S.A. § 150.

(22) "Gender-affirming health data" means any personal data concerning a past, present, or future effort made by a consumer to seek, or a consumer's receipt of, gender-affirming health care services, including:

(A) precise geolocation data that is used for determining a consumer's attempt to acquire or receive gender-affirming health care services;

(B) efforts to research or obtain gender-affirming health care services; and

(C) any gender-affirming health data that is derived from nonhealth information.

(23) "Genetic data" means any data, regardless of its format, that results from the analysis of a biological sample of an individual, or from another source enabling equivalent information to be obtained, and concerns genetic material, including deoxyribonucleic acids (DNA), ribonucleic acids (RNA), genes, chromosomes, alleles, genomes, alterations or modifications to DNA or RNA, single nucleotide polymorphisms (SNPs), epigenetic markers, uninterpreted data that results from analysis of the biological sample or other source, and any information extrapolated, derived, or inferred therefrom.

(24) "Geofence" means any technology that uses global positioning coordinates, cell tower connectivity, cellular data, radio frequency identification, wireless fidelity technology data, or any other form of location detection, or any combination of such coordinates, connectivity, data, identification, or other form of location detection, to establish a virtual boundary.

(25) "Health care facility" has the same meaning as in 18 V.S.A. § 9432.

(26) "Heightened risk of harm to a minor" means processing the personal data of a minor in a manner that presents a reasonably foreseeable risk of:

(A) unfair or deceptive treatment of, or unlawful disparate impact on, a minor;

(B) financial, physical, mental, emotional, or reputational injury to a minor;

(C) unintended disclosure of the personal data of a minor; or

(D) any physical or other intrusion upon the solitude or seclusion, or the private affairs or concerns, of a minor if the intrusion would be offensive to a reasonable person.

(27) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and any regulations promulgated pursuant to the act, as may be amended.

(28) "Identified or identifiable individual" means an individual who can be readily identified, directly or indirectly, including by reference to an identifier such as a name, an identification number, specific geolocation data, or an online identifier.

(29) "Independent trust company" has the same meaning as in 8 V.S.A. § 2401.

(30) "Investment adviser" has the same meaning as in 9 V.S.A. § 5102.

(31) "Mental health facility" means any health care facility in which at least 70 percent of the health care services provided in the facility are mental health services.

(32) "Nonpublic personal information" has the same meaning as in 15 U.S.C. § 6809.

(33)(A) "Online service, product, or feature" means any service, product, or feature that is provided online, except as provided in subdivision (B) of this subdivision (33).

(B) "Online service, product, or feature" does not include:

(i) telecommunications service, as that term is defined in the Communications Act of 1934, 47 U.S.C. § 153;

(ii) broadband internet access service, as that term is defined in 47 C.F.R. § 54.400 (universal service support); or

(iii) the delivery or use of a physical product.

(34) "Patient identifying information" has the same meaning as in 42 C.F.R. § 2.11 (confidentiality of substance use disorder patient records).

(35) "Patient safety work product" has the same meaning as in 42 C.F.R. § 3.20 (patient safety organizations and patient safety work product).

(36)(A) "Personal data" means any information, including derived data and unique identifiers, that is linked or reasonably linkable to an identified or identifiable individual or to a device that identifies, is linked to, or is reasonably linkable to one or more identified or identifiable individuals in a household.

(B) "Personal data" does not include de-identified data or publicly available information.

(37)(A) "Precise geolocation data" means personal data that accurately identifies within a radius of 1,850 feet a consumer's present or past location or the present or past location of a device that links or is linkable to a consumer or any data that is derived from a device that is used or intended to be used to locate a consumer within a radius of 1,850 feet by means of technology that includes a global positioning system that provides latitude and longitude coordinates.

(B) "Precise geolocation data" does not include the content of communications or any data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility.

(38) "Process" or "processing" means any operation or set of operations performed, whether by manual or automated means, on personal data or on sets of personal data, such as the collection, use, storage, disclosure, analysis, deletion, or modification of personal data.

(39) "Processor" means a person who processes personal data on behalf of a controller.

(40) "Profiling" means any form of automated processing performed on personal data to evaluate, analyze, or predict personal aspects related to an identified or identifiable individual's economic situation, health, personal preferences, interests, reliability, behavior, location, or movements.

(41) "Protected health information" has the same meaning as in HIPAA.

(42) "Pseudonymous data" means personal data that cannot be attributed to a specific individual without the use of additional information, provided the additional information is kept separately and is subject to appropriate technical

and organizational measures to ensure that the personal data is not attributed to an identified or identifiable individual.

(43) "Publicly available information" means information that:

(A) is lawfully made available through federal, state, or local government records; or

(B) a controller has a reasonable basis to believe that the consumer has lawfully made available to the general public through widely distributed media.

(44) "Qualified service organization" has the same meaning as in 42 C.F.R. § 2.11 (confidentiality of substance use disorder patient records);

(45) "Reproductive or sexual health care" has the same meaning as "reproductive health care services" in 1 V.S.A. § 150(c)(1).

(46) "Reproductive or sexual health data" means any personal data concerning a past, present, or future effort made by a consumer to seek, or a consumer's receipt of, reproductive or sexual health care.

(47) "Reproductive or sexual health facility" means any health care facility in which at least 70 percent of the health care-related services or products rendered or provided in the facility are reproductive or sexual health care.

(48)(A) "Sale of personal data" means the sale, rent, release, disclosure, dissemination, provision, transfer, or other communication, whether oral, in writing, or by electronic or other means, of a consumer's personal data by the controller to a third party for monetary or other valuable consideration or otherwise for a commercial purpose.

(B) For purposes of this subdivision (48), "commercial purpose" means to advance a person's commercial or economic interests, such as by inducing another person to buy, rent, lease, join, subscribe to, provide, or exchange products, goods, property, information, or services, or enabling or effecting, directly or indirectly, a commercial transaction.

(C) "Sale of personal data" does not include:

(i) the disclosure of personal data to a processor that processes the personal data on behalf of the controller;

(ii) the disclosure of personal data to a third party for purposes of providing a product or service requested by the consumer;

(iii) the disclosure or transfer of personal data to an affiliate of the controller;

(iv) the disclosure of personal data where the consumer directs the controller to disclose the personal data or intentionally uses the controller to interact with a third party;

(v) the disclosure of personal data that the consumer:

(I) intentionally made available to the general public via a channel of mass media; and

(II) did not restrict to a specific audience; or

(vi) the disclosure or transfer of personal data to a third party as an asset that is part of a merger, acquisition, bankruptcy or other transaction, or a proposed merger, acquisition, bankruptcy, or other transaction, in which the third party assumes control of all or part of the controller's assets.

(49) "Sensitive data" means personal data that:

(A) reveals a consumer's government-issued identifier, such as a Social Security number, passport number, state identification card, or driver's license number, that is not required by law to be publicly displayed;

(B) reveals a consumer's racial or ethnic origin, national origin, citizenship or immigration status, religious or philosophical beliefs, or union membership;

(C) reveals a consumer's sexual orientation, sex life, sexuality, or status as transgender or nonbinary;

(D) reveals a consumer's status as a victim of a crime;

(E) is financial information, including a consumer's account number, financial account log-in, financial account, debit card number, or credit card number in combination with any required security or access code, password, or credentials allowing access to an account;

(F) is consumer health data;

(G) is personal data collected and analyzed concerning consumer health data or personal data that describes or reveals a past, present, or future mental or physical health condition, treatment, disability, or diagnosis, including pregnancy, to the extent the personal data is not used by the controller to identify a specific consumer's physical or mental health condition or diagnosis;

(H) is biometric or genetic data;

(I) is personal data collected from a known child;

(J) is a photograph, film, video recording, or other similar medium that shows the naked or undergarment-clad private area of a consumer; or

(K) is precise geolocation data.

(50)(A) "Targeted advertising" means:

(i) except as provided in subdivision (ii) of this subdivision (50)(A), the targeting of an advertisement to a consumer based on the consumer's activity with one or more businesses, distinctly branded websites, applications, or services, other than the controller, distinctly branded website, application, or service with which the consumer is intentionally interacting; and

(ii) as used in section 2420 of this title, the targeting of an advertisement to a minor based on the minor's activity with one or more businesses, distinctly branded websites, applications, or services, including with the controller, distinctly branded website, application, or service with which the minor is intentionally interacting.

(B) "Targeted advertising" does not include:

(i) for targeted advertising to a consumer other than a minor, an advertisement based on activities within a controller's own commonly branded website or online application;

(ii) an advertisement based on the context of a consumer's current search query, visit to a website, or use of an online application;

(iii) an advertisement directed to a consumer in response to the consumer's request for information or feedback; or

(iv) processing personal data solely to measure or report advertising frequency, performance, or reach.

(51) "Third party" means a person, such as a public authority, agency, or body, other than the consumer, controller, or processor or an affiliate of the processor or the controller.

(52) "Trade secret" has the same meaning as in section 4601 of this title.

(53) "Victim services organization" means a nonprofit organization that is established to provide services to victims or witnesses of child abuse, domestic violence, human trafficking, sexual assault, violent felony, or stalking.

§ 2416. APPLICABILITY

(a) Except as provided in subsection (b) of this section, this chapter applies to a person that conducts business in this State or a person that produces products or services that are targeted to residents of this State and that during the preceding calendar year:

(1) controlled or processed the personal data of not fewer than 6,500 consumers, excluding personal data controlled or processed solely for the purpose of completing a payment transaction; or

(2) controlled or processed the personal data of not fewer than 3,250 consumers and derived more than 20 percent of the person's gross revenue from the sale of personal data.

(b) Sections 2420, 2424, and 2428 of this title, and the provisions of this chapter concerning consumer health data and consumer health data controllers apply to a person that conducts business in this State or a person that produces products or services that are targeted to residents of this State.

§ 2417. EXEMPTIONS

(a) This chapter does not apply to:

(1) a federal, State, tribal, or local government entity in the ordinary course of its operation;

(2) protected health information that a covered entity or business associate processes in accordance with, or documents that a covered entity or business associate creates for the purpose of complying with HIPAA;

(3) information used only for public health activities and purposes described in 45 C.F.R. § 164.512 (disclosure of protected health information without authorization);

(4) information that identifies a consumer in connection with:

(A) activities that are subject to the Federal Policy for the Protection of Human Subjects, codified as 45 C.F.R. part 46 (HHS protection of human subjects) and in various other federal regulations;

(B) research on human subjects undertaken in accordance with good clinical practice guidelines issued by the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use;

(C) activities that are subject to the protections provided in 21 C.F.R. parts 50 (FDA clinical investigations protection of human subjects) and 56 (FDA clinical investigations institutional review boards); or

(D) research conducted in accordance with the requirements set forth in subdivisions (A) through (C) of this subdivision (a)(4) or otherwise in accordance with applicable law;

(5) patient identifying information that is collected and processed in accordance with 42 C.F.R. part 2 (confidentiality of substance use disorder patient records);

(6) patient safety work product that is created for purposes of improving patient safety under 42 C.F.R. part 3 (patient safety organizations and patient safety work product);

(7) information or documents created for the purposes of the Healthcare Quality Improvement Act of 1986, 42 U.S.C. § 11101–11152, and regulations adopted to implement that act;

(8) information that originates from, that is intermingled so as to be indistinguishable from, or that is treated in the same manner as information described in subdivisions (2)–(7) of this subsection that a covered entity, business associate, or a qualified service organization program creates, collects, processes, uses, or maintains in the same manner as is required under the laws, regulations, and guidelines described in subdivisions (2)–(7) of this subsection;

(9) information processed or maintained solely in connection with, and for the purpose of, enabling:

(A) an individual's employment or application for employment;

(B) an individual's ownership of, or function as a director or officer of, a business entity;

(C) an individual's contractual relationship with a business entity;

(D) an individual's receipt of benefits from an employer, including benefits for the individual's dependents or beneficiaries; or

(E) notice of an emergency to persons that an individual specifies;

(10) any activity that involves collecting, maintaining, disclosing, selling, communicating, or using information for the purpose of evaluating a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living if done strictly in accordance with the provisions of the Fair Credit Reporting Act, 15 U.S.C. § 1681–1681x, as may be amended, by:

(A) a consumer reporting agency;

(B) a person who furnishes information to a consumer reporting agency under 15 U.S.C. § 1681s-2 (responsibilities of furnishers of information to consumer reporting agencies); or

(C) a person who uses a consumer report as provided in 15 U.S.C. § 1681b(a)(3) (permissible purposes of consumer reports);

(11) information collected, processed, sold, or disclosed under and in accordance with the following laws and regulations:

(A) the Driver's Privacy Protection Act of 1994, 18 U.S.C. § 2721–2725;

(B) the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and regulations adopted to implement that act;

(C) the Airline Deregulation Act, Pub. L. No. 95-504, only to the extent that an air carrier collects information related to prices, routes, or services, and only to the extent that the provisions of the Airline Deregulation Act preempt this chapter;

(D) the Farm Credit Act, Pub. L. No. 92-181, as may be amended;

(E) federal policy under 21 U.S.C. § 830 (regulation of listed chemicals and certain machines);

(12) nonpublic personal information that is processed by a financial institution subject to the Gramm-Leach-Bliley Act, Pub. L. No. 106-102, and regulations adopted to implement that act;

(13) information that originates from, or is intermingled so as to be indistinguishable from, information described in subdivision (12) of this subsection and that a controller or processor collects, processes, uses, or maintains in the same manner as is required under the law and regulations specified in subdivision (12) of this subsection;

(14) a financial institution, credit union, independent trust company, broker-dealer, or investment adviser or a financial institution's, credit union's, independent trust company's, broker-dealer's, or investment adviser's affiliate or subsidiary that is only and directly engaged in financial activities, as described in 12 U.S.C. § 1843(k);

(15) a person regulated pursuant to part 3 of Title 8 (chapters 101–165) other than a person that, alone or in combination with another person, establishes and maintains a self-insurance program and that does not otherwise engage in the business of entering into policies of insurance;

(16) a third-party administrator, as that term is defined in the Third Party Administrator Rule adopted pursuant to 18 V.S.A. § 9417;

(17) personal data of a victim or witness of child abuse, domestic violence, human trafficking, sexual assault, violent felony, or stalking that a victim services organization collects, processes, or maintains in the course of its operation;

(18) a nonprofit organization that is established to detect and prevent fraudulent acts in connection with insurance; or

(19) noncommercial activity of:

(A) a publisher, editor, reporter, or other person who is connected with or employed by a newspaper, magazine, periodical, newsletter, pamphlet, report, or other publication in general circulation;

(B) a radio or television station that holds a license issued by the Federal Communications Commission;

(C) a nonprofit organization that provides programming to radio or television networks; or

(D) an entity that provides an information service, including a press association or wire service.

(b) Controllers, processors, and consumer health data controllers that comply with the verifiable parental consent requirements of COPPA shall be deemed compliant with any obligation to obtain parental consent pursuant to this chapter, including pursuant to section 2420 of this title.

§ 2418. CONSUMER PERSONAL DATA RIGHTS

(a) A consumer shall have the right to:

(1) confirm whether or not a controller is processing the consumer's personal data and access the personal data, unless the confirmation or access would require the controller to reveal a trade secret;

(2) obtain from a controller a list of third parties, other than individuals, to which the controller has transferred, at the controller's election, either the consumer's personal data or any personal data;

(3) correct inaccuracies in the consumer's personal data, taking into account the nature of the personal data and the purposes of the processing of the consumer's personal data;

(4) delete personal data provided by, or obtained about, the consumer;

(5) obtain a copy of the consumer's personal data processed by the controller, in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the data to another controller without hindrance, where the processing is carried out by automated means, provided such controller shall not be required to reveal any trade secret; and

(6) opt out of the processing of the personal data for purposes of:

(A) targeted advertising;

(B) the sale of personal data; or

(C) profiling in furtherance of solely automated decisions that produce legal or similarly significant effects concerning the consumer.

(b)(1) A consumer may exercise rights under this section by submitting a request to a controller using the method that the controller specifies in the privacy notice under section 2419 of this title.

(2) A controller shall not require a consumer to create an account for the purpose described in subdivision (1) of this subsection, but the controller may require the consumer to use an account the consumer previously created.

(3) A parent or legal guardian may exercise rights under this section on behalf of the parent's child or on behalf of a child for whom the guardian has legal responsibility. A guardian or conservator may exercise the rights under this section on behalf of a consumer that is subject to a guardianship, conservatorship, or other protective arrangement.

(4)(A) A consumer may designate another person to act on the consumer's behalf as the consumer's authorized agent for the purpose of exercising the consumer's rights under subdivision (a)(4) or (a)(6) of this section.

(B) The consumer may designate an authorized agent by means of an internet link, browser setting, browser extension, global device setting, or other technology that enables the consumer to exercise the consumer's rights under subdivision (a)(4) or (a)(6) of this section.

(c) Except as otherwise provided in this chapter, a controller shall comply with a request by a consumer to exercise the consumer rights authorized pursuant to this chapter as follows:

(1)(A) A controller shall respond to the consumer without undue delay, but not later than 45 days after receipt of the request.

(B) The controller may extend the response period by 45 additional days when reasonably necessary, considering the complexity and number of

the consumer's requests, provided the controller informs the consumer of the extension within the initial 45-day response period and of the reason for the extension.

(2) If a controller declines to take action regarding the consumer's request, the controller shall inform the consumer without undue delay, but not later than 45 days after receipt of the request, of the justification for declining to take action and instructions for how to appeal the decision.

(3)(A) Information provided in response to a consumer request shall be provided by a controller, free of charge, once per consumer during any 12-month period.

(B) If requests from a consumer are manifestly unfounded, excessive, or repetitive, the controller may charge the consumer a reasonable fee to cover the administrative costs of complying with the request or decline to act on the request.

(C) The controller bears the burden of demonstrating the manifestly unfounded, excessive, or repetitive nature of the request.

(4)(A) If a controller is unable to authenticate a request to exercise any of the rights afforded under subdivisions (a)(1)–(5) of this section using commercially reasonable efforts, the controller shall not be required to comply with a request to initiate an action pursuant to this section and shall provide notice to the consumer that the controller is unable to authenticate the request to exercise the right or rights until the consumer provides additional information reasonably necessary to authenticate the consumer and the consumer's request to exercise the right or rights.

(B) A controller shall not be required to authenticate an opt-out request, but a controller may deny an opt-out request if the controller has a good faith, reasonable, and documented belief that the request is fraudulent.

(C) If a controller denies an opt-out request because the controller believes the request is fraudulent, the controller shall send a notice to the person who made the request disclosing that the controller believes the request is fraudulent, why the controller believes the request is fraudulent, and that the controller shall not comply with the request.

(5) A controller that has obtained personal data about a consumer from a source other than the consumer shall be deemed in compliance with a consumer's request to delete the data pursuant to subdivision (a)(4) of this section by:

(A) retaining a record of the deletion request and the minimum data necessary for the purpose of ensuring the consumer's personal data remains

deleted from the controller's records and not using the retained data for any other purpose pursuant to the provisions of this chapter; or

(B) opting the consumer out of the processing of the personal data for any purpose except for those exempted pursuant to the provisions of this chapter.

(6) A controller may not condition the exercise of a right under this section through:

(A) the use of any false, fictitious, fraudulent, or materially misleading statement or representation; or

(B) the employment of any dark pattern.

(d) A controller shall establish a process by means of which a consumer may appeal the controller's refusal to take action on a request under subsection (b) of this section. The controller's process must:

(1) Allow a reasonable period of time after the consumer receives the controller's refusal within which to appeal.

(2) Be conspicuously available to the consumer.

(3) Be similar to the manner in which a consumer must submit a request under subsection (b) of this section.

(4) Require the controller to approve or deny the appeal within 45 days after the date on which the controller received the appeal and to notify the consumer in writing of the controller's decision and the reasons for the decision. If the controller denies the appeal, the notice must provide or specify information that enables the consumer to contact the Attorney General to submit a complaint.

§ 2419. DUTIES OF CONTROLLERS

(a) A controller shall:

(1) specify in the privacy notice described in subsection (d) of this section the express purposes for which the controller is collecting and processing personal data;

(2) process personal data only:

(A) as reasonably necessary and proportionate to provide the services for which the personal data was collected, consistent with the reasonable expectations of the consumer whose personal data is being processed;

(B) for another disclosed purpose that is compatible with the context in which the personal data was collected; or

(C) for a further disclosed purpose if the controller obtains the consumer's consent;

(3) establish, implement, and maintain reasonable administrative, technical, and physical data security practices to protect the confidentiality, integrity, and accessibility of personal data appropriate to the volume and nature of the personal data at issue; and

(4) provide an effective mechanism for a consumer to revoke consent to the controller's processing of the consumer's personal data that is at least as easy as the mechanism by which the consumer provided the consumer's consent and, upon revocation of the consent, cease to process the data as soon as practicable, but not later than 15 days after receiving the request.

(b) A controller shall not:

(1) process personal data beyond what is reasonably necessary and proportionate to the processing purpose;

(2) process sensitive data about a consumer without first obtaining the consumer's consent or, if the controller knows the consumer is a child, without processing the sensitive data in accordance with COPPA;

(3)(A) except as provided in subdivision (B) of this subdivision (3), process a consumer's personal data in a manner that discriminates against individuals or otherwise makes unavailable the equal enjoyment of goods or services on the basis of an individual's actual or perceived race, color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, or national origin;

(B) subdivision (A) of this subdivision (3) shall not apply to:

(i) a private establishment, as that term is used in 42 U.S.C. § 2000a(e) (prohibition against discrimination or segregation in places of public accommodation);

(ii) processing for the purpose of a controller's or processor's self-testing to prevent or mitigate unlawful discrimination; or

(iii) processing for the purpose of diversifying an applicant, participant, or consumer pool.

(4) process a consumer's personal data for the purposes of targeted advertising, of profiling the consumer in furtherance of decisions that produce legal or similarly significant effects concerning the consumer, or of selling the consumer's personal data without the consumer's consent if the controller has actual knowledge that, or willfully disregards whether, the consumer is at least 13 years of age and not older than 16 years of age; or

(5) discriminate or retaliate against a consumer who exercises a right provided to the consumer under this chapter or refuses to consent to the collection or processing of personal data for a separate product or service, including by:

(A) denying goods or services;

(B) charging different prices or rates for goods or services; or

(C) providing a different level of quality or selection of goods or services to the consumer.

(c) Subsections (a) and (b) of this section shall not be construed to:

(1) require a controller to provide a good or service that requires personal data from a consumer that the controller does not collect or maintain; or

(2) prohibit a controller from offering a different price, rate, level of quality, or selection of goods or services to a consumer, including an offer for no fee or charge, in connection with a consumer's voluntary participation in a financial incentive program, such as a bona fide loyalty, rewards, premium features, discount, or club card program, provided that the controller may not transfer personal data to a third party as part of the program unless:

(A) the transfer is necessary to enable the third party to provide a benefit to which the consumer is entitled; or

(B)(i) the terms of the program clearly disclose that personal data will be transferred to the third party or to a category of third parties of which the third party belongs; and

(ii) the consumer consents to the transfer.

(d)(1) A controller shall provide to consumers a reasonably accessible, clear, and meaningful privacy notice that:

(A) lists the categories of personal data, including the categories of sensitive data, that the controller processes;

(B) describes the controller's purposes for processing the personal data;

(C) describes how a consumer may exercise the consumer's rights under this chapter, including how a consumer may appeal a controller's denial of a consumer's request under section 2418 of this title;

(D) lists all categories of personal data, including the categories of sensitive data, that the controller shares with third parties;

(E) describes all categories of third parties with which the controller shares personal data at a level of detail that enables the consumer to understand what type of entity each third party is and, to the extent possible, how each third party may process personal data;

(F) specifies an e-mail address or other online method by which a consumer can contact the controller that the controller actively monitors;

(G) identifies the controller, including any business name under which the controller registered with the Secretary of State and any assumed business name that the controller uses in this State;

(H) provides a clear and conspicuous description of any processing of personal data in which the controller engages for the purposes of targeted advertising, sale of personal data to third parties, or profiling the consumer in furtherance of decisions that produce legal or similarly significant effects concerning the consumer, and a procedure by which the consumer may opt out of this type of processing; and

(I) describes the method or methods the controller has established for a consumer to submit a request under subdivision 2418(b)(1) of this title.

(2) The privacy notice shall adhere to the accessibility and usability guidelines recommended under 42 U.S.C. chapter 126 (the Americans with Disabilities Act) and 29 U.S.C. 794d (section 508 of the Rehabilitation Act of 1973), including ensuring readability for individuals with disabilities across various screen resolutions and devices and employing design practices that facilitate easy comprehension and navigation for all users.

(e) The method or methods under subdivision (d)(1)(I) of this section for submitting a consumer's request to a controller must:

(1) take into account the ways in which consumers normally interact with the controller, the need for security and reliability in communications related to the request, and the controller's ability to authenticate the identity of the consumer that makes the request;

(2) provide a clear and conspicuous link to a website where the consumer or an authorized agent may opt out from a controller's processing of the consumer's personal data pursuant to subdivision 2418(a)(6) of this title or, solely if the controller does not have a capacity needed for linking to a webpage, provide another method the consumer can use to opt out; and

(3) allow a consumer or authorized agent to send a signal to the controller that indicates the consumer's preference to opt out of the sale of personal data or targeted advertising pursuant to subdivision 2418(a)(6) of this title by means of a platform, technology, or mechanism that:

(A) does not unfairly disadvantage another controller;

(B) does not use a default setting but instead requires the consumer or authorized agent to make an affirmative, voluntary, and unambiguous choice to opt out;

(C) is consumer friendly and easy for an average consumer to use;

(D) is as consistent as possible with similar platforms, technologies, or mechanisms required under federal or state laws or regulations; and

(E) enables the controller to reasonably determine whether the consumer has made a legitimate request pursuant to subsection 2418(b) of this title to opt out pursuant to subdivision 2418(a)(6) of this title.

(f) If a consumer or authorized agent uses a method under subdivision (d)(1)(I) of this section to opt out of a controller's processing of the consumer's personal data pursuant to subdivision 2418(a)(6) of this title and the decision conflicts with a consumer's voluntary participation in a bona fide reward, club card, or loyalty program or a program that provides premium features or discounts in return for the consumer's consent to the controller's processing of the consumer's personal data, the controller may either comply with the request to opt out or notify the consumer of the conflict and ask the consumer to affirm that the consumer intends to withdraw from the bona fide reward, club card, or loyalty program or the program that provides premium features or discounts. If the consumer affirms that the consumer intends to withdraw, the controller shall comply with the request to opt out.

§ 2420. DUTIES OF CONTROLLERS TO MINORS

(a)(1) A controller that offers any online service, product, or feature to a consumer whom the controller actually knows or willfully disregards is a minor shall use reasonable care to avoid any heightened risk of harm to minors caused by the online service, product, or feature.

(2) In any action brought pursuant to section 2427, there is a rebuttable presumption that a controller used reasonable care as required under this section if the controller complied with this section.

(b) Unless a controller has obtained consent in accordance with subsection (c) of this section, a controller that offers any online service, product, or feature to a consumer whom the controller actually knows or willfully disregards is a minor shall not:

(1) process a minor's personal data for the purposes of:

(A) targeted advertising;

(B) the sale of personal data; or

(C) profiling in furtherance of any solely automated decisions that produce legal or similarly significant effects concerning the consumer;

(2) process a minor's personal data for any purpose other than:

(A) the processing purpose that the controller disclosed at the time the controller collected the minor's personal data; or

(B) a processing purpose that is reasonably necessary for, and compatible with, the processing purpose that the controller disclosed at the time the controller collected the minor's personal data; or

(3) process a minor's personal data for longer than is reasonably necessary to provide the online service, product, or feature;

(4) use any system design feature, except for a service or application that is used by and under the direction of an educational entity, to significantly increase, sustain, or extend a minor's use of the online service, product, or feature; or

(5) collect a minor's precise geolocation data unless:

(A) the minor's precise geolocation data is reasonably necessary for the controller to provide the online service, product, or feature;

(B) the controller only collects the minor's precise geolocation data for the time necessary to provide the online service, product, or feature; and

(C) the controller provides to the minor a signal indicating that the controller is collecting the minor's precise geolocation data and makes the signal available to the minor for the entire duration of the collection of the minor's precise geolocation data.

(c) A controller shall not engage in the activities described in subsection (b) of this section unless the controller obtains:

(1) the minor's consent; or

(2) if the minor is a child, the consent of the minor's parent or legal guardian.

(d) A controller that offers any online service, product, or feature to a consumer whom that controller actually knows or willfully disregards is a minor shall not:

(1) employ any dark pattern; or

(2) except as provided in subsection (e) of this section, offer any direct messaging apparatus for use by a minor without providing readily accessible

and easy-to-use safeguards to limit the ability of an adult to send unsolicited communications to the minor with whom the adult is not connected.

(e) Subdivision (d)(2) of this section does not apply to an online service, product, or feature of which the predominant or exclusive function is:

(1) e-mail; or

(2) direct messaging consisting of text, photographs, or videos that are sent between devices by electronic means, where messages are:

(A) shared between the sender and the recipient;

(B) only visible to the sender and the recipient; and

(C) not posted publicly.

§ 2421. DUTIES OF PROCESSORS

(a) A processor shall adhere to a controller's instructions and shall assist the controller in meeting the controller's obligations under this chapter. In assisting the controller, the processor must:

(1) enable the controller to respond to requests from consumers pursuant to subsection 2418(b) of this title by means that:

(A) take into account how the processor processes personal data and the information available to the processor; and

(B) use appropriate technical and organizational measures to the extent reasonably practicable;

(2) adopt administrative, technical, and physical safeguards that are reasonably designed to protect the security and confidentiality of the personal data the processor processes, taking into account how the processor processes the personal data and the information available to the processor; and

(3) provide information reasonably necessary for the controller to conduct and document data protection assessments.

(b) Processing by a processor must be governed by a contract between the controller and the processor. The contract must:

(1) be valid and binding on both parties;

(2) set forth clear instructions for processing data, the nature and purpose of the processing, the type of data that is subject to processing, and the duration of the processing;

(3) specify the rights and obligations of both parties with respect to the subject matter of the contract;

(4) ensure that each person that processes personal data is subject to a duty of confidentiality with respect to the personal data;

(5) require the processor to delete the personal data or return the personal data to the controller at the controller's direction or at the end of the provision of services, unless a law requires the processor to retain the personal data;

(6) require the processor to make available to the controller, at the controller's request, all information the controller needs to verify that the processor has complied with all obligations the processor has under this chapter;

(7) require the processor to enter into a subcontract with a person the processor engages to assist with processing personal data on the controller's behalf and in the subcontract require the subcontractor to meet the processor's obligations concerning personal data;

(8)(A) allow the controller, the controller's designee, or a qualified and independent person the processor engages, in accordance with an appropriate and accepted control standard, framework, or procedure, to assess the processor's policies and technical and organizational measures for complying with the processor's obligations under this chapter;

(B) require the processor to cooperate with the assessment; and

(C) at the controller's request, report the results of the assessment to the controller; and

(9) prohibit the processor from combining personal data obtained from the controller with personal data that the processor:

(A) receives from or on behalf of another controller or person; or

(B) collects from an individual.

(c) This section does not relieve a controller or processor from any liability that accrues under this chapter as a result of the controller's or processor's actions in processing personal data.

(d)(1) For purposes of determining obligations under this chapter, a person is a controller with respect to processing a set of personal data and is subject to an action under section 2427 of this title to punish a violation of this chapter, if the person:

(A) does not adhere to a controller's instructions to process the personal data; or

(B) begins at any point to determine the purposes and means for processing the personal data, alone or in concert with another person.

(2) A determination under this subsection is a fact-based determination that must take account of the context in which a set of personal data is processed.

(3) A processor that adheres to a controller's instructions with respect to a specific processing of personal data remains a processor.

§ 2422. DUTIES OF PROCESSORS TO MINORS

(a) A processor shall adhere to the instructions of a controller and shall:

(1) assist the controller in meeting the controller's obligations under sections 2420 and 2424 of this title, taking into account:

(A) the nature of the processing;

(B) the information available to the processor by appropriate technical and organizational measures; and

(C) whether the assistance is reasonably practicable and necessary to assist the controller in meeting its obligations; and

(2) provide any information that is necessary to enable the controller to conduct and document data protection assessments pursuant to section 2424 of this title.

(b) A contract between a controller and a processor must satisfy the requirements in subsection 2421(b) of this title.

(c) Nothing in this section shall be construed to relieve a controller or processor from the liabilities imposed on the controller or processor by virtue of the controller's or processor's role in the processing relationship as described in sections 2420 and 2424 of this title.

(d) Determining whether a person is acting as a controller or processor with respect to a specific processing of data is a fact-based determination that depends upon the context in which personal data is to be processed. A person that is not limited in the person's processing of personal data pursuant to a controller's instructions, or that fails to adhere to the instructions, is a controller and not a processor with respect to a specific processing of data. A processor that continues to adhere to a controller's instructions with respect to a specific processing of personal data remains a processor. If a processor begins, alone or jointly with others, determining the purposes and means of the processing of personal data, the processor is a controller with respect to the

processing and may be subject to an enforcement action under section 2427 of this title.

§ 2423. DATA PROTECTION ASSESSMENTS FOR PROCESSING ACTIVITIES THAT PRESENT A HEIGHTENED RISK OF HARM TO A CONSUMER

(a) A controller shall conduct and document a data protection assessment for each of the controller's processing activities that presents a heightened risk of harm to a consumer, which, for the purposes of this section, includes:

(1) the processing of personal data for the purposes of targeted advertising;

(2) the sale of personal data;

(3) the processing of personal data for the purposes of profiling, where the profiling presents a reasonably foreseeable risk of:

(A) unfair or deceptive treatment of, or unlawful disparate impact on, consumers;

(B) financial, physical, or reputational injury to consumers;

(C) a physical or other intrusion upon the solitude or seclusion, or the private affairs or concerns, of consumers, where the intrusion would be offensive to a reasonable person; or

(D) other substantial injury to consumers; and

(4) the processing of sensitive data.

(b)(1) Data protection assessments conducted pursuant to subsection (a) of this section shall:

(A) identify the categories of personal data processed, the purposes for processing the personal data, and whether the personal data is being transferred to third parties; and

(B) identify and weigh the benefits that may flow, directly and indirectly, from the processing to the controller, the consumer, other stakeholders, and the public against the potential risks to the consumer associated with the processing, as mitigated by safeguards that can be employed by the controller to reduce the risks.

(2) The controller shall factor into any data protection assessment the use of de-identified data and the reasonable expectations of consumers, as well as the context of the processing and the relationship between the controller and the consumer whose personal data will be processed.

(c)(1) The Attorney General may require that a controller disclose any data protection assessment that is relevant to an investigation conducted by the Attorney General pursuant to section 2427 of this title, and the controller shall make the data protection assessment available to the Attorney General.

(2) The Attorney General may evaluate the data protection assessment for compliance with the responsibilities set forth in this chapter.

(3) Data protection assessments shall be confidential and shall be exempt from disclosure and copying under the Public Records Act.

(4) To the extent any information contained in a data protection assessment disclosed to the Attorney General includes information subject to attorney-client privilege or work product protection, the disclosure shall not constitute a waiver of the privilege or protection.

(d) A single data protection assessment may address a comparable set of processing operations that present a similar heightened risk of harm.

(e) If a controller conducts a data protection assessment for the purpose of complying with another applicable law or regulation, the data protection assessment shall be deemed to satisfy the requirements established in this section if the data protection assessment is reasonably similar in scope and effect to the data protection assessment that would otherwise be conducted pursuant to this section.

(f) Data protection assessment requirements shall apply to processing activities created or generated after July 1, 2025, and are not retroactive.

(g) A controller shall retain for at least five years all data protection assessments the controller conducts under this section.

§ 2424. DATA PROTECTION ASSESSMENTS FOR ONLINE SERVICES, PRODUCTS, OR FEATURES OFFERED TO MINORS

(a) A controller that offers any online service, product, or feature to a consumer whom the controller actually knows or willfully disregards is a minor shall conduct a data protection assessment for the online service product or feature:

(1) in a manner that is consistent with the requirements established in section 2423 of this title; and

(2) that addresses:

(A) the purpose of the online service, product, or feature;

(B) the categories of a minor's personal data that the online service, product, or feature processes;

(C) the purposes for which the controller processes a minor's personal data with respect to the online service, product, or feature; and

(D) any heightened risk of harm to a minor that is a reasonably foreseeable result of offering the online service, product, or feature to a minor.

(b) A controller that conducts a data protection assessment pursuant to subsection (a) of this section shall review the data protection assessment as necessary to account for any material change to the processing operations of the online service, product, or feature that is the subject of the data protection assessment.

(c) If a controller conducts a data protection assessment pursuant to subsection (a) of this section or a data protection assessment review pursuant to subsection (b) of this section and determines that the online service, product, or feature that is the subject of the assessment poses a heightened risk of harm to a minor, the controller shall establish and implement a plan to mitigate or eliminate the heightened risk.

(d)(1) The Attorney General may require that a controller disclose any data protection assessment pursuant to subsection (a) of this section that is relevant to an investigation conducted by the Attorney General pursuant to section 2427 of this title, and the controller shall make the data protection assessment available to the Attorney General.

(2) The Attorney General may evaluate the data protection assessment for compliance with the responsibilities set forth in this chapter.

(3) Data protection assessments shall be confidential and shall be exempt from disclosure and copying under the Public Records Act.

(4) To the extent any information contained in a data protection assessment disclosed to the Attorney General includes information subject to attorney-client privilege or work product protection, the disclosure shall not constitute a waiver of the privilege or protection.

(e) A single data protection assessment may address a comparable set of processing operations that include similar activities.

(f) If a controller conducts a data protection assessment for the purpose of complying with another applicable law or regulation, the data protection assessment shall be deemed to satisfy the requirements established in this section if the data protection assessment is reasonably similar in scope and

effect to the data protection assessment that would otherwise be conducted pursuant to this section.

(g) Data protection assessment requirements shall apply to processing activities created or generated after July 1, 2025, and are not retroactive.

(h) A controller that conducts a data protection assessment pursuant to subsection (a) of this section shall maintain documentation concerning the data protection assessment for the longer of:

(1) three years after the date on which the processing operations cease; or

(2) the date the controller ceases offering the online service, product, or feature.

§ 2425. DE-IDENTIFIED OR PSEUDONYMOUS DATA

(a) A controller in possession of de-identified data shall:

(1) follow industry best-practices to ensure that the data cannot be used to re-identify an identified or identifiable individual or be associated with an individual or device that identifies or is linked or reasonably linkable to an individual or household;

(2) publicly commit to maintaining and using de-identified data without attempting to re-identify the data; and

(3) contractually obligate any recipients of the de-identified data to comply with the provisions of this chapter.

(b) This section does not prohibit a controller from attempting to re-identify de-identified data solely for the purpose of testing the controller's methods for de-identifying data.

(c) This chapter shall not be construed to require a controller or processor to:

(1) re-identify de-identified data; or

(2) maintain data in identifiable form, or collect, obtain, retain, or access any data or technology, in order to associate a consumer with personal data in order to authenticate the consumer's request under subsection 2418(b) of this title; or

(3) comply with an authenticated consumer rights request if the controller:

(A) is not reasonably capable of associating the request with the personal data or it would be unreasonably burdensome for the controller to associate the request with the personal data;

(B) does not use the personal data to recognize or respond to the specific consumer who is the subject of the personal data or associate the personal data with other personal data about the same specific consumer; and

(C) does not sell or otherwise voluntarily disclose the personal data to any third party, except as otherwise permitted in this section.

(d) The rights afforded under subdivisions 2418(a)(1)–(5) of this title shall not apply to pseudonymous data in cases where the controller is able to demonstrate that any information necessary to identify the consumer is kept separately and is subject to effective technical and organizational controls that prevent the controller from accessing the information.

(e) A controller that discloses or transfers pseudonymous data or de-identified data shall exercise reasonable oversight to monitor compliance with any contractual commitments to which the pseudonymous data or de-identified data is subject and shall take appropriate steps to address any breaches of those contractual commitments.

§ 2426. CONSTRUCTION OF DUTIES OF CONTROLLERS AND PROCESSORS

(a) This chapter shall not be construed to restrict a controller's, processor's, or consumer health data controller's ability to:

(1) comply with federal, state, or municipal laws, ordinances, or regulations;

(2) comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, municipal, or other governmental authorities;

(3) cooperate with law enforcement agencies concerning conduct or activity that the controller, processor, or consumer health data controller reasonably and in good faith believes may violate federal, state, or municipal laws, ordinances, or regulations;

(4) carry out obligations under a contract under subsection 2421(b) of this title for a federal or State agency or local unit of government;

(5) investigate, establish, exercise, prepare for, or defend legal claims;

(6) provide a product or service specifically requested by the consumer to whom the personal data pertains;

(7) perform under a contract to which a consumer is a party, including fulfilling the terms of a written warranty;

(8) take steps at the request of a consumer prior to entering into a contract;

(9) take immediate steps to protect an interest that is essential for the life or physical safety of the consumer or another individual, and where the processing cannot be manifestly based on another legal basis;

(10) prevent, detect, protect against, or respond to a network security or physical security incident, including an intrusion or trespass, medical alert, or fire alarm;

(11) prevent, detect, protect against, or respond to identity theft, fraud, harassment, malicious or deceptive activity, or any criminal activity targeted at or involving the controller or processor or its services, preserve the integrity or security of systems, or investigate, report, or prosecute those responsible for the action;

(12) assist another controller, processor, consumer health data controller, or third party with any of the obligations under this chapter; or

(13) process personal data for reasons of public interest in the area of public health, community health, or population health, but solely to the extent that the processing is:

(A) subject to suitable and specific measures to safeguard the rights of the consumer whose personal data is being processed; and

(B) under the responsibility of a professional subject to confidentiality obligations under federal, state, or local law.

(b) The obligations imposed on controllers, processors, or consumer health data controllers under this chapter shall not restrict a controller's, processor's, or consumer health data controller's ability to collect, use, or retain data for internal use to:

(1) conduct internal research to develop, improve, or repair products, services, or technology;

(2) effectuate a product recall; or

(3) identify and repair technical errors that impair existing or intended functionality.

(c)(1) The obligations imposed on controllers, processors, or consumer health data controllers under this chapter shall not apply where compliance by

the controller, processor, or consumer health data controller with this chapter would violate an evidentiary privilege under the laws of this State.

(2) This chapter shall not be construed to prevent a controller, processor, or consumer health data controller from providing personal data concerning a consumer to a person covered by an evidentiary privilege under the laws of the State as part of a privileged communication.

(d)(1) A controller, processor, or consumer health data controller that discloses personal data to a processor or third-party controller pursuant to this chapter shall not be deemed to have violated this chapter if the processor or third-party controller that receives and processes the personal data violates this chapter, provided, at the time the disclosing controller, processor, or consumer health data controller disclosed the personal data, the disclosing controller, processor, or consumer health data controller did not have actual knowledge that the receiving processor or third-party controller would violate this chapter.

(2) A third-party controller or processor receiving personal data from a controller, processor, or consumer health data controller in compliance with this chapter is not in violation of this chapter for the transgressions of the controller, processor, or consumer health data controller from which the third-party controller or processor receives the personal data.

(e) This chapter shall not be construed to:

(1) impose any obligation on a controller, processor, or consumer health data controller that adversely affects the rights or freedoms of any person, including the rights of any person:

(A) to freedom of speech or freedom of the press guaranteed in the First Amendment to the U.S. Constitution; or

(B) under 12 V.S.A. § 1615; or

(2) apply to any person's processing of personal data in the course of the person's purely personal or household activities.

(f)(1) Personal data processed by a controller or consumer health data controller pursuant to this section may be processed to the extent that the processing is:

(A)(i) reasonably necessary and proportionate to the purposes listed in this section; or

(ii) in the case of sensitive data, strictly necessary to the purposes listed in this section; and

(B) adequate, relevant, and limited to what is necessary in relation to the specific purposes listed in this section.

(2)(A) Personal data collected, used, or retained pursuant to subsection (b) of this section shall, where applicable, take into account the nature and purpose or purposes of the collection, use, or retention.

(B) Personal data collected, used, or retained pursuant to subsection (b) of this section shall be subject to reasonable administrative, technical, and physical measures to protect the confidentiality, integrity, and accessibility of the personal data and to reduce reasonably foreseeable risks of harm to consumers relating to the collection, use, or retention of personal data.

(g) If a controller or consumer health data controller processes personal data pursuant to an exemption in this section, the controller or consumer health data controller bears the burden of demonstrating that the processing qualifies for the exemption and complies with the requirements in subsection (f) of this section.

(h) Processing personal data for the purposes expressly identified in this section shall not solely make a legal entity a controller or consumer health data controller with respect to the processing.

§ 2427. ENFORCEMENT: PRIVATE RIGHT OF ACTION AND ATTORNEY GENERAL'S POWERS

(a)(1) A person who violates this chapter or rules adopted pursuant to this chapter commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(2) A consumer harmed by a violation of this chapter or rules adopted pursuant to this chapter may bring an action in Superior Court for the greater of $1,000.00 or actual damages, injunctive relief, punitive damages in the case of an intentional violation, and reasonable costs and attorney's fees if the consumer has notified the controller or processor of the violation and the controller or processor fails to cure the violation within 60 days following receipt of the notice of violation.

(b)(1) The Attorney General may, prior to initiating any action for a violation of any provision of this chapter, issue a notice of violation to the controller or consumer health data controller if the Attorney General determines that a cure is possible.

(2) The Attorney General may, in determining whether to grant a controller, processor, or consumer health data controller the opportunity to

cure an alleged violation described in subdivision (1) of this subsection, consider:

(A) the number of violations;

(B) the size and complexity of the controller, processor, or consumer health data controller;

(C) the nature and extent of the controller's, processor's, or consumer health data controller's processing activities;

(D) the substantial likelihood of injury to the public;

(E) the safety of persons or property;

(F) whether the alleged violation was likely caused by human or technical error; and

(G) the sensitivity of the data.

(c) Annually, on or before February 1, the Attorney General shall submit a report to the General Assembly disclosing:

(1) the number of notices of violation the Attorney General has issued;

(2) the nature of each violation;

(3) the number of violations that were cured during the available cure period; and

(4) any other matter the Attorney General deems relevant for the purposes of the report.

§ 2428. CONFIDENTIALITY OF CONSUMER HEALTH DATA

Except as provided in subsections 2417(a) and (b) of this title and section 2426 of this title, no person shall:

(1) provide any employee or contractor with access to consumer health data unless the employee or contractor is subject to a contractual or statutory duty of confidentiality;

(2) provide any processor with access to consumer health data unless the person and processor comply with section 2421 of this title;

(3) use a geofence to establish a virtual boundary that is within 1,850 feet of any health care facility, mental health facility, or reproductive or sexual health facility for the purpose of identifying, tracking, collecting data from, or sending any notification to a consumer regarding the consumer's consumer health data; or

(4) sell or offer to sell consumer health data without first obtaining the consumer's consent.

Sec. 2. PUBLIC EDUCATION AND OUTREACH; ATTORNEY GENERAL STUDY

(a) The Attorney General and the Agency of Commerce and Community Development shall implement a comprehensive public education, outreach, and assistance program for controllers and processors, as those terms are defined in 9 V.S.A. § 2415. The program shall focus on:

(1) the requirements and obligations of controllers and processors under the Vermont Data Privacy Act;

(2) data protection assessments under 9 V.S.A. § 2421;

(3) enhanced protections that apply to children, minors, sensitive data, or consumer health data, as those terms are defined in 9 V.S.A. § 2415;

(4) a controller's obligations to law enforcement agencies and the Attorney General's office;

(5) methods for conducting data inventories; and

(6) any other matters the Attorney General or the Agency of Commerce and Community Development deems appropriate.

(b) The Attorney General and the Agency of Commerce and Community Development shall provide guidance to controllers for establishing data privacy notices and opt-out mechanisms, which may be in the form of templates.

(c) The Attorney General and the Agency of Commerce and Community Development shall implement a comprehensive public education, outreach, and assistance program for consumers, as that term is defined in 9 V.S.A. § 2415. The program shall focus on:

(1) the rights afforded consumers under the Vermont Data Privacy Act, including:

(A) the methods available for exercising data privacy rights; and

(B) the opt-out mechanism available to consumers;

(2) the obligations controllers have to consumers;

(3) different treatment of children, minors, and other consumers under the act, including the different consent mechanisms in place for children and other consumers;

(4) understanding a privacy notice provided under the act;

(5) the different enforcement mechanisms available under the act, including the consumer's private right of action; and

(6) any other matters the Attorney General or the Agency of Commerce and Community Development deems appropriate.

(d) The Attorney General and the Agency of Commerce and Community Development shall cooperate with states with comparable data privacy regimes to develop any outreach, assistance, and education programs, where appropriate.

(e) On or before December 15, 2026, the Attorney General shall assess the effectiveness of the implementation of the act and submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs with its findings and recommendations, including any proposed draft legislation to address issues that have arisen since implementation.

Sec. 3. 9 V.S.A. chapter 62 is amended to read:

CHAPTER 62. PROTECTION OF PERSONAL INFORMATION

Subchapter 1. General Provisions

§ 2430. DEFINITIONS

As used in this chapter:

(1) "Biometric data" shall have the same meaning as in section 2415 of this title.

(2)(A) "Brokered personal information" means one or more of the following computerized data elements about a consumer, if categorized or organized for dissemination to third parties:

(i) name;

(ii) address;

(iii) date of birth;

(iv) place of birth;

(v) mother's maiden name;

(vi) ~~unique biometric data generated from measurements or technical analysis of human body characteristics used by the owner or licensee of the data to identify or authenticate the consumer, such as a fingerprint,~~

~~retina or iris image, or other unique physical representation or digital representation of~~ biometric data;

(vii) name or address of a member of the consumer's immediate family or household;

(viii) Social Security number or other government-issued identification number; or

(ix) other information that, alone or in combination with the other information sold or licensed, would allow a reasonable person to identify the consumer with reasonable certainty.

(B) "Brokered personal information" does not include publicly available information to the extent that it is related to a consumer's business or profession.

~~(2)~~(3) "Business" means a controller, a consumer health data controller , or a commercial entity, including a sole proprietorship, partnership, corporation, association, limited liability company, or other group, however organized and whether or not organized to operate at a profit, including a financial institution organized, chartered, or holding a license or authorization certificate under the laws of this State, any other state, the United States, or any other country, or the parent, affiliate, or subsidiary of a financial institution, but does not include the State, a State agency, any political subdivision of the State, or a vendor acting solely on behalf of, and at the direction of, the State.

~~(3)~~(4) "Consumer" means an individual ~~residing in this State~~ who is a resident of the State or an individual who is in the State at the time a data broker collects the individual's data.

(5) "Consumer health data controller" has the same meaning as in section 2415 of this title.

(6) "Controller" has the same meaning as in section 2415 of this title.

~~(4)~~(7)(A) "Data broker" means a business, or unit or units of a business, separately or together, that knowingly collects and sells or licenses to third parties the brokered personal information of a consumer with whom the business does not have a direct relationship.

(B) Examples of a direct relationship with a business include if the consumer is a past or present:

(i) customer, client, subscriber, user, or registered user of the business's goods or services;

(ii) employee, contractor, or agent of the business;

(iii) investor in the business; or

(iv) donor to the business.

(C) The following activities conducted by a business, and the collection and sale or licensing of brokered personal information incidental to conducting these activities, do not qualify the business as a data broker:

(i) developing or maintaining third-party e-commerce or application platforms;

(ii) providing 411 directory assistance or directory information services, including name, address, and telephone number, on behalf of or as a function of a telecommunications carrier;

(iii) providing publicly available information related to a consumer's business or profession; or

(iv) providing publicly available information via real-time or near-real-time alert services for health or safety purposes.

(D) The phrase "sells or licenses" does not include:

(i) a one-time or occasional sale of assets of a business as part of a transfer of control of those assets that is not part of the ordinary conduct of the business; or

(ii) a sale or license of data that is merely incidental to the business.

~~(5)~~(8)(A) "Data broker security breach" means an unauthorized acquisition or a reasonable belief of an unauthorized acquisition of more than one element of brokered personal information maintained by a data broker when the brokered personal information is not encrypted, redacted, or protected by another method that renders the information unreadable or unusable by an unauthorized person.

(B) "Data broker security breach" does not include good faith but unauthorized acquisition of brokered personal information by an employee or agent of the data broker for a legitimate purpose of the data broker, provided that the brokered personal information is not used for a purpose unrelated to the data broker's business or subject to further unauthorized disclosure.

(C) In determining whether brokered personal information has been acquired or is reasonably believed to have been acquired by a person without valid authorization, a data broker may consider the following factors, among others:

(i) indications that the brokered personal information is in the physical possession and control of a person without valid authorization, such as a lost or stolen computer or other device containing brokered personal information;

(ii) indications that the brokered personal information has been downloaded or copied;

(iii) indications that the brokered personal information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported; or

(iv) that the brokered personal information has been made public.

~~(6)~~(9) "Data collector" means a person who, for any purpose, whether by automated collection or otherwise, handles, collects, disseminates, or otherwise deals with personally identifiable information, and includes the State, State agencies, political subdivisions of the State, public and private universities, privately and publicly held corporations, limited liability companies, financial institutions, and retail operators.

~~(7)~~(10) "Encryption" means use of an algorithmic process to transform data into a form in which the data is rendered unreadable or unusable without use of a confidential process or key.

~~(8)~~(11) "License" means a grant of access to, or distribution of, data by one person to another in exchange for consideration. A use of data for the sole benefit of the data provider, where the data provider maintains control over the use of the data, is not a license.

~~(9)~~(12) "Login credentials" means a consumer's user name or e-mail address, in combination with a password or an answer to a security question, that together permit access to an online account.

~~(10)~~(13)(A) "Personally identifiable information" means a consumer's first name or first initial and last name in combination with one or more of the following digital data elements, when the data elements are not encrypted, redacted, or protected by another method that renders them unreadable or unusable by unauthorized persons:

(i) a Social Security number;

(ii) a driver license or nondriver State identification card number, individual taxpayer identification number, passport number, military identification card number, or other identification number that originates from a government identification document that is commonly used to verify identity for a commercial transaction;

(iii) a financial account number or credit or debit card number, if the number could be used without additional identifying information, access codes, or passwords;

(iv) a password, personal identification number, or other access code for a financial account;

(v) ~~unique biometric data generated from measurements or technical analysis of human body characteristics used by the owner or licensee of the data to identify or authenticate the consumer, such as a fingerprint, retina or iris image, or other unique physical representation or digital representation of~~ biometric data;

(vi) genetic information; and

(vii)(I) health records or records of a wellness program or similar program of health promotion or disease prevention;

(II) a health care professional's medical diagnosis or treatment of the consumer; or

(III) a health insurance policy number.

(B) "Personally identifiable information" does not mean publicly available information that is lawfully made available to the general public from federal, State, or local government records.

~~(11)~~(14) "Record" means any material on which written, drawn, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics.

~~(12)~~(15) "Redaction" means the rendering of data so that the data are unreadable or are truncated so that ~~no~~ not more than the last four digits of the identification number are accessible as part of the data.

~~(13)~~(16)(A) "Security breach" means unauthorized acquisition of electronic data, or a reasonable belief of an unauthorized acquisition of electronic data, that compromises the security, confidentiality, or integrity of a consumer's personally identifiable information or login credentials maintained by a data collector.

(B) "Security breach" does not include good faith but unauthorized acquisition of personally identifiable information or login credentials by an employee or agent of the data collector for a legitimate purpose of the data collector, provided that the personally identifiable information or login credentials are not used for a purpose unrelated to the data collector's business or subject to further unauthorized disclosure.

(C) In determining whether personally identifiable information or login credentials have been acquired or is reasonably believed to have been acquired by a person without valid authorization, a data collector may consider the following factors, among others:

(i) indications that the information is in the physical possession and control of a person without valid authorization, such as a lost or stolen computer or other device containing information;

(ii) indications that the information has been downloaded or copied;

(iii) indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported; or

(iv) that the information has been made public.

* * *

Subchapter 2. ~~Security Breach Notice Act~~ Data Security Breaches

* * *

§ 2436. NOTICE OF DATA BROKER SECURITY BREACH

(a) Short title. This section shall be known as the Data Broker Security Breach Notice Act.

(b) Notice of breach.

(1) Except as otherwise provided in subsection (c) of this section, any data broker shall notify the consumer that there has been a data broker security breach following discovery or notification to the data broker of the breach. Notice of the security breach shall be made in the most expedient time possible and without unreasonable delay, but not later than 45 days after the discovery or notification, consistent with the legitimate needs of the law enforcement agency, as provided in subdivisions (3) and (4) of this subsection, or with any measures necessary to determine the scope of the security breach and restore the reasonable integrity, security, and confidentiality of the data system.

(2) A data broker shall provide notice of a breach to the Attorney General as follows:

(A)(i) The data broker shall notify the Attorney General of the date of the security breach and the date of discovery of the breach and shall provide a preliminary description of the breach within 14 business days, consistent with the legitimate needs of the law enforcement agency, as provided in subdivisions (3) and (4) of this subsection (b), after the data broker's discovery

of the security breach or when the data broker provides notice to consumers pursuant to this section, whichever is sooner.

(ii) If the date of the breach is unknown at the time notice is sent to the Attorney General, the data broker shall send the Attorney General the date of the breach as soon as it is known.

(iii) Unless otherwise ordered by a court of this State for good cause shown, a notice provided under this subdivision (2)(A) shall not be disclosed to any person other than the authorized agent or representative of the Attorney General, a State's Attorney, or another law enforcement officer engaged in legitimate law enforcement activities without the consent of the data broker.

(B)(i) When the data broker provides notice of the breach pursuant to subdivision (1) of this subsection (b), the data broker shall notify the Attorney General of the number of Vermont consumers affected, if known to the data broker, and shall provide a copy of the notice provided to consumers under subdivision (1) of this subsection (b).

(ii) The data broker may send to the Attorney General a second copy of the consumer notice, from which is redacted the type of brokered personal information that was subject to the breach, that the Attorney General shall use for any public disclosure of the breach.

(3) The notice to a consumer required by this subsection shall be delayed upon request of a law enforcement agency. A law enforcement agency may request the delay if it believes that notification may impede a law enforcement investigation or a national or Homeland Security investigation or jeopardize public safety or national or Homeland Security interests. In the event law enforcement makes the request for a delay in a manner other than in writing, the data broker shall document the request contemporaneously in writing and include the name of the law enforcement officer making the request and the officer's law enforcement agency engaged in the investigation. A law enforcement agency shall promptly notify the data broker in writing when the law enforcement agency no longer believes that notification may impede a law enforcement investigation or a national or Homeland Security investigation, or jeopardize public safety or national or Homeland Security interests. The data broker shall provide notice required by this section without unreasonable delay upon receipt of a written communication, which includes facsimile or electronic communication, from the law enforcement agency withdrawing its request for delay.

(4) The notice to a consumer required in subdivision (1) of this subsection shall be clear and conspicuous. A notice to a consumer of a

security breach involving brokered personal information shall include a description of each of the following, if known to the data broker:

(A) the incident in general terms;

(B) the type of brokered personal information that was subject to the security breach;

(C) the general acts of the data broker to protect the brokered personal information from further security breach;

(D) a telephone number, toll-free if available, that the consumer may call for further information and assistance;

(E) advice that directs the consumer to remain vigilant by reviewing account statements and monitoring free credit reports; and

(F) the approximate date of the data broker security breach.

(5) A data broker may provide notice of a security breach involving brokered personal information to a consumer by two or more of the following methods:

(A) written notice mailed to the consumer's residence;

(B) electronic notice, for those consumers for whom the data broker has a valid e-mail address, if:

(i) the data broker's primary method of communication with the consumer is by electronic means, the electronic notice does not request or contain a hypertext link to a request that the consumer provide personal information, and the electronic notice conspicuously warns consumers not to provide personal information in response to electronic communications regarding security breaches; or

(ii) the notice is consistent with the provisions regarding electronic records and signatures for notices in 15 U.S.C. § 7001;

(C) telephonic notice, provided that telephonic contact is made directly with each affected consumer and not through a prerecorded message; or

(D) notice by publication in a newspaper of statewide circulation in the event the data broker cannot effectuate notice by any other means.

(c) Exception.

(1) Notice of a security breach pursuant to subsection (b) of this section is not required if the data broker establishes that misuse of brokered personal information is not reasonably possible and the data broker provides notice of

the determination that the misuse of the brokered personal information is not reasonably possible pursuant to the requirements of this subsection. If the data broker establishes that misuse of the brokered personal information is not reasonably possible, the data broker shall provide notice of its determination that misuse of the brokered personal information is not reasonably possible and a detailed explanation for said determination to the Vermont Attorney General. The data broker may designate its notice and detailed explanation to the Vermont Attorney General as a trade secret if the notice and detailed explanation meet the definition of trade secret contained in 1 V.S.A. § 317(c)(9).

(2) If a data broker established that misuse of brokered personal information was not reasonably possible under subdivision (1) of this subsection and subsequently obtains facts indicating that misuse of the brokered personal information has occurred or is occurring, the data broker shall provide notice of the security breach pursuant to subsection (b) of this section.

(d) Waiver. Any waiver of the provisions of this subchapter is contrary to public policy and is void and unenforceable.

(e) Enforcement.

(1) With respect to a controller or processor other than a controller or processor licensed or registered with the Department of Financial Regulation under title 8 or this title, the Attorney General and State's Attorney shall have sole and full authority to investigate potential violations of this chapter and to enforce, prosecute, obtain, and impose remedies for a violation of this chapter or any rules or regulations adopted pursuant to this chapter as the Attorney General and State's Attorney have under chapter 63 of this title. The Attorney General may refer the matter to the State's Attorney in an appropriate case. The Superior Courts shall have jurisdiction over any enforcement matter brought by the Attorney General or a State's Attorney under this subsection.

(2) With respect to a controller or processor that is licensed or registered with the Department of Financial Regulation under title 8 or this title, the Department of Financial Regulation shall have the full authority to investigate potential violations of this chapter and to enforce, prosecute, obtain, and impose remedies for a violation of this chapter or any rules or regulations adopted pursuant to this chapter, as the Department has under title 8 or this title or any other applicable law or regulation.

* * *

Subchapter 5. Data Brokers

§ 2446. DATA BROKERS; ANNUAL REGISTRATION

(a) Annually, on or before January 31 following a year in which a person meets the definition of data broker as provided in section 2430 of this title, a data broker shall:

(1) register with the Secretary of State;

(2) pay a registration fee of $100.00; and

(3) provide the following information:

(A) the name and primary physical, e-mail, and ~~Internet~~ internet addresses of the data broker;

(B) ~~if the data broker permits~~ the method for a consumer to opt out of the data broker's collection of brokered personal information, opt out of its databases, or opt out of ~~certain~~ sales of data~~:~~

~~(i) the method for requesting an opt-out;~~

~~(ii) if the opt-out applies to only certain activities or sales, which ones; and~~

~~(iii)~~ and whether the data broker permits a consumer to authorize a third party to perform the opt-out on the consumer's behalf;

(C) ~~a statement specifying the data collection, databases, or sales activities from which a consumer may not opt out;~~

~~(D) a statement whether the data broker implements a purchaser credentialing process;~~

~~(E) the number of data broker security breaches that the data broker has experienced during the prior year, and if known, the total number of consumers affected by the breaches;~~

~~(F)~~ where the data broker ~~has actual knowledge that it~~ possesses the brokered personal information of minors, a separate statement detailing the data collection practices, databases, and sales activities~~, and opt-out policies~~ that are applicable to the brokered personal information of minors; and

~~(G)~~(D) any additional information or explanation the data broker chooses to provide concerning its data collection practices.

(b) A data broker that fails to register pursuant to subsection (a) of this section is liable to the State for:

(1) a civil penalty of ~~$50.00~~ $125.00 for each day~~, not to exceed a total of $10,000.00 for each year,~~ it fails to register pursuant to this section;

(2) an amount equal to the fees due under this section during the period it failed to register pursuant to this section; and

(3) other penalties imposed by law.

(c) A data broker that omits required information from its registration shall file an amendment to include the omitted information within five business days following notification of the omission and is liable to the State for a civil penalty of $1,000.00 per day for each day thereafter.

(d) A data broker that files materially incorrect information in its registration:

(1) is liable to the State for a civil penalty of $25,000.00; and

(2) if it fails to correct the false information within five business days after discovery or notification of the incorrect information, an additional civil penalty of $1,000.00 per day for each day thereafter that it fails to correct the information.

(e) The Attorney General may maintain an action in the Civil Division of the Superior Court to collect the penalties imposed in this section and to seek appropriate injunctive relief.

* * *

§ 2448. DATA BROKERS; ADDITIONAL DUTIES

(a) Individual opt-out.

(1) A consumer may request that a data broker do any of the following:

(A) stop collecting the consumer's data;

(B) delete all data in its possession about the consumer; or

(C) stop selling the consumer's data.

(2) Notwithstanding subsections 2418(c)–(d) of this title, a data broker shall establish a simple procedure for consumers to submit a request and, shall comply with a request from a consumer within 10 days after receiving the request.

(3) A data broker shall clearly and conspicuously describe the opt-out procedure in its annual registration and on its website.

(b) General opt-out.

(1) A consumer may request that all data brokers registered with the State of Vermont honor an opt-out request by filing the request with the Secretary of State.

(2) On or before January 1, 2026, the Secretary of State shall develop an online form to facilitate the general opt-out by a consumer and shall maintain a Data Broker Opt-Out List of consumers who have requested a general opt-out, with the specific type of opt-out.

(3) The Data Broker Opt-Out List shall contain the minimum amount of information necessary for a data broker to identify the specific consumer making the opt-out.

(4) Once every 31 days, any data broker registered with the State of Vermont shall review the Data Broker Opt-Out List in order to comply with the opt-out requests contained therein.

(5) Data contained in the Data Broker Opt-Out List shall not be used for any purpose other than to effectuate a consumer's opt-out request.

(6) The Secretary of State shall implement and maintain reasonable security procedures and practices to protect a consumer's information under the Data Broker Opt-Out List from unauthorized use, disclosure, access, destruction, or modification, including administrative, physical, and technical safeguards appropriate to the nature of the information and the purposes for which the information will be used.

(7) The Secretary of State shall not charge a consumer to make an opt-out request.

(8) The Data Broker Opt-Out List shall include an accessible deletion mechanism that supports the ability of an authorized agent to act on behalf of a consumer.

(c) Credentialing.

(1) A data broker shall maintain reasonable procedures designed to ensure that the brokered personal information it discloses is used for a legitimate and legal purpose.

(2) These procedures shall require that prospective users of the information identify themselves, certify the purposes for which the information is sought, and certify that the information shall be used for no other purpose.

(3) A data broker shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by the prospective user prior to furnishing the user brokered personal information.

(4) A data broker shall not furnish brokered personal information to any person if it has reasonable grounds for believing that the consumer report will not be used for a legitimate and legal purpose.

(d) Exemption. Nothing in this section applies to brokered personal information that is:

(1) regulated as a consumer report pursuant to the Fair Credit Reporting Act, 15 U.S.C. § 1681–1681x, if the data broker is fully complying with the Act; or

(2) regulated pursuant to the Driver's Privacy Protection Act of 1994, 18 U.S.C. § 2721–2725, if the data broker is fully complying with the Act.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2025.

(Committee Vote: 11-0-0)

New Business

Third Reading

H. 10

An act relating to amending the Vermont Employment Growth Incentive Program

H. 289

An act relating to the Renewable Energy Standard

H. 621

An act relating to health insurance coverage for diagnostic breast imaging

H. 639

An act relating to disclosure of flood history of real property subject to sale

Amendment to be offered by Rep. Higley of Lowell to H. 639

That the bill be amended by striking out Sec. 6, 20 V.S.A. chapter 174, and its reader assistance heading in their entirety and adding a reader assistance heading and a new Sec. 6 to read as follows:

* * * Housing Authority Accessibility Priority * * *

Sec. 6. [Deleted.]

H. 661

An act relating to child abuse and neglect investigation and substantiation

standards and procedures

H. 704

An act relating to disclosure of compensation in job advertisements

H. 872

An act relating to miscellaneous updates to the powers of the Vermont Criminal Justice Council and the duties of law enforcement officers

Committee Bill for Second Reading

H. 878

An act relating to miscellaneous judiciary procedures

(Rep. Rachelson of Burlington will speak for the Committee on Judiciary.**)**

Amendment to be offered by Rep. Small of Winooski to H. 878

That the bill be amended in Sec. 24, 15 V.S.A. § 558, in the title, by striking out "BIRTH" and inserting in lieu thereof of "PRIOR" and in the body of the statute, by striking out "birth" and inserting in lieu thereof "prior"

Amendment to be offered by Rep. Chapin of East Montpelier to H. 878

That the bill be amended by adding two new sections to be Secs. 44 and 45 to read as follows:

Sec. 44. 20 V.S.A. § 4626 is added to read:

§ 4626. DRONES; OPERATION OVER PRIVATE PROPERTY WITHOUT CONSENT OF OWNER; CIVIL PENALTY

(a) A person shall not fly a drone for hobby or recreational purposes at an altitude of less than 100 feet above privately owned real property unless the person has obtained prior written consent from the property owner.

(b) A person shall not, without the prior written consent of the property owner or occupant, use a drone to record an image of privately owned real property or of the owner or occupant of the property with the intent to conduct surveillance on the person or the property in violation of the person's reasonable expectation of privacy. For purposes of this subsection, a person is presumed to have a reasonable expectation of privacy on the person's privately owned real property if the person is not observable by another person located at ground level in a place where the other person has a legal right to be, regardless of whether the person is observable from the air using a drone.

(c) A person engaged in the business of selling drones shall provide written notice to each purchaser of a drone required to be registered by the U.S. Department of Transportation about the requirements under subsections (a) and (b) of this section for flying a drone above privately owned real property without the property owner's prior written consent.

(d) A person who violates this section shall be assessed a civil penalty of not more than:

(1) $50.00 for a first violation; or

(2) $250.00 for a second or subsequent violation.

(e) As used in this section:

(1) "Property owner" means a person who owns, leases, licenses, or otherwise controls ownership or use of land, or an employee or agent of that person.

(2) "Surveillance" means:

(A) with respect to an owner or occupant of privately owned real property, the observation of the person with sufficient visual clarity to be able to obtain information about the person's identity, habits, conduct, movements, or whereabouts; or

(B) with respect to privately owned real property, the observation of the property's physical improvements with sufficient visual clarity to be able to determine unique identifying features about the property or information about its owners or occupants.

(f) This section shall not apply to the use of drones by distribution or transmission utilities or their contractors for purposes of ensuring system reliability and resiliency.

Sec. 45. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(31) Violations of 20 V.S.A. § 4626, relating to flying, and providing information about flying, a drone above privately owned real property without the owner's consent.

and by renumbering the remaining section to be numerically correct.

Favorable with Amendment

H. 706

An act relating to banning the use of neonicotinoid pesticides

Rep. Rice of Dorset, for the Committee on Agriculture, Food Resiliency, and Forestry, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Wild and managed pollinators are essential to the health and vitality of Vermont's agricultural economy, environment, and ecosystems. According to the Department of Fish and Wildlife (DFW), between 60 and 80 percent of the State's wild plants depend on pollinators to reproduce.

(2) Vermont is home to thousands of pollinators, including more than 300 native bee species. Many pollinator species are in decline or have disappeared from Vermont, including three bee species that the State lists as endangered. The Vermont Center for Ecostudies and DFW's State of Bees 2022 Report concludes that at least 55 of Vermont's native bee species need significant conservation action.

(3) Neonicotinoids are a class of neurotoxic, systemic insecticides that are extremely toxic to bees and other pollinators. Neonicotinoids are the most widely used class of insecticides in the world and include imidacloprid, clothianidin, thiamethoxam, acetamiprid, dinotefuran, thiacloprid, and nithiazine.

(4) Among other uses, neonicotinoids are commonly applied to crop seeds as a prophylactic treatment. More than 90 percent of neonicotinoids applied to treated seeds move into soil, water, and nontarget plants. According to the Agency of Agriculture, Food and Markets, at least 1197.66 tons of seeds sold in Vermont in 2022 were treated with a neonicotinoid product.

(5) Integrated pest management is a pest management technique that protects public health, the environment, and agricultural productivity by prioritizing nonchemical pest management techniques. Under integrated pest management, pesticides are a measure of last resort. According to the European Academies Science Advisory Council, neonicotinoid seed treatments are incompatible with integrated pest management.

(6) A 2020 Cornell University report that analyzed more than 1,100 peer-reviewed studies found that neonicotinoid corn and soybean seed treatments pose substantial risks to bees and other pollinators but provide no

overall net income benefits to farms. DFW similarly recognizes that neonicotinoid use contributes to declining pollinator populations.

(7) A 2014 peer-reviewed study conducted by the Harvard School of Public Health and published in the journal Bulletin of Insectology concluded that sublethal exposure to neonicotinoids is likely to be the main culprit for the occurrence of colony collapse disorder in honey bees.

(8) A 2020 peer-reviewed study published in the journal Nature Sustainability found that increased neonicotinoid use in the United States between 2008 and 2014 led to statistically significant reductions in bird biodiversity, particularly among insectivorous and grassland birds.

(9) A 2022 peer-reviewed study published in the journal Environmental Science and Technology found neonicotinoids in 95 percent of the 171 pregnant women who participated in the study. Similarly, a 2019 peer-reviewed study published in the journal Environmental Research found that 49.1 percent of the U.S. general population had recently been exposed to neonicotinoids.

(10) The European Commission and the provinces of Quebec and Ontario have implemented significant prohibitions on the use of neonicotinoids.

(11) The New York General Assembly passed legislation that prohibits the sale or use of corn, soybean, and wheat seed treated with imidacloprid, clothianidin, thiamethoxam, dinotefuran, or acetamiprid. The same legislation prohibits the nonagricultural application of imidacloprid, clothianidin, thiamethoxam, dinotefuran, or acetamiprid to outdoor ornamental plants and turf.

Sec. 2. 6 V.S.A. § 1101 is amended to read:

§ 1101. DEFINITIONS

As used in this chapter unless the context clearly requires otherwise:

(1) "Secretary" ~~shall have~~ has the same meaning stated in subdivision 911(4) of this title.

(2) "Cumulative" when used in reference to a substance means that the substance so designated has been demonstrated to increase twofold or more in concentration if ingested or absorbed by successive life forms.

(3) "Dealer or pesticide dealer" means any person who regularly sells pesticides in the course of business, but not including a casual sale.

(4) "Economic poison" ~~shall have~~ has the same meaning stated in subdivision 911(5) of this title.

(5) "Pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or ~~virus~~ viruses, bacteria, or other microorganisms that the Secretary declares as being injurious to health or environment. "Pest ~~shall~~" does not mean any viruses, bacteria, or other microorganisms on or in living humans or other living animals.

(6) "Pesticide" for the purposes of this chapter ~~shall be~~ is used interchangeably with "economic poison."

(7) "Treated article" means a pesticide or class of pesticides exempt under 40 C.F.R. § 152.25(a) from regulation under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136-136y.

(8) "Neonicotinoid pesticide" means any economic poison containing a chemical belonging to the neonicotinoid class of chemicals.

(9) "Neonicotinoid treated article seeds" are treated article seeds that are treated or coated with a neonicotinoid pesticide.

(10) "Agricultural commodity" means any food in its raw or natural state, including all fruits or vegetables that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

(11) "Agricultural emergency" means an occurrence of any pest that presents an imminent risk of significant harm, injury, or loss to agricultural crops.

(12) "Bloom" means the period from the onset of flowering or inflorescence until petal fall is complete.

(13) "Crop group" means the groupings of agricultural commodities specified in 40 C.F.R. § 180.41(c) (2023).

(14) "Environmental emergency" means an occurrence of any pest that presents a significant risk of harm or injury to the environment, or significant harm, injury, or loss to agricultural crops or turf, including any exotic or foreign pest that may need preventative quarantine measures to avert or prevent that risk, as determined by the Secretary of Agriculture, Food and Markets.

(15) "Ornamental plants" mean perennials, annuals, and groundcover purposefully planted for aesthetic reasons.

(16) "Turf" means land planted in closely mowed, managed grasses, including residential and commercial property and publicly owned land, parks,

and recreation areas. "Turf" does not include pasture, cropland, land used to grow sod, or any other land used for agricultural production.

Sec. 3. 6 V.S.A. § 1105b is added to read:

§ 1105b. USE AND SALE OF NEONICOTINOID TREATED ARTICLE SEEDS

(a) No person shall sell, offer for sale or use, distribute, or use any neonicotinoid treated article seed for soybeans or for any crop in the cereal grains crop group (crop groups 15, 15-22, 16, and 16-22).

(b) The Secretary of Agriculture, Food and Markets, after consultation with the Secretary of Natural Resource, may issue a written exemption order to suspend the provisions of subsection (a) of this section. Such written exemption order shall not be valid for more than one year.

(c) A written exemption order issued under subsection (b) of this section shall:

(1) specify the types of neonicotinoid treated article seeds to which the exemption order applies, the date on which the exemption order takes effect; the exemption order's duration; and the exemption order's geographic scope, which may include specific farms, fields, or properties;

(2) provide a detailed evaluation of the agricultural seed market, including a determination either that the purchase of seeds that comply with subsection (a) of this section would cause agricultural producers undue financial hardship or that there is an insufficient amount of commercially available seed not treated with neonicotinoid pesticides to supply agricultural producers; and

(3) provide a detailed evaluation of the exemption order's anticipated effect on pollinator populations, bird populations, ecosystem health, and public health, including whether the exemption order will cause undue harm to pollinator populations, bird populations, ecosystem health, and public health.

(d) A written exemption order issued under subsection (b) of this section may:

(1) establish restrictions related to the use of neonicotinoid treated article seeds to which the exemption order applies to minimize harm to pollinator populations, bird populations, ecosystem health, and public health; or

(2) establish other restrictions related to the use of neonicotinoid treated article seeds to which the exemption order applies that the Secretary of Agriculture, Food and Markets considers necessary.

(e) Upon issuing a written exemption order under subsection (b) of this section, the Secretary of Agriculture, Food and Markets shall submit a copy of the exemption order to the Senate Committees on Natural Resources and Energy and on Agriculture; the House Committees on Environment and Energy and on Agriculture, Food Resiliency, and Forestry; and the Agricultural Innovation Board. The General Assembly shall manage a written exemption order submitted under this section in the same manner as a report to the General Assembly and shall post the written exemption order to the website of the General Assembly.

(f) The Secretary of Agriculture, Food and Markets, after consultation with the Secretary of Natural Resources, may rescind a written exemption order issued under subsection (b) of this section at any time. Such rescission shall come into effect not sooner than 30 days after its issuance and shall not apply to neonicotinoid treated article seeds planted or sown before such recission comes into effect.

Sec. 4. 6 V.S.A. § 1105c is added to read:

§ 1105c. NEONICOTINOID PESTICIDES; PROHIBITED USES

(a) The following uses of neonicotinoid pesticides are prohibited:

(1) the outdoor application of neonicotinoid pesticides to any crop during bloom;

(2) the outdoor application of neonicotinoid pesticides to soybeans or any crop in the cereal grains crop group (crop groups 15, 15-22, 16, and 16-22);

(3) the outdoor application of neonicotinoid pesticides to crops in the leafy vegetables, brassica, bulb vegetables, herbs and spices, and stalk, stem, and leaf petiole vegetables crop groups (crop groups 3, 3-07, 4, 4-16, 5, 5-16, 19, 22, 25, and 26) harvested after bloom;

(4) the application of neonicotinoid pesticides to ornamental plants; and

(5) the application of neonicotinoid pesticides to turf.

(b) The Secretary of Agriculture, Food and Markets, after consultation with the Secretary of Natural Resources, may issue a written exemption order to suspend the provisions of subsection (a) of this section. Such written exemption order shall not be valid for more than one year.

(c) A written exemption order issued under subsection (b) of this section shall:

(1) specify the neonicotinoid pesticides, uses, and crops, plants, or turf to which the exemption order applies; the date on which the exemption order takes effect; the exemption order's duration; and the exemption order's geographic scope, which may include specific farms, fields, or properties;

(2) provide a detailed evaluation determining that an agricultural emergency or an environmental emergency exists;

(3) provide a detailed evaluation of reasonable responses available to address the agricultural emergency or the environmental emergency, including a determination that the use of the neonicotinoid pesticides to which the exemption order applies would be effective in addressing the emergency and a determination that there is no other less harmful pesticide or pest management practice that would be effective in addressing the emergency; and

(4) provide a detailed evaluation of the exemption order's anticipated effects on pollinator populations, bird populations, ecosystem health, and public health, including whether the exemption order will cause undue harm to pollinator population, bird populations, ecosystem health, and public health.

(d) A written exemption order issued under subsection (b) of this section may:

(1) establish restrictions related to the use of neonicotinoid pesticides to which the exemption order applies to minimize harm to pollinator populations, bird populations, ecosystem health, and public health; or

(2) establish other restrictions related to the use of neonicotinoid pesticides to which the exemption order applies that the Secretary of Agriculture, Food and Markets considers necessary.

(e) Upon issuing a written exemption order under subsection (b) of this section, the Secretary of Agriculture, Food and Markets shall submit a copy of the exemption order to the Senate Committees on Natural Resources and Energy and on Agriculture; the House Committees on Environment and Energy and on Agriculture, Food Resiliency, and Forestry; and the Agricultural Innovation Board. The General Assembly shall manage a written exemption order submitted under this section in the same manner as a report to the General Assembly and shall post the written exemption order to the website of the General Assembly.

(f) The Secretary of Agriculture, Food and Markets, after consultation with the Secretary of Natural Resources, may rescind any written exemption order

issued under subsection (b) of this section at any time. Such rescission shall come into effect not sooner than 15 days after its issuance.

Sec. 5. 6 V.S.A. § 918 is amended to read:

§ 918. REGISTRATION

(a) Every economic poison that is distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State shall be registered in the Office of the Secretary, and such registration shall be renewed annually, provided that products that have the same formula are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same economic poison may be registered as a single economic poison, and additional names and labels shall be added by supplemental statements during the current period of registration. It is further provided that any economic poison imported into this State, which is subject to the provisions of any federal act providing for the registration of economic poisons and that has been duly registered under the provisions of this chapter, may, in the discretion of the Secretary, be exempted from registration under this chapter when sold or distributed in the unbroken immediate container in which it was originally shipped. The registrant shall file with the Secretary a statement including:

* * *

(f) ~~The~~ Unless the use or sale of a neonicotinoid pesticide is otherwise prohibited, the Secretary shall register as a restricted use pesticide any neonicotinoid pesticide labeled as approved for outdoor use that is distributed, sold, sold into, or offered for sale within the State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State, provided that the Secretary shall not register the following products as restricted use pesticides unless classified under federal law as restricted use products:

(1) pet care products used for preventing, destroying, repelling, or mitigating fleas, mites, ticks, heartworms, or other insects or organisms;

(2) personal care products used for preventing, destroying, repelling, or mitigating lice or bedbugs; and

(3) indoor pest control products used for preventing, destroying, repelling, or mitigating insects indoors~~; and~~

~~(4) treated article seed~~.

Sec. 6. 6 V.S.A. § 1105a(c) is amended to read:

(c)(1) Under subsection (a) of this section, the Secretary of Agriculture, Food and Markets, after consultation with the Agricultural Innovation Board, shall adopt by rule BMPs for the use in the State of:

(A) neonicotinoid treated article seeds when used prior to January 1, 2029;

(B) neonicotinoid treated article seeds when the Secretary issues a written exemption order pursuant to section 1105b of this chapter authorizing the use of neonicotinoid treated article seeds;

(C) neonicotinoid pesticides when the Secretary issues a written exemption order pursuant to section 1105c of this chapter authorizing the use of neonicotinoid pesticides; and

(D) the agricultural use after July 1, 2025 of neonicotinoid pesticides the use of which is not otherwise prohibited under law.

(2) In developing the rules with the Agricultural Innovation Board, the Secretary shall address:

(A) establishment of threshold levels of pest pressure required prior to use of neonicotinoid treated article seeds or neonicotinoid pesticides;

(B) availability of nontreated article seeds that are not neonicotinoid treated article seeds;

(C) economic impact from crop loss as compared to crop yield when neonicotinoid treated article seeds or neonicotinoid pesticides are used;

(D) relative toxicities of different neonicotinoid treated article seeds or neonicotinoid pesticides and the effects of neonicotinoid treated article seeds or neonicotinoid pesticides on human health and the environment;

(E) surveillance and monitoring techniques for in-field pest pressure;

(F) ways to reduce pest harborage from conservation tillage practices; and

(G) criteria for a system of approval of neonicotinoid treated article seeds or neonicotinoid pesticides.

~~(2)~~(3) In implementing the rules required under this subsection, the Secretary of Agriculture, Food and Markets shall work with farmers, seed companies, and other relevant parties to ensure that farmers have access to appropriate varieties and amounts of untreated seed or treated seed that are not neonicotinoid treated article seeds.

Sec. 7. 2022 Acts and Resolves No. 145, Sec. 4 is amended to read:

Sec. 4. IMPLEMENTATION; REPORT; RULEMAKING

(a) On or before March 1, 2024, the Secretary of Agriculture, Food, and Markets shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture, Food Resiliency, and Forestry a copy of the proposed rules required to be adopted under 6 V.S.A. § 1105a(c)(1)(A).

(b) The Secretary of Agriculture shall not file the final proposal of the rules required by 6 V.S.A. § 1105a(c)(1)(A) under 3 V.S.A. § 841 until at least 90 days from submission of the proposed rules to the General Assembly under subsection (a) of this section or July 1, 2024, ~~which ever~~ whichever shall occur first.

Sec. 8. EFFECTIVE DATES

(a) This section and Secs. 1 (findings), 2 (definitions), 5 (registration), and 6 (BMP rules), 7 (implementation) shall take effect on passage.

(b) Sec. 4 (prohibited use; neonicotinoid pesticides) shall take effect on July 1, 2025.

(c) Sec. 3 (treated article seed) shall take effect on January 1, 2029.

(Committee Vote: 8-2-1)

Rep. Taylor of Colchester, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Agriculture, Food Resiliency, and Forestry.

(Committee Vote: 8-4-0)

Rep. Toleno of Brattleboro, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Agriculture, Food Resiliency, and Forestry.

(Committee Vote: 11-1-0)

H. 845

An act relating to designating November as Veterans Month

Rep. Hooper of Burlington, for the Committee on Government Operations and Military Affairs, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly to honor the special value of the military service that the veterans of the U.S. Armed Forces have contributed to

the security and well-being of our nation by designating November as Vermont Month of the Veteran.

Sec. 2. 1 V.S.A. § 378 is added to read:

§ 378. VERMONT MONTH OF THE VETERAN

November of each year is designated as the Vermont Month of the Veteran.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

and that after passage the title of the bill be amended to read: "An act relating to designating November as Vermont Month of the Veteran"

(Committee Vote: 12-0-0)

NOTICE CALENDAR

Favorable with Amendment

H. 546

An act relating to administrative and policy changes to tax laws

Rep. Kornheiser of Brattleboro, for the Committee on Ways and Means, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Per Parcel Fee for Property Reappraisal * * *

Sec. 1. 32 V.S.A. § 4041a is amended to read:

§ 4041a. REAPPRAISAL

(a) A municipality shall be paid $8.50 per grand list parcel per year from the ~~Education~~ General Fund to be used only for reappraisal and costs related to reappraisal of its grand list properties and for maintenance of the grand list.

* * *

Sec. 2. 32 V.S.A. § 5412 is amended to read:

§ 5412. REDUCTION OF LISTED VALUE AND RECALCULATION OF EDUCATION TAX LIABILITY

(a)(1) If a listed value is reduced as the result of an appeal or court action made pursuant to section 4461 of this title, a municipality may submit a request for the Director of Property Valuation and Review to recalculate its education property tax liability for the education grand list value lost due to a

determination, declaratory judgment, or settlement. The Director shall recalculate the municipality's education property tax liability for each year at issue, in accord with the reduced valuation, provided that:

(A) The reduction in valuation is the result of an appeal under chapter 131 of this title to the Director of Property Valuation and Review or to a court, with no further appeal available with regard to that valuation, or any judicial decision with no further right of appeal, or a settlement of either an appeal or court action if the Director determines that the settlement value is the fair market value of the parcel. The Director may waive the requirement of continuing an appeal or court action until there is no further right of appeal if the Director concludes that the value determined by an adjudicated decision is a reasonable representation of the fair market value of the parcel.

(B) The municipality submits the request on or before January 15 for a request involving an appeal or court action resolved within the previous calendar year.

(C) [Repealed.]

(D) The Director determines that the municipality's actions were consistent with best practices published by the Property Valuation and Review in consultation with the Vermont Assessors and Listers Association. The municipality shall have the burden of showing that its actions were consistent with the Director's best practices.

* * *

* * * Annual Link to Federal Income Tax Law * * *

Sec. 3. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect on December 31, ~~2022~~ 2023, but without regard to federal income tax rates under 26 U.S.C. § 1, are hereby adopted for the purpose of computing the tax liability under this chapter and shall continue in effect as adopted until amended, repealed, or replaced by act of the General Assembly.

Sec. 4. 32 V.S.A. § 7402 is amended to read:

§ 7402. DEFINITIONS

As used in this chapter unless the context requires otherwise:

* * *

(8) "Laws of the United States" means the U.S. Internal Revenue Code of 1986, as amended through December 31, ~~2022~~ 2023. As used in this chapter, "Internal Revenue Code" has the same meaning as "laws of the United States" as defined in this subdivision. The date through which amendments to the U.S. Internal Revenue Code of 1986 are adopted under this subdivision shall continue in effect until amended, repealed, or replaced by act of the General Assembly.

* * *

* * * Expansion of Renter Credit * * *

Sec. 5. 32 V.S.A. § 6061 is amended to read:

§ 6061. DEFINITIONS

As used in this chapter unless the context requires otherwise:

* * *

(20) "Very low-income limit" means an amount of income 1.3 times the amount of the income limit for very low-income families as determined by the U.S. Department of Housing and Urban Development pursuant to 42 U.S.C. § 1437a as of June 30 of the taxable year, provided that for claimants who reside in Franklin or Grand Isle ~~county~~ County, "very low-income limit" means 1.3 times the average of the very low-income limits for the State as determined by the U.S. Department of Housing and Urban Development.

* * * Repeal of Property Tax Credit Late Fee * * *

Sec. 6. 32 V.S.A. § 6066a is amended as follows:

§ 6066a. DETERMINATION OF PROPERTY TAX CREDIT

(a) Annually, the Commissioner shall determine the property tax credit amount under section 6066 of this title, related to a homestead owned by the claimant, based on the prior taxable year's income and crediting property taxes paid in the prior year. The Commissioner shall notify the municipality in which the housesite is located of the amount of the property tax credit for the claimant for homestead property tax liabilities on a monthly basis. The tax credit of a claimant who was assessed property tax by a town that revised the dates of its fiscal year, however, is the excess of the property tax that was assessed in the last 12 months of the revised fiscal year, over the adjusted property tax of the claimant for the revised fiscal year, as determined under section 6066 of this title, related to a homestead owned by the claimant.

* * *

(d) ~~For late claims filed after April 15, the property tax credit amount shall be reduced by $15.00~~ [Repealed.]

* * *

Sec. 7. 32 V.S.A. § 6068 is amended to read:

§ 6068. APPLICATION AND TIME FOR FILING

(a) A property tax credit claim or request for allocation of an income tax refund to homestead property tax payment shall be filed with the Commissioner on or before the due date for filing the Vermont income tax return, without extension, and shall describe the school district in which the homestead property is located and shall particularly describe the homestead property for which the credit or allocation is sought, including the school parcel account number prescribed in subsection 5404(b) of this title. A renter credit claim shall be filed with the Commissioner on or before the due date for filing the Vermont income tax return, without extension.

(b) ~~If the claimant fails to file a timely claim, the amount of the property tax credit under this chapter shall be reduced by $15.00, but not below $0.00, which shall be paid to the municipality for the cost of issuing an adjusted homestead property tax bill.~~ If the claimant files a claim after October 15 but on or before March 15 of the following calendar year, the property tax credit under this chapter:

(1) shall be reduced in amount by $150.00, but not below $0.00;

(2) shall be issued directly to the claimant; and

(3) shall not require the municipality where the claimant's property is located to issue an adjusted homestead property tax bill.

(c) No request for allocation of an income tax refund or for a renter credit claim may be made after October 15. No property tax credit claim may be made after March 15 of the calendar year following the due date under subsection (a) of this section.

* * * Utility Property Valuation * * *

Sec. 8. 32 V.S.A. § 4452 is amended to read:

§ 4452. VALUATIONS

(a) On or before May 1 of each year, the Division of Property Valuation and Review of the Department of Taxes shall furnish the listers in each town or city with the valuation of all taxable property of any public utility situated therein as reported by such utility to the Division.

(b) Each public utility shall furnish to the Division not later than March 31 in each year a sworn inventory of all its taxable property in such form as will show the valuation of its property in each town, city, or other municipality.

(c) The Division shall prescribe the form of such report and the officer or officers who shall make oath thereto.

(d) The valuations ~~so~~ furnished under this section shall be considered along with any other information as may reasonably be required by ~~such~~ listers in determining and fixing the valuations of ~~such~~ property for the purposes of ~~local~~ property taxation. The Division may require that each municipality use certain valuations furnished under this section.

* * * Property Tax Exemptions * * *

Sec. 9. 32 V.S.A. § 3802(22) is added to read:

(22) Real and personal estate owned by a county of this State, except land and buildings outside of a county's territorial limits shall be subject to municipal property tax by the municipality in which the land or buildings are situated. Notwithstanding the preceding provision, the exemption for public, pious, and charitable uses under subdivision (4) of this section shall be available for qualifying county land and buildings outside of the county's territorial limits.

* * * Fuel Tax * * *

Sec. 10. 33 V.S.A. § 2503(d) is amended to read:

(d) No tax under this section shall be imposed for any month ending after June 30, ~~2024~~ 2029.

* * * Health IT Fund Sunset Extension * * *

Sec. 11. 2013 Acts and Resolves No. 73, Sec. 60(10), as amended by 2017 Acts and Resolves No. 73, Sec. 14, 2018 Acts and Resolves No. 187, Sec. 5, 2019 Acts and Resolves No. 71, Sec. 21, 2021 Acts and Resolves No. 73, Sec. 14, and 2023 Acts and Resolves No. 78, Sec. E.306.1, is further amended to read:

(10) Secs. 48–51 (health care claims tax) shall take effect on July 1, 2013 and Sec. 52 (Health IT-Fund; sunset) shall take effect on July 1, ~~2025~~ 2026.

Sec. 12. 2019 Acts and Resolves No. 6, Sec. 105, as amended by 2019 Acts and Resolves No. 71, Sec. 19, 2022 Acts and Resolves No. 83, Sec. 75, and 2023 Acts and Resolves No. 78, Sec. E.306.2, is further amended to read:

Sec. 105. EFFECTIVE DATES

* * *

(b) Sec. 73 (further amending 32 V.S.A. § 10402) shall take effect on July 1, ~~2025~~ 2026.

* * *

Sec. 13. LOCAL GOVERNMENT REVENUE; WORKING GROUP; REPORT

(a) Creation. There is created the Local Government Revenue Working Group to evaluate municipal revenue sources and to make recommendations for State authorization of new revenue generation for municipalities.

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

(1) the Commissioner of Housing and Community Development or designee;

(2) the Commissioner of Taxes or designee;

(3) the Secretary of Administration or designee;

(4) two representatives of local government, appointed by the Vermont League of Cities and Towns; and

(5) the State Treasurer or designee.

(c) Powers and duties. The Working Group shall build on the findings of the Joint Fiscal Report of 2024 entitled "Financing Public Infrastructure in Vermont Municipalities" by considering the following topics:

(1) the authorization of new revenue generation tools, including:

(A) the ability for all municipalities to adopt a local option tax by vote;

(B) allocating existing local option tax revenue differently;

(C) a local option tax rate that exceeds one percent; and

(D) applying a local option tax to new tax bases, such as motor vehicle sales, transportation services, property transfers, cannabis sales, sports betting transactions, and vehicle rentals;

(2) how to best implement a municipal revenue sharing program, including:

(A) revenue sharing programs in other states;

(B) existing State grant and aid programs for municipalities; and

(C) new or existing State revenue that could be allocated to a municipal revenue sharing program; and

(3) a formula to distribute dedicated municipal revenue sharing, including a system that is based on municipal characteristics, such as population, the income of residents, and municipal tax capacity.

(d) Report. On or before December 15, 2024, the Working Group shall submit a written report to the House Committees on Ways and Means and on Government Operations and Military Affairs and the Senate Committees on Finance and on Government Operations with its finding on how best to diversify and increase funding for Vermont municipalities and any recommendations for legislative action.

(e) Meetings.

(1) The Secretary of Administration, or designee, shall call the first meeting of the Working Group to occur on or before July 15, 2024.

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

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

(4) The Working Group shall cease to exist on July 1, 2025.

Sec. 14. WEALTH TAX COMMISSION; REPORT

(a) Creation. There is created the Wealth Tax Commission to study the taxation of wealth and investment gains that currently escape income taxation.

(b) Membership. The Wealth Tax Commission shall be composed of the following members:

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

(2) one current member of the Senate, who shall be appointed by the President Pro Tempore;

(3) the Commissioner of the Department of Financial Regulation or designee; and

(4) the Commissioner of Taxes or designee.

(c)(1) Assistance. The Wealth Tax Commission shall have the administrative and technical assistance of the Joint Fiscal Office, which shall contract with a facilitator who has knowledge of wealth taxes, mark-to-market income tax reform, or other reforms for taxing wealth and investment gains that currently escape income taxation.

(2) The facilitator contracted pursuant to subdivision (1) of this subsection shall coordinate with the following institutions for participation with the Wealth Tax Commission:

(A) legislative members and staff from other states;

(B) administrators and staff from the revenue agencies of other states;

(C) national academic and legal experts on wealth and income taxation; and

(D) the Multistate Tax Commission.

(d)(1) Powers and duties. The Wealth Tax Commission shall study the policy considerations surrounding the taxation of wealth and investment gains that currently escape taxation, implementation issues, and coordinating with other states to uniformly tax forms of wealth and investment gains.

(2) The Wealth Tax Commission shall report on the following issues relating to the implementation of a wealth tax:

(A) addressing taxpayers who move into and away from a state during a tax year and identifying the best approach for residency criteria for subjecting individuals to a tax on wealth and investments gains that currently escape income taxation;

(B) valuing nonpublic assets, including a functional mechanism for taxpayers to contest a state's value and alternative mechanisms for valuing difficult-to-value assets;

(C) addressing losses in taxpayers' net worth, including whether losses should be carried over in future tax years;

(D) addressing situations where wealth is primarily held in real estate, such as farmers and other taxpayers who may lack the funds needed to pay the tax without selling real estate;

(E) determining whether legislative changes are needed to require nonpublic information be made public for purposes of asset valuation, such as adding transparency to private business valuations; and

(F) determining the best practices of other states by conducting a survey of other states' experiences with key components of taxing wealth and investment gains that currently escape taxation, including valuing businesses, using financial accounting information, and withholding the income of nonresident individuals.

(3) The Wealth Tax Commission shall report on the following issues relating to coordinating with other states to enact a wealth tax:

(A) identifying and addressing legal considerations across states, such as federal preemption, the ability to form an interstate compact for state taxation, constitutional differences between states that could affect the coordination of enacting uniform tax laws, and the plausibility of developing a uniform approach or provisions for taxation of wealth and investment gains that currently escape income taxation;

(B) identifying the best approach for multiple states to enact a wealth tax contingent on passage or enactment in other states;

(C) identifying the components of a wealth tax that are most desirable to be uniform across and the components that can be left to the discretion of individual states;

(D) addressing how to best coordinate residency requirements, basis adjustments, crediting taxes paid in other states on wealth and investment gains that currently escape income taxation, enforcement, and information reporting across states; and

(E) determining whether interstate cooperation or a compact requires wealth tax categories to be uniform across states, including an examination of the differences between mark-to-market taxation and other forms of wealth taxation.

(e) Report. On or before November 1, 2025, the Wealth Tax Commission shall submit a written report to the House Committee on Ways and Means and the Senate Committee on Finance with its findings and recommendations.

(f) Meetings.

(1) The facilitator shall call the first meeting of the Commission to occur on or before September 15, 2024.

(2) The Commission shall elect a chair from among its legislative members at the first meeting.

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

(4) The Commission shall cease to exist on July 1, 2026.

(g) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than 12 meetings. These payments shall be made from monies appropriated to the General Assembly.

(h) Appropriation. The sum of $125,000.00 is appropriated to the Joint Fiscal Office from the General Fund in fiscal year 2025 to contract with a facilitator pursuant to subdivision (c)(1) of this section and for other resources relating to the work of the Commission.

* * * Effective Dates * * *

Sec. 15. EFFECTIVE DATES

(a) This section, Secs. 1 (reappraisals), 2 (property valuation and review waiver), 9 (exemption for county-owned property), 10 (fuel tax extension), 11 and 12 (extension of Health IT Fund), 13 (Local Government Revenue Working Group), and 14 (Wealth Tax Commission) shall take effect on passage.

(b) Notwithstanding 1 V.S.A. § 214, Secs. 3–4 (link to federal income tax laws) shall take effect retroactively on January 1, 2024 and apply to taxable years beginning on and after January 1, 2023.

(c) Sec. 5 (renter credit expansion) shall take effect on passage and apply to claim years 2025 and after.

(d) Secs. 6–7 (repeal of property tax credit late fee) shall take effect on passage and apply to claim years 2024 and after.

(e) Sec. 8 (utility property valuation) shall take effect on passage and apply to grand lists filed on or after April 1, 2025.

(Committee Vote: 11-1-0)

Rep. Scheu of Middlebury, for the Committee on Appropriations, recommends that the report of the Committee on Ways and Means be amended as follows:

First: In Sec. 13, local government revenue; working group; report, in subdivision (c)(1)(D), by striking out "sports betting transactions,"

Second: In Sec. 14, Wealth Tax Commission; report, in subsection (h), by striking out "The" and inserting in lieu thereof "To the extent funds are available, the"

(Committee Vote: 9-3-0)

H. 612

An act relating to miscellaneous cannabis amendments

Rep. Birong of Vergennes, for the Committee on Government Operations and Military Affairs, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. § 562(4) is amended to read:

(4)(A) "Hemp products" or "hemp-infused products" means all products with the federally defined tetrahydrocannabinol concentration level for hemp derived from, or made by, processing hemp plants or plant parts, which are prepared in a form available for commercial sale, including cosmetics, personal care products, food intended for animal or human consumption, cloth, cordage, fiber, fuel, paint, paper, construction materials, plastics, and any product containing one or more hemp-derived cannabinoids, such as cannabidiol.

(B) Notwithstanding subdivision (A) of this subdivision (4), "hemp products" and "hemp-infused products" do not include any substance, manufacturing intermediary, or product that:

(i) is prohibited or deemed a regulated cannabis product by administrative rule of the Cannabis Control Board; or

(ii) contains more than 0.3 percent total tetrahydrocannabinol on a dry-weight basis.

(C) A hemp-derived product or substance that is excluded from the definition of "hemp products" or "hemp-infused products" pursuant to subdivision (B) of this subdivision (4) shall be considered a cannabis product as defined by 7 V.S.A. § 831(3); provided, however, that a person duly licensed or registered by the Cannabis Control Board lawfully may possess such products in conformity with the person's license or hemp processor registration.

Sec. 2. 7 V.S.A. § 861(18) is amended to read:

(18) "Controls," "is controlled by," and "under common control" mean the power to direct, or cause the direction or management and policies of a person~~, whether through the direct or beneficial ownership of voting securities, by contract, or otherwise~~. A person who ~~directly or beneficially owns~~ has a 10 percent or more ownership interest or equity interest~~, or the equivalent thereof,~~ in the assets, capital, profits, or stock of another person shall be deemed to control the person.

Sec. 3. 7 V.S.A. § 868 is amended to read:

§ 868. PROHIBITED PRODUCTS

(a) ~~The~~ Except as provided in section 907 of this title relating to a retailer with a medical endorsement, the following are prohibited products and may not be cultivated, produced, or sold pursuant to a license issued under this chapter:

(1) cannabis flower with greater than 30 percent tetrahydrocannabinol;

(2) flavored oil cannabis products sold prepackaged for use with battery- powered devices and any cannabis flower that contains characterizing flavor that is not naturally occurring in the cannabis;

(3) cannabis products that contain delta-9 tetrahydrocannabinol and nicotine or alcoholic beverages; and

(4) any cannabis, cannabis products, or packaging of such items that are designed to make the product more appealing to persons under 21 years of age.

(b)(1) Except as provided by subdivision (2) of this subsection and in section 907 of this title relating to a retailer with a medical endorsement, solid and liquid concentrate cannabis products with greater than 60 percent tetrahydrocannabinol may be produced by a licensee and sold to another licensee in accordance with subchapter 3 of this chapter but shall not be sold to the public by a licensed retailer or integrated licensee.

(2) Liquid concentrate cannabis products with greater than 60 percent tetrahydrocannabinol that are prepackaged for use with battery-powered devices shall be permitted to be sold to the public by a licensed retailer or integrated licensee.

Sec. 4. 7 V.S.A. § 881 is amended to read:

§ 881. RULEMAKING; CANNABIS ESTABLISHMENTS

(a) The Board shall adopt rules to implement and administer this chapter in accordance with subdivisions (1)–(8) of this subsection.

(1) Rules concerning any cannabis establishment shall include:

(A) the form and content of license and renewal applications;

(B) qualifications for licensure that are directly and demonstrably related to the operation of a cannabis establishment, including:

(i) a requirement to submit an operating plan, which shall include information concerning:

(I) the type of business organization, the identity of its controlling owners and principals, and the identity of the controlling owners and principals of its affiliates; and

(II) the sources, amount, and nature of its capital, assets, and financing; the identity of its financiers; and the identity of the controlling owners and principals of its financiers;

(ii) a requirement to file an amendment to its operating plan in the event of a significant change in organization, operation, or financing; and

(iii) the requirement for a fingerprint-based criminal history record check and regulatory record check pursuant to section 883 of this title;

(C) oversight requirements, including provisions to ensure that a licensed establishment complies with State and federal regulatory requirements governing insurance, securities, workers' compensation, unemployment insurance, and occupational health and safety;

(D) inspection requirements;

(E) records to be kept by licensees and the required availability of the records;

(F) employment and training requirements;

(G) security requirements, including any appropriate lighting, physical security, video, and alarm requirements;

(H) health and safety requirements;

(I) regulation of additives to cannabis and cannabis products, including cannabidiol derived from hemp and substances that are toxic or designed to make the product more addictive, more appealing to persons under 21 years of age, or to mislead consumers;

(J) procedures for seed-to-sale traceability of cannabis, including any requirements for tracking software;

(K) regulation of the storage and transportation of cannabis;

(L) sanitary requirements;

(M) procedures for the renewal of a license, which shall allow renewal applications to be submitted up to 90 days prior to the expiration of the cannabis establishment's license;

(N) procedures for suspension and revocation of a license;

(O) requirements for banking and financial transactions, including provisions to ensure that the Board, the Department of Financial Regulation, and financial institutions have access to relevant information concerning licensed establishments to comply with State and federal regulatory requirements;

(P) disclosure or eligibility requirements for a financier, its owners and principals, and its affiliates, which may include:

(i) requirements to disclose information to a licensed establishment, the Board, or the Department of Financial Regulation;

(ii) a minimum age requirement and a requirement to conduct a background check for natural persons;

(iii) requirements to ensure that a financier complies with applicable State and federal laws governing financial institutions, licensed lenders, and other financial service providers; and

(iv) any other requirements, conditions, or limitations on the type or amount of loans or capital investments made by a financier or its affiliates, which the Board, in consultation with the Department of Financial Regulation, determines are necessary to protect the public health, safety, and general welfare;

(Q) policies and procedures for conducting outreach and promoting participation in the regulated cannabis market by diverse groups of individuals, including those who have been disproportionately harmed by cannabis prohibition;

(R) advertising and marketing; and

(S) requirements for cannabis control testing of hemp, hemp-infused products, cannabis, and cannabis products.

(2)(A) Rules concerning cultivators shall include:

(i) creation of a tiered system of licensing based on the plant canopy size of the cultivation operation or plant count for breeding stock;

(ii) pesticides or classes of pesticides that may be used by cultivators, provided that any rules adopted under this subdivision shall comply with and shall be at least as stringent as the Agency of Agriculture, Food and Markets' Vermont Pesticide Control Regulations;

(iii) standards for indoor cultivation of cannabis;

(iv) procedures and standards for testing cannabis for contaminants, potency, and quality assurance and control;

(v) labeling requirements for cannabis sold to retailers and integrated licensees, including health warnings developed in consultation with the Department of Health;

(vi) regulation of visits to the establishments, including the number of visitors allowed at any one time and record keeping concerning visitors; ~~and~~

(vii) facility inspection requirements and procedures; and

(viii) performance standards that would allow the Board to relegate a cultivator into a lower tier or expand into a tier that may not be otherwise available to new applicants.

* * *

(5) Rules concerning retailers shall include:

(A) requirements for proper verification of age of customers;

(B) restrictions that cannot cannabis shall be stored behind a counter or other barrier to ensure a customer does not have direct access to the cannabis;

(C) requirements that if the retailer sells hemp or hemp products, the hemp and hemp products are clearly labeled as such;

(D) requirements for opaque, child-resistant packaging of cannabis products and child-deterrent packaging for cannabis at point of sale to customer; ~~and~~

(E) requirements and procedures for facility inspection to occur at least annually;

(F) location or siting requirements that increase the geographic distribution of new cannabis retail establishments based on population and market needs; and

(G) requirements for a medical-use endorsement, including rules requiring access for patients who are under 21 years of age.

* * *

Sec. 5. 7 V.S.A. § 907 is amended to read:

§ 907. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

(1) purchase cannabis and cannabis products from a licensed cannabis establishment; and

(2) transport, possess, package, and sell cannabis and cannabis products to the public for consumption off the registered premises or for cultivation.

(b) In a single transaction, a retailer may provide one ounce of cannabis or the equivalent in cannabis products, or a combination thereof, to a person 21 years of age or older upon verification of a valid government-issued photograph identification card.

(c)(1) Packaging shall include:

(A) the strain and variety of cannabis contained;

(B) the potency of the cannabis represented by the amount of tetrahydrocannabinol and cannabidiol in milligrams total and per serving;

(C) a "produced on" date reflecting the date that the cultivator finished producing the cannabis;

(D) appropriate warnings as prescribed by the Board in rule; and

(E) any additional requirements contained in rules adopted by the Board in accordance with this chapter.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(d) A retailer shall display a safety information flyer at the point of purchase and offer a customer a copy of the flyer with each purchase. A retailer shall inform the customer that if the customer elects not to receive the flyer, the information contained in the flyer is available on the website for the Board. The flyer shall be developed by the Board in consultation with the Department of Health, posted on the Board's website, and supplied to the retailer free of charge. At a minimum, the flyer or flyers shall contain information concerning the methods for administering cannabis, the amount of time it may take for cannabis products to take effect, the risks of driving under the influence of cannabis, the potential health risks of cannabis use, the symptoms of problematic usage, how to receive help for cannabis abuse, and a warning that cannabis possession is illegal under federal law.

(e) Delivery of cannabis to customers is prohibited, except as provided in subsection (f) of this section.

(f) A retailer may obtain a medical-use endorsement in compliance with rules adopted by the Board and the endorsement shall permit the retailer to:

(1) sell tax-free cannabis and cannabis products to registered patients directly or through their registered caregivers:

(A) that are otherwise prohibited for sale to nonmedical customers pursuant to subdivisions 868(a)(1) and (b)(1) of this title;

(B) that are otherwise prohibited for sale to nonmedical customers if they are determined to be appropriate for use by a registered patient as determined by the Board through rulemaking; and

(C) quantities in excess of the single transaction limit in subsection (b) of this section provided they do not exceed the per patient possession limit in section 952 of this title .

(2) deliver cannabis and cannabis products to registered patients directly or through their registered caregivers; and

(3) allow registered patients to purchase directly or through their registered caregivers cannabis and cannabis products without leaving their vehicles.

Sec. 6. 7 V.S.A. § 910 is amended to read:

§ 910. CANNABIS ESTABLISHMENT FEE SCHEDULE

The following fees shall apply to each person or product licensed by the Board:

* * *

(4) Retailers.

(A) Retailers that sell cannabis and cannabis products to consumers shall be assessed an annual licensing fee of $10,000.00.

(B) Retailers that include a medical-use endorsement shall be assessed an annual licensing fee of $10,250.00.

* * *

Sec. 7. 7 V.S.A. § 951(8) is amended to read:

(8) "Qualifying medical condition" means:

(A) cancer, multiple sclerosis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, glaucoma, Crohn's disease, Parkinson's disease, post-traumatic stress disorder, ulcerative colitis, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms; or

(B) a disease or medical condition or its treatment that is chronic, debilitating, and produces one or more of the following intractable symptoms: cachexia or wasting syndrome, chronic pain, severe nausea, or seizures.

Sec. 8. 7 V.S.A. § 955 is amended to read:

§ 955. REGISTRATION; FEES

(a) A registration card shall expire ~~one year after the date of issuance for patients with a qualifying medical condition of chronic pain and the caregivers who serve those patients. For all other patients and the caregivers who serve those patients, a registration card shall expire~~ three years after the date of issuance. A patient or caregiver may renew the card according to protocols adopted by the Board.

(b) The Board shall charge and collect a $50.00 registration and renewal fee for patients and caregivers. Fees shall be deposited in the Cannabis Regulation Fund as provided in section 845 of this title.

Sec. 9. 7 V.S.A. § 977 is amended to read:

§ 977. FEES

(a) The Board shall charge and collect the following fees for dispensaries:

(1) a one-time ~~$2,500.00~~ $1,000.00 application fee;

(2) ~~a $20,000.00 registration fee for the first year of operation;~~

~~(3)~~ an annual renewal fee of ~~$25,000.00 for a subsequent year of operation~~ $5,000.00; and

~~(4)~~(3) an annual Registry identification or renewal card fee of $50.00 to be paid by the dispensary for each owner, principal, financier, and employee of the dispensary.

(b) Fees shall be deposited in the Cannabis Regulation Fund as provided in section 845 of this title.

Sec. 10. 7 V.S.A. § 978(f) is amended to read:

(f) ~~The Board may charge and collect fees for review of advertisements.~~ [Repealed.]

Sec. 11. 18 V.S.A. § 4230(d) is amended to read:

(d) ~~Canabis-infused~~ Cannabis-infused products. Only the portion of a cannabis-infused product that is attributable to cannabis shall count toward the possession limits of this section. The weight of cannabis that is attributable to cannabis-infused products shall be determined according to methods set forth in rule by the ~~Department of Public Safety in accordance with chapter 86 of this title (therapeutic use of cannabis)~~ Cannabis Control Board.

Sec. 12. 20 V.S.A. § 2730(b) is amended to read:

(b) The term "public building" does not include:

* * *

(5) A farm building that is used in the outdoor cultivation of cannabis by a person licensed pursuant to 7 V.S.A. chapter 33 in accordance with such chapter and related rules.

Sec. 13. 32 V.S.A. § 7902 is amended to read:

§ 7902. CANNABIS EXCISE TAX

(a) There is imposed a cannabis excise tax equal to 14 percent of the sales price of each retail sale in this State of cannabis and cannabis products, including food or beverages.

(b) The tax imposed by this section shall be paid by the purchaser to the retailer or integrated licensee. Each retailer or integrated licensee shall collect from the purchaser the full amount of the tax payable on each taxable sale.

(c) The tax imposed by this section is separate from and in addition to the general sales and use tax imposed by chapter 233 of this title. The tax imposed by this section shall not be part of the sales price to which the general sales and use tax applies. The cannabis excise tax shall be separately itemized from the general sales and use tax on the receipt provided to the purchaser.

(d) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax; and

(2) sales made by any dispensary as authorized under 7 V.S.A. chapter 37 or any retailer licensed with a medical-use endorsement as authorized under 7 V.S.A. chapter 33, provided that the cannabis or cannabis product is sold only to registered ~~qualifying~~ patients directly or through their registered caregivers. A retailer that sells cannabis or cannabis products that are exempt from tax pursuant to this subdivision shall retain information pertaining to each exempt transaction as required by the Commissioner of Taxes.

Sec. 14. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title:

* * *

(55) Cannabis and cannabis products, as defined under 7 V.S.A. § 831, sold by any dispensary as authorized under 7 V.S.A. chapter 37 or any retailer licensed with a medical-use endorsement as authorized under 7 V.S.A. chapter 33, provided that the cannabis or cannabis product is sold only to registered qualifying patients directly or through their registered caregivers. A retailer that sells cannabis or cannabis products that are exempt from tax pursuant to

this subdivision shall retain information pertaining to each exempt transaction as required by the Commissioner of Taxes.

* * *

Sec. 15. TRANSFER AND APPROPRIATION

Notwithstanding 7 V.S.A. § 845(c), in fiscal year 2025:

(1) $500,000.00 is transferred from the Cannabis Regulation Fund established pursuant to 7 V.S.A. § 845 to the Cannabis Business Development Fund established pursuant to 7 V.S.A. § 987; and

(2) $500,000.00 is appropriated from the Cannabis Business 19 Development Fund to the Agency of Commerce and Community Development to fund technical assistance and provide loans and grants pursuant to 7 V.S.A. § 987.

Sec. 16. 7 V.S.A. § 869 is amended to read:

§ 869. CULTIVATION OF CANNABIS; ENVIRONMENTAL AND LAND USE STANDARDS; REGULATION OF CULTIVATION

(a) A cannabis establishment shall not be regulated as "farming" under the Required Agricultural Practices, 6 V.S.A. chapter 215, or other State law, and cannabis produced from cultivation shall not be considered an agricultural product, farm crop, or agricultural crop for the purposes of 32 V.S.A. chapter 124, 32 V.S.A. § 9741, or other relevant State law.

* * *

(f) Notwithstanding subsection (a) of this section, a cultivator licensed under this chapter who initiates cultivation of cannabis outdoors on a parcel of land shall:

(1) be regulated in the same manner as "farming" and not as "development" on the tract of land where cultivation occurs for the purposes of permitting under 10 V.S.A. chapter 151;

(2)(A) not be regulated by a municipal bylaw adopted under 24 V.S.A. chapter 117 in the same manner that Required Agricultural Practices are not regulated by a municipal bylaw under 24 V.S.A. § 4413(d)(1)(A), except that there shall be the following minimum setback distance between the cannabis plant canopy and a property boundary or edge of a highway:

(i) if the cultivation occurs in a cannabis cultivation district adopted by a municipality pursuant to 24 V.S.A. § 4414a, the setback shall be not larger than 25 feet as established by the municipality; and

(ii) if the cultivation occurs outside of cannabis cultivation district adopted by a municipality pursuant to 24 V.S.A. § 4414a or no cannabis cultivation district has been adopted by the municipality, the setback shall be not larger than 100 feet as established by the municipality;

(B) if a municipality does not have zoning, the setback shall be 10 feet;

(3) be eligible to enroll in the Use Value Appraisal Program under 32 V.S.A. chapter 124 for the cultivation of cannabis;

(4) be exempt under 32 V.S.A. § 9741(3), (25), and (50) from the tax on retail sales imposed under 32 V.S.A. § 9771; and

(5) be entitled to the rebuttable presumption that cultivation does not constitute a nuisance under 12 V.S.A. chapter 195 in the same manner as "agricultural activities" are entitled to the rebuttable presumption, provided that, notwithstanding 12 V.S.A. § 5753(a)(1)(A), the cultivation is complying with subsections (b) and (d) of this section.

Sec. 17. 24 V.S.A. § 4414a is added to read:

§ 4414a. CANNABIS CULTIVATION DISTRICT

A municipality, after consultation with the municipal cannabis control commission, if one exists, may adopt a bylaw identifying cannabis cultivation districts where the outdoor cultivation of cannabis is preferred within the municipality. Cultivation of cannabis within a cannabis cultivation district shall be presumed not to result in an undue effect on the character of the area affected. The adoption of a cannabis cultivation district shall not have the effect of prohibiting cultivation of outdoor cannabis in the municipality.

Sec. 18. EFFECTIVE DATES

Sec. 6, 7 V.S.A. § 910, shall take effect on July 1, 2025, and the remainder of the act shall take effect on passage.

(Committee Vote: 9-3-0)

Rep. Anthony of Barre City, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Government Operations and Military Affairs.

(Committee Vote: 10-0-2)

Rep. Scheu of Middlebury, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Government Operations and Military Affairs.

(Committee Vote: 10-2-0)

H. 622

An act relating to emergency medical services

Rep. Boyden of Cambridge, for the Committee on Government Operations and Military Affairs, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 901 is amended to read:

§ 901. PURPOSE, FINDINGS, POLICY

(a) Purpose. It is the purpose of this chapter to promote and provide for a comprehensive and effective emergency medical services system to ensure optimum patient care.

(b) Findings. The General Assembly finds that:

(1) Emergency medical services provided by an ambulance service are essential services.

(2) The provision of medical assistance in an emergency is a matter of vital concern affecting the health, safety, and welfare of the public.

(3) Key elements of an emergency medical services system include:

(A) the provision of prompt, efficient, and effective emergency medical dispatch and emergency medical care;

(B) a well-coordinated trauma care system;

(C) effective communication between prehospital care providers and hospitals; and

(D) the safe handling and transportation, and the treatment and transportation under appropriate medical guidance, of individuals who are sick or injured.

(c) Policy. It is the policy of the State of Vermont that all persons who suffer sudden and unexpected illness or injury should have access to the emergency medical services system in order to prevent loss of life or the aggravation of the illness or injury, and to alleviate suffering.

(1) The system should include competent emergency medical treatment provided by adequately trained, licensed, and equipped personnel acting under appropriate medical control.

(2) Persons involved in the delivery of emergency medical care should be encouraged to maintain and advance their levels of training and licensure, and to upgrade the quality of their vehicles and equipment.

Sec. 2. 18 V.S.A. § 908 is amended to read:

§ 908. EMERGENCY MEDICAL SERVICES SPECIAL FUND

(a)(1) The Emergency Medical Services Special Fund is established pursuant to 32 V.S.A. chapter 7, subchapter 5 comprising revenues received by the Department from the Fire Safety Special Fund, pursuant to 32 V.S.A. § 8557(a), that are designated for this Special Fund and public and private sources as gifts, grants, and donations together with additions and interest accruing to the Fund.

(2)(A) The Commissioner of Health shall administer the Fund to the extent funds are available to support online and regional training programs, data collection and analysis, and other activities relating to the training of emergency medical personnel and delivery of emergency medical services and ambulance services in Vermont, as determined by the Commissioner, after consulting with the EMS Advisory Committee established under section 909 of this title. The Commissioner shall prioritize the use of funds to provide grants to programs that offer basic emergency medical services training at low cost or no cost to participants.

(B) The Commissioner shall make reasonable efforts to award grants in a manner that supports geographic equity among the emergency medical services districts. The Commissioner shall also provide technical assistance to emergency medical services districts to ensure that grants are available to support emergency medical services training in districts that have historically experienced challenges in receiving grants from the Fund.

(3) Any balance at the end of the fiscal year shall be carried forward in the Fund.

(b) From the funds in the Emergency Medical Services Special Fund, the Commissioner of Health shall develop and implement by September 1, 2012 online training opportunities and offer regional classes to enable individuals to comply with the requirements of subdivision 906(10)(C) of this title.

Sec. 3. 33 V.S.A. § 1901m is added to read:

§ 1901m. REIMBURSEMENT FOR EMERGENCY MEDICAL SERVICES

(a) To the extent permitted under federal law or waivers of federal law, the Agency of Human Services shall reimburse a provider of emergency medical services for delivering emergency medical services to a Medicaid beneficiary

who was not transported to a different location during the period of the emergency. The reimbursement shall be in an amount equal to the Medicare basic life support rate.

(b) Annually as part of its budget presentation, the Agency of Human Services shall report the amount of additional funds that would be necessary to reimburse emergency medical service providers at a level equal to the Medicare basic life support rate for all emergency medical services delivered to Medicaid beneficiaries.

Sec. 4. 24 V.S.A. § 2689 is amended to read:

§ 2689. REIMBURSEMENT FOR AMBULANCE SERVICE PROVIDERS

* * *

(d) Reimbursement for ambulance services provided to Medicaid beneficiaries shall be in accordance with 33 V.S.A. § 1901m.

Sec. 5. 18 V.S.A. § 909 is amended to read:

§ 909. EMS ADVISORY COMMITTEE; EMS EDUCATION COUNCIL

(a) The ~~Commissioner shall establish the~~ Emergency Medical Services Advisory Committee ~~to~~ shall advise the Department of Health on matters relating to the delivery of emergency medical services (EMS) in Vermont.

(b) The Committee shall ~~include~~ comprise the following members:

(1) ~~One~~ one representative from each EMS district in the State, with each representative being appointed by the EMS Board in ~~his or her~~ that individual's district~~.~~;

(2) ~~A~~ a representative from the Vermont Ambulance Association or designee~~.~~;

(3) ~~A~~ a representative from the Initiative for Rural Emergency Medical Services program at the University of Vermont or designee~~.~~;

(4) ~~A~~ a representative from the Professional Firefighters of Vermont or designee~~.~~;

(5) ~~A~~ a representative from the Vermont Career Fire Chiefs Association or designee~~.~~;

(6) ~~A~~ a representative from the Vermont State Firefighters' Association or designee~~.~~;

(7) ~~An~~ an emergency department nurse manager or emergency department director of a Vermont hospital appointed by the Vermont Association of Hospitals and Health Systems~~.~~;

(8) ~~The~~ the Commissioner of Health or designee~~.~~; and

(9) ~~A~~ a local government member not affiliated with emergency medical services, firefighter services, or hospital services, appointed by the Vermont League of Cities and Towns.

(c)(1) The Committee shall select from among its members a chair who is not an employee of the State.

(2) The Committee shall have the administrative, technical, and legal assistance of the Agency of Human Services.

(d) The Committee shall meet not less than quarterly and may be convened at any time by the Chair or at the request of 11 Committee members. Not more than two meetings each year shall be held in the same EMS district. One meeting each year shall be held at a Vermont EMS conference.

(e) ~~Annually, on or before January 1, the Committee shall report on the EMS system to the House Committees on Government Operations, on Commerce and Economic Development, and on Human Services and to the Senate Committees on Government Operations, on Economic Development, Housing and General Affairs, and on Health and Welfare. The Committee's reports shall include information on the following:~~

(1) ~~whether every Vermont municipality should be required to have in effect an emergency medical services plan providing for timely and competent emergency responses;~~

~~(2) whether the State should establish directives addressing when an agency can respond to a nonemergency request for transportation of a patient if doing so will leave the service area unattended or unable to respond to an emergency call in a timely fashion;~~

~~(3) how the EMS system is functioning statewide and the current state of recruitment and workforce development;~~

~~(4) each EMS district's response times to 911 emergencies in the previous year, based on information collected from the Vermont Department of Health's Division of Emergency Medical Services;~~

~~(5) funding mechanisms and funding gaps for EMS personnel and providers across the State, including for the funding of infrastructure, equipment, and operations and costs associated with initial and continuing training and licensure of personnel;~~

~~(6) the nature and costs of dispatch services for EMS providers throughout the State, including the annual number of mutual aid calls to an emergency medical service area that come from outside that area, and suggestions for improvement;~~

~~(7) legal, financial, or other limitations on the ability of EMS personnel with various levels of training and licensure to engage in lifesaving or health-preserving procedures;~~

~~(8) how the current system of preparing and licensing EMS personnel could be improved, including the role of Vermont Technical College's EMS program; whether the State should create an EMS academy; and how such an EMS academy should be structured; and~~

~~(9) how EMS instructor training and licensing could be improved.~~ The Committee shall develop and maintain a five-year statewide plan for the coordinated delivery of emergency medical services in Vermont. The plan, which shall be updated at least annually, shall include:

(A) specific goals for the delivery of emergency medical services in this State;

(B) a time frame for achieving the stated goals;

(C) cost data and alternative funding sources for achieving the stated goals; and

(D) performance standards for evaluating the stated goals.

(2) Annually, on or before December 15, the Committee shall deliver to the Commissioner of Health and the General Assembly a report reviewing progress toward achieving the goals in the five-year plan and the goals set by the Committee for the coming year.

(f) In addition to its plan and report set forth in subsection (e) of this section, the Committee shall identify EMS resources and needs in each EMS district and provide that information to the Green Mountain Care Board to inform the Board's periodic revisions to the Health Resource Allocation Plan developed pursuant to subsection 9405(b) of this title.

(g) The Committee shall establish from among its members the EMS Education Council, which may:

(1) sponsor training and education programs required for emergency medical personnel licensure in accordance with the Department of Health's required standards for that training and education; and

(2) provide advice to the Department of Health regarding the standards for emergency medical personnel licensure and any recommendations for changes to those standards.

Sec. 6. EMS ADVISORY COMMITTEE STATEWIDE EMS SYSTEM DESIGN

(a) The EMS Advisory Committee shall collect data necessary to conduct a complete inventory and assessment of the EMS services currently available in Vermont, including:

(1) the number of full-time and part-time personnel currently performing emergency medical services;

(2) the current total spending on emergency medical services in Vermont, with itemized information for each emergency medical service regarding all applicable federal, State, and municipal appropriations and revenue sources; each contract for emergency medical services; and the projected budget for each emergency medical service; and

(3) information regarding all identified gaps in services and overlapping service areas.

(b) The EMS Advisory Committee shall provide recommendations for the design of a statewide EMS system, including recommendations relating to:

(1) EMS district structure and authority, which may include recommendations on the number and configuration of EMS districts and their powers, duties, and scope of authority;

(2) workforce training standards and other staffing best practices that support the retention and well-being of EMS personnel;

(3) a resource allocation plan that ensures emergency medical services are available in all regions of the State;

(4) a process for annually reviewing EMS providers' budgets;

(5) a governance model that provides for effective State and regional oversight, management, and continuous improvement of the EMS system, including identifying staffing and other operational needs to support the oversight and management of the system;

(6) cost estimates for implementing the recommended EMS system in Vermont, including operational and capital costs;

(7) facilitation and coordination of EMS training, including mobile EMS training opportunities; and

(8) any other areas the EMS Advisory Committee deems necessary or appropriate.

(c) The EMS Advisory Committee shall facilitate stakeholder conversations in order to receive information and recommendations about ways to achieve a coordinated, statewide EMS system, including proposals regarding EMS district structure and authority, system costs, and funding options.

(d) Assistance.

(1) The EMS Advisory Committee may hire a project manager and one or more additional consultants with relevant expertise in emergency medical services design and financing to assist the Committee in its work under this section.

(2) The EMS Advisory Committee shall have the administrative, technical, and legal assistance of the Department of Health, and the Department shall contract on the Committee's behalf with the project manager and any other consultants selected by the Committee pursuant to subdivision (1) of this subsection.

(e) Reports.

(1) On or before December 15, 2025, the EMS Advisory Committee shall submit its inventory and assessment to the Commissioner of Health and the General Assembly.

(2) On or before December 15, 2026, the EMS Advisory Committee shall submit its design recommendations to the Commissioner of Health and the General Assembly.

(f) Appropriation. The sum of $370,000.00 is appropriated to the Department of Health from the General Fund in fiscal year 2025 to support the EMS Advisory Committee in accomplishing the work set forth in this section.

Sec. 7. 32 V.S.A. § 8557 is amended to read:

§ 8557. VERMONT FIRE SERVICE TRAINING COUNCIL

(a)(1) Sums for the expenses of the operation of training facilities and curriculum of the Vermont Fire Service Training Council not to exceed ~~$1,200,000.00~~ $1,500,000.00 per year shall be paid to the Fire Safety Special Fund created by 20 V.S.A. § 3157 by insurance companies, writing fire, homeowners multiple peril, allied lines, farm owners multiple peril, commercial multiple peril (fire and allied lines), private passenger and commercial auto, and inland marine policies on property and persons situated within the State of Vermont within 30 days after notice from the

Commissioner of Financial Regulation of such estimated expenses. Captive companies shall be excluded from the effect of this section.

(2) The Commissioner shall annually, on or before July 1, apportion such charges among all such companies and shall assess them for the charges on a fair and reasonable basis as a percentage of their gross direct written premiums on such insurance written during the second prior calendar year on property situated in the State. The Department of Taxes shall collect all assessments under this section.

(3) An amount not less than $100,000.00 shall be specifically allocated to the provision of what are now or formerly referred to as Level I, units I, II, and III (basic) courses for entry-level firefighters.

(4) An amount not less than ~~$150,000.00~~ $450,000.00 shall be specifically allocated to the Emergency Medical Services Special Fund established under 18 V.S.A. § 908 for the provision of training programs for certified Vermont EMS first responders and licensed emergency medical responders, emergency medical technicians, advanced emergency medical technicians, and paramedics.

(5) The Department of Health shall present a plan to the Joint Fiscal Committee that shall review the plan prior to the release of any funds.

(b) All administrative provisions of chapter 151 of this title, including those relating to the collection and enforcement of the income tax by the Commissioner, shall apply to this section.

Sec. 8. MEDICAID EMERGENCY MEDICAL SERVICES;

TREATMENT WITHOUT TRANSPORT; APPROPRIATION

(a) In fiscal year 2025, the sum of $74,000.00 in Global Commitment funds is appropriated to the Department of Vermont Health Access for the increased reimbursement rate for emergency medical service providers set forth in Sec. 3 (33 V.S.A. § 1901m) of this act for delivering emergency medical services to Medicaid beneficiaries who are not transported to a different location during the period of their emergency.

(b) In fiscal year 2025, the sum of $31,206.00 is appropriated from the General Fund to the Agency of Human Services, Global Commitment appropriation for the State match for the increased reimbursement rate set forth in Sec. 3 (33 V.S.A. § 1901m) of this act.

(c) In fiscal year 2025, the sum of $42,794.00 in federal funds is appropriated to the Agency of Human Services, Global Commitment

appropriation for the State match for the increased reimbursement rate set forth in Sec. 3 (33 V.S.A. § 1901m) of this act.

Sec. 9. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 6(f) (EMS Advisory Committee appropriation) and Sec. 8 (Medicaid emergency medical services; treatment without transport; appropriation) shall take effect on July 1, 2024.

(Committee Vote: 12-0-0)

Rep. Sims of Craftsbury, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Government Operations and Military Affairs.

(Committee Vote: 12-0-0)

Rep. Harrison of Chittenden, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Government Operations and Military Affairs.

(Committee Vote: 12-0-0)

H. 655

An act relating to qualifying offenses for sealing criminal history records and access to sealed criminal history records

Rep. Dolan of Essex Junction, for the Committee on Judiciary, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. chapter 230 is amended to read:

CHAPTER 230. EXPUNGEMENT AND SEALING OF CRIMINAL HISTORY RECORDS

§ 7601. DEFINITIONS

As used in this chapter:

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

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

(3) ~~"Predicate offense" means a criminal offense that can be used to enhance a sentence levied for a later conviction and includes operating a vehicle under the influence of alcohol or other substance in violation of~~

~~23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title, and stalking in violation of section 1062 of this title. "Predicate offense" shall not include misdemeanor possession of cannabis, a disorderly conduct offense under section 1026 of this title, or possession of a controlled substance in violation of 18 V.S.A. § 4230(a), 4231(a), 4232(a), 4233(a), 4234(a), 4234a(a), 4234b(a), 4235(b), or 4235a(a).~~ [Repealed.]

(4) "Qualifying crime" means:

~~(A) a misdemeanor offense that is not:~~

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

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

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

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

~~(v) a predicate offense;~~

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

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

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

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

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

~~(G) a violation of 18 V.S.A. § 4230(a) related to possession and cultivation of cannabis;~~

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

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

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

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

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

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

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

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

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

(A) all misdemeanor offenses except:

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

(ii) a violation of chapter 64 of this title relating to sexual exploitation of children;

(iii) a violation of section 1030 of this title relating to a violation of an abuse prevention order, an order against stalking or sexual assault, or a protective order concerning contact with a child;

(iv) a violation of chapter 28 of this title related to abuse, neglect, and exploitation of a vulnerable adult;

(v) a violation of subsection 2605(b) or (c) of this title related to voyeurism;

(vi) a violation of subdivisions 352(1)–(10) of this title related to cruelty to animals;

(vii) a violation of section 5409 of this title related to failure to comply with sex offender registry requirements;

(viii) a violation of section 1455 of this title related to hate motivated crimes;

(ix) a violation of subsection 1304(a) related to cruelty to a child;

(x) a violation of section 1305 related to cruelty by person having custody of another;

(xi) a violation of section 1306 related to mistreatment of persons with impaired cognitive function;

(xii) a violation of section 3151 of this title related to female genital mutilation;

(xiii) a violation of subsection 3252(b) related to sexual exploitation of a minor;

(xiv) a violation of subdivision 4058(b)(1) of this title related to violation of an extreme risk protection order; and

(xv) an offense committed in a motor vehicle as defined in 23 V.S.A. § 4 by a person who is the holder of a commercial driver's license or commercial driver's permit pursuant to 23 V.S.A. chapter 39.

(B) the following felonies:

(i) a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied dwelling, unless the person was 25 years of age or younger at the time of the offense and did not carry a dangerous or deadly weapon during the commission of the offense;

(ii) designated felony property offenses as defined in subdivision (5) of this section;

(iii) offenses relating to possessing, cultivating, selling, dispensing, or transporting regulated drugs, including violations of 18 V.S.A. § 4230(a) and (b), 4231(a) and (b), 4232(a) and (b), 4233(a) and (b), 4233a(a), 4234(a) and (b), 4234a(a) and (b), 4234b(a) and (b), 4235(b) and (c), or 4235a(a) and (b); and

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

(5) "Designated felony property offense" means:

(A) a felony violation of 9 V.S.A. § 4043 related to fraudulent use of a credit card;

(B) section 1801 of this title related to forgery and counterfeiting;

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

(D) section 1804 of this title related to counterfeiting paper money;

(E) section 1816 of this title related to possession or use of credit card skimming devices;

(F) section 2001 of this title related to false personation;

(G) section 2002 of this title related to false pretenses or tokens;

(H) section 2029 of this title related to home improvement fraud;

(I) section 2030 of this title related to identity theft;

(J) section 2501 of this title related to grand larceny;

(K) section 2531 of this title related to embezzlement;

(L) section 2532 of this title related to embezzlement by officers or servants of an incorporated bank;

(M) section 2533 of this title related to embezzlement by a receiver or trustee;

(N) section 2561 of this title related to receiving stolen property;

(O) section 2575 of this title related to retail theft;

(P) section 2582 of this title related to theft of services;

(Q) section 2591 of this title related to theft of rented property;

(R) section 2592 of this title related to failure to return a rented or leased motor vehicle;

(S) section 3016 of this title related to false claims;

(T) section 3701 of this title related to unlawful mischief;

(U) section 3705 of this title related to unlawful trespass;

(V) section 3733 of this title related to mills, dams, or bridges;

(W) section 3761 of this title related to unauthorized removal of human remains;

(X) section 3766 of this title related to grave markers and ornaments;

(Y) chapter 87 of this title related to computer crimes; and

(Z) 18 V.S.A. § 4223 related to fraud or deceit in obtaining a regulated drug.

§ 7602. ~~EXPUNGEMENT AND~~ SEALING OF RECORD,

POSTCONVICTION; PROCEDURE

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

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

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

~~(C) pursuant to the conditions set forth in subsection (g) of this section, the person was convicted of a violation of 23 V.S.A. § 1201(a) or~~

§ 1091 related to operating under the influence of alcohol or other substance, excluding a violation of those sections resulting in serious bodily injury or death to any person other than the operator, or related to operating a school bus with a blood alcohol concentration of 0.02 or more or operating a commercial vehicle with a blood alcohol concentration of 0.04 or more; or

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

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

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

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

(b)(1) The court shall grant the petition and order that the criminal history record be expunged pursuant to section of this title if the following conditions are met:

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

(B) The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted for the qualifying crime.

(C) Any restitution and surcharges ordered by the court have been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

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

~~(2) The court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A), (B), and (C) of this subsection are met and the court finds that:~~

~~(A) sealing the criminal history record better serves the interests of justice than expungement; and~~

~~(B) the person committed the qualifying crime after reaching 19 years of age.~~

~~(c)(1) The court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:~~

~~(A) At least 10 years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction.~~

~~(B) The person has not been convicted of a felony arising out of a new incident or occurrence in the last seven years.~~

~~(C) The person has not been convicted of a misdemeanor during the past five years.~~

~~(D) Any restitution and surcharges ordered by the court for any crime of which the person has been convicted has been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.~~

~~(E) After considering the particular nature of any subsequent offense, the court finds that expungement of the criminal history record for the qualifying crime serves the interests of justice.~~

~~(2) The court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A), (B), (C), and (D) of this subsection are met and the court finds that:~~

~~(A) sealing the criminal history record better serves the interests of justice than expungement; and~~

~~(B) the person committed the qualifying crime after reaching 19 years of age.~~

~~(d) For petitions filed pursuant to subdivision (a)(1)(B) of this section, unless the court finds that expungement would not be in the interests of justice, the court shall grant the petition and order that the criminal history record be~~

~~expunged in accordance with section 7606 of this title if the following conditions are met:~~

~~(1) The petitioner has completed any sentence or supervision for the offense.~~

~~(2) Any restitution and surcharges ordered by the court have been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.~~

~~(e) For petitions filed pursuant to subdivision (a)(1)(B) of this section for a conviction for possession of a regulated drug under 18 V.S.A. chapter 84, subchapter 1 in an amount that is no longer prohibited by law or for which criminal sanctions have been removed:~~

~~(1) The petitioner shall bear the burden of establishing that his or her conviction was based on possessing an amount of regulated drug that is no longer prohibited by law or for which criminal sanctions have been removed.~~

~~(2) There shall be a rebuttable presumption that the amount of the regulated drug specified in the affidavit of probable cause associated with the petitioner's conviction was the amount possessed by the petitioner.~~

~~(f) Prior to granting an expungement or sealing under this section for petitions filed pursuant to subdivision 7601(4)(D) of this title, the court shall make a finding that the conduct underlying the conviction under section 1201 of this title did not constitute a burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title. The petitioner shall bear the burden of establishing this fact.~~

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

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

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

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

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

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

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

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

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

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

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

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

(a) Petition.

(1) A person may file a petition with the court requesting sealing of a criminal history record related to a conviction under the following circumstances:

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

(B) The person was convicted of a qualifying crime or qualifying crimes arising out of the same incident or occurrence.

(2) Whichever office prosecuted the offense resulting in the conviction, the State's Attorney or Attorney General, shall be the respondent in the matter unless the prosecuting office authorizes the other to act as the respondent.

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

(4) This section shall not apply to an individual who is the holder of a commercial driver's license or commercial driver's permit pursuant to 23 V.S.A. chapter 39 seeking to seal a record of a conviction for a misdemeanor or felony offense committed in a motor vehicle as defined in 23 V.S.A. § 4.

(b) Offenses that are no longer prohibited by law.

For petitions filed pursuant to subdivision (a)(1)(A) of this section, the court shall grant the petition and order that the criminal history record be sealed if the following conditions are met:

(1) The petitioner has completed any sentence or supervision for the offense.

(2) Any restitution and surcharges ordered by the court have been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

(c) Qualifying misdemeanors. For petitions filed to seal a qualifying misdemeanor pursuant to subdivision (a)(1)(B) of this section, the court shall grant the petition and order that the criminal history record be sealed if the following conditions are met:

(1) At least three years have elapsed since the date on which the person completed the terms and conditions of the sentence.

(2) Any restitution and surcharges ordered by the court for any crime of which the person has been convicted has been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

(3) The respondent has failed to show that sealing would be contrary to the interest of justice.

(d) Qualifying felony offenses. For petitions filed to seal a qualifying felony pursuant to subdivision (a)(1)(B) of this section, the court shall grant the petition and order that the criminal history record be sealed if the following conditions are met:

(1) At least seven years have elapsed since the date on which the person completed the terms and conditions of the sentence.

(2) Any restitution and surcharges ordered by the court for any crime of which the person has been convicted has been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

(3) The respondent has failed to show that sealing would be contrary to the interest of justice.

(e) Qualifying DUI misdemeanor. For petitions filed to seal a qualifying DUI misdemeanor pursuant to subdivision (a)(1)(B) of this section, the court shall grant the petition and order that the criminal history record be sealed if the following conditions are met:

(1) At least 10 years have elapsed since the date on which the person completed the terms and conditions of the sentence.

(2) Any restitution and surcharges ordered by the court for any crime of which the person has been convicted has been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

(3) The person is not the holder of a commercial driver's license or commercial driver's permit pursuant to 23 V.S.A. chapter 39.

(4) The respondent has failed to show that sealing would be contrary to the interest of justice.

(f) Sealing a criminal history record related to a fish and wildlife offense shall not void any fish and wildlife license suspension or revocation imposed pursuant to the accumulation of points related to the sealed offense. Points accumulated by a person shall remain on the person's license and, if applicable, completion of the remedial course shall be required, as set forth in title 10 V.S.A. § 4502.

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

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

(1) within 60 days after the final disposition of the case if:

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

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

(C) the defendant is acquitted of the charges; or

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

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

(c), (d) [Repealed.]

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

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

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

~~(B) the charge is dismissed with prejudice;~~

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

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

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

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

§ 7604. NEW CHARGE

If a person ~~is charged with a criminal offense after he or she has filed a petition for expungement pursuant to this chapter~~ has a criminal charge

pending at the time the petition for expungement is before the court, the court shall not act on the petition until disposition of the new charge.

§ 7605. DENIAL OF PETITION

If a petition for expungement or sealing is denied by the court pursuant to this chapter, no further petition shall be brought for at least two years, unless a shorter duration is authorized by the court.

§ 7606. EFFECT OF EXPUNGEMENT

(a) Order and notice. Upon finding that the requirements for expungement have been met, the court shall issue an order that shall include provisions that its effect is to annul the record of the arrest, conviction, and sentence and that such person shall be treated in all respects as if the person had never been arrested, convicted, or sentenced for the offense. The court shall provide notice of the expungement to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, the Restitution Unit of the Vermont Center for Crime Victim Services, and any other entity that may have a record related to the order to expunge. The VCIC shall provide notice of the expungement to the Federal Bureau of Investigation's National Crime Information Center.

(b) Effect.

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

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

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

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

(c) Process.

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

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

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

(d) Special index.

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

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

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

(4) ~~[Repealed].~~ [Repealed.]

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

§ 7607. EFFECT OF SEALING

(a) Order and notice. Upon entry of an order to seal, the ~~order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if the person had never been arrested, convicted, or sentenced for the offense and that its effect is to annul the record of arrest, conviction, and sentence. The~~ court shall ~~provide notice of the sealing to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, the Restitution Unit of the Vermont Center for Crime Victim Services, and any other entity that may have a record related to the order to seal~~ send a copy of any order sealing a criminal history record to all of the parties and attorneys representing the parties, including to the prosecuting agency that prosecuted the offense, the Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record subject to the sealing order. VCIC shall provide notice of the sealing order to the Federal Bureau of Investigation's National Crime Information Center. ~~The VCIC shall provide notice of the sealing to the Federal Bureau of Investigation's National Crime Information Center.~~

(b) Effect.

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

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

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

(4) Nothing in this section shall affect any right of the person whose record has been sealed to rely on it as a bar to any subsequent proceeding for the same offense.

(c) Exceptions. A party seeking to use a sealed criminal history record in a court proceeding shall, prior to any use of the record in open court or in a public filing, notify the court of the party's intent to do so. The court shall thereafter determine whether the record may be used prior its disclosure in the proceeding. This shall not apply to the use of a sealed record pursuant to subdivision (2), (3), (4), or (7) of this subsection. Use of a sealed document pursuant to an exception shall not change the effect of sealing under subsection (b) of this section. Notwithstanding any other provision of law or a sealing order, entities may access and use sealed records for a period of 10 years only in the following circumstances, and the sealed record shall remain otherwise confidential:

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

(2) A criminal justice agency as defined in 20 V.S.A. § 2056a and the Attorney General may use the criminal history record sealed in accordance with section 7602 or 7603 of this title ~~without limitation~~ for criminal justice purposes as defined in 20 V.S.A. § 2056a.

(3) A sealed record of a prior violation of 23 V.S.A. § 1201(a) shall be admissible as a predicate offense for the purpose of imposing an enhanced penalty for a subsequent violation of that section, in accordance with the provisions of 23 V.S.A. § 1210.

(4) A person or a court in possession of an order issued by a court regarding a matter that was subsequently sealed may file or cite to that

decision in any subsequent proceeding. The party or court filing or citing to that decision shall ensure that information regarding the identity of the defendant in the sealed record is redacted.

(5) The Vermont Crime Information Center and Criminal Justice Information Services Division of the Federal Bureau of Investigations shall have access to sealed criminal history records without limitation for the purpose of responding to queries to the National Instant Criminal Background Check System regarding firearms transfers and attempted transfers.

(6) The State's Attorney and Attorney General may disclose information contained in a sealed criminal history record when required to meet their otherwise legally required discovery obligations.

(7) The person whose criminal history records have been sealed pursuant to this chapter and the person's attorney may access and use the sealed records in perpetuity and shall not be subject to the 10-year limitation.

(8) A law enforcement agency may inspect and receive copies of the sealed criminal history records of any applicant who applies to the agency to be a law enforcement officer or a current employee for the purpose of internal investigation.

(9) Persons or entities conducting research shall have access to a sealed criminal history record to carry out research pursuant to 20 V.S.A. § 2056b in perpetuity and shall not be subject to the 10-year limitation.

(10) Upon adopting rules outlining a process for handling sealed records and maintaining confidentiality and the standards for determining when information contained in a sealed record may be used for the purpose of licensing decisions, the Vermont Criminal Justice Council may inspect and receive copies of sealed criminal history records. Access to such records shall not be permitted if the Legislative Committee on Administrative Rules objects to some or all of the rules pursuant to 3 V.S.A. § 842(b) and files the objection or objections in certified form pursuant to 3 V.S.A. § 842(c). Sealed records shall remain confidential and not be available for inspection and copying unless and until the Council relies on such records in a public licensing decision.

(11) Upon adopting rules outlining a process for handling sealed records and maintaining confidentiality and the standards for determining when information contained in a sealed record may be used for the purpose of licensing decisions, the Vermont Office of Professional Regulation may inspect and receive copies of sealed criminal history records. Access to such records shall not be permitted if the Legislative Committee on Administrative Rules

objects to some or all of the rules pursuant to 3 V.S.A. § 842(b) and files the objection or objections in certified form pursuant to 3 V.S.A. § 842(c). Sealed records shall remain confidential and not be available for inspection and copying unless and until the Office relies on such records in a public licensing decision.

(12) Upon adopting rules outlining a process for handling sealed records and maintaining confidentiality and the standards for determining when information contained in a sealed record may be used for the purpose of licensing decisions, the Vermont Board of Medical Practice may inspect and receive copies of sealed criminal history records. Access to such records shall not be permitted if the Legislative Committee on Administrative Rules objects to some or all of the rules pursuant to 3 V.S.A. § 842(b) and files the objection or objections in certified form pursuant to 3 V.S.A. § 842(c). Sealed records shall remain confidential and not be available for inspection and copying unless and until the Board relies on such records in a public licensing decision.

(d) Process.

(1) The court shall bar viewing of the sealed offense in any accessible database that it maintains.

(2) Until all charges on a docket have been sealed, the case file shall remain publicly accessible.

(3) When all charges on a docket have been sealed, the case file shall become exempt from public access.

(4) When a sealing order is issued by the court, any person or entity, except the court, that possesses criminal history records shall:

(A) bar viewing of the sealed offense in any accessible database that it maintains or remove information pertaining to the sealed records from any publicly accessible database that the person or entity maintains; and

(B) clearly label the criminal history record as "SEALED" to ensure compliance with this section.

(e) Special index.

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

(2) The special index and related documents specified in subdivision (1) of this subsection shall be confidential and shall be physically and

electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

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

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

(f) Victims Compensation Program. Upon request, the ~~Victim's~~ Victims Compensation Program shall be provided with a copy, redacted of all information identifying the offender, of the affidavit for the sole purpose of verifying the expenses in a victim's compensation application submitted pursuant to section 5353 of this title.

(g) Restitution. The sealing of a criminal record shall not affect the authority of the Restitution Unit to enforce a restitution order in the same manner as a civil judgment pursuant to subdivision 5362(c)(2) of this title.

§ 7608. VICTIMS

(a) At the time a petition is filed pursuant to this chapter, the respondent shall give notice of the petition to any victim of the offense who is known to the respondent. The victim shall have the right to offer the respondent a statement prior to any stipulation or to offer the court a statement. The disposition of the petition shall not be unnecessarily delayed pending receipt of a victim's statement. The respondent's inability to locate a victim after a reasonable effort has been made shall not be a bar to granting a petition.

(b) As used in this section, "reasonable effort" means attempting to contact the victim by first-class mail at the victim's last known address, ~~and~~ by telephone at the victim's last known phone number, and by e-mail at the victim's last known e-mail address.

§ 7609. EXPUNGEMENT OF CRIMINAL HISTORY RECORDS OF AN INDIVIDUAL 18–21 YEARS OF AGE

(a) Procedure. Except as provided in subsection (b) of this section, the record of the criminal proceedings for an individual who was 18–21 years of age at the time the individual committed a qualifying crime shall be expunged within 30 days after the date on which the individual successfully completed the terms and conditions of the sentence for the conviction of the qualifying crime, absent a finding of good cause by the court. The court shall issue an

order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. A copy of the order shall be sent to each agency, department, or official named in the order. Thereafter, the court, law enforcement officers, agencies, and departments shall reply to any request for information that no record exists with respect to such individual. Notwithstanding this subsection, the record shall not be expunged until restitution and surcharges have been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

(b) Exceptions.

(1) A criminal record that includes both qualifying and nonqualifying offenses shall not be eligible for expungement pursuant to this section.

(2) The Vermont Crime Information Center shall retain a special index of sentences for sex offenses that require registration pursuant to chapter 167, subchapter 3 of this title. This index shall only list the name and date of birth of the subject of the expunged files and records, the offense for which the subject was convicted, and the docket number of the proceeding that was the subject of the expungement. The special index shall be confidential and shall be accessed only by the Director of the Vermont Crime Information Center and an individual designated for the purpose of providing information to the Department of Corrections in the preparation of a presentence investigation in accordance with 28 V.S.A. §§ 204 and 204a.

(c) Petitions. An individual who was 18–21 years of age at the time the individual committed a qualifying crime may file a petition with the court requesting expungement of the criminal history record related to the qualifying crime after 30 days have elapsed since the individual completed the terms and conditions for the sentence for the qualifying crime. The court shall grant the petition and issue an order sealing or expunging the record if it finds that sealing or expunging the record serves the interests of justice.

§ 7610. CRIMINAL HISTORY RECORD SEALING SPECIAL FUND

There is established the Criminal History Record Sealing Special Fund, which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5. Fees collected pursuant to 32 V.S.A. § 1431(e) for the filing of a petition to seal a criminal history record of a violation of 23 V.S.A. § 1201(a) shall be deposited into and credited to this Fund. This Fund shall be available to the

Office of the Court Administrator, the Department of State's Attorneys and Sheriffs, the Department of Motor Vehicles, and the Vermont Crime

Information Center to offset the administrative costs of sealing such records. Balances in the Fund at the end of the fiscal year shall be carried forward and remain in the Fund.

§ 7611. UNAUTHORIZED DISCLOSURE

A State or municipal employee or contractor or any agent of the court, including an attorney and an employee or contractor of the attorney, who knowingly accesses or discloses sealed criminal history record information without authorization shall be assessed a civil penalty of not more than $1,000.00. Each unauthorized disclosure shall constitute a separate civil violation.

Sec. 2. 13 V.S.A. § 7041 is amended to read:

§ 7041. DEFERRED SENTENCE

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

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

(1) [Repealed.]

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

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

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

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

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

(c) Notwithstanding subsections (a) and (b) of this section, the court may not defer a sentence for a violation of section 3253a (aggravated sexual assault of a child), section 2602 (lewd and lascivious conduct with a child unless the

victim and the defendant were within five years of age and the act was consensual), 3252(c) (sexual assault of a child under 16 unless the victim and the defendant were within five years of age and the act was consensual), 3252(d) or (e) (sexual assault of a child), 3253(a)(8) (aggravated sexual assault), or 3253a (aggravated sexual assault of a child) of this title.

(d) Entry of deferment of sentence shall constitute an appealable judgment for purposes of appeal in accordance with 12 V.S.A. § 2383 and V.R.A.P. Rule 3. Except as otherwise provided, entry of deferment of sentence shall constitute imposition of sentence solely for the purpose of sentence review in accordance with section 7042 of this title. The court may impose sentence at any time if the respondent violates the conditions of the deferred sentence during the period of deferment.

(e) Upon violation of the terms of probation or of the deferred sentence agreement, the court shall impose sentence. Upon fulfillment of the terms of probation and of the deferred sentence agreement, the court shall strike the adjudication of guilt and discharge the respondent. Except as provided in subsection (h) of this section, the record of the criminal proceedings shall be ~~expunged~~ sealed upon the discharge of the respondent from probation, absent a finding of good cause by the court. The court shall issue an order to ~~expunge~~ seal all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the deferred sentence. Copies of the order shall be sent to each agency, department, or official named therein. Thereafter, the court, law enforcement officers, agencies, and departments shall reply to any request for information that no record exists with respect to such person upon inquiry in the matter. Notwithstanding this subsection, the record shall not be ~~expunged~~ sealed until restitution has been paid in full.

(f) A deferred sentence imposed under subsection (a) or (b) of this section may include a restitution order issued pursuant to section 7043 of this title. Nonpayment of restitution shall not constitute grounds for imposition of the underlying sentence.

(g) [Repealed.]

(h) The Vermont Crime Information Center shall retain a special index of deferred sentences for sex offenses that require registration pursuant to subchapter 3 of chapter 167 of this title. This index shall only list the name and date of birth of the subject of the ~~expunged~~ sealed files and records, the offense for which the subject was convicted, and the docket number of the proceeding that was the subject of the ~~expungement~~ sealing. The special index shall be confidential and may be accessed only by the director of the Vermont

Crime Information Center and a designated clerical staffperson for the purpose of providing information to the Department of Corrections in the preparation of a presentence investigation in accordance with 28 V.S.A. §§ 204 and 204a.

Sec. 3. 24 V.S.A. § 2002 is added to read:

§ 2002. EXPUNGEMENT OF MUNICIPAL VIOLATION RECORDS

(a) Expungement. Two years following the satisfaction of a judgment resulting from an adjudication of a municipal violation, the Judicial Bureau shall make an entry of "expunged" and notify the municipality of such action, provided the person has not been adjudicated for any subsequent municipal violations during that time. The data transfer to the municipality shall include the name, date of birth, ticket number, and offense. Violations of offenses adopted pursuant to chapter 117 of this title shall not be eligible for expungement under this section.

(b) Effect of expungement.

(1) Upon entry of an expungement order, the order shall be legally effective immediately and the individual whose record is expunged shall be treated in all respects as if the individual had never been adjudicated of the violation.

(2) Upon an entry of expunged, the case will be accessible only by the Clerk of the Court for the Judicial Bureau or the Clerk's designee. Adjudications that have been expunged shall not appear in the results of any Judicial Bureau database search by name, date of birth, or any other data identifying the defendant. Except as provided in subsection (c) of this section, any documents or other records related to an expunged adjudication that are maintained outside the Judicial Bureau's case management system shall be destroyed.

(3) Upon receiving an inquiry from any person regarding an expunged record, the Judicial Bureau and the municipality shall respond that "NO RECORD EXISTS."

(c) Exception for research entities. Research entities that maintain adjudication records for purposes of collecting, analyzing, and disseminating criminal justice data shall not be subject to the expungement requirements established in this section. Research entities shall abide by the policies established by the Court Administrator and shall not disclose any identifying information from the records they maintain.

(d) Policies for implementation. The Court Administrator shall establish policies for implementing this section.

(e) Application. This section shall apply to municipal violations that occur on and after July 1, 2024.

Sec. 4. 23 V.S.A. § 2303 is amended to read:

§ 2303. EXPUNGEMENT OF VIOLATION RECORDS

* * *

(e) Application. This section shall apply to motor vehicle violations that occur on and after July 1, 2021.

Sec. 5. PETITIONLESS SEALING

On or before December 2, 2024, the Chief Superior Judge, in consultation with the Attorney General, the Department of State's Attorneys and Sheriffs, the Office of the Defender General, and the Department of Corrections, shall submit to the House and Senate Committees on Judiciary a recommendation to establish a mechanism for petitionless sealing and any resources required for the recommendation to be implemented.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee Vote: 9-1-1)

Rep. Squirrell of Underhill, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Judiciary.

(Committee Vote: 12-0-0)

H. 702

An act relating to legislative operations and government accountability

Rep. Boyden of Cambridge, for the Committee on Government Operations and Military Affairs, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Purpose and Findings * * *

Sec. 1. PURPOSE

(a) The purpose of this act is to actuate the principle of government accountability by focusing on how evidence is used to inform policy, how our State laws are carried out, and how legislation can best be formed to achieve its intended outcomes. This act strives to systematize government accountability efforts as much as possible with simple, clear, independent,

objective, and fact-based processes rather than rely upon individual legislators or individual committees to be effective.

(b) Government accountability means the principle of demanding that legislation succeeds in achieving its stated policy goals through the provision of means by which to measure whether the policy goals have been met. The metrics for determining whether success has been achieved are as important as the goals themselves.

(c) Government oversight means the mechanisms put into place to ensure that the bodies of government tasked with executing legislative intent are properly doing so. Oversight by the Legislature is the examination of the processes followed and the information produced by government officials executing the law to determine whether those officials are properly and adequately achieving the policy goals established by the General Assembly.

* * * Creation of the Joint Government Oversight and Accountability Committee * * *

Sec. 2. 2 V.S.A. chapter 28 is added to read:

CHAPTER 28. JOINT GOVERNMENT OVERSIGHT AND ACCOUNTABILITY COMMITTEE

§ 971. CREATION OF COMMITTEE

(a) There is created the Joint Government Oversight and Accountability Committee, whose membership shall be appointed each biennial session of the General Assembly. The Committee shall work independently and with other legislative committees to assist with matters related to issues of significant public concern.

(b) The Committee shall be composed of eight members: four members of the House of Representatives, not more than two shall be from the same party, appointed by the Speaker of the House; and four members of the Senate, not more than two shall be from the same party, appointed by the Committee on Committees. In addition to two members-at-large appointed from each chamber, one appointment shall be made from each of the House Committee on Government Operations and Military Affairs, the Senate Committee on Government Operations, and the House and Senate Committees on Appropriations.

(c) The Committee shall elect a chair, vice chair, and clerk from among its members and shall adopt rules of procedure. The position of chair shall rotate biennially between the House and the Senate members. The Committee shall keep minutes of its meetings and maintain a file thereof. A quorum shall consist of five members.

(d) The Committee shall meet as necessary for the prompt discharge of its duties but shall meet at least every other week.

(e) For attendance at a meeting when the General Assembly is not in session, members of the Committee shall be entitled to compensation for services and reimbursement of expenses as provided under subsection 23(a) of this title.

(f) The professional and clerical services of the Joint Fiscal Office, the Office of Legislative Operations, and the Office of Legislative Counsel shall be available to the Committee.

§ 972. DUTIES AND POWERS

(a) Duties. The Committee shall have duties as described in this section and elsewhere in law.

(1)(A) The Committee shall exercise government oversight by examining and investigating matters of significant public concern relating to State government performance. The Committee shall examine the possible reasons for any failure of government oversight and provide findings and tangible recommendations to standing committees of jurisdiction to prevent future failures.

(B) The Committee will select issues of significant public concern to examine and investigate by a majority of the current Committee members who have not recused themselves from the matter.

(C) As used in this section, an "issue of significant public concern" means any issue that:

(i) affects the State as a whole;

(ii) affects a vulnerable population;

(iii) costs the State more than $100,000,000.00;

(iv) implicates a serious failure of State government oversight or accountability;

(v) arises from previously enacted legislation; or

(vi) constitutes a failure to adequately respond to State or federal audits.

(2) The Committee shall, with coordination from the Legislative Committee on Administrative Rules, evaluate executive entities directed to adopt rules to ensure consistency and accountability in the rulemaking process.

(3) The Committee shall review performance notes issued pursuant to section 523 of this title and monitor performance measures for legislation requiring any performance note.

(4) The Committee shall, on an annual basis, issue a report that includes:

(A) which issues of significant public concern the Committee has examined and investigated, including relevant information and data;

(B) the Committee's current objectives for review of issues of significant public concern and which objectives, to date, have and have not been met;

(C) the Committee's objectives for review of issues of significant public concern for the upcoming two years; and

(D) any additional resources required by the Committee to adequately conduct its work.

(b) Powers. The Committee shall have powers as described in this section and elsewhere in law.

(1) Subpoenas and oaths. The Committee shall have the power to issue subpoenas and administer oaths in connection with the examination and investigation of matters of government oversight and accountability related to issues of significant public concern. The Commission may take or cause depositions to be taken as needed in any investigation or hearing.

(2) Direction of Joint Fiscal Office Division of Performance Accountability. The Committee may use the staff and services of the Division of Performance Accountability for carrying out the purposes of this chapter.

* * * Reports * * *

Sec. 3. 2 V.S.A. § 20 is amended to read:

§ 20. LIMITATION ON DISTRIBUTION AND DURATION OF AGENCY REPORTS

(a) Unless otherwise provided by law, whenever it is required by statute, rule, or otherwise that an agency, department, or other entity submit an annual, biennial, or other periodic report to the General Assembly, that requirement shall be met by submission by ~~January~~ November 15 of copies of the report for activities in the preceding fiscal year to the Clerk of the House, the Secretary of the Senate, the Office of Legislative ~~Counsel~~ Operations, chairs of legislative standing committees of jurisdiction, and such individual members of the General Assembly or committees that specifically request a copy of the

report. ~~To the extent practicable, reports~~ Reports shall also be ~~placed~~ published on the agency's ~~Internet~~ website. No general distribution or mailing of such reports shall be made to members of the General Assembly.

* * *

(e) If it becomes apparent to any agency, department, or other entity directed by the General Assembly to report on a matter that the agency, department, or entity will be unable to do so within the required time, the reporting agency, department, or entity shall inform, if applicable, the relevant legislative committee's current chair, the committee assistant, and the Office of Legislative Operations of which report will be late, why, and when it will be delivered.

Sec. 4. MANAGEMENT OF REPORTS AND DATA; APPROPRIATION

(a) The Office of Legislative Operations, in coordination with the Office of Legislative Counsel and Legislative Office of Information Technology, shall review the systems involved in publishing the current publicly available legislative reports database to ensure that legislatively mandated reports are being efficiently tracked, submitted, and published in an accessible manner.

(b) The sum of $100,000.00 is appropriated from the General Fund to the Legislative Office of Information Technology in fiscal year 2025 for the purpose of upgrading the General Assembly's report management system.

(c) On or before January 31, 2025, the directors of the Office of Legislative Operations, the Office of Legislative Counsel, and the Legislative Office of Information Technology, or their designees, will together report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations on the status of the publicly available legislative reports database and with any recommendations for legislative action.

* * * Joint Fiscal Office * * *

Sec. 5. 2 V.S.A. § 527 is added to read:

§ 527. DIVISION OF PERFORMANCE ACCOUNTABILITY

(a) There is hereby created within Joint Fiscal Office a division to be known as the Division of Performance Accountability.

(b) The Division shall provide nonpartisan services as described in this section and elsewhere in law.

(c) At the direction of the Joint Government Oversight and Accountability Committee, and with the approval of the Speaker of the House and the

President Pro Tempore of the Senate, the Division shall produce performance notes regarding certain proposed or enacted legislation for the use of the Committee. Performance notes shall include information regarding legislative intent, policy goals, metrics to measure results and evaluate whether the goals are being accomplished, and estimates of any savings, return on investment, or quantifiable benefit resulting from the adoption of the legislation.

Sec. 6. CREATION OF POSITION IN DIVISION OF PERFORMANCE ACCOUNTABILITY; APPROPRIATION

(a) One new, permanent, full-time, exempt position is created in the Joint Fiscal Office's Division of Performance Accountability.

(b) The sum of $160,000.00 is appropriated from the General Fund to the Joint Fiscal Office in fiscal year 2025 for the purpose of creating a position in the Division of Performance Accountability.

* * * Effective Date * * *

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-1-0)

Rep. Bluemle of Burlington, for the Committee on Appropriations, recommends that the report of the Committee on Government Operations and Military Affairs be amended as follows:

First: In Sec. 4, management of reports and data; appropriation, by striking out subsection (b) in its entirety and by relettering the remaining subsection to be alphabetically correct

Second: In Sec. 6, creation of position in Division of Performance Accountability; appropriation, in subsection (b), before "sum of $160,000.00" by striking out "The" and inserting in lieu thereof "To the extent funds are available, the", and after "for the purpose of creating a," adding "new, permanent, full-time, exempt"

Third: In Sec. 6, creation of position in Division of Performance Accountability; appropriation, by striking out subsection (a) in its entirety and by relettering the remaining subsection to be alphabetically correct

(Committee Vote: 9-3-0)

H. 707

An act relating to revising the delivery and governance of the Vermont workforce system

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

Sec. 1. 10 V.S.A. chapter 22A is amended to read:

CHAPTER 22A. WORKFORCE EDUCATION AND TRAINING

* * *

§ 541. OFFICE OF WORKFORCE EXPANSION AND DEVELOPMENT

(a) There is created within the Executive Branch the Office of Workforce Expansion and Development.

(b) The Office of Workforce Expansion and Development shall have the administrative, legal, and technical support of the Department of Labor.

(c) There shall be at least two full-time staff to accomplish the duties of the Office. One of these staff positions shall be the Executive Director of the Office of Workforce Expansion and Development, who shall be an exempt employee and who shall report to and be under the general supervision of the Governor. Another position shall be a staff member, who shall be a classified employee, who shall support the work of the Executive Director, and who shall report to and be under the general supervision of the Executive Director.

(d) The Executive Director of the Office of Workforce Expansion and Development shall:

(1) coordinate the efforts of workforce development in the State;

(2) oversee the affairs of the State Workforce Development Board;

(3) work with State agencies and private partners to:

(A) develop strategies for comprehensive and integrated workforce education and training;

(B) manage the collection of outcome information; and

(C) align workforce efforts with other State strategies; and

(4) perform other workforce development duties as directed by the Governor.

(e) The Executive Committee of the State Workforce Development Board shall, in consultation with the Department of Human Resources, suggest a set

of recommended qualifications to the Governor for consideration for the position of Executive Director of the Office of Workforce Expansion and Development.

(f) The Governor shall appoint the Executive Director with the advice and consent of the Senate, and the Executive Committee of the State Workforce Development Board may provide a list to the Governor of recommended candidates for Executive Director.

§ 541a. STATE WORKFORCE DEVELOPMENT BOARD; EXECUTIVE COMMITTEE

(a) Board established; duties. Pursuant to the requirements of 29 U.S.C. § 3111, the Governor shall establish the State Workforce Development Board to assist the Governor in the execution of his or her duties under the Workforce Innovation and Opportunity Act of 2014 and to assist the Commissioner of Labor as specified in section 540 of this title.

* * *

(c) Membership. The Board shall consist of the Governor and the following members who are appointed by the Governor and serve at the Governor's pleasure unless otherwise indicated, in conformance with the federal Workforce Innovation and Opportunity Act ~~and who serve at his or her pleasure, unless otherwise indicated~~ (WIOA), and who shall be selected from diverse backgrounds to represent the interests of ethnic and diverse communities and represent diverse regions of the State, including urban, rural, and suburban areas:

(1) ~~the Commissioner of Labor;~~

~~(2) two members~~ one member of the Vermont House of Representatives, who shall serve for the duration of the biennium, appointed by the Speaker of the House;

~~(3)~~(2) ~~two members~~ one member of the Vermont Senate, who shall serve for the duration of the biennium, appointed by the Senate Committee on Committees;

~~(4) the President of the University of Vermont;~~

~~(5) the Chancellor of the Vermont State Colleges;~~

~~(6) the President of the Vermont Student Assistance Corporation;~~

~~(7) a representative of an independent Vermont college or university;~~

~~(8) a director of a regional technical center;~~

~~(9) a principal of a Vermont high school;~~

~~(10) two representatives of labor organizations who have been nominated by a State labor federation;~~

~~(11)~~(3) ~~two~~ four members who are core program representatives ~~of individuals and organizations who have experience with respect to youth activities, as defined in 29 U.S.C. § 3102(71)~~, as follows:

(A) the Commissioner of Labor, or designee, for the Adult, Dislocated Worker, and Youth program and Wagner-Peyser;

(B) the Secretary of Education, or designee, for the Adult Education and Family Literacy Act program;

(C) the Secretary of Human Services, or designee, for the Vocational Rehabilitation program; and

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

~~(12)~~(4) ~~two~~ six workforce representatives ~~of individuals and organizations who have experience in the delivery of workforce investment activities, as defined in 29 U.S.C. § 3102(68)~~, as follows:

(A) two representatives from labor organizations operating in this State who are nominated by a State labor federation;

(B) one representative from a State-registered apprenticeship program; and

(C) three representatives of organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of individuals with barriers to employment, which may include:

(i) organizations that serve veterans;

(ii) organizations that provide or support competitive, integrated employment for individuals with disabilities;

(iii) organizations that support the training or education needs of eligible youth as described in 20 CFR § 681.200, including representatives of organizations that serve out-of-school youth as described in 20 CFR § 681.210; and

(iv) organizations that connect volunteers in national or State service programs to the workforce;

~~(13) the lead State agency officials with responsibility for the programs and activities carried out by one-stop partners, as described in 29 U.S.C. §~~

~~3151(b), or if no official has that responsibility, representatives in the State with responsibility relating to these programs and activities;~~

~~(14) the Commissioner of Economic Development;~~

~~(15) the Secretary of Commerce and Community Development;~~

~~(16) the Secretary of Human Services;~~

~~(17) the Secretary of Education;~~

~~(18) two individuals who have experience in, and can speak for, the training needs of underemployed and unemployed Vermonters; and~~

(5) two elected local government officials who represent a city or town within different regions of the State; and

~~(19)~~(6) ~~a number of appointees sufficient to constitute a majority of the Board~~ 13 business representatives who:

(A) are owners, chief executives, or operating officers of businesses, ~~and~~ including nonprofits, or other business executives ~~or employers~~ with optimum policymaking or hiring authority, with at least one member representing a small business as defined by the U.S. Small Business Administration;

(B) represent businesses with employment opportunities that reflect in-demand sectors and employment opportunities in the State; and

(C) are appointed from among individuals nominated by State business organizations and business trade associations.

(d) Operation of Board.

(1) Executive Committee.

(A) Creation. There is created an Executive Committee that shall manage the affairs of the Board.

(B) Members. The members of the Executive Committee shall comprise the following:

(i) the Chair of the Board;

(ii) the Commissioner of Labor or designee;

(iii) the Secretary of Education or designee;

(iv) the Secretary of Human Services or designee;

(v) the Secretary Commerce and Community Development or designee;

(vi) two business representatives, appointed by the Chair of the Board, who serve on the Board; and

(vii) two workforce representatives, appointed by the Chair of the Board, who serve on the Board.

(C) Meetings. The Chair of the Board shall chair the Executive Committee. The Executive Committee shall meet at least once monthly and shall hold additional meetings upon call of the Chair.

(D) Duties. The Executive Committee shall have the following duties and responsibilities:

(i) recommend to the Board changes to the Board's rules or bylaws;

(ii) establish one or more subcommittees as it determines necessary and appropriate to perform its work; and

(iii) other duties as provided in the Board's bylaws.

(2) Member representation and vacancies.

(A) A member of the State Board may send a designee ~~that~~ who meets the requirements of subdivision (B) of this subdivision ~~(1)~~(2) to any State Board meeting, who shall count toward a quorum, and who shall be allowed to vote on behalf of the Board member for whom ~~he or she~~ the individual serves as a designee.

(B) Members of the State Board or their designees who represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority or relevant subject matter expertise within the organizations, agencies, or entities.

(C) ~~The members of the Board shall represent diverse regions of the State, including urban, rural, and suburban areas~~ The Chair of the Board shall provide notice within 30 days after a vacancy on the Board to the relevant appointing authority, which shall appoint a replacement within 90 days after receiving notice.

~~(2)~~(3) Chair. The Governor shall select a chair for the Board from among the business representatives appointed pursuant to subdivision (c)~~(18)~~(6) of this section.

~~(3)~~(4) Meetings. The Board shall meet at least three times annually and shall hold additional meetings upon call of the Chair.

~~(4)~~(5) Committees; work groups; ad hoc committees. The Chair, in consultation with the Commissioner of Labor, may:

(A) assign one or more members or their designees to standing committees, ad hoc committees, or work groups to carry out the work of the Board; and

(B) appoint one or more nonmembers of the Board to a standing committee, ad hoc committee, or work group and determine whether the individual serves as an advisory or voting member, provided that the number of voting nonmembers on a standing committee shall not exceed the number of Board members or their designees.

* * *

§ 541b. WORKFORCE EDUCATION AND TRAINING; DUTIES OF OTHER STATE AGENCIES, DEPARTMENTS, AND PRIVATE PARTNERS

(a) To ensure the State Workforce Development Board, ~~and~~ the Commissioner of Labor, and the Executive Director of the Office of Workforce Expansion and Development are able to fully perform their duties under this chapter, each agency and department within State government, and each person who receives funding from the State, shall comply within a reasonable period of time with a request for data and information made by the Board, ~~or~~ the Commissioner, or the Executive Director in furtherance of their duties under this chapter.

(b) The Agency of Commerce and Community Development shall coordinate its work in adopting a statewide economic development plan with the activities of the Board, ~~and~~ the Commissioner of Labor, and the Executive Director.

Sec. 2. 2022 Acts and Resolves No. 183, Sec. 5a is amended to read:

Sec. 5a. REGIONAL WORKFORCE EXPANSION SYSTEM

* * *

(c) System infrastructure. The Department shall make investments that improve and expand regional capacity to strengthen networks who assist jobseekers, workers, and employers in connecting.

(1) The Department is authorized to create up to four classified, ~~two-year~~ limited-service positions, with funding allocated to perform the work described in this section, who shall report to the Workforce Development Division and of whom:

* * *

(e) Interim report. On or before ~~January 15, 2023~~ July 15, 2025, the Department shall provide a narrative update on the progress made in hiring staff, establishing interagency agreements, developing regional information exchange systems, and supporting State-level work to expand the labor force to the House and Senate committees of jurisdiction.

(f) Implementation. The Department of Labor shall begin implementing the Regional Workforce Expansion System on or before ~~July 1, 2022~~ September 1, 2024.

Sec. 3. TASK FORCE TO STUDY DATA MANAGEMENT MODELS

On or before December 15, 2025, the Executive Director of the Office of Workforce Development, in consultation with the Executive Committee of the State Workforce Development Board and the Agency of Digital Services, shall issue a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs regarding the development of a data trust as outlined in model three of the final report of the State Oversight Committee on Workforce Expansion and Development pursuant to 2022 Acts and Resolves No. 183, Sec. 5. The report shall include:

(1) a recommendation on audience, partners, use cases, outcomes, and data required for future workforce, education, and training programs;

(2) a detailed review of the current availability of public and private workforce development and training data, education data, and demographic data, including the integration of data between the State's workforce development and training programs and private programs funded through State funding dollars;

(3) a summary of the progress made in the development of data-sharing relationships with the stewards of identified data sets;

(4) draft legislative language for the creation of a data tool;

(5) the amount of funding necessary to establish and maintain the use of a data tool; and

(6) a summary of other efforts across State government and through the Agency of Digital Services regarding the development of data trusts, along with best practices identified through those efforts.

Sec. 4. WORKFORCE EDUCATION AND TRAINING LEADERSHIP WORKING GROUP

(a) Creation. There is created a working group to review and propose changes to the leadership and duties set forth in 10 V.S.A. § 540.

(b) Membership. The working group shall be composed of the following:

(1) the Executive Committee of the State Workforce Development Board; and

(2) the Executive Director of the Office Workforce Expansion and Development.

(c) Meetings.

(1) Chair. The Chair of the State Workforce Development Board shall initially chair the working group and shall call the first meeting of the working group to occur on or before October 1, 2024. The Executive Director of the Office of Workforce Expansion and Development shall, upon hire, solely chair the working group.

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

(3) The working group shall meet not more than eight times.

(d) Powers and duties. The working group shall review 10 V.S.A. § 540 and engage with workforce development stakeholders to:

(1) evaluate the effectiveness of the current language in statute; and

(2) determine, due to changes in the State Workforce Board as set forth in this act, how the authorities and responsibilities for the coordination of workforce education and training set forth in 10 V.S.A. § 540 should be modified to ensure there is effective and comprehensive leadership in workforce development, education, and training between the Commissioner of Labor, the Executive Director of the Office of Workforce Expansion and Development, and any other relevant authorities.

(e) Reporting.

(1) Progress report. The working group shall submit a written progress report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs updating the committees on its progress on the work set forth in this section on or before April 1, 2025.

(2) Final report. The working group shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs with its final recommendations based on the analysis conducted pursuant to this section on or before November 1, 2025. The final report shall also include

alternatives that were seriously considered but not listed in the final recommendations, along with the names and affiliations of the stakeholders consulted during the working group's meetings

(f) Compensation and reimbursement.

(1) Unless otherwise compensated by the member's employer for performance of the member's duties on the working group, a nonlegislative member of the working group shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010.

(2) Payments to members of the working group authorized under this subsection shall be made from monies appropriated to the Department of Labor.

(g) Expiration. The working group shall cease to exist on December 31, 2025.

Sec. 5. STATE WORKFORCE DEVELOPMENT BOARD TRANSITION PERIOD

(a) An appointing authority for the State Workforce Development Board pursuant to 10 V.S.A. § 541a(c) shall make all appointments as required to the Board on or before September 1, 2024.

(b) A member of the State Workforce Development Board on June 30, 2024, except for the Governor, and unless appointed or placed on the Board after the passage of this act pursuant to 10 V.S.A. § 541a(c), shall cease being a member of the Board on July 1, 2024.

(c) Notwithstanding subsection (b) of this section, an appointing authority pursuant to 10 V.S.A. § 541a(c) may reappoint the same individual as a member to the Board after passage of this act.

(d) Members of the Board appointed by the Governor shall serve initial staggered terms with eight members serving three-year terms, eight members serving two-year terms, and seven members serving one-year terms.

(e) The Governor shall appoint a chair of the Board pursuant to 10 V.S.A. § 541a(d)(3) on or before August 1, 2024.

(f) The Board shall amend the Board's WIOA Governance Document to align it pursuant to the terms of this act on or before February 1, 2025.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee Vote: 11-0-0)

Rep. Toleno of Brattleboro, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Commerce and Economic Development.

(Committee Vote: 12-0-0)

H. 877

An act relating to miscellaneous agricultural subjects

(Rep. Graham of Williamstown will speak for the Committee on Agriculture, Food Resiliency, and Forestry.**)**

Rep. Masland of Thetford, for the Committee on Ways and Means, recommends the bill ought to pass when amended as follows:

First: In Sec. 4, 6 V.S.A. § 1112, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d) The Secretary may charge a fee of up to $75.00 to applicants who prefer to utilize an electronic or alternate testing service for their pesticide certification or licensing examinations. The Secretary may contract with a vendor to administer examinations. The Secretary shall continue to administer in-person examinations that do not include any additional fee for an electronic or alternate testing service.

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

Sec. 4a. REPORT ON FEE FOR ELECTRONIC PESTICIDE CERTIFICATION

On or before December 15, 2024, the Secretary of Agriculture, Food and Markets shall submit to the House Committee on Ways and Means and the Senate Committee on Finance a proposed fee for the electronic administration of pesticide certification examinations based on the costs of the contract that the Secretary enters with a vendor for the administration of the examinations.

(Committee Vote: 9-2-1)

Senate Proposal of Amendment

H. 659

An act relating to captive insurance

The Senate proposes to the House to amend the bill by striking out Sec. 19, effective date, in its entirety and by inserting in lieu thereof a new Sec. 19 and Secs. 20–50 to read as follows:

* * * Housekeeping Amendments * * *

Sec. 19. 9 V.S.A. § 5604(d) is amended to read:

(d) In a final order under subsection (b) or (c) of this section, the Commissioner may impose a civil penalty of not more than $15,000.00 for each violation. The Commissioner may also require a person to make restitution or provide disgorgement of any sums shown to have been obtained in violation of this chapter, plus interest at the legal rate. The limitations on civil penalties contained in this subsection shall not apply to settlement agreements. In accordance with 8 V.S.A. § 24(e), the Commissioner may increase a civil penalty amount by not more than $5,000.00 per violation for violations involving a person who is a vulnerable adult as defined in 33 V.S.A. § 6902(34).

Sec. 20. 9 V.S.A. § 5616(f) is amended to read:

(f) Vermont Financial Services Education~~,~~ and Victim Restitution~~, and Whistleblower Award~~ Special Fund. The Vermont Financial Services Education~~,~~ and Victim Restitution~~, and Whistleblower Award~~ Special Fund, pursuant to 32 V.S.A. chapter 7, subchapter 5, is created to provide funds for the purposes specified in this section, in subsection 5601(d) of this title, and in section 5617 of this title. All monies received by the State for use in financial services education initiatives pursuant to subsection 5601(d) of this title, in providing uncompensated victims restitution pursuant to this section, or in providing whistleblower awards pursuant to section 5617 of this title shall be deposited into the Fund. The Commissioner may direct a party to deposit a sum not to exceed 15 percent of the total settlement amount into the Fund in conjunction with settling ~~a State securities law~~ an enforcement matter within the Department's jurisdiction, as described in 8 V.S.A. § 11(a). Interest earned on the Fund shall be retained in the Fund.

Sec. 21. 8 V.S.A. § 3883 is amended to read:

§ 3883. NOTICE REQUIREMENTS

When notice required under section 3880 or 3881 of this title is provided by mail, such notice shall be by certified mail, except that in the case of cancellation for nonpayment of premium, notice shall be by certified mail ~~or,~~ certificate of mailing, or any other similar first-class mail tracking method used or approved by the U.S. Postal Service, including Intelligent Mail barcode Tracing (IMb Tracing). A certificate of mailing from the U.S. Postal Service does not include a certificate of bulk mailing.

Sec. 22. 8 V.S.A. § 4226 is amended to read:

§ 4226. NOTICE REQUIREMENTS

When notice required under section 4224 or 4225 of this title is provided by mail, such notice shall be by certified mail, except that in the case of cancellation for nonpayment of premium notice shall be by certified mail ~~or,~~ certificate of mailing, or any similar first-class mail tracking method used or approved by the U.S. Postal Service, including Intelligent Mail barcode Tracing (IMb Tracing). A certificate of mailing from the U.S. Postal Service does not include a certificate of bulk mailing.

Sec. 23. 8 V.S.A. § 4714 is amended to read:

§ 4714. NOTICE REQUIREMENTS

When notice required under section 4712 or section 4713 of this title is provided by mail, such notice shall be by certified mail, except that in the case of cancellation for nonpayment of premium, notice shall be by certified mail ~~or,~~ certificate of mailing, or any similar first-class mail tracking method used or approved by the U.S. Postal Service, including Intelligent Mail barcode Tracing (IMb Tracing). A certificate of mailing from the U.S. Postal Service does not include a certificate of bulk mailing.

* * * NAIC Holding Company Model Law Updates * * *

Sec. 24. 8 V.S.A. § 3681 is amended to read:

§ 3681. DEFINITIONS

As used in this subchapter:

(1) "Affiliate" of, or person "affiliated" with, a specific person, means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) "Commissioner" means the Commissioner of Financial Regulation or ~~his or her~~ the Commissioner's deputies, as appropriate.

(3) "Control," including the terms "controlling," "controlled by," and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10 percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by subsection 3684(l) of this title that control does not exist in fact. The Commissioner may determine, after furnishing all persons in

interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(4) "Group capital calculation instructions" means the group capital calculation instructions as adopted by the NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC.

(5) "Groupwide supervisor" ~~or "supervisor"~~ means the regulatory official authorized to engage in conducting and coordinating groupwide supervision activities, as specified by the Commissioner under section 3696 of this subchapter.

(6) "Insurance holding company system" or "system" means two or more affiliated persons, one or more of which is an insurer.

~~(6)~~(7) "Insurer" means a company qualified and licensed to transact the business of insurance in this State and ~~shall include~~ includes a health maintenance organization, a nonprofit hospital service corporation, and a nonprofit medical service corporation, except that it shall not include:

(A) agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state; or

(B) fraternal benefit societies.

~~(7)~~(8) "Enterprise risk" means any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including anything that would cause the insurer's risk-based capital to fall into company action level as set forth in section 8303 of this title or would cause the insurer to be in hazardous financial condition under Department Regulation I-93-2, sections 3–4.

~~(8)~~(9) "Internationally active insurance group" or "group" means an insurance holding company system that:

(A) includes an insurer registered under section 3684 of this subchapter; and

(B) meets the following criteria:

(i) premiums written in at least three countries;

(ii) the percentage of gross premiums written outside the United States is at least 10 percent of the system's total gross written premiums; and

(iii) based on a three-year rolling average, the total assets of the system are at least $50,000,000,000.00, or the total gross written premiums of the system are at least $10,000,000,000.00.

(10) "NAIC" means the National Association of Insurance Commissioners.

(11) "NAIC liquidity stress test framework" means a separate NAIC publication, which includes a history of the NAIC's development of regulatory liquidity stress testing, the scope criteria applicable for a specific data year, and the liquidity stress test instructions and reporting templates for a specific data year, such scope criteria, instructions, and reporting template as adopted by the NAIC.

~~(9)~~(12) "Person" means an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert, but shall not include any ~~securities broker performing no more than the usual and customary broker's function~~ joint venture partnership exclusively engaged in owning, managing, leasing, or developing real or tangible personal property.

(13) "Scope criteria" mean the designated exposure bases along with minimum magnitudes thereof for the specified data year used to establish a preliminary list of insurers considered scoped into the NAIC liquidity stress test framework for that data year, as detailed in the NAIC liquidity stress test framework.

~~(10)~~(14) "Security holder" of a specified person means one who owns any security of such person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing.

~~(11)~~(15) "Subsidiary" of a specified person means an affiliate controlled by such person directly, or indirectly through one or more intermediaries.

~~(12)~~(16) "Voting security" ~~shall include~~ includes any security convertible into or evidencing a right to acquire a voting security.

Sec. 25. 8 V.S.A. § 3684 is amended to read:

§ 3684. REGISTRATION OF INSURERS

(a) Registration. Every insurer ~~which is~~ authorized to do business in this State ~~and which~~ that is a member of an insurance holding company system shall register with the Commissioner, except a foreign insurer subject to ~~disclosure~~ registration requirements and standards adopted by statute or

regulation in the jurisdiction of its domicile ~~which~~ that are substantially similar to those contained in this section and section 3685 of this title. ~~Any~~ An insurer ~~which is~~ subject to registration under this section shall register ~~within 60 days after the effective date of this subchapter or~~ 15 business days after it becomes subject to registration, ~~whichever is later,~~ and annually thereafter ~~by~~ on or before March 15 for the previous year ending December 31, unless the Commissioner for good cause shown extends the time for registration, and then within such extended time. The Commissioner may require ~~any~~ an authorized insurer ~~which~~ that is a member of a holding company system ~~which~~ that is not subject to registration under this section to furnish a copy of the registration statement or other information filed by such ~~insurance company~~ insurer with the insurance regulatory authority of its domiciliary jurisdiction.

(b) Information and form required. Every insurer subject to registration under this section shall file a registration statement on a form provided by the Commissioner, which shall contain current information about:

(1) The capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer.

(2) The identity and relationship of every member of the insurance holding company system.

(3) The following agreements in force, relationships subsisting, and transactions currently outstanding between such insurer and its affiliates:

(A) loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(B) purchases, sales, or exchanges of assets;

(C) transactions not in the ordinary course of business;

(D) guarantees or undertakings for the benefit of an affiliate ~~which~~ that result in an actual contingent exposure of the insurer's assets to liability~~;~~, other than insurance contracts entered into in the ordinary course of the insurer's business;

(E) all management and service contracts and all cost sharing arrangements;

(F) all reinsurance agreements;

(G) dividends and other distributions to shareholders; and

(H) consolidated tax allocation agreements.

(4) Any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system.

(5) If requested by the Commissioner, financial statements of or within an insurance holding company system, including all affiliates. Financial statements may include annual audited financial statements filed with the U.S. Securities and Exchange Commission (SEC) pursuant to the Securities Act of 1933, as may be amended, or the Securities Exchange Act of 1934, as may be amended. An insurer required to file financial statements under this subdivision may satisfy the request by providing the Commissioner with the most recently filed parent corporation financial statements that have been filed with the SEC.

(6) Other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the Commissioner.

(7) Statements that the insurer's board of directors oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures.

(8) Any other information required by the Commissioner by rule.

(c) Summary of changes to registration statement. All registration statements shall contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.

(d) Materiality. No information need be disclosed on the registration statement filed pursuant to subsection (b) of this section if such information is not material for the purposes of this section. Unless the Commissioner by rule or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, or investments involving one-half of one percent or less of an insurer's admitted assets as of the 31st day of December next preceding shall not be deemed material for purposes of this section. <u>The definition of materiality provided in this subsection shall not apply for purposes of the group capital calculation or the liquidity stress test framework.</u>

(e) Reporting of dividends to shareholders. Subject to subsection 3685(d) of this chapter, each registered insurer shall report to the Commissioner all dividends and other distributions to shareholders within 15 business days following the declaration thereof.

(f) Information of insurers. Any person within an insurance holding company system subject to registration shall be required to provide complete and accurate information to an insurer where the information is reasonably necessary to enable the insurer to comply with the provisions of this section.

(g) Amendments to registration statements. Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions on amendment forms provided by the Commissioner within 15 business days after the end of the month in which it learns of each such change or addition~~,~~; provided, however, that subject to subsection 3685(c) of this ~~title~~ chapter, each registered insurer shall so report all dividends and other distributions to shareholders within two business days following the declaration thereto.

(h) Termination of registration. The Commissioner shall terminate the registration of any insurer ~~which~~ that demonstrates that it no longer is a member of an insurance holding company system.

(i) Consolidated filing. The Commissioner may require or allow two or more affiliated insurers subject to registration ~~hereunder~~ under this section to file a consolidated registration statement or consolidated reports amending their consolidated registration statement or their individual registration statements.

(j) Alternative registration. The Commissioner may allow an insurer ~~which~~ that is authorized to do business in this State and ~~which~~ that is part of an insurance holding company system to register on behalf of any affiliated insurer ~~which~~ that is required to register under subsection (a) of this section and to file all information and material required to be filed under this section.

(k) Exemptions. The provisions of this section shall not apply to any insurer, information, or transaction if and to the extent that the Commissioner by rule or order shall exempt the same from the provisions of this section.

(l) Disclaimer. Any person may file with the Commissioner a disclaimer of affiliation with any authorized insurer, or such a disclaimer may be filed by such insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and such insurer as well as the basis for disclaiming such affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section ~~which~~ that may arise out of the insurer's relationship with such person unless and until the Commissioner disallows such a disclaimer. The Commissioner shall disallow such a disclaimer only after furnishing all parties in interest with notice and

opportunity to be heard and after making specific findings of fact to support such disallowance.

(m) Enterprise risk ~~filing~~ filings.

(1) Enterprise risk report. The ultimate controlling person of every insurer subject to registration shall also file an annual enterprise risk report. The report shall identify, to the best of the ultimate controlling person's knowledge and belief, the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report shall be filed with the lead state commissioner of the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the ~~National Association of Insurance Commissioners~~ NAIC.

(2) Group capital calculation. Except as further provided in this subdivision, the ultimate controlling person of every insurer subject to registration shall concurrently file with the registration an annual group capital calculation as directed by the lead state commissioner. The report shall be completed in accordance with the NAIC group capital calculation instructions, which may permit the lead state commissioner to allow a controlling person that is not the ultimate controlling person to file the group capital calculation. The report shall be filed with the lead state commissioner of the insurance holding company system as determined by the Commissioner in accordance with the procedures within the Financial Analysis Handbook adopted by the NAIC. The following insurance holding company systems are exempt from filing the group capital calculation:

(A) An insurance holding company system that has only one insurer within its holding company structure, only writes business and is only licensed in its domestic state, and assumes no business from any other insurer.

(B) An insurance holding company system that is required to perform a group capital calculation specified by the U.S. Federal Reserve Board. The lead state commissioner shall request the calculation from the Federal Reserve Board under the terms of information sharing agreements in effect. If the Federal Reserve Board cannot share the calculation with the lead state commissioner, the insurance holding company system is not exempt from the group capital calculation filing.

(C) An insurance holding company system whose non-U.S. groupwide supervisor is located within a reciprocal jurisdiction as described in subdivision 3634a(b)(6)(A) of this chapter that recognizes the U.S. state regulatory approach to group supervision and group capital.

(D) An insurance holding company system:

(i) that provides information to the lead state that meets the requirements for accreditation under the NAIC financial standards and accreditation program, either directly or indirectly through the groupwide supervisor, who has determined such information is satisfactory to allow the lead state to comply with the NAIC group supervision approach, as detailed in the NAIC Financial Analysis Handbook; and

(ii) whose non-U.S. groupwide supervisor that is not in a reciprocal jurisdiction recognizes and accepts, as specified in a rule adopted by the Commissioner, the group capital calculation as the worldwide group capital assessment for U.S. insurance groups who operate in that jurisdiction.

(E) Notwithstanding the provisions of subdivisions (C) and (D) of this subdivision (m)(2), a lead state commissioner shall require the group capital calculation for U.S. operations of any non-U.S. based insurance holding company system where, after any necessary consultation with other supervisors or officials, it is deemed appropriate by the lead state commissioner for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace.

(F) Notwithstanding the exemptions from filing the group capital calculation stated in subdivisions (A)–(D) of this subdivision (m)(2), the lead state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation or to accept a limited group capital filing or report in accordance with criteria as specified in a rule adopted by the Commissioner.

(G) If the lead state commissioner determines that an insurance holding company system no longer meets one or more of the requirements for an exemption from filing the group capital calculation under this subdivision (2), the insurance holding company system shall file the group capital calculation at the next annual filing date unless given an extension by the lead state commissioner based on reasonable grounds shown.

(3) Liquidity stress test.

(A) The ultimate controlling person of every insurer subject to registration and also scoped into the NAIC liquidity stress test framework shall file the results of a specific year's liquidity stress test. The filing shall be made to the lead state insurance commissioner of the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the NAIC.

(B) The NAIC liquidity stress test framework includes scope criteria applicable to a specific data year. These scope criteria are reviewed at least

annually by the Financial Stability Task Force or its successor. Any change to the NAIC liquidity stress test framework or to the data year for which the scope criteria are to be measured shall be effective on January 1 of the year following the calendar year when such changes are adopted. Insurers meeting at least one threshold of the scope criteria are considered scoped into the NAIC liquidity stress test framework for the specified data year unless the lead state insurance commissioner, in consultation with the NAIC Financial Stability Task Force or its successor, determines the insurer should not be scoped into the framework for that data year. Similarly, insurers that do not trigger at least one threshold of the scope criteria are considered scoped out of the NAIC liquidity stress test framework for the specified data year, unless the lead state insurance commissioner, in consultation with the NAIC Financial Stability Task Force or its successor, determines the insurer should be scoped into the framework for that data year.

(C) Regulators shall avoid having insurers scoped in and out of the NAIC liquidity stress test framework on a frequent basis. The lead state insurance commissioner, in consultation with the Financial Stability Task Force or its successor, will assess this concern as part of the determination for an insurer.

(D) The performance of, and filing of the results from, a specific year's liquidity stress test shall comply with the NAIC liquidity stress test framework's instructions and reporting templates for that year and any lead state insurance commissioner determinations, in conjunction with the Financial Stability Task Force or its successor, provided within the Framework.

(n) Violations. The failure to file a registration statement or any amendment ~~thereto~~ to a registration statement required by this section within the time specified for such filing shall be a violation of this section.

Sec. 26. 8 V.S.A. § 3685 is amended to read:

§ 3685. STANDARDS AND MANAGEMENT OF AN INSURER WITHIN AN INSURANCE HOLDING COMPANY SYSTEM

(a) Transactions within an insurance holding company system.

(1) Transactions within an insurance holding company system to which an insurer subject to registration is a party shall be subject to the following standards:

~~(1)~~(A) ~~the~~ The terms shall be fair and reasonable~~;~~.

~~(2)~~(B) ~~agreements~~ Agreements for cost-sharing services and management shall include such provisions as required by rule adopted by the Commissioner~~;~~.

~~(3)~~(C) ~~charges~~ Charges or fees for services performed shall be reasonable~~;~~.

~~(4)~~(D) ~~expenses~~ Expenses incurred and payment received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied~~;~~.

~~(5)~~(E) ~~the~~ The books, accounts, and records of each party to all such transactions shall be ~~so~~ maintained so as to clearly and accurately disclose the precise nature and details of the transactions, including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties~~; and~~.

~~(6)~~(F) ~~the~~ The insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(G) If an insurer subject to this subchapter is deemed by the Commissioner to be in a hazardous financial condition as defined by Regulation I-1993-02, Defining Standards and Commissioner's Authority for Companies Deemed to be in Hazardous Financial Condition, or a condition that would be grounds for supervision, conservation, or a delinquency proceeding, then the Commissioner may require the insurer to secure and maintain either a deposit, held by the Commissioner, or a bond, as determined by the insurer at the insurer's discretion, for the protection of the insurer for the duration of a contract or agreement, or the existence of the condition for which the Commissioner required the deposit or the bond. In determining whether a deposit or a bond is required, the Commissioner shall consider whether concerns exist with respect to the affiliated person's ability to fulfill a contract or agreement if the insurer were to be put into liquidation. Once the insurer is deemed to be in a hazardous financial condition or a condition that would be grounds for supervision, conservation, or a delinquency proceeding, and a deposit or bond is necessary, the Commissioner has discretion to determine the amount of the deposit or bond, not to exceed the value of a contract or agreement in any one year, and whether such deposit or bond should be required for a single contract or agreement, multiple contracts or agreements, or a contract or agreement only with a specific person or persons.

(H) All records and data of the insurer held by an affiliate are and remain the property of the insurer, are subject to control of the insurer, are identifiable, and are segregated or readily capable of segregation, at no additional cost to the insurer, from all other persons' records and data. This includes all records and data that are otherwise the property of the insurer, in

whatever form maintained, including claims and claim files, policyholder lists, application files, litigation files, premium records, rate books, underwriting manuals, personnel records, financial records, or similar records within the possession, custody, or control of the affiliate. At the request of the insurer, the affiliate shall provide that the receiver can obtain a complete set of all records of any type that pertain to the insurer's business; obtain access to the operating systems on which the data is maintained; obtain the software that runs those systems either through assumption of licensing agreements or otherwise; and restrict the use of the data by the affiliate if it is not operating the insurer's business. The affiliate shall provide a waiver of any landlord lien or other encumbrance to give the insurer access to all records and data in the event of the affiliate's default under a lease or other agreement.

(I) Premiums or other funds belonging to the insurer that are collected by or held by an affiliate are the exclusive property of the insurer and are subject to the control of the insurer. Any right of offset in the event an insurer is placed into receivership shall be subject to chapter 145 of this title.

(2) The following transactions involving a domestic insurer and any person in its holding company system, including amendments or modifications of affiliate agreements previously filed under this section, that are subject to any materiality standards contained in subdivisions (A)–(G) of this subdivision, shall not be entered into unless the insurer has notified the Commissioner in writing of its intention to enter into such transaction at least 30 days prior to the transaction, or such shorter period as the Commissioner may permit, and the Commissioner has not disapproved it within such period. The notice for amendments or modifications shall include the reasons for the change and the financial impact on the domestic insurer. Within 30 days following a termination of a previously filed agreement, informal notice shall be reported to the Commissioner for determination of the type of filing required, if any. Nothing in this subdivision shall be deemed to authorize or permit any transactions that, in the case of an insurer not a member of the same holding company system, would otherwise be contrary to law.

(A) Sales, purchases, exchanges, loans, or extensions of credit or investments, provided such transactions are equal to or exceed:

(i) with respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders as of the 31st day of December next preceding; or

(ii) with respect to life insurers, three percent of the insurer's admitted assets; each as of the 31st day of December next preceding.

(B) Loans or extensions of credit to any person who is not an affiliate, where the insurer makes such loans or extensions of credit with the agreement or understanding that the proceeds of such transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to purchase assets of or to make investments in any affiliate of the insurer making such loans or extensions of credit, provided such transactions are equal to or exceed:

(i) with respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders as of the 31st day of December next preceding; or

(ii) with respect to life insurers, three percent of the insurer's admitted assets; each as of the 31st day of December next preceding.

(C) Reinsurance agreements or modifications of reinsurance agreements, including:

(i) all reinsurance pooling agreements; and

(ii) agreements in which the reinsurance premium or a change in the insurer's liabilities or the projected reinsurance premium or a change in the insurer's liabilities in any of the next three years equals or exceeds five percent of the insurer's surplus as regards policyholders, as of the 31st day of December next preceding, including those agreements that may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the insurer.

(D) All management agreements, service contracts, tax allocation agreements, guarantees, and all cost-sharing arrangements.

(E) Guarantees when made by a domestic insurer; provided, however, that a guarantee that is quantifiable as to amount is not subject to the notice requirements of this subdivision (2) unless it exceeds the lesser of one-half of one percent of the insurer's admitted assets or 10 percent of surplus as regards policyholders as of the 31st day of December next preceding. All guarantees that are not quantifiable as to amount are subject to the notice requirements of this subdivision.

(F) Direct or indirect acquisitions or investments in a person that controls the insurer or in an affiliate of the insurer in an amount that together with its present holdings in such investments exceeds two and one-half percent of the insurer's surplus to policyholders. Direct or indirect acquisitions or investments in subsidiaries acquired pursuant to section 3682 of this

subchapter or authorized under any other Vermont insurance law or in nonsubsidiary insurance affiliates that are subject to the provisions of this subchapter, are exempt from the notice requirement of this subdivision (2).

(G) Any material transactions, as specified in a rule adopted by the Commissioner, that the Commissioner determines may adversely affect the interests of the insurer's policyholders.

(H) Nothing in this subdivision (2) shall be deemed to authorize or permit any transaction that, in the case of an insurer not a member of the same insurance holding company system, would otherwise be contrary to law.

(3) A domestic insurer shall not enter into transactions that are part of a plan or series of like transactions with persons within the insurance holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would otherwise occur. If the Commissioner determines that such separate transactions were entered into over any 12-month period for such purpose, the Commissioner may exercise the Commissioner's authority under this title.

(4) The Commissioner, in reviewing transactions pursuant to subsection (b) of this section, shall consider whether the transactions comply with the standards established in this subsection (a) and whether they may adversely affect the interests of policyholders.

(5) The Commissioner shall be notified within 30 days following any investment of the domestic insurer in any one corporation if the total investment in such corporation by the insurance holding company system exceeds 10 percent of such corporation's voting securities.

(6)(A) Any affiliate that is party to an agreement or contract with a domestic insurer that is subject to subdivision (2)(D) of this subsection (a) shall be subject to the jurisdiction of any supervision, seizure, conservatorship, or receivership proceedings against the insurer and to the authority of any supervisor, conservator, rehabilitator, or liquidator for the insurer appointed pursuant to chapter 145 of this title for the purpose of interpreting, enforcing, and overseeing the affiliate's obligations under the agreement or contract to perform services for the insurer that:

(i) are an integral part of the insurer's operations, including management, administrative, accounting, data processing, marketing, underwriting, claims handling, investment, or any other similar functions; or

(ii) are essential to the insurer's ability to fulfill its obligations under insurance policies.

(B) The Commissioner may require that an agreement or contract for the provision of services described in subdivisions (2)(A)(i) and (ii) of this subsection specify that the affiliate consents to the jurisdiction as set forth in this subdivision (a)(6).

(b) Adequacy of surplus. For purposes of this subchapter, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

(1) The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force, and other appropriate criteria.

(2) The extent to which the insurer's business is diversified among the several lines of insurance.

(3) The number and size of risks insured in each line of business.

(4) The extent of the geographical dispersion of the insurer's insured risks.

(5) The nature and extent of the insurer's reinsurance program.

(6) The quality, diversification, and liquidity of the insurer's investment portfolio.

(7) The recent past and projected future trend in the size of the insurer's surplus as regards policyholders.

(8) The surplus as regards policyholders maintained by other comparable insurers.

(9) The adequacy of the insurer's reserves.

(10) The quality and liquidity of investments in ~~subsidiaries made pursuant to section 3682 of this title~~ affiliates. The Commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in ~~his or her~~ the Commissioner's judgment such investment so warrants.

(c) Dividends and other distributions. ~~No insurer subject to registration under section 3684 of this title shall~~ (1) A domestic insurer shall not pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until:

~~(1)~~(A) 30 days after the Commissioner has received notice of the declaration ~~thereof~~ of the dividend or distribution and has not within such period disapproved such payment; or

~~(2)~~(B) the Commissioner shall have approved such payment within such 30-day period.

~~(d) Limitation on dividends.~~

~~(1)~~(2) For purposes of this ~~section~~ subsection, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property whose fair market value together with that of other dividends or distributions made within the preceding 12 months exceeds the lesser of:

(A) 10 percent of such insurer's surplus as regards policyholders as of the 31st day of December next preceding; or

(B) the net gains from operations of such insurer, if such insurer is a life insurer, or the net income, if such insurer is not a life insurer, not including realized capital gains, for the 12-month period ending the 31st day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

~~(2)~~(3) In determining whether a dividend or distribution is extraordinary, an insurer other than a life insurer may carry forward net income from the previous two calendar years that has not already been paid out as dividends. This carry-forward shall be computed by taking the net income from the second and third preceding calendar years, not including realized capital gains, less dividends paid in the second and immediate preceding calendar years. In determining whether a dividend or distribution is extraordinary, a life insurer may exclude dividends or distributions paid only from unassigned surplus that do not exceed the greater of subdivision ~~(1)(A)~~ (2)(A) or (B) of this subsection, provided that a life insurer relying on this provision shall notify the Commissioner of such dividend or distribution within five business days following declaration and at least 10 days, commencing from the date of receipt by the Commissioner, prior to the payment thereof.

~~(e) Conditional dividends.~~ (4) Notwithstanding any other provision of law to the contrary, an insurer may declare an extraordinary dividend or distribution that is conditional upon the Commissioner's approval ~~thereof~~, and such a declaration shall not confer ~~no~~ any rights upon shareholders until the Commissioner has:

~~(1)~~(A) approved the payment of such dividend or distribution; or

~~(2)~~(B) not disapproved such payment within the 30-day period referred to in ~~subsection (c)~~ subdivision (1) of this ~~section~~ subsection (c).

(d) Management of domestic insurers subject to registration.

(1) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer shall not thereby be relieved of any obligation or liability to which they would otherwise be subject by law, and the insurer shall be managed so as to ensure its separate operating identity consistent with this section.

(2) Nothing in this subsection shall preclude a domestic insurer from having or sharing a common management or cooperative or joint use of personnel, property, or services with one or more other persons under arrangements meeting the standards of subdivision (a)(1) of this section.

(3) Not less than one-third of the directors of a domestic insurer and not less than one-third of the members of each committee of the board of directors of any domestic insurer shall be persons who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or entity. At least one such person shall be included in any quorum for the transaction of business at any meeting of the board of directors or any committee thereof.

(4) The board of directors of a domestic insurer shall establish one or more committees composed solely of directors who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or any such entity. The committee or committees shall have responsibility for nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers deemed to be principal officers of the insurer, and recommending to the board of directors the selection and compensation of the principal officers. For purposes of this subsection, principal officers shall mean the chief executive officer, the president, and any chief operating officer.

(5) The provisions of subdivisions (3) and (4) of this subsection shall not apply to a domestic insurer if the person controlling the insurer, such as an insurer, a mutual insurance holding company, or a publicly held corporation, has a board of directors and committees thereof that meet the requirements of subdivisions (3) and (4) of this subsection with respect to such controlling entity.

(6) An insurer may make application to the Commissioner for a waiver from the requirements of this subsection if the insurer's annual direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, is less than $300,000,000.00. An insurer may also make application to the Commissioner

for a waiver from the requirements of this subsection based upon unique circumstances. The Commissioner may consider various factors, including the type of business entity, volume of business written, availability of qualified board members, or the ownership or organizational structure of the entity.

~~(f) The following transactions involving a domestic insurer and any person in its holding company system, including amendments or modifications of affiliate agreements previously filed under this section, which are subject to any materiality standards contained in subdivisions (1) through (7) of this subsection, may not be entered into unless the insurer has notified the Commissioner in writing of its intention to enter into such transaction at least 30 days prior thereto, or such shorter period as the Commissioner may permit, and the Commissioner has not disapproved it within such period. The notice for amendments or modifications shall include the reasons for the change and the financial impact on the domestic insurer. Informal notice shall be reported within 30 days after a termination of a previously filed agreement to the Commissioner for determination of the type of filing required, if any. Nothing herein contained shall be deemed to authorize or permit any transactions that in the case of an insurer not a member of the same holding company system, would be otherwise contrary to law.~~

~~(1) Sales, purchases, exchanges, loans, or extensions of credit or investments, provided such transactions are equal to or exceed:~~

~~(A) with respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders as of the 31st day of December next preceding;~~

~~(B) with respect to life insurers, three percent of the insurer's admitted assets; each as of the 31st day of December next preceding.~~

~~(2) Loans or extensions of credit to any person who is not an affiliate, where the insurer makes such loans or extensions of credit with the agreement or understanding that the proceeds of such transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in any affiliate of the insurer making such loans or extensions of credit, provided such transactions are equal to or exceed:~~

~~(A) with respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders as of the 31st day of December next preceding;~~

~~(B) with respect to life insurers, three percent of the insurer's admitted assets; each as of the 31st day of December next preceding.~~

~~(3) Reinsurance agreements or modifications thereto, including:~~

~~(A) all reinsurance pooling agreements;~~

~~(B) agreements in which the reinsurance premium or a change in the insurer's liabilities or the projected reinsurance premium or a change in the insurer's liabilities in any of the next three years equals or exceeds five percent of the insurer's surplus as regards policyholders, as of the 31st day of December next preceding, including those agreements that may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the insurer.~~

~~(4) Any material transactions, specified by regulation, that the Commissioner determines may adversely affect the interests of the insurer's policyholders.~~

~~(5) All management agreements, service contracts, and all cost-sharing arrangements.~~

~~(6) Guarantees when made by a domestic insurer; provided, however, that a guarantee that is quantifiable as to amount is not subject to the notice requirements of this subsection unless it exceeds the lesser of one-half of one percent of the insurer's admitted assets or 10 percent of surplus as regards policyholders as of the 31st day of December next preceding. All guarantees that are not quantifiable as to amount are subject to the notice requirements of this subdivision.~~

~~(7) Direct or indirect acquisitions or investments in a person that controls the insurer or an affiliate of the insurer in an amount that together with its present holdings in such investments, exceeds two and one-half percent of the insurer's surplus to policyholders. Direct or indirect acquisitions or investments in subsidiaries acquired pursuant to section 3682 of this chapter or authorized under any other section of this chapter or in nonsubsidiary insurance affiliates that are subject to the provisions of this chapter are exempt from this requirement.~~

~~(g) A domestic insurer may not enter into transactions that are part of a plan or series of like transactions with persons within the holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the Commissioner determines that such separate transactions were entered into over any 12-month period for such purpose, he or she may exercise his or her authority under this title.~~

~~(h) The Commissioner, in reviewing transactions pursuant to subsection (f) of this section, shall consider whether the transactions comply with the standards set forth in subsection (a) of this section and whether they may adversely affect the interests of policyholders.~~

~~(i) The Commissioner shall be notified within 30 days of any investment of the domestic insurer in any one corporation if the total investment in such corporation by the insurance holding company system exceeds 10 percent of such corporation's voting securities.~~

~~(j) Management of domestic insurers subject to registration.~~

~~(1) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer shall not thereby be relieved of any obligation or liability to which they would otherwise be subject by law, and the insurer shall be managed so as to ensure its separate operating identity consistent with this section.~~

~~(2) Nothing in this section shall preclude a domestic insurer from having or sharing a common management or cooperative or joint use of personnel, property, or services with one or more other persons under arrangements meeting the standards of subsection (a) of this section.~~

~~(3) Not less than one-third of the directors of a domestic insurer and not less than one-third of the members of each committee of the board of directors of any domestic insurer shall be persons who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or entity. At least one such person must be included in any quorum for the transaction of business at any meeting of the board of directors or any committee thereof.~~

~~(4) The board of directors of a domestic insurer shall establish one or more committees composed of a majority of directors who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or any such entity. The committee or committees shall have responsibility for nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers deemed to be principal officers of the insurer, and recommending to the board of directors the selection and compensation of the principal officers. For purposes of this subsection, principal officers shall mean the chief executive officer, the president, and any chief operating officer.~~

~~(5) The provisions of subdivisions (3) and (4) of this subsection shall not apply to a domestic insurer if the person controlling the insurer, such as an insurer, a mutual insurance holding company, or a publicly held corporation, has a board of directors and committees thereof that meet the requirements of subdivisions (3) and (4) of this subsection with respect to such controlling entity.~~

~~(6) An insurer may make application to the Commissioner for a waiver from the requirements of this subsection if the insurer's annual direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, is less than $300,000,000.00. An insurer may also make application to the Commissioner for a waiver from the requirements of this subsection based upon unique circumstances. The Commissioner may consider various factors, including the type of business entity, volume of business written, availability of qualified board members, or the ownership or organizational structure of the entity.~~

Sec. 27. 8 V.S.A. § 3687 is amended to read:

§ 3687. CONFIDENTIAL TREATMENT

(a) Documents, materials, or other information in the possession or control of the Department that are obtained by or disclosed to the Commissioner or any other person in the course of an examination or investigation made pursuant to section 3686 of this title and all information reported pursuant to subdivisions 3683(b)(12) and (13), section 3684, and section 3685 of this ~~title~~ chapter are recognized by this State as being proprietary and to contain trade secrets and shall be given confidential treatment, shall not be subject to subpoena, shall not be subject to public inspection and copying under the Public Records Act, shall not be subject to discovery or admissible in evidence in any private civil action, and shall not be made public by the Commissioner or any other person. However, the Commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties. The Commissioner shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer to which it pertains unless the Commissioner, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interests of policyholders, shareholders, or the public will be served by the publication thereof, in which event ~~he or she~~ the Commissioner may publish all or any part thereof in such manner as ~~he or she~~ the Commissioner may deem appropriate.

(1) For purposes of the information reported and provided to the Department pursuant to subdivision 3684(m)(2) of this chapter, the Commissioner shall maintain the confidentiality of the group capital calculation and group capital ratio produced within the calculation and any group capital information received from an insurance holding company supervised by the Federal Reserve Board or any U.S. groupwide supervisor.

(2) For purposes of the information reported and provided to the Department pursuant to subdivision 3684(m)(3) of this chapter, the Commissioner shall maintain the confidentiality of the liquidity stress test results and supporting disclosures and any liquidity stress test information received from an insurance holding company supervised by the Federal Reserve Board and non-U.S. groupwide supervisors.

(b) Neither the Commissioner nor any person who received documents, materials, or other information while acting under the authority of the Commissioner or with whom such documents, materials, or other information are shared pursuant to this chapter shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (a) of this section.

(c) In order to assist in the performance of the Commissioner's duties, the Commissioner:

(1) ~~may~~ May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (a) of this section, including proprietary and trade secret documents and materials, with other state, federal, and international regulatory agencies, with the NAIC ~~and its affiliates and subsidiaries~~, with third-party consultants designated by the Commissioner, and with state, federal, and international law enforcement authorities, including members of any supervisory college described in section 3695 of this title, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information and has verified in writing the legal authority to maintain confidentiality~~;~~.

(2) ~~notwithstanding~~ Notwithstanding subdivision (1) of this subsection, may only share confidential and privileged documents, material, or information reported pursuant to ~~subsection 3684(m)~~ subdivision 3684(m)(1) of this chapter with commissioners of states having statutes or regulations substantially similar to subsection (a) of this section and who have agreed in writing not to disclose such information~~;~~.

(3) ~~may~~ May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information,

including proprietary and trade-secret information, from the NAIC and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and.

(4) shall Shall enter into written agreements with the NAIC and any third-party consultant designated by the Commissioner governing sharing and use of information provided under this chapter consistent with this subsection that shall:

(A) specify Specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC and its affiliates and subsidiaries or a third-party consultant designated by the Commissioner pursuant to this section subchapter, including procedures and protocols for sharing by the NAIC with other state, federal, or international regulators;. The agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the documents, materials, or other information and has verified in writing the legal authority to maintain such confidentiality.

(B) specify Specify that ownership of information shared with the NAIC and its affiliates and subsidiaries or a third-party consultant pursuant to this section remains with the Commissioner and the NAIC's use of the information is subject to the direction of the Commissioner;.

(C) require Excluding documents, materials, or information reported pursuant to subdivision 3684(m)(3) of this title, prohibit the NAIC or third-party consultant designated by the Commissioner from storing the information shared pursuant to this subchapter in a permanent database after the underlying analysis is completed.

(D) Require prompt notice be given to an insurer whose confidential information in the possession of the NAIC or third-party consultant designated by the Commissioner under this section subchapter is subject to a request or subpoena to the NAIC or a third-party consultant designated by the Commissioner for disclosure or production; and.

(D)(E) require Require the NAIC and its affiliates and subsidiaries or a third-party consultant designated by the Commissioner to consent to intervention by an insurer in any judicial or administrative action in which the NAIC and its affiliates and subsidiaries or third-party consultant designated by the Commissioner may be required to disclose confidential information about

the insurer shared with the NAIC ~~and its affiliates and subsidiaries~~ or third-party consultant designated by the Commissioner pursuant to this section.

(F) For documents, materials, or information report pursuant to subdivision 3684(b)(3) of this chapter, in the case of an agreement involving a third-party consultant, provide for notification of the identity of the consultant to the applicable insurers.

(d) The sharing of information by the Commissioner pursuant to this section shall not constitute a delegation of regulatory authority or rulemaking, and the Commissioner is solely responsible for the administration, execution, and enforcement of the provisions of this section.

(e) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in subsection (c) of this section.

(f) Documents, materials, or other information in the possession or control of the NAIC or third-party consultant designated by the Commissioner pursuant to this ~~section~~ subchapter shall be confidential by law and privileged, shall not be subject to public inspection and copying under the Public Records Act, shall not be subject to subpoena, shall not be subject to discovery or admissible in evidence in any private civil action, and shall not be made public by the Commissioner or any other person.

(g) The group capital calculation and resulting group capital ratio required under subdivision 3684(m)(2) of this subchapter and the liquidity stress test along with its results and supporting disclosures required under subdivision 3684(m)(3) of this subchapter are regulatory tools for assessing group risks and capital adequacy and group liquidity risks, respectively, and are not intended as a means to rank insurers or insurance holding company systems, generally. Therefore, except as otherwise may be required under the provisions of this chapter, the making, publishing, disseminating, circulating or placing before the public, or causing directly or indirectly to be made, published, disseminated, circulated, or placed before the public in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station or any electronic means of communication available to the public, or in any other way as an advertisement, announcement, or statement containing a representation or statement with regard to the group capital calculation, group capital ratio, the liquidity stress test results, or supporting disclosures for the liquidity stress test of any insurer or any insurer group, or of any component derived in the calculation by any insurer, broker, or other person engaged in any manner in

the insurance business would be misleading and is therefore prohibited. However, if any materially false statement with respect to the group capital calculation, resulting group capital ratio, an inappropriate comparison of any amount to an insurer's or insurance group's group capital calculation or resulting group capital ratio, liquidity stress test result, supporting disclosures for the liquidity stress test, or an inappropriate comparison of any amount to an insurer's or insurance group's liquidity stress test result or supporting disclosures is published in any written publication and the insurer is able to demonstrate to the Commissioner with substantial proof the falsity of such statement or the inappropriateness, as the case may be, then the insurer may publish announcements in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

Sec. 28. 8 V.S.A. chapter 149 is added to read:

CHAPTER 149. PET INSURANCE

§ 7151. SHORT TITLE

This chapter shall be known and may be cited as the "Pet Insurance Act."

§ 7152. SCOPE AND PURPOSE

(a) The purpose of this chapter is to promote the public welfare by creating a comprehensive legal framework within which pet insurance may be sold in Vermont.

(b) The requirements of this chapter shall apply to pet insurance policies that are issued to any resident of this State and are sold, solicited, negotiated, or offered in this State and policies or certificates that are delivered or issued for delivery in this State.

(c) All other applicable provisions of Vermont insurance law shall continue to apply to pet insurance except that the specific provisions of this subchapter shall supersede any general provisions of law that would otherwise be applicable to pet insurance.

§ 7153. DEFINITIONS

(a) If a pet insurer uses any term defined in this section in a policy of pet insurance, the pet insurer shall use the definition of the term provided in this section and include the definition of the term in the policy. The pet insurer shall also make the definition available through a clear and conspicuous link on the main page of the website of either the pet insurer or the pet insurer's program administrator.

(b) Nothing in this chapter shall in any way prohibit or limit the types of exclusions pet insurers may use in their policies or require pet insurers to have any of the limitations or exclusions defined in this section.

(c) As used in this chapter:

(1) "Chronic condition" means a condition that can be treated or managed, but not cured.

(2) "Congenital anomaly or disorder" means a condition that is present from birth, whether inherited or caused by the environment, which may cause or contribute to illness or disease.

(3) "Hereditary disorder" means an abnormality that is genetically transmitted from parent to offspring and may cause illness or disease.

(4) "Orthopedic" refers to conditions affecting the bones, skeletal muscle, cartilage, tendons, ligaments, and joints. It includes elbow dysplasia, hip dysplasia, intervertebral disc degeneration, patellar luxation, and ruptured cranial cruciate ligaments. It does not include cancers or metabolic, hemopoietic, or autoimmune diseases.

(5) "Pet insurance" means a property insurance policy that provides coverage for accidents and illnesses of pets.

(6)(A) "Preexisting condition" means any condition for which any of the following are true within 180 days prior to the effective date of a pet insurance policy or during any waiting period:

(i) a veterinarian provided medical advice;

(ii) the pet received previous treatment; or

(iii) based on information from verifiable sources, the pet had signs or symptoms directly related to the condition for which a claim is being made.

(B) A condition for which coverage is afforded on a policy cannot be considered a preexisting condition on any renewal of the policy.

(7) "Renewal" means to issue and deliver at the end of an insurance policy period a policy that supersedes a policy previously issued and delivered by the same pet insurer or affiliated pet insurer and that provides types and limits of coverage substantially similar to those contained in the policy being superseded.

(8) "Veterinarian" means an individual who holds a valid license to practice veterinary medicine from the appropriate licensing entity in the jurisdiction in which the veterinarian practices.

(9) "Veterinary expenses" means the costs associated with medical advice, diagnosis, care, or treatment provided by a veterinarian, including the cost of drugs prescribed by a veterinarian.

(10) "Waiting period" means the period of time specified in a pet insurance policy that is required to transpire before some or all of the coverage in the policy can begin. A waiting period may not be applied to a renewal of existing coverage.

(11) "Wellness program" means a subscription or reimbursement-based program that is separate from an insurance policy that provides goods and services to promote the general health, safety, or well-being of the pet. If any wellness program meets the definition of insurance in section 3301a of this title and does not qualify for any exclusion, it is transacting in the business of insurance and is subject to the applicable insurance laws and rules. This definition is not intended to classify a contract directly between a service provider and a pet owner that only involves the two parties as being "the business of insurance," unless other indications of insurance also exist.

§ 7154. DISCLOSURES

(a) A pet insurer transacting pet insurance shall disclose the following to consumers:

(1) If the policy excludes coverage due to any of the following:

(A) a preexisting condition;

(B) a hereditary disorder;

(C) a congenital anomaly or disorder; or

(D) a chronic condition.

(2) If the policy includes any other exclusions, the following statement: "Other exclusions may apply. Please refer to the exclusions section of the policy for more information."

(3) Any policy provision that limits coverage through a waiting or affiliation period, a deductible, coinsurance, or an annual or lifetime policy limit.

(4) Whether the pet insurer reduces coverage or increases premiums based on the insured's claim history, the age of the covered pet, or a change in the geographic location of the insured.

(5) If the underwriting company differs from the brand name used to market and sell the product.

(b)(1) Unless the insured has filed a claim under the pet insurance policy, pet insurance applicants shall have the right to examine and return the policy, certificate, or rider to the company or an agent or insurance producer of the company within 30 days following its receipt and to have the premium refunded if, after examination of the policy, certificate, or rider, the applicant is not satisfied for any reason.

(2) Pet insurance policies, certificates, and riders shall have a notice prominently printed on the first page or attached thereto including specific instructions to accomplish a return. The following free-look statement, or substantially similar language, shall be included:

> You have 30 days following the day you receive this policy, certificate, or rider to review it and return it to the company if you decide not to keep it. You do not have to tell the company why you are returning it. If you decide not to keep it, simply return it to the company at its administrative office or you may return it to the agent or insurance producer that you bought it from, provided you have not filed a claim. You must return it within 30 days following the day you first received it. The company will refund the full amount of any premium paid within 30 days following the day it receives the returned policy, certificate, or rider. The premium refund will be sent directly to the person who paid it. The policy, certificate, or rider will be void as if it had never been issued.

(3) A pet insurer shall clearly disclose a summary description of the basis or formula on which the pet insurer determines claim payments under a pet insurance policy within the policy prior to policy issuance and through a clear and conspicuous link on the main page of the website of either the pet insurer or the pet insurer's program administrator.

(4) A pet insurer that uses a benefit schedule to determine claim payment under a pet insurance policy shall do the following:

(A) clearly disclose the applicable benefit schedule in the policy; and

(B) disclose all benefit schedules used by the pet insurer under its pet insurance policies through a clear and conspicuous link on the main page of the website of either the pet insurer or the pet insurer's program administrator.

(5) A pet insurer that determines claim payments under a pet insurance policy based on usual and customary fees, or any other reimbursement limitation based on prevailing veterinary service provider charges, shall do the following:

(A) include a usual and customary fee limitation provision in the policy that clearly describes the pet insurer's basis for determining usual and

customary fees and how that basis is applied in calculating claim payments; and

(B) disclose the pet insurer's basis for determining usual and customary fees through a clear and conspicuous link on the main page of the website of either the pet insurer or the pet insurer's program administrator.

(6) If any medical examination by a licensed veterinarian is required to effectuate coverage, the pet insurer shall clearly and conspicuously disclose the required aspects of the examination prior to purchase and disclose that examination documentation may result in a preexisting condition exclusion.

(7) Waiting periods and the requirements applicable to them must be clearly and prominently disclosed to consumers prior to the policy purchase.

(8) The pet insurer shall include a summary of all policy provisions required in subdivisions (1)–(7) of this subsection in a separate document entitled "Insurer Disclosure of Important Policy Provisions."

(9) The pet insurer shall post the "Insurer Disclosure of Important Policy Provisions" document required in subdivision (8) of this subsection through a clear and conspicuous link on the main page of the website of either the pet insurer or the pet insurer's program administrator.

(10) In connection with the issuance of a new pet insurance policy, the pet insurer shall provide the consumer with a copy of the "Insurer Disclosure of Important Policy Provisions" document required pursuant to subdivision (8) of this subsection in at least 12-point type when it delivers the policy.

(11) At the time a pet insurance policy is issued or delivered to a policyholder, the pet insurer shall include a written disclosure with the following information, printed in 12-point boldface type:

(A) the Department of Financial Regulation's mailing address, toll-free telephone number, and website address;

(B) the address and customer service telephone number of the pet insurer or the agent or broker of record; and

(C) if the policy was issued or delivered by an agent or broker, a statement advising the policyholder to contact the broker or agent for assistance.

(12) The disclosures required in this section shall be in addition to any other disclosure requirements required by law or rule.

§ 7155. POLICY CONDITIONS

(a) A pet insurer may issue policies that exclude coverage on the basis of one or more preexisting conditions with appropriate disclosure to the consumer. The pet insurer has the burden of proving that the preexisting condition exclusion applies to the condition for which a claim is being made.

(b) A pet insurer may issue policies that impose waiting periods that do not exceed 30 days from the effective date of the policy for illnesses or orthopedic conditions not resulting from an accident. Waiting periods for accidents are prohibited. An insurer must issue coverage to be effective not later than 12:01 a.m. on the second calendar day after premium is paid.

(1) A pet insurer using a waiting period permitted under this subsection shall include a provision in its contract that allows the waiting period to be waived upon completion of a medical examination. Pet insurers may require the examination to be conducted by a licensed veterinarian after the purchase of the policy.

(A) A medical examination pursuant to this subdivision (1) shall be paid for by the policyholder, unless the policy specifies that the pet insurer will pay for the examination.

(B) A pet insurer can specify elements to be included as part of the examination and require documentation thereof, provided the specifications do not unreasonably restrict a consumer's ability to waive the waiting period under this subsection.

(2) Waiting periods, and the requirements applicable to them, shall be clearly and prominently disclosed to consumers prior to the policy purchase.

(3) If a policy does not include a waiting period, an insurer may set a policy effective date that is up to 15 calendar days after purchase, provided such policy effective date is clearly disclosed and no premium is earned before the policy becomes effective.

(c) A pet insurer must not require a veterinary examination of the covered pet for the insured to have their policy renewed.

(d) If a pet insurer includes any prescriptive, wellness, or noninsurance benefits in the policy form, then it is made part of the policy contract and shall follow all applicable insurance laws and rules.

(e) An insured's eligibility to purchase a pet insurance policy shall not be based on participation, or lack of participation, in a separate wellness program.

(f) A condition for which coverage is afforded on a policy shall not be considered a preexisting condition on any renewal of the policy.

(g) A policyholder shall be allowed to modify coverage amounts without having the policy cancelled and renewed.

(h) Coverage for new or existing claims shall not be suspended due to nonpayment of premium. The policy is considered effective until renewal, cancellation, or nonrenewal.

(i) Unpaid premiums shall not be deducted from claim payments for a covered loss.

§ 7156. SALES PRACTICES FOR WELLNESS PROGRAMS

(a) A pet insurer or producer shall not market a wellness program as pet insurance.

(b) If a wellness program is sold by a pet insurer or producer it shall be subject to the following requirements:

(1) The purchase of the wellness program shall not be a requirement to the purchase of pet insurance.

(2) The costs of the wellness program shall be separate and identifiable from any pet insurance policy sold by a pet insurer or producer.

(3) The terms and conditions for the wellness program shall be separate from any pet insurance policy sold by a pet insurer or producer.

(4) The products or coverages available through the wellness program shall not duplicate products or coverages available through the pet insurance policy.

(5) The advertising of the wellness program shall not be misleading and shall be in accordance with the requirements of this subsection.

(6) A pet insurer or producer shall clearly disclose the following to consumers, printed in 12-point boldface type:

(A) that wellness programs are not insurance;

(B) the address and customer service telephone number of the pet insurer or producer or broker of record; and

(C) the Department of Financial Regulation's mailing address, toll-free telephone number, and website address.

(7) Coverages included in the pet insurance policy contract described as "wellness" benefits are insurance.

§ 7157. INSURANCE PRODUCER TRAINING

(a) An insurance producer shall not sell, solicit, or negotiate a pet insurance product until after the producer is appropriately licensed and has completed the required training identified in subsection (c) of this section.

(b) An insurer shall ensure that its producers are trained under subsection (c) of this section and that its producers have been appropriately trained on the coverages and conditions of its pet insurance products.

(c) The training required under this section shall include information on the following topics:

(A) preexisting conditions and waiting periods;

(B) the differences between pet insurance and noninsurance wellness programs;

(C) hereditary disorders, congenital anomalies or disorders, and chronic conditions and how pet insurance policies interact with those conditions or disorders; and

(D) rating, underwriting, renewal, and other related administrative topics.

(d) The satisfaction of the training requirements of another state that are substantially similar to the training requirements in subsection (c) of this section shall be deemed to satisfy the training requirements in Vermont.

§ 7158. RULES

The Commissioner may adopt rules to administer this chapter and to effectuate its policies and purposes.

§ 7159. VIOLATIONS

A violation of this chapter shall be subject to the penalties and enforcement provisions specified in section 3661 of this title.

* * * Conference of State Bank Supervisors; Money Transmission Modernization Model Act * * *

Sec. 29. 8 V.S.A. § 2101 is amended to read:

§ 2101. DEFINITIONS

Except as otherwise provided in this part:

(1) "Acting in concert" means persons knowingly acting together with a common goal of jointly acquiring control of a license whether or not pursuant to an express agreement.

(2) "Commercial loan" means a loan or extension of credit that is described in 9 V.S.A. § 46(1), (2), or (4). The term does not include a loan or extension of credit secured in whole or in part by an owner-occupied, one- to four-unit dwelling.

~~(2)~~(3) "Commissioner" means the Commissioner of Financial Regulation.

~~(3)~~(4)(A) "Control" means ~~the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10 percent or more of the voting securities or other interest of any other person~~:

(i) the power to vote, directly or indirectly, at least 25 percent of the outstanding voting shares or voting interests of a licensee or person in control of a licensee;

(ii) the power to elect or appoint a majority of key individuals; or

(iii) the power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee.

(B) A person is presumed to exercise a controlling influence when the person holds the power to vote, directly or indirectly, at least 10 percent of the outstanding voting shares or voting interests of a licensee or person in control of a licensee.

(C) A person presumed to exercise a controlling influence as defined by subdivision (4)(B) of this section can rebut the presumption of control if the person is a passive investor.

(D) For purposes of determining the percentage of a person controlled by any other person, the person's interest shall be aggregated with the interest of any other immediate family member as defined in subdivision (9) of this section, as well as the interest of the person's mothers- and fathers-in-law, sons- and daughters-in-law, brothers- and sisters-in-law, and any other person who shares such person's home.

~~(4)~~(5) "Depository institution" has the same meaning as in 12 U.S.C. § 1813 and includes any bank and any savings association as defined in

12 U.S.C. § 1813. The term also includes a credit union organized and regulated as such under the laws of the United States or any state.

~~(5)~~(6) "Dwelling" has the same meaning as in 15 U.S.C. § 1602.

~~(6)~~(7) "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the National Credit Union Administration, and the Federal Deposit Insurance Corporation or any successor of any of these.

~~(7)~~(8) "Holder" means:

(A) the person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession;

(B) the person in possession of a negotiable tangible document of title if the goods are deliverable either to bearer or to the order of the person in possession; or

(C) the person in control of a negotiable electronic document of title.

~~(8)~~(9) "Immediate family member" means a spouse, child, sibling, parent, grandparent, or grandchild, aunt, uncle, nephew, niece, including stepparents, stepchildren, stepsiblings, step grandparents, step grandchildren, and adoptive relationships. The term also includes former spouses dividing property in connection with a divorce or separation.

~~(9)~~(10) "Individual" means a natural person.

~~(10)~~(11) "Insurance company" means an institution organized and regulated as such under the laws of any state.

~~(11)~~(12) "Key individual" means any individual ultimately responsible for establishing or directing policies and procedures of the licensee, such as an executive officer, manager, director, or trustee, and includes persons exercising the managerial authority of a person in control of a licensee.

(13) "Licensee" means a person required to be licensed or registered under this part.

~~(12)~~(14) "Material litigation" means a litigation that according to generally accepted accounting principles is deemed significant to an applicant's or a licensee's financial health and is required to be disclosed in the applicant's or licensee's annual audited financial statements, report to shareholders, or similar records.

~~(13)~~(15) "Mortgage loan" means a loan secured primarily by a lien against real estate.

(16) "Multistate licensing process" means any agreement entered into by and among state regulators relating to coordinated processing of applications for licenses, applications for the acquisition of control of a licensee, control determinations, or notice and information requirements for a change of key individuals.

~~(14)~~(17) "Nationwide Multistate Licensing System and Registry" or "Nationwide Mortgage Licensing System and Registry" or "NMLS" means a multistate licensing system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and operated by the State Regulatory Registry LLC for the licensing and registration of ~~non-depository~~ nondepository financial service entities in participating state agencies, or any successor to the Nationwide Multistate Licensing System and Registry.

~~(15)~~(18) "Person" has the same meaning as in 1 V.S.A. § 128.

(19) "Passive investor" means a person that:

(A) does not have the power to elect a majority of key individuals;

(B) is not employed by and does not have any managerial duties of the licensee or person in control of a licensee;

(C) does not have the power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee; and

(D) either attests to subdivisions (A), (B), and (C) of this subdivision in a form and in a medium prescribed by the Commissioner or commits to the passivity characteristics of subdivisions (A), (B), and (C) of this subdivision in a written document.

~~(16)~~(20) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

~~(17)~~(21) "Residential mortgage loan" means a loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on either a dwelling or residential real estate, upon which is constructed or intended to be constructed a dwelling.

~~(18)~~(22) "Residential real estate" means real property located in this State, upon which is constructed or intended to be constructed a dwelling.

~~(19) "Responsible individual" means an individual who is employed by a licensee and has principal, active managerial authority over the provision of services in this State.~~

~~(20)~~(23) "State" means a state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States, except that when capitalized the term means the State of Vermont.

~~(21)~~(24) "Unique identifier" means a number or other identifier assigned by protocols established by the Nationwide Multistate Licensing System and Registry.

~~(22)~~(25) "Unsafe or unsound practice" means a practice or conduct by a person licensed to do business in this State that creates the likelihood of material loss, insolvency, or dissipation of the licensee's assets, or otherwise materially prejudices the interests of its customers.

Sec. 30. 8 V.S.A. § 2102 is amended to read:

§ 2102. APPLICATION FOR LICENSE

(a) Application for a license or registration shall be in writing, under oath, and in the form prescribed by the Commissioner, and shall contain the legal name, any fictitious name or trade name, and the address of the residence and place of business of the applicant~~, and~~; if the applicant is a partnership ~~or an association, of every member thereof, and if a corporation, of each officer and director thereof~~ corporation, limited liability company, partnership, or other entity, the name and title of each key individual and person in control of the applicant; ~~also~~ the county and municipality with street and number, if any, where the business is to be conducted; and such further information as the Commissioner may require.

* * *

(c) In connection with an application for a license, the applicant, each ~~officer, director, and responsible individual of the applicant~~ key individual, each person in control of the applicant, and any other person the Commissioner requires in accordance with NMLS guidelines or other multistate agreements, shall furnish to the Nationwide Multistate Licensing System and Registry information concerning each person's identity, including:

(1) fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a state, national, and international criminal history background check;

(2) personal history and experience in a form prescribed by the Nationwide Multistate Licensing System and Registry, including the submission of authorization for the Nationwide Multistate Licensing System and Registry and the Commissioner to obtain:

(A) an independent credit report and credit score obtained from a consumer reporting agency described in 15 U.S.C. § 1681a for the purpose of evaluating the applicant's financial responsibility at the time of application; and the Commissioner may obtain additional credit reports and credit scores to confirm the licensee's continued compliance with the financial responsibility requirements of this part; and

(B) information related to any administrative, civil, or criminal findings by any governmental jurisdiction; ~~and~~

(3) if the individual has resided outside the United States at any time in the last 10 years, an investigative background report prepared by an independent search firm that meets the following minimum requirements:

(A) the search firm demonstrates that it has sufficient knowledge, resources, and employs accepted and reasonable methodologies to conduct the research of the background report;

(B) the search firm is not affiliated with nor has an interest with the individual it is researching; and

(C) the investigative background report is written in the English language and contains the following:

(i) if available in the individual's current jurisdiction of residency, a comprehensive credit report, or any equivalent information obtained or generated by the independent search firm to accomplish such report, including a search of the court data in the countries, provinces, states, cities, towns, and contiguous areas where the individual resided and worked;

(ii) criminal records information for the past 10 years, including felonies, misdemeanors, or similar convictions for violations of law in the countries, provinces, states, cities, towns, and contiguous areas where the individual resided and worked;

(iii) employment history;

(iv) media history, including an electronic search of national and local publications, wire services, and business applications; and

(v) financial services-related regulatory history, including money transmission, securities, banking, insurance, and mortgage-related industries; and

(4) any other information required by the ~~Nationwide Multistate Licensing System and Registry~~ NMLS or the Commissioner.

(d) The applicant shall provide a list of any material litigation in which the applicant has been involved in the 10-year period preceding the submission of the application.

(e) If an applicant is a corporation, limited liability company, partnership, or other entity, the applicant shall also provide:

(1) the date of the applicant's incorporation or formation and state or country of incorporation or formation;

(2) if applicable, a certificate of good standing from the state or country in which the applicant is incorporated or formed;

(3) a brief description of the structure or organization of the applicant, including any parent or subsidiary of the applicant, and whether any parent or subsidiary is publicly traded;

(4) the legal name, any fictitious or trade name, all business and residential addresses, and the employment, in the 10-year period preceding the submission of the application, of each ~~executive officer, manager, responsible individual, director of, or~~ key individual and person in control of~~,~~ the applicant;

* * *

Sec. 31. 8 V.S.A. § 2103 is amended to read:

§ 2103. APPROVAL OF APPLICATION AND ISSUANCE OF LICENSE

(a) Upon the filing of an application, payment of the required fees, and satisfaction of any applicable bond and liquid asset requirements, the Commissioner shall issue a license to the applicant if the Commissioner finds:

(1)(A) The financial condition and responsibility, financial and business experience, competence, character, and general fitness of the applicant command the confidence of the community and warrant belief that the business will be operated honestly, fairly, and efficiently pursuant to the applicable chapter of this title.

~~(i)~~ If the applicant is a corporation, partnership, or association, such findings are required with respect to each ~~partner, member, and responsible individual of,~~ key individual and each person in control of~~,~~ the applicant.

~~(ii) If the applicant is a corporation, such findings are required with respect to each officer, director, and responsible individual of, and each person in control of, the applicant.~~

* * *

(3) The applicant, each ~~officer, director, and responsible individual of~~ key individual, and each person in control of~~,~~ the applicant~~,~~ has never had a financial services license or similar license revoked in any governmental jurisdiction, except that a subsequent formal vacation of such revocation shall not be deemed a revocation.

(4) The applicant, each ~~officer, director, and responsible individual of~~ key individual, and each person in control of~~,~~ the applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court:

* * *

(5) The applicant has satisfied the applicable surety bond and liquid asset requirement as follows:

* * *

(C) for an application for a money transmitter license, the ~~bond and~~ net worth and security requirements of sections ~~2507 and 2510~~ 2531 and 2532 of this title;

* * *

(f) If an applicant avails itself or is otherwise subject to a multistate licensing process:

(1) the Commissioner is authorized to accept the investigation results of a lead investigative state for the purposes of reaching the findings in subsections (a)–(d) of this section if the lead investigative state has sufficient staffing, expertise, and minimum standards; or

(2) if Vermont is a lead investigative state, the Commissioner is authorized to investigate the applicant pursuant to subsections (a)–(e) of this section.

(g) This section does not apply to a person applying for a commercial lender license under section 2202a of this title.

Sec. 32. 8 V.S.A. § 2107 is amended to read:

§ 2107. CHANGE OF CONTROL

(a) ~~A licensee shall give the Commissioner notice of a proposed change of control within 30 days of the proposed change and request approval of the acquisition. A money transmitter licensee shall also submit with the notice a nonrefundable fee of $500.00~~ Any person or group of persons acting in concert shall submit a request to the Commissioner and shall obtain the approval of the Commissioner prior to acquiring control. If the person or group of persons is seeking to acquire control of a money transmitter licensee, the person or group of persons shall submit with the request a nonrefundable fee of $500.00. An individual is not deemed to acquire control of a licensee and is not subject to this section when that individual becomes a key individual in the ordinary course of business.

(b) ~~After review of a request for approval under subsection (a) of this section, the Commissioner may require the licensee to provide additional information concerning the proposed persons in control of the licensee. The additional information shall be limited to the same categories of information required of the licensee or persons in control of the licensee as part of its original license or renewal application~~ The request required by subsection (a) of this section shall include all information required for the person or group of persons seeking to acquire control and all new key individuals that have not previously submitted the application requirements contained in section 2102 of this chapter.

(c) The Commissioner shall approve a request for change of control under subsection (a) of this section if, after investigation, the Commissioner determines that the person or group of persons requesting approval has the financial condition and responsibility, competence, experience, character, and general fitness to control and operate the licensee ~~or person in control of the licensee~~ in a lawful and proper manner, and that the interests of the public will not be jeopardized by the change of control.

* * *

(h) If an applicant avails itself or is otherwise subject to a multistate licensing process:

(1) the Commissioner is authorized to accept the investigation results of a lead investigative state for the purposes of reaching the findings in subsections (c) of this section if the lead investigative state has sufficient staffing, expertise, and minimum standards; or

(2) if Vermont is a lead investigative state, the Commissioner is authorized to investigate the applicant pursuant to subsections (c) of this section.

Sec. 33. 8 V.S.A. § 2108 is amended to read:

§ 2108. NOTIFICATION OF MATERIAL CHANGE

* * *

(b) A licensee ~~shall notify the Commissioner in writing within 30 days of any change in the list of executive officers, managers, directors, or responsible individuals~~ adding or replacing any key individual shall:

(1) notify the Commissioner in writing within 15 days after the effective date of the key individual's appointment; and

(2) provide the information required in subsection 2102(c) of this chapter within 45 days after the effective date of the key individual's appointment.

(c) The Commissioner may issue a notice of disapproval of a key individual if the Commissioner finds that the financial condition and responsibility, financial and business experience, competence, character, or general fitness of the key individual indicates that it is not in the public interest to permit the individual to provide services in this State.

(d) A licensee shall file a report with the Commissioner within 15 business days after the licensee has reason to know of the occurrence of any of the following events involving the licensee, ~~or any executive officer, manager, director~~ key individual, or person in control~~, responsible individual, or equivalent~~ of the licensee:

* * *

Sec. 34. 8 V.S.A. § 2109(g) is added to read:

(g) Notwithstanding any other provisions of this title to the contrary, the license of a money transmitter who fails to pay the annual renewal fee on or before December 1 shall automatically expire on December 31.

Sec. 35. 8 V.S.A. § 2110 is amended to read:

§ 2110. REVOCATION, SUSPENSION, TERMINATION, OR NONRENEWAL OF LICENSE; CEASE AND DESIST ORDERS

(a) The Commissioner may deny, suspend, terminate, revoke, condition, or refuse to renew a license or order that any person or licensee cease and desist in any specified conduct if the Commissioner finds:

* * *

(6) the competence, experience, character, or general fitness of the licensee, person in control of a licensee, or ~~responsible individual of the~~

~~licensee~~ key individual indicates that it is not in the public interest to permit the person to provide services in this State;

* * *

(b) The Commissioner may issue orders or directives to any person:

* * *

(5) to remove any officer, director, employee, ~~responsible individual~~ key individual, or ~~control~~ person in control; or

* * *

Sec. 36. 8 V.S.A. § 2115 is amended to read:

§ 2115. PENALTIES

* * *

(d) It shall be a criminal offense, punishable by a fine of not more than $10,000.00 or imprisonment of not more than three years in prison, or both, for any person to intentionally make a false statement, misrepresentation, or false certification in a record filed or required to be maintained by this part, or to intentionally make a false entry or omit a material entry in such a record, or to knowingly engage in any activity for which a license is required under this chapter without being licensed under this chapter.

(e)(1) A loan contract made in knowing and willful violation of subdivision 2201(a)(1) of this title is void, and the lender shall not collect or receive any principal, interest, or charges; provided, however, in the case of a loan made in violation of subdivision 2201(a)(1) of this title, where the Commissioner does not find a knowing and willful violation, the lender shall not collect or receive any interest or charges, but may collect and receive principal.

(2) If a person who receives an order that directs the person to cease exercising the duties and powers of a licensee and imposes an administrative penalty under this part continues to perform the duties or exercise the powers of a licensee without satisfying the penalty, or otherwise reaching a satisfactory resolution between the parties, or securing a decision vacating the order by the Commissioner or by a court of competent jurisdiction, a loan contract made by the person after receipt of such order is void and the lender shall not collect or receive any principal, interest, or charges.

~~(e)~~(f) The powers vested in the Commissioner in this part are in addition to any other powers to enforce penalties, fines, or forfeitures authorized by law.

(g) This section does not limit the power of the State to punish a person for conduct that otherwise constitutes a crime under Vermont law.

Sec. 37. 8 V.S.A. § 2127 is added to read:

§ 2127. NETWORKED SUPERVISION

(a) To efficiently and effectively administer and enforce this chapter and to minimize regulatory burden, the Commissioner is authorized and encouraged to participate in multistate supervisory processes established between states and coordinated through the Conference of State Bank Supervisors, Money Transmitter Regulators Association, and affiliates and successors thereof, for all licensees that hold licenses in Vermont and in other states. As a participant in multistate supervision, the Commissioner may:

(1) cooperate, coordinate, and share information with other state and federal regulators in accordance with section 22 of this title and section 2126 of this chapter;

(2) enter into written cooperation, coordination, or information-sharing contracts or agreements with organizations the membership of which is comprised of state or federal governmental agencies; and

(3) cooperate, coordinate, and share information with organizations the membership of which is made up of state or federal governmental agencies, provided that the organizations agree in writing to maintain the confidentiality and security of the shared information in accordance with section 22 of this title.

(b) The Commissioner shall not waive, and nothing in this section constitutes a waiver of, the Commissioner's authority to conduct an examination or investigation or otherwise take independent action authorized by this chapter or a rule adopted or order issued under this chapter to enforce compliance with applicable State or federal law.

Sec. 38. REPEAL

8 V.S.A. chapter 79 (money services), subchapter 1 (general provisions) and subchapter 2 (money transmission licenses) are repealed.

Sec. 39. 8 V.S.A. chapter 79, subchapter 1 is added to read:

Subchapter 1. General Provisions

§ 2500. PURPOSE

~~This chapter, as amended, is designed to replace portions of the prior money services law that addressed money transmission~~. It is the intent of the General Assembly that the provisions of this chapter accomplish the following:

(1) ensure the State can coordinate with other states in all areas of regulation, licensing, and supervision to eliminate unnecessary regulatory burden and more effectively use regulator resources;

(2) protect the public from financial crime;

(3) standardize the types of activities that are subject to licensing or otherwise exempt from licensing; and

(4) modernize safety and soundness requirements to ensure customer funds are protected in an environment that supports innovative and competitive business practices.

§ 2501. TRANSITION PERIOD

(a) A person licensed under subchapter three of this chapter prior to July 1, 2024, and their authorized delegates, shall not be subject to the provisions of this chapter that establish new or different requirements from those that existed prior to July 1, 2024 until July 1, 2025.

(b) Notwithstanding subsection (a) of this section, on or before July 1, 2025 a licensee shall amend its authorized delegate written contracts to comply with the requirements in section 2025 of this chapter, provided the licensee and authorized delegate otherwise operate in full compliance with this chapter pursuant to the timeline established in subsection (a) of this section.

§ 2502. RELATIONSHIP TO FEDERAL LAW

(a) In the event state money transmission jurisdiction is conditioned on a federal law, any inconsistencies between a provision of this chapter and the federal law governing money transmission shall be governed by the applicable federal law to the extent of the inconsistency.

(b) In the event of any inconsistencies between this chapter and a federal law that governs pursuant to subsection (a) of this section, the Commissioner may provide interpretive guidance that:

(1) identifies the inconsistency; and

(2) identifies the appropriate means of compliance with federal law.

§ 2503. DEFINITIONS

As used in this chapter:

(1) "Authorized delegate" means a person a licensee designates to engage in money transmission on behalf of the licensee.

(2) "Average daily money transmission liability" means the amount of the licensee's outstanding money transmission obligations in this State at the

end of each day in a given period of time, added together, and divided by the total number of days in the given period of time. For purposes of calculating average daily money transmission liability under this chapter for any licensee required to do so, the given periods of time shall be the quarters ending March 31, June 30, September 30, and December 31.

(3) "Bank Secrecy Act" means the Bank Secrecy Act, 31 U.S.C. § 5311, et seq. and its implementing regulations, as may be amended.

(4) "Check cashing" means receiving at least $500.00 compensation within a 30-day period for taking payment instruments or stored value, other than traveler's checks, in exchange for money, payment instruments, or stored value delivered to the person delivering the payment instrument or stored value at the time and place of delivery without any agreement specifying when the person taking the payment instrument will present it for collection.

(5) "Closed loop stored value" means stored value that is redeemable by the issuer only for goods or services provided by the issuer or its affiliate or franchisees of the issuer or its affiliate, except to the extent required by applicable law to be redeemable in cash for its cash value.

(6) "Control of virtual currency," when used in reference to a transaction or relationship involving virtual currency, means the power to execute unilaterally or prevent indefinitely a virtual currency transaction.

(7) "Currency exchange" means receipt of revenues equal to or greater than five percent of total revenues from the exchange of money of one government for money of another government.

(8) "Eligible rating" shall mean a credit rating of any of the three highest rating categories provided by an eligible rating service, whereby each category may include rating category modifiers such as "plus" or "minus" for S&P, or the equivalent for any other eligible rating service. Long-term credit ratings are deemed eligible if the rating is equal to A- or higher by S&P, or the equivalent from any other eligible rating service. Short-term credit ratings are deemed eligible if the rating is equal to or higher than A-2 or SP-2 by S&P, or the equivalent from any other eligible rating service. In the event that ratings differ among eligible rating services, the highest rating shall apply when determining whether a security bears an eligible rating.

(9) "Eligible rating service" shall mean any Nationally Recognized Statistical Rating Organization (NRSRO) as defined by the U.S. Securities and Exchange Commission, and any other organization designated by the Commissioner by rule or order.

(10) "In this State" means at a physical location within Vermont for a transaction requested in person. For a transaction requested electronically or by phone, the provider of money transmission may determine if the person requesting the transaction is "in this State" by relying on other information provided by the person regarding the location of the individual's residential address or a business entity's principal place of business or other physical address location, and any records associated with the person that the provider of money transmission may have to indicate such location, including an address associated with an account.

(11) "Licensee" means a person licensed under this chapter.

(12) "Limited station" means private premises where a check casher is authorized to engage in check cashing for not more than two days of each week solely for the employees of the particular employer or group of employers specified in the check casher license application.

(13) "Mobile location" means a vehicle or a movable facility where check cashing occurs.

(14) "Monetary value" means a medium of exchange, whether or not redeemable in money.

(15) "Money" means a medium of exchange that is issued by the United States or a foreign government. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more governments.

(16) "Money services" means money transmission, check cashing, or currency exchange.

(17)(A) "Money transmission" means any of the following:

(i) selling or issuing payment instruments to a person located in this State;

(ii) selling or issuing stored value to a person located in this State; or

(iii) receiving money for transmission from a person located in this State.

(B) The term "money transmission" includes payroll processing services.

(C) The term "money transmission" does not include the provision solely of telecommunications services or network access.

(18) "Money transmission kiosk" means an automated, unstaffed electronic machine that allows users to engage in money transmission, including any machine that is capable of accepting or dispensing cash in exchange for virtual currency. The term does not include consumer cell phones and other similar personal devices.

(19)(A) "Outstanding money transmission obligations" shall be established and extinguished in accordance with applicable state law and shall mean:

(i) any payment instrument or stored value issued or sold by the licensee to a person located in the United States or reported as sold by an authorized delegate of the licensee to a person that is located in the United States that has not yet been paid or refunded by or for the licensee, or escheated in accordance with applicable abandoned property laws; or

(ii) any money received for transmission by the licensee or an authorized delegate in the United States from a person located in the United States that has not been received by the payee or refunded to the sender, or escheated in accordance with applicable abandoned property laws.

(B) For purposes of this section, "in the United States" shall include, to the extent applicable, a person in any state, territory, or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico; or a U.S. military installation located in a foreign country.

(20) "Payment instrument" means a written or electronic check, draft, money order, traveler's check, or other written or electronic instrument for the transmission or payment of money or monetary value, whether or not negotiable. The term does not include stored value or any instrument that is:

(A) redeemable by the issuer only for goods or services provided by the issuer or its affiliate or franchisees of the issuer or its affiliate, except to the extent required by applicable law to be redeemable in cash for its cash value; or

(B) not sold to the public but issued and distributed as part of a loyalty, rewards, or promotional program.

(21) "Payroll processing services" means receiving money for transmission pursuant to a contract with a person to deliver wages or salaries, make payment of payroll taxes to state and federal agencies, make payments relating to employee benefit plans, or make distributions of other authorized deductions from wages or salaries. The term does not include an employer performing payroll processing services on its own behalf or on behalf of its affiliate.

(22) "Prevailing market value" means the value to buy or sell a particular virtual currency, as applicable, quoted on a virtual currency exchange operated by a licensee based in the United States, with sufficient volume to reflect the prevailing market price of such virtual currency.

(23) "Receiving money for transmission" or "money received for transmission" means receiving money or monetary value in the United States for transmission within or outside the United States by electronic or other means.

(24) "Stored value" means monetary value representing a claim against the issuer evidenced by an electronic or digital record, and that is intended and accepted for use as a means of redemption for money or monetary value, or payment for goods or services. The term includes "prepaid access" as defined by 31 C.F.R. § 1010.100, as may be amended. Notwithstanding the foregoing, the term "stored value" does not include a payment instrument or closed loop stored value, or stored value not sold to the public but issued and distributed as part of a loyalty, rewards, or promotional program.

(25) "Tangible net worth" means the aggregate assets of a licensee excluding all intangible assets, less liabilities, as determined in accordance with United States generally accepted accounting principles.

(26) "U.S. dollar equivalent of virtual currency" means the prevailing market value of a particular virtual currency in United States dollars for a particular date or period specified in this chapter.

(27)(A) "Virtual currency" means a digital representation of value that:

(i) is used as a medium of exchange, unit of account, or store of value; and

(ii) is not money, whether or not denominated in money.

(B) The term "virtual currency" does not include:

(i) a digital representation of value that can be redeemed for goods, services, discounts, or purchases solely as part of a customer affinity or rewards program with the issuing merchant or other designated merchants, or both, or can be redeemed for digital units in another customer affinity or rewards program, but cannot be, directly or indirectly, converted into, redeemed, or exchanged for money, monetary value, bank credit, or virtual currency; or

(ii) a digital representation of value issued by or on behalf of a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform, and:

(I) has no market or application outside of such online game, game platform, or family of games;

(II) cannot be, directly or indirectly, converted into, redeemed, or exchanged for money, monetary value, bank credit, or virtual currency; and

(III) may or may not be redeemable for real-world goods, services, discounts, or purchases.

(28) "Virtual-currency administration" means:

(A) issuing virtual currency with the authority to redeem such virtual currency for money, monetary value, bank credit, or other virtual currency; or

(B) issuing virtual currency that entitles the purchaser or holder of such virtual currency, or otherwise conveys or represents a right of the purchaser or holder of such virtual currency, to redeem such virtual currency for money, monetary value, bank credit, or other virtual currency.

(29) "Virtual-currency business activity" means:

(A) exchanging or transferring virtual currency, engaging in virtual-currency administration, or engaging in virtual-currency storage, in each case whether directly or through an agreement with a virtual-currency control-services vendor;

(B) holding electronic precious metals or electronic certificates representing interests in precious metals on behalf of another person or issuing shares or electronic certificates representing interests in precious metals;

(C) buying or selling virtual currency as a consumer business; or

(D) receiving virtual currency or control of virtual currency for transmission or transmitting virtual currency, except where the transaction is undertaken for nonfinancial purposes and does not involve the transfer of more than a nominal amount of virtual currency.

(30) "Virtual-currency control-services vendor" means a person that has control of virtual currency solely under an agreement with a person that, on behalf of another person, assumes control of virtual currency.

(31) "Virtual-currency kiosk operator" means a person that engages in virtual-currency business activity via a money transmission kiosk located in this State or a person that owns, operates, or manages a money transmission kiosk located in this State through which virtual-currency business activity is offered.

(32) "Virtual-currency storage" means:

(A) maintaining possession, custody, or control over virtual currency on behalf of another person, including as a virtual-currency control-services vendor;

(B) issuing, transferring, or otherwise granting or providing to any person in this State any claim or right, or any physical, digital, or electronic instrument, receipt, certificate, or record representing any claim or right to receive, redeem, withdraw, transfer, exchange, or control any virtual currency or amount of virtual currency; or

(C) receiving possession, custody, or control over virtual currency from a person in this State, in return for a promise or obligation to return, repay, exchange, or transfer such virtual currency or a like amount of such virtual currency.

§ 2504. EXEMPTIONS

This chapter does not apply to:

(1) An operator of a payment system to the extent that it provides processing, clearing, or settlement services, between or among persons exempted by this section or licensees, in connection with wire transfers, credit card transactions, debit card transactions, stored-value transactions, automated clearing house transfers, or similar funds transfers.

(2) A person appointed as an agent of a payee to collect and process a payment from a payor to the payee for goods or services, other than money transmission itself, provided to the payor by the payee, provided that:

(A) there exists a written agreement between the payee and the agent directing the agent to collect and process payments from payors on the payee's behalf;

(B) the payee holds the agent out to the public as accepting payments for goods or services on the payee's behalf; and

(C) payment for the goods and services is treated as received by the payee upon receipt by the agent so that the payor's obligation is extinguished and there is no risk of loss to the payor if the agent fails to remit the funds to the payee.

(3) A person that acts as an intermediary by processing payments between an entity that has directly incurred an outstanding money transmission obligation to a sender, and the sender's designated recipient, provided that the entity:

(A) is properly licensed or exempt from licensing requirements under this chapter;

(B) provides a receipt, electronic record, or other written confirmation to the sender identifying the entity as the provider of money transmission in the transaction; and

(C) bears sole responsibility to satisfy the outstanding money transmission obligation to the sender, including the obligation to make the sender whole in connection with any failure to transmit the funds to the sender's designated recipient.

(4) The United States or a department, agency, or instrumentality thereof, or its agent.

(5) Money transmission by the U.S. Postal Service or by an agent of the U.S. Postal Service.

(6) A state, county, city, or any other governmental agency or governmental subdivision or instrumentality of a state, or its agent.

(7) A financial institution as defined in subdivision 11101(32) of this title, or a credit union, provided their deposits are federally insured.

(8) A financial institution holding company as defined in subdivision 11101(33) of this title; an office of an international banking corporation; a foreign bank that establishes a federal branch pursuant to the International Bank Act, 12 U.S.C. § 3102, as may be amended; a corporation organized pursuant to the Bank Services Company Act, 12 U.S.C. §§ 1862–1867, as may be amended; a corporation organized under the Edge Act, 12 U.S.C. §§ 611–633, as may be amended; an independent trust company organized under chapter 77 of this title; or a special purpose financial institution that is organized under the laws of this State.

(9) Electronic funds transfer of governmental benefits for a federal, state, county, or governmental agency by a contractor on behalf of the United States or a department, agency, or instrumentality thereof, or on behalf of a state or governmental subdivision, agency, or instrumentality thereof.

(10) A board of trade designated as a contract market under the federal Commodity Exchange Act, 7 U.S.C. §§ 1–25, as may be amended, or a person that, in the ordinary course of business, provides clearance and settlement services for a board of trade to the extent of its operation as or for such a board.

(11) A registered futures commission merchant under the federal commodities laws to the extent of its operation as such a merchant.

(12) A person registered as a securities broker-dealer under federal or state securities laws to the extent of its operation as such a broker-dealer.

(13) An individual employed by a licensee, authorized delegate, or any person exempted from the licensing requirements of this chapter when acting within the scope of employment and under the supervision of the licensee, authorized delegate, or exempted person as an employee and not as an independent contractor.

(14) A person expressly appointed as a third-party service provider to or agent of an entity exempt under subdivision (7) of this section, solely to the extent that:

(A) such service provider or agent is engaging in money transmission on behalf of and pursuant to a written agreement with the exempt entity that sets forth the specific functions that the service provider or agent is to perform; and

(B) the exempt entity assumes all risk of loss and all legal responsibility for satisfying the outstanding money transmission obligations owed to purchasers and holders of the outstanding money transmission obligations upon receipt of the purchaser's or holder's money or monetary value by the service provider or agent.

(15) The sale or issuance of stored value by a public or nonprofit school to its students and employees.

(16) A debt adjuster licensed pursuant to chapter 133 of this title when engaged in the business of debt adjustment.

(17) A person exempt by rule or order if the Commissioner finds such exemption to be in the public interest and that the regulation of such person is not necessary for the purposes of this chapter.

§ 2504a. AUTHORITY TO REQUIRE DEMONSTRATION OF EXEMPTION

The Commissioner may require that any person claiming to be exempt from licensing pursuant to section 2504 of this chapter provide information and documentation to the Commissioner demonstrating that it qualifies for any claimed exemption.

Sec. 40. 8 V.S.A. chapter 79, subchapter 2 is added to read:

Subchapter 2. Money Transmission Licenses

§ 2505. LICENSE REQUIRED

(a) A person shall not engage in the business of money transmission or advertise, solicit, or hold itself out as providing money transmission, unless the person is licensed under this subchapter.

(b) Subsection (a) of this section does not apply to:

(1) a person that is an authorized delegate of a person licensed under this subchapter acting within the scope of authority conferred by a written contract with the licensee; or

(2) a person that is exempt pursuant to section 2504 of this chapter and does not engage in money transmission outside the scope of such exemption.

§2506. APPLICATION FOR LICENSE; ADDITIONAL INFORMATION

(a) In addition to the information required by section 2102 of this title, an application for a license under this subchapter shall state or contain:

(1) a description of any money services previously provided by the applicant and the money services that the applicant seeks to provide in this State;

(2) a list of the applicant's proposed authorized delegates, and the locations in Vermont where the applicant and its authorized delegates propose to engage in money transmission or provide other money services;

(3) a list of other states in which the applicant is licensed to engage in money transmission or provide other money services;

(4) information concerning any bankruptcy or receivership proceedings affecting the licensee or a person in control of a licensee;

(5) a sample form of contract for authorized delegates, if applicable;

(6) a sample form of payment instrument or instrument upon which stored value is recorded, as applicable; and

(7) the name and address of any financial institution through which the applicant plans to conduct money services.

(b) For good cause shown and consistent with the purposes of this section, the Commissioner may waive one or more requirements of this section or permit an applicant to submit substituted information in lieu of the required information.

§ 2507. MONEY TRANSMISSION KIOSK REGISTRATION

(a) A licensee shall not locate, or allow a third party to locate, a money transmission kiosk in this State that allows users of the money transmission kiosk to engage in money transmission through the licensee unless the licensee registers the money transmission kiosk and obtains the prior approval of the Commissioner for its activation.

(b) To apply for registration and approval to activate a money transmission kiosk, a licensee shall submit an application, using a form prescribed by the Commissioner, that includes the ownership and location of the money transmission kiosk, an affidavit of all businesses and services to be offered at the kiosk, the written agreement between the licensee and the owner of the money transmission kiosk if different persons, and the text of each disclosure required pursuant to subsection (c) of this section along with a description of the form, timing, and location for each disclosure.

(c) Each money transmission kiosk shall disclose prominently and conspicuously, using as high a contrast or resolution as any other display or graphics on the money transmission kiosk, prior to the point at which a user of the money transmission kiosk is irrevocably committed to completing any transaction:

(1) on or at the location of the money transmission kiosk, or on the first screen of such kiosk, the name, address, and telephone number of the owner of the kiosk and the days, time, and means by which a consumer can contact the owner for consumer assistance; and

(2) on the screen of the money transmission kiosk:

(A) for a transaction that does not involve virtual currency, the amount of the fees or charges that will be assessed to the user of the money transmission kiosk for the transaction by the licensee and by the owner of the money transmission kiosk, a clear explanation of who is imposing each fee or charge and that such fees and charges are in addition to any fees or charges that may be imposed by other entities relevant to the particular transaction, and the method by which the user may cancel the transaction to avoid the imposition of fees or charges; and

(B) for a transaction that involves virtual currency, all disclosures required pursuant to subsection 2574(c) of this chapter, a clear explanation of who is imposing each consideration to be charged for the transaction, and that such consideration is in addition to any fees or charges that may be imposed by other entities relevant to the particular transaction, and the method by which the user may cancel the transaction to avoid the imposition of the consideration and other fees or charges.

(d) Any alterations in the form, content, timing, or location of previously approved disclosures must be submitted to and approved by the Commissioner prior to their adoption and use.

(e) To ensure adequate consumer protection, the Commissioner may by rule or order specify additional minimum disclosure standards for money

transmission kiosks, including the form, content, timing, and location of such disclosures.

(f) Immediately following the completion of each transaction, each money transmission kiosk shall provide the user of the money transmission kiosk with a receipt that is compliant with sections 2562 and 2574 of this chapter as applicable to the particular transaction.

Sec. 41. 8 V.S.A. chapter 79, subchapter 3 is amended to read:

Subchapter 3. Check Cashing and Currency Exchange Licenses

§ 2515. CHECK CASHING AND CURRENCY EXCHANGE ~~LICENSES~~ LICENSE REQUIRED

(a) A person ~~licensed under this subchapter may~~ shall not engage in check cashing and currency exchange, or hold itself out as providing these money services, unless the person is licensed under this chapter.

(b) Subsection (a) of this section shall not apply to:

(1) ~~A~~ a person licensed under subchapter 2 of this chapter ~~may engage in check cashing and currency exchange without first obtaining a separate license under this subchapter.~~;

~~(c)~~(2) ~~An~~ an authorized delegate of a person licensed under subchapter 2 of this chapter ~~may engage in check cashing and currency exchange without first obtaining a license under this subchapter~~ if such money services are within the scope of ~~activity permissible under the~~ authority conferred by a written contract between the authorized delegate and the licensee~~.~~; or

(3) a person that is exempt pursuant to section 2504 of this chapter and that does not engage in money services outside the scope of such exemption.

* * *

§ 2520. APPLICABILITY OF SUBCHAPTERS

The following subchapters of this chapter shall not apply to persons licensed under this subchapter: subchapter 4 (authorized delegates of money transmitters), subchapter 5 (reporting and records for money transmitters), subchapter 6 (prudential standards for money transmitters), subchapter 9 (timely transmission, refunds, and disclosures by money transmitters), and subchapter 10 (virtual currency).

Sec. 42. 8 V.S.A. chapter 79, subchapter 4 is amended to read:

Subchapter 4. Authorized Delegates of Money Transmitters

§ 2525. RELATIONSHIP BETWEEN LICENSEE AND AUTHORIZED

DELEGATE

(a) ~~In~~ As used in this subchapter, "remit" means to make direct payments of money to a licensee or its representative authorized to receive the money, or to deposit ~~money in a depository institution within the meaning of subdivision 11101(24) of this title~~ the money in an entity identified as exempt under subdivision 2504(7) of this chapter, in an account specified by the licensee.

(b) ~~A contract between a licensee and an authorized delegate shall require the authorized delegate to operate in full compliance with this chapter. The licensee shall furnish in a record to each authorized delegate policies and procedures sufficient to permit compliance with this chapter.~~

~~(c) An authorized delegate shall remit all money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized delegate.~~

~~(d) If a license is suspended, revoked, or nonrenewed, the Commissioner shall notify all authorized delegates of the licensee whose names are in a record filed with the Commissioner of the suspension, revocation, or nonrenewal. After notice is sent or publication is made, an authorized delegate shall immediately cease to provide money services as a delegate of the licensee.~~

~~(e) An authorized delegate may not provide money services outside the scope of activity permissible under the contract between the authorized delegate and the licensee, except for activity in which the authorized delegate is otherwise licensed or authorized to engage.~~

~~(f) An authorized delegate of a licensee holds in trust for the benefit of the licensee all money less fees earned from money transmission.~~

~~(g) A person shall not provide money services on behalf of a person not licensed under this chapter. A person that engages in any money services activity under this chapter shall be subject to the provisions of this chapter to the same extent as if the person were a licensee under this chapter.~~

~~(h) A person may not be an authorized delegate of another authorized delegate. An authorized delegate must enter into a contract directly with a licensee~~ Before a licensee is authorized to conduct business through an authorized delegate or allows a person to act as the licensee's authorized delegate, the licensee shall:

(1) adopt, and update as necessary, written policies and procedures reasonably designed to ensure that the licensee's authorized delegates comply with applicable state and federal law;

(2) enter into a written contract that complies with subsection (d) of this section; and

(3) conduct a reasonable risk-based background investigation sufficient for the licensee to determine whether the authorized delegate has complied and will likely comply with applicable state and federal law.

(c) An authorized delegate must operate in full compliance with this chapter.

(d) The written contract required by subsection (b) of this section must be signed by the licensee and the authorized delegate and, at a minimum, shall:

(1) appoint the person signing the contract as the licensee's authorized delegate with the authority to conduct money transmission on behalf of the licensee;

(2) set forth the nature and scope of the relationship between the licensee and the authorized delegate and the respective rights and responsibilities of the parties;

(3) require the authorized delegate to agree to fully comply with all applicable state and federal laws, rules, and regulations pertaining to money transmission, including this chapter and rules implementing this chapter, relevant provisions of the Bank Secrecy Act and the USA PATRIOT Act;

(4) require the authorized delegate to remit and handle money and monetary value in accordance with the terms of the contract between the licensee and the authorized delegate;

(5) impose a trust on money and monetary value net of fees received for money transmission for the benefit of the licensee;

(6) require the authorized delegate to prepare and maintain records as required by this chapter or rules implementing this chapter, or as reasonably requested by the Commissioner;

(7) acknowledge that the authorized delegate consents to examination or investigation by the Commissioner;

(8) state that the licensee is subject to regulation by the Commissioner and that, as part of that regulation, the Commissioner may suspend or revoke an authorized delegate designation or require the licensee to terminate an authorized delegate designation; and

(9) acknowledge receipt of the written policies and procedures required under subsection (b) of this section.

(e) If the licensee's license is suspended, revoked, terminated, nonrenewed, surrendered or expired, the licensee must, within five business days, provide documentation to the Commissioner that the licensee has notified all applicable authorized delegates of the licensee whose names are in a record filed with the Commissioner of the suspension, revocation, termination, nonrenewal, surrender, or expiration of a license. Upon suspension, revocation, termination, nonrenewal, or surrender of a license, applicable authorized delegates shall immediately cease to provide money transmission as an authorized delegate of the licensee.

(f) An authorized delegate of a licensee holds in trust for the benefit of the licensee all money net of fees received from money transmission. If any authorized delegate commingles any funds received from money transmission with any other funds or property owned or controlled by the authorized delegate, all commingled funds and other property shall be considered held in trust in favor of the licensee in an amount equal to the amount of money net of fees received from money transmission.

(g) An authorized delegate shall not use a subdelegate to conduct money transmission on behalf of a licensee.

§ 2526. UNAUTHORIZED ACTIVITIES

A person shall not engage in the business of money transmission on behalf of a person not licensed under subchapter 2 of this chapter or not exempt pursuant to subchapter 1 of this chapter. A person that engages in such activity provides money transmission to the same extent as if the person were a licensee, and shall be jointly and severally liable with the unlicensed or nonexempt person.

§ 2527. TERMINATION OR SUSPENSION OF AUTHORIZED DELEGATE ACTIVITY

(a) The authority granted to the Commissioner over licensees in section 2110 of this title applies equally to authorized delegates.

(b) The Commissioner may issue an order suspending or barring any authorized delegate or any key individual or person in control of such authorized delegate from continuing to be or becoming an authorized delegate of any licensee during the period for which such orders is in effect, or may order that an authorized delegate cease and desist in any specified conduct.

(c) Upon issuance of a suspension or bar order, the licensee shall terminate its relationship with such authorized delegate according to the terms of the order.

§ 2528. PRIVATE ACTIONS AGAINST AUTHORIZED DELEGATES

(a) Distinct from the Commissioner's authority over licensees and authorized delegates, any court in this State with jurisdiction over a private civil action brought by a licensee against an authorized delegate shall have the ability to grant appropriate equitable or legal relief, including prohibiting the authorized delegate from directly or indirectly acting as an authorized delegate for any licensee in this State and the payment of restitution, damages, or other monetary relief, if the court finds that an authorized delegate failed to remit money in accordance with the written contract required by subsection 2525(b) of this chapter or as otherwise directed by the licensee or required by law.

(b) If the court issues an order prohibiting a person from acting as an authorized delegate for any licensee pursuant to subsection (a) of this section, the licensee that brought the action shall report the order to the Commissioner within 30 days and shall report the order through NMLS within 90 days.

Sec. 43. REPEAL

8 V.S.A. chapter 79, subchapter 5 (examinations; reports; records), subchapter 6 (permissible investments), and subchapter 7 (enforcement) are repealed.

Sec. 44. 8 V.S.A. chapter 79, subchapters 5–7 are added to read:

Subchapter 5. Reporting and Records for Money Transmitters

§ 2530. REPORT OF CONDITION

(a) Each licensee shall submit a report of condition within 45 days of the end of the calendar quarter, or within any extended time as the Commissioner may prescribe.

(b) The report of condition shall include:

(1) Financial information at the licensee level.

(2) Nationwide and state-specific money transmission transaction information in every jurisdiction in the United States where the licensee is licensed to engage in money transmission.

(3) A permissible investments report.

(4) Transaction destination country reporting for money received for transmission, if applicable.

(5) Any other information the Commissioner reasonably requires with respect to the licensee. The Commissioner is authorized and encouraged to use NMLS for the submission of the report required by this section.

(c) The information required by subdivision (b)(4) of this section shall only be included in a report of condition submitted within 45 days after the end of the fourth calendar quarter.

§ 2531. AUDITED FINANCIALS

(a) Each licensee shall, within 90 days after the end of each fiscal year, or within any extended time as the Commissioner may prescribe, file with the Commissioner:

(1) an audited financial statement of the licensee for the fiscal year prepared in accordance with U.S. generally accepted accounting principles; and

(2) any other information as the Commissioner may reasonably require.

(b) The audited financial statements shall be prepared by an independent certified public accountant or independent public accountant who is satisfactory to the Commissioner.

(c) The audited financial statements shall include or be accompanied by a certificate of opinion of the independent certified public accountant or independent public accountant that is satisfactory in form and content to the Commissioner. If the certificate or opinion is qualified, the Commissioner may order the licensee to take any action as the Commissioner may find necessary to enable the independent or certified public accountant or independent public accountant to remove the qualification.

§ 2532. AUTHORIZED DELEGATE REPORTING

(a) Each licensee shall submit a report of authorized delegates within 45 days after the end of the calendar quarter. The Commissioner is authorized and encouraged to use NMLS for the submission of the report required by this section provided that such functionality is consistent with the requirements of this section.

(b) The authorized delegate report shall include, at a minimum, each authorized delegate's:

(1) company legal name;

(2) taxpayer employer identification number;

(3) principal provider identifier;

(4) physical address;

(5) mailing address;

(6) any business conducted in other states;

(7) any fictitious or trade name;

(8) contact person name, phone number, and e-mail

(9) start date as licensee's authorized delegate;

(10) end date acting as licensee's authorized delegate, if applicable;

(11) any administrative, civil, or criminal order against an authorized delegate concerning their activity as an authorized delegate; and

(12) any other information the Commissioner reasonably requires with respect to the authorized delegate.

§ 2533. CHANGE OF AUTHORIZED DELEGATE

A licensee shall notify the Commissioner in writing within 30 days after any change in the list of authorized delegates, identifying the name and street address of each new authorized delegate and of each removed authorized delegate.

§ 2534. MONEY LAUNDERING REPORTS

A licensee and an authorized delegate shall file all reports required by federal currency reporting, record keeping, and suspicious activity reporting requirements as set forth in the Bank Secrecy Act and other federal and state laws pertaining to money laundering. The timely filing of a complete and accurate report required under this section with the appropriate federal agency is deemed compliance with the requirements of this section.

Subchapter 6. Prudential Standards for Money Transmitters

§ 2540. NET WORTH

(a) A licensee under this chapter shall maintain at all times a tangible net worth of the greater of $100,000.00 or three percent of total assets for the first $100,000,000.00, two percent of additional assets for $100,000,000.00 to $1,000,000,000.00, and 0.5 percent of additional assets for over $1,000,000,000.00.

(b) Tangible net worth must be demonstrated at initial application by the applicant's most recent audited or unaudited financial statements pursuant to subsection 2102(e) of this title.

(c) Notwithstanding subsections (a) and (b) of this section, the Commissioner for good cause shown has the authority to exempt an applicant or licensee from the requirements of this section, in part or in whole.

§ 2541. SECURITY

(a) An applicant for a money transmission license shall provide, and a licensee at all times shall maintain, security consisting of a surety bond in a form satisfactory to the Commissioner or, with the Commissioner's approval, a deposit that meets the requirements of this section.

(b) The amount of the required security shall be the greater of $100,000.00 or an amount equal to one hundred percent of the licensee's average daily money transmission liability in this State calculated for the most recently completed three-month period, up to a maximum of $2,000,000.00.

(c) A licensee that maintains a surety bond or deposit in the maximum amount provided for in subsection (b) of this section shall not be required to calculate its average daily money transmission liability in this State for purposes of this section.

(d) A licensee may exceed the maximum required surety bond or deposit amount pursuant to subdivision 2543(a)(5) of this subchapter.

(e) The surety bond or deposit shall be payable to the State for use of the State and for the benefit of any claimant against the licensee and its authorized delegates to secure the faithful performance of the obligations of the licensee and its authorized delegates with respect to money transmission.

(f) The aggregate liability on a surety bond may not exceed the principal sum of the bond. A claimant against a licensee or its authorized delegate may maintain an action directly against the bond, or the Commissioner may maintain an action on behalf of the claimant against the bond. The power vested in the Commissioner by this subsection shall be in addition to any other powers of the Commissioner under this chapter.

(g) The surety bond or deposit shall cover claims effective for as long as the Commissioner specifies, but for at least five years after the licensee ceases to provide money services in this State. However, the Commissioner may permit the amount of security to be reduced or eliminated before the expiration of that time to the extent the amount of the licensee's outstanding money transmission obligations in this State is reduced.

§ 2542. MAINTENANCE OF PERMISSIBLE INVESTMENTS

(a) A licensee shall maintain at all times permissible investments that have a market value computed in accordance with U.S. generally accepted accounting principles of not less than the aggregate amount of all of its outstanding money transmission obligations.

(b) Except for permissible investments enumerated in subsection 2543(a) of this subchapter, the Commissioner, with respect to any licensee, may by rule or order limit the extent to which a specific investment maintained by a

licensee within a class of permissible investments may be considered a permissible investment, if the specific investment represents undue risk to customers, not reflected in the market value of investments.

(c) Permissible investments, even if commingled with other assets of the licensee, are held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations upon the occurrence of one or more of the following events:

(1) the insolvency of the licensee;

(2) the filing of a petition by or against the licensee under the U.S. Bankruptcy Code, 11 U.S.C. §§ 101–110, as may be amended, for bankruptcy or reorganization;

(3) the filing of a petition by or against the licensee for receivership;

(4) the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or

(5) the commencement of an action by a creditor against the licensee who is not a beneficiary of this statutory trust.

(d) No permissible investments impressed with a trust pursuant to subsection (c) of this section shall be subject to attachment, levy of execution, or sequestration by order of any court, except for a beneficiary of this statutory trust.

(e) Upon the establishment of a statutory trust in accordance with subsection (c) of this section or when any funds are drawn on a letter of credit pursuant to subdivision 2543(a)(4) of this subchapter, the Commissioner shall notify the applicable regulator of each state in which the licensee is licensed to engage in money transmission, if any, of the establishment of the trust or the funds drawn on the letter of credit, as applicable. Notice shall be deemed satisfied if performed pursuant to a multistate agreement or through NMLS. Funds drawn on a letter of credit, and any other permissible investments held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations, are deemed held in trust for the benefit of such purchasers and holders on a pro rata and equitable basis in accordance with statutes pursuant to which permissible investments are required to be held in this State, and other states, as applicable. Any statutory trust established hereunder shall be terminated upon extinguishment of all of the licensee's outstanding money transmission obligations.

(f) The Commissioner by rule or order may allow other types of investments that the Commissioner determines are of sufficient liquidity and quality to be a permissible investment. The Commissioner is authorized to

participate in efforts with other state regulators to determine that other types of investments are of sufficient liquidity and quality to be a permissible investment.

§ 2543. TYPES OF PERMISSIBLE INVESTMENTS

(a) The following investments are permissible under section 2542 of this subchapter:

(1) cash, including demand deposits, savings deposits, and funds in such accounts held for the benefit of the licensee's customers in an entity identified as exempt under subdivision 2504(7) of this chapter, and cash equivalents, including ACH items in transit to the licensee and ACH items or international wires in transit to a payee, cash in transit via armored car, cash in smart safes, cash in licensee-owned locations, debit card or credit card-funded transmission receivables owed by any bank, or money market mutual funds rated "AAA" by S&P or the equivalent from any eligible rating service;

(2) certificates of deposit or senior debt obligations of an insured depository institution, as defined in the Federal Deposit Insurance Act, 12 U.S.C. § 1813(c), as may be amended, or as defined under the federal Credit Union Act, 12 U.S.C. § 1781, as may be amended;

(3) an obligation of the United States or a commission, department, agency, or instrumentality thereof; an obligation that is guaranteed fully as to principal and interest by the United States; or an obligation of a state or a governmental subdivision, agency, or instrumentality thereof;

(4) the full drawable amount of an irrevocable standby letter of credit for which the stated beneficiary is the Commissioner that stipulates that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds up to the letter of credit amount within seven days of presentation of the items required by subdivision (a)(4)(C) of this section.

(A) The letter of credit shall:

(i) be issued by a financial institution as defined in subdivision 11101(32) of this title with federally insured deposits, a credit union with federally insured deposits, a foreign bank that is authorized under federal law to maintain a federal agency or federal branch office in a state or states, or a foreign bank that is authorized under state law to maintain a branch in a state that:

(I) bears an eligible rating or whose parent company bears an eligible rating; and

(II) is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks, credit unions, and trust companies;

(ii) be irrevocable, unconditional, and indicate that it is not subject to any condition or qualifications outside of the letter of credit;

(iii) not contain reference to any other agreements, documents, or entities, or otherwise provide for any security interest in the licensee; and

(iv) contain an issue date and expiration date, and expressly provide for automatic extension, without a written amendment, for an additional period of one year from the present or each future expiration date, unless the issuer of the letter of credit notifies the Commissioner in writing by certified or registered mail or courier mail or other receipted means, at least 60 days prior to any expiration date, that the irrevocable letter of credit will not be extended.

(B) In the event of any notice of expiration or non-extension of a letter of credit issued under subdivision (a)(4)(A) of this section, the licensee shall be required to demonstrate to the satisfaction of the Commissioner, 15 days prior to expiration, that the licensee maintains and will maintain permissible investments in accordance with subsection 2542(a) of this subchapter upon the expiration of the letter of credit. If the licensee is not able to do so, the Commissioner may draw on the letter of credit in an amount up to the amount necessary to meet the licensee's requirements to maintain permissible investments in accordance with subsection 2542(a) of this subchapter. Any such draw shall be offset against the licensee's outstanding money transmission obligations. The drawn funds shall be held in trust by the Commissioner or the Commissioner's designated agent, to the extent authorized by law, as agent for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations.

(C) The letter of credit shall provide that the issuer of the letter of credit will honor, at sight, a presentation made by the beneficiary to the issuer of the following documents on or prior to the expiration date of the letter of credit:

(i) the original letter of credit, including any amendments; and

(ii) a written statement from the beneficiary stating that any of the following events have occurred:

(I) the filing of a petition by or against the licensee under the U.S. Bankruptcy Code, 11 U.S.C. §§ 101–110, as may be amended, for bankruptcy or reorganization;

(II) the filing of a petition by or against the licensee for receivership or the commencement of any other judicial or administrative proceeding for its dissolution or reorganization;

(III) the seizure of assets of a licensee by a Commissioner pursuant to an emergency order issued in accordance with applicable law on the basis of an action, a violation, or a condition that has caused or is likely to cause the insolvency of the licensee; or

(IV) the beneficiary has received notice of expiration or non-extension of a letter of credit and the licensee failed to demonstrate to the satisfaction of the beneficiary that the licensee will maintain permissible investments in accordance with subsection 2542(a) of this subchapter upon the expiration or non-extension of the letter of credit.

(D) The Commissioner may designate an agent to serve on the Commissioner's behalf as beneficiary to a letter of credit provided the agent and letter of credit meet requirements established by the Commissioner. The Commissioner's agent may serve as agent for multiple licensing authorities for a single irrevocable letter of credit if the proceeds of the drawable amount for the purposes of subdivision (a)(4) of this section are assigned to the Commissioner.

(E) The Commissioner is authorized and encouraged to participate in multistate processes designed to facilitate the issuance and administration of letters of credit, including but not limited to services provided by the NMLS and State Regulatory Registry, LLC.

(5) One hundred percent of the surety bond or deposit provided for under section 2541 of this subchapter that exceeds the average daily money transmission liability in this state.

(b) Unless permitted by the Commissioner by rule or order to exceed the limit as set forth in this subchapter, the following investments are permissible under subdivision 2542(a) of this subchapter to the extent specified:

(1) receivables that are payable to a licensee from its authorized delegates in the ordinary course of business that are less than seven days old, up to 50 percent of the aggregate value of the licensee's total permissible investments;

(2) of the receivables permissible under subdivision (b)(1) of this section, receivables that are payable to a licensee from a single authorized delegate in the ordinary course of business may not exceed 10 percent of the aggregate value of the licensee's total permissible investments.

(3) the following investments are permissible up to 20 percent per category and combined up to 50 percent of the aggregate value of the licensee's total permissible investments:

(A) a short-term investment of up to six months bearing an eligible rating;

(B) commercial paper bearing an eligible rating;

(C) a bill, note, bond, or debenture bearing an eligible rating;

(D) U.S. tri-party repurchase agreements collateralized at 100 percent or more with U.S. government or agency securities, municipal bonds, or other securities bearing an eligible rating;

(E) money market mutual funds rated less than "AAA" and equal to or higher than "A-" by S&P or the equivalent from any other eligible rating service; and

(F) a mutual fund or other investment fund composed solely and exclusively of one or more permissible investments listed in subdivisions (a)(1)–(3) of this section.

(4) cash, including demand deposits, savings deposits, and funds in such accounts held for the benefit of the licensee's customers, at foreign depository institutions are permissible up to 10 percent of the aggregate value of the licensee's total permissible investments if the licensee has received a satisfactory rating in its most recent examination and the foreign depository institution:

(A) has an eligible rating;

(B) is registered under the Foreign Account Tax Compliance Act;

(C) is not located in any country subject to sanctions from the Office of Foreign Asset Control; and

(D) is not located in a high-risk or non-cooperative jurisdiction as designated by the Financial Action Task Force.

Subchapter 7. Requirements for Money Servicers

§ 2545. CHANGE OF LOCATION

(a) A licensee shall notify the Commissioner in writing within 30 days following any change in locations in this State where the licensee or an authorized delegate of the licensee provides money services, including limited stations and mobile locations.

(b) The notice required in subsection (a) of this section shall state the name and street address of each location removed or added to the licensee's list.

(c) Licensees shall submit with the notice required in subsection (a) of this section a nonrefundable fee of $25.00 for each new authorized delegate location and for each change in location for an authorized delegate. There is no fee to remove locations of authorized delegates.

§ 2546. RECORDS

(a) In addition to the records required to be maintained by section 2119 of this title and any other records the Commissioner requires pursuant to this chapter or rule, a licensee shall maintain the following records for at least five years for determining the licensee's compliance with this chapter:

(1) a general ledger posted at least monthly containing all asset, liability, capital, income, and expense accounts;

(2) bank statements and bank reconciliation records; and

(3) if the licensee is a money transmitter:

(A) a record of each outstanding money transmission obligation sold;

(B) records of outstanding money transmission obligations;

(C) records of each outstanding money transmission obligation paid within the five-year period; and

(D) a list of the last known names and addresses of all of the licensee's authorized delegates.

(b) The records specified in subsection (a) of this section shall be maintained in any form permitted in subsection 11301(c) of this title.

(c) Records specified in subsection (a) of this section may be maintained outside this State if they are made accessible to the Commissioner on seven business-days' notice.

Sec. 45. 8 V.S.A. § 2555 is amended to read:

§ 2555. CONSERVATION, LIQUIDATION, AND INSOLVENCY

To the extent applicable, the provisions of subchapters 2, 3, and ~~5~~ 4 of chapter 209 of this title, excluding sections 19207, 19208, 19210, 19306, and 19307 of this title, shall apply to the conservation, liquidation, and insolvency of any licensee under this chapter. Such licensee shall be treated as a financial institution for the purposes of application of those subchapters. If an impaired or insolvent licensee is or becomes a debtor in bankruptcy or the subject of a bankruptcy proceeding under federal law, the Commissioner shall be relieved

of any obligation otherwise imposed under this section and subchapters 2, 3, and ~~5~~ 4 of chapter 209 of this title, and shall relinquish control of the assets and estate of such debtor to the duly appointed trustee in bankruptcy or the debtor in possession, as the case may be.

Sec. 46. REPEAL

8 V.S.A. chapter 79, subchapter 9 (Nationwide Licensing System) is repealed.

Sec. 47. 8 V.S.A. chapter 79, subchapter 9 is added to read:

Subchapter 9. Timely Transmission, Refunds, and Disclosures by Money Transmitters

§ 2560. TIMELY TRANSMISSION

(a) Every licensee shall forward all money received for transmission in accordance with the terms of the agreement between the licensee and the sender unless the licensee has a reasonable belief or a reasonable basis to believe that the sender may be a victim of fraud or that a crime or violation of law, rule, or regulation has occurred, is occurring, or may occur.

(b) If a licensee fails to forward money received for transmission in accordance with this section, the licensee must respond promptly to inquiries by the sender with the reason for the failure unless providing a response would violate a state or federal law, rule, or regulation.

§ 2561. REFUNDS

(a) This section does not apply to:

(1) money received for transmission subject to the federal Remittance Rule, 12 C.F.R. Part 1005, subpart B, as may be amended; or

(2) money received for transmission pursuant to a written agreement between the licensee and payee to process payments for goods or services provided by the payee.

(b) Every licensee shall refund to the sender within 10 days of receipt of the sender's written request for a refund of any and all money received for transmission unless any of the following occurs:

(1) The money has been forwarded within 10 days following the date on which the money was received for transmission.

(2) Instructions have been given committing an equivalent amount of money to the person designated by the sender within 10 days following the date on which the money was received for transmission.

(3) The agreement between the licensee and the sender instructs the licensee to forward the money at a time that is beyond 10 days following the date on which the money was received for transmission. If funds have not yet been forwarded in accordance with the terms of the agreement between the licensee and the sender, the licensee shall issue a refund in accordance with the other provisions of this section.

(4) The refund is requested for a transaction that the licensee has not completed based on a reasonable belief or a reasonable basis to believe that a crime or violation of law, rule, or regulation has occurred, is occurring, or may occur.

(5) The refund request does not enable the licensee to:

(A) identify the sender's name and address or telephone number; or

(B) identify the particular transaction to be refunded in the event the sender has multiple transactions outstanding.

§ 2562. RECEIPTS

(a) This section does not apply to:

(1) money received for transmission subject to the federal Remittance Rule, 12 C.F.R. Part 1005, subpart B, as may be amended;

(2) money received for transmission that is not primarily for personal, family, or household purposes;

(3) money received for transmission pursuant to a written agreement between the licensee and payee to process payments for goods or services provided by the payee; or

(4) payroll processing services.

(b) As used in this section and sections 2507 and 2574 of this chapter, "receipt" means a paper receipt, electronic record, or other written confirmation. For a transaction conducted in person, the receipt may be provided electronically if the sender requests or agrees to receive an electronic receipt. For a transaction conducted electronically or by phone, a receipt may be provided electronically. All electronic receipts shall be provided in a retainable form.

(c) Every licensee or its authorized delegate shall provide the sender a receipt for money received for transmission.

(1) The receipt shall contain the following information, as applicable:

(A) the name of the sender;

(B) the name of the designated recipient;

(C) the date of the transaction;

(D) the unique transaction or identification number;

(E) the name of the licensee, NMLS Unique ID, the licensee's business address, and the licensee's customer service telephone number;

(F) the amount of the transaction in U.S. dollars;

(G) for transactions that involve money sent in a different currency from the money received:

(i) if the rate of exchange is fixed by the licensee at the time the transmission is initiated, the receipt shall disclose the rate of exchange for the transaction, and the duration, if any, for the payment to be made at the fixed rate of exchange so specified;

(ii) if the rate of exchange is not fixed at the time the transmission is initiated, the receipt shall disclose that the rate of exchange for the transaction will be set at the time the money is received;

(H) any fee charged by the licensee to the sender for the transaction; and

(I) any taxes collected by the licensee from the sender for the transaction.

(2) The receipt required by this section shall be in English and in the language principally used by the licensee or authorized delegate to advertise, solicit, or negotiate, either orally or in writing, for a transaction conducted in person, electronically, or by phone, if other than English.

§ 2563. NOTICE

Every licensee or authorized delegate shall disclose on their website and mobile application the name of the Department and a current link to the Vermont Banking Consumer Complaint Form accompanied by statements conveying that, should the licensee's customers have a complaint about the licensee's money transmission services they should first contact the licensee using contact information supplied by the licensee and, if the complaint remains unresolved, they can submit a complaint to the Department using the form.

§ 2564. DISCLOSURE FOR PAYROLL PROCESSING SERVICES

(a) A licensee that provides payroll processing services shall:

(1) issue reports to clients detailing client payroll obligations in advance of the payroll funds being deducted from an account; and

(2) make available worker paystubs or an equivalent statement to workers.

(b) This section shall not apply to a licensee providing payroll processing services where the licensee's client designates the intended recipients to the licensee and is responsible for providing the disclosures required by subdivision (a)(2) of this section.

Sec. 48. 8 V.S.A. chapter 79, subchapter 10 is added to read:

Subchapter 10. Virtual Currency

§ 2571. DEFINITIONS

As used in this subchapter:

(1) "Exchange," used as a verb, means to assume or exercise control of virtual currency from or on behalf of a person, including momentarily, to buy, sell, trade, or convert:

(A) virtual currency for money, monetary value, bank credit, or one or more forms of virtual currency, or other consideration; or

(B) money, monetary value, bank credit, or other consideration for one or more forms of virtual currency.

(2) "Transfer" means to assume or exercise control of virtual currency from or on behalf of a person and to:

(A) credit the virtual currency to the account or digital wallet of another person;

(B) move the virtual currency from one account or digital wallet of a person to another account or digital wallet of the same person; or

(C) relinquish or transfer control or ownership of virtual currency to another person, digital wallet, distributed ledger address, or smart contract.

§ 2572. EXEMPTIONS

(a) This subchapter shall not apply to the exchange or transfer of virtual currency, or to virtual-currency storage or virtual-currency administration, by a person to the extent that the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a–78oo, as may be amended, or the Commodities Exchange Act of 1936, 7 U .S.C. §§ 1–27f, as may be amended, govern such activity and the person is conducting such activity in compliance with all applicable requirements of such laws and any regulations promulgated thereunder.

(b) This subchapter shall not apply to activity by:

(1) a person that:

(A) provides only data storage or security services for a business engaged in virtual-currency business activity and does not otherwise engage in virtual-currency business activity on behalf of another person; or

(B) provides only to a person otherwise exempt from this chapter virtual currency as one or more enterprise solutions used solely among each other and has no agreement or relationship with a person that is an end-user of virtual currency;

(2) a person using virtual currency, including creating, investing, buying or selling, or obtaining virtual currency as payment for the purchase or sale of goods or services, solely on its own behalf for personal, family, or household purposes or for academic purposes;

(3) a person whose virtual-currency business activity with or on behalf of persons is reasonably expected to be valued, in the aggregate, on an annual basis at $5,000.00 or less, measured by the U.S. dollar equivalent of virtual currency;

(4) a securities intermediary, as defined in 9A V.S.A. § 8-102, or a commodity intermediary, as defined in 9A V.S.A. § 9-102, that:

(A) does not engage in the ordinary course of business in virtual-currency business activity with or on behalf of a person in addition to maintaining securities accounts or commodities accounts and is regulated as a securities intermediary or commodity intermediary under federal law, law of this State other than this chapter, or law of another state; and

(B) affords a person protections comparable to those set forth in section 2574 of this subchapter;

(5) a person that is engaged in testing products or services with the person's own funds.

(c) The Commissioner may determine that other persons or classes of persons, given facts particular to the person or class, are exempt from this chapter, when the person or class is covered by requirements imposed under federal law on business engaged in money services and the Commissioner determines that no additional requirements are necessary to ensure the protection of the public.

§ 2573. CONDITIONS PRECEDENT TO ENGAGING IN VIRTUAL-CURRENCY BUSINESS ACTIVITY

(a) A person shall not engage in virtual-currency business activity, or hold itself out as being able to engage in virtual-currency business activity, with or on behalf of another person unless the person is:

(1) licensed under subchapter 2 of this chapter to engage in virtual-currency business activity;

(2) an authorized delegate of a person licensed under subchapter 2 of this chapter to engage in virtual-currency business activity if such money services are within the scope of authority conferred by a written contract between the authorized delegate and the licensee;

(3) exempt pursuant to section 2572 of this subchapter and engages in no licensable activity outside the scope of such exemption; or

(4) exempt pursuant to section 2504 of this chapter and does not engage in money services outside the scope of such exemption.

(b) A person that engages in virtual-currency business activity is engaged in the business of money transmission.

(c) It is prohibited for a person to facilitate the provision of unlicensed virtual-currency business activity by another person that is required to be licensed under this subchapter, when the first person or the first person's authorized agent receives notice from a regulatory, law enforcement, or similar governmental authority, or knows from its normal monitoring and compliance systems, or consciously avoids knowing that the unlicensed person is in violation of this chapter.

(d) All provisions of this chapter, and any rule adopted under this chapter, that apply to a person licensed under subchapter 2 of this chapter to engage in virtual-currency business activity shall apply equally to any person required to hold a license pursuant to subsection (a) of this section that does not hold one. Nothing herein shall be interpreted to permit any such unlicensed person to engage in virtual-currency business activity or hold itself out as being able to engage in any virtual-currency business activity without a license.

§ 2574. REQUIRED DISCLOSURES

(a) A person licensed under subchapter 2 of this chapter to engage in virtual-currency business activity shall provide the disclosures required by this section and any additional disclosure the Commissioner determines reasonably necessary for the protection of the public.

(1) A disclosure required by this section must be made separately from any other information provided by the licensee and in a clear and conspicuous manner in a record the person may keep.

(2) The Commissioner may waive one or more requirements in subsections (b)–(d) of this section and approve alternative disclosures proposed by a licensee if the Commissioner determines that the alternative disclosure is more appropriate for the virtual-currency business activity and provides the same or equivalent information and protection to the public.

(b) Before engaging in virtual-currency business activity with a person, a licensee shall disclose, to the extent applicable to the virtual-currency business activity the licensee will undertake with the person:

(1) a schedule of fees and charges the licensee may assess, the manner by which fees and charges will be calculated if they are not set in advance and disclosed, and the timing of the fees and charges, including general disclosure regarding mark-ups and mark-downs on purchases, sales, or exchanges of virtual currency in which the licensee or any affiliate thereof is acting in a principal capacity;

(2) whether the product or service provided by the licensee is covered by:

(A) a form of insurance or is otherwise guaranteed against loss by an agency of the United States:

(i) up to the full U.S. dollar equivalent of virtual currency purchased from the licensee or for control of virtual currency by the licensee as of the date of the placement or purchase, including the maximum amount provided by insurance under the Federal Deposit Insurance Corporation or otherwise available from the Securities Investor Protection Corporation; or

(ii) if not provided at the full U.S. dollar equivalent of virtual currency purchased from the licensee or for control of virtual currency by the licensee, the maximum amount of coverage for each person expressed in the U.S. dollar equivalent of the virtual currency; or

(B) private insurance against theft or loss, including cyber theft or theft by other means;

(3) the irrevocability of a transfer or exchange and any exception to irrevocability;

(4) a description of:

(A) liability for an unauthorized, mistaken, or accidental transfer or exchange;

(B) the person's responsibility to provide notice to the licensee of the transfer or exchange;

(C) the basis for any recovery by the person from the licensee;

(D) general error-resolution rights applicable to the transfer or exchange; and

(E) the method for the person to update the person's contact information with the licensee;

(5) that the date or time when the transfer or exchange is made and the person's account is debited may differ from the date or time when the person initiates the instruction to make the transfer or exchange;

(6) whether the person has a right to stop a preauthorized payment or revoke authorization for a transfer and the procedure to initiate a stop-payment order or revoke authorization for a subsequent transfer;

(7) the person's right to receive a receipt, trade ticket, or other evidence of the transfer or exchange;

(8) the person's right to at least 30 days' prior notice of a change in the licensee's fee schedule, other terms and conditions of operating its virtual-currency business activity with the person, and the policies applicable to the person's account; and

(9) that virtual currency is not money.

(c) In connection with any virtual-currency transaction effected through a money transmission kiosk in this State, or in any transaction where the licensee or any affiliate thereof is acting in a principal capacity in a sale of virtual currency to, or purchase of virtual currency from, a customer, then immediately prior to effecting such a purchase or sale transaction with or on behalf of a customer, a licensee shall prominently disclose and require the customer to acknowledge and confirm:

(1) the type, value, date, precise time, and amount of the transaction; and

(2) the consideration charged for the transaction, including:

(A) any charge, fee, commission, or other consideration for any trade, exchange, conversion, or transfer involving virtual currency; and

(B) any difference between the price paid by the customer for any virtual currency and the prevailing market price of such virtual currency, if any.

(d) Except as otherwise provided in subsection (e) of this section, at the conclusion of a virtual-currency transaction with or on behalf of a person, a licensee shall provide the person with a receipt that contains:

(1) the name and contact information of the licensee, including information the person may need to ask a question or file a complaint;

(2) the type, value, date, precise time, and amount of the transaction;

(3) the consideration charged for the transaction, including:

(A) any charge, fee, commission, or other consideration for any trade, exchange, conversion, or transfer involving virtual currency; or

(B) the amount of any difference between the price paid by the customer for any virtual currency and the prevailing market price of such virtual currency, if any; and

(4) any other information required pursuant to section 2562 of this title.

(e) If a licensee discloses that it will provide a daily confirmation in the initial disclosure under subsection (c) of this section, the licensee may elect to provide a single, daily confirmation for all transactions with or on behalf of a person on that day instead of a per-transaction confirmation.

§ 2575. PROPERTY INTERESTS AND ENTITLEMENTS TO VIRTUAL CURRENCY

(a) A person licensed under subchapter 2 of this chapter to engage in virtual-currency business activity that has control of virtual currency or provides virtual-currency storage to, for, or on behalf of one or more persons shall maintain custody and control of virtual currency in an identical type and amount of virtual currency sufficient to satisfy the aggregate entitlements of such persons to such identical types and amounts of virtual currency.

(b) For the purposes of subsection (a) of this section, units of virtual currency are only of an identical type and amount if such units are fungible in all respects, including having the same issuer and being identical in amount, market capitalization, circulating supply, name, U.S. dollar equivalent of virtual currency, liquidity, use, rights, restrictions, functionality, permissions, and any other material attribute.

(c) If a licensee violates section subsection (a) of this section, the property interests of the persons in the virtual currency are pro rata property interests in the type of virtual currency to which the persons are entitled, without regard to the time the persons became entitled to the virtual currency or the licensee obtained control of the virtual currency.

(d) The virtual currency referred to in this section is and shall be:

(1) held for the persons entitled to the virtual currency;

(2) not property of the licensee or any person required to be licensed

under this chapter;

(3) not subject to any claims, liens, or encumbrances of creditors of the licensee or any person required to be licensed under this chapter; and

(4) deemed to be a permissible investment under this chapter to the extent that there is an outstanding money transmission obligation owed to a customer in such type and amount of virtual currency.

(e) A person licensed under subchapter 2 of this chapter to engage in virtual-currency business activity is prohibited from selling, transferring, assigning, lending, hypothecating, pledging, or otherwise using or encumbering virtual currency stored, held, controlled, or maintained by, or under the custody or control of, such licensee on behalf of another person except for the sale, transfer of ownership, or assignment of such assets at the direction of such other person.

(f) A person licensed under subchapter 2 of this chapter to engage in virtual-currency business activity shall not directly or indirectly use or engage any other person, including any virtual-currency control-services vendor, to store or hold custody or control of any virtual currency for or on behalf of any customer in this State, unless such other person is licensed under subchapter 2 of this chapter to engage in virtual-currency business activity, a financial institution or credit union that is exempt from licensing under section 2504(7) of this chapter, or a qualified custodian approved by the Commissioner by rule or order to hold virtual currency on behalf of customers in this State.

(g) Virtual currency held in violation of subsection (f) of this section shall not be deemed to be a permissible investment for purposes of satisfying a licensee's obligations under section 2542(a) of this chapter, but shall be deemed to be a permissible investment for purposes of section 2542(c)–(e) of this chapter.

(h) The Commissioner may by rule or order adopt additional consumer protections concerning virtual currency, including:

(1) rules regarding the segregation of virtual currencies and accounts held for or on behalf of customers from a licensee's own virtual currencies and assets;

(2) rules related to the custody, storage, security, ownership of, and title to permissible investments and customer virtual currencies and assets;

(3) rules related to the use of virtual-currency control service vendors or other custodians to hold custody or control of virtual currency;

(4) rules related to audit requirements for customer assets;

(5) rules setting standards, limits, prohibitions, disclosure requirements, and procedures regarding the types of virtual currencies and related services, activities, and transactions that licensees may offer in this State as may be necessary or appropriate for the protection of consumers or compliance with the terms of this chapter;

(6) rules requiring compliance with specific provisions of the Uniform Commercial Code; and

(7) any rules as may be necessary or appropriate for the protection of consumers or necessary or appropriate to effectuate the purposes of this chapter.

§ 2576. ADDITIONAL REQUIREMENTS AND CLARIFICATIONS FOR VIRTUAL-CURRENCY BUSINESS ACTIVITIES

(a) To ensure adequate consumer protection, the Commissioner may adopt by rule provisions that specify limitations to and the method by which a person licensed under subchapter 2 of this chapter to engage in virtual-currency business activity may include virtual currency and virtual currency-denominated assets in the calculation of its net worth pursuant to section 2540 of this chapter.

(b) In addition to the records required to be maintained by sections 2119 and 2546 of this title and any other records the Commissioner requires pursuant to this chapter or rule, a person licensed under subchapter 2 of this chapter to engage in virtual-currency business activity shall maintain, for all virtual-currency business activity with or on behalf of a person, for at least five years after the date of the activity, a record of:

(1) each transaction of the licensee with or on behalf of the person or for the licensee's account in this state, including:

(A) the identity of the person;

(B) the form of the transaction;

(C) the amount, date, and payment instructions given by the person; and

(D) the account number, name, and U.S. Postal Service address of the person, and, to the extent feasible, other parties to the transaction;

(2) the aggregate number of transactions and aggregate value of transactions by the licensee with or on behalf of the person and for the licensee's account in this State, expressed in U.S. dollar equivalent of virtual currency for the previous 12 calendar months;

(3) each transaction in which the licensee exchanges one form of virtual currency for money or another form of virtual currency with or on behalf of the person;

(4) a general ledger posted at least monthly that lists all assets, liabilities, capital, income, and expenses of the licensee;

(5) each business-call report the licensee is required to create or provide to the Department or NMLS;

(6) bank statements and bank reconciliation records for the licensee and the name, account number, and U.S. Postal Service address of each bank the licensee uses in the conduct of its virtual-currency business activity with or on behalf of the person;

(7) a report of any dispute with the person; and

(8) a report of any virtual-currency business activity transaction with or on behalf of a person which the licensee was unable to complete.

(c) It is unlawful for a person licensed under subchapter 2 of this chapter to engage in virtual-currency business activity, or any other person, in connection with the offer to sell, the offer to purchase, the sale, the purchase of a virtual currency, or in connection with any virtual-currency business activity or transaction in virtual currency, directly or indirectly:

(1) to employ a device, scheme, or artifice to defraud;

(2) to make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

(3) to engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

(d) Persons licensed under subchapter 2 of this chapter to engage in virtual-currency business activity shall comply at all times with all applicable federal and state laws, rules, and regulations, including the following laws, as may be amended: the Securities Act of 1933, 15 U.S.C. §§ 77a–77aa, the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a–78oo, the Commodities Exchange Act of 1936, 7 U.S.C. §§ 1–27f, and the Vermont Securities Act, 9 V.S.A. chapter 150.

§ 2577. VIRTUAL CURRENCY KIOSK OPERATORS

(a) A virtual-currency kiosk operator shall not accept or dispense more than $1,000.00 of cash in a day in connection with virtual currency transactions

with a single customer in this State via one or more money transmission kiosks.

(b) The aggregate fees and charges, directly or indirectly, charged to a customer related to a single transaction or series of related transactions involving virtual currency effected through a money transmission kiosk in this State, including any difference between the price charged to a customer to buy, sell, exchange, swap, or convert virtual currency and the prevailing market value of such virtual currency at the time of such transaction, shall not exceed the greater of the following:

(1) $5.00; or

(2) 15 percent of the U.S. dollar equivalent of virtual currency involved in the transaction or transactions.

(c) The purchase, sale, exchange, swap, or conversion of virtual currency, or the subsequent transfer of virtual currency, in a series of transactions shall be deemed to be a single transaction for purposes of subsection (b) of this section.

(d) A virtual-currency kiosk operator shall comply with the licensing requirements of this subchapter to the extent that the virtual-currency kiosk operator engages in virtual-currency business activity.

(e) If a virtual-currency kiosk operator allows or facilitates another person to engage in virtual-currency business activity via a money transmission kiosk in this State that is owned, operated, or managed by the virtual-currency kiosk operator, the virtual-currency kiosk operator shall do all of the following:

(1) ensure that the person engaging in virtual-currency business activity is licensed under subchapter 2 of this chapter to engage in virtual-currency business activity and complies with all other applicable provisions of this chapter;

(2) ensure that any charges collected from a customer via the money transmission kiosk comply with the limits provided by subsection (b) of this section; and

(3) comply with all other applicable provisions of this chapter.

* * * Automated Teller Machines * * *

Sec. 49. 8 V.S.A. § 10302 is amended to read:

§ 10302. AUTOMATED TELLER MACHINES

(a) The owner of an automated teller machine or other remote service unit~~,~~ ~~including a cash dispensing machine,~~ located or ~~employed~~ to be located in this

State shall ~~prominently and conspicuously disclose on or at the location of each such machine or on the first screen of each such machine the identity, address, and telephone number of the owner and the availability of consumer assistance. The owner shall also disclose on the screen of such machine or on a paper notice issued from the machine the amount of the fees or charges that the owner will assess to the consumer for the use of that machine. The amount of the fees or charges shall be disclosed before the consumer is irrevocably committed to completing the transaction. The Commissioner shall approve the form, content, timing, and location of such disclosures and any amendments prior to use. The Commissioner shall act on any submission made under this section within 30 days after receipt. If the Commissioner determines that any disclosures do not provide adequate consumer protection, the Commissioner may by order or by rule specify minimum disclosure standards, including the form, content, timing, and location of such disclosures. The Commissioner may impose on the owner of an automated teller machine or other remote service unit an administrative penalty of not more than $1,000.00 for each day's failure of the owner to apply to the Commissioner for approval of disclosures required under this section, for each day's failure of the owner to use disclosures approved by the Commissioner, or for each day's continuing violation of an order of the Commissioner relating to the disclosures required by this section.~~

~~(b) The owner of an automated teller machine or other remote service unit, including a cash dispensing machine, located or employed in this State shall notify the Commissioner of the location of each terminal at least 30 days prior to the activation of such terminal. The owner shall notify the Commissioner of the deactivation of any terminal within 30 days after the deactivation of such terminal.~~, using a form prescribed by the Commissioner:

(1) provide the ownership and location of each machine or unit at least 30 days prior to the activation of the machine or unit;

(2) obtain Commissioner approval of the form, content, timing, and location of all disclosures required by subsection (b) of this section prior to their use; and

(3) notify the Commissioner of the deactivation of any machine or unit within 30 days after its deactivation.

(b) The owner of an automated teller machine or other remote service unit located or to be located in this State shall disclose prominently and conspicuously, using as high a contrast or resolution as any other display or graphics on the machine or unit, prior to the point at which a consumer using the machine or unit is irrevocably committed to completing any transaction:

(1) on or at the location of each machine or unit, or on the first screen of such machine or unit, the name, address, and telephone number of the owner of the machine or unit and the days, time, and means by which a consumer can contact the owner for consumer assistance; and

(2) on the screen of each machine or unit, the amount of the fees or charges that the owner will assess to the consumer for the transaction, a clear explanation that the fees or charges are imposed by the owner of the machine or unit in connection with the consumer's transaction and are in addition to any fees or charges that may be imposed by the issuer of a consumer's card, and the method by which the consumer may cancel the transaction to avoid imposition of the fees or charges.

(c) The Commissioner shall act on complete applications for approval of disclosures required by subsection (b) of this section within 30 days after receipt. The absence of full ownership and location information for each machine or unit that will use the disclosures will result in return of the application as incomplete.

(d) To ensure adequate consumer protection, the Commissioner may by order or by rule specify additional minimum disclosure standards for automated teller machines or other remote service units, including the form, content, timing, and location of such disclosures.

(e) The Commissioner may impose on the owner of an automated teller machine or other remote service unit an administrative penalty of not more than $1,000.00 for each day's failure of the owner to apply to the Commissioner for approval of disclosures required under this section, for each day's failure of the owner to use disclosures approved by the Commissioner, or for each day's continuing violation of an order of the Commissioner relating to the disclosures required by this section.

~~(c)~~(f) In addition to an automated teller machine or other remote service unit owned by a financial institution or credit union, the provisions of this section shall apply to ~~any automated teller machine or other remote service unit~~ such machine or unit not owned by a financial institution or credit union, except it shall not include a money transmission kiosk governed by chapter 79 of this title or a point-of-sale terminal owned or operated by a merchant who does not charge a fee for the use of the point-of-sale terminal.

(g) The activities of an automated teller machine or other remote service unit whose owner is not a financial institution or credit union shall be limited to cash dispensing or the offer or sale of nonbanking services and products.

* * * Effective Dates * * *

Sec. 50. EFFECTIVE DATES

This act shall take effect on July 1, 2024, except that Sec. 28 (pet insurance) shall take effect on July 1, 2025.

And that after passage the title of the bill be amended to read:

An act relating to banking, insurance, and securities

CONSENT CALENDAR FOR NOTICE

Concurrent Resolutions for Adoption Under Joint Rules 16a - 16d

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration in that member's chamber prior to adjournment of the next legislative day. Requests for floor consideration in either chamber should be communicated to the Senate Secretary's Office or the House Clerk's Office, as applicable. For text of resolutions, see Addendum to House Calendar.

H.C.R. 181

House concurrent resolution recognizing June 24, 2024 as Saint-Jean-Baptiste Day in Vermont

H.C.R. 182

House concurrent resolution congratulating the 2024 Fair Haven Union High School Slaters Division II championship girls' basketball team

H.C.R. 183

House concurrent resolution recognizing March 2024 as National Senior Nutrition Program Month in Vermont and celebrating over a half century of the federal Senior Nutrition Program

H.C.R. 184

House concurrent resolution congratulating the Desorcie family on 60 years of wonderful and continuous family ownership of Desorcie's Market in Highgate Center

H.C.R. 185

House concurrent resolution congratulating the 2024 Thetford Academy Panthers Division III championship boys' basketball team

H.C.R. 186

House concurrent resolution celebrating the centennial of diplomatic relations between the Republic of Ireland and the United States and the continuing enthusiastic and warm friendship between the two nations

H.C.R. 187

House concurrent resolution congratulating the 2024 Mt. Anthony Union High School Patriots wrestling team on winning the school's 35th consecutive State championship

H.C.R. 188

House concurrent resolution congratulating Milton High School junior Olivia Thomas on her individual track and field achievements

H.C.R. 189

House concurrent resolution designating March 28, 2024 as Alzheimer's Awareness Day at the State House

H.C.R. 190

House concurrent resolution designating March 26, 2024 as Robert Frost Day in Vermont

H.C.R. 191

House concurrent resolution recognizing March 25, 2024 as National Medal of Honor Day in Vermont

For Informational Purposes

NOTICE OF CROSSOVER DATES

The Committee on Joint Rules adopted the following Crossover dates:

(1) All **House/Senate** bills must be reported out of the last committee of reference (including the Committees on Appropriations and on Ways and Means/Finance, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 15, 2024** and filed with the Clerk/Secretary so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by **Friday, March 15, 2024.**

(2) All **House/Senate** bills referred pursuant to House Rule 35(a) or Senate Rule 31 to the Committees on Appropriations and on Ways and Means/Finance

must be reported out by the last of those committees on or before **Friday, March 22, 2024** and filed with the Clerk/Secretary so they may be placed on the Calendar for Notice the next legislative day.

Exceptions the foregoing deadlines include the major money bills (the general Appropriations bill ("The Big Bill"), the Transportation Capital bill, the Capital Construction bill, the Pay Act, and the Fee and miscellaneous tax bills).

JOINT FISCAL COMMITTEE NOTICES

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3)(D):

JFO #3193: Land donation of 18.6 acres of undevelopable wetlands in Newport City, VT from Linda Chamberlin Mosher to the Agency of Natural Resources, Department of Fish and Wildlife. The land abuts the existing South Bay Wildlife Management Area and will expand wildlife and fish habitats and improve public access. The donation value is $51,500.00. Estimated closing costs of $10,000.00 and ongoing maintenance costs are covered by already budgeted federal funds. No state funds will be used for the acquisition.

Received March 12, 2024]

JFO #3192: $327,250.00 to the Agency of Human Services, Department of Health from the Centers for Disease Control and Prevention for data collection and public awareness related to Chronic Obstructive Pulmonary Disease. The grant is expected to fund yearly through 9/29/2027. The grant includes one (1) limited-service position, Health Systems Program Administrator, to manage contracts and grants associated with the funding and communications with the CDC. The position is also funded through 9/29/2027.

[Received March 12, 2024]

JFO #3191: One (1) limited-service position to the Agency of Human Services, Department of Health to assess and carry out work related to data on maternal mortality and sudden unexpected infant deaths. Position requires quality assurance of data and transfer to federal data tracking systems. Position is funded through 09/29/2024 through previously approved JFO #1891.

[Received March 12, 2024]

JFO #3190: $900,000.00 to the Agency of Human Services, Department of Corrections from the U.S. Department of Justice. Funds will enhance the reentry vocational case management of incarcerated individuals who are assessed for moderate and above risk of reoffending. The funds include one (1)

limited-service position, Vocational Outreach Project Manager, fully funded through 9/30/2026.

[Received March 1, 2024]

JFO #3189: $10,000,000.00 to the Agency of Human Services, Department of Disabilities, Aging and Independent Living from the U.S. Department of Education. The funds will be used to support the transition of youths with disabilities from high school to adulthood. The grants will support six (6) limited-service positions through 9/30/2028 that will work to support partnerships with all supervisory unions and the agencies focusing on employment opportunities for adults with disabilities.

[Received March 1, 2024]

JFO #3188: There are two sources of funds related to this request: $50,000.00 from the Vermont Land Trust and $20,000.00 from the Lintilhac Foundation, all to the Agency of Natural Resources, Department of Forests, Parks and Recreation. All funds will go to support the acquisition of a 19-acre property in Island Pond which will expand the Brighton State Park.

[Received March 4, 2024]

JFO #3187: Two (2) limited-service positions to the Public Service Department, Vermont Community Broadband Board: Administrative Services Manager III and Data and Information Project Manager. Positions will carry out work related to the federal Broadband Equity, Access and Deployment (BEAD) program. This program has the potential to bring in additional Broadband investment, provided local applications are successful. Positions are fully funded through 11/30/2027 and are funded by previously approved JFO #3136.

[Received February 26, 2024]

JFO #3186: $4,525,801.81 to the Agency of Agriculture, Food and Markets from the U.S. Department of Agriculture. The majority of funds to be sub-awards to Vermont's agricultural businesses and organizations to build resilience in the middle of the food supply chain and to support market development for small farms and food businesses. Includes full funding for one (1) limited-service position, Agriculture Development Specialist II and 50% support for one (1) limited-service position, Contracts and Grants Specialist I. The other 50% for the position will come from already approved JFO #2982.

[Received February 8, 2024]

JFO #3185: $70,000.00 to the Attorney General's Office from the Sears Consumer Protection and Education Fund to improve accessibility and outreach of the Vermont Consumer Assistance Program to underserved populations in Vermont.

[Received January 31, 2024]

JFO #3184: Three (3) limited-service positions to the Agency of Human Services, Department of Health. One (1) Substance Abuse Program Evaluator, funded through 8/31/28; and one (1) Public Health Specialist II, and one (1) Family Service Specialist both funded through 9/29/2024. The positions are fully funded by previously approved JFO requests #3036 and #1891. These positions will support Vermont's Overdose Data to Action program and the Maternal Mortality Review Panel.

[Received January 31, 2024]

JFO #3183: $182,500.00 to the Agency of Natural Resources, Department of Forests, Parks and Recreation. Funds will be used to complete the purchase of a conservation easement on a 183-acre parcel of land in Townshend, Vermont (Peterson Farm). [*Note: Remainder of the easement ($82,500) is supported by a State appropriation agreement between the department and the VHCB. Closing costs, including department staff time, is funded by already budgeted federal funds. Ongoing enforcement costs are managed by the department's Lands and Facilities Trust Fund. A $15,000.00 stewardship contribution to this fund will be made by the landowner at the time of the sale.*]

[Received January 31, 2024]

JFO #3182: $125,000.00 to Agency of Natural Resources, Department of Environmental Conservation from the New England Interstate Water Pollution Control Commission to expand current monitoring of cyanotoxins in Lake Champlain and Vermont inland lakes.

[Received January 31, 2024]

JFO #3181: $409,960.00 to the Agency of Commerce and Community Development, Department of Housing and Community Development from the U.S. Department of the Interior/National Park Service. Funds will be used for the preservation, repair, and restoration of the Old Constitution House, located in Windsor, Vermont. The first Constitution of Vermont was adopted on this site, then known as Elijah West's Tavern, on July 8, 1777. *[Note: A State match of $53,714.00 is accomplished within the agency budget through the reduction of a fraction of an existing position base and existing capital bill funds.]*

[Received January 31, 2024]

JFO #3180: One (1) limited-service position, Administrative Services Director III, to the Agency of Administration, Recovery Office. Position will ensure that flood recovery projects are integrated with existing state and federal programs. Will also ensure compliance and tracking of already awarded grants as well as those anticipated in the wake of the July 2023 flooding event. Position is funded through already approved JFO Request #3165 as well as Acts 74 (2021) and 185 (2022). The position is fully funded through 7/31/2027.

[Received January 31, 2024]

JFO #3179: Two (2) limited-service positions. One (1) to the Department of Mental Health, Project AWARE Lead Coordinator and one (1) to the Agency of Education, Project AWARE Co-Coordinator. The positions will liaison to coordinate and expand the state's efforts to develop sustainable infrastructure for school-based mental health. Both positions are fully funded through 9/29/28 from previous SAMHSA grant award JFO #2934.

[Received January 26, 2024]

JFO #3178: $456,436.00 to the Agency of Natural Resources, Secretary's Office from the U.S. Environmental Protection Agency. Funds will support (1) limited-service position, Environmental Analyst IV. This position will serve as administrative lead developing the updated Climate Action Plan with the Vermont Climate Council and perform added work required by the EPA grant. Position is funded through 6/30/2027.

[Received January 11, 2024]

JFO #3177: $2,543,564.00 to the Agency of Natural Resources, Secretary's Office from the U.S. Environmental Protection Agency. Funding is phase one of a two-phase funding opportunity aimed to support Vermont with climate change mitigation planning efforts. A comprehensive climate action plan will be developed, to overlap with and be synonymous to the required update to Vermont's Climate Action Plan in 2025.

[Received January 12, 2024]

JFO #3176: $250,000.00 to the Agency of Human Services, Department of Mental Health from the National Association of State Mental Health Program Directors. These funds will increase rapid access to behavioral health care by supporting the peer service component of the mental health urgent care clinic being established in Chittenden County. This clinic will offer an alternative to seeking mental health care in emergency departments

[Received January 11, 2024]