

# House Calendar

Thursday, April 27, 2023

114th DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 P.M.

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**ORDERS OF THE DAY**

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**ACTION CALENDAR**

**Action Postponed Until April 27, 2023**

**Senate Proposal of Amendment**

**H. 89**

An act relating to civil and criminal procedures concerning legally protected health care activity

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

First: In Sec. 1, 1 V.S.A. § 150, by striking out subsections (a)–(c) in their entirety and inserting in lieu thereof new subsections (a)–(c) to read as follows:

(a) “Gender-affirming health care services” means all supplies, care, and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative, or supportive nature, including medication, relating to the treatment of gender dysphoria and gender incongruence. “Gender-affirming health care services” does not include conversion therapy as defined by 18 V.S.A. § 8351.

(b)(1) “Legally protected health care activity” means:

(A) the exercise and enjoyment, or attempted exercise and enjoyment, by any person of rights to reproductive health care services or gender-affirming health care services secured by this State;

(B) any act or omission undertaken to aid or encourage, or attempt to aid or encourage, any person in the exercise and enjoyment, or attempted exercise and enjoyment, of rights to reproductive health care services or gender-affirming health care services secured by this State, provided that the provision of such a health care service by a person duly licensed under the laws of this State and physically present in this State shall be legally protected if the service is permitted under the laws of this State, regardless of the patient’s location; or

(C) the provision, issuance, or use of, or enrollment in, insurance or other health coverage for reproductive health care services or gender-affirming health care services that are legal in this State, or any act to aid or encourage, or attempt to aid or encourage, any person in the provision, issuance, or use of, or enrollment in, insurance or other health coverage for those services, regardless of the location of the insured or individual seeking insurance or

health coverage, if the insurance or health coverage is permitted under the laws of this State.

(2) Except as provided in subdivision (3) of this subsection, the protections applicable to “legally protected health care activity” shall not apply to a lawsuit; judgment; or civil, criminal, or administrative action that is based on conduct for which an action would exist under the laws of this State if the course of conduct that forms the basis for liability had occurred entirely in this State.

(3) Notwithstanding subdivision (2) of this subsection, the provision of a health care service by a person duly licensed under the laws of this State and physically present in this State shall be legally protected if the service is permitted under the laws of this State, regardless of the patient’s location or whether the health care provider is licensed in the state where the patient is located at the time the service is rendered.

(c)(1) “Reproductive health care services” means all supplies, care, and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative, or supportive nature, including medication, relating to pregnancy, contraception, assisted reproduction, pregnancy loss management, or the termination of a pregnancy.

(2) “Reproductive health care services” includes medication that was approved by the U.S. Food and Drug Administration (FDA) for termination of a pregnancy as of January 1, 2023, regardless of the medication’s current FDA approval status:

(A) when such medication is procured, ordered, stored, distributed, prescribed, dispensed, or administered, or a combination thereof, by a person duly licensed under the laws of this State, as long as the licensee’s actions conform to the essential standards of acceptable and prevailing practice for the licensee’s profession; or

(B) when such medication is used by an individual.

Second: By striking out Sec. 9, effective dates, and its reader assistance heading in their entirety and inserting in lieu thereof the following:

\* \* \* Effective Date \* \* \*

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.

**New Business**  
**Favorable with Amendment**

**S. 14**

An act relating to a report on criminal justice-related investments and trends

**Rep. Dolan of Essex Junction**, for the Committee on Judiciary, recommends 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. 28 V.S.A. § 125 is amended to read:

§ 125. ~~JUSTICE REINVESTMENT II INITIATIVES~~ CRIMINAL JUSTICE INVESTMENTS AND TRENDS; REPORT

(a) Intent. It is the intent of the General Assembly that the report on Vermont's criminal justice investments and trends required under this section assist in the systemic assessment of the State's Justice Reinvestment and justice reform efforts and initiatives to inform future legislative policy and fiscal decisions.

(b) Definitions. As used in this section:

(1) "Arrest" means when a person is seized by law enforcement, charged with the commission of an offense, and referred for prosecution.

(2) "Clearance" means the process by which a law enforcement agency closes an offense by arrest or exceptional means in accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program.

(3) "Desistance" means the process by which criminality, or the individual risk for antisocial conduct, declines over the life-course of the individual, generally after adolescence.

(4) "Exceptional means" means the death of the offender, the victim's refusal to cooperate with the prosecution after the offender is identified, the denial of extradition because the offender committed a crime in another jurisdiction and is being prosecuted for that offense, or other circumstance in accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program.

(5) "Recidivism" has the same meaning as in section 4 of this title.

(c) Report.

(1) ~~On or before January~~ November 15 each year, ~~2024~~ and every three years thereafter, the ~~Commissioner of Corrections~~ Vermont Statistical Analysis

Center (SAC), in consultation with the Commissioners of Corrections, of Health, of Mental Health, of Public Safety, of Labor, and for Children and Families and; the Attorney General; the Defender General; the Chief Superior Judge of the Superior Court; the Division of Racial Justice Statistics; the Executive Director of the Department of State's Attorneys and Sheriffs; and the Parole Board Director, shall submit a report to the House Committees on Appropriations, on Judiciary, and on Corrections and Institutions and, the Senate Committees on Appropriations and on Judiciary detailing the expenditures on Justice Reinvestment II and the following related initiatives:

(1) funding for domestic violence intervention programming in the Department of Corrections;

(2) funding for offender transitional housing capacity with the Department of Corrections and other departments;

(3) funding for the Department of Correction's data collection Offender Management System;

(4) funding for community-based mental health and substance use services for individuals under Department of Corrections supervision;

(5) funding provided for diversion and restorative justice programs including community justice centers, court diversion, and balanced and restorative justice (BARJ); and

(6) funding and a description of any other General Fund expenditures for Justice Reinvestment II initiatives, the Joint Legislative Justice Oversight Committee, and the Executive Director of the Office of Racial Equity examining the trends associated with Vermont's criminal justice-related investments and expenditures since the last report was submitted pursuant to this section.

(2) The report required pursuant to subdivision (1) of this subsection shall include data showing:

(A) recidivism rates;

(B) clearance rates;

(C) evidence of desistance, including successful completion of community supervision;

(D) returns to incarceration from community supervision with the following relevant data points:

(i) community supervision type, classified by probation, parole, and furlough;

(ii) an indication if a return was for a violation or a new charge, including the crime type;

(iii) an indication if a violation was classified as “significant/not violent” or “significant and violent” for any applicable statuses; and

(iv) all available demographic information;

(E) bail rates, including detainees held without bail, detainees held with bail and the associated monetary amounts, and bailees who post bail and are released;

(F) pretrial detainees held in Vermont correctional facilities, including the crime type and jurisdiction for which they are held;

(G) the funding for, and utilization of, substance use disorder treatment, mental health, educational, and vocational initiatives for incarcerated individuals; and

(H) the funding for, and utilization by, individuals served through Justice Reinvestment II and related initiatives, including:

(i) domestic violence intervention programming in the Department of Corrections, including the results from the evaluation framework between the Vermont Network Against Domestic and Sexual Violence and the University of Nebraska;

(ii) offender transitional housing capacity with the Department of Corrections and other departments;

(iii) advancements to the Department of Corrections’ data collection Offender Management System;

(iv) agencies, departments, municipalities, programs, and services employing restorative justice principles, including community justice centers;

(v) other General Fund expenditures for Justice Reinvestment II initiatives;

(vi) the Department of Corrections’ out-of-state beds contracted by the Department and the average cost per bed in fiscal year 2019 and for each fiscal year thereafter; and

(vii) the Department of Corrections’ in-state beds, separated by gender, including specialty units and units closed or unavailable in fiscal year 2019 and for each fiscal year thereafter.

~~(b) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.~~

(d) Informational availability.

(1) The information required pursuant to subsection (c) of this section shall include race, gender, age, and other demographic variables whenever possible.

(2) The report required pursuant to subsection (c) of this section shall explain any obstacles or impediments to the availability and collectability of data required pursuant to this section, including whether collecting certain data would put particular populations at risk, along with the substance use and mental health needs and educational and vocational status of justice-involved individuals.

(e) Data sharing. Notwithstanding any provision of law to the contrary, all State and local agencies and departments that possess the data necessary to compile the report required pursuant to this section shall, upon request, provide SAC with any data that it determines is relevant to the report. The obligation to disclose shall supersede any other legal obligation with respect to the data required pursuant to this section, and a department, agency, or other entity shall not decline to disclose data required based on any other purported legal obligation.

(f) Confidentiality. Any data or records transmitted to or obtained by SAC are exempt from public inspection and copying under the Public Records Act and shall be confidential to the extent required by law unless and until the data or records are included in the report required by this section. A State or local agency or department that transmits data or records to SAC shall be the sole records custodian for purposes of responding to requests for the data or records. SAC may direct any request for these data or records to the transmitting agency or department for response.

Sec. 2. 28 V.S.A. § 126 is added to read:

§ 126. COORDINATED JUSTICE REFORM ADVISORY COUNCIL

(a) Creation. There is created the Coordinated Justice Reform Advisory Council to establish a unified and collaborative State approach to support State and local community-based programs and services that are consistent with Vermont's restorative justice policy pursuant to section 2a of this title. The Council shall consult with State and local partners to use a data-driven approach that improves public safety, reduces correctional and criminal justice spending, and reinvests savings or redirects funding in strategies that foster desistance or decrease crime, delinquencies, and recidivism.

(b) Membership. The Coordinated Justice Reform Advisory Council shall be composed of the following members:



- (1) the Attorney General or designee;
- (2) the Chief Superior Judge of the Vermont Superior Court or designee;
- (3) the Commissioner of Corrections or designee;
- (4) the Commissioner for Children and Families or designee;
- (5) the Executive Director of the Vermont Center for Crime Victim Services or designee;
- (6) the Executive Director of the Vermont Statistical Analysis Center or designee;
- (7) one current member of the House of Representatives selected from the Committee on Appropriations, the Committee on Corrections and Institutions, or the Committee on Judiciary, appointed by the Speaker of the House; and
- (8) one current member of the Senate selected from the Committee on Appropriations or the Committee on Judiciary, appointed by the Committee on Committees.

(c) Powers and duties. The Coordinated Justice Reform Advisory Council shall:

(1) Review and provide data-driven recommendations for the priorities and appropriations necessary to support a unified and collaborative State approach in accordance with subsection (a) of this section.

(2) Review all relevant government appropriations, reauthorizations, and allocations made during the most recent fiscal year.

(3) Consult with Department of Mental Health; the Department of State's Attorneys and Sheriffs; the Office of the Defender General; the Parole Board; the Office of Racial Equity; the Office of the Child, Youth, and Family Advocate; the Vermont Network Against Domestic and Sexual Violence; and community justice entities that receive State funding for programs and services employing restorative justice principles on the potential uses and priorities of funding in accordance with subsection (a) of this section.

(4) Consistent with subsection (a) of this section, consider opportunities and make recommendations to establish a sustainable planning and funding structure to administer State and local community-based programs and services and modern data collection systems.

(5) On or before September 1, 2023 and annually thereafter, recommend to the Commissioner of Corrections the appropriate allocation of not more than \$900,000.00 from the Justice Reinvestment II line item of the Department of

Corrections' budget for the upcoming fiscal year to support community-based programs and services, related data collection and analysis capacity, and other initiatives in accordance with subsection (a) of this section.

(d) Assistance. The Coordinated Justice Reform Advisory Council shall have the administrative, technical, and legal assistance of the Office of the Attorney General, the Department of Corrections, and the Department for Children and Families for those issues and services within the jurisdiction of the respective office or department.

(e) Reports. On or before November 15, 2023 and annually thereafter, the Coordinated Justice Reform Advisory Council shall submit recommendations pursuant to subdivisions (c)(4) and (c)(5) of this section to the Joint Legislative Justice Oversight Committee; the Senate Committees on Appropriations and on Judiciary; and the House Committees on Appropriations, on Corrections and Institutions, and on Judiciary. Any recommendations submitted pursuant to subdivision (c)(4) shall be in the form of proposed legislation.

(f) Meetings; officers; committees; rules; compensation; term.

(1) The Chief Superior Judge of the Vermont Superior Court or designee shall call the first meeting of the Coordinated Justice Reform Advisory Council on or before July 15, 2023.

(2) The Council shall meet not more than six times per year.

(3) The Chief Superior Judge of the Vermont Superior Court or designee shall serve as the Chair of the Council.

(4) The Council may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules or bylaws as necessary and appropriate to perform its work.

(5) Members who are appointed to the Council shall be appointed for terms of three years, except that the Commissioners of Corrections and for Children and Families and members appointed by the Speaker of the House of Representative and the Senate Committee on Committees shall be appointed for a term of two years. Initial appointments shall be made such that the Commissioners of Corrections and for Children and Families and the members appointed by the Speaker of the House of Representative and the Senate Committee on Committees shall be appointed for a term of one year. Members shall hold office for the term of their appointments until their successors have been appointed. Vacancies on the Council shall be filled for the remaining period of the term in the same manner as initial appointments. Members are eligible for reappointment.

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

(7) Members of the Council who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than six meetings per year.

(8) Council meetings shall be subject to the Open Meeting Law.

Sec. 3. 28 V.S.A. § 102(c) is amended to read:

(c) The Commissioner is charged with the following responsibilities:

\* \* \*

(23) To include the Coordinated Justice Reform Advisory Council's appropriation recommendations made pursuant to subdivision 126(c)(5) of this title in the Department's annual proposed budget for the purposes of developing the State budget required to be submitted to the General Assembly in accordance with 32 V.S.A. § 306.

Sec. 4. REPEALS

(a) 28 V.S.A. 102(c)(23) (Commissioner of Corrections' responsibility to incorporate Coordinated Justice Reform Advisory Council's recommendations into the Department's budget) is repealed on July 1, 2028.

(b) 28 V.S.A. § 125 (criminal justice investments and trends; report) is repealed on July 1, 2028.

(c) 28 V.S.A. § 126 (Coordinated Justice Reform Advisory Council) is repealed on July 1, 2028.

Sec. 5. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except that Secs. 1 (criminal justice investments and trends; report) and 4(b) (prospective repeal of 28 V.S.A. § 125) shall take effect on passage.

**(Committee vote: 11-0-0)**

**Rep. Squirrell of Underhill**, for the Committee on Appropriations, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Judiciary.

**(Committee Vote: 11-0-1)**

## S. 91

An act relating to competency to stand trial and insanity as a defense

**Rep. Arsenault of Williston**, for the Committee on Judiciary, recommends 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. 13 V.S.A. § 4801 is amended to read:

### § 4801. TEST OF INSANITY IN CRIMINAL CASES

(a) The test when used as a defense in criminal cases shall be as follows:

(1) A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect ~~he or she~~ the person lacks adequate capacity either to appreciate the criminality of ~~his or her~~ the person's conduct or to conform ~~his or her~~ the person's conduct to the requirements of law.

(2) The terms “mental disease or defect” do not include an abnormality manifested only by repeated criminal or otherwise ~~anti-social~~ antisocial conduct. The terms “mental disease or defect” ~~shall include~~ includes congenital and traumatic mental conditions as well as disease.

(b) The defendant shall have the burden of proof in establishing insanity as an affirmative defense by a preponderance of the evidence. The defendant shall be responsible for hiring the defendant's own forensic evaluator for the purpose of establishing insanity, provided that the Office of the Defender General shall pay for the evaluation of an indigent defendant.

Sec. 2. 13 V.S.A. § 4814 is amended to read:

### § 4814. ORDER FOR EXAMINATION OF COMPETENCY

(a) Any court before which a criminal prosecution is pending may order the Department of Mental Health to have the defendant examined by a psychiatrist at any time before, during, or after trial, and before final judgment in any of the following cases:

(1) ~~when the defendant enters a plea of not guilty, or when such a plea is entered in the defendant's behalf, and then gives notice of the defendant's intention to rely upon the defense of insanity at the time of the alleged crime, or to introduce expert testimony relating to a mental disease, defect, or other condition bearing upon the issue of whether he or she had the mental state required for the offense charged; [Repealed.]~~

(2) when the defendant, the State, or an attorney, guardian, or other person acting on behalf of the defendant, raises before such court the issue of

whether the defendant is mentally competent to stand trial for the alleged offense; or

~~(3) when the court believes that there is doubt as to the defendant's sanity at the time of the alleged offense; or [Repealed.]~~

(4) when the court believes that there is doubt as to the defendant's mental competency to be tried for the alleged offense.

(b) ~~Such~~ The order may be issued by the court on its own motion, or on motion of the State, the defendant, or an attorney, guardian, or other person acting on behalf of the defendant.

(c) An order issued pursuant to this section or Rule 16.1 of the Vermont Rules of Criminal Procedure shall order the release of all relevant records to the examiner, including all juvenile and adult court, mental health, and other health records.

(d) Notwithstanding any other provision of law, an examination ordered pursuant to subsection (a) of this section may be conducted by a doctoral-level psychologist trained in forensic psychology and licensed under 26 V.S.A. chapter 55. This subsection shall be repealed on July 1, 2024.

(e) After an initial competency determination, a court may order subsequent evaluations of a defendant to be performed by the Department of Mental Health only upon a showing of changed circumstances. In determining whether to order subsequent evaluations, the court shall consider a treating physician's clinical evidence, if any, indicating that the defendant's competency may have changed. This section shall not limit the parties' abilities to secure their own evaluations voluntarily or under Vermont Rule of Criminal Procedure 16.1.

(f) The court may issue a warrant for the arrest of a defendant who, after receiving notice of an evaluation ordered under this section, fails to appear for the evaluation.

Sec. 3. 13 V.S.A. § 4815 is amended to read:

§ 4815. PLACE OF EXAMINATION; TEMPORARY COMMITMENT

\* \* \*

(c) A motion for examination shall be made as soon as practicable after a party or the court has good faith reason to believe that there are grounds for an examination. A motion for an examination shall detail the facts indicating incompetency on which the motion is based and shall certify that the motion is made after the moving party has met with or personally observed the

defendant. An attorney making such a motion shall be subject to the potential sanctions of Rule 11 of the Vermont Rules of Civil Procedure.

(d) Upon the making of a motion for examination, if the court finds sufficient facts to order an examination, the court shall order a mental health screening to be completed by a designated mental health professional while the defendant is still at the court.

(e) If the screening cannot be commenced and completed at the courthouse within two hours from the time of the defendant's appearance before the court, the court may forgo consideration of the screener's recommendations.

(f) The court and parties shall review the recommendation of the designated mental health professional and consider the facts and circumstances surrounding the charge and observations of the defendant in court. If the court finds sufficient facts to order an examination, it may be ordered to be completed in the least restrictive environment deemed sufficient to complete the examination, consistent with subsection (a) of this section.

\* \* \*

(h) ~~Except upon good cause shown, defendants~~ Defendants charged with misdemeanor offenses who are not in the custody of the Commissioner of Corrections shall be examined on an outpatient basis for mental competency unless the court makes findings on the record that there is good cause for an inpatient evaluation. Examinations occurring in the community shall be conducted at a location within 60 miles of the defendant's residence or at another location agreed to by the defendant.

\* \* \*

Sec. 4. 13 V.S.A. § 4816 is amended to read:

§ 4816. SCOPE OF EXAMINATION; REPORT; EVIDENCE

(a) Examinations provided for in section 4815 of this title shall have reference to ~~one or both of the following~~:

(1) mental competency of the person examined to stand trial for the alleged offense.

(2) ~~sanity of the person examined at the time of the alleged offense.~~

(b) A competency evaluation for an individual thought to have a developmental disability shall include a current evaluation by a psychologist skilled in assessing individuals with developmental disabilities.

(c)(1) As soon as practicable after the examination has been completed, the examining psychiatrist or, if applicable under subsection (b) of this section, ~~the~~

psychiatrist and the psychologist shall prepare a report containing findings in regard to the applicable provisions of subsection (a) of this section. The report shall be transmitted to the court issuing the order for examination, and copies of the report sent to the State's Attorney, to the respondent, to the respondent's attorney if the respondent is represented by counsel, to the Commissioner of Mental Health, and, if applicable, to the Department of Disabilities, Aging, and Independent Living.

~~(2) If the court orders examination of both the person's competency to stand trial and the person's sanity at the time of the alleged offense, those opinions shall be presented in separate reports and addressed separately by the court. In such cases, the examination of the person's sanity shall only be undertaken if the psychiatrist or, if applicable under subsection (b) of this section, the psychiatrist and the psychologist are able to form the opinion that the person is competent to stand trial, unless the defendant requests that the examinations occur concurrently. If the evaluation of the defendant's sanity at the time of the alleged offense does not occur until the defendant is deemed competent to stand trial, the psychiatrist or, if applicable under subsection (b) of this section, the psychiatrist and the psychologist shall make a reasonable effort to collect and preserve any evidence necessary to form an opinion as to sanity if the person regains competence.~~

(d) No statement made in the course of the examination by the person examined, whether or not he or she the person has consented to the examination, shall be admitted as evidence in any criminal proceeding for the purpose of proving the commission of a criminal offense or for the purpose of impeaching testimony of the person examined.

(e) The relevant portion of a psychiatrist's report shall be admitted into evidence as an exhibit on the issue of the person's mental competency to stand trial and the opinion shall be conclusive on the issue if agreed to by the parties and if found by the court to be relevant and probative on the issue.

(f) Introduction of a report under subsection (d) of this section shall not preclude either party or the court from calling the psychiatrist who wrote the report as a witness or from calling witnesses or introducing other relevant evidence. Any witness called by either party on the issue of the defendant's competency shall be at the State's expense, or, if called by the court, at the court's expense.

Sec. 5. 13 V.S.A. § 4817 is amended to read:

§ 4817. COMPETENCY TO STAND TRIAL; DETERMINATION

(a) A defendant shall be presumed to be competent and shall have the burden of proving incompetency by a preponderance of the evidence.

(b) A person shall not be tried for a criminal offense if ~~he or she~~ the person is found incompetent to stand trial by a preponderance of the evidence.

~~(b)(c)~~(c) If a person indicted, complained, or informed against for an alleged criminal offense, an attorney or guardian acting in ~~his or her~~ the person's behalf, or the State, at any time before final judgment, raises before the court before which such person is tried or is to be tried, the issue of whether such person is incompetent to stand trial, or if the court has reason to believe that such person may not be competent to stand trial, a hearing shall be held before such court at which evidence shall be received and a finding made regarding ~~his or her~~ the person's competency to stand trial. However, in cases where the court has reason to believe that such person may be incompetent to stand trial due to a mental disease or mental defect, such hearing shall not be held until an examination has been made and a report submitted by an examining psychiatrist in accordance with sections 4814-4816 of this title.

~~(e)(d)~~(d) A person who has been found incompetent to stand trial for an alleged offense may be tried for that offense if, upon subsequent hearing, such person is found by the court having jurisdiction of ~~his or her~~ the person's trial for the offense to have become competent to stand trial.

Sec. 6. 13 V.S.A. § 4820 is amended to read:

§ 4820. HEARING REGARDING COMMITMENT

(a) When a person charged on information, complaint, or indictment with a criminal offense:

(1) ~~Is reported by the examining psychiatrist following examination pursuant to sections 4814-4816 of this title to have been insane at the time of the alleged offense. [Repealed.]~~

(2) ~~Is~~ is found upon hearing pursuant to section 4817 of this title to be incompetent to stand trial due to a mental disease or mental defect;

(3) ~~Is~~ is not indicted upon hearing by grand jury by reason of insanity at the time of the alleged offense, duly certified to the court; ~~or~~

(4) ~~Upon~~ upon trial by court or jury is acquitted by reason of insanity at the time of the alleged offense; the court before which such person is tried or is to be tried for such offense, shall hold a hearing for the purpose of determining whether such person should be committed to the custody of the Commissioner of Mental Health. Such person may be confined in jail or some other suitable



place by order of the court pending hearing for a period not exceeding ~~15~~ 21 days.

(b) When a person is found to be incompetent to stand trial, has not been indicted by reason of insanity for the alleged offense, or has been acquitted by reason of insanity at the time of the alleged offense, the person shall be entitled to have counsel appointed from Vermont Legal Aid to represent the person. The Department of Mental Health and, if applicable, the Department of Disabilities, Aging, and Independent Living shall be entitled to appear and call witnesses at the proceeding.

(c) Notwithstanding any other provision of law, a commitment order issued pursuant to this chapter shall not modify or vacate orders concerning conditions of release or bail issued pursuant to chapter 229 of this title, and the commitment order shall remain in place unless expressly modified, provided that inpatient treatment shall be permitted if a person who is held without bail is found to be in need of inpatient treatment under this chapter.

#### Sec. 7. COMPETENCY RESTORATION PROGRAM PLAN

(a)(1) On or before November 15, 2023, the Department of Mental Health and the Department of Disabilities, Aging, and Independent Living shall report to the Governor, the Senate Committees on Judiciary and on Health and Welfare, and the House Committees on Judiciary, on Health Care, and on Human Services on whether a plan for a competency restoration program should be adopted in Vermont.

(2) For purposes of the report required by the section:

(A) the Department of Mental Health and the Department of Disabilities, Aging, and Independent Living shall consult with:

(i) the Chief Superior Judge or designee;

(ii) the Commissioner of Corrections or designee;

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

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

(v) the Defender General or designee; and

(B) consideration shall be given to providing notification and information to victims of record.

(b) If a competency restoration plan is recommended, the report shall include recommendations for best practices, any changes to law necessary to

establish the program, estimated costs, and a proposal for implementing the program.

## Sec. 8. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE

### REVIEW; COMPETENCY EXAMINATIONS

(a) The Joint Legislative Justice Oversight Committee shall review whether Vermont law should permit competency examinations of defendants under 13 V.S.A. § 4814 to be conducted, in addition to psychiatrists and doctoral-level psychologists trained in forensic psychology, by other doctoral-level mental health providers, psychiatric nurse practitioners, or any other professionals. The review shall include consideration of laws on the issue in other states and whether any changes to 13 V.S.A. § 4814 or any other Vermont laws are necessary to permit referral of the evaluation to a psychiatrist when appropriate. The Committee's recommendation under subsection (c) of this section shall reflect its determination of which professionals, if any, should be permitted to conduct the competency examinations.

(b) The Joint Legislative Justice Oversight Committee shall conduct the review of competency evaluation procedures required by subsection (a) of this section at not more than four of its 2023 meetings. Two members of the Senate Committee on Health and Welfare appointed by the Chair of that Committee and two members of the House Committee on Health Care appointed by the Chair of that Committee shall be permitted to attend and participate in the meetings. Members of the Committees on Health and Welfare and on Health Care who attend the meetings as authorized by this section shall be permitted to participate in the Justice Oversight Committee's development of the recommendations required by subsection (c) of this section.

(c) On or before November 15, 2023, the Committee shall recommend any changes it deems advisable to 13 V.S.A. § 4814(d) (permitting competency examinations by doctoral-level psychologists trained in forensic psychology) to the Senate and House Committees on Judiciary, the Senate Committee on Health and Welfare, and the House Committee on Health Care.

## Sec. 9. REPORT ON CUMULATIVE COMPETENCY EVALUATIONS

On or before December 15, 2023, the Department of Mental Health, in consultation with the Department of Disabilities, Aging, and Independent Living shall report on cumulative competency evaluations to the House Committees on Judiciary and Health Care and the Senate Committees on Judiciary and Health and Welfare. The report shall include recommendations on how to address competency evaluations of persons who have already been

determined incompetent to stand trial in another matter, including whether previous evaluations may be used or relied upon for subsequent evaluations.

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

**(Committee vote: 10-0-1)**

**Senate Proposal of Amendment**

**H. 222**

An act relating to reducing overdoses

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

First: In Sec. 2, regional stakeholder meetings; public needle and syringe disposal programs, in subsection (a), in the first sentence, by striking out “Health’s Accountable Communities for”

Second: By striking out Sec. 3a, 33 V.S.A. § 2004, in its entirety and inserting in lieu thereof the following:

Sec. 3a. [Deleted.]

Third: In Sec. 6b, 18 V.S.A. § 4752, in subsection (e), after “Department of Vermont Health Access”, by inserting the phrase or the Department’s pharmacy benefits manager

Fourth: By striking out Sec. 8b, rulemaking; prior authorization; buprenorphine in its entirety and inserting in lieu thereof a new Sec. 8b to read as follows:

Sec. 8b. RULEMAKING; PRIOR AUTHORIZATION; BUPRENORPHINE

The Department of Vermont Health Access shall amend its rules pursuant to 3 V.S.A. chapter 25 to enable health care providers in office-based opioid-treatment programs to prescribe 24 milligrams or less of the preferred medication for buprenorphine without prior authorization in accordance with 33 V.S.A. § 19011.

Fifth: In Sec. 9, 24 V.S.A. § 4412, subdivision (1)(G), in the first sentence, by striking out the word “and” before the phrase “a recovery residence” and inserting in lieu thereof or

Sixth: In Sec. 9, 24 V.S.A. § 4412, in subdivision (1)(G)(i), by striking out the word “tenants” and inserting in lieu thereof the phrase persons in recovery

Seventh: By inserting a new reader assistance heading and Secs. 11 and 12 after Sec. 10 to read as follows:

\* \* \* Drug Checking for Contamination Detection \* \* \*

Sec. 11. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

As used in this chapter, ~~unless the context otherwise requires:~~

\* \* \*

(45) “Drug-checking” means the testing of a substance to determine its chemical composition or assist in determining whether the substance contains contaminants, toxic substances, or hazardous compounds.

Sec. 12. 18 V.S.A. § 4240a is added to read:

§ 4240a. OVERDOSE PREVENTION; DRUG-CHECKING FOR CONTAMINANT DETECTION

(a) Notwithstanding any other provision of law, it shall not be a violation of this chapter to receive, possess, transport, or store samples of a substance that may contain a regulated drug solely for purposes of analyzing the substance to determine its chemical composition and disseminate information regarding the analysis to the provider of the substance.

(b) On-site community drug-checking service providers shall be permitted to:

(1) collect voluntarily provided residual samples of substances potentially containing regulated drugs, possess, transport, or store samples of a regulated drug solely for purposes of analyzing the substances to determine its chemical composition as a lifesaving intervention;

(2) use any available technologies to analyze the contents of samples to obtain timely, highly accurate information regarding the composition of drugs to prevent overdose and mitigate health risks;

(3) provide results of analysis obtained from drug-checking technology to the person requesting drug services;

(4) disseminate data containing only the results of analysis and containing no personally identifiable information to community members at risk of overdose; and

(5) if necessary, arrange for a sample of a drug or substance to be tested by an approved laboratory.

(c) In operating any drug-checking service, no personally identifiable information shall be collected from a person providing a controlled substance to a service provider.

(d) An employee, contractor, volunteer, or other person acting in the good faith provision of drug-checking services and, acting in accordance with established protocols shall not:

(1) be subject to arrest, charge, or prosecution for a violation pursuant to this chapter, including for attempting to, aiding and abetting in, or conspiracy to commit a violation of this chapter;

(2) have their property subject to forfeiture, any civil or administrative penalty, or liability of any kind, including disciplinary action by a professional licensing board, credentialing restrictions, contractual or civil liability, or medical staff or other employment action; or

(3) be denied any right or privilege for actions, conduct, or omissions relating to the operation of a drug-checking service in compliance with this chapter and any rules adopted pursuant to this chapter.

(e) An individual possessing a regulated substance and who provides any portion of the substance to a program pursuant to this section for purposes of obtaining drug-checking services shall not be subject to arrest, charge, or prosecution for possession of a regulated substance pursuant to this chapter or civil or administrative penalty or disciplinary action by a professional licensing board for a violation of this chapter.

(f) Local governments shall not collect, maintain, use, or disclose any personal information relating to an individual from whom local government receives any drug or substance for checking or disposal.

(g) The result of a test carried out by a drug-checking service provider shall not be admissible as evidence in any criminal or civil proceeding.

(h)(1) The Department of Health shall publish guidance and provide technical assistance for any service provider choosing to implement drug-checking services under this section.

(2) The Department shall coordinate the collection and dissemination of deidentified data related to drug-checking services to inform prevention and public health initiatives.

Eighth: By inserting a new reader assistance heading and Secs. 13 and 14 after the newly added Sec. 12 to read as follows:

\* \* \* Opioid Abatement Special Fund \* \* \*

Sec. 13. 18 V.S.A. § 4774 is amended to read:

§ 4774. OPIOID ABATEMENT SPECIAL FUND

(a)(1) There is created the Opioid Abatement Special Fund, a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5 and administered by the Department of Health. The Opioid Abatement Special Fund shall consist of all abatement account fund monies disbursed to the Department from the national abatement account fund, the national opioid abatement trust, the supplemental opioid abatement fund, or any other settlement funds that must be utilized exclusively for opioid prevention, intervention, treatment, recovery, and harm reduction services.

(2) The Department shall ~~include~~ submit a spending plan to the General Assembly, informed by the recommendations of the Opioid Settlement Advisory Committee established pursuant to section 4772 of this subchapter, ~~as part of its annual budget submission,~~ and once funding is approved appropriated by the General Assembly from the Opioid Abatement Special Fund, the Department shall request to have the funds formally released from the national abatement account fund, the national opioid abatement trust, the supplemental opioid abatement fund, or any other settlement funds that must be utilized exclusively for opioid prevention, intervention, treatment, recovery, and harm reduction services. The Department shall disburse monies from the Opioid Abatement Special Fund pursuant to 32 V.S.A. chapter 7, subchapter 3.

\* \* \*

#### Sec. 14. APPROPRIATION; OPIOID ABATEMENT SPECIAL FUND

In fiscal year 2023, the following monies shall be appropriated from the Opioid Abatement Special Fund pursuant to 18 V.S.A. § 4774:

(1) \$1,980,000.00 for the expansion of naloxone distribution efforts, including establishing harm reduction vending machines, home delivery and mail order options, and expanding the harm reduction pack and leave behind kit programs;

(2)(A) \$2,000,000.00 divided equally between four opioid treatment programs to cover costs associated with partnering with other health care providers to expand satellite locations for the dosing of medications, including costs associated with the satellite locations' physical facilities, staff time at the satellite locations, and staff time at opioid treatment programs to prepare medications and coordinate with satellite locations;

(B) the satellite locations established pursuant to this subdivision (2) shall be located in Addison County, eastern or southern Vermont, Chittenden County, and a facility operated by the Department of Corrections;

(3)(A) \$1,976,000.00 to fund 26 outreach or case management staff positions within the preferred provider network and within syringe service

organizations for the provision of services that increase motivation of and engagement with individuals with substance use disorder in settings such as police barracks, shelters, social service organizations, and elsewhere in the community;

(B) it the intent of the General Assembly that these positions shall be funded annually by the Opioid Abatement Special Fund unless and until the Special Fund does not have sufficient monies to fund this expenditure;

(4) \$400,000.00 divided equally among the State's four syringe service providers to provide overdose prevention services and response education and resources that build trust between individuals with substance use disorder and Vermont's system of care;

(5) \$840,000.00 to provide contingency management services to individuals with substance use disorder;

(6) \$100,000.00 to implement a wound care telehealth consultation pilot program for the purpose of utilizing wound care experts to provide telehealth drop-in appointments to address syringe use by individuals with opioid use disorder;

(7) \$200,000.00 to expand the distribution of fentanyl test strips and, if available, xylazine test strips; and

(8)(A) \$700,000.00 to the Department of Health's Division of Substance Use Programs to award one or more grants to an organization or organizations providing or preparing to implement drug-checking services with spectroscopy devices, including high-pressure mass spectrometer (HPMS) or Fourier-transform infrared spectroscopy device (FTIR), in a harm reduction setting;

(B) the grants awarded pursuant to this subdivision (8) shall be based on an applicant's ability to provide publicly available drug-checking services.

And by renumbering the remaining section to be numerically correct.

Ninth: In the newly renumbered Sec. 15, effective dates, before the period, by inserting and Sec. 8b (rulemaking; prior authorization; buprenorphine) shall take effect on January 1, 2024

**NOTICE CALENDAR**  
**Favorable with Amendment**  
**H. 490**

An act relating to approving the merger of the Village of Lyndonville with the Town of Lyndon

**Rep. Morgan of Milton**, for the Committee on Government Operations and Military Affairs, recommends the bill be amended as follows:

First: In Sec. 2, 24 App. V.S.A. chapter 126 (Town of Lyndon), in section 12, in subsection (b), following the words “shall take effect on the” by striking out “30th” and inserting in lieu thereof “60th”

Second: In Sec. 2, 24 App. V.S.A. chapter 126 (Town of Lyndon), by striking out section 14 (penalties for violation of an ordinance) in its entirety and inserting in lieu thereof a new section 14 to read as follows:

§ 14. COVERED BRIDGES; PENALTY FOR VIOLATION OF LEGAL LIMITS

Notwithstanding 23 V.S.A. § 1434, the Town may adopt an ordinance governing operator damage to covered bridges that provides for a civil penalty of not more than \$10,000.00 or an amount equal to the costs of repairing the damage to the covered bridge.

Third: In Sec. 2, 24 App. V.S.A. chapter 126 (Town of Lyndon), in section 27 (other elected town officers), in subdivision (c)(3), following the subdivision heading, by striking out “With the approval of the Selectboard, the Board of Listers” and inserting in lieu thereof the words “The Selectboard” before the words “may appoint”

Fourth: In Sec. 2, 24 App. V.S.A. chapter 126 (Town of Lyndon), by striking out section 33 in its entirety and inserting in lieu thereof a new section 33 to read as follows:

§ 33. SELECTBOARD MEETINGS

(a) As soon as possible after the election of the Chair and Vice Chair, the Selectboard shall fix the time and place of its regular meetings. The Selectboard shall meet at least twice each month, except when the Selectboard determines that the then-pending business does not require a meeting.

(b) The Selectboard shall determine its own rules and order of business.



(c) A majority of the members of the Selectboard shall constitute a quorum. The act of the majority of the members of the Selectboard present at a meeting shall constitute the act of the Selectboard.

(d) All meetings of the Selectboard shall be open to the public unless the Selectboard votes to go into executive session in accordance with the provisions of 1 V.S.A. chapter 5.

(e) Except in cases of emergency meetings, the agenda of the Selectboard's meetings shall be made available to the public at least 24 hours prior to the meeting and posted in the Town Clerk's office.

Fifth: In Sec. 2, 24 App. V.S.A. chapter 126 (Town of Lyndon), in section 42 (Town meetings), in subsection (b), following the words "The ballot boxes at" by striking out the words "any election" and inserting in lieu thereof the words "Town elections" before the words "shall be open"

Sixth: In Sec. 2, 24 App. V.S.A. chapter 126 (Town of Lyndon), in section 61 (fiscal year), following the words "shall commence on the first day of January" by striking out "and end at 12:00 midnight on the last day of the following December" before the period.

Seventh: In Sec. 2, 24 App. V.S.A. chapter 126 (Town of Lyndon), by striking out section 63 (public meeting on proposed budget) in its entirety and inserting in lieu thereof the following:

§ 63. [RESERVED]

**(Committee Vote: 11-0-1)**

## **S. 56**

An act relating to child care and early childhood education

**Rep. Brumsted of Shelburne**, for the Committee on Human Services, recommends 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:

\* \* \* Legislative Intent \* \* \*

### Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that investments in and policy changes to Vermont's child care and early learning system shall:

(1) increase access to and the quality of child care services and afterschool and summer care programs throughout the State;

(2) increase equitable access to and quality of prekindergarten education for children four years of age;

(3) provide financial stability to child care programs;

(4) stabilize Vermont's talented child care workforce;

(5) address the workforce needs of the State's employers;

(6) maintain a mixed-delivery system for prekindergarten, child care, and afterschool and summer care; and

(7) assign school districts with the responsibility of ensuring equitable prekindergarten access for children who are four years of age on the date by which the child's school district requires kindergarten students to have attained five years of age or who are five years of age and not yet enrolled in kindergarten.

\* \* \* Prekindergarten \* \* \*

## Sec. 2. PREKINDERGARTEN EDUCATION IMPLEMENTATION

### COMMITTEE; PLAN

(a) Creation. There is created the Prekindergarten Education Implementation Committee to assist the Agency of Education in improving and expanding accessible, affordable, and high-quality prekindergarten education for children on a full-day basis on or before July 1, 2026. The prekindergarten program under consideration would require a school district to provide prekindergarten education to all children within the district in either a public school or by contract with private providers, or both. As used in this section, "child" or "children" means a child or children who are four years of age on the date by which the child's school district requires kindergarten students to have attained five years of age or who are five years of age and not yet enrolled in kindergarten, unless otherwise specified.

(b)(1) Membership. The Committee shall be composed of the following members:

(A) the Secretary of Education or designee, who shall serve as co-chair;

(B) the Secretary of Human Services or designee, who shall serve as co-chair;

(C) the Executive Director of the Vermont Principals' Association or designee;

(D) the Executive Director of the Vermont Superintendents Association or designee;

(E) the Executive Director of the Vermont School Board Association or designee;

(F) the Executive Director of the Vermont National Education Association or designee;

(G) the Chair of the Vermont Council of Special Education Administrators or designee;

(H) the Executive Director of the Vermont Curriculum Leaders Association or designee;

(I) the Executive Director of Building Bright Futures or designee;

(J) a representative of a prequalified private provider as defined in 16 V.S.A. § 829, operating a licensed center-based child care and preschool program, appointed by the Speaker of the House;

(K) a representative of a prequalified private provider as defined in 16 V.S.A. § 829, providing prekindergarten education at a regulated family child care home, appointed by the Committee on Committees;

(L) the Head Start Collaboration Office Director or designee;

(M) the Executive Officer of Let's Grow Kids or designee;

(N) a representative, appointed by Vermont Afterschool, Inc.; and

(O) two family representatives, one with a child three years of age or younger when the Committee initially convenes and the second with a prekindergarten-age child when the Committee initially convenes, appointed by the Building Bright Futures Council.

(2) The Committee shall consult with any stakeholder necessary to accomplish the purposes of this section, including stakeholders with perspectives specific to diversity, equity, and inclusion.

(c) Powers and duties. The Committee shall examine the delivery of prekindergarten education in Vermont and make recommendations to expand access for children through the public school system or private providers under contract with the school district, or both. The Committee shall examine and make recommendations on the changes necessary to provide prekindergarten education to all children by or through the public school system on or before July 1, 2026, including transitioning children who are three years of age from the 10-hour prekindergarten benefit to child care and early education. The

Committee's recommendation shall consider the needs of both the State and local education agencies.

(d) Assistance. The Committee shall have the administrative, technical, fiscal, and legal assistance of the Agencies of Education and of Human Services. If the Agencies are unable to provide the Committee with adequate support to assist with its administrative, technical, fiscal, or legal needs, then the Agency of Education shall retain a contractor with the necessary expertise to assist the Committee.

(e) Report. On or before December 1, 2024, the Committee shall submit a written report to the House Committees on Education and on Human Services and the Senate Committees on Education and on Health and Welfare with its implementation plan based on the analysis conducted pursuant to subsection (c) of this section. The report shall include draft legislative language to support the Committee's plan.

(f) Meetings.

(1) The Secretary of Education or designee shall call the first meeting of the Committee to occur on or before July 15, 2023.

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

(3) The Committee shall cease to exist on February 1, 2025.

(g) Compensation and reimbursement. Members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than 18 meetings. These payments shall be made from monies appropriated to the Agency of Education.

(h) Appropriations.

(1) The sum of \$7,500.00 is appropriated to the Agency of Education from the General Fund in fiscal year 2024 for per diem compensation and reimbursement of expenses for members of the Committee.

(2) The sum of \$100,000.00 is appropriated to the Agency of Education from the General Fund in fiscal year 2024 for the cost of retaining a contractor as provided under subsection (d) of this section.

(3) Any unused portion of these appropriations shall, as of July 1, 2025, revert to the General Fund.

Sec. 3. 16 V.S.A. § 4010 is amended to read:

§ 4010. DETERMINATION OF WEIGHTED LONG-TERM MEMBERSHIP

AND PER PUPIL EDUCATION SPENDING

\* \* \*

(d) Determination of weighted long-term membership. For each weighting category except the small schools weighting category under subdivision (b)(3) of this section, the Secretary shall compute the weighting count by using the long-term membership, as defined in subdivision 4001(7) of this title, in that category.

(1) The Secretary shall first apply grade level weights. Each pupil included in long-term membership from subsection (b) of this section shall count as one, multiplied by the following amounts:

(A) ~~prekindergarten—negative 0.54; [Repealed.]~~

(B) grades six through eight—0.36; and

(C) grades nine through 12—0.39.

\* \* \*

\* \* \* Agency of Education \* \* \*

Sec. 4. PLAN; AGENCY OF EDUCATION LEADERSHIP

On or before November 1, 2025, the Agency of Education shall submit a plan to the House Committees on Education and on Human Services and to the Senate Committees on Education and on Health and Welfare to implement a second deputy secretary or commissioner position within the Agency of Education for the purpose of elevating the status of early education and special education within the Agency in accordance with the report produced pursuant to 2021 Acts and Resolves No, 45, Sec. 13. The plan shall achieve greater parity in decision-making authority, roles and responsibilities, and reporting structure related to early care and learning across the Agency and Department for Children and Families.

\* \* \* Child Care and Child Care Subsidies \* \* \*

Sec. 5. 33 V.S.A. § 3512 is amended to read:

§ 3512. CHILD CARE FINANCIAL ASSISTANCE PROGRAM;

ELIGIBILITY

(a)(1) The Child Care Financial Assistance Program is established to subsidize, to the extent that funds permit, the costs of child care for families that need child care services in order to obtain employment, to retain employment, or to obtain training leading to employment. Families seeking

employment shall be entitled to participate in the Program for up to three months and the Commissioner may further extend that period.

(2) The subsidy authorized by this subsection and the corresponding family contribution shall be established by the Commissioner, by rule, and shall bear a reasonable relationship to income and family size. The Commissioner may adjust the subsidy and family contribution by rule to account for increasing child care costs not to exceed 1.5 times the most recent annual increase in the NAICS code 611, Educational Services. Families shall be found eligible using an income eligibility scale based on the current federal poverty level and adjusted for the size of the family. Co-payments shall be assigned to the whole family and shall not increase if more than one eligible child is enrolled in child care. Families with an annual gross income of less than or equal to 150 percent of the current federal poverty guidelines shall not have a family co-payment. Families with an annual gross income up to and including ~~350~~ 550 percent of current federal poverty guidelines, adjusted for family size, shall be eligible for a subsidy authorized by the subsection. The scale shall be structured so that it encourages employment. If the federal poverty guidelines decrease in a given year, the Division shall maintain the previous year's federal poverty guidelines for the purpose of determining eligibility and benefit amount under this subsection.

(3) Earnings deposited in a qualified child education savings account, such as the Vermont Higher Education Investment Plan, established in 16 V.S.A. § 2877, or any similar plan qualified under 26 U.S.C. § 529, shall be disregarded in determining the amount of a family's income for the purpose of determining continuing eligibility.

(4) ~~After September 30, 2021,~~ a A regulated center-based child care program or family child care home as defined by the Department in rule shall not receive funds pursuant to this subsection that are in excess of the usual and customary rate for services at the center-based child care program or family child care home.

\* \* \*

Sec. 5a. 33 V.S.A. § 3512 is amended to read:

§ 3512. CHILD CARE FINANCIAL ASSISTANCE PROGRAM;

#### ELIGIBILITY

(a)(1) The Child Care Financial Assistance Program is established to subsidize, to the extent that funds permit, the costs of child care for families that need child care services in order to obtain employment, to retain employment, or to obtain training leading to employment. Families seeking

employment shall be entitled to participate in the Program for up to three months and the Commissioner may further extend that period.

\* \* \*

(5) The Department shall ensure that applications for the Child Care Financial Assistance Program use a simple, plain-language format. Applications shall be available in both electronic and paper formats and shall comply with the Office of Racial Equity's most recent Language Access Report.

(6) A Vermont resident who has a citizenship status that would otherwise exclude the resident from participating in the Child Care Financial Assistance Program shall be served under this Program, provided that the benefit for these residents is solely State-funded. The Department shall not retain data on the citizenship status of any applicant or participant once a child is no longer participating in the program, and it shall not request the citizenship status of any members of the applicant's or participant's family. Any records created pursuant to this subsection shall be exempt from public inspection and copying under the Public Records Act.

\* \* \*

#### Sec. 5b. FISCAL YEAR 2024; FAMILY CONTRIBUTION

In fiscal year 2024, a weekly family contribution for participants in the Child Care Financial Assistance Program established in 33 V.S.A. §§ 3512 and 3513 shall begin at \$27.00 for families at 151 percent of the federal poverty level and increase progressively for families at a higher percentage of the federal poverty level as determined by the Department.

#### Sec. 6. PROVIDER RATE ADJUSTMENT; CHILD CARE FINANCIAL ASSISTANCE PROGRAM

(a) It is the intent of the General Assembly that the provider rate adjustment established in this section shall be utilized to begin implementing the recommendations for a professional pay scale as examined in Sec. 15 of this act.

(b)(1) On January 1, 2024, the Department for Children and Families shall provide an adjustment to the base child care provider reimbursement rates in the Child Care Financial Assistance Program for child care services provided by center-based child care and preschool programs, family child care homes, and afterschool and summer care programs. The adjusted reimbursement rate shall account for the age of the children served and be 38.5 percent higher than the fiscal year 2023 five-STAR reimbursement rate in the Vermont STARS

system. The adjusted reimbursement rate shall then be adjusted to account for the differential between family child care homes and center-based child care and preschool programs by 50 percent. All providers in the same child care setting category shall receive an identical reimbursement rate payment, which shall be dependent upon whether the provider operates a regulated child care center and preschool program, regulated family child care home, or afterschool or summer care program.

(2) The provider rate adjustment established in this section shall become part of the base budget in future fiscal years.

Sec. 7. APPROPRIATION; CHILD CARE FINANCIAL ASSISTANCE  
PROGRAM

(a) In addition to fiscal year 2024 funds appropriated for the Child Care Financial Assistance Program in other acts, in fiscal year 2024, \$48,699,264.00 is appropriated from the General Fund to the Department for Children and Families' Child Development Division for:

(1) the program eligibility expansion in Sec. 5 of this act; and

(2) the fiscal year 2024 provider rate adjustment in Sec. 6 of this act.

(b)(1) In addition to fiscal year 2024 funds appropriated for the administration of the Department for Children and Families' Child Development Division in other acts, in fiscal year 2024, \$4,000,000.00 is appropriated from the General Fund to the Division to administer adjustments to the Child Care Financial Assistance Program required by this act through the authorization of the following six new permanent classified positions within the Division:

(A) business applications support manager;

(B) licensing field specialist;

(C) child care business technician;

(D) administrative service coordinator II;

(E) program integrity investigator; and

(F) grants and contracts manager—compliance.

(2) The Division shall allocate at least \$2,000,000.00 of the amount appropriated in this subsection to the Community Child Care Support Agencies.



Sec. 8. READINESS PAYMENTS; CHILD CARE FINANCIAL ASSISTANCE PROGRAM

(a)(1) In fiscal year 2024, \$18,873,235.00 is appropriated one time from the General Fund to the Department for Children and Families' Child Development Division for the purpose of providing payments to child care providers, as defined in 33 V.S.A. § 3511, delivering child care services to children, in preparation of the Child Care Financial Assistance Program eligibility expansion in Sec. 5 of this act and for the fiscal year 2024 provider rate adjustment in Sec. 6 of this act. Readiness payments may be used for the following:

(A) increasing capacity for infants and toddlers;

(B) expanding the number of family child care homes;

(C) improving child care facilities;

(D) preparing private prequalified providers for future changes in the prekindergarten system;

(E) expanding hours of operation to provide full-day, full-week child care services;

(F) increasing workforce capacity, including signing and retention bonuses; and

(G) any other uses approved by the Commissioner.

(2) Of the funds appropriated in subdivision (1) of this subsection, up to five percent may be used to contract with a third party to provide technical assistance to child care providers to build or maintain capacity and to provide information on the opportunities and requirements of this act.

(b) In administering the readiness payment program established by this section, the Division may either use the same distribution framework used to distribute Child Care Development Block Grant funds in accordance with the American Rescue Plan Act of 2021 or it may utilize an alternative distribution framework.

(c) The Commissioner shall provide a status report on the distribution of readiness payments to the Joint Fiscal Committee at its November 2023 meeting.

Sec. 9. 33 V.S.A. § 3514 is amended to read:

§ 3514. PAYMENT TO PROVIDERS

~~(a)(1) The Commissioner shall establish a payment schedule for purposes of reimbursing providers for full- or part-time child care services rendered to families who participate in the programs established under section 3512 or 3513 of this title. Payments established under this section shall reflect the following considerations: whether the provider operates a licensed child care facility or a registered family child care home, type of service provided, cost of providing the service, and the prevailing market rate for comparable service.~~

The payment schedule shall account for the age of the children served, and all providers in the same child care setting category shall receive a reimbursement rate payment, which shall be dependent upon whether the provider operates a child care center and preschool program, family child care home, or afterschool or summer care program. The rate used to reimburse providers shall be increased over the previous year's rate annually in alignment with the most recent annual average wage growth for NAICS code 611, Educational Services, not to exceed five percent.

~~(2) Payments shall be based on enrollment status or any other basis agreed to by the provider and the Division. The Department, in consultation with the Office of Racial Equity and stakeholders, shall adopt rules pursuant to 3 V.S.A. chapter 25 that define "enrollment" and the total number of allowable absences to continue participating in the Child Care Financial Assistance Program. The Department shall minimize itemization of absence categories.~~

(b) The Commissioner may establish a separate payment schedule for child care providers who have received specialized training, approved by the Commissioner, relating to protective or family support services.

~~(c)(1) The payment schedule established by the Commissioner may reimburse providers in accordance with the results of the most recent Vermont Child Care Market Rate Survey.~~

~~(2) The payment schedule shall include reimbursement rate caps tiered in relation to provider ratings in the Vermont STARS program. The lower limit of the reimbursement rate caps shall be not less than the 50th percentile of all reported rates for the same provider setting in each rate category. [Repealed.]~~

Sec. 10. 33 V.S.A. § 3515 is added to read:

#### § 3515. CHILD CARE QUALITY AND CAPACITY INCENTIVE

##### PROGRAM

(a) The Commissioner shall establish a child care quality and capacity incentive program for child care providers participating in the Child Care Financial Assistance Program pursuant to 33 V.S.A. §§ 3512 and 3513.

Annually, consistent with funds appropriated for this purpose, the Commissioner may provide a child care provider with an incentive payment for the following achievements:

(1) achieving a higher level in the quality rating and improvement system, including increasing access to and provision of culturally competent care and multilingual programming and providing other family support services similar to those provided in approved Head Start programs;

(2) increasing infant and toddler capacity;

(3) maintaining existing infant and toddler capacity;

(4) establishing capacity in regions of the State that are identified by the Commissioner as underserved;

(5) providing nonstandard hours of child care services;

(6) completing a Commissioner-approved training on protective or family support services; and

(7) other quality- or capacity-specific criteria identified by the Commissioner.

(b) The Commissioner shall maintain a current incentive payment schedule on the Department's website.

#### Sec. 10a. LEGISLATIVE INTENT; CHILD CARE QUALITY AND CAPACITY INCENTIVE PROGRAM

It is the intent of the General Assembly that in fiscal year 2025 and in future fiscal years, at least \$10,000,000.00 is appropriated for the child care quality and capacity incentive program established in 33 V.S.A. § 3515.

Sec. 11. 33 V.S.A. § 3516 is added to read:

#### § 3516. CHILD CARE WAITLIST AND APPLICATION FEES

A child care provider shall not charge an application or waitlist fee for child care services where the applying child qualifies for the Child Care Financial Assistance Program pursuant to section 3512 or 3513 of this title. A child care provider shall reimburse an individual who is charged an application or waitlist fee for child care services if it is later determined that the applying child qualified for the Child Care Financial Assistance Program at the time the fee or fees were paid.

Sec. 12. 33 V.S.A. § 3517 is added to read:

#### § 3517. CHILD CARE TUITION RATES

A child care provider shall not impose an increase on annual child care tuition that exceeds 1.5 times the most recent annual increase in the NAICS code 611, Educational Services. This amount shall be posted on the Department's website annually.

Sec. 12a. 33 V.S.A. § 3518 is added to read:

§ 3518. DIVERSITY, EQUITY, AND INCLUSION

The Department shall consult with the Office of Racial Equity in preparing all public materials and trainings related to the Child Care Financial Assistance Program.

Sec. 13. RULEMAKING; CHILD CARE DIRECTORS

(a) The Department for Children and Families shall amend the following rules pursuant to 3 V.S.A. chapter 25 to require that a child care director is present at the child care facility that the director operates at least 40 percent of the time that children are present:

(1) Department for Children and Families, Licensing Regulations for Afterschool and Child Care Programs (CVR 13-171-003); and

(2) Department for Children and Families, Licensing Regulations for Center-Based Child Care and Preschool Programs (CVR 13-171-004).

(b) The Department shall consider amending its rule prohibiting a person or entity registered or licensed to operate a family child care home from concurrently operating a center-based child care and preschool program or afterschool and summer care program.

\* \* \* Reports \* \* \*

Sec. 14. REPORT; BACKGROUND CHECKS

On or before January 15, 2024, the Vermont Crime Information Center, in collaboration with the Agency of Education and the Department for Children and Families, shall submit a report to the House Committee on Human Services and to the Senate Committee on Health and Welfare providing a recommendation to streamline and improve the timeliness of the background check process for child care and early education providers who are required to complete two separate background checks.

Sec. 15. PROVIDER COMPENSATION; ESTIMATE AND ANALYSIS

(a) On or before November 1, 2024, the Joint Fiscal Office, in consultation with the Department for Children and Families and the Vermont Association for the Education of Young Children, shall submit a report to the House Committee on Human Services and to the Senate Committee on Health and

Welfare containing a fiscal estimate of the cost of implementing a professional tiered system of compensation for the child care workforce using total costs of care estimates.

(b) On or before November 1, 2024, the Office of Legislative Counsel shall submit a report to the House Committee on Human Services and to the Senate Committee on Health and Welfare concerning the extent to which the State is authorized to impose a compensation scale on private child care providers for professionals providing child care services.

\* \* \* Special Accommodations Grant \* \* \*

#### Sec. 16. PLAN; SPECIAL ACCOMMODATIONS GRANT

On or before July 1, 2024, the Department for Children and Families' Child Development Division, in consultation with stakeholders, shall develop and submit an implementation plan to the House Committee on Human Services and to the Senate Committee on Health and Welfare to streamline and improve the responsiveness and effectiveness of the application process for special accommodation grants, including:

(1) implementing a 12-month or longer grant cycle option for eligible populations;

(2) improving support and training for providing inclusive care for children with special needs;

(3) determining how to better meet the early learning needs of children with disabilities within a child care setting; and

(4) any other considerations the Department deems essential to the goal of streamlining the application process for special accommodation grants.

\* \* \* Afterschool and Summer Care Grant Program \* \* \*

Sec. 17. 33 V.S.A. chapter 38 is added to read:

#### CHAPTER 38. AFTERSCHOOL AND SUMMER CARE GRANT PROGRAM

##### § 3801. AFTERSCHOOL AND SUMMER CARE GRANT PROGRAM

(a) There is created the Afterschool and Summer Care Grant Program for the purpose of providing grants for child and youth programming operated in public or private settings outside of the school day and over the summer, including before and after school, teacher in-service days, and school vacation weeks. Grants may be used by an afterschool and summer care operator for technical assistance, program implementation, program expansion, program sustainability, and related costs.

(b) In selecting from among eligible grant applicants, the Agency of Education and the Department for Children and Families shall prioritize applications that serve children and youth in underserved communities.

(c)(1) The Agency and Department shall jointly adopt policies, procedures, and guidelines necessary for the implementation of the Program established pursuant to this section.

(2) The Agency and Department may jointly contract for the administration of the Program. Administrative costs and technical assistance related to the Afterschool and Summer Care Grant Program shall not exceed \$500,000.00 annually.

#### § 3802. AFTERSCHOOL AND SUMMER CARE SPECIAL FUND

(a) There is established a special fund to be known as the Afterschool and Summer Care Special Fund, which shall be used for the purpose of funding the Afterschool and Summer Care Grant Program established pursuant to section 3801 of this title.

(b) The Fund shall be established and held separate and apart from any other funds or monies of the State and shall be used and administered exclusively for the purpose of this section. The money in the Fund shall be invested in the same manner as permitted for the investment of funds belonging to the State or held in the Treasury. The Fund shall consist of any combination of the following:

(1) cannabis sales tax revenue pursuant to 32 V.S.A. § 7910;

(2) such sums as may be appropriated or transferred thereto from time to time by the General Assembly, the State Emergency Board, or the Joint Fiscal Committee during such times as the General Assembly is not in session;

(3) interest earned from the investment of Fund balances; and

(4) any other money from any other source accepted for the benefit of the Fund.

(c) The Fund shall be administered by the Afterschool and Summer Care Special Fund Advisory Committee established pursuant to section 3803 of this title.

(d) The Advisory Committee shall administer awards in such a way as to comply with the requirements of Section 108(f) of the Internal Revenue Code.

§ 3803. AFTERSCHOOL AND SUMMER CARE SPECIAL FUND

ADVISORY COMMITTEE

(a) There is created the Afterschool and Summer Care Special Fund Advisory Committee jointly managed by the Agency of Education and the Department for Children and Families to:

(1) provide recommendations to the Secretary of Education and the Commissioner for Children and Families regarding the Afterschool and Summer Care Grant Program established pursuant to section 3801 of this title; and

(2) administer the Afterschool and Summer Care Special Fund established pursuant to section 3802 of this title.

(b) The Advisory Committee shall comprise the following:

(1) the Chief Prevention Officer established in 3 V.S.A. § 2321, who shall serve as chair;

(2) the Commissioner of Mental Health or designee;

(3) the Commissioner of Health or designee;

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

(5) the Secretary of Education or designee;

(6) the executive director of Building Bright Futures or designee;

(7) a representative, appointed by Vermont Afterschool, Inc;

(8) a representative of a municipality that operates an afterschool or summer care program, appointed by the Vermont League of Cities and Towns; and

(9) two parents whose children participate in an afterschool or summer care program, appointed by Vermont Afterschool, Inc.

(c)(1) The Chief Prevention Officer shall call the first meeting of the Advisory Committee to occur on or before September 1, 2023.

(2) The Advisory Committee shall meet at such times as may reasonably be necessary to carry out its duties but at least once in each calendar quarter.

(3) The Agency of Education and Department for Children and Families shall provide technical, legal, and administrative assistance to the Advisory Committee.

(d) Notwithstanding 2 V.S.A. § 20(d), on or before November 15 of each year, the Advisory Committee shall submit a report containing a summary of

its activities and any recommendations to the House Committees on Appropriations and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare. The report shall address outcomes data on grants awarded pursuant to section 3801 of this title during the previous year, including:

(1) the number of afterschool and summer care operators receiving a grant under section 3801 of this title;

(2) the number of children and youth served and hours of care provided by afterschool and summer care operators receiving a grant under section 3801 of this title;

(3) the geographic distribution of afterschool and summer care operators receiving a grant under section 3801 of this title; and

(4) the extent to which family costs are reduced for the care of children and youth served by afterschool and summer care operators receiving a grant under section 3801 of this title.

(e) For attendance at meetings, members of the Advisory Committee not otherwise paid for participating in the meetings shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010. These payments shall be made from the Afterschool and Summer Care Special Fund.

Sec. 18. 32 V.S.A. chapter 207 is amended to read:

CHAPTER 207. CANNABIS EXCISE TAX AND SALES TAX REVENUE

\* \* \*

§ 7910. CANNABIS SALES TAX REVENUE; AFTERSCHOOL AND SUMMER CARE PROGRAMMING

Notwithstanding 16 V.S.A. § 4025, revenue from the sales and use tax imposed by chapter 233 of this title on retail sales of cannabis or cannabis products in this State shall be deposited into the Afterschool and Summer Care Special Fund established pursuant to 33 V.S.A. § 3802.

\* \* \* Workforce Supports \* \* \*

Sec. 19. 2021 Acts and Resolves No. 45, Sec. 8 is amended to read:

Sec. 8. REPEALS

(a) ~~33 V.S.A. § 3541(d) (reference to student loan repayment assistance program) is repealed on July 1, 2026. [Repealed.]~~



(b) 33 V.S.A. § 3542 (scholarships for prospective early childhood providers) is repealed on July 1, 2026.

(c) ~~33 V.S.A. § 3543 (student loan repayment assistance program) is repealed on July 1, 2026. [Repealed.]~~

\* \* \* Transitional Assistance and Governance \* \* \*

Sec. 20. CHILD CARE; ADMINISTRATIVE SERVICE ORGANIZATIONS

On or before February 15, 2024, the Department for Children and Families shall provide a presentation to the House Committee on Human Services and to the Senate Committee on Health and Welfare regarding the feasibility of and any progress towards establishing administrative service organizations for child care providers.

Sec. 21. 33 V.S.A. § 4605 is added to read:

§ 4605. TECHNICAL ASSISTANCE; ACCOUNTABILITY

In order to ensure the successful implementation of expanded child care, prekindergarten, and afterschool and summer care, Building Bright Futures shall be responsible for monitoring accountability, supporting stakeholders in collectively defining and measuring success, maximizing stakeholder engagement, and providing technical assistance to build capacity for the Department for Children and Families' Child Development Division and the Agency of Education. Specifically, Building Bright Futures shall:

(1) ensure accountability through monitoring transitions over time and submitting a report with the results of this work on January 15 of each year to the House Committee on Human Services and to the Senate Committee on Health and Welfare;

(2) define and measure success of expanded child care, prekindergarten, and afterschool and summer care related to process, implementation, and outcomes using a continuous quality improvement framework and engage public, private, legislative, and family partners to develop benchmarks pertaining to:

(A) equitable access to high-quality child care;

(B) equitable access to high-quality prekindergarten;

(C) equitable access to high-quality afterschool and summer care;

(D) stability of the early child care education workforce;

(E) workforce capacity and needs of the child care, prekindergarten, afterschool and summer care systems; and

(F) the impact of this act on a mixed-delivery system for prekindergarten, child care, and afterschool and summer care.

Sec. 21a. APPROPRIATION; BUILDING BRIGHT FUTURES

Of the funds appropriated in Sec. 7(b) (appropriation; child care financial assistance program) of this act, the Department for Children and Families shall allocate \$266,707.00 to Building Bright Futures for the purpose of implementing its duties under 33 V.S.A. § 4605. This amount shall become part of the Department's base for the purpose of supporting Building Bright Future's work pursuant to 33 V.S.A. § 4605.

Sec. 22. PLAN; DEPARTMENT FOR CHILDREN AND FAMILIES;  
GOVERNANCE

(a) On or before November 1, 2025, the Secretary of Human Services shall submit an implementation plan to the House Committees on Appropriations, on Government Operations and Military Affairs, and on Human Services and to the Senate Committees on Appropriations, on Government Operations, and on Health and Welfare regarding the reorganization of the Department for Children and Families to increase responsiveness to Vermonters and elevate the status of child care and early education within the Agency of Human Services. The implementation plan shall be consistent with the goals of the report produced pursuant to 2021 Acts and Resolves No. 45, Sec. 13. It shall achieve greater parity in decision-making authority, roles and responsibilities, and reporting structure related to early care and learning across the Agency of Education and Agency of Human Services.

(b) The implementation plan required pursuant to this section shall contain any legislative language required for the division of the Department.

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

Sec. 23. EFFECTIVE DATES

(a) Except as provided in subsection (b) of this section, this act shall take effect on July 1, 2023.

(b)(1) Sec. 3 (determination of weighted long-term membership and per pupil education spending) shall take effect on July 1, 2026.

(2) Sec. 5 (Child Care Financial Assistance Program; eligibility), Sec. 5b (fiscal year 2024; family contribution), Sec. 6 (provider rate adjustment; Child Care Financial Assistance Program), and Sec. 9 (payment to providers) shall take effect on January 1, 2024, except that the Commissioner for Children and Families shall initiate any rulemaking necessary prior to that date in order to perform the Commissioner's duties under this act.

(3) Sec. 5a (Child Care Financial Assistance Program; eligibility) and Sec. 10 (child care quality and capacity incentive program) shall take effect on July 1, 2024.

**(Committee vote: 10-1-0)**

**Rep. Buss of Woodstock**, for the Committee on Education, recommends that the report of the Committee on Human Services be amended as follows:

First: In Sec. 1, legislative intent, in subdivision (2), by striking out the words “for children four years of age”

Second: In Sec. 1, legislative intent, in subdivision (7), by striking out the words “prekindergarten access for children who are four years of age on the date by which the child’s school district requires kindergarten students to have attained five years of age or who are five years of age and not yet enrolled in kindergarten” and inserting in lieu thereof the words “access to prekindergarten education”

Third: In Sec. 2, Prekindergarten Education Implementation Committee, plan, in subsection (a), by striking out “As used in this section, “child” or “children” means a child or children who are four years of age on the date by which the child’s school district requires kindergarten students to have attained five years of age or who are five years of age and not yet enrolled in kindergarten, unless otherwise specified.”

Fourth: In Sec. 2, Prekindergarten Education Implementation Committee; plan, by striking out subdivision (b)(1) in its entirety and inserting in lieu thereof a new subdivision (b)(1) to read as follows:

(b)(1) Membership. The Committee shall be composed of the following members:

(A) the Secretary of Education or designee, who shall serve as co-chair;

(B) the Secretary of Human Services or designee, who shall serve as co-chair;

(C) the Executive Director of the Vermont Principals’ Association or designee;

(D) the Executive Director of the Vermont Superintendents Association or designee;

(E) the Executive Director of the Vermont School Board Association or designee;

(F) the Executive Director of the Vermont National Education Association or designee;

(G) the Chair of the Vermont Council of Special Education Administrators or designee;

(H) an early education coordinator for a school district which provides prekindergarten education through a mixed-delivery system, appointed by the Vermont Superintendents Association;

(I) the Executive Director of Building Bright Futures or designee;

(J) a representative of a prequalified private provider as defined in 16 V.S.A. § 829, operating a licensed center-based child care and preschool program, appointed by the Speaker of the House;

(K) a representative of a prequalified private provider as defined in 16 V.S.A. § 829, providing prekindergarten education at a regulated family child care home, appointed by the Committee on Committees; and

(L) a representative, appointed by Vermont Afterschool, Inc.

Fifth: In Sec. 2, Prekindergarten Education Implementation Committee; plan, in subsection (c), by striking out “, including transitioning children who are three years of age from the 10-hour prekindergarten benefit to child care and early education” and inserting in lieu thereof “. The Committee’s analysis may yield distinct recommendations for different prekindergarten ages”

Sixth: In Sec. 2, Prekindergarten Education Implementation Committee; plan, in subsection (c), following “the needs of both the State and local education agencies.” by inserting “The Committee shall also make recommendations for the minimum number of hours that shall constitute a full school day for both prekindergarten education and kindergarten as well as analyze whether there are areas of the State where prekindergarten education can be more effectively and conveniently furnished in an adjacent state due to geographic considerations.”

Seventh: By adding a new section to be Sec. 2a. to read as follows:

#### Sec. 2a. PREKINDERGARTEN EDUCATION MODEL CONTRACT

On or before December 1, 2024, the Agency of Education shall develop a model contract for school districts to use for contracting with private providers for prekindergarten education services. The model contract shall include an antidiscrimination provision that requires compliance with the Vermont Public Accommodations Act, 9 V.S.A. chapter 139, and the Vermont Fair Employment Practices Act, 21 V.S.A. chapter 5, subchapter 6. In order to ensure that publicly funded prekindergarten education is provided by a

Vermont-licensed teacher, the model contract shall also include staff teaching licensure requirements.

Eighth: By striking out Sec. 3, 16 V.S.A. § 4010, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. 16 V.S.A. § 4010 is amended to read:

§ 4010. DETERMINATION OF WEIGHTED LONG-TERM MEMBERSHIP  
AND PER PUPIL EDUCATION SPENDING

(a) Definitions. As used in this section:

(1) “EL pupils” means pupils described under section 4013 of this title.

(2) “FPL” means the Federal Poverty Level.

(3) “Weighting categories” means the categories listed under subsection (b) of this section.

(4) “Full day prekindergarten education in a public school setting” means prekindergarten education provided in a public school that is equal in length to the day of education provided to all kindergarten through grade 5 students enrolled in the same school district.

(b) Determination of average daily membership and weighting categories. On or before the first day of December during each school year, the Secretary shall determine the average daily membership, as defined in subdivision 4001(1) of this title, of each school district for the current school year and shall perform the following tasks:;

(1) Using average daily membership, list for each school district the number of:

(A) pupils in prekindergarten receiving full day prekindergarten education in a public school setting;

(B) pupils in kindergarten through grade five;

(C) pupils in grades six through eight;

(D) pupils in grades nine through 12;

(E) pupils whose families are at or below 185 percent of FPL, using the highest number of pupils in the district:

(i) that meet this definition under the universal income declaration form; or

(ii) who are directly certified for free and reduced-priced meals;

and

(F) EL pupils; and

(G) all other pupils in prekindergarten.

\* \* \*

(d) Determination of weighted long-term membership. For each weighting category except the small schools weighting category under subdivision (b)(3) of this section, the Secretary shall compute the weighting count by using the long-term membership, as defined in subdivision 4001(7) of this title, in that category.

(1) The Secretary shall first apply grade level weights. Each pupil included in long-term membership shall count as one, multiplied by the following amounts:

(A) all other pupils in prekindergarten—negative 0.54;

(B) grades six through eight—0.36; and

(C) grades nine through 12—0.39.

\* \* \*

Ninth: In Sec. 4, plan; Agency of Education leadership, by striking out the words “implement a second deputy secretary or commissioner” and inserting in lieu thereof the words “create a senior level”

Tenth: By striking out Sec. 17, 33 V.S.A. chapter 38, in its entirety and inserting in lieu thereof a new Sec. 17 to read as follows:

Sec. 17. 16 V.S.A. chapter 1, subchapter 3 is added to read:

Subchapter 3. Afterschool and Summer Care

§ 51. AFTERSCHOOL AND SUMMER CARE

(a) Agency of Education regulation. Pursuant to rules adopted by the Secretary of Education in accordance with 3 V.S.A. chapter 25, school-based afterschool and summer learning programs for students in prekindergarten through grade 12 shall be regulated by the Agency of Education if no Child Care Financial Assistance Program funds provided under 33 V.S.A. § 3512 or 3513 are used to fund the afterschool or summer learning program.

(b) Agency of Human Services regulation. Pursuant to rules adopted by the Agency of Human Services in accordance with 3 V.S.A. chapter 25, if a school-based afterschool or summer learning program for students in prekindergarten through grade 12 does not subsidize access for students that qualify for free or reduced-price meals under the federal food programs,

pursuant to 16 V.S.A., chapter 27, the afterschool and summer learning program shall be regulated by the Agency of Human Services.

§ 52. UNIVERSAL AFTERSCHOOL AND SUMMER CARE GRANT PROGRAM

(a) Creation. There is created the Afterschool and Summer Care Grant Program to support the expansion of summer and afterschool programs, with an emphasis on increasing access in underserved areas of the State. The Secretary of Education shall manage and use the assets in the Afterschool and Summer Care Special Fund created pursuant to section 53 of this title to set up inclusive programs to support the expansion of universal afterschool and summer programs with a focus on capacity in underserved areas of the State and for underserved populations, including students with disabilities and economically disadvantaged and historically marginalized students.

(b) Grants. The Afterschool and Summer Care Grant Program shall be used to support a mixed delivery system for afterschool and summer programing, consistent with the requirements of 21C funding authorized under Title IV, part B of the Every Student Succeeds Act, 20 U.S.C. § 7171 et al. Eligible recipients may be public or private nonprofit organizations. Grants may be used for technical assistance, program implementation, program sustainability, and related costs. Grants shall be used to directly target communities with:

(1) low existing capacity to serve youth in afterschool and summer settings;

(2) populations that are currently underserved; and

(3) populations that do not fall under subdivisions (1) and (2) of this subsection as funds are available.

(c) Administration. The Agency may use up to \$500,000.00 for administrative costs, including personal services for program staff, to allow for the support of the grant program and technical assistance to communities. The Agency may contract to support the grant program.

(d) Advice. The Governor may advise the Secretary of Education to consult with other members of the Governor's cabinet and administration on the design of the program.

(e) Report and plan. Notwithstanding 2 V.S.A. § 20(d), on or before November 15 of each year, the Agency of Education shall submit to the General Assembly a plan to fund grants made pursuant to this section. The report shall be inclusive of afterschool and summer learning programming

supported by federal funds, State grants and contracts, the Child Care Financial Assistance Program pursuant to 33 V.S.A. § 3512 or 3513, and any matching philanthropic funding. The grants shall be in an amount equal to the official forecasted revenues to be raised from the sales and use tax imposed by 32 V.S.A. chapter 233 on cannabis or cannabis products in this State. The Agency shall also report outcomes data on grants awarded pursuant to this section during the previous year, including:

(1) the number of afterschool and summer care operators receiving a grant under this section;

(2) the number of children and youth served and hours of care provided by afterschool and summer care operators receiving a grant under this section;

(3) the geographic distribution of afterschool and summer care operators receiving a grant under this section; and

(4) the extent to which family costs are reduced for the care of children and youth served by afterschool and summer care operators receiving a grant under this section.

#### § 53. AFTERSCHOOL AND SUMMER CARE SPECIAL FUND

(a) There is established a special fund to be known as the Afterschool and Summer Care Special Fund, which shall be used for the purpose of funding the Afterschool and Summer Care Grant Program established pursuant to section 52 of this title.

(b) The Fund shall be established and held separate and apart from any other funds or monies of the State and shall be used and administered exclusively for the purpose of this section. The money in the Fund shall be invested in the same manner as permitted for the investment of funds belonging to the State or held in the Treasury. The Fund shall consist of any combination of the following:

(1) cannabis sales tax revenue pursuant to 32 V.S.A. § 7910;

(2) such sums as may be appropriated or transferred thereto from time to time by the General Assembly, the State Emergency Board, or the Joint Fiscal Committee during such times as the General Assembly is not in session;

(3) interest earned from the investment of Fund balances; and

(4) any other money from any other source accepted for the benefit of the Fund.

(c) The Fund shall be administered by the Agency of Education pursuant to section 52 of this title.



(d) The Agency shall administer awards in such a way as to comply with the requirements of Section 108(f) of the Internal Revenue Code.

Eleventh: By adding a new section to be Sec. 17a to read as follows:

Sec. 17a. AGENCY OF EDUCATION; POSITIONS; APPROPRIATION

(a) Establishment of the following new permanent classified positions is authorized in the Agency of Education in fiscal year 2024:

(1) one full-time, permanent classified Afterschool and Summer Care data analyst; and

(2) one full-time, permanent classified Afterschool and Summer Care Grant program coordinator.

(b) There is appropriated to the Agency of Education from the Afterschool and Summer Care Special Fund in fiscal year 2024 the sum of \$250,000.00 for the purpose of creating the two new positions created in this section.

Twelfth: By adding a new section to be Sec. 18a to read as follows:

Sec. 18a. REPEALS

2020 Acts and Resolves No. 164, Secs. 17c (dedicated use of sales and use tax on cannabis) and 17d (annual budgeting of sales and use tax revenue) are repealed.

Thirteenth: In Sec. 23, effective dates, in subdivision (b)(1), by striking out “July 1, 2026” and inserting in lieu thereof “July 1, 2024”

**(Committee Vote: 10-2-0)**

## **CONSENT CALENDAR**

### **Concurrent Resolutions for Adoption Under Joint Rules 16a - 16d**

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration in that member’s chamber prior to adjournment of the next legislative day. Requests for floor consideration in either chamber should be communicated to the Senate Secretary’s Office or the House Clerk’s Office, as applicable. For text of resolutions, see Addendum to House Calendar.

### **H.C.R. 100**

House concurrent resolution recognizing May 2023 as Older Americans Month in Vermont

**H.C.R. 101**

House concurrent resolution honoring spouses Eugene Uman and Elsa Borrero on their quarter century of leadership at the Vermont Jazz Center and for their individual artistic and educational contributions

**H.C.R. 102**

House concurrent resolution commemorating the bicentennial of the Old West Church in Calais

**H.C.R. 103**

House concurrent resolution congratulating the 2023 Vermont Principal of the Year, Christopher Young

**H.C.R. 104**

House concurrent resolution in memory of Albert D. Corey of St. Albans

**H.C.R. 105**

House concurrent resolution congratulating the 2023 U-32 Raiders Division II championship boys' ice hockey team

**H.C.R. 106**

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

**H.C.R. 107**

House concurrent resolution honoring the 83 years of outstanding Paquette family agricultural entrepreneurship

**For Informational Purposes**

**NOTICE OF JFO GRANTS AND POSITIONS**

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3)(D):

**JFO #3146:** \$737,685.00 to the Vermont Department of Corrections from the U.S. Department of Justice. This grant was awarded to Vermont State Colleges who will sub-grant to the VT Department of Corrections. This grant includes two (2) limited-service positions, Post-Secondary Program Coordinators, to engage Vermont's correctional facility staff in post-secondary educational opportunities and improved employment opportunities, both within and

without the Department and State government. Positions are fully funded through 8/31/2025 with a potential one-year extension. *[Received April 3, 2023]*

**JFO #3145:** \$250,000.00 to the Vermont Agency of Human Services Department of Mental Health from the National Association of State Mental Health Program Directors. Funds will support direct services to be provided to the public through the Crisis Assistance Helping Out on the Street (CAHOOTS) program. The VT Department of Health will collaborate with the City of Burlington, Burlington Police Department and local area health providers to support this pilot. The goal is to establish a trauma-informed approach that will only utilize system components that are necessary for individual situations. *[Received April 3, 2023]*

**JFO #3144:** \$173,973.00 to the Vermont Attorney General's Office from the Vermont Network Against Domestic and Sexual Violence. The Firearm Technical Assistant Project serves to improve Vermont's statewide responses to the intersection of firearms and domestic violence. The Attorney General's office will lead the management team and provide project oversight including communication with the project partners: Vermont Network, Defender General's Office, Vermont State Police, Vermont Judiciary, Disability Rights Vermont, AALV-VT and the Abenaki Nation. *[Received April 3, 2023]*

**JFO #3143:** \$514,694.00 to the Agency of Human Services, Department of Vermont Health Access from the DHHS/ONC via Passthrough from the Association of State and Territorial Health Officials. Funds will be used to support Vermont's participation in the COVID-19 Immunization Data Exchange, Advancement and Sharing learning community with the aim of advancing immunization information and health information exchange sharing. *[Received March 23, 2023]*

**JFO #3142:** \$15,000.00 to Agency of Natural Resources, Department of Environmental Conservation from the Maine Geological Society. Funds will be used to identify contradictions in mapped geological formations across state lines in New England. *[Received March 23, 2023]*

**JFO #3141:** Donation of Alexander Twilight portrait, commissioned from artist Katie Runde to the Vermont State Curator's Office from the Friends of the Vermont State House. The donation is valued at \$32,923.27. Twilight was the first person of African descent to be elected to a state legislature and served

one term in Vermont. The portrait is currently displayed in the main lobby of the Vermont State House. *[Received March 23, 2023]*

**JFO #3140:** \$241,208.00 to Building and General Services, Vermont State Curator's Office from the Institute of Museum and Library Services. The FY2020 Save America's Treasures grant will restore and conserve Sculpture on the Highway, an outdoor collection of sixteen monumental marble and concrete sculptures created at two international sculpture symposia held in Vermont during the summers of 1968 and 1971. *[Received March 23, 2023]*

**JFO #3139:** \$644,469.00 to the Vermont Judiciary, Court Administrator's Office from the U.S. Department of Justice. The grant will support the VT Judiciary Commission on Mental Health, established in July 2022. The Commission is focused on addressing the needs of court-involved individuals with behavioral health issues. Funds will help develop training activities and materials for VT Judiciary staff. *[Received March 22, 2023]*

**JFO #3138:** One (1) limited-service position, Statewide Grants Administrator, to the Agency of Administration, Department of Finance and Management to cover increased grant activity due to the Covid-19 pandemic. The position is funded through Act 185 of 2022. Sec G.801 of the Act appropriates ARPA funds for administrative costs related to the pandemic. This position is funded through 12/31/2026. The grant packet can be found at:  
<https://ljfo.vermont.gov/assets/grants-documents/ec01b0bea7/JFO-3138-packet.pdf>  
*[Received February 9, 2023]*

**JFO #3137:** One (1) limited-service position to the Vermont Department of Health, Senior Health Asbestos and Lead Engineer, to perform senior professional level work to educate, advise on and enforce Vermont asbestos and lead control regulations. The position is funded through 9/30/2024 through an existing Environmental Protection Agency grant. The grant packet can be found at: <https://ljfo.vermont.gov/assets/grants-documents/a44b7c8cac/JFO-3137-packet-v2.pdf>  
*[Received 1/23/2023]*

**JFO #3136:** \$5,000,000.00 to the Agency of Administration, Public Service Department, VT Community Broadband Board (VCBB) from the National Telecommunications and Information Administration, Broadband Equity, Access and Deployment Program to deliver broadband to unserved and underserved areas in Vermont. This is a 5-year grant and will fill in the

technical gaps existing in the VCBB's program of broadband deployment. The grant packet can be found at: <https://ljfo.vermont.gov/assets/grants-documents/3d7b96fcb1/JFO-3136-packet.pdf>

*[Received 1/23/2023]*