

# Journal of the House

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**Friday, May 5, 2023**

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

## **Devotional Exercises**

Devotional exercises were conducted by Rep. Mike Mrowicki and Amelia Struthers of Putney.

## **Memorial Service**

The Speaker placed before the House the following name of the member of past sessions of the Vermont General Assembly who had passed away recently:

Rep. Dean Corren of Burlington      Member of the House,  
Sessions 1993 - 2000

Thereupon, the members of the House held a moment of silence in memory of the deceased member.

## **Bill Referred to Committee on Appropriations**

**S. 4**

Senate bill, entitled

An act relating to reducing crimes of violence associated with juveniles and dangerous weapons

Appearing on the Notice Calendar, and pursuant to House Rule 35(a), carrying an appropriation, was referred to the Committee on Appropriations.

## **Bill Referred to Committee on Ways and Means**

**S. 89**

Senate bill, entitled

An act relating to establishing a forensic facility

Appearing on the Notice Calendar, and pursuant to House Rule 35(a), affecting the revenue of the State, was referred to the Committee on Ways and Means.

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**Ceremonial Reading****H.C.R. 106**

House concurrent resolution recognizing May 2023 as National Foster Care Month in Vermont

Offered by: Committee on Human Services

Whereas, all children deserve a safe, loving, and nurturing home, and

Whereas, families serve as the primary support structure for personal identity and community connections, and

Whereas, foster care nurtures family relationships, and foster care providers help children and youth develop, and

Whereas, in Vermont, there are over 1,000 children and youth in the custody of the Department for Children and Families who are living with dedicated foster, kinship, and respite care providers in homes where the children's need for safety and belonging is ensured until their parents can safely resume family responsibilities, and

Whereas, many foster families create permanency for children and youth through adoption when they cannot safely return to live with their birth families, and

Whereas, foster care providers, in collaboration with public and private community partners, support the transition of youth and young adults to successful independence, and

Whereas, May is National Foster Care Month and is an ideal occasion to raise awareness of foster care and to celebrate those individuals who are dedicated to serving our children, youth, and families, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly recognizes May 2023 as National Foster Care Month in Vermont, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to Vermont Foster Adoptive Family Alliance, Vermont Kin as Parents, and the Vermont Commissioner for Children and Families.

Having been adopted in concurrence on Friday, April 28, 2023 in accord with Joint Rule 16b, was read.

**Third Reading; Bill Passed****H. 81**

House bill, entitled

An act relating to fair repair of agricultural equipment

Was taken up and read the third time.

Pending the question, Shall the bill pass?, **Rep. Marcotte of Coventry** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass?, was decided in the affirmative. Yeas, 137. Nays, 2.

Those who voted in the affirmative are:

Andrews of Westford	Donahue of Northfield	Nicoll of Ludlow
Andriano of Orwell	Durfee of Shaftsbury	Notte of Rutland City
Anthony of Barre City	Elder of Starksboro	Noyes of Wolcott
Arrison of Weathersfield	Emmons of Springfield	Nugent of South Burlington
Arsenault of Williston	Farlice-Rubio of Barnet	O'Brien of Tunbridge
Austin of Colchester	Galfetti of Barre Town	Ode of Burlington
Bartholomew of Hartland	Goldman of Rockingham	Oliver of Sheldon
Bartley of Fairfax	Goslant of Northfield	Page of Newport City
Beck of St. Johnsbury	Graning of Jericho	Pajala of Londonderry
Berbeco of Winooski	Gregoire of Fairfield	Parsons of Newbury
Birong of Vergennes	Harrison of Chittenden	Patt of Worcester
Black of Essex	Headrick of Burlington	Pearl of Danville
Bluemle of Burlington	Holcombe of Norwich	Peterson of Clarendon
Bongartz of Manchester	Hooper of Randolph	Pouech of Hinesburg
Bos-Lun of Westminster	Hooper of Burlington	Priestley of Bradford *
Boyden of Cambridge	Houghton of Essex Junction	Rachelson of Burlington
Brady of Williston	Howard of Rutland City	Rice of Dorset *
Branagan of Georgia	Hyman of South Burlington	Roberts of Halifax
Brennan of Colchester	Jerome of Brandon	Sammis of Castleton
Brown of Richmond	Kornheiser of Brattleboro	Satcowitz of Randolph
Brumsted of Shelburne	Krasnow of South	Scheu of Middlebury
Burke of Brattleboro	Burlington	Shaw of Pittsford
Burrows of West Windsor	Labor of Morgan	Sheldon of Middlebury
Buss of Woodstock	LaBounty of Lyndon	Sibilia of Dover
Campbell of St. Johnsbury	Lalley of Shelburne	Sims of Craftsbury *
Canfield of Fair Haven	LaLonde of South	Small of Winooski
Carpenter of Hyde Park	Burlington	Smith of Derby
Carroll of Bennington	Lanpher of Vergennes	Squirrell of Underhill
Casey of Montpelier	Laroche of Franklin	Stebbins of Burlington
Chapin of East Montpelier	Leavitt of Grand Isle	Stevens of Waterbury
Chase of Chester	Lipsky of Stowe	Stone of Burlington
Chase of Colchester	Logan of Burlington	Surprenant of Barnard *
Chesnut-Tangerman of	Long of Newfane	Taylor of Milton
Middletown Springs	Maguire of Rutland City	Taylor of Colchester
Christie of Hartford	Marcotte of Coventry	Templeman of Brownington

Cina of Burlington	Masland of Thetford	Toleno of Brattleboro
Clifford of Rutland City	Mattos of Milton	Toof of St. Albans Town
Coffey of Guilford	McCann of Montpelier	Torre of Moretown
Cole of Hartford	McCarthy of St. Albans City	Troiano of Stannard
Conlon of Cornwall	McGill of Bridport	Walker of Swanton
Corcoran of Bennington	Mihaly of Calais	Waters Evans of Charlotte
Cordes of Lincoln	Minier of South Burlington	White of Bethel
Demar of Enosburgh	Morgan of Milton	Whitman of Bennington
Demrow of Corinth	Morris of Springfield	Williams of Barre City
Dodge of Essex	Morrissey of Bennington	Williams of Granby
Dolan of Essex Junction	Mrowicki of Putney	Wood of Waterbury
Dolan of Waitsfield	Mulvaney-Stanak of Burlington	

Those who voted in the negative are:

Graham of Williamstown      Higley of Lowell

Those members absent with leave of the House and not voting are:

Brownell of Pownal	Garofano of Essex	McCoy of Poultney
Burditt of West Rutland	Hango of Berkshire	McFaun of Barre Town
Dickinson of St. Albans Town	James of Manchester	Wilson of Lyndon
	LaMont of Morristown	

**Rep. Priestley of Bradford** explained her vote as follows:

“Madam Speaker:

When we increase people’s choice, we increase competition and decrease exploitation.”

**Rep. Rice of Dorset** explained his vote as follows:

“Madam Speaker:

We heard the powerful voices of Vermonters – farmers, loggers, and mechanics – telling us about the positive impact the right to repair will have on them and our rural communities. Fair repair is a growing movement here in Vermont and across the country that basically says we should have the right to fix our stuff when it breaks. It’s hard to think of a better group with whom to start ensuring that right than Vermont’s farmers. For them, I was proud to vote yes.”

**Rep. Sims of Craftsbury** explained her vote as follows:

“Madam Speaker:

If you own something, you have the right to fix it. I voted yes on this bill to require manufacturers to make tools, manuals, and diagnostic equipment

available to our farmers and loggers. I voted yes so there will be more options for consumers in Vermont.”

**Rep. Surprenant of Barnard** explained her vote as follows:

“Madam Speaker:

I voted yes today to support my agricultural community. As a farmer, I am well versed in the challenges that come with working the land. We are at the whim of weather, fluctuating markets, and daylight. So much is out of our hands. H.81 is an important step towards giving our farmers just a little bit of ease for something we can control, and that’s the right to repair our equipment.”

**Third Reading; Bill Passed in Concurrence  
With Proposal of Amendment**

**S. 94**

Senate bill, entitled

An act relating to the City of Barre tax increment financing district

Was taken up, read the third time, and passed in concurrence with proposal of amendment.

**Second Reading; Bill Amended; Third Reading Ordered**

**H. 21**

**Rep. Labor of Morgan**, for the Committee on General and Housing, to which had been referred House bill, entitled

An act relating to landlord notice of utility disconnections

Recommended that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. UTILITY DISCONNECTION; LANDLORD NOTIFICATION;

PUBLIC UTILITY COMMISSION; RULEMAKING

(a) For the purpose of promoting safety, the protection of property, and providing assistance to tenants, the Public Utility Commission shall revise its rules concerning utility service disconnection to:

(1) require that a utility provide notice to the property owner of residential or nonresidential rental property if utility service to the property has been disconnected, even if the tenant is the ratepayer; and

(2) allow a utility to disconnect utility service remotely.

(b) As used in this section, “utility service” means gas, electric, water, and wastewater service subject to the jurisdiction of the Public Utility Commission.

(c) The rules adopted pursuant to subdivision (a)(1) of this section shall:

(1) establish the form, content, time, and manner of the notification required by subdivision (a)(1) of this section;

(2) include a process whereby a property owner can request that the notification is provided to a property manager or other appropriate third party; and

(3) ensure that the notification does not include personal or confidential information pertaining to the tenant or the tenant’s account, except that the utility may disclose information necessary to enable the property owner or other applicable third party to reconnect utility service to the property.

(d) On or before January 15, 2024, the Public Utility Commission shall submit to the House Committees on General and Housing and on Environment and Energy and the Senate Committees on Economic Development, Housing and General Affairs and on Finance a proposal in the form of draft legislation that incorporates, as the Commission deems appropriate, the rules adopted by the Commission pursuant to this section and that applies to utility disconnections not subject to the jurisdiction of the Commission, including water and sewer service provided by a water or sewer system owned by a municipality, fire district, or private company subject to the uniform water and sewer disconnection requirements in 24 V.S.A. chapter 129.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, the report of the Committee on General and Housing agreed to, and third reading ordered.

### **Senate Proposal of Amendment Concurred in**

#### **H. 230**

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

An act relating to implementing mechanisms to reduce suicide

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

## Sec. 1. FINDINGS

The General Assembly finds:

(1) More than 700 Vermont residents died of gunshot wounds in the decade from 2011 to 2020. Eighty-eight percent of these deaths were by suicide.

(2) Of all the deaths in Vermont involving firearms in 2021, 89 percent were by suicide and eight percent were by homicide.

(3) The 2021 suicide rate by all methods in Vermont was 20.3 per 100,000 persons, compared to a national rate of 14.0 per 100,000 persons. Suicide among Vermont men and boys is 50 percent higher than the national average.

(4) In 2021, the number of suicides in Vermont was 142, with 83 of them completed by firearm, or 58 percent.

(5) According to 2023 data from the Vermont Department of Health, 44 percent of Vermont households store at least one firearm in or around the home.

(6) Children are 4.4 times more likely to die by suicide in a home with a firearm compared to a home without a firearm.

(7) Extreme risk protection orders have proven successful in situations where other protective orders, mental health proceedings, or criminal charges could not address the risk presented. In fiscal year 2022, 18 extreme risk protection order petitions were filed statewide. In at least five of these cases, a temporary or final order was based on a finding that the respondent had “threatened or attempted suicide or serious bodily harm.”

(8) Emphasis on the eight percent of firearm deaths by homicide in the State of Vermont does not portray the full impact of Vermont firearms on public safety. Firearms purchased in Vermont and transferred, lawfully or unlawfully, out of state contribute to violent crime in other states, including homicide. A report prepared by the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives revealed that in 2016, there were 51 traces of firearms involved in a homicide to the State of Vermont.

(9) The National Firearms Commerce and Trafficking Assessment (NFCTA): Crime Guns - Volume Two report prepared by the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) revealed that between 2017 and 2021, 6,333 firearms that were used in a crime were traced to Vermont. Of the 1,903 firearms that could be traced to a known purchaser, 65 percent were recovered from someone other than the purchaser, and 64 percent were recovered outside the State of Vermont. Over 750 of these

firearms were recovered in our neighboring states of New York, Massachusetts, and New Hampshire.

(10) Waiting period laws, which create a buffer between the time of gun purchase and gun acquisition, can help to prevent impulsive acts of gun violence. One study found that waiting period laws that delay the purchase of firearms by a few days can reduce gun homicides by roughly 17 percent.

## Sec. 2. LEGISLATIVE PURPOSE

The purposes of this legislation are to prevent death by suicide by reducing access to operable firearms by children and prohibited persons and to reduce community violence. Although there are many other methods for completing suicide, firearms are unique in their ability to create instantaneous and irreversible outcomes. Nearly every other commonly used method for suicide has a high survivability rate. It is extremely rare for someone to survive a suicide attempt in which a firearm is used. This fact, combined with the high prevalence of firearms in Vermont, is why this method alone is being addressed by this act.

Sec. 3. 13 V.S.A. § 4024 is added to read:

### § 4024. NEGLIGENT FIREARMS STORAGE

(a)(1) A person who stores or keeps a firearm within any premises that are under the person's custody or control, and who knows or reasonably should know that a child or prohibited person is likely to gain access to the firearm, shall be:

(A) imprisoned not more than one year or fined not more than \$1,000.00, or both, if a child or prohibited person gains access to the firearm and uses it in the commission of a crime or displays it in a threatening manner; or

(B) imprisoned not more than five years or fined not more than \$5,000.00, or both, if a child or prohibited person gains access to the firearm and uses it to cause death or serious bodily injury to any person.

(2) This subsection shall not apply if:

(A) the firearm is carried by or within such close proximity that it can be readily retrieved and used by the owner or another authorized user;

(B) a child or prohibited person accesses the firearm as a result of an illegal entry;

(C) a child or prohibited person accesses and uses the firearm during the course of a lawful act of self-defense or defense of another person; or



(D) the person stores or keeps the firearm in a locked container or equipped with a tamper-resistant mechanical lock or other safety device.

(b)(1) At any location where a licensed dealer conducts firearm sales or transfers, the licensed dealer shall conspicuously display a sign containing the information required by subdivision (2) of this subsection in any area where the sales or transfers occur. The sign shall be posted so that it can be easily viewed by persons purchasing or receiving firearms, and the sign shall not be removed, obscured, or rendered illegible. If the location where the sales or transfers occur is the premises listed on the dealer's federal firearms license, an additional sign shall be placed at or near the entrance to the premises.

(2) The sign required by subdivision (1) of this subsection shall be at least eight and one-half inches high by 11 inches wide and shall contain black text at least half an inch high against a white background. The sign shall contain the following text and no other statements or markings:

“WARNING: Access to a firearm in the home significantly increases the risk of suicide; death during domestic violence disputes; and the unintentional death of children, household members, and others. If you or a loved one is experiencing distress or depression, call the 988 Suicide and Crisis hotline or text “VT” to 741741.

Failure to securely store firearms may result in criminal prosecution. It is important that the owner of a firearm seek firearm safety instructions from a certified firearms instructor and keep firearms secured from unauthorized use.

Posted pursuant to 13 V.S.A. § 4024.”

(c) As used in this section:

(1) “Authorized user” means a person 18 years of age or older who is not a prohibited person and who has been authorized to carry or use the firearm by the owner.

(2) “Child” means a person under 18 years of age.

(3) “Firearm” has the same meaning as in subsection 4017(d) of this title.

(4) “Licensed dealer” means a person issued a license as a dealer in firearms pursuant to 18 U.S.C. § 923(a).

(5) “Locked container” means a box, case, chest, locker, safe, or other similar receptacle equipped with a tamper-resistant lock.

(6) “Prohibited person” means a person who is prohibited from possessing a firearm by state or federal law or by court order.

(7) “Serious bodily injury” has the same meaning as in subdivision 1021(a)(2) of this title.

Sec. 4. 13 V.S.A. § 4051 is amended to read:

§ 4051. DEFINITIONS

As used in this subchapter:

\* \* \*

(7) “Household members” means persons who are living together, are sharing occupancy of a dwelling, are engaged in a sexual relationship, or minors or adults who are dating. “Dating” means a social relationship of a romantic nature. Factors that the court may consider when determining whether a dating relationship exists include:

- (A) the nature of the relationship;
- (B) the length of time the relationship has existed; and
- (C) the frequency of interaction between the parties.

Sec. 5. 13 V.S.A. § 4053 is amended to read:

§ 4053. PETITION FOR EXTREME RISK PROTECTION ORDER

(a) A State’s Attorney or, the Office of the Attorney General, or a family or household member may file a petition requesting that the court issue an extreme risk protection order prohibiting a person from purchasing, possessing, or receiving a dangerous weapon or having a dangerous weapon within the person’s custody or control. The petitioner shall submit an affidavit in support of the petition.

(b)(1) Except as provided in section 4054 of this title, the court shall grant relief only after notice to the respondent and a hearing. The petitioner shall have the burden of proof by clear and convincing evidence.

(2) When a petition has been filed by a family or household member, the State’s Attorney of the county where the petition was filed shall be substituted as the plaintiff in the action upon the issuance of an ex parte order under section 4054 of this title or at least seven days prior to the hearing for a petition filed under this section. Upon substitution of the State’s Attorney as the plaintiff, the family or household member shall no longer be a party.

\* \* \*

(d)(1) The court shall hold a hearing within 14 days after a petition is filed under this section. Notice of the hearing shall be served pursuant to section 4056 of this title concurrently with the petition and any ex parte order issued under section 4054 of this title.

(2) If a petition is filed by a family or household member under this section, the court shall transmit a copy of the petition to the State's Attorney of the county where the petition was filed, along with all supporting documents and the notice of the initial status conference or hearing.

\* \* \*

Sec. 6. 13 V.S.A. § 4054 is amended to read:

§ 4054. EMERGENCY RELIEF; TEMPORARY EX PARTE ORDER

(a)(1) A State's Attorney ~~or~~, the Office of the Attorney General, or a family or household member may file a motion requesting that the court issue an extreme risk protection order ex parte, without notice to the respondent. A law enforcement officer may notify the court that an ex parte extreme risk protection order is being requested pursuant to this section, but the court shall not issue the order until after the motion is submitted.

\* \* \*

(b)(1)(A) The court shall grant the motion and issue a temporary ex parte extreme risk protection order if it finds by a preponderance of the evidence, or by clear and convincing evidence if the petition was filed by a family or household member, that at the time the order is requested the respondent poses an imminent and extreme risk of causing harm to ~~himself or herself~~ themselves or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control. The petitioner shall cause a copy of the order to be served on the respondent pursuant to section 4056 of this title, and the court shall deliver a copy to the holding station.

(B) If a motion is filed by a family or household member under this section and the court has issued an ex parte order, the court shall transmit a copy of the motion to the State's Attorney of the county where the petition was filed, along with all supporting documents and the notice of the initial status conference or hearing.

\* \* \*

Sec. 7. 13 V.S.A. § 4019a is added to read:

§ 4019a. FIREARMS TRANSFERS; WAITING PERIOD

(a) A person shall not transfer a firearm to another person until 72 hours after the licensed dealer facilitating the transfer is provided with a unique identification number for the transfer by the National Instant Criminal Background Check System (NICS) or seven business days have elapsed since the dealer contacted NICS to initiate the background check, whichever occurs

first.

(b) A person who transfers a firearm to another person in violation of subsection (a) of this section shall be imprisoned not more than one year or fined not more than \$500.00, or both.

(c) This section shall not apply to a firearm transfer that does not require a background check under 18 U.S.C. § 922(t) or section 4019 of this title.

(d) As used in this section, “firearm” has the same meaning as in subsection 4017(d) of this title.

(e)(1) This section shall not apply to a firearms transfer at a gun show.

(2) As used in this subsection, “gun show” means a function sponsored by:

(A) a national, state, or local organization, devoted to the collection, competitive use, or other sporting use of firearms; or

(B) an organization or association that sponsors functions devoted to the collection, competitive use, or other sporting use of firearms in the community.

(3) This subsection shall be repealed on July 1, 2024.

#### Sec. 8. SEVERABILITY

As set forth in 1 V.S.A. § 215, the provisions of this act are severable, and if a court finds any provision of this act to be invalid, or if any application of this act to any person or circumstance is invalid, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

#### Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

And that after passage the title of the bill be amended to read:

An act relating to implementing mechanisms to reduce suicide and community violence.

Pending the question, Shall the House concur in the Senate proposal of amendment?, **Rep. Higley of Lowell** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House concur in the Senate proposal of amendment?, was decided in the affirmative. Yeas, 106. Nays, 34.

## Those who voted in the affirmative are:

Andrews of Westford	Dolan of Essex Junction *	Nicoll of Ludlow
Anthony of Barre City	Dolan of Waitsfield	Notte of Rutland City *
Arrison of Weathersfield	Durfee of Shaftsbury	Noyes of Wolcott
Arsenault of Williston *	Elder of Starksboro	Nugent of South Burlington
Austin of Colchester	Emmons of Springfield	O'Brien of Tunbridge
Bartholomew of Hartland	Farlice-Rubio of Barnet	Ode of Burlington
Berbeco of Winooski	Goldman of Rockingham	Pajala of Londonderry
Birong of Vergennes	Graning of Jericho	Patt of Worcester
Black of Essex	Headrick of Burlington	Pearl of Danville
Bluemle of Burlington	Holcombe of Norwich	Pouech of Hinesburg
Bongartz of Manchester	Hooper of Randolph	Priestley of Bradford
Bos-Lun of Westminster	Hooper of Burlington	Rachelson of Burlington
Boyden of Cambridge	Houghton of Essex Junction*	Rice of Dorset
Brady of Williston *	Howard of Rutland City	Roberts of Halifax
Brown of Richmond	Hyman of South Burlington	Satcowitz of Randolph
Brumsted of Shelburne	Jerome of Brandon	Scheu of Middlebury
Burke of Brattleboro	Kornheiser of Brattleboro	Sheldon of Middlebury
Burrows of West Windsor	Krasnow of South Burlington	Sibilia of Dover
Buss of Woodstock	LaBounty of Lyndon	Sims of Craftsbury
Campbell of St. Johnsbury	Lalley of Shelburne	Small of Winooski
Carpenter of Hyde Park	LaLonde of South Burlington	Squirrell of Underhill
Carroll of Bennington	LaMont of Morristown	Stebbins of Burlington
Casey of Montpelier	Lanpher of Vergennes	Stevens of Waterbury
Chapin of East Montpelier	Leavitt of Grand Isle	Stone of Burlington
Chase of Chester	Lipsky of Stowe	Surprenant of Barnard
Chase of Colchester	Logan of Burlington	Taylor of Colchester
Chesnut-Tangerman of Middletown Springs	Long of Newfane	Toleno of Brattleboro
Christie of Hartford	Masland of Thetford	Torre of Moretown
Cina of Burlington	McCann of Montpelier	Troiano of Stannard *
Coffey of Guilford	McCarthy of St. Albans City	Waters Evans of Charlotte
Cole of Hartford	McGill of Bridport	White of Bethel
Conlon of Cornwall	Mihaly of Calais	Whitman of Bennington
Corcoran of Bennington	Minier of South Burlington	Williams of Barre City *
Cordes of Lincoln	Morris of Springfield	Wood of Waterbury
Demrow of Corinth	Mrowicki of Putney	
Dodge of Essex	Mulvaney-Stanak of Burlington *	

## Those who voted in the negative are:

Andriano of Orwell *	Gregoire of Fairfield	Parsons of Newbury
Bartley of Fairfax	Harrison of Chittenden	Peterson of Clarendon
Beck of St. Johnsbury	Higley of Lowell	Sammis of Castleton *
Branagan of Georgia	Labor of Morgan	Shaw of Pittsford
Brennan of Colchester	Laroche of Franklin	Smith of Derby
Canfield of Fair Haven	Maguire of Rutland City	Taylor of Milton
Clifford of Rutland City	Marcotte of Coventry	Templeman of Brownington

Demar of Enosburgh	Mattos of Milton	Toof of St. Albans Town
Donahue of Northfield *	Morgan of Milton	Walker of Swanton
Galfetti of Barre Town	Morrissey of Bennington	Williams of Granby *
Goslant of Northfield	Oliver of Sheldon	
Graham of Williamstown	Page of Newport City	

Those members absent with leave of the House and not voting are:

Brownell of Pownal	Garofano of Essex	McFaun of Barre Town
Burditt of West Rutland	Hango of Berkshire	Wilson of Lyndon
Dickinson of St. Albans Town	James of Manchester	
	McCoy of Poultney	

**Rep. Andriano of Orwell** explained his vote as follows:

“Madam Speaker:

Under the new test put forth by the United States Supreme Court in *New York State Rifle & Pistol Association, Inc. v. Bruen*, I believe this bill is unconstitutional. The Senate did not fix the constitutional issue, which is why I voted no.”

**Rep. Arsenault of Williston** explained her vote as follows:

“Madam Speaker:

I vote yes for H.230 because this bill represents progress in the battle against the epidemic of gun violence in our State and Country. I hope for continued progress in this deadly struggle so that we may reverse the trends and poisonous culture that have led us to this point. I hope for a day when guns are no longer the number one cause of death for our children.”

**Rep. Brady of Williston** explained her vote as follows:

“Madam Speaker:

I proudly voted yes. With this legislation, we can better prevent unauthorized access to firearms, particularly by youth. Yesterday, your House Education Committee passed a school safety bill. H.230 is certainly another critical step to keep our schools and all of our kids safe.”

**Rep. Dolan of Essex Junction** explained her vote as follows:

“Madam Speaker:

I vote yes. Vermonters deserve the common-sense protections offered in H.230. Our support will save lives.”

**Rep. Donahue of Northfield** explained her vote as follows:

“Madam Speaker:

I have supported gun bills in the past when they are data-driven showing a protective impact that outweighs the burden on legitimate gun owners, and that meet the test for constitutionality. This one meets none of those standards.”

**Rep. Houghton of Essex Junction** explained her vote as follows:

“Madam Speaker:

The data is clear – Vermont’s suicide rate continues to increase and our rate is significantly higher than the rest of the U.S. Vermonters have died because in one impulsive act they gained access to a firearm. I vote yes because our actions will save lives.”

**Rep. Mulvaney-Stanak of Burlington** explained her vote as follows:

“Madam Speaker:

Our communities are in crisis and easy access to guns hurts all of us whether we are experiencing a mental health crisis, going about our regular day in grocery stores, churches, mosques, synagogues, or simply trying to attend school. We cannot stand by anymore. We must act. It is our responsibility as leaders. I vote yes for H.230 to create safer communities for all of us.”

**Rep. Notte of Rutland City** explained his vote as follows:

“Madam Speaker:

I voted for H.230 in committee and on the House floor – and voted to concur today because of the importance of this bill. Suicide for Vermont males is fifty percent higher than the national average. Vermonters living in rural areas, veterans, Vermonters with disabilities, and LGBTQ+ Vermonters are all at greater risk of suicide. A child in a home with a firearm is 4.4 times more likely to die by suicide. This is all terrible and deeply alarming. We simply cannot do nothing. Vermonters deserve better.”

**Rep. Sammis of Castleton** explained his vote as follows:

“Madam Speaker:

When we have to begin introducing legislation that has to utilize special sections in order to keep the rest of the bill from falling apart due to future legislation from the egregious violations of civil liberties, and half your own committee voted against it, you might have a bad piece of legislation. Leave the civil rights of Vermonters alone, period.”

**Rep. Troiano of Stannard** explained his vote as follows:

“Madam Speaker:

I vote yes. We know that a disproportionate number of veterans die of suicide by firearm every day. If this law saves one veteran’s life it is worth it to me.”

**Rep. Williams of Barre City** explained his vote as follows:

“Madam Speaker:

I vote yes for my childhood friends Bucky and Tyler, now deceased.”

**Rep. Williams of Granby** explained her vote as follows:

“Madam Speaker:

I took an oath of office to uphold the Constitution. I believe this bill infringes upon the constitutional rights of Vermonters. More importantly, I believe it will not make a dent in reducing suicide. We must focus on the root cause. We are missing the mark by a long shot.”

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

**S. 47**

**Rep. Peterson of Clarendon**, for the Committee on Health Care, to which had been referred Senate bill, entitled

An act relating to the transport of individuals requiring psychiatric care

Recommended that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 7505 is amended to read:

§ 7505. WARRANT AND CERTIFICATE FOR EMERGENCY

EXAMINATION

(a) In emergency circumstances where certification by a licensed physician is not available without serious and unreasonable delay, and when personal observation of the conduct of a person constitutes reasonable grounds to believe that the person is a person in need of treatment, and ~~he or she~~ the person presents an immediate risk of serious injury to ~~himself or herself~~ self or others if not restrained, a law enforcement officer or mental health professional may make an application, not accompanied by a physician’s certificate, to any Superior judge for a warrant for an emergency examination. The application shall be based on facts personally observed by the mental



health professional or the law enforcement officer or shall be supported by a statement of facts under penalty of perjury by a person who personally observed the facts that form the basis of the application.

(b)(1) ~~The law enforcement officer or mental health professional may take the person into temporary custody and shall apply to the court without delay for the warrant if the law enforcement officer has probable cause to believe that the person poses a risk of harm to self or others. The law enforcement officer or a mental health professional shall apply to the court for the warrant without delay while the person is in temporary custody. The law enforcement officer, or a mental health professional if clinically appropriate, may then transport the person if the law enforcement officer or mental health professional conducting the transport has probable cause to believe that the person poses a risk of harm to self or others.~~

(2) Transports conducted pursuant to this subsection shall provide individuals with the same protections as provided to individuals in the custody of the Commissioner who are transported pursuant to section 7511 of this title.

(c) If the judge is satisfied that a physician's certificate is not available without serious and unreasonable delay, and that probable cause exists to believe that the person is in need of an emergency examination, ~~he or she~~ the judge may order the person to submit to an evaluation by a licensed physician for that purpose.

(d)(1) If necessary, the court may order the law enforcement officer ~~or mental health professional~~ to transport the person to a hospital for an evaluation by a licensed physician to determine if the person should be certified for an emergency examination.

(2) Transports conducted pursuant to this subsection shall provide individuals with the same protections as provided to individuals in the custody of the Commissioner who are transported pursuant to section 7511 of this title.

(e) Authority to transport a person pursuant to this section shall expire if the person is not taken into custody and transported within 72 hours after a warrant is issued by a Superior judge.

(f) A person transported pursuant to subsection (d) of this section shall be evaluated as soon as possible after arrival at the hospital. If after evaluation the licensed physician determines that the person is a person in need of treatment, ~~he or she~~ the licensed physician shall issue an initial certificate that sets forth the facts and circumstances constituting the need for an emergency examination and showing that the person is a person in need of treatment. Once the licensed physician has issued the initial certificate, the person shall be held for an emergency examination in accordance with section 7508 of this

title. If the licensed physician does not certify that the person is a person in need of treatment, ~~he or she~~ the licensed physician shall immediately discharge the person and cause ~~him or her~~ the person to be returned to the place from which ~~he or she~~ the person was taken, or to such place as the person reasonably directs.

Sec. 2. 18 V.S.A. § 7511 is amended to read:

§ 7511. TRANSPORTATION

(a) The Commissioner shall ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort a person subject to this chapter to and from any inpatient setting, ~~including escorts within a designated hospital or the Vermont State Hospital or its successor in interest or otherwise being transported~~ under the jurisdiction of the Commissioner in any manner ~~which~~ that:

(1) prevents physical and psychological trauma;

(2) respects the privacy of the individual; and

(3) represents the least restrictive means necessary for the safety of the patient.

(b) The Commissioner shall have the authority to designate the professionals or law enforcement officers who may authorize the method of transport of patients under the Commissioner's care and custody.

(c) When a professional or law enforcement officer designated pursuant to subsection (b) of this section decides an individual is in need of secure transport with mechanical restraints, the reasons for such determination shall be documented in writing.

(d) It is the policy of the State of Vermont that mechanical restraints are not routinely used on persons subject to this chapter unless circumstances dictate that such methods are necessary. A law enforcement vehicle shall have soft restraints available for use as a first option, and mechanical restraints shall not be used as a substitute for soft restraints if the soft restraints are otherwise deemed adequate for safety.

Sec. 3. REPORT; MENTAL HEALTH; WARRANT PROCESS

On or before January 15, 2024, the Department of Mental Health, in consultation with Vermont Care Partners; Vermont Legal Aid; MadFreedom, Inc.; Vermont Psychiatric Survivors; and persons with lived experience of a mental health condition, shall submit a report to the House Committees on Health Care and on Judiciary, and the Senate Committees on Health and Welfare and on Judiciary containing any proposed changes to the warrant

process in 18 V.S.A. § 7505, including mechanisms to reduce safety risks and reduce delays in accessing care.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, the report of the Committee on Health Care agreed to, and third reading ordered.

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

**S. 95**

**Rep. Graning of Jericho**, for the Committee on Commerce and Economic Development, to which had been referred Senate bill, entitled

An act relating to banking and insurance

Recommended that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 6011(b) is amended to read:

(b) Any captive insurance company may take credit for the reinsurance of risks or portions of risks ceded to reinsurers complying with the provisions of subsections 3634a(a) through ~~(f)(e)~~ of this title. Prior approval of the Commissioner shall be required for ceding or taking credit for the reinsurance of risks or portions of risks ceded to reinsurers not complying with subsections 3634a(a) through ~~(f)(e)~~ of this title, except for business written by an alien captive insurance company outside the United States.

Sec. 2. 8 V.S.A. § 4728(c)(7) is amended to read:

(7) “Licensee” means a person licensed, authorized to operate, or registered or required to be licensed, authorized, or registered pursuant to the insurance laws of this State, but shall not include:

(A) a captive insurance company;

(B) a purchasing group or risk retention group chartered; or

(C) a licensee domiciled in a jurisdiction other than this State ~~or a person~~ that is acting as an assuming insurer for a licensee domiciled in this State.

Sec. 3. 8 V.S.A. § 2103(b)(3)(A) is amended to read:

(A) return to the applicant ~~any amounts paid for the applicable bond requirement and~~ the bond, if any, and any amounts paid for the applicable license fee; and

Sec. 4. 8 V.S.A. § 2759a(b)(2)(A) is amended to read:

(A) The notice of cancellation shall contain the following information and statements, printed in not less than ~~ten-point~~ ten-point boldface type:

NOTICE OF CANCELLATION

(enter date of transaction)

.....

(date)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any payments made by you under the contract will be returned within ~~ten~~ 10 business days following our receipt of your cancellation notice.

To cancel the debt adjustment contract, ~~mail or deliver~~ return a signed and dated copy of this cancellation notice or any other written notice ~~or send a telegram~~ using first-class mail or e-mail, to ..... at

(name of licensee)

.....

(address of licensee's place of business)

(e-mail address of licensee)

not later than midnight of .....

(date)

I hereby cancel this transaction.

.....

(date)

.....

(debtor's signature)

Sec. 5. 9 V.S.A. § 43 is amended to read:

§ 43. DEPOSIT REQUIREMENT PROHIBITED; EXCEPTION

A lender shall not, as a condition to granting or extending a loan, require a borrower to keep or place any sum on deposit with the lender or nominee of the lender, except for deposit arrangements directly related to secured credit cards in a manner consistent with rules adopted by the Commissioner, rules that shall include disclosure requirements, and specific types of alternative mortgages approved by the Commissioner as provided in 8 V.S.A. § 1256. Any deposit arrangement permitted under this section shall not result in an effective interest rate that exceeds legal rates established in 9 V.S.A. § 41a.

Sec. 6. 8 V.S.A. § 4688(e) is amended to read:

(e) Filings open to inspection. All rates, supplementary rate information, and any nonproprietary supporting information for risks filed under this chapter shall, as soon as filed or after approval for those matters subject to pre-filing, be open to public inspection at any reasonable time. Copies may be obtained by any person on request and upon payment of a reasonable charge in the manner and amount prescribed by the Commissioner.

Sec. 7. 8 V.S.A. § 8084a is amended to read:

§ 8084a. REQUIRED DISCLOSURE OF RATING PRACTICES TO  
CONSUMERS

(a) Other than policies for which no applicable premium rate or rate schedule increases can be made, insurers shall provide all of the information listed in this subsection to the applicant at the time of application or enrollment, unless the method of application does not allow for delivery at that time. In such a case, an insurer shall provide all of the information listed in this subsection to the applicant not later than at the time of delivery of the policy or certificate:

(1) ~~a~~ A statement that the policy may be subject to rate increases in the future;

(2) ~~an~~ An explanation of potential future premium rate or rate schedule revisions and the policyholder's or certificate holder's option in the event of a ~~premium rate~~ revision;

(3) ~~the~~ The premium rate or rate schedules applicable to the applicant that will be in effect until a request is made for an increase;

(4) ~~a~~ A general explanation for applying premium rate or rate schedule adjustments that shall include:

(A) a description of when premium rate or rate schedule adjustments will be effective; and

(B) the right to a revised premium rate or rate schedule as provided in subdivision (2) of this subsection (a) if the premium rate or rate schedule is changed; ~~and.~~

(5) ~~information~~ Information regarding each premium rate or rate schedule increase on this policy form or similar policy forms over the past 10 years for this State or any other state that, at a minimum, identifies:

(A) ~~the~~ The policy forms for which premium rates or rate schedules have been increased;.

(B) ~~the~~ The calendar years during which the form was available for purchase; ~~and.~~

(C) ~~the~~ The amount or percent of each increase. The percentage may be expressed as a percentage of the premium rate prior to the increase and may also be expressed as minimum and maximum percentages if the rate increase is variable by rating characteristics.

\* \* \*

(c) The insurer ~~may~~ shall, in a form and in a fair manner approved by the Commissioner, provide explanatory information related to the premium rate and rate schedule increases covered by this section.

(d) An applicant shall, at the time of application, unless the method of application does not allow for acknowledgment at that time, in such a case, not later than at the time of delivery of the policy or certificate, sign an acknowledgment that the insurer made the ~~disclosure~~ disclosures required under subdivisions (a)(1) and (5) of this section.

(e) An insurer shall provide notice of an upcoming premium rate or rate schedule increase to all policyholders or certificate holders, if applicable, at least 45 90 days prior to the implementation of the premium rate or rate schedule increase by the insurer. The notice shall include the information required by subsection (a) of this section when the rate increase is implemented, as well as the explanatory information required by subsection (c) of this section that is specific to the upcoming premium rate or rate schedule increase.

Sec. 7a. 8 V.S.A. § 23(a) is amended to read:

(a) This section shall apply to all persons licensed, authorized, or registered, or required to be licensed, authorized, or registered, under this title or under 9 V.S.A. chapter 150.

## Sec. 8. REPEAL

8 V.S.A. chapter 112, subchapter 1 (Life and Health Insurance Companies) and subchapter 2 (Health Maintenance Organization Guaranty Association) are repealed.

Sec. 9. 8 V.S.A. chapter 112, §§ 4171–4190 are added to read:

§ 4171. SHORT TITLE

This chapter shall be known and may be cited as the Vermont Life and Health Insurance Guaranty Association Act.

§ 4172. PURPOSE

The purpose of this chapter is to protect, subject to certain limitations, the persons specified in subsection 4173(a) of this chapter, against failure in the performance of contractual obligations under life, health, and annuity policies, plans, and contracts specified in subsection 4173(b) of this chapter, due to the impairment or insolvency of the member insurer that issued such policies, plans, or contracts. To provide this protection:

(1) an association of member insurers is created to enable the guaranty of payment of benefits and of continuation of coverages;

(2) members of the Association are subject to assessment to provide funds to carry out the purpose of this chapter; and

(3) the Association is authorized to assist the Commissioner, in the prescribed manner, in the detection and prevention of insurer impairment or insolvency.

§ 4173. SCOPE

(a) This chapter shall provide coverage for a policy or contract specified in subsection (b) of this section to a person who:

(1) regardless of where the person resides, except for nonresident certificate holders under group policies or contracts, is the beneficiary, assignee, or payee, including a health care provider who renders services covered under a health insurance policy or certificate, of a person covered under subdivision (2) of this subsection; or

(2) is an owner of or certificate holder or enrollee under such policy or contract, other than an unallocated annuity contract or structured settlement annuity, and in each case who:

(A) is a Vermont resident; or

(B) is not a Vermont resident, provided all of the following conditions are met:

(i) the member insurer that issued the policy or contract is domiciled in Vermont;

(ii) the state in which the person resides has an association similar to the Association created by this chapter; and

(iii) the person is not eligible for coverage by an association in any other state due to the fact that the insurer or the health maintenance organization was not licensed in that state at the time specified in that state's guaranty association law.

(3) For an unallocated annuity contract specified in subsection (b) of this section, subdivisions (1) and (2) of this subsection shall not apply and this chapter shall, except as provided in subdivisions (5) and (6) of this subsection, provide coverage to a person who is the owner of an unallocated annuity contract if the contract is issued to or in connection with:

(A) a specific benefit plan whose plan sponsor has its principal place of business in Vermont; or

(B) a government lottery, if the owner is a resident of Vermont.

(4) For a structured settlement annuity specified in subsection (b) of this section, subdivisions (1) and (2) of this subsection shall not apply, and this chapter shall, except as provided in subdivisions (5) and (6) of this subsection, provide coverage to a person who is a payee under a structured settlement annuity, or a beneficiary of such deceased payee, provided that the payee:

(A) is a Vermont resident, regardless of where the contract owner resides; or

(B) is not a Vermont resident, provided that both of the following conditions are met:

(i)(I) the contract owner of the structured settlement annuity is a Vermont resident; or

(II) the contract owner of the structured settlement annuity is not a Vermont resident, provided:

(aa) the insurer that issued the structured settlement annuity is domiciled in Vermont; and

(bb) the state in which the contract owner resides has an association similar to the Association created by this chapter; and

(ii) neither the payee, beneficiary, nor the contract owner is eligible for coverage by the association of the state in which the payee, beneficiary, or contract owner resides.



(5) This chapter shall not provide coverage to a person who:

(A) is a payee or beneficiary of a contract owner who is a Vermont resident, if the payee or beneficiary is afforded any coverage by the association of another state;

(B) is covered under subdivision (3) of this subsection, if any coverage is provided by the association of another state to the person; or

(C) acquires rights to receive payments through a structured settlement factoring transaction as defined in 26 U.S.C. § 5891(c)(3)(A), regardless of whether the transaction occurred before or after such section became effective.

(6) This chapter is intended to provide coverage to a person who is a Vermont resident and, in special circumstances, to a nonresident. In order to avoid duplicate coverage, if a person who would otherwise receive coverage under this chapter is provided coverage under the laws of any other state, the person shall not be provided coverage under this chapter. In determining the application of the provisions of this subdivision in situations where a person could be covered by the association of more than one state, whether as an owner, payee, enrollee, beneficiary, or assignee, this chapter shall be construed in conjunction with other state laws to result in coverage by only one association.

(b)(1) This chapter shall provide coverage to a person specified in subsection (a) of this section for a policy or contract of direct, nongroup life insurance, health insurance, which for purposes of this chapter includes health maintenance organization subscriber contracts and certificates, an annuity, or a certificate under a direct group policy or contract, and supplemental policies or contracts to any of these, and for an unallocated annuity contract, in each case, issued by a member insurer, except as limited by this chapter. An annuity contract or certificate under a group annuity contract includes a guaranteed investment contract, guaranteed interest contract, guaranteed accumulation contract, deposit administration contract, unallocated funding agreement, allocated funding agreement, structured settlement annuity, annuity issued to or in connection with a government lottery, and any immediate or deferred annuity contract.

(2) Except as otherwise provided in subdivision (3) of this subsection, this chapter shall not provide coverage for:

(A) a portion of a policy or contract not guaranteed by the member insurer or under which the risk is borne by the policy or contract holder;

(B) a policy or contract of reinsurance, unless assumption certificates have been issued pursuant to the reinsurance policy or contract;

(C) a portion of a policy or contract to the extent that the rate of interest on which it is based, or the interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value:

(i) averaged over the period of four years prior to the date on which the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier, exceeds a rate of interest determined by subtracting two percentage points from Moody's Corporate Bond Yield Average averaged for that same four-year period or for such lesser period if the policy or contract was issued less than four years before the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier; and

(ii) on and after the date on which the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier, exceeds the rate of interest determined by subtracting three percentage points from Moody's Corporate Bond Yield Average as most recently available;

(D) a portion of a policy or contract issued to a plan or program of an employer, association, or similar entity to provide life, health, or annuity benefits to its employees or members to the extent that such plan or program is self-funded or uninsured, including benefits payable by an employer, association, or similar entity under:

(i) a Multiple Employer Welfare Arrangement as defined in section 514 of the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, as amended;

(ii) a minimum premium group insurance plan;

(iii) a stop-loss group insurance plan; or

(iv) an administrative services only contract;

(E) a portion of a policy or contract to the extent that it provides dividends or experience rating credits, voting rights, or provides that any fees or allowances be paid to any person, including the policy or contract holder, in connection with the service to or administration of such policy or contract;

(F) a policy or contract issued in Vermont by a member insurer at a time when it was not licensed or did not have a certificate of authority to issue such policy or contract in Vermont;

(G) an unallocated annuity contract issued to or in connection with a benefit plan protected under the federal Pension Benefit Guaranty Corporation, regardless of whether the federal Pension Benefit Guaranty Corporation has yet become liable to make any payments with respect to the benefit plan;

(H) a portion of any unallocated annuity contract that is not issued to or in connection with a specific employee, union, or association of natural persons benefit plan, or a government lottery;

(I) a portion of a policy or contract to the extent that the assessments required by section 4179 of this chapter with respect to the policy or contract are preempted by federal or State law;

(J) an obligation that does not arise under the express written terms of the policy or contract issued by the member insurer to the enrollee, certificate holder, contract owner, or policy owner, including:

(i) a claim based on marketing materials;

(ii) a claim based on a side letter, rider, or other document issued by the member insurer without meeting applicable policy or contract form-filing or approval requirements;

(iii) a misrepresentation of or regarding the benefits of a policy or contract;

(iv) an extra-contractual claim; or

(v) a claim for penalties or consequential or incidental damages;

(K) a contractual agreement that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee, that in each case is not an affiliate of a member insurer;

(L) any portion of a policy or contract to the extent it provides for interest or other changes in value to be determined by the use of an index or other external reference stated in the policy or contract, but that has not been credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier. If a policy's or contract's interest or changes in value are credited less frequently than annually, then for purposes of determining the values that have been credited and are not subject to forfeiture under this subdivision, the interest or change in value determined by using the procedures defined in the policy or contract will be credited as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and will not be subject to forfeiture;

(M) any policy or contract providing any hospital, medical, prescription drug, or other health care benefits pursuant to Medicare Part C, 42 U.S.C. §§ 1395w-21 to 1395w-29, or Medicare Part D, 42 U.S.C. §§ 1395w-

101 to 1395w-154, or Subchapter XIX, Chapter 7 of Title 42 of the U.S.C., commonly known as Medicaid, or any regulations issued pursuant to those sections, or

(N) structured settlement annuity benefits to which a payee or beneficiary has transferred the payee's or beneficiary's rights in a structured settlement factoring transaction as defined in 26 U.S.C. § 5891(c)(3)(A), regardless of whether the transaction occurred before or after such section became effective.

(3) The exclusion from coverage referenced in subdivision (2)(C) of this subsection shall not apply to any portion of a contract, including a rider, that provides long-term care or any other health benefits.

(c) The benefits that the Association may become obligated to cover shall in no event exceed the lesser of:

(1) The contractual obligations for which the member insurer is liable or would have been liable if it were not an impaired or insolvent insurer; or

(2)(A) with respect to one life, regardless of the number of policies or contracts:

(i) \$300,000.00 in life insurance death benefits, but not more than \$100,000.00 in net cash surrender and net cash withdrawal values for life insurance;

(ii) for health insurance benefits:

(I) \$100,000.00 for coverages not defined as disability income insurance or health benefit plans or long-term care insurance, including any net cash surrender and net cash withdrawal values;

(II) \$300,000.00 for disability income insurance, and \$300,000.00 for long-term care insurance;

(III) \$500,000.00 for health benefit plans;

(iii) \$250,000.00 in the present value of annuity benefits, including net cash surrender and net cash withdrawal values; or

(B) with respect to each individual participating in a governmental retirement benefit plan established under section 401, 403(b), or 457 of the U.S. Internal Revenue Code covered by an unallocated annuity contract or the beneficiaries of each such individual if deceased, in the aggregate, \$250,000.00 in present value annuity benefits, including net cash surrender and net cash withdrawal values;

(C) with respect to each payee of a structured settlement annuity, or beneficiary or beneficiaries of the payee if deceased, \$250,000.00 in present value annuity benefits, in the aggregate, including net cash surrender and net cash withdrawal values, if any;

(D) however, in no event shall the Association be obligated to cover more than:

(i) an aggregate of \$300,000.00 in benefits with respect to any one life under subdivisions (2)(A)–(C) of this subsection (c) except with respect to benefits for health benefit plans under subdivision (2)(A)(ii) of this subsection (c), in which case the aggregate liability of the Association shall not exceed \$500,000.00 with respect to any one individual; or

(ii) with respect to one owner of multiple nongroup policies of life insurance, whether the policy or contract owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, more than \$5,000,000.00 in benefits, regardless of the number of policies and contracts held by the owner;

(E) with respect to either one contract owner provided coverage under subdivision (a)(3)(B) of this section, or one plan sponsor whose plans own directly or in trust one or more unallocated annuity contracts not included in subdivision (2)(B) of this subsection (c), \$5,000,000.00 in benefits, irrespective of the number of contracts with respect to the contract owner or plan sponsor. However, in the case where one or more unallocated annuity contracts are covered contracts under this chapter and are owned by a trust or other entity for the benefit of two or more plan sponsors, coverage shall be afforded by the Association if the largest interest in the trust or entity owning the contract or contracts is held by a plan sponsor whose principal place of business is in Vermont and in no event shall the Association be obligated to cover more than \$5,000,000.00 in benefits with respect to all these unallocated contracts.

(F) The limitations set forth in this subsection (c) are limitations on the benefits for which the Association is obligated before taking into account either its subrogation and assignment rights or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The costs of the Association's obligations under this chapter may be met by the use of assets attributable to covered policies or reimbursed to the Association pursuant to its subrogation and assignment rights.

(G) For purposes of this chapter, benefits provided by a long-term care rider to a life insurance policy or annuity contract shall be considered the

same type of benefits as the base life insurance policy or annuity contract to which it relates.

(d) In performing its obligations to provide coverage under section 4178 of this chapter, the Association shall not be required to guarantee, assume, reinsure, reissue, or perform, or cause to be guaranteed, assumed, reinsured, or reissued, or performed, the contractual obligations of the insolvent or impaired insurer under a covered policy or contract that do not materially affect the economic values or economic benefits of the covered policy or contract.

#### § 4174. CONSTRUCTION

This chapter shall be liberally construed to effect the purpose under section 4172 of this chapter, which shall constitute an aid and guide to interpretation.

#### § 4175. DEFINITIONS

As used in this chapter:

(1) “Account” means either of the two accounts created under section 4176 of this chapter.

(2) “Affiliate” means affiliate as defined in section 3681 of this title.

(3) “Association” means the Vermont Life and Health Insurance Guaranty Association created under section 4176 of this chapter.

(4) “Authorized assessment” or the term “authorized” when used in the context of assessments means a resolution by the Board of Directors has been passed whereby an assessment will be called immediately or in the future from member insurers for a specified amount. An assessment is authorized when the resolution is passed.

(5) “Benefit plan” means a specific employee, union, or association of natural persons benefit plan.

(6) “Called assessment” or the term “called” when used in the context of assessments means that a notice has been issued by the Association to member insurers requiring that an authorized assessment be paid within the time frame set forth within the notice. An authorized assessment becomes a called assessment when notice is mailed by the Association to member insurers.

(7) “Commissioner” means the Commissioner of Financial Regulation.

(8) “Contractual obligation” means any obligation under a policy or contract, or certificate under a group policy or contract, or portion thereof, for which coverage is provided under section 4173 of this chapter.

(9) “Covered contract” or “covered policy” means a policy or contract, or portion of a policy or contract, for which coverage is provided under section 4173 of this chapter.

(10) “Extra-contractual claims” includes, for example, claims relating to bad faith in the payment of claims, punitive or exemplary damages, or attorneys’ fees and costs.

(11) “Health benefit plan” means any hospital or medical expense policy or certificate, or health maintenance organization subscriber contract, or any other similar health contract. “Health benefit plan” does not include:

(A) accident only insurance;

(B) credit insurance;

(C) dental only insurance;

(D) vision only insurance;

(E) Medicare Supplement insurance;

(F) benefits for long-term care, home health care, community-based care, or any combination thereof;

(G) disability income insurance;

(H) coverage for on-site medical clinics; or

(I) specified disease, hospital confinement indemnity, or limited benefit health insurance if the types of coverage do not provide coordination of benefits and are provided under separate policies or certificates.

(12) “Impaired insurer” means a member insurer that, after the effective date of this chapter, is not an insolvent insurer and who is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

(13) “Insolvent insurer” means a member insurer that, after the effective date of this chapter, is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency.

(14) “Member insurer” means any insurer or health maintenance organization licensed or that holds a certificate of authority to transact in this State any kind of insurance or health maintenance organization business for which coverage is provided under section 4173 of this chapter and includes an insurer or health maintenance organization whose license or certificate of authority in this State may have been suspended, revoked, not renewed, or voluntarily withdrawn, but does not include:

(A) a hospital or medical service organization, whether for-profit or nonprofit;

(B) a fraternal benefit society;

(C) a mandatory State pooling plan;

(D) a mutual assessment company or other person that operates on an assessment basis;

(E) an insurance exchange;

(F) an organization that has a certificate or license limited to the issuance of charitable gift annuities under section 3718a of this title; or

(G) an entity similar to any of the above.

(15) “Moody’s Corporate Bond Yield Average” means the Monthly Average Corporates as published by Moody’s Investors Service, Inc., or any successor thereto.

(16) “Owner” of a policy or contract and “policyholder,” “policy owner,” and “contract owner” mean the person who is identified as the legal owner under the terms of the policy or contract or who is otherwise vested with legal title to the policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and properly recorded as the owner on the books of the member insurer. The terms owner, contract owner, policyholder, and policy owner do not include persons with a mere beneficial interest in a policy or contract.

(17) “Person” means any individual, corporation, limited liability company, partnership, association, governmental body or entity, or voluntary organization.

(18) “Plan sponsor” means:

(A) the employer in the case of a benefit plan established or maintained by a single employer;

(B) the employee organization in the case of a benefit plan established or maintained by an employee organization; or

(C) in the case of a benefit plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan.

(19) “Premiums” mean amounts or considerations, by whatever name called, received on covered policies or contracts, less returned premiums, considerations, and deposits, and less dividends and experience credits. “Premiums” does not include amounts or considerations received for policies



or contracts or for the portions of any policies or contracts for which coverage is not provided under subsection 4173(b) of this chapter except that assessable premium shall not be reduced on account of subdivision 4173(b)(2)(C) of this chapter, relating to interest limitations, and of subdivision 4173(c)(2) of this chapter, relating to limitations with respect to one individual, one participant, and one policy or contract owner. "Premiums" shall not include:

(A) premiums in excess of \$5,000,000.00 on an unallocated annuity contract not issued under a governmental retirement benefit plan, or its trustee, established under 26 U.S.C. § 401, 403(b), or 457 of the U.S. Internal Revenue Code; or

(B) with respect to multiple nongroup policies of life insurance owned by one owner, whether the policy or contract owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, premiums in excess of \$5,000,000.00 with respect to these policies or contracts, regardless of the number of policies or contracts held by the owner.

(20)(A) "Principal place of business" of a plan sponsor or a person other than a natural person means the single state in which the natural persons who establish policy for the direction, control, and coordination of the operations of the entity as a whole primarily exercise that function, determined by the Association in its reasonable judgment by considering the following factors:

(i) the state in which the primary executive and administrative headquarters of the entity is located;

(ii) the state in which the principal office of the chief executive officer of the entity is located;

(iii) the state in which the board of directors, or similar governing person or persons, of the entity conducts the majority of its meetings;

(iv) the state in which the executive or management committee of the board of directors, or similar governing person or persons, of the entity conducts the majority of its meetings;

(v) the state from which the management of the overall operations of the entity is directed; and

(vi) in the case of a benefit plan sponsored by affiliated companies comprising a consolidated corporation, the state in which the holding company or controlling affiliate has its principal place of business as determined using the above factors;

(vii) however, in the case of a plan sponsor, if more than 50 percent of the participants in the benefit plan are employed in a single state,

that state shall be deemed to be the principal place of business of the plan sponsor.

(B) The principal place of business of a plan sponsor of a benefit plan described in subdivision (18)(C) of this section shall be deemed to be the principal place of business of the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan that, in lieu of a specific or clear designation of a principal place of business, shall be deemed to be the principal place of business of the employer or employee organization that has the largest investment in the benefit plan in question.

(21) "Receivership court" means the court in the insolvent or impaired insurer's state having jurisdiction over the conservation, rehabilitation, or liquidation of the member insurer.

(22) "Resident" means any person to whom a contractual obligation is owed and who resides in Vermont on the date of entry of a court order that determines a member insurer to be an impaired insurer or a court order that determines a member insurer to be an insolvent insurer, whichever occurs first. A person may be a resident of only one state, which in the case of a person other than a natural person shall be that state where it has its principal place of business. Citizens of the United States who are either residents of foreign countries or residents of United States possessions, territories, or protectorates that do not have an association similar to the Association created by this chapter shall be deemed residents of the state of domicile of the member insurer that issued the policies or contracts.

(23) "Structured settlement annuity" means an annuity purchased in order to fund periodic payments for a plaintiff or other claimant in payment for or with respect to personal injury suffered by the plaintiff or other claimant.

(24) "State" means a state, the District of Columbia, Puerto Rico, and a U. S. possession, territory, or protectorate.

(25) "Supplemental contract" means a written agreement entered into for the distribution of proceeds under a life, health, or annuity policy or contract.

(26) "Unallocated annuity contract" means any annuity contract or group annuity certificate that is not issued to and owned by an individual except to the extent of any annuity benefits guaranteed to an individual by an insurer under such contract or certificate.

§ 4176. CREATION OF THE ASSOCIATION

(a) There is created a nonprofit legal entity to be known as the Vermont Life and Health Insurance Guaranty Association. All member insurers shall be and remain members of the Association as a condition of their authority to transact insurance or health maintenance organization business in Vermont. The Association shall perform its functions under the plan of operation established and approved under section 4180 of this chapter and shall exercise its powers through a board of directors established under section 4177 of this chapter. For purposes of administration and assessment, the Association shall maintain two accounts:

(1) The life insurance and annuity account that includes the following subaccounts;

(A) life insurance account;

(B) annuity account, which shall include annuity contracts owned by a governmental retirement plan, or its trustee, established under section 401, 403(b), or 457 of the U.S. Internal Revenue Code, but shall otherwise exclude unallocated annuities; and

(C) unallocated annuity account, which shall exclude contracts owned by a governmental retirement plan, or its trustee, established under section 401, 403(b), or 457 of the U.S. Internal Revenue Code.

(2) The health account.

(b) The Association shall come under the immediate supervision of the Commissioner and shall be subject to the applicable provisions of the insurance laws of this State. Meetings and records of the Association may be opened to the public upon majority vote of the Board of Directors of the Association.

§ 4177. BOARD OF DIRECTORS

(a) The Board of Directors of the Association shall consist of not less than seven nor more than 11 member insurers serving terms as established in the plan of operation. Members of the Board shall be selected by member insurers subject to the approval of the Commissioner. A vacancy on the Board shall be filled for the remaining period of the term by a majority vote of the remaining board members, for member insurers subject to the approval of the Commissioner. To select the initial Board of Directors, and initially organize the Association, the Commissioner shall give notice to all member insurers of the time and place of the organizational meeting. In determining voting rights at the organizational meeting, each member insurer shall be entitled to one vote in person or by proxy. If the Board of Directors is not selected within 60

days after notice of the organizational meeting, the Commissioner may appoint the initial insurer members. At least one of the directors shall be a person who is an officer, director, or employee of an insurance company incorporated under the laws of this State; provided, however, this provision shall not apply in the event there is no member insurer incorporated under the laws of this State.

(b) In approving selections or in appointing members to the Board, the Commissioner shall consider, among other things, whether all member insurers are fairly represented.

(c) Members of the Board may be reimbursed from the assets of the Association for expenses incurred by them as members of the Board of Directors, but members of the Board shall not otherwise be compensated by the Association for their services.

#### § 4178. POWERS AND DUTIES OF THE ASSOCIATION

(a) If a member insurer is an impaired insurer, the Association may, in its discretion and subject to any conditions imposed by the Association that do not impair the contractual obligations of the impaired insurer and that are approved by the Commissioner:

(1) guarantee, assume, or reissue, reinsure, or cause to be guaranteed, assumed, reissued, or reinsured, any or all of the policies or contracts of the impaired insurer; or

(2) provide such monies, pledges, loans, notes, guarantees, or other means as are proper to effectuate subdivision (1) of this subsection and ensure payment of the contractual obligations of the impaired insurer pending action under subdivision (1) of this subsection.

(b) If a member insurer is an insolvent insurer, the Association, in its discretion, shall either:

(1)(A)(i) guarantee, assume, or reissue, reinsure, or cause to be guaranteed, assumed, reissued, or reinsured, the policies or contracts of the insolvent insurer; or

(ii) ensure payment of the contractual obligations of the insolvent insurer; and

(B) provide monies, pledges, loans, notes, guarantees, or other means reasonably necessary to discharge the Association's duties; or

(2) provide benefits and coverages in accordance with the following provisions:

(A) With respect to policies and contracts, ensure payment of benefits that would have been payable under the policies or contracts of the insolvent insurer, for claims incurred:

(i) with respect to group policies and contracts, not later than the earlier of the next renewal date under those policies or contracts or 45 days, but in no event less than 30 days, after the date on which the Association becomes obligated with respect to the policies and contracts;

(ii) with respect to nongroup policies, contracts, and annuities, not later than the earlier of the next renewal date, if any, under the policies or contracts or one year, but in no event less than 30 days, from the date on which the Association becomes obligated with respect to the policies or contracts.

(B) Make diligent efforts to provide all known insureds, enrollees, or annuitants, for nongroup policies and contracts, or group policy or contract owners with respect to group policies and contracts, 30 days' notice of the termination, pursuant to subdivision (2)(A) of this subsection (b), of the benefits provided.

(C) With respect to nongroup policies and contracts covered by the Association, make available to each known insured, enrollee, or annuitant, or owner if other than the insured or annuitant, and with respect to an individual formerly an insured, enrollee, or annuitant under a group policy or contract who is not eligible for replacement group coverage, make available substitute coverage on an individual basis in accordance with the provisions of subdivision (2)(D) of this subsection (b) if the insureds, enrollees, or annuitants had a right under law or the terminated policy, contract, or annuity to convert coverage to individual coverage or to continue an individual policy, contract, or annuity in force until a specified age or for a specified time, during which the insurer or health maintenance organization had no right unilaterally to make changes in any provision of the policy, contract, or annuity or had a right only to make changes in premium by class.

(D)(i) In providing the substitute coverage required under subdivision (2)(C) of this subsection (b), the Association may offer either to reissue the terminated coverage or to issue an alternative policy or contract, subject to the prior approval of the Commissioner.

(ii) Alternative or reissued policies or contracts shall be offered without requiring evidence of insurability and shall not provide for any waiting period or exclusion that would not have applied under the terminated policy or contract.

(iii) The Association may reinsure any alternative or reissued policy or contract.

(E)(i) Alternative policies or contracts adopted by the Association shall be subject to the approval of the Commissioner. The Association may adopt alternative policies or contracts of various types for future issuance without regard to any particular impairment or insolvency.

(ii) Alternative policies or contracts shall contain at least the minimum statutory provisions required in Vermont and provide benefits that shall not be unreasonable in relation to the premium charged. The Association shall set the premium in accordance with a table of rates that it shall adopt. The premium shall reflect the amount of insurance to be provided and the age and class of risk of each insured. The premium shall not reflect any changes in the health of the insured after the original policy or contract was last underwritten.

(iii) Any alternative policy or contract issued by the Association shall provide coverage of a type similar to that of the policy or contract issued by the impaired or insolvent insurer, as determined by the Association.

(F) If the Association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy or contract, the premium shall be set by the Association in accordance with the amount of insurance or coverage provided and the age and class of risk, subject to prior approval of the Commissioner.

(G) The Association's obligations with respect to coverage under any policy or contract of the impaired or insolvent insurer or under any reissued or alternative policy or contract shall cease on the date the coverage or policy or contract is replaced by another similar policy or contract by the policy or contract owner, the insured, the enrollee, or the Association.

(H) When proceeding under this subdivision (b)(2) of this section with respect to a policy or contract carrying guaranteed minimum interest rates, the Association shall ensure the payment or crediting of a rate of interest consistent with subdivision 4173(b)(2)(C) of this chapter.

(c) Nonpayment of premiums within 31 days after the date required under the terms of any guaranteed, assumed, alternative, or reissued policy or contract or substitute coverage shall terminate the Association's obligations under the policy, contract, or coverage under this chapter with respect to the policy, contract, or coverage, except with respect to any claims incurred or any net cash surrender value that may be due in accordance with the provisions of this chapter.

(d) Premiums due for coverage after entry of an order of liquidation of an insolvent insurer shall belong to and be payable at the direction of the Association. If the liquidator of an insolvent insurer requests, the Association shall provide a report to the liquidator regarding such premium collected by the Association. The Association shall be liable for unearned premiums due to policy or contract owners arising after the entry of the order.

(e) The protection provided by this chapter shall not apply where any guaranty protection is provided to residents of Vermont by the laws of the domiciliary state or jurisdiction of the impaired or insolvent insurer other than this State.

(f) In carrying out its duties under subsection (b) of this section, the Association may:

(1) Subject to approval by a court in this State, impose permanent policy or contract liens, in connection with a guarantee, assumption, or reinsurance agreement, if the Association finds that the amounts that can be assessed under this chapter are less than the amounts needed to ensure full and prompt performance of the Association's duties under this chapter, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of policy or contract liens to be in the public interest.

(2) Subject to the approval by a court in this State, impose temporary moratoriums or liens on payments of cash values and policy loans, or any other right to withdraw funds held in conjunction with policies or contracts, in addition to any contractual provisions for deferral of cash or policy loan value. In addition, in the event of a temporary moratorium or moratorium charge imposed by the receivership court on payment of cash values or policy loans, or on any other right to withdraw funds held in conjunction with policies or contracts, out of the assets of the impaired or insolvent insurer, the Association may defer the payment of cash values, policy loans, or other rights by the Association for the period of the moratorium or moratorium charge imposed by the receivership court, except for claims covered by the Association to be paid in accordance with a hardship procedure established by the liquidator or rehabilitator and approved by the receivership court.

(g) A deposit in Vermont, held pursuant to law or required by the Commissioner for the benefit of creditors, including policy or contract owners, not turned over to the domiciliary liquidator upon the entry of a final order of liquidation or order approving a rehabilitation plan of a member insurer domiciled in this State or in a reciprocal state, shall be promptly paid to the Association. The Association shall be entitled to retain a portion of any amount so paid to it equal to the percentage determined by dividing the

aggregate amount of policy or contract owners' claims related to that insolvency for which the Association has provided statutory benefits by the aggregate amount of all policy or contract owners' claims in this State related to that insolvency and shall remit to the domiciliary receiver the amount so paid to the Association less the amount retained pursuant to this subsection. Any amount so paid to the Association and retained by it shall be treated as a distribution of estate assets pursuant to applicable state receivership law dealing with early access disbursements.

(h) If the Association fails to act within a reasonable period of time with respect to an insolvent insurer, as provided in subsection (b) of this section, the Commissioner shall have the powers and duties of the Association under this chapter with respect to the insolvent insurer.

(i) The Association may render assistance and advice to the Commissioner, upon the Commissioner's request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of any impaired or insolvent insurer.

(j) The Association shall have standing to appear or intervene before any court or agency in Vermont with jurisdiction over an impaired or insolvent insurer concerning which the Association is or may become obligated under this chapter or with jurisdiction over any person or property against which the Association may have rights through subrogation or otherwise. Standing shall extend to all matters germane to the powers and duties of the Association, including proposals for reinsuring, reissuing, modifying, or guaranteeing the policies or contracts of the impaired or insolvent insurer and the determination of the policies or contracts and contractual obligations. The Association shall also have the right to appear or intervene before a court or agency in another state with jurisdiction over an impaired or insolvent insurer for which the Association is or may become obligated or with jurisdiction over any person or property against whom the Association may have rights through subrogation or otherwise.

(k)(1) Any person receiving benefits under this chapter shall be deemed to have assigned the rights under, and any causes of action against any person for losses arising under, resulting from or otherwise relating to, the covered policy or contract to the Association to the extent of the benefits received because of this chapter, whether the benefits are payments of or on account of contractual obligations, continuation of coverage, or provision of substitute or alternative policies, contracts, or coverages. The Association may require an assignment to it of such rights and cause of action by any enrollee, payee, policy or contract owner, beneficiary, insured, or annuitant as a condition precedent to



the receipt of any rights or benefits conferred by this chapter upon such person.

(2) The subrogation rights of the Association under this subsection shall have the same priority against the assets of the impaired or insolvent insurer as that possessed by the person entitled to receive benefits under this chapter.

(3) In addition to subdivisions (1) and (2) of this subsection, the Association shall have all common law rights of subrogation and any other equitable or legal remedy that would have been available to the impaired or insolvent insurer or owner, beneficiary, enrollee, or payee of a policy or contract with respect to the policy or contracts, including, without limitation, in the case of a structured settlement annuity, any rights of the owner, beneficiary, or payee of the annuity, to the extent of benefits received pursuant to this chapter, against a person originally or by succession responsible for the losses arising from the personal injury relating to the annuity or payment therefore, excepting any such person responsible solely by reason of serving as an assignee in respect of a qualified assignment under section 130 of the U.S. Internal Revenue Code.

(4) If the preceding subdivisions of this subsection are invalid or ineffective with respect to any person or claim for any reason, the amount payable by the Association with respect to the related covered obligations shall be reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies or contracts, or portion thereof, covered by the Association.

(5) If the Association has provided benefits with respect to a covered obligation and a person recovers amounts as to which the Association has rights as described in the preceding subdivisions of this subsection, the person shall pay to the Association the portion of the recovery attributable to the policies or contracts, or portion thereof, covered by the Association.

(1) In addition to the rights and powers elsewhere in this chapter, the Association may:

(1) enter into such contracts as are necessary or proper to carry out the provisions and purposes of this chapter;

(2) sue or be sued, including taking any legal actions necessary or proper for recovery of any unpaid assessments under section 4179 of this chapter and to settle claims or potential claims against it;

(3) borrow money to effect the purposes of this chapter; and any notes or other evidence of indebtedness of the Association not in default shall be legal investments for domestic member insurers and may be carried as admitted assets;

(4) employ or retain such persons as are necessary or appropriate to handle the financial transactions of the Association, and to perform such other functions as become necessary or proper under this chapter;

(5) take such legal action as may be necessary or appropriate to avoid payment or recover payment of improper claims;

(6) exercise, for the purposes of this chapter and to the extent approved by the Commissioner, the powers of a domestic life insurer, health insurer, or health maintenance organization, but in no event may the Association issue policies or contracts other than those issued to perform its obligations under this chapter;

(7) organize itself as a corporation or in other legal form permitted by Vermont law;

(8) request information from a person seeking coverage from the Association in order to aid the Association in determining its obligations under this chapter with respect to the person, and the person shall promptly comply with the request;

(9) unless prohibited by law, in accordance with the terms and conditions of the policy or contract, file for actuarially justified rate or premium increases for any policy or contract for which it provides coverage under this chapter; and

(10) take other necessary or appropriate action to discharge its duties and obligations under this chapter or to exercise its powers under this chapter.

(m) The Association may join an organization of one or more other State associations of similar purposes, to further the purposes and administer the powers and duties of the Association.

(n)(1)(A) At any time within 180 days after the date of the order of liquidation, the Association may elect to succeed to the rights and obligations of the ceding member insurer that relate to policies, contracts, or annuities covered, in whole or in part, by the Association, in each case under any one or more reinsurance contracts entered into by the insolvent insurer and its reinsurers and selected by the Association. Any such assumption shall be effective as of the date of the order of liquidation. The election shall be effected by the Association or by the National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) on its behalf sending written notice, return receipt requested, to the affected reinsurers.

(B) To facilitate the earliest practicable decision about whether to assume any of the contracts of reinsurance, and in order to protect the financial position of the estate, the receiver and each reinsurer of the ceding member

insurer shall make available upon request to the Association or to NOLHGA on its behalf as soon as possible after commencement of formal delinquency proceedings:

(i) copies of in-force contracts of reinsurance and all related files and records relevant to the determination of whether such contracts should be assumed; and

(ii) notices of any defaults under the reinsurance contracts or any known event or condition that, with the passage of time, could become a default under the reinsurance contracts.

(C) Subdivisions (i)–(iv) of this subdivision (1)(C) shall apply to reinsurance contracts assumed by the Association under subdivision (1)(A) of this subsection (n):

(i) The Association shall be responsible for all unpaid premiums due under the reinsurance contracts for periods both before and after the date of the order of liquidation and shall be responsible for the performance of all other obligations to be performed after the date of the order of liquidation, in each case that relate to policies, contracts, or annuities covered, in whole or in part, by the Association. The Association may charge policies, contracts, or annuities covered in part by the Association, through reasonable allocation methods, the costs for reinsurance in excess of the obligations of the Association and shall provide notice and an accounting of these charges to the liquidator.

(ii) The Association shall be entitled to any amounts payable by the reinsurer under the reinsurance contracts with respect to losses or events that occur in periods after the date of the order of liquidation and that relate to policies, contracts, or annuities covered, in whole or in part, by the Association, provided that, upon receipt of any such amounts, the Association shall be obliged to pay to the beneficiary under the policy, contracts, or annuity on account of which the amounts were paid a portion of the amount equal to the lesser of:

(I) the amount received by the Association; and

(II) the excess of the amount received by the Association over the amount equal to the benefits paid by the Association on account of the policy, contracts, or annuity, less the retention of the insurer applicable to the loss or event.

(iii) Within 30 days following the Association's election (the election date), the Association and each reinsurer under contracts assumed by the Association shall calculate the net balance due to or from the Association under each reinsurance contract as of the election date with respect to policies,

contracts, or annuities covered, in whole or in part, by the Association, which calculation shall give full credit to all items paid by either the member insurer or its receiver or the reinsurer prior to the election date. The reinsurer shall pay the receiver any amounts due for losses or events prior to the date of the order of liquidation, subject to any set-off for premiums unpaid for periods prior to the date, and the Association or reinsurer shall pay any remaining balance due the other, in each case within five days of the completion of the aforementioned calculation. Any disputes over the amounts due to either the Association or the reinsurer shall be resolved by arbitration pursuant to the terms of the affected reinsurance contracts or, if the contract contains no arbitration clause, as otherwise provided by law. If the receiver has received any amounts due the Association pursuant to subdivision (1)(C)(ii) of this subsection (n), the receiver shall remit the same to the Association as promptly as practicable.

(iv) If the Association or receiver, on the Association's behalf, within 60 days following the election date, pays the unpaid premiums due for periods both before and after the election date that relate to policies, contracts, or annuities covered, in whole or in part, by the Association, the reinsurer shall not be entitled to terminate the reinsurance contracts for failure to pay premium insofar as the reinsurance contracts relate to policies, contracts, or annuities covered, in whole or in part, by the Association, and shall not be entitled to set off any unpaid amounts due under other contracts, or unpaid amounts due from parties other than the Association, against amounts due the Association.

(2) During the period from the date of the order of liquidation until the election date or, if the election date does not occur, until 180 days after the date of the order of liquidation:

(A)(i) neither the Association nor the reinsurer shall have any rights or obligations under reinsurance contracts that the Association has the right to assume under subdivision (1) of this subsection (n), whether for periods prior to or after the date of the order of liquidation; and

(ii) the reinsurer, the receiver, and the Association shall, to the extent practicable, provide each other data and records reasonably requested;

(B) provided that once the Association has elected to assume a reinsurance contract, the parties' rights and obligations shall be governed by subdivision (1) of this subsection (n).

(3) If the Association does not elect to assume a reinsurance contract by the election date pursuant to subdivision (1) of this subsection (n), the Association shall have no rights or obligations, in each case for periods both

before and after the date of the order of liquidation, with respect to the reinsurance contract.

(4) When policies, contracts, or annuities, or covered obligations with respect thereto, are transferred to an assuming insurer, reinsurance on the policies, contracts, or annuities may also be transferred by the Association, in the case of contracts assumed under subdivision (1) of this subsection (n), subject to the following:

(i) unless the reinsurer and the assuming insurer agree otherwise, the reinsurance contract transferred shall not cover any new policies of insurance, contracts, or annuities in addition to those transferred;

(ii) the obligations described in subdivision (1) of this subsection (n) shall no longer apply with respect to matters arising after the effective date of the transfer; and

(iii) notice shall be given in writing, return receipt requested, by the transferring party to the affected reinsurer not less than 30 days prior to the effective date of the transfer.

(5) The provisions of this subsection shall supersede the provisions of any State law or of any affected reinsurance contract that provides for or requires any payment of reinsurance proceeds, on account of losses or events that occur in periods after the date of the order of liquidation, to the receiver of the insolvent insurer or any other person. The receiver shall remain entitled to any amounts payable by the reinsurer under the reinsurance contracts with respect to losses or events that occur in periods prior to the date of the order of liquidation, subject to applicable setoff provisions.

(6) Except as otherwise provided in this section, nothing in this subsection shall alter or modify the terms and conditions of any reinsurance contract. Nothing in this subsection shall:

(A) abrogate or limit any rights of any reinsurer to claim that it is entitled to rescind a reinsurance contract;

(B) give a policyholder, contract owner, enrollee, certificate holder, or beneficiary an independent cause of action against a reinsurer that is not otherwise set forth in the reinsurance contract;

(C) limit or affect the Association's rights as a creditor of the estate against the assets of the estate; or

(D) apply to reinsurance agreements covering property or casualty risks.

(o) The Board of Directors of the Association shall have discretion and may exercise reasonable business judgment to determine the means by which the Association is to provide the benefits of this chapter in an economical and efficient manner.

(p) Where the Association has arranged or offered to provide the benefits of this chapter to a covered person under a plan or arrangement that fulfills the Association's obligations under this chapter, the person shall not be entitled to benefits from the Association in addition to or other than those provided under the plan or arrangement.

(q) Venue in a suit against the Association arising under this chapter shall be in the Civil Division of the Washington Superior Court. The Association shall not be required to give an appeal bond in an appeal that relates to a cause of action arising under this chapter.

(r) In carrying out its duties in connection with guaranteeing, assuming, reissuing, or reinsuring policies or contracts under subsection (a) or (b) of this section, the Association may issue substitute coverage for a policy or contract that provides an interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value by issuing an alternative policy or contract in accordance with all of the following provisions:

(1) In lieu of the index or other external reference provided for in the original policy or contract, the alternative policy or contract provides for:

(A) a fixed interest rate;

(B) payment of dividends with minimum guarantees; or

(C) a different method for calculating interest or changes in value.

(2) There is no requirement for evidence of insurability, waiting period, or other exclusion that would not have applied under the replaced policy or contract.

(3) The alternative policy or contract is substantially similar to the replaced policy or contract in all other material terms.

#### § 4179. ASSESSMENTS

(a) For the purpose of providing the funds necessary to carry out the powers and duties of the Association, the Board of Directors shall assess the member insurers, separately for each account, at such times and for such amounts as the Board finds necessary. Assessments shall be due not less than 30 days after prior written notice to the member insurers and shall accrue interest at nine percent per annum on and after the due date.

(b) There shall be two classes of assessments, as follows:

(1) Class A assessments shall be authorized and called for the purpose of meeting administrative and legal costs and other expenses. Class A assessments may be authorized and called whether or not related to a particular impaired or insolvent insurer.

(2) Class B assessments shall be authorized and called to the extent necessary to carry out the powers and duties of the Association under section 4178 of this chapter with regard to an impaired or insolvent insurer.

(c)(1) The amount of any Class A assessment shall be determined by the Board and may be authorized and called on a pro rata or non-pro rata basis. If pro rata, the Board may provide that it be credited against future Class B assessments.

(2) The amount of a Class B assessment, except assessments related to long-term care insurance, shall be allocated for assessment purposes between the accounts and among the subaccounts of the life insurance and annuity account, pursuant to an allocation formula, which may be based on the premiums or reserves of the impaired or insolvent insurer or any other standard deemed by the Board in its sole discretion as being fair and reasonable under the circumstances.

(3) The amount of the Class B assessment for long-term care insurance written by the impaired or insolvent insurer shall be allocated according to a methodology included in the plan of operation and approved by the Commissioner. The methodology shall provide for 50 percent of the assessment to be allocated to accident and health member insurers and 50 percent to be allocated to life and annuity member insurers.

(4) Class B assessments against member insurers for each account and subaccount shall be in the proportion that the premiums received on business in this State by each assessed member insurer on policies or contracts covered by each account for the three most recent calendar years for which information is available preceding the year in which the member insurer became insolvent or, in the case of an assessment with respect to an impaired insurer, the three most recent calendar years for which information is available preceding the year in which the member insurer became impaired, bears to premiums received on business in this State for those calendar years by all assessed member insurers.

(5) Assessments for funds to meet the requirements of the Association with respect to an impaired or insolvent insurer shall not be authorized or called until necessary to implement the purposes of this chapter. Classification of assessments under subsection (b) of this section and computation of

assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. The Association shall notify each member insurer of its anticipated pro rata share of an authorized assessment not yet called within 180 days after the assessment is authorized.

(d) The Association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the Board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated or deferred, in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. Once the conditions that caused a deferral have been removed or rectified, the member insurer shall pay all assessments that were deferred pursuant to a repayment plan approved by the Association.

(e)(1)(A) Subject to the provisions of subdivision (1)(B) of this subsection (e), the total of all assessments authorized by the Association with respect to a member insurer for each subaccount of the life insurance and annuity account and for the health account shall not in one calendar year exceed two percent of that member insurer's average annual premiums received in Vermont on the policies and contracts covered by the subaccount or account during the three calendar years preceding the year in which the member insurer became an impaired or insolvent insurer.

(B) If two or more assessments are authorized in one calendar year with respect to member insurers that become impaired or insolvent in different calendar years, the average annual premiums for purposes of the aggregate assessment percentage limitation referenced in subdivision (1)(A) of this subsection (e) shall be equal and limited to the higher of the three-year average annual premiums for the applicable subaccount or account as calculated pursuant to this section.

(C) If the maximum assessment, together with the other assets of the Association in an account, does not provide in one year in either account an amount sufficient to carry out the responsibilities of the Association, the necessary additional funds shall be assessed as soon thereafter as permitted by this chapter.

(2) The Board may provide in the plan of operation a method of allocating funds among claims, whether relating to one or more impaired or insolvent insurers, when the maximum assessment will be insufficient to cover anticipated claims.



(3) If the maximum assessment for a subaccount of the life and annuity account in one year does not provide an amount sufficient to carry out the responsibilities of the Association, then pursuant to subdivision (c)(2) of this section, the Board shall access the other subaccounts of the life and annuity account for the necessary additional amount, subject to the maximum stated in subdivision (1) of this subsection.

(f) The Board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each member insurer to that account, the amount by which the assets of the account exceed the amount the Board finds is necessary to carry out during the coming year the obligations of the Association with regard to that account, including assets accruing from assignment, subrogation, net realized gains, and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the Association and for future losses claims.

(g) It shall be proper for any member insurer, in determining its premium rates and policy owner dividends as to any kind of insurance or health maintenance organization business within the scope of this chapter, to consider the amount reasonably necessary to meet its assessment obligations under this chapter.

(h) The Association shall issue to each member insurer paying an assessment under this chapter, other than a Class A assessment, a certificate of contribution, in a form prescribed by the Commissioner, for the amount so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the member insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the Commissioner may approve.

(i)(1) A member insurer that wishes to protest all or part of an assessment shall pay when due the full amount of the assessment as set forth in the notice provided by the Association. The payment shall be available to meet Association obligations during the pendency of the protest or any subsequent appeal. Payment shall be accompanied by a statement in writing that the payment is made under protest and setting forth a brief statement of the grounds for the protest.

(2) Within 60 days following the payment of an assessment under protest by a member insurer, the Association shall notify the member insurer in writing of its determination with respect to the protest unless the Association notifies the member insurer that additional time is required to resolve the issues raised by the protest.

(3) Within 30 days after a final decision has been made, the Association shall notify the protesting member insurer in writing of that final decision. Within 60 days after receipt of notice of the final decision, the protesting member insurer may appeal that final action to the Commissioner.

(4) In the alternative to rendering a final decision with respect to a protest based on a question regarding the assessment base, the Association may refer protests to the Commissioner for a final decision, with or without a recommendation from the Association.

(5) If the protest or appeal on the assessment is upheld, the amount paid in error or excess shall be returned to the member insurer. Interest on a refund due a protesting member insurer shall be paid at the rate actually earned by the Association.

(j) The Association may request information of member insurers in order to aid in the exercise of its power under this section and member insurers shall promptly comply with a request.

#### § 4180. PLAN OF OPERATION

(a)(1) The Association shall submit to the Commissioner a plan of operation and any amendments to the plan necessary or suitable to assure the fair, reasonable, and equitable administration of the Association. The plan of operation and any amendments to the plan shall become effective upon approval in writing by the Commissioner.

(2) If the Association fails to submit a suitable plan of operation within 120 days following the effective date of this chapter or if at any time thereafter the Association fails to submit suitable amendments to the plan, the Commissioner shall, after notice and hearing, adopt such reasonable rules as are necessary or advisable to effectuate the provisions of this chapter. Such rules shall continue in force until modified by the Commissioner or superseded by a plan submitted by the Association and approved by the Commissioner.

(b) All member insurers shall comply with the plan of operation.

(c) The plan of operation shall, in addition to requirements enumerated elsewhere in this chapter:

(1) establish procedures for handling the assets of the Association;

(2) establish the amount and method of reimbursing members of the Board of Directors under section 4177 of this chapter;

(3) establish regular places and times including virtual conference calls for meetings of the Board of Directors;

(4) establish procedures for records to be kept of all financial transactions of the Association, its agents, and the Board of Directors;

(5) establish the procedures whereby selections for the Board of Directors will be made and submitted to the Commissioner;

(6) establish any additional procedures for assessments under section 4179 of this chapter;

(7) contain additional provisions necessary or proper for the execution of the powers and duties of the Association;

(8) establish procedures whereby a Director may be removed for cause, including in the case where a member insurer Director becomes an impaired or insolvent insurer; and

(9) require the Board of Directors to establish a policy and procedures for addressing conflicts of interests.

(d) The plan of operation may provide that any or all powers and duties of the Association, except those under subdivision 4178(1)(3) and section 4179 of this chapter, are delegated to a corporation, association, or other organization that performs or will perform functions similar to those of this Association, or its equivalent in two or more states. Such a corporation, association, or organization shall be reimbursed for any payments made on behalf of the Association and shall be paid for its performance of any function of the Association. A delegation under this subsection shall take effect only with the approval of both the Board of Directors and the Commissioner, and may be made only to a corporation, association, or organization that extends protection not substantially less favorable and effective than that provided by this chapter.

#### § 4181. DUTIES AND POWERS OF THE COMMISSIONER

(a) In addition to the duties and powers enumerated elsewhere in this chapter, the Commissioner shall:

(1) Upon the request of the Board of Directors, provide the Association with a statement of the premiums in Vermont and in any other appropriate states for each member insurer.

(2) Notify the Board of Directors of the existence of an impaired or insolvent insurer not later than three days after a determination of impairment or insolvency is made or the Commissioner receives notice of impairment or insolvency.

(3) When an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time. Notice to the impaired insurer shall

constitute notice to its shareholders, if any. The failure of the impaired insurer to promptly comply with such demand shall not excuse the Association from the performance of its powers and duties under this chapter.

(4) In any liquidation or rehabilitation proceeding involving a domestic insurer, be appointed as the liquidator or rehabilitator. If a foreign or alien member insurer is subject to a liquidation proceeding in its domiciliary jurisdiction or state of entry, the Commissioner shall be appointed conservator.

(b) The Commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact business in Vermont of any member insurer that fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the Commissioner may levy a forfeiture on any member insurer that fails to pay an assessment when due. Such forfeiture shall not exceed five percent of the unpaid assessment per month, but no forfeiture shall be less than \$500.00 per month.

(c) A final action of the Board of Directors or the Association may be appealed to the Commissioner by a member insurer if such appeal is taken within 60 days following its receipt of notice of the final action being appealed. A final action or order of the Commissioner shall be subject to judicial review in the Vermont Supreme Court.

(d) The liquidator, rehabilitator, or conservator of any impaired or insolvent insurer may notify all interested persons of the effect of this chapter.

#### § 4182. PREVENTION OF INSOLVENCIES

(a) To aid in the detection and prevention of member insurer impairment or insolvency, it shall be the duty of the Commissioner to:

(1) Notify the commissioners of all the other states within 30 days following the action taken or the date the action occurs when the Commissioner takes any of the following actions against a member insurer:

(A) revocation of license;

(B) suspension of license; or

(C) makes a formal order that the member insurer restrict its premium writing, obtain additional contributions to surplus, withdraw from Vermont, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of policy owners, contract owners, certificate holders, or creditors.

(2) Report to the Board of Directors when the Commissioner has taken any of the actions set forth in subdivision (1) of this subsection or has received a report from any other commissioner indicating that any such action has been

taken in another state. The report to the Board of Directors shall contain all significant details of the action taken or the report received from another commissioner.

(3) Report to the Board of Directors when the Commissioner has reasonable cause to believe from an examination, whether completed or in process, of any member insurer that the insurer may be an impaired or insolvent insurer.

(4) Furnish to the Board of Directors the NAIC Insurance Regulatory Information System ratios and listings of companies not included in the ratios developed by the National Association of Insurance Commissioners, and the Board may use the information contained therein in carrying out its duties and responsibilities under this section. The report and the information contained therein shall be kept confidential by the Board of Directors until such time as made public by the Commissioner or other lawful authority.

(b) The Commissioner may seek the advice and recommendations of the Board of Directors concerning any matter affecting the duties and responsibilities of the Commissioner regarding the financial condition of member insurers and insurers or health maintenance organizations seeking admission to transact business in Vermont.

(c) The Board of Directors, upon majority vote, may make reports and recommendations to the Commissioner upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer or germane to the solvency of any insurer or health maintenance organization seeking to do business in Vermont. Such reports and recommendations shall not be considered public documents.

(d) The Board of Directors, upon majority vote, shall notify the Commissioner of any information indicating a member insurer may be an impaired or insolvent insurer.

(e) The Board of Directors, upon majority vote, may make recommendations to the Commissioner for the detection and prevention of member insurer insolvencies.

(f) The Board of Directors shall, at the conclusion of any insurer impairment or insolvency in which the Association carried out its duties under this chapter or exercised any of its powers under this chapter, prepare a report on the history and causes of such impairment or insolvency, based on the information available to the Association, and submit such report to the Commissioner.

§ 4183. CREDITS FOR ASSESSMENTS PAID

(a) A member insurer may offset against its premium tax liability to Vermont an assessment described in subsection 4179(h) of this chapter to the extent of 20 percent of the amount of the assessment for each of the five calendar years following the year in which the assessment was paid. In the event a member insurer should cease doing business, all uncredited assessments may be credited against its premium tax liability for the year it ceases doing business.

(b) A member insurer that is exempt from taxes referenced in subsection (a) of this section may recoup its assessments by a surcharge on its premiums in a sum reasonably calculated to recoup the assessments over a reasonable period of time, as approved by the Commissioner. Amounts recouped shall not be considered premiums for any other purpose, including the computation of gross premium tax, the medical loss ratio, or agent commission. If a member insurer collects excess surcharges, the insurer shall remit the excess amount to the Association, and the excess amount shall be applied to reduce future assessments in the appropriate account.

(c) Any sums acquired by refund, pursuant to subsection 4179(f) of this chapter, from the Association that have been written off by contributing insurers and offset against premium taxes as provided in subsection (a) of this section, and are not then needed for purposes of this chapter, shall be paid by the insurer to the Commissioner, who shall deposit them with the State Treasurer for credit to the General Fund.

§ 4184. MISCELLANEOUS PROVISIONS

(a) This chapter shall not be construed to reduce the liability for unpaid assessments of the insureds of an impaired or insolvent insurer operating under a plan with assessment liability.

(b)(1) Records shall be kept of all meetings of the Board of Directors to discuss the activities of the Association in carrying out its powers and duties under section 4178 of this chapter. The records of the Association with respect to an impaired or insolvent insurer shall not be disclosed prior to the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurer, except:

(A) upon the termination of the impairment or insolvency of the member insurer; or

(B) upon the order of a court of competent jurisdiction.

(2) Nothing in this subsection shall limit the duty of the Association to render a report of its activities under section 4185 of this chapter.

(c) For the purpose of carrying out its obligations under this chapter, the Association shall be deemed to be a creditor of the impaired or insolvent insurer to the extent of assets attributable to covered policies reduced by any amounts to which the Association is entitled as subrogee pursuant to subsection 4178(k) of this chapter. Assets of the impaired or insolvent insurer attributable to covered policies shall be used to continue all covered policies and pay all contractual obligations of the impaired or insolvent insurer as required by this chapter. Assets attributable to covered policies or contracts, as used in this subsection, are that proportion of the assets that the reserves that should have been established for such policies or contracts bear to the reserves that should have been established for all policies of insurance or health benefit plans written by the impaired or insolvent insurer.

(d) As a creditor of the impaired or insolvent insurer pursuant to subsection (c) of this section and consistent with section 7073 of this title, the Association and other similar associations shall be entitled to receive a disbursement of assets out of the marshaled assets, from time to time as the assets become available to reimburse it, as a credit against contractual obligations under this chapter. If the liquidator has not, within 120 days after a final determination of insolvency of a member insurer by the receivership court, made an application to the court for the approval of a proposal to disburse assets out of marshaled assets to guaranty associations having obligations because of the insolvency, then the Association shall be entitled to make application to the receivership court for approval of its own proposal to disburse these assets.

(e)(1) Prior to the termination of any liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the Association, the shareholders, contract owners, certificate holders, enrollees, and policyowners of the insolvent insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of the insolvent insurer. In such a determination, consideration shall be given to the welfare of the policyowners, contract owners, certificate holders, and enrollees of the continuing or successor member insurer.

(2) No distribution to stockholders, if any, of an impaired or insolvent insurer shall be made until and unless the total amount of valid claims of the Association with interest thereon for funds expended in carrying out its powers and duties under section 4178 of this chapter with respect to the member insurer have been fully recovered by the Association.

(f) If an order for liquidation or rehabilitation of a member insurer domiciled in Vermont has been entered, the receiver appointed under such order shall have a right to recover on behalf of the member insurer from any

affiliate that controlled it the amount of distributions, other than stock dividends paid by the member insurer on its capital stock, made at any time during the five years preceding the petition for liquidation or rehabilitation subject to the following limitations:

(1) A distribution shall not be recoverable if the member insurer shows that, when paid, the distribution was lawful and reasonable and that the member insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the member insurer to fulfill its contractual obligations.

(2) Any person who was an affiliate that controlled the member insurer at the time the distributions were paid shall be liable up to the amount of distributions received. Any person who was an affiliate that controlled the member insurer at the time the distributions were declared shall be liable up to the amount of distributions that would have been received if they had been paid immediately. If two or more persons are liable with respect to the same distributions, they shall be jointly and severally liable.

(3) The maximum amount recoverable under this subdivision shall be the amount needed in excess of all other available assets of the insolvent insurer to pay the contractual obligations of the insolvent insurer.

(g) If any person liable under subdivision (f)(2) of this section is insolvent, all its affiliates that controlled it at the time the distribution was paid shall be jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

#### § 4185. EXAMINATION; ANNUAL REPORT

The Association shall be subject to examination and regulation by the Commissioner. The Board of Directors shall submit to the Commissioner, not later than May 1 of each year, a financial report for the preceding calendar year in a form approved by the Commissioner and a report of its activities during the preceding calendar year. Upon request of a member insurer, the Association shall provide the member insurer with a copy of the report.

#### § 4186. TAX EXEMPTIONS

The Association shall be exempt from payment of all fees and all taxes levied by Vermont or any of its subdivisions, except taxes levied on real property.

#### § 4187. IMMUNITY

There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer or its agents or employees, the Association or its agents or employees, members of the Board of Directors, or



the Commissioner or the Commissioner's representatives for any action or omission by them in the performance of their powers and duties under this chapter. This immunity shall extend to the participation in any organization of one or more other state associations of similar purposes and to any such organization and its agents or employees.

§ 4188. STAY OF PROCEEDINGS; REOPENING DEFAULT

JUDGMENTS

All proceedings in which the insolvent insurer is a party in any court in Vermont shall be stayed 180 days from the date an order of liquidation, rehabilitation, or conservation is final to permit proper legal action by the Association on any matters germane to its powers or duties. As to a judgment under any decision, order, verdict, or finding based on the default, the Association may apply to have such judgment set aside by the same court that made such judgment and shall be permitted to defend against such suit on the merits.

§ 4189. PROHIBITED ADVERTISEMENT; NOTICE TO POLICY

OWNERS

(a) No person, including a member insurer, or agent or affiliate of a member insurer, shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, any advertisement, announcement, or statement, written or oral, that uses the existence of the Insurance Guaranty Association of Vermont for the purpose of sales, solicitation, or inducement to purchase any form of insurance or other coverage covered by this chapter. However, this section shall not apply to the Vermont Life and Health Insurance Guaranty Association or any other entity that does not sell or solicit insurance or coverage by a health maintenance organization.

(b) Within 180 days after the effective date of this chapter, the Association shall prepare a summary document describing the general purposes and current limitations of this chapter and complying with subsection (c) of this section. This document shall be submitted to the Commissioner for approval. At the expiration of the 60th day after the date on which the Commissioner approves the document, a member insurer may not deliver a policy or contract to a policy owner, contract owner, certificate holder, or enrollee unless the summary document is delivered to the policy owner, contract owner, certificate holder, or enrollee at the time of delivery of the policy or contract. The

document shall also be available upon request by a policy owner, contract owner, certificate holder, or enrollee. The distribution, delivery, contents, or interpretation of this document does not guarantee that either the policy or the contract or the policy owner, contract owner, certificate holder, or enrollee is covered in the event of the impairment or insolvency of a member insurer. The document shall be revised by the Association as amendments to the chapter may require. Failure to receive this document does not give the policy owner, contract owner, certificate holder, enrollee, or insured any greater rights than those stated in this chapter.

(c) The document prepared under subsection (b) of this section shall contain a clear and conspicuous disclaimer on its face. The Commissioner shall establish the form and content of the disclaimer. The disclaimer shall:

(1) state the name and address of the Association and the Department of Financial Regulation;

(2) prominently warn the policy owner, contract owner, certificate holder, or enrollee that the Association may not cover the policy or contract or, if coverage is available, it will be subject to substantial limitations and exclusions and conditioned on continued residence in Vermont;

(3) state the types of policies or contracts for which guaranty funds will provide coverage;

(4) state that the member insurer and its agents are prohibited by law from using the existence of the Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance or health maintenance organization coverage;

(5) state that the policy owner, contract owner, certificate holder, or enrollee should not rely on coverage under the Association when selecting an insurer or health maintenance organization;

(6) explain rights available and procedures for filing a complaint to allege a violation of any provision of this chapter; and

(7) provide other information as directed by the Commissioner, including sources for information about the financial condition of insurers, provided that the information is not proprietary and is subject to disclosure under Vermont's Public Records Act.

(d) A member insurer shall retain evidence of compliance with subsection (b) of this section for so long as the policy or contract for which the notice is given remains in effect.

§ 4190. PROSPECTIVE APPLICATION

(a) This chapter shall apply to all matters relating to any impaired or insolvent insurer for which the Association first became obligated on or after July 1, 2023.

(b) Matters relating to any impaired or insolvent insurer for which the Association first became obligated prior to July 1, 2023, shall be governed by the provisions of this chapter in effect at the time the Association first became obligated for such matters.

Sec. 10. 8 V.S.A. § 7033 is amended to read:

§ 7033. INJUNCTIONS AND ORDERS

(a) A receiver appointed in a proceeding under this chapter may at any time apply for, and any court of general jurisdiction may grant, restraining orders, preliminary and permanent injunctions, and other orders as may be deemed necessary and proper to prevent:

- (1) the transaction of further business;
- (2) the transfer of property;
- (3) interference with the receiver or with a proceeding under this chapter;
- (4) waste of the insurer's assets;
- (5) dissipation and transfer of bank accounts;
- (6) the institution or further prosecution of any actions or proceedings;
- (7) the obtaining of preferences, judgments, attachments, garnishments, or liens against the insurer, its assets or its policyholders;
- (8) the levying of execution against the insurer, its assets or its policyholders;
- (9) the making of any sale or deed for nonpayment of taxes or assessments that would lessen the value of the assets of the insurer;
- (10) the withholding from the receiver of books, accounts, documents, or other records relating to the business of the insurer; or
- (11) any other threatened or contemplated action that might lessen the value of the insurer's assets or prejudice the rights of policyholders, creditors, or shareholders, or the administration of any proceeding under this chapter.

(b) The receiver may apply to a court outside the State for the relief described in subsection (a) of this section.

(c) Notwithstanding subsections (a) and (b) of this section, subsection 7054(a) of this title, or any other provision of this chapter to the contrary, no person, for more than 10 days, shall be restrained, stayed, enjoined, or prohibited from exercising or enforcing any right or cause of action under any pledge, security, credit, collateral, loan, advances, reimbursement, or guarantee agreement or arrangement, or any similar agreement, arrangement, or other credit enhancement to which a federal home loan bank is a party.

(d) A federal home loan bank exercising its rights regarding collateral pledged by an insurer-member shall, within seven days after receiving a redemption request made by the insurer-member, repurchase any of the insurer-member's outstanding capital stock in excess of the amount the insurer-member must hold as a minimum investment. The federal home loan bank shall repurchase the excess outstanding capital stock only to the extent that it determines in good faith that the repurchase is both of the following:

(1) permissible under federal laws and regulations and the federal home loan bank's capital plan; and

(2) consistent with the capital stock practices currently applicable to the federal home loan bank's entire membership.

(e) Not later than 10 days after the date of appointment of a receiver in a proceeding under this chapter involving an insurer-member of a federal home loan bank, the federal home loan bank shall provide to the receiver a process and timeline for the following:

(1) the release of any collateral held by the federal home loan bank that exceeds the amount that is required to support the secured obligations of the insurer-member and that is remaining after any repayment of loans, as determined under the applicable agreements between the federal home loan bank and the insurer-member;

(2) the release of any collateral of the insurer-member remaining in the federal home loan bank's possession following repayment in full of all outstanding secured obligations of the insurer-member;

(3) the payment of fees owed by the insurer-member and the operation, maintenance, closure, or disposition of deposits and other accounts of the insurer-member, as mutually agreed upon by the receiver and the federal home loan bank; and

(4) any redemption or repurchase of federal home loan bank stock or excess stock of any class that the insurer-member is required to own under agreements between the federal home loan bank and the insurer-member.

(f) Upon the request of a receiver appointed in a proceeding under this chapter involving a federal home loan bank insurer-member, the federal home loan bank shall provide to the receiver any available options for the insurer-member to renew or restructure a loan. In determining which options are available, the federal home loan bank may consider market conditions, the terms of any loans outstanding to the insurer-member, the applicable policies of the federal home loan bank, and the federal laws and regulations applicable to federal home loan banks.

(g) As used in this section, "federal home loan bank" means an institution chartered under the "Federal Home Loan Bank Act of 1932," 12 U.S.C. 1421, et seq. and "insurer-member" means a member of the federal home loan bank in question that is an insurer.

Sec. 11. 8 V.S.A. § 7065 is amended to read:

§ 7065. FRAUDULENT TRANSFERS PRIOR TO PETITION

(a) Every transfer made or suffered and every obligation incurred by an insurer within one year prior to the filing of a successful petition for rehabilitation or liquidation under this chapter is fraudulent as to then existing and future creditors if made or incurred without fair consideration, or with actual intent to hinder, delay, or defraud either existing or future creditors. A transfer made or an obligation incurred by an insurer ordered to be rehabilitated or liquidated under this chapter, which is fraudulent under this section, may be avoided by the receiver, except as to a person who in good faith is a purchaser, lienor, or obligee, for a present fair equivalent value, and except that a purchaser, lienor, or obligee, who in good faith has given a consideration less than fair for such transfer, lien, or obligation, may retain the property, lien, or obligation as security for repayment. The Court may, on due notice, order any such transfer or obligation to be preserved for the benefit of the estate, and in that event, the receiver shall succeed to and may enforce the rights of the purchaser, lienor, or obligee.

\* \* \*

(e) Notwithstanding subsection (a) of this section, section 7066 of this title, or any other provision of this chapter to the contrary, no receiver or any other person shall avoid any transfer of, or any obligation to transfer, money or any other property arising under or in connection with any pledge, security, credit, collateral, loan, advances, reimbursement, or guarantee agreement or arrangement, or any similar agreement, arrangement, or other credit enhancement to which a federal home loan bank, as defined in section 7033 of this title, is a party, that is made, incurred, or assumed prior to or after the filing of a successful petition for rehabilitation or liquidation under this

chapter, or otherwise would be subject to avoidance under this section or section 7066 of this title; provided, however, that a transfer may be avoided under this section or section 7066 of this title if the transfer was made with actual intent to hinder, delay, or defraud the insurer, a receiver appointed for the insurer, or existing or future creditors.

Sec. 12. 8 V.S.A. § 7067 is amended to read:

§ 7067. VOIDABLE PREFERENCES AND LIENS

(a)(1) A preference is a transfer of any of the property of an insurer to or for the benefit of a creditor, for or on account of an antecedent debt, made or suffered by the insurer within one year before the filing of a successful petition for liquidation under this chapter, the effect of which transfer may be to enable the creditor to obtain a greater percentage of this debt than another creditor of the same class would receive. If a liquidation order is entered while the insurer is already subject to a rehabilitation order, then such transfers shall be deemed preferences if made or suffered within one year before the filing of the successful petition for rehabilitation, or within two years before the filing of the successful petition for liquidation, whichever time is shorter.

(2) A preference may be avoided by the liquidator if:

(A) the insurer was insolvent at the time of the transfer of property;

(B) the transfer of property was made within four months before the filing of the petition;

(C) the creditor receiving it or to be benefited by it or the creditor's agent acting with reference to it had, at the time when the transfer of property was made, reasonable cause to believe that the insurer was insolvent or was about to become insolvent; or

(D) the creditor receiving transferred property was an officer, or any employee or attorney or other person who was in fact in a position of comparable influence in the insurer to an officer whether or not he or she held such position, or any shareholder holding directly or indirectly more than five per centum of any class of any equity security issued by the insurer, or any other person, firm, corporation, association, or aggregation of persons with whom the insurer did not deal at arm's length.

(3) Where the preference is voidable, the liquidator may recover the property or, if it has been converted, its value from any person who has received or converted the property; except where a bona fide purchaser or lienor has given less than fair equivalent value, ~~he or she~~ the purchaser or lienor shall have a lien upon the property to the extent of the consideration actually given by ~~him or her~~ the purchaser or lienor. Where a preference by

way of lien or security title is voidable, the court may on due notice order the lien or title to be preserved for the benefit of the estate, in which event the lien or title shall pass to the liquidator.

(4) Notwithstanding subdivision (2) of this section, or any other provision of this chapter to the contrary, no receiver or any other person shall avoid any preference arising under or in connection with any pledge, security, credit, collateral, loan, advances, reimbursement, or guarantee agreement or arrangement, or any similar agreement, arrangement, or other credit enhancement to which a federal home loan bank, as defined in section 7033 of this title, is a party.

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Sec. 12a. STUDY; AUTOMOBILE INSURANCE; LABOR RATES; USE  
OF AFTERMARKET PARTS; BUSINESS PRACTICES

(a) In order to ensure that the business practices of automobile insurance companies in Vermont are fair and reasonable, the Commissioner of Financial Regulation shall conduct a study of labor rates, the use of aftermarket parts, market conditions, and other business practices identified in this section. The Commissioner shall investigate and make findings and recommendations regarding the following:

(1) The average hourly labor rates charged by auto body shops in Vermont on both a statewide and a regional basis; the rates charged in other jurisdictions, including the regions of New York, Massachusetts, and New Hampshire that share a border with Vermont; and the rates paid by automobile insurance companies for repair work in Vermont. In addition, the Commissioner shall consult with the Economic & Labor Market Information Division within the Department of Labor to obtain, as a reference, hourly wage data for auto body and related repairers. The Commissioner shall also take into consideration other forms of insurance labor reimbursement including flat rates for repair work, as well as the factors used by auto body shops and insurance companies to arrive at labor repair rates. Based on this data, the Commissioner shall recommend whether Vermont should establish a minimum labor reimbursement rate for both first- and third-party automobile insurance claims and, if so, what that rate should be and how it should be adjusted to reflect market changes such as inflation.

(2) Whether the appraisal practices of automobile insurance companies and independent appraisers equally consider the interests of insurance companies, auto body shops, and consumers.

(3) The extent to which an automobile insurance company controls or influences repair work done at an auto body shop chosen by the consumer and how any such control or influence should affect the liability of the insurance company, particularly regarding the quality and safety of the repair work.

(4) The use of direct repair programs, generally, and their impact on both the automobile repair industry and consumers.

(5) The disclosures made to a consumer by an insurance company, both at the point of sale and upon the submission of a claim, as well as the existing consumer information developed and maintained by the Department of Financial Regulation and whether and to what extent additional disclosures are necessary to ensure a consumer is adequately informed of their potential financial exposure under a policy, including with regard to any labor rate differential, material rate differential, hour differential, and rental differential for loss of use.

(6) Whether Insurance Regulation I-79-2 (revised) should be updated to reflect market changes or business practices that may impede the prompt, fair, and equitable settlement of claims in which liability has become reasonably clear. In particular, the Commissioner shall review Section 8 of the regulation, which concerns standards for the settlements of property and physical damage claims, and further clarify the independence of the appraisals under subdivision (A)(1); the ability of an insurer to negotiate with a repairer under subdivision (A)(2); and the ability of an insurer to insist that repairs be done by a specific repairer under subdivision (A)(3). If the Commissioner determines revisions to the regulation are necessary, the Commissioner shall initiate a rulemaking to effectuate those revisions.

(7) The betterment practices of insurance companies and whether the valuation methods employed are legitimate and fair to consumers.

(8) The use of aftermarket or recycled parts in automobile repairs, including their potential cost savings, and whether aftermarket parts, in particular, should be certified and whether and to what extent an insurer should be liable for incidental costs related to the use of aftermarket or recycled parts, such as for any necessary modifications, and the notification that should be provided to a consumer regarding the use of aftermarket or recycled parts in a repair.

(9) The number and nature of complaints received by the Department of Financial Regulation with respect to automobile insurance policies. In addition, the Commissioner shall request and the Attorney General shall provide the number and nature of any such complaints received by the



Consumer Assistance Program, as well as the number and nature of any complaints regarding repair work by auto body shops.

(10) Any other acts or practices or market conditions related to insurance coverage for automobile repairs and whether any additional regulatory measures are necessary to prevent anticompetitive behavior and ensure the interests of all parties, especially consumers, are adequately protected.

(11) How the costs of auto repairs contribute to the price and availability of automobile insurance in Vermont and whether the establishment of a minimum labor rate and all other findings and recommendations made by the Commissioner pursuant to this section could impact the price and availability of automobile insurance in Vermont.

(b) The Commissioner shall establish a process for soliciting and receiving input regarding the matters addressed in this section from stakeholders, including insurance companies, consumers, auto body shops, and any other persons deemed appropriate by the Commissioner.

(c) The Commissioner of Financial Regulation shall submit a final report that includes the Commissioner's finding and recommendations under this section to the House Committee on Commerce and Economic Development and the Senate Committees on Finance and on Judiciary on or before November 15, 2024 and shall submit an interim progress report to the same legislative committees on or before January 15, 2024.

#### Sec. 13. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

**Rep. Anthony of Barre City**, for the Committee on Ways and Means, recommended that House propose to the Senate to amend the bill as recommended by the Committee on Commerce and Economic Development.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, the report of the Committee on Commerce and Economic Development agreed to, and third reading ordered.

#### **Favorable Report; Second Reading; Third Reading Ordered**

#### **J.R.S. 17**

**Rep. Krasnow of South Burlington**, for the Committee on General and Housing, to which had been referred Joint Senate resolution, entitled

Joint resolution urging U.S. Citizenship and Immigration Services to comply with the expedited asylum hearing provisions of the Afghan Supplemental Appropriations Act of 2022

Reported in favor of its adoption. The resolution, having appeared on the Notice Calendar, was taken up, read the second time, and third reading ordered.

### **Recess**

At twelve o'clock in the afternoon, the Speaker declared a recess until the fall of the gavel.

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

**Rules Suspended, Immediate Consideration; Second Reading; Bill Amended; Third Reading Ordered; Rules Suspended, All Remaining Stages of Passage; Third Reading; Bill Passed; Rules Suspended, Bill Messaged to Senate Forthwith**

### **H. 452**

On motion of **Rep. Toof of St. Albans Town**, the rules were suspended and House bill, entitled

An act relating to expanding apprenticeship and other workforce opportunities

Pending entry on the Notice Calendar, was taken up for immediate consideration and read the second time.

**Rep. Jerome of Brandon**, for the Committee on Commerce and Economic Development, recommended that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. chapter 13 is amended to read:

#### CHAPTER 13. APPRENTICESHIP

§§ 1101–1105. [Repealed.]

#### § 1111. DEFINITIONS

As used in this chapter:

(1) “Accessibility” means the design, construction, development, and maintenance of facilities, information and communication technology, programs, and services so that all people, including people with disabilities, can fully and independently use them. “Accessibility” includes the provision of accommodations and modifications to ensure equal access to employment

and participation in activities for people with disabilities, the reduction or elimination of physical and attitudinal barriers to equitable opportunities, a commitment to ensuring that people with disabilities can independently access every outward-facing and internal activity or electronic space, and the pursuit of best practices such as universal design.

(2) “Advanced standing” means a process for reviewing and granting credit for prior related work experience or related technical instruction for an incoming apprentice or career seeker that allows the individual to accelerate the completion of the registered apprenticeship program.

(3) “Apprentice” means an individual who is:

(A) 16 years of age or older, except when a higher minimum age standard is otherwise fixed by law;

(B) employed to learn an apprenticeable occupation under the standards of apprenticeship established under section 1117, standards of apprenticeship, of this title; and

(C) registered with the Department.

(4) “Apprenticeable occupation” means an occupation approved by the federal Office of Apprenticeship or by the Department as an occupation that:

(A) is specified, identified, and commonly recognized throughout an industry;

(B) involves skills that are customarily learned in a practical way through a structured, systematic program of on-the-job supervised learning;

(C) involves the progressive attainment of manual, mechanical, or technical skills and knowledge that, in accordance with the industry standard for the occupation, would require the completion of a minimum of 2,000 hours or one-year of on-the-job learning to attain; and

(D) requires related technical instruction to supplement the on-the-job learning.

(5) “Apprenticeship agreement” means a written agreement, on forms approved by the Department under section 1119, registered apprentices, of this title, between an apprentice and either the apprentice’s program sponsor or an apprenticeship committee acting as agent for the program sponsor, that contains the terms and conditions of the employment and training of the apprentice.

(6) “Apprenticeship program” or “local apprenticeship training program” means a program registered with the Department or the federal Office of Apprenticeship that includes a written plan containing all terms and

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conditions for the qualification, recruitment, selection, employment, and training of apprentices, as minimally required under 29 C.F.R. Parts 29 and 30.

(7) “Certificate of completion” means a document issued by the Department that certifies that the named apprentice has met all the requirements set forth in an apprenticeship program.

(8) “Certificate of registration” means a document issued by the Department that certifies that the named sponsor’s apprenticeship program meets the requirements for registration under section 1115, program registration, of this title and identifies the registration status as either provisional or permanent.

(9) “Competency” means the attainment of knowledge, skills, and abilities in a subject area, as specified by an occupational skill standard and demonstrated by an appropriate written or hands-on proficiency measurement.

(10) “Commissioner” means the Commissioner of the Vermont Department of Labor.

(11) “Department” means the Vermont Department of Labor.

(12) “Director” or “State Director” means the director of the Vermont Registered Apprenticeship Program.

(13) “Diversity” means the practice of including the many communities, identities, races, ethnicities, backgrounds, abilities, cultures, and beliefs of Vermonters, including underserved communities.

(14) “Equity” means the consistent and systemic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment.

(15) “Fringe benefits” means benefits, including health insurance, retirement benefits, paid vacations and holidays, sick leave, and similar benefits that are incidents of employment.

(16) “Inclusion” means the recognition, appreciation, and use of the talents and skills of employees of all backgrounds.

(17) “Interim credential” means a credential issued by the Department, upon request of a sponsor, that certifies specific competency attainment by an apprentice.

(18) “Journey-worker” means a worker who has attained a level of skill, abilities, and competencies recognized within an industry as having mastered the skills and competencies required for the occupation. The term may also refer to a mentor, technician, specialist, or other skilled worker who has documented proficient skills and knowledge of an occupation, either through

formal apprenticeship or through practical on-the-job experience and formal training, or to describe any person who has achieved recognition in the person's profession as a "master."

(19) "Mentor" or "supervisor" means a journey-worker who assists in a registered apprenticeship program and who works with or oversees the work of an apprentice, assigns tasks, reviews performance, and is generally someone who facilitates personal and professional growth in the apprentice by sharing the knowledge learned through years of experience on the job.

(20) "National Guideline Standards" means a template of high-quality apprenticeship program standards submitted by a labor union, trade or industry association, employer, workforce intermediary, education provider, or other organizations with national scope, which standards may be certified by the federal Office of Apprenticeship.

(21) "National Program Standards of Apprenticeship" or "National Program Standards" (NPS) are programs that are registered by the federal Office of Apprenticeship on a national basis and that consist of occupational standards that any Vermont employer may sign on to or under which any individual may be apprenticed.

(22) "Nontraditional apprenticeship population" means a group of individuals, such as individuals from the same gender, race, or ethnicity, the members of which comprise fewer than 25 percent of the program participants in an apprenticeable occupation.

(23) "Nontraditional apprenticeship industry or occupation" refers to an industry sector or occupation that represents fewer than 10 percent of apprenticeable occupations or the programs under the national apprenticeship system.

(24) "Office of Apprenticeship" means the part of the U. S. Department of Labor responsible for the National Apprenticeship System and the implementing regulations.

(25) "Pre-apprentice" means a participant in a registered pre-apprenticeship program.

(26) "Pre-apprenticeship program" means a training model or program that prepares individuals for acceptance into an apprenticeship program and that is registered by the Department as provided in section 1123, pre-apprenticeship program, of this title or, as applicable, federal Office of Apprenticeship.

(27) “Provisional registration” or “provisional approval” means a temporary approval status granted to newly registered programs that lasts one year and is followed by an evaluation to determine whether it will:

(A) qualify for permanent recognition;

(B) maintain provisional status until more information is available to make a complete program assessment; or

(C) commence the process for deregistration.

(28) “Quality assurance assessment” means a comprehensive review conducted by the Department regarding all aspects of an apprenticeship program’s performance, including determining whether:

(A) apprentices are receiving on-the-job training consistent with the schedule outlined in the registered standards for the apprenticeship program;

(B) scheduled wage increases are consistent with the registered standards for the apprenticeship program;

(C) related technical instruction through the appropriate curriculum and delivery systems is compliant with any relevant federal and State standards; and

(D) the Department is receiving notification of all new apprentices in a registered apprenticeship program, apprentices who leave a registered apprenticeship program, and apprentices who complete the registered apprenticeship program within 45 business days of those changes.

(29) “Registration agency” means the Vermont Department of Labor acting as the designated State Apprenticeship Agency, which may also be referred to as the “Vermont Registered Apprenticeship Program.”

(30) “Related technical instruction” or “related instruction” means an organized and systematic form of instruction, concurrent with on-the-job training, designed to provide an apprentice with the knowledge of the theoretical and technical subjects related to the apprentice’s occupation. Such instruction may be accomplished through classroom, occupational, or industrial courses, or by correspondence courses of equivalent value, electronic media, or other forms of self-study approved by the Department.

(31) “Sponsor” means an employer, a joint labor-management organization, a trade association, a professional association, a labor organization, an education and training provider, or a qualified intermediary that is applying to register, administer, and operate an apprenticeship program.

(32) “State Apprenticeship Agency” means the Vermont Department of Labor as the federally designated apprenticeship agency and may also refer to the “Vermont Registered Apprenticeship Program.”

(33) “Underserved communities” means the populations sharing a particular characteristic, as well as geographic communities, who have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life. This term includes individuals who belong to communities of color, such as Black and African American, Hispanic and Latino, Native American, Alaskan Native and Indigenous, Asian American, Native Hawaiian and Pacific Islander, Middle Eastern, and North African persons. It also includes individuals who belong to communities that face discrimination based on sex, sexual orientation, and gender identity, including lesbian, gay, bisexual, transgender, queer, gender non-conforming, and non-binary (LGBTQ+ persons); persons who face discrimination based on pregnancy or pregnancy-related conditions; parents; and caregivers. It also includes individuals who belong to communities that face discrimination based on their religion and disability; first-generation professionals or first-generation college students; individuals with limited English proficiency; immigrants; individuals who belong to communities that may face employment barriers based on older age or former incarceration; persons who live in rural areas; veterans and military spouses; and persons otherwise adversely affected by persistent poverty, discrimination, or inequality. Individuals may belong to more than one underserved community and face intersecting barriers.

(34) “Vermont Apprenticeship Advisory Board” or “Board” means the entity created in section 1114, Vermont Apprenticeship Advisory Board, of this title and described as a “State Apprenticeship Council” in 29 C.F.R. Part 29 that supports Vermont’s registered apprenticeship system.

(35) “Youth apprentice” means a participant, 16 or 17 years of age, in a youth apprenticeship program.

(36) “Youth Apprenticeship program” means a program registered by the Department as provided in section 1124, youth apprenticeship programs, of this title or, as applicable, by the federal Office of Apprenticeship.

#### § 1112. STATE APPRENTICESHIP AGENCY

(a) The Department is the federally designated State Apprenticeship Agency and has the responsibility to oversee apprenticeship programs and apprentices in Vermont.

(b) The Department shall take all necessary steps as required and permitted by law to maintain its status as the State Apprenticeship Agency and

recognized by the federal Office of Apprenticeship under 29 C.F.R. Part 29, section 29.13.

§ 1113. VERMONT REGISTERED APPRENTICESHIP PROGRAM

(a) Purpose.

(1) The Vermont Registered Apprenticeship Program shall develop and regulate apprenticeship programs, pre-apprenticeship, and youth apprenticeship programs that are industry-driven, high-quality career pathways in partnership with employers to attract, train, and develop talent.

(2) The Vermont Registered Apprenticeship Program shall coordinate with State and local workforce development entities that serve individuals seeking employment and shall partner with State and local education and economic development leaders to expand the use of apprenticeship programs as a workforce and economic development strategy.

(b) Administration. The Vermont Registered Apprenticeship Program shall be administered by the Department and shall employ a Director of Apprenticeship who shall serve as the primary point of contact with the federal Office of Apprenticeship and who shall have overall responsibility for the administration of the Vermont Registered Apprenticeship Program.

(c) Operation. The Vermont Registered Apprenticeship Program shall:

(1) develop, register, monitor, and maintain records of program standards for apprenticeship programs, pre-apprenticeship programs, and youth apprenticeship programs;

(2) promote and provide technical support to employers, sponsors, education and training providers, workforce and economic development providers, jobseekers, and apprentices related to apprenticeship programs;

(3) develop and support strategies that promote diversity, equity, accessibility, and inclusion in apprenticeship programs;

(4) expand the number of apprenticeship programs and opportunities to meet employer and worker needs;

(5) administer apprenticeship programs and apprenticeship agreements, including issuing certificates of program registration, certificates of completion, interim credentials, and apprentice registration cards to comply with intra- and interstate requirements;

(6) maintain a publicly available list and information about apprenticeship programs and sponsors;



(7) determine, evaluate, and approve standards for the registration of an apprenticeship program;

(8) perform quality assurance assessments and monitor programs;

(9) maintain records related to program registration and deregistration, apprentices enrollment and completion, compliance reviews and investigations, and any other matters required by State or federal law;

(10) report on program outcomes;

(11) deregister programs that are not in compliance with the requirements of this chapter;

(12) develop and submit regular strategic and implementation plans, including the State Plan for Equal Employment Opportunity in Apprenticeship, as required by 29 C.F.R. Part 30;

(13) promote and develop reciprocity agreements with other states to support the recognition of apprenticeship programs and enable portability of credentials;

(14) assist in the adoption and implementation of National Guideline Standards or National Program Standards;

(15) coordinate alignment in apprenticeship program development and implementation with employers, sponsors, education and training providers, and other stakeholders; and

(16) maximize available State and federal funding to expand the availability of apprenticeship programs to Vermont employers and workers.

(d) Powers and duties.

(1) The Commissioner shall:

(A) promulgate rules to implement the Vermont Registered Apprenticeship Program, ensuring that it complies with State and federal regulations;

(B) promote equality of opportunity in apprenticeship programs pursuant to the State Plan for Equal Employment Opportunity in Apprenticeship as required by 29 C.F.R. Part 30;

(C) support the integration of apprenticeship programs into the education, workforce, and economic development systems in the State;

(D) establish journey-worker to apprentice ratios and procedures for variance requests for ratios in accordance with section 1116, ratios, of this title, except that the ratio in a youth apprenticeship programs shall not exceed 1:1;

(E) safeguard the rights of employers and apprentices engaged in an apprenticeship program; and

(F) direct the distribution of funds to support apprentices and apprenticeship programs.

(2) The Director shall:

(A) advise the Commissioner on the adoption of rules concerning the Vermont Registered Apprenticeship Program;

(B) approve new apprenticeable occupations in consultation with the Board;

(C) approve and oversee the development, registration, monitoring, and maintenance of program standards for apprenticeship, pre-apprenticeship, and youth apprenticeship programs; and

(D) approve and oversee the registration of apprentices, maintenance of apprenticeship agreements, and issue certificates of completion and interim credentials.

(e) Strategic planning and reporting. The Vermont Registered Apprenticeship Program shall:

(1) develop and disseminate a strategic plan once every five years, beginning on July 1, 2024;

(2) prepare and submit to the Vermont General Assembly an annual report on the status of the Vermont Registered Apprenticeship Program on or before December 1 of each year that includes:

(A) general program statistics, including a list of programs by county;

(B) an analysis of apprentices in the program disaggregated by age, race, sex, gender identity, New American status, Veteran status, disability, industry, and education status, including participation in career and technical education;

(C) nontraditional occupations by gender and race;

(D) new occupations approved;

(E) an analysis of the average starting and ending wage by occupation;

(F) new sponsors, employers, or industries involved with programs over the previous period;

(G) a summary of how allocated funds were used and analysis of the impact of those funds; and

(H) summary of significant activities of the program.

§ 1114. VERMONT APPRENTICESHIP ADVISORY BOARD

(a) Creation and purpose. The Vermont Apprenticeship Advisory Board is established to advise the Department, sponsors, employers, and related-instruction providers and to promote the development and strengthening of apprenticeship programs.

(b) Members and terms.

(1) The Board shall be composed of the following members:

(A) the Commissioner of Labor or designee, who shall serve as the Chair;

(B) the Director, who shall serve as the Secretary;

(C) the Secretary of Education or designee;

(D) a member of the State Workforce Development Board, appointed by the Chair of the Board;

(E) two representatives of a recognized union organization representing occupations with an apprenticeship program, appointed by the Governor;

(F) two representatives of employer program sponsors, appointed by the Governor;

(G) one representative of related instruction or training from an adult or secondary career technical education program, appointed by the Governor;

(H) two representatives from underserved communities, appointed by the Governor.

(2) A member other than the Commissioner of Labor, the Director, and the Secretary of Education shall be appointed to a term of three years, except as follows:

(A) The member appointed pursuant to subdivision (1)(D) of this subsection shall serve an initial term of one year.

(B) The members appointed pursuant to subdivisions (1)(E)–(F) of this subsection shall serve initial terms of two years.

(3) If a member fails to complete the member's full term, the Governor shall appoint a new member to complete the remainder of the term.

(4) A member shall serve at the pleasure of the Governor.

(5) Members not compensated for their time otherwise shall receive a per diem stipend for days of service to the Board and may be reimbursed for their necessary expenses incurred in attendance at meetings and in the performance of their official duties.

(c) Duties. The Board shall:

(1) Receive and review reports from the Department regarding provisional and registered apprenticeship programs, including programs under development and program deregistration proceedings.

(2) Advise the Department on the creation of new apprenticeable occupations.

(3) Advise the Commissioner on requests for ratio variances.

(4) Advise the Department on policies and procedures developed by the Department and on establishment of rules.

(5) Provide technical guidance for identifying and promoting best practices in operating apprenticeship programs.

(6) Create and convene working groups that are tasked with specific activities related to improving the quality, safety, diversity, and alignment of apprenticeship programs. Working group membership is not limited to appointed members of the board and shall be selected and serve at the discretion of the Chair.

(d) Meetings.

(1) The Board shall meet at least quarterly, or more frequently at the request of the Chair, to accomplish the objectives of the Vermont Apprenticeship Advisory Board.

(2) The Board shall adhere to Vermont's Open Meeting law, including requirements for public meeting notices, publishing agendas, and recording minutes.

(e) The Board shall have the administrative, technical, and legal assistance of the Department.

#### § 1115. PROGRAM REGISTRATION AND OPERATION

(a) Application.

(1) A sponsor may apply with the Vermont Registered Apprenticeship Program for review and approval of a request to register a local apprentice training program within the State.

(2) A local apprentice training program is registered upon its acceptance and recording by the Vermont Registered Apprenticeship Program as meeting the basic standards and requirements for approval of such a program and in compliance with rules established by the Commissioner.

(b) Eligibility for registration of an apprenticeship program.

(1) To be eligible for registration an employer or sponsor must:

(A) be registered as a business in “active” status with the Secretary of State’s Office and the business name and address must match that of the business requesting to be registered as a program;

(B) be current and in good standing with the Department of Taxes;

(C) be current and in good standing with the Department of Labor’s Unemployment Insurance program;

(D) be compliant with the Department of Labor’s Workers’ Compensation program; and

(E) meet any occupation specific requirements as established by the Vermont Registered Apprenticeship Program for specific occupations.

(2) Employers or sponsors found not to meet the requirements of subsection (b) of this section shall be given notice and allowed 30 business days to resolve any outstanding issue before action is taken on the registration request.

(3) An employer that seeks to register using National Program Standards (NPS) or National Guideline Standards (NGS) shall meet the requirements of this section.

(c) Procedure for registering an apprenticeship program.

(1) An employer or sponsor’s request to register an apprenticeship program shall be submitted to the Director using the form and submission method published on the Department’s website.

(2) Incomplete submissions shall not be considered.

(3) A complete request shall include:

(A) written and complete standards of apprenticeship, including minimum qualifications;

(B) a work process schedule for each occupation;

(C) related technical instruction outline for each occupation;

(D) selection procedures, including procedures for advanced standing; and

(E) a wage schedule for each occupation.

(4) An employer or program sponsor shall identify any proprietary information or processes within the registration request. Proprietary information obtained from an employer or program sponsor in the administration of this chapter shall be held confidential and shall not be disclosed or open to public inspection without the written authorization of the employer or program sponsor.

(d) Review; provisional and permanent approval.

(1) The Vermont Registered Apprenticeship Program shall review all requests to register an apprenticeship program for initial conformity with requirements established in 29 C.F.R. § 29.4, 29 C.F.R. Part 30, this chapter, and with any additional requirements established by the Vermont Registered Apprenticeship Program.

(2) An apprenticeship program that meets the standards for registration shall be given provisional registration for a period of one year.

(3) An initial provisional registration certificate shall be issued by the Director.

(4) The Vermont Registered Apprenticeship Program shall review an apprenticeship program for quality and conformity with the requirements of this chapter at the end of the first year after registration.

(5) An apprenticeship program that conforms to the requirements may have its registration made permanent or may continue to be provisionally registered until the end of its first training cycle or until enough information regarding compliant operation can be made available.

(6) When an apprenticeship program has completed its provisional review period and is found to be compliant, the Director shall issue a certificate of permanent registration.

(e) Ongoing review.

(1) The Department shall conduct subsequent reviews of every registered apprenticeship program every five years.

(2) If it is found that an apprenticeship program is not in operation or does not conform to the requirements of this chapter, the Department shall deregister that program in accordance with section 1120, deregistration, of this title.

(f) Union participation.

(1) An apprenticeship program may be proposed for registration by an employer, group of employers, or an industry association.

(2) If a standard or a collective bargaining agreement or other instrument exists for one or more of the employers or industry association, that provides for participation by a union and concerns any aspect of the operation of the substantive matters of an apprenticeship program, a written acknowledgment by the union about the terms of the proposed program and any objections it may have shall accompany the program registration request.

(g) Certificate. If the Vermont Registered Apprenticeship Program approves an apprenticeship program, it shall register that apprenticeship program and issue a sponsor approval certificate indicating the approval status as provisional or permanent and may include an expiration date or similar notice that communicates the relationship with the program review cycle.

(h) National programs.

(1) Organizations with a national or multistate footprint wishing to adopt and implement National Guideline Standard programs within the State shall notify the Director within 45 business days of the planned start date of the apprenticeship program.

(2) National Program Standard holders who wish to afford Vermont residents the opportunity to apprentice in a NPS program shall notify the Director within 45 business days and shall follow other minimal requirements as may be required by the Vermont Registered Apprenticeship Program for reciprocal approval.

(i) Program operation.

(1) Probationary Employment. A sponsor shall submit the name of a person in a period of probationary employment as an apprentice under an apprenticeship program within 45 days of the start of employment to the Vermont Registered Apprenticeship Program to establish the apprentice in probationary status.

(2) Changes in status. A sponsor shall notify the Vermont Registered Apprenticeship Program, using methods and procedures approved by the Director, within 45 business days of registered apprentices who:

(A) have successfully completed an apprenticeship program;

(B) transferred to other programs with the same sponsor or to other sponsors;

(C) are suspended;

(D) are cancelled; or

(E) are reinstated.

(3) Program changes.

(A) A sponsor shall not make a change to an apprenticeship program unless the change is approved by the Vermont Registered Apprenticeship Program.

(B) To make a change to an apprenticeship program, a sponsor shall submit a request to the Vermont Registered Apprenticeship Program.

(C) The Director shall approve or deny the requested change within 90 business days from receipt of the request.

(D) If approved, the change will be recorded and acknowledged by the Vermont Registered Apprenticeship Program within 90 business days.

(E) If denied, the Vermont Registered Apprenticeship Program shall notify the sponsor of the disapproval and the reason for the disapproval and provide the appropriate technical assistance.

#### § 1116. RATIOS

(a) Ratios; variances.

(1)(A) Except as otherwise provided in this section, the ratio of apprentices to journey-workers shall be 1:1.

(B) For each apprentice who completes 2,000 hours of on-the-job training, the ratio may increase to 1:2.

(C) The ratio shall not exceed two apprentices for each journey-worker unless a variance to the ratio is approved by the Commissioner.

(D) Variances shall not be permitted for youth apprenticeships.

(2)(A) A sponsor or an employer may request to modify the ratio of journey-worker to apprentices for one or more years of an apprenticeship program.

(B) The request shall be in writing and include the following information:

(i) the capacity of the employer to maintain the quality of supervision of on-the-job training set forth their program standards with added apprentices;

(ii) the impact of higher ratios on the learning experience of existing apprentices and steps taken to ensure that apprentices are not



disadvantaged in the quality of their on-the-job learning, mentoring, and supervision by higher ratios; and

(iii) an occupational safety analysis that describes the specific risks to apprentices, journey-workers, and the general public and what steps will be taken to mitigate each risk.

(3)(A) The Commissioner, with advice from the Director, the Director of the Vermont Occupational Safety and Health Administration, and the Board shall review the request and respond in writing within 90 days of receipt of the request.

(B) In evaluating a request, the Commissioner may affirm or modify a ratio upon a determination that the new ratio:

(i) will not endanger the safety of apprentices or the journey-worker; and

(ii) will not materially impair the quality of the on-the-job training.

(4) Nothing in this section shall be construed as prohibiting a sponsor or employer from establishing a ratio that permits or requires more than one journey-worker for each apprentice or as invalidating a collective bargaining agreement that permits or requires more than one journey-worker for each apprentice.

(5)(A) In a period of emergency declared by the Governor, the Commissioner may approve a higher ratio for one or more employers or sponsors without the need for an individual written request. The Commissioner shall receive advice from the Board prior to issuing a blanket ratio variance under this subsection.

(B) When the period of emergency expires, any ratio variances approved by the Commissioner under this subdivision (5) shall terminate and the sponsor shall comply with the requirements of this section governing ratios.

(b) National Program Standards programs. Employers who participate in a National Apprenticeship Standards Program whose approved ratio is greater than 1:1 shall operate under the State's default 1:1 ratio requirement unless a variance is approved under this section.

#### § 1117. STANDARDS OF APPRENTICESHIP

(a) An apprenticeship program shall conform to the standards identified in this section to be eligible for approval and registration by the Vermont Registered Apprenticeship Program.

(b) A program sponsor shall have an organized, written plan specifying program standards that embody the terms and conditions of employment, training, and supervision of one or more apprentices in an apprenticeable occupation and subscribed to by a sponsor who has undertaken to carry out the local apprentice training program.

(c) The written plan shall contain provisions that address the following:

(1) Apprenticeable occupation. The employment and training of the apprentices in an apprenticeable occupation.

(2) Term and modality of program. The term of the program measured using either a time-based approach, competency-based approach, or a hybrid approach.

(A) The time-based approach measures skill acquisition through the individual apprentice's completion of a minimum of 2,000 hours to a maximum of 10,000 hours of on-the-job learning as described in a work process schedule.

(B) The competency-based approach measures skill acquisition through the individual apprentice's successful demonstration of acquired skills and knowledge, as verified by the program sponsor, and cannot be less than one year in length. Programs utilizing this approach shall require apprentices to complete an on-the-job learning component. The program standards shall address how on-the-job learning will be integrated into the apprenticeship program, describe competencies, and identify appropriate means of testing and evaluation for such competencies.

(C) The hybrid approach measures the individual apprentice's skill acquisition through a combination of specified minimum number of hours of on-the-job learning and the successful demonstration of competency as described in a work process schedule.

(D) The determination of the appropriate approach for the apprenticeship program standards is made by the program sponsor, subject to the approval by the Vermont Registered Apprenticeship Program.

(3) Work process. An outline of the work processes in which the apprentice will receive supervised work experience and on-the-job training and the allocation of the approximate amount of time to be spent in each major process;

(4) Related instruction and instructor requirements. An organized description of related instruction and technical subjects related to the occupation that shall include a minimum of 144 hours of related technical instruction for each year of apprenticeship. Instruction and technical subjects

may be accomplished through media such as classroom, occupational or industry courses, electronic media, or other instruction approved by the Vermont Registered Apprenticeship Program. Every apprenticeship instructor shall:

(A) Meet the Agency of Education's requirements for a career and technical education instructor or be a subject matter expert, which is an individual, such as a journey-worker, who is recognized within an industry as having expertise in a specific occupation.

(B) Have training in teaching techniques and adult learning styles. This training may occur not later than one year after the apprenticeship instructor has started to provide the related technical instruction.

(5) Wage schedule. A schedule of progressively increasing wages to be paid to an apprentice consistent with the skill acquired. The entry wage shall not be less than minimum wage or 50 percent of the journey-worker rate, whichever is highest, for adult registered apprentices, unless a higher wage is required by other applicable State or federal law, rule, or by collective bargaining agreement. For purposes of this subdivision, "journey-worker rate" is the rate of pay established by the sponsor for an apprentice who has met all of the skill, knowledge, and competency requirements for that occupation.

(6) Fringe benefits. Fringe benefits made available to nonapprentices within the company shall also be available to apprentices registered in the company's apprenticeship program.

(7) Apprentice performance evaluation. Provision for periodic review and evaluation of the apprentice's performance on the job and in related instruction and the maintenance of appropriate progress records, including maintaining records of hours worked for those apprentices in time-based programs.

(8) Ratio. Provision for a numeric ratio of apprentices to journey-workers consistent with proper supervision, training, safety, and continuity of employment and with applicable provisions in collective bargaining agreements, except where such ratios are expressly prohibited by the collective bargaining agreement. The ratio language shall be specific and clearly described as to its application to the job site, workforce, department, or plant. The ratio shall comply with the requirements set forth in this chapter. Any variances requested to the set ratio shall be approved in advance of the variance being applied to the apprenticeship program.

(9) Probationary period. A probationary period reasonable in relation to the full apprenticeship term, with full credit given for such period toward completion of apprenticeship. The probationary period cannot exceed 25

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percent of the length of the apprenticeship program, or one year, whichever is shorter.

(10) Equipment and facilities. Provision for adequate and safe equipment and facilities for training and supervision, and safety training for apprentices on the job and in related instruction.

(11) Minimum qualifications. Facially neutral, minimum qualifications required by the sponsor for persons entering the apprenticeship program, with an eligible starting age of not less than 16 years of age, or 18 years of age if required by State or federal laws or regulations.

(12) Placement. Provision for the placement of an apprentice under a written apprenticeship agreement that meets the requirements of this chapter and 29 C.F.R., § 29.7, is approved by the Vermont Registered Apprenticeship Program, and directly, or by reference, incorporates the standards of the apprenticeship program as part of the agreement.

(13) Registration cards. Provision that identifies the need for a card to be produced that confirms the registration status of an apprentice in an approved occupation.

(14) Advanced Standing. Provision for the granting of advanced standing or credit for demonstrated competency, acquired experience, training, or skills, that shall be applied to all applicants equally with commensurate wages for any progression step so granted.

(15) Transfer. Provision for transfer of an apprentice between apprenticeship programs and within an apprenticeship program. Such a transfer shall be based on agreement between the apprentice and the affected apprenticeship committees or program sponsors, and shall comply with the following requirements:

(A) the transferring apprentice shall be provided a transcript of related instruction and on-the-job learning by the program sponsor;

(B) the transfer shall be to the same occupation; and

(C) a new apprenticeship agreement shall be executed when the transfer occurs between program sponsors.

(16) Qualified training personnel. Assurance of qualified training personnel and adequate supervision on the job.

(17) Completion. Provision for recognition for successful completion of apprenticeship evidenced by an appropriate certificate issued by the Vermont Registered Apprenticeship Program.

(18) Interim and stackable credentials. Apprenticeship program standards that utilize the competency-based or hybrid approach for progression through an apprenticeship and that choose to issue interim credentials shall clearly identify the interim credentials, demonstrate how these credentials link to the components of the apprenticeable occupation, and establish the process for assessing an individual apprentice's demonstration of competency associated with the interim credential. Further, interim credentials shall only be issued for recognized components of an apprenticeable occupation thereby linking interim credentials specifically to the knowledge, skills, and abilities associated with those components of the apprenticeable occupation.

(19) Registration agency. Identification of the Vermont Department of Labor as the registration agency.

(20) Program modifications. Provision for the registration, cancellation, and deregistration of the apprenticeship program and for the prompt submission of any program standard modification or amendment to the Vermont Registered Apprenticeship Program for approval.

(21) Registering apprentices. Provision for apprenticeship agreements, modifications, and amendments, notice to the Vermont Registered Apprenticeship Program of persons who have successfully completed apprenticeship programs within 45 days of completion of all requirements, and notice of transfers, suspensions, and cancellations of apprenticeship agreements and a statement of the reasons therefore.

(22) Cancellation. Provision for the authority to cancel an apprenticeship agreement during the probationary period by either party without cause.

(23) Equal Employment Opportunity. Provision for compliance with 29 C.F.R. Part 30, including the equal opportunity pledge prescribed in 29 C.F.R. § 30.3(c); an affirmative action program complying with 29 C.F.R. § 30.4 and a method for the selection of apprentices complying with 29 C.F.R. § 30.10, or compliance with parallel requirements contained in the Department's State Plan for Equal Employment Opportunity in Apprenticeship adopted under 29 C.F.R. Part 30 and approved by federal Office of Apprenticeship. The apprenticeship standards shall also include a statement that the program will be conducted, operated, and administered in conformity with applicable provisions of 29 C.F.R. Part 30, as amended, or if applicable the State Plan for Equal Employment Opportunity in Apprenticeship.

(24) Contact information. The name, physical address, telephone number, and e-mail address for the appropriate individual with authority under

the apprenticeship program to receive, process, and make disposition of complaints.

(25) Recordkeeping. Provision for recording and maintenance of all records concerning apprenticeship as may be required by the Vermont Registered Apprenticeship Program and other applicable law.

§ 1118. APPRENTICESHIP PROGRAM MINIMUM ENROLLMENT;

EVALUATION

(a) Minimum number of apprentices. An apprenticeship program, including occupations registered to the program, shall have at least one registered apprentice, except for the following specified periods of time if the periods do not exceed one year:

(1) between the date when the apprenticeship program is registered and the date of registration for its first apprentice; or

(2) between the date that the apprenticeship program graduates an apprentice and the date of registration for the next apprentice or apprentices in the program.

(b) Evaluation. The Vermont Registered Apprenticeship Program shall adopt tools and factors to evaluate the performance of apprenticeship programs, including the following:

(1) quality assurance assessments;

(2) Equal Employment Opportunity compliance reviews; and

(3) completion rates.

(A)(i) To evaluate completion rates, the Vermont Registered Apprenticeship Program shall review an apprenticeship program's completion rates in comparison to the national average for completion rates.

(ii) Based on review, the Vermont Registered Apprenticeship Program may provide technical assistance to apprenticeship programs with completion rates lower than the national average.

(B) Cancellation of apprenticeship agreements during the probationary period shall not have an adverse impact on a sponsor's completion rate.

§ 1119. APPRENTICES REGISTERED; AGREEMENT

(a) Apprentices shall be individually registered under a registered sponsor and in an apprenticeship program.

(b) Registration is complete when the sponsor files a signed, completed apprenticeship agreement with the Vermont Registered Apprenticeship Program and it is reviewed and approved by the Department.

(c) An apprenticeship agreement shall contain:

(1) the names and signatures of the apprentice, the program sponsor or employer, and of a parent or guardian of the apprentice if the apprentice is a minor;

(2) the date of birth and Social Security number of the apprentice;

(3) the contact information of the program sponsor and Vermont Registered Apprenticeship Program;

(4) a statement of the occupation in which the apprentice is to be trained and the beginning date and duration of apprenticeship;

(5) a statement showing:

(A) the number of hours to be spent by the apprentice in work on-the-job in a time-based program or a description of the skill sets to be attained by completion of a competency-based program, including the on-the-job learning component;

(B) the minimum number of hours to be spent by the apprentice and a description of the skill sets to be attained by completion of hybrid program; and

(C) the number of hours to be spent in related technical instruction in subjects related to the occupation, which is required to be not less than 144 hours per year;

(6) a statement setting forth a schedule of the work processes in the occupation or industry divisions in which the apprentice is to be trained and the approximate time to be spent at each process;

(7) a statement of the graduated scale of wages to be paid to the apprentice and whether or not the required related instruction is compensated;

(8) statements providing:

(A) for a specific period of probation during which the apprenticeship agreement may be cancelled by either party to the agreement upon written notice to the registration agency without adverse impact on the sponsor; and

(B) that, after the probationary period, the apprenticeship agreement may be:

(i) cancelled at the request of the apprentice; or

(ii) suspended or cancelled by the sponsor, for good cause, with due notice to the apprentice and a reasonable opportunity for corrective action and with written notice to the apprentice and to the Vermont Registered Apprenticeship Program of the final action taken;

(9) a reference incorporating as part of the agreement the standards of the apprenticeship program as they exist on the date of the agreement and as they may be amended during the period of the agreement;

(10) a statement that the apprentice will be accorded equal opportunity in all phases of apprenticeship employment and training, without discrimination because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, genetic information, age, qualified disability, incarceration history, or any other category protected by State or federal law;

(11) the name, physical address, telephone number, and e-mail address of the appropriate authority designated under the apprenticeship program to receive, process, and make disposition of controversies or differences arising out of the apprenticeship agreement when the controversies or differences cannot be adjusted locally or resolved in accordance with the established procedure or applicable collective bargaining provisions;

(12) to conform to the federal Equal Employment Opportunity Act of 1972, 42 United States Code, Chapter 21, subchapter VI and for affirmative action compliance in apprenticeship programs, the voluntary disclosure of the apprentice's race, sex, gender identity, sexual orientation, ethnicity, and disability status; and

(13) if the apprentice completed secondary school in Vermont and is between 18 and 25 years of age, the name of the secondary school from which the apprentice is a graduate, and if the apprentice attended a regional CTE center, the name of the center where the apprentice received technical education while in secondary school.

(d) An apprenticeship agreement shall not be modified unless it is in writing and signed by the parties.

#### § 1120. DEREGISTRATION OF A REGISTERED APPRENTICESHIP PROGRAM

(a) Deregistration. Deregistration of an apprenticeship program shall occur upon the voluntary action of the sponsor by submitting a request for cancellation of the registration or by the Vermont Registered Apprenticeship Program instituting formal deregistration proceedings in accordance with this section.



(b) Deregistration at the request of the sponsor. The Vermont Registered Apprenticeship Program may cancel the registration of an apprenticeship program by written acknowledgement of such request stating the following:

(1) that the registration is cancelled at the sponsor's request, and the effective date thereof;

(2) that, within 15 business days of the date of the acknowledgment, the sponsor will notify all apprentices of such cancellation and the effective date;

(3) that the cancellation automatically deprives the apprentice of individual registration;

(4) that the deregistration of the program removes the apprentice from coverage for federal purposes that require the U.S. Secretary of Labor's approval of an apprenticeship program; and

(5) that all apprentices are referred to the Vermont Registered Apprenticeship Program for information about potential transfer to other registered apprenticeship programs.

(c) Deregistration by the Vermont Registered Apprenticeship Program upon reasonable cause.

(1)(A) Deregistration proceedings may be undertaken when the apprenticeship program is not conducted, operated, or administered in accordance with the program's registered provisions or with the requirements of this chapter, including:

(i) failure to provide on-the-job learning;

(ii) failure to provide related technical instruction;

(iii) failure to pay the apprentice a progressively increasing schedule of wages consistent with the apprentices' skills acquired; or

(iv) persistent and significant failure of the program to operate or perform successfully.

(B) For purposes of this section, persistent and significant failure to perform successfully occurs when a program sponsor consistently fails to register at least one apprentice, shows a pattern of poor quality assessment results over a period of several years, demonstrates an ongoing pattern of very low completion rates over a period of several years, or shows no indication of improvement in the areas identified by the Vermont Registered Apprenticeship Program during a review process as requiring corrective action.

(C) Where it has been determined that the program is not being operated in accordance with the registered standards or with the requirements

of this chapter, the Vermont Registered Apprenticeship Program shall notify the program sponsor in writing.

(2) A notice of deregistration sent to the program sponsors contact person shall:

(A) be sent by registered or certified mail, with return receipt requested;

(B) state the shortcomings and the remedy required; and

(C) state that a determination of reasonable cause for deregistration will be made unless corrective action is affected within 30 business days.

(3) Upon request by the sponsor for good cause, the 30-business-day term may be extended for another 30 business days. During the period for corrective action, the Vermont Registered Apprenticeship Program shall assist the sponsor in every reasonable way to achieve conformity.

(4) If the required correction is not completed within the allotted time, the Vermont Registered Apprenticeship Program shall send a notice to the sponsor, by registered or certified mail, return receipt requested, stating the following:

(A) the notice is sent under this section;

(B) the deficiencies that were called to the sponsor's attention, the remedial measures requested, with the dates of such occasions and letters, and that the sponsor has failed or refused to take corrective action;

(C) based upon the stated deficiencies and failure to remedy them, a determination has been made that there is reasonable cause to deregister the program and the program may be deregistered unless, within 15 business days following the receipt of this notice, the sponsor requests a hearing with the Vermont Registered Apprenticeship Program; and

(D) if the sponsor does not request a hearing, the entire matter will be submitted to the Commissioner for a decision on the record with respect to registration.

(5) Every order of deregistration shall contain a provision that the sponsor, within 15 business days of the effective date of the order, notify all registered apprentices of the deregistration of the apprenticeship program, the effective date thereof, that such cancellation automatically deprives the apprentice of individual registration, that the deregistration removes the apprentice from coverage for Federal purposes that require the Secretary of Labor's approval of an apprenticeship program, and that all apprentices are

referred to the Vermont Registered Apprenticeship Program for information about potential transfer to other apprenticeship programs.

(d) Reinstatement. An apprenticeship program deregistered under this section may be reinstated upon presentation to the Vermont Registered Apprenticeship Program of adequate evidence that the apprenticeship program is operated in accordance with this chapter.

#### § 1121. LIMITATIONS

Nothing in this chapter or in an apprenticeship agreement may be construed to invalidate:

(1) the at-will nature of employment in Vermont;

(2) any apprenticeship provision in a collective bargaining agreement between employers and employees establishing more stringent apprenticeship standards; or

(3) any special provision for veterans, minorities, or women in the standards, apprentice qualifications, or operation of an apprenticeship program or in the apprenticeship agreement that is not otherwise prohibited by law, Executive Order, or authorized regulation or rule.

#### § 1122. COMPLAINTS

(a) Any controversy or difference arising under an apprenticeship agreement that cannot be resolved by the parties and that is not covered by a collective bargaining agreement may be submitted by an apprentice, or the apprentice's authorized representative, to the Vermont Registered Apprenticeship Program for review.

(b)(1) The complaint shall be in writing and signed by the complainant, or authorized representative, and shall be submitted within 60 business days following the event that gave rise to the complaint.

(2) The complaint shall set forth the specific matters complained of, together with relevant facts and circumstances.

(3) Copies of pertinent documents and correspondence shall accompany the complaint.

(c)(1) The Vermont Registered Apprenticeship Program shall render a determination within 90 business days after receipt of the complaint, based upon such investigation of the matters submitted as may be found necessary, and the record before it.

(2) During the 90-day period, the Vermont Registered Apprenticeship Program shall make reasonable efforts to affect a satisfactory resolution between the parties involved.

(3) If so resolved, the parties shall be notified that the case is closed.

(4) Where a determination is rendered, copies shall be sent to all interested parties.

(d)(1) This section is not applicable to any complaint concerning discrimination or other equal opportunity matters.

(2) All such complaints shall be submitted, processed, and resolved in accordance with applicable provisions in 29 C.F.R. Part 30 or applicable provisions of the Vermont Department of Labor State Plan for Equal Employment Opportunity in Apprenticeship.

(e) Nothing in this section precludes an apprentice from pursuing any other remedy authorized under federal or State law.

#### § 1123. PRE-APPRENTICESHIP PROGRAMS

(a) A pre-apprenticeship program is one that is designed to prepare individuals to enter and succeed in an apprenticeship program by providing instruction and skill development opportunities to attain competency needed to enter a related apprenticeship program.

(b) A pre-apprenticeship program may be registered by the Department after successfully demonstrating:

(1) the program is carried out by a sponsor that has a written agreement with at least one sponsor of an apprenticeship program;

(2) engages an active, advisory partnership with an industry leader or sector partnership to inform the training and education services necessary for a pre-apprenticeship program;

(3) there is sufficient demand in an apprenticeship program at the completion of a pre-apprenticeship program to support a transition from the pre-apprenticeship program to an apprenticeship program;

(4) the program follows a written plan for related instruction and work-based learning or training that was developed in consultation with the sponsor or sponsors of the apprenticeship program;

(5) the program includes mentoring, career exposure, career planning, and career awareness activities;

(6) the program includes paid work-based learning or training, to the extent practicable, or unpaid work-based learning or training in which an

employer or industry partnership and a related technical instruction provider collaborate to design the learning or training that will introduce participants to the skills, competencies, and materials used in one or more appreciable occupations;

(7) to the extent appropriate and practicable, the program meets related technical instruction requirements that include enabling an individual to attain a secondary school diploma or its recognized equivalent that enables a pre-apprentice to enter into an apprenticeship; and

(8) the program includes, when relevant, any agreement for advanced standing for the pre-apprentice upon entering a registered apprenticeship program.

#### § 1124. YOUTH APPRENTICESHIP PROGRAMS

(a) A youth apprenticeship program is one that prepares a youth apprentice for acceptance into an apprenticeship program and is designed for youth apprentices who start the program while still enrolled in high school.

(b) A youth apprenticeship program may be registered by the Department after submitting the following information:

(1) a written plan that articulates the work processes and how a youth apprentice will receive supervised work experience and on-the-job training or in an experiential setting;

(2) how time spent by a youth apprentice in each major work process will be spent or that specifies how competencies or proficiencies are aligned between their high school education and the youth apprenticeship program, and that states which graduation requirements will be met;

(3) a description of the mentoring that will be provided to the youth apprentice;

(4) a description or timeline explaining the periodic reviews and evaluations of the youth apprentices performance on the job and in related technical instruction;

(5) a process for maintaining appropriate progress records, including the reviews and evaluations;

(6) a description of related classroom-based instruction, which may be fulfilled through dual or concurrent enrollment in secondary or post-secondary courses;

(7) whether and how the program is aligned with high school diploma requirements and career clusters;

(8) whether the program meets the related technical instruction requirements for an apprenticeship program;

(9) if a program includes paid work, a progressively increasing, clearly defined schedule of wages to be paid to the youth apprentice as skills are mastered;

(10) how the program prepares the youth apprentice for placement in further education, employment, or an apprenticeship program; and

(11) the terms by which the program grants advanced standing or credit to individuals applying for the youth apprenticeship with demonstrated competency or acquired experience, training, or skills.

#### § 1125. CAREER PATHWAY ALIGNMENT WITH APPRENTICESHIP

##### PROGRAMS

(a) The Vermont Registered Apprenticeship Program shall coordinate with other State agencies and departments in the furtherance of Registered Apprenticeship as a training model that can advance equity, provide Vermonter's access to good paying careers, and make available untapped talent for Vermont employers.

(b)(1) The Vermont Registered Apprenticeship Program shall provide technical assistance and training to sponsors on an ongoing basis related to developing or modifying their minimum qualifications, equal opportunity requirements, promotion of diversity, apprentice selection procedures, and other requirements for advanced standing in their standards of apprenticeship.

(2) The Program shall provide technical assistance and training with assistance from Vocational Rehabilitation, including HireAbility, and the Division for Blind and Visual Impairments; the Agency of Education, including Adult Education and Literacy, Career Technical Education, and Special Education Transition Specialists; the Office of Veterans Affairs; and other workforce partners.

(c)(1) The Vermont Registered Apprenticeship Program shall develop policies and procedures for the registration of pre-apprenticeship and youth apprenticeship programs meeting the definition established in this chapter and that may be included in career pathway alignment efforts.

(2) Pre-apprenticeship programs shall be developed for individuals with disabilities, refugees, individuals for whom English is not the primary spoken language, adults with limited literacy and numeracy skills or who do not have a high school diploma or equivalent, and other groups who are excluded from access to high-wage careers and participation in the registered apprenticeship

system because they do not meet the minimum qualifications established in standards of apprenticeship.

(d) The Vermont Registered Apprenticeship program, working with the Agency of Education, shall develop program guidelines for youth apprenticeships that start while an apprentice is still in high school and that can be included as part of the Agency's career pathways efforts in addition to the Vermont Registered Apprenticeships Program's efforts to align talent pipelines between education providers and registered apprenticeship program sponsors.

## Sec. 2. REPORT

(a) The Commissioner of Labor shall work with the Vermont Office of Racial Equity to examine ways in which to better incorporate necessary language to promote equity and diversity in apprenticeship programs, including the expansion of underrepresented communities in apprenticeship programs.

(b) On or before January 15, 2024 the Commissioner of Labor 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 identifying the work completed with the Office of Racial Equity, including any recommended changes to the apprenticeship program and any suggestions for legislative action.

## Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

**Rep. Toof of St. Albans Town**, for the Committee on Education, reported in favor of its passage when amended as recommended by the Committee on Commerce and Economic Development

Pending the question, Shall the bill be amended as recommended by the Committee on Commerce and Economic Development?, **Reps. Jerome of Brandon and Marcotte of Coventry** moved to amend the report of the Committee on Commerce and Economic Development in Sec. 1, 21 V.S.A. chapter 13, as follows:

First: In section 1113, in subdivision (d)(1)(A), by striking out "promulgate" and inserting in lieu thereof "adopt"

Second: In section 1114, in subdivision (b)(5), before the period by inserting "pursuant to 32 V.S.A. § 1010"

Third: In section 1114, in subdivision (c)(4), by striking out “establishment” and inserting in lieu thereof “adoption”

Fourth: In section 1116, in subdivision (a)(1)(B), by striking out “1:2” and inserting in lieu thereof “2:1”

Fifth: In section 1120, in subdivision (c)(2)(C), by striking out “affected” and inserting in lieu thereof “effected”

Sixth: In section 1123, in subdivision (b)(2), before “engages” by inserting “the program”

Seventh: In section 1123, in subdivision (b)(6), by striking out “appreciable” and inserting in lieu thereof “apprenticeable”

Eighth: In section 1124, in subdivision (b)(1), following “or” by inserting “training”

Ninth: In section 1125, in subsection (a), by striking out the second instance of “Registered Apprenticeship” and inserting in lieu thereof “registered apprenticeship” and by striking out “Vermonters’s” and inserting in lieu thereof “Vermonters with”

Tenth: By redesignating subdivision 1125(c)(1) as subsection (c), by redesignating subdivision 1125(c)(2) as a new subdivision 1125(b)(3) following subdivision 1125(b)(2), and by amending the redesignated subdivision 1125(b)(3) by striking out “Pre-apprenticeship programs shall be developed” and inserting in lieu thereof “The Program shall provide necessary technical assistance, training, and support to sponsors to promote the adoption of pre-apprenticeship programs”

Eleventh: In Sec 2, report, in subsection (b), following “report” by inserting “to the House and Senate Committees on Education and”

Which was agreed to. Thereafter, the report of the Committee on Commerce and Economic Development, as amended, was agreed to and third reading ordered.

On motion of **Rep. Toof of St. Albans Town**, the rules were suspended and the bill placed in all remaining stages of passage. Thereupon, the bill was read the third time and passed.

On motion of **Rep. Toof of St. Albans Town**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.



**Pending Entry on the Notice Calendar  
Bills Referred to Committee on Appropriations**

Pending entry on the Notice Calendar, and pursuant to House Rule 35(a), carrying an appropriation, the following bills were referred to the Committee on Appropriations:

**S. 33**

Senate bill, entitled

An act relating to miscellaneous judiciary procedures

**S. 89**

Senate bill, entitled

An act relating to establishing a forensic facility

**Pending Entry on the Notice Calendar  
Bill Referred to Committee on Ways and Means**

**S. 80**

Senate bill, entitled

An act relating to miscellaneous environmental conservation subjects

Pending entry on the Notice Calendar, and pursuant to House Rule 35(a), affecting the revenue of the State, was referred to the Committee on Ways and Means.

**Committee of Conference Appointed**

**S. 14**

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

An act relating to a report on criminal justice-related investments and trends

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

**Rep. Dolan of Essex Junction**

**Rep. LaLonde of South Burlington**

**Rep. Burditt of West Rutland**

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**Committee Relieved of Consideration and Bill Recommitted****S. 103**

**Rep. Conlon of Cornwall** moved that the Committee on Education be relieved of Senate bill, entitled

An act relating to amending the prohibitions against discrimination

And that the bill be recommitted to the Committee on General and Housing, which was agreed to.

**Message from the Senate No. 52**

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

Madam Speaker:

I am directed to inform the House that:

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

**H. 102.** An act relating to the Art in State Buildings Program.

**H. 161.** An act relating to issuance of burning permits.

**H. 414.** An act relating to establishing an unused drug repository for Vermont.

And has passed the same in concurrence.

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

**H. 206.** An act relating to miscellaneous changes affecting the duties of the Department of Vermont Health Access.

**H. 305.** An act relating to professions and occupations regulated by the Office of Professional Regulation.

**H. 493.** An act relating to capital construction and State bonding.

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

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

**H. 222.** An act relating to reducing overdoses.

And has concurred therein.

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

**H. 53.** An act relating to driver's license suspensions.

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

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

**S. 14.** An act relating to a report on criminal justice-related investments and trends.

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

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

Senator Hashim  
Senator Vyhovsky  
Senator Norris

The Senate has on its part adopted Senate concurrent resolution of the following title:

**S.C.R. 5.** Senate concurrent resolution honoring Castleton Town Mechanic Robert B. Ward for his outstanding 24-year municipal public service career.

**S.C.R. 6.** Senate concurrent resolution honoring Vanessa Davison for her extraordinary dedication as a staff member of the General Assembly.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

**H.C.R. 108.** House concurrent resolution congratulating the Milton Theater Company of Milton High School on an award-winning 2022–2023 season.

**H.C.R. 109.** House concurrent resolution congratulating the Vermont-associated 2023 International Ski and Snowboard Federation World Championship medalists.

**H.C.R. 110.** House concurrent resolution congratulating the Bennington Rescue Squad on its 60th anniversary.

**H.C.R. 111.** House concurrent resolution congratulating the Bennington Rural Fire Department on its 70th anniversary.

**H.C.R. 112.** House concurrent resolution in memory of former Brookfield Fire Captain and Vermont Cartoonist Laureate Edward Benjamin Koren.

**H.C.R. 113.** House concurrent resolution congratulating 2023 Peacemaker Award winners Liz Brown and Mia Fowler.

**H.C.R. 114.** House concurrent resolution honoring Karen Horn of Moretown for her exemplary leadership representing and strengthening local government in Vermont.

### **Adjournment**

At three o'clock and forty-seven minutes in the afternoon, on motion of **Rep. Toof of St. Albans Town**, the House adjourned until Saturday, May 6, 2023, at nine o'clock in the forenoon, pursuant to the provisions of J.R.S. 26.

### **Concurrent Resolutions Adopted**

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Rule 16b of the Joint Rules of the Senate and House of Representatives, are hereby adopted on the part of the House:

#### **H.C.R. 108**

House concurrent resolution congratulating the Milton Theater Company of Milton High School on an award-winning 2022–2023 season

#### **H.C.R. 109**

House concurrent resolution congratulating the Vermont-associated 2023 International Ski and Snowboard Federation World Championship medalists

#### **H.C.R. 110**

House concurrent resolution congratulating the Bennington Rescue Squad on its 60th anniversary

#### **H.C.R. 111**

House concurrent resolution congratulating the Bennington Rural Fire Department on its 70th anniversary

#### **H.C.R. 112**

House concurrent resolution in memory of former Brookfield Fire Captain and Vermont Cartoonist Laureate Edward Benjamin Koren

#### **H.C.R. 113**

House concurrent resolution congratulating 2023 Peacemaker Award winners Liz Brown and Mia Fowler

**H.C.R. 114**

House concurrent resolution honoring Karen Horn of Moretown for her exemplary leadership representing and strengthening local government in Vermont

**S.C.R. 5**

Senate concurrent resolution honoring Castleton Town Mechanic Robert B. Ward for his outstanding 24-year municipal public service career

[The full text of the concurrent resolutions appeared in the House and Senate Calendar Addendums on the preceding legislative day and will appear in the Public Acts and Resolves of the 2023 Biennial Session.]