

Senate Calendar

THURSDAY, APRIL 27, 2023

SENATE CONVENES AT: 1:00 P.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

UNFINISHED BUSINESS OF APRIL 21, 2023

Second Reading

Favorable with Proposal of Amendment

- H. 227** An act relating to the Vermont Uniform Power of Attorney Act
Judiciary Report - Sen. Sears 1823

NEW BUSINESS

Third Reading

- H. 178** An act relating to commissioning Department of Corrections
personnel as notaries public..... 1864
- H. 494** An act relating to making appropriations for the support
of government..... 1864
Amendment - Sen. Kitchel, et al 1864

Second Reading

Favorable

- S. 141** An act relating to approval of the charter of Fairfax Fire
District No. 1
Government Operations Report - Sen. White 1864
- H. 150** An act relating to approval of an amendment to the charter
of the Village of Alburgh
Government Operations Report - Sen. Norris 1865

Favorable with Proposal of Amendment

- H. 110** An act relating to extending the sunset under 30 V.S.A. § 248a
Finance Report - Sen. Chittenden 1865

H. 479 An act relating to the Transportation Program and miscellaneous changes to laws related to transportation	
Transportation Report - Sen. Mazza	1866
Finance Report - Sen. Chittenden	1901
Appropriations Report - Sen. Kitchel	1901
Amendment - Sen. Ingalls, et al	1903

House Proposal of Amendment

S. 5 An act relating to affordably meeting the mandated greenhouse gas reductions for the thermal sector through efficiency, weatherization measures, electrification, and decarbonization	
House Proposal of Amendment	1904
S. 37 An act relating to access to legally protected health care activity and regulation of health care providers	
House Proposal of Amendment	1928

NOTICE CALENDAR

Second Reading

Favorable

H. 288 An act relating to liability for the sale of alcoholic beverages	
Judiciary Report - Sen. Vyhovsky	1945

Favorable with Proposal of Amendment

H. 206 An act relating to miscellaneous changes affecting the duties of the Department of Vermont Health Access	
Health and Welfare Report - Sen. Lyons	1945
H. 230 An act relating to implementing mechanisms to reduce suicide	
Judiciary Report - Sen. Baruth	1947
H. 476 An act relating to miscellaneous changes to law enforcement officer training laws	
Government Operations Report - Sen. Vyhovsky	1954

House Proposal of Amendment

S. 36 An act relating to permitting an arrest without a warrant for assaults and threats against health care workers and disorderly conduct at health care facilities	
House Proposal of Amendment	1959
S. 48 An act relating to regulating the sale of catalytic converters	
House Proposal of Amendment	1963

CONCURRENT RESOLUTIONS FOR NOTICE

H.C.R. 100 - 107 (For text of Resolutions, see Addendum to House Calendar for April 27, 2023) [1967](#)

ORDERS OF THE DAY

ACTION CALENDAR

UNFINISHED BUSINESS OF FRIDAY, APRIL 21, 2023

Second Reading

Favorable with Proposal of Amendment

H. 227.

An act relating to the Vermont Uniform Power of Attorney Act.

Reported favorably with recommendation of proposal of amendment by Senator Sears for the Committee on Judiciary.

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

Sec. 1. 14 V.S.A. chapter 127 is added to read:

CHAPTER 127. VERMONT UNIFORM POWER OF ATTORNEY ACT

Subchapter 1. General Provisions

§ 4001. SHORT TITLE

This chapter may be cited as the Vermont Uniform Power of Attorney Act.

§ 4002. DEFINITIONS

As used in this chapter:

(1) “Agent” means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise. The term includes an original agent, coagent, successor agent, and a person to which an agent’s authority is delegated.

(2) “Durable,” with respect to a power of attorney, means not terminated by the principal’s incapacity or unavailability.

(3) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(4) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(5) “General power of attorney” means a power of attorney that is not limited by its terms to a specified transaction or series of transactions, to a

specific purpose, or to a specific asset or set of assets, or a power of attorney that grants an agent the authority to do any one or more of the acts described in subsection 4031(e) of this title.

(6) “Good faith” means honesty in fact.

(7)(A) “Incapacity” means the inability of an individual to manage property or business affairs because the individual has an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance.

(B) “Unavailability” means the inability of an individual to manage property or business affairs because the individual is:

(i) missing;

(ii) detained, including incarcerated in a penal system; or

(iii) outside the United States and unable to return.

(8) “Person” means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; public corporation; government or governmental subdivision, agency, or instrumentality; or any other legal or commercial entity.

(9) “Power of attorney” means a writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term power of attorney is used.

(10) “Presently exercisable general power of appointment,” with respect to property or a property interest subject to a power of appointment, means power exercisable at the time in question to vest absolute ownership in the principal individually, the principal’s estate, the principal’s creditors, or the creditors of the principal’s estate. The term includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified period only after the occurrence of the specified event, the satisfaction of the ascertainable standard, or the passage of the specified period. The term does not include a power exercisable in a fiduciary capacity or only by will.

(11) “Principal” means an individual who grants authority to an agent in a power of attorney.

(12) “Property” means anything that may be the subject of ownership, whether real or personal, or legal or equitable, or any interest or right therein.

(13) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in

perceivable form.

(14) “Sign” means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic sound, symbol, or process.

(15) “State” means a state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(16) “Stocks and bonds” means stocks, bonds, mutual funds, and all other types of securities and financial instruments, whether held directly, indirectly, or in any other manner. The term does not include commodity futures contracts and call or put options on stocks or stock indexes.

§ 4003. APPLICABILITY

This chapter applies to all powers of attorney except:

(1) a power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction;

(2) a power to make health-care decisions;

(3) a proxy or other delegation to exercise voting rights or management rights with respect to an entity;

(4) a power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose; and

(5) a power of reciprocal insurers under 8 V.S.A. § 4838.

§ 4004. POWER OF ATTORNEY IS DURABLE

A power of attorney created under this chapter is durable unless it expressly provides that it is terminated by the incapacity or unavailability of the principal.

§ 4005. EXECUTION OF POWER OF ATTORNEY

A power of attorney shall be signed by the principal or in the principal’s conscious presence by another individual directed by the principal to sign the principal’s name on the power of attorney. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.

§ 4006. VALIDITY OF POWER OF ATTORNEY

(a) A power of attorney executed in this State on or after July 1, 2023 is valid if its execution complies with section 4005 of this title.

(b) A power of attorney executed in this State before July 1, 2023 is valid if its execution complied with the law of this State as it existed at the time of execution.

(c) A power of attorney executed other than in this State is valid in this State if, when the power of attorney was executed, the execution complied with:

(1) the law of the jurisdiction that determines the meaning and effect of the power of attorney pursuant to section 4007 of this title; or

(2) the requirements for a military power of attorney pursuant to 10 U.S.C. § 1044b, as amended.

(d) Except as otherwise provided by statute other than this chapter, a photocopy or electronically transmitted copy of an original power of attorney has the same effect as the original.

(e) Except as otherwise provided by statute other than this chapter, a power of attorney that complies with this chapter is valid.

§ 4007. MEANING AND EFFECT OF POWER OF ATTORNEY

The meaning and effect of a power of attorney is determined by the law of the jurisdiction indicated in the power of attorney and, in the absence of an indication of jurisdiction, by the law of the jurisdiction in which the power of attorney was executed.

§ 4008. NOMINATION OF GUARDIAN; RELATION OF AGENT TO COURT-APPOINTED FIDUCIARY

(a) In a power of attorney, a principal may nominate a guardian of the principal's estate or a guardian of the principal's person for consideration by the court if protective proceedings for the principal's estate or person are begun after the principal executes the power of attorney. Except for good cause shown or disqualification, the court shall make its appointment in accordance with the principal's most recent nomination.

(b) If, after a principal executes a power of attorney, a court appoints a guardian of the principal's estate or other fiduciary charged with the management of some or all of the principal's property, the agent is accountable to the fiduciary as well as to the principal. The power of attorney is not terminated, and the agent's authority continues unless limited, suspended, or

terminated by the court.

§ 4009. WHEN POWER OF ATTORNEY EFFECTIVE

(a) A power of attorney is effective when executed unless the principal provides in the power of attorney that it becomes effective at a future date or upon the occurrence of a future event or contingency.

(b) If a power of attorney becomes effective upon the occurrence of a future event or contingency, the principal, in the power of attorney, may authorize one or more persons to determine in a writing or other record that the event or contingency has occurred.

(c) If a power of attorney becomes effective upon the principal's incapacity or unavailability and the principal has not authorized a person to determine whether the principal is incapacitated or unavailable, or the person authorized is unable or unwilling to make the determination, the power of attorney becomes effective upon a determination in a writing or other record by:

(1) a licensed health care professional working within the professional's scope of practice, including a physician licensed pursuant to 26 V.S.A. chapter 23 or 33 and a psychologist licensed pursuant to 26 V.S.A. chapter 55, that the principal is incapacitated within the meaning of subdivision 4002(7)(A) of this chapter; or

(2) an attorney at law, a judge, or an appropriate governmental official that the principal is unavailable within the meaning of 4002(7)(B) of this chapter.

(d) A person authorized by the principal in the power of attorney to determine that the principal is incapacitated or unavailable may act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act; Sections 1171 through 1179 of the Social Security Act; 42 U.S.C. § 1320d, as amended; and applicable regulations to obtain access to the principal's health-care information and communicate with the principal's health-care provider.

§ 4010. TERMINATION OF POWER OF ATTORNEY OR AGENT'S AUTHORITY

(a) A power of attorney terminates when:

(1) the principal dies;

(2) the principal becomes incapacitated or unavailable, if the power of attorney is not durable;

(3) the principal revokes the power of attorney;

(4) the power of attorney provides that it terminates;

(5) the purpose of the power of attorney is accomplished; or

(6) the principal revokes the agent's authority or the agent dies, becomes incapacitated or unavailable, or resigns, and the power of attorney does not provide for another agent to act under the power of attorney.

(b) An agent's authority terminates when:

(1) the principal revokes the authority;

(2) the agent dies, becomes incapacitated or unavailable, or resigns;

(3) a petition for divorce, annulment, separation, or a decree of nullity is filed with respect to the agent's marriage to the principal, unless the power of attorney otherwise provides; or

(4) the power of attorney terminates.

(c) Unless the power of attorney otherwise provides, an agent's authority is exercisable until the authority terminates under subsection (b) of this section, notwithstanding a lapse of time since the execution of the power of attorney.

(d) Termination of an agent's authority or of a power of attorney is not effective as to the agent or another person that, without actual knowledge of the termination, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(e) Incapacity or unavailability of the principal of a power of attorney that is not durable does not revoke or terminate the power of attorney as to an agent or other person that, without actual knowledge of the incapacity or unavailability, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(f) The execution of a power of attorney does not revoke a power of attorney previously executed by the principal unless the subsequent power of attorney provides that the previous power of attorney is revoked or that all other powers of attorney are revoked.

(g) The principal of a power of attorney may not revoke the power of attorney if the principal has been determined to be incapacitated.

§ 4011. CO-AGENTS AND SUCCESSOR AGENTS

(a) A principal may designate two or more persons to act as co-agents. Unless the power of attorney otherwise provides, each co-agent may exercise

its authority independently.

(b) A principal may designate one or more successor agents to act if an agent resigns, dies, becomes incapacitated or unavailable, is not qualified to serve, or declines to serve. A principal may grant authority to designate one or more successor agents to an agent or other person designated by name, office, or function. Unless the power of attorney otherwise provides, a successor agent:

(1) has the same authority as that granted to the original agent; and

(2) may not act until all predecessor agents have resigned, died, become incapacitated or unavailable, are no longer qualified to serve, or have declined to serve.

(c) Except as otherwise provided in the power of attorney and subsection (d) of this section, an agent who does not participate in or conceal a breach of fiduciary duty committed by another agent, including a predecessor agent, is not liable for the actions of the other agent.

(d) An agent who has actual knowledge of a breach or imminent breach of fiduciary duty by another agent shall notify the principal and, if the principal is incapacitated or unavailable, take any action reasonably appropriate in the circumstances to safeguard the principal's best interests. An agent who fails to notify the principal or take action as required by this subsection is liable for the reasonably foreseeable damages that could have been avoided if the agent had notified the principal or taken such action.

§ 4012. REIMBURSEMENT AND COMPENSATION OF AGENT

Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances.

§ 4013. AGENT'S ACCEPTANCE

Except as otherwise provided in the power of attorney, a person accepts appointment as an agent under a power of attorney by exercising authority or performing duties as an agent or by any other assertion or conduct indicating acceptance.

§ 4014. AGENT'S DUTIES

(a) Notwithstanding provisions in the power of attorney, an agent who has accepted appointment shall:

(1) act in accordance with the principal's reasonable expectations to the extent actually known by the agent and otherwise in the principal's best

interests;

(2) act in good faith; and

(3) act only within the scope of authority granted in the power of attorney.

(b) Except as otherwise provided in the power of attorney or other provision of this chapter, an agent that has accepted appointment shall have no further obligation to act under the power of attorney. However, with respect to any action taken by the agent under the power of attorney, the agent shall:

(1) act loyally for the principal's benefit;

(2) act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interests;

(3) act with the care, competence, and diligence ordinarily exercised by agents in similar circumstances;

(4) keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(5) cooperate with a person who has authority to make health-care decisions for the principal to carry out the principal's reasonable expectations to the extent actually known by the agent and otherwise act in the principal's best interests; and

(6) attempt to preserve the principal's estate plan, to the extent actually known by the agent, if preserving the plan is consistent with the principal's best interests based on all relevant factors, including:

(A) the value and nature of the principal's property;

(B) the principal's foreseeable obligations and need for maintenance;

(C) minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes; and

(D) eligibility for a benefit, a program, or assistance under a statute or regulation.

(c) An agent who acts in good faith is not liable to any beneficiary of the principal's estate plan for failure to preserve the plan.

(d) An agent who acts with care, competence, and diligence for the best interests of the principal is not liable solely because the agent also benefits from the act or has an individual or conflicting interest in relation to the property or affairs of the principal.

(e) If an agent is selected by the principal because of special skills or

expertise possessed by the agent or in reliance on the agent's representation that the agent has special skills or expertise, the special skills or expertise must be considered in determining whether the agent has acted with care, competence, and diligence under the circumstances.

(f) Absent a breach of duty to the principal, an agent is not liable if the value of the principal's property declines.

(g) An agent who exercises authority to delegate to another person the authority granted by the principal or who engages another person on behalf of the principal is not liable for an act, error of judgment, or default of that person if the agent exercises care, competence, and diligence in selecting and monitoring the person.

(h) Except as otherwise provided in the power of attorney, an agent is not required to disclose receipts, disbursements, or transactions conducted on behalf of the principal unless ordered by a court or requested by the principal, a guardian, a conservator, another fiduciary acting for the principal, a governmental agency having authority to protect the welfare of the principal, or, upon the death of the principal, by the personal representative or successor in interest of the principal's estate. If so requested, within 30 days the agent shall comply with the request or provide a writing or other record substantiating why additional time is needed and shall comply with the request within an additional 30 days.

§ 4015. EXONERATION OF AGENT

A provision in a power of attorney relieving an agent of liability for breach of duty is binding on the principal and the principal's successors in interest except to the extent the provision:

(1) relieves the agent of liability for breach of duty committed:

(A) dishonestly;

(B) in bad faith;

(C) with reckless indifference to the purposes of the power of attorney;

(D) through willful misconduct;

(E) through gross negligence; or

(F) with actual fraud; or

(2) was inserted as a result of an abuse of a confidential or fiduciary relationship with the principal.

§ 4016. JUDICIAL RELIEF

(a) The following persons may petition a court to construe a power of attorney or review the agent's conduct and grant appropriate relief:

- (1) the principal or the agent;
- (2) a guardian or other fiduciary acting for the principal, including an executor or administrator of the estate of a deceased principal;
- (3) a person authorized to make health-care decisions for the principal;
- (4) the principal's spouse, parent, or descendant;
- (5) an individual who would qualify as an heir of the principal under the laws of intestacy;
- (6) a person named as a beneficiary to receive any property, benefit, or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal who has a financial interest in the principal's estate;
- (7) a governmental agency having regulatory authority to protect the welfare of the principal;
- (8) the principal's caregiver or another person who demonstrates sufficient interest in the principal's welfare; and
- (9) a person asked to accept the power of attorney.

(b) Upon motion by the principal, the court shall dismiss a petition filed under this section, unless the court finds that the principal lacks capacity to revoke the agent's authority or the power of attorney.

§ 4017. AGENT'S LIABILITY

An agent who violates this chapter is liable to the principal or the principal's successors in interest for the amount required to:

- (1) restore the value of the principal's property to what it would have been had the violation not occurred;
- (2) reimburse the principal or the principal's successors in interest for the attorney's fees and costs paid on the agent's behalf;
- (3) reimburse the reasonable attorney's fees and costs incurred by the principal or the principal's successor in interest in pursuing rectification of the violation by the agent; and
- (4) pay such other amounts, damages, costs, or expenses that the court may award.

§ 4018. AGENT’S RESIGNATION; NOTICE

Unless the power of attorney provides a different method for an agent’s resignation, an agent may resign by giving written notice to the principal and, if the principal is incapacitated or unavailable:

(1) to the guardian, if one has been appointed for the principal, and a coagent or successor agent; or

(2) if there is no person described in subdivision (1) of this section, to:

(A) the principal’s caregiver;

(B) another person reasonably believed by the agent to have sufficient interest in the principal’s welfare; or

(C) a governmental agency having authority to protect the welfare of the principal.

§ 4019. ACCEPTANCE OF AND RELIANCE UPON ACKNOWLEDGED POWER OF ATTORNEY

(a) As used in this section and section 4020 of this title, “acknowledged” means purportedly verified before a notary public or other individual authorized to take acknowledgements.

(b) A person who in good faith accepts an acknowledged power of attorney without actual knowledge that the signature is not genuine may rely upon the presumption under section 4005 of this title that the signature is genuine.

(c) A person who effects a transaction in reliance upon an acknowledged power of attorney without actual knowledge that the power of attorney is void, invalid, or terminated; that the purported agent’s authority is void, invalid, or terminated; or that the agent is exceeding or improperly exercising the agent’s authority may rely upon the power of attorney as if the power of attorney were genuine, valid, and still in effect; the agent’s authority were genuine, valid, and still in effect; and the agent had not exceeded and has properly exercised the authority.

(d) A person who is asked to accept an acknowledged power of attorney may request and rely upon, without further investigation:

(1) an agent’s certification under penalty of perjury of any factual matter concerning the principal, agent, or power of attorney; or

(2) an English translation of the power of attorney if the power of attorney contains, in whole or in part, language other than English; and

(3) an opinion of counsel as to any matter of law concerning the power

of attorney if the person making the request provides in a writing or other record the reason for the request.

(e) A certification presented pursuant to subsection (d) of this section shall state that:

(1) the person presenting themselves as the agent and signing the affidavit or declaration is the person so named in the power of attorney;

(2) if the agent is named in the power of attorney as a successor agent, the circumstances or conditions stated in the power of attorney that would cause that person to become the acting agent have occurred;

(3) to the best of the agent's knowledge, the principal is still alive;

(4) to the best of the agent's knowledge, at the time the power of attorney was signed, the principal was competent to execute the document and was not under undue influence to sign the document;

(5) all events necessary to making the power of attorney effective have occurred;

(6) the agent does not have actual knowledge of the revocation, termination, limitation, or modification of the power of attorney or of the agent's authority;

(7) if the agent was married to or in a state-registered domestic partnership with the principal at the time of execution of the power of attorney, then at the time of signing the affidavit or declaration, the marriage or state-registered domestic partnership of the principal and the agent has not been dissolved or declared invalid, and no action is pending for the dissolution of the marriage or domestic partnership for legal separation; and

(8) the agent is acting in good faith pursuant to the authority given under the power of attorney.

(f) An English translation or an opinion of counsel requested under this section must be provided at the principal's expense unless the request is made more than seven business days after the power of attorney is presented for acceptance.

(g) For purposes of this section and section 4020 of this title, a person who conducts activities through employees is without actual knowledge of a fact relating to a power of attorney, a principal, or an agent if the employee conducting the transaction involving the power of attorney is without actual knowledge of the fact.

§ 4020. LIABILITY FOR REFUSAL TO ACCEPT ACKNOWLEDGED
STATUTORY FORM POWER OF ATTORNEY

(a) As used in this section, “statutory form power of attorney” means a power of attorney substantially in the form provided in section 4051 or 4052 of this title or that meets the requirements for a military power of attorney pursuant to 10 U.S.C. § 1044b, as amended.

(b) Except as otherwise provided in subsection (c) of this section:

(1) a person shall either accept an acknowledged statutory form power of attorney or request a certification, a translation, or an opinion of counsel under subsection 4019(d) of this title not later than seven business days after presentation of the power of attorney for acceptance;

(2) if a person requests a certification, a translation, or an opinion of counsel under subsection 4019(d) of this title, the person shall accept the statutory form power of attorney not later than five business days after receipt of the certification, translation, or opinion of counsel; and

(3) a person may not require an additional or different form of power of attorney for authority granted in the statutory form power of attorney presented.

(c) A person is not required to accept an acknowledged statutory form power of attorney if:

(1) the person is not otherwise required to engage in a transaction with the principal in the same circumstances;

(2) engaging in a transaction with the agent or the principal in the same circumstances would be inconsistent with federal or state law;

(3) the person has actual knowledge of the termination of the agent’s authority or of the power of attorney before exercise of the power;

(4) a request for a certification, a translation, or an opinion of counsel under subsection 4019(d) of this title is refused;

(5) the person in good faith believes that the power is not valid or that the agent does not have the authority to perform the act requested, whether or not a certification, a translation, or an opinion of counsel under subsection 4019(d) of this title has been requested or provided; or

(6) the person makes, or has actual knowledge that another person has made, a report to the Adult Protective Services program or other appropriate entity within the Department of Disabilities, Aging, and Independent Living or to a law enforcement agency stating a good faith belief that the principal may

be subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or a person acting for or with the agent.

(d) A person who refuses in violation of this section to accept an acknowledged statutory form power of attorney is subject to:

(1) a court order mandating acceptance of the power of attorney; and

(2) liability for reasonable attorney's fees and costs incurred in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney.

§ 4021. PRINCIPLES OF LAW AND EQUITY

Unless displaced by a provision of this chapter, the principles of law and equity supplement this chapter.

§ 4022. LAWS APPLICABLE TO FINANCIAL INSTITUTIONS AND ENTITIES

This chapter does not supersede any other law applicable to financial institutions or other entities, and the other law controls if inconsistent with this chapter.

§ 4023. REMEDIES UNDER OTHER LAW

The remedies under this chapter are not exclusive and do not abrogate any right or remedy under the law of this State other than this chapter.

Subchapter 2. Authority

§ 4031. AUTHORITY THAT REQUIRES SPECIFIC GRANT; GRANT OF GENERAL AUTHORITY

(a) An agent under a power of attorney may do the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the authority and exercise of the authority is not otherwise prohibited by another agreement or instrument to which the authority or property is subject:

(1) create, amend, revoke, or terminate an inter vivos trust;

(2) make a gift;

(3) create or change rights of survivorship;

(4) create or change a beneficiary designation;

(5) delegate authority granted under the power of attorney;

(6) waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;

(7) authorize another person to exercise the authority granted under the power of attorney;

(8) exercise authority over the content of an electronic communication of the principal in accordance with chapter 125 of this title (Vermont Revised Uniform Fiduciary Access to Digital Assets Act);

(9) disclaim property, including a power of appointment;

(10) exercise a written waiver of spousal rights under section 323 of this title;

(11) exercise authority with respect to intellectual property, including copyrights, contracts for payment of royalties, and trademarks; or

(12) convey, or revoke or revise a grantee designation, by enhanced life estate deed pursuant to chapter 6 of Title 27 or under common law.

(b) Notwithstanding a grant of authority to do an act described in subsection (a) of this section, unless the power of attorney otherwise provides, an agent that is not an ancestor, spouse, or descendant of the principal may not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.

(c) Subject to subsections (a), (b), (d), and (e) of this section, if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in sections 4034-4046 of this title.

(d) Unless the power of attorney otherwise provides, a grant of authority to make a gift is subject to section 4047 of this title.

(e) Subject to subsections (a), (b), and (d) of this section, if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.

(f) Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the property is located in this State and whether or not the authority is exercised or the power of attorney is executed in this State.

(g) An act performed by an agent pursuant to a power of attorney has the same effect and inures to the benefit of and binds the principal and the principal's successors in interest as if the principal had performed the act.

§ 4032. INCORPORATION OF AUTHORITY

(a) An agent has authority described in this chapter if the power of attorney refers to general authority with respect to the descriptive term for the subjects stated in sections 4034–4047 of this title or cites the section in which the authority is described.

(b) A reference in a power of attorney to general authority with respect to the descriptive term for a subject in sections 4034–4047 of this title or a citation to a section of sections 4034–4047 of this title incorporates the entire section as if it were set out in full in the power of attorney.

(c) A principal may modify authority or a writing or other record incorporated by reference.

§ 4033. CONSTRUCTION OF AUTHORITY GENERALLY

Except as otherwise provided in the power of attorney, by executing a power of attorney that incorporates by reference a subject described in sections 4034–4047 of this title or that grants to an agent authority to do all acts that a principal could do pursuant to subsection 4031(c) of this title, a principal authorizes the agent, with respect to that subject, to:

(1) demand, receive, and obtain by litigation or otherwise, money or another thing of value to which the principal is, may become, or claims to be entitled, and conserve, invest, disburse, or use anything so received or obtained for the purposes intended;

(2) contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal;

(3) execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating at any time a schedule listing some or all of the principal's property and attaching it to the power of attorney;

(4) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in the power of attorney;

(6) engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor;

(7) prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation;

(8) communicate with any representative or employee of a government or governmental subdivision, agency, or instrumentality on behalf of the principal;

(9) access communications intended for and communicate on behalf of the principal, whether by mail, electronic transmission, telephone, or other means; and

(10) do any lawful act with respect to the subject and all property related to the subject.

§ 4034. REAL PROPERTY

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to real property authorizes the agent to:

(1) demand, buy, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property;

(2) sell; exchange; convey, with or without covenants, representations, or warranties; quitclaim; release; surrender; retain title for security; encumber; partition; consent to partitioning; subject to an easement or covenant; subdivide; apply for zoning or other governmental permits; plat or consent to platting; develop; grant an option concerning; lease; sublease; contribute to an entity in exchange for an interest in that entity; or otherwise grant or dispose of an interest in real property or a right incident to real property;

(3) pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(4) release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property that exists or is asserted;

(5) manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including:

(A) insuring against liability or casualty or other loss;

(B) obtaining or regaining possession of or protecting the interest or right by litigation or otherwise;

(C) paying, assessing, compromising, or contesting taxes or

assessments or applying for and receiving refunds in connection with them; and

(D) purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property;

(6) use, develop, alter, replace, remove, erect, or install structures or other improvements upon real property in or incident to which the principal has, or claims to have, an interest or right;

(7) participate in a reorganization with respect to real property or an entity that owns an interest in or right incident to real property and receive, and hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including:

(A) selling or otherwise disposing of them;

(B) exercising or selling an option, right of conversion, or similar right with respect to them; and

(C) exercising any voting rights in person or by proxy;

(8) change the form of title of an interest in or right incident to real property;

(9) dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest; and

(10) relinquish any and all of the principal's rights of homestead under 27 V.S.A. § 105 and elective share under section 323 of this title.

§ 4035. TANGIBLE PERSONAL PROPERTY

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to tangible personal property authorizes the agent to:

(1) demand, buy, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property;

(2) sell, exchange, or convey, with or without covenants, representations, or warranties; quitclaim; release; surrender; create a security interest in; grant options concerning; lease; sublease; or otherwise dispose of tangible personal property or an interest in tangible personal property;

(3) grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew, or

extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(4) release, assign, satisfy, or enforce by litigation or otherwise a security interest, lien, or other claim on behalf of the principal with respect to tangible personal property or an interest in tangible personal property;

(5) manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including:

(A) insuring against liability or casualty or other loss;

(B) obtaining or regaining possession of or protecting the property or interest, by litigation or otherwise;

(C) paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments;

(D) moving the property from place to place;

(E) storing the property for hire or on a gratuitous bailment; and

(F) using and making repairs, alterations, or improvements to the property; and

(6) change the form of title of an interest in tangible personal property.

§ 4036. STOCKS AND BONDS

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to stocks and bonds authorizes the agent to:

(1) buy, sell, and exchange stocks and bonds;

(2) establish, continue, modify, or terminate an account with respect to stocks and bonds;

(3) pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal;

(4) receive certificates and other evidences of ownership with respect to stocks and bonds; and

(5) exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.

§ 4037. COMMODITIES AND OPTIONS

Unless the power of attorney otherwise provides, language in a power of

attorney granting general authority with respect to commodities and options authorizes the agent to:

(1) buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange; and

(2) establish, continue, modify, and terminate option accounts.

§ 4038. BANKS AND OTHER FINANCIAL INSTITUTIONS

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to banks and other financial institutions authorizes the agent to:

(1) continue, modify, and terminate an account or other banking arrangement made by or on behalf of the principal;

(2) establish, modify, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent;

(3) contract for services available from a financial institution, including renting a safe deposit box or space in a vault;

(4) withdraw, by check, order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution;

(5) receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them;

(6) enter a safe deposit box or vault and withdraw or add to the contents;

(7) borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(8) make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order; transfer money; receive the cash or other proceeds of those transactions; and accept a draft drawn by a person upon the principal and pay it when due;

(9) receive for the principal and act upon a sight draft, warehouse receipt, or other document of title whether tangible or electronic, or other negotiable or nonnegotiable instrument;

(10) apply for, receive, and use letters of credit, credit and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit; and

(11) consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution.

§ 4039. OPERATION OF ENTITY OR BUSINESS

Subject to the terms of a document or an agreement governing an entity or an entity ownership interest, and unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to operation of an entity or business authorizes the agent to:

(1) operate, buy, sell, enlarge, reduce, or terminate an ownership interest;

(2) perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege, or option that the principal has, may have, or claims to have;

(3) enforce the terms of an ownership agreement;

(4) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest;

(5) exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege, or option the principal has or claims to have as the holder of stocks and bonds;

(6) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks and bonds;

(7) with respect to an entity or business owned solely by the principal:

(A) continue, modify, renegotiate, extend, and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of the power of attorney;

(B) determine:

(i) the location of its operation;

(ii) the nature and extent of its business;

(iii) the methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in its operation;

(iv) the amount and types of insurance carried; and

(v) the mode of engaging, compensating, and dealing with its employees and accountants, attorneys, or other advisors;

(C) change the name or form of organization under which the entity or business is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business; and

(D) demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business;

(8) put additional capital into an entity or business in which the principal has an interest;

(9) join in a plan of reorganization, consolidation, conversion, domestication, or merger of the entity or business;

(10) sell or liquidate all or part of an entity or business;

(11) establish the value of an entity or business under a buy-out agreement to which the principal is a party;

(12) prepare, sign, file, and deliver reports, compilations of information, returns, or other papers with respect to an entity or business and make related payments; and

(13) pay, compromise, or contest taxes, assessments, fines, or penalties and perform any other act to protect the principal from illegal or unnecessary taxation, assessments, fines, or penalties, with respect to an entity or business, including attempts to recover, in any manner permitted by law, money paid before or after the execution of the power of attorney.

§ 4040. INSURANCE AND ANNUITIES

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to insurance and annuities authorizes the agent to:

(1) continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal that insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract;

(2) procure new, different, and additional contracts of insurance and annuities for the principal and the principal's spouse, children, and other dependents and select the amount, type of insurance or annuity, and mode of payment;

(3) pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent;

(4) apply for and receive a loan secured by a contract of insurance or annuity;

(5) surrender and receive the cash surrender value on a contract of insurance or annuity;

(6) exercise an election;

(7) exercise investment powers available under a contract of insurance or annuity;

(8) change the manner of paying premiums on a contract of insurance or annuity;

(9) change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section;

(10) apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal;

(11) collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity;

(12) select the form and timing of the payment of proceeds from a contract of insurance or annuity; and

(13) pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with, a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

§ 4041. ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS

(a) As used in this section, “estate, trust, or other beneficial interest” means a trust, probate estate, guardianship, conservatorship, escrow, or custodianship or a fund from which the principal is, may become, or claims to be entitled to a share or payment.

(b) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to estates, trusts, and other beneficial interests authorizes the agent to:

(1) accept, receive, receipt for, sell, assign, pledge, or exchange a share in or payment from an estate, trust, or other beneficial interest;

(2) demand or obtain money or another thing of value to which the principal is, may become, or claims to be entitled by reason of an estate, trust, or other beneficial interest, by litigation or otherwise;

(3) exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal;

(4) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting the interest of the principal;

(5) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to remove, substitute, or surcharge a fiduciary;

(6) conserve, invest, disburse, or use anything received for an authorized purpose; and

(7) transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities intermediaries, insurance, annuities, and other property to the trustee of a revocable trust created by the principal as settlor.

§ 4042. CLAIMS AND LITIGATION

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to claims and litigation authorizes the agent to:

(1) assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief;

(2) bring an action to determine adverse claims or intervene or otherwise participate in litigation;

(3) seek an attachment, garnishment, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree;

(4) make or accept a tender, offer of judgment, or admission of facts; submit a controversy on an agreed statement of facts; consent to examination; and bind the principal in litigation;

(5) submit to alternative dispute resolution, settle, and propose or accept

a compromise;

(6) waive the issuance and service of process upon the principal; accept service of process; appear for the principal; designate persons upon which process directed to the principal may be served; execute and file or deliver stipulations on the principal's behalf; verify pleadings; seek appellate review; procure and give surety and indemnity bonds; contract and pay for the preparation and printing of records and briefs; and receive, execute, and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation;

(7) act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value;

(8) pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation; and

(9) receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

§ 4043. PERSONAL AND FAMILY MAINTENANCE

(a) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to personal and family maintenance authorizes the agent to:

(1) perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, and the following individuals, whether living when the power of attorney is executed or later born:

(A) other individuals legally entitled to be supported by the principal;
and

(B) the individuals whom the principal has customarily supported or indicated the intent to support;

(2) make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party;

(3) provide living quarters for the individuals described in subdivision (1) of this subsection by:

(A) purchase, lease, or other contract; or

(B) paying the operating costs, including interest, amortization payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by those individuals;

(4) provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the individuals described in subdivision (1) of this subsection;

(5) pay expenses for necessary health care and custodial care on behalf of the individuals described in subdivision (1) of this subsection;

(6) act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act; Sections 1171–1179 of the Social Security Act; 42 U.S.C. § 1320d, as amended; and applicable regulations in making decisions related to the past, present, or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this State to consent to health care on behalf of the principal;

(7) continue any provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring, and replacing them, for the individuals described in subdivision (1) of this subsection;

(8) maintain credit and debit accounts for the convenience of the individuals described in subdivision (1) of this subsection and open new accounts; and

(9) continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order, or other organization or to continue contributions to those organizations.

(b) Authority with respect to personal and family maintenance is neither dependent upon, nor limited by, authority that an agent may or may not have with respect to gifts under this chapter.

§ 4044. BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY SERVICE

(a) As used in this section, “benefits from governmental programs or civil or military service” means any benefit, program, or assistance provided under a statute or regulation, including Social Security, Medicare, Medicaid, and the Department of Veterans Affairs.

(b) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to benefits from

governmental programs or civil or military service authorizes the agent to:

(1) execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in subdivision 4043(a)(1) of this title and for shipment of their household effects;

(2) take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock, or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for that purpose;

(3) enroll in, apply for, select, reject, change, amend, or discontinue, on the principal's behalf, a benefit or program;

(4) prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation;

(5) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning any benefit or assistance the principal may be entitled to receive under a statute or regulation; and

(6) receive the financial proceeds of a claim described in subdivision (4) of this subsection and conserve, invest, disburse, or use for a lawful purpose anything so received.

§ 4045. RETIREMENT PLANS

(a) As used in this section, "retirement plan" means a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under the following sections of the Internal Revenue Code:

(1) an individual retirement account under Internal Revenue Code § 408, 26 U.S.C. § 408, as amended;

(2) a Roth individual retirement account under Internal Revenue Code § 408A, 26 U.S.C. § 408A, as amended;

(3) a deemed individual retirement account under Internal Revenue Code § 408(q), 26 U.S.C. § 408(q), as amended;

(4) an annuity or mutual fund custodial account under Internal Revenue

Code § 403(b), 26 U.S.C. § 403(b), as amended;

(5) a pension, profit-sharing, stock bonus, or other retirement plan qualified under Internal Revenue Code § 401(a), 26 U.S.C. § 401(a), as amended;

(6) a plan under Internal Revenue Code § 457(b), 26 U.S.C. § 457(b), as amended; and

(7) a nonqualified deferred compensation plan under Internal Revenue Code § 409A, 26 U.S.C. § 409A, as amended.

(b) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to retirement plans authorizes the agent to:

(1) select the form and timing of payments under a retirement plan and withdraw benefits from a plan;

(2) make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another;

(3) establish a retirement plan in the principal's name;

(4) make contributions to a retirement plan;

(5) exercise investment powers available under a retirement plan; and

(6) borrow from, sell assets to, or purchase assets from a retirement plan.

§ 4046. TAXES

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to taxes authorizes the agent to:

(1) prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, Federal Insurance Contributions Act, and other tax returns; claims for refunds; requests for extension of time; petitions regarding tax matters; and any other tax-related documents, including receipts; offers; waivers; consents, including consents and agreements under Internal Revenue Code § 2032A, 26 U.S.C. § 2032A, as amended; closing agreements; and any power of attorney required by the Internal Revenue Service or other taxing authority, including an internal revenue service form 2848 in favor of any third party with respect to a tax year upon which the statute of limitations has not run and the following 25 tax years;

(2) pay taxes due, collect refunds, post bonds, receive confidential

information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority;

(3) exercise any election available to the principal under federal, state, local, or foreign tax law; and

(4) act for the principal in all tax matters for all periods before the Internal Revenue Service, or other taxing authority.

§ 4047. GIFTS

(a) For purposes of this section, “gift” includes a gift for the benefit of a person, including a gift to a trust, an account under chapter 115 of this title (Vermont Uniform Transfers to Minors Act), and a tuition savings account or prepaid tuition plan as defined under Internal Revenue Code § 529, 26 U.S.C. § 529, as amended.

(b) An agent may make a gift of the principal’s property only as the agent determines is consistent with the principal’s objectives if actually known by the agent or, if unknown, as the agent determines is consistent with the principal’s best interests based on all relevant factors, including:

(1) evidence of the principal’s intent;

(2) the principal’s personal history of making or joining in the making of lifetime gifts;

(3) the principal’s estate plan;

(4) the principal’s foreseeable obligations and maintenance needs and the impact of the proposed gift on the principal’s housing options, access to care and services, and general welfare;

(5) the income, gift, estate, or inheritance tax consequences of the transaction; and

(6) whether the proposed gift creates a foreseeable risk that the principal will be deprived of sufficient assets to cover the principal’s needs during any period of Medicaid ineligibility that would result from the proposed gift.

(c) An agent may make a gift of the principal’s property only as the agent determines is consistent with the principal’s objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal’s best interests based on all relevant factors, including:

(1) the value and nature of the principal’s property;

(2) the principal’s foreseeable obligations and need for maintenance;

(3) minimization of taxes, including income, estate, inheritance,

generation-skipping transfer, and gift taxes;

(4) eligibility for a benefit, a program, or assistance under a statute or regulation; and

(5) the principal's personal history of making or joining in making gifts.

Subchapter 3. Statutory Forms

§ 4051. STATUTORY FORM POWER OF ATTORNEY

A document substantially in the following form may be used to create a statutory form power of attorney that has the meaning and effect prescribed by this chapter.

VERMONT STATUTORY FORM POWER OF ATTORNEY IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127.

This power of attorney does not authorize the agent to make health-care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the Special Instructions.

This form does not revoke powers of attorney previously executed by you unless you initial the introductory paragraph under DESIGNATION OF AGENT that all previous powers of attorney are revoked.

This form provides for designation of one agent. If you wish to name more than one agent, you may name a coagent in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

I _____ (Name of Principal) () revoke all previous powers of attorney and name the following person as my agent:

Name of Agent: _____

Agent's Address: _____

Agent's Telephone Number: _____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: _____

Successor Agent's Address: _____

Successor Agent's Telephone Number: _____

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor Agent: _____

Second Successor Agent's Address: _____

Second Successor Agent's Telephone Number: _____

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127.

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all of the subjects, you may initial "All Preceding Subjects" instead of initialing each subject.)

() Real Property

() Tangible Personal Property

() Stocks and Bonds

() Commodities and Options

() Banks and Other Financial Institutions

- Operation of Entity or Business
- Insurance and Annuities
- Estates, Trusts, and Other Beneficial Interests
- Claims and Litigation
- Personal and Family Maintenance
- Benefits from Governmental Programs or Civil or Military Service
- Retirement Plans
- Taxes
- All Preceding Subjects

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

An agent who is not an ancestor, spouse, or descendant may exercise authority under this power of attorney to create in the agent or in an individual to whom the agent owes a legal obligation of support an interest in my property whether by gift, rights of survivorship, beneficiary designation, disclaimer, or otherwise

Create, amend, revoke, or terminate an inter vivos, family, living, irrevocable, or revocable trust

Consent to the modification or termination of a noncharitable irrevocable trust under 14A V.S.A. § 411

Make a gift, subject to the limitations of 14 V.S.A. § 4047 (gifts) and any special instructions in this power of attorney

Create, amend, or change rights of survivorship

Create, amend, or change a beneficiary designation

Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan

Exercise fiduciary powers that the principal has authority to delegate

() Authorize another person to exercise the authority granted under this power of attorney

() Disclaim or refuse an interest in property, including a power of appointment

() Exercise authority with respect to elective share under 14 V.S.A. § 319

() Exercise waiver rights under 14 V.S.A. § 323

() Exercise authority over the content and catalogue of electronic communications and digital assets under 14 V.S.A. chapter 125 (Vermont Revised Uniform Fiduciary Access to Digital Assets Act)

() Exercise authority with respect to intellectual property, including, without limitation, copyrights, contracts for payment of royalties, and trademarks

() Convey, or revoke or revise a grantee designation, by enhanced life estate deed pursuant to chapter 6 of Title 27 or under common law.

LIMITATION ON AGENT'S AUTHORITY

An agent who is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

WHEN POWER OF ATTORNEY EFFECTIVE

This power of attorney becomes effective when executed unless the principal has initialed one of the following:

() This power of attorney is effective only upon my later incapacity.

OR

() This power of attorney is effective only upon my later incapacity or unavailability.

OR

() I direct that this power of attorney shall become effective when one or more of the following occurs:

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

NOMINATION OF GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a guardian of my estate or a guardian of my person, I nominate the following person(s) for appointment:

Name of Nominee for [conservator or guardian] of my estate:

Nominee's Address:

Nominee's Telephone Number:

Name of Nominee for guardian of my person:

Nominee's Address:

Nominee's Telephone Number:

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid. Unless expressly stated otherwise, this power of attorney is durable and shall remain valid if I become incapacitated or unavailable.

SIGNATURE AND ACKNOWLEDGMENT

Your Name Printed

Your Address

Your Telephone Number

State of _____

County of _____

This document was acknowledged before me on _____ (Date)

by _____.

(Name of Principal)

(Seal, if any)

Signature of Notary _____

My commission expires: _____

IMPORTANT INFORMATION FOR AGENT

Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

(1) do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interests;

(2) act in good faith;

(3) do nothing beyond the authority granted in this power of attorney;
and

(4) disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner: (Principal's Name) by (Your Signature) as Agent.

Unless the Special Instructions in this power of attorney state otherwise, you must also:

(1) act loyally for the principal's benefit;

(2) avoid conflicts that would impair your ability to act in the

principal's best interest;

(3) act with care, competence, and diligence;

(4) keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(5) cooperate with any person that has authority to make health-care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interests; and

(6) attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interests.

Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

(1) death of the principal;

(2) the principal's revocation of the power of attorney or your authority;

(3) the occurrence of a termination event stated in the power of attorney;

(4) the purpose of the power of attorney is fully accomplished; or

(5) if you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

Liability of Agent

The meaning of the authority granted to you is defined in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127. If you violate the Vermont Uniform Power of Attorney Act, or act outside the authority granted, you may be liable for any damages caused by your violation. In addition to civil liability, failure to comply with your duties and authority granted under this document could subject you to criminal prosecution.

If there is anything about this document or your duties that you do not understand, you should seek legal advice.

§ 4052. STATUTORY SHORT FORM POWER OF ATTORNEY FOR
REAL ESTATE TRANSACTIONS

(a) A document substantially in the following form may be used to create a statutory form power of attorney for a real estate transaction that has the meaning and effect prescribed by this chapter.

VERMONT SHORT FORM POWER OF ATTORNEY FOR REAL ESTATE
TRANSACTIONS

This power of attorney authorizes another person (your agent) to take actions for you (the principal) in connection with a real estate transaction (sale, purchase, mortgage, or gift). Your agent will be able to make decisions and act with respect to a specific parcel of land whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127.

DESIGNATION OF AGENT

I/we _____ and _____
(Name(s) of Principal) appoint the following person as my (our) agent:

Name of Agent: _____

Name of Alternate Agent: _____

Address of Property that is the subject of this power of attorney

(Street): _____, _____ (Municipality)
_____, Vermont.

Transaction for which the power of attorney is given:

Sale

Purchase or Acquisition

Mortgage

Finance and/or Mortgage

Gift

GRANT OF AUTHORITY

I/we grant my (our) agent and any alternate agent authority named in this power of attorney to act for me/us with respect to a real estate transaction involving the property with the address stated above, including, but not limited to, the powers described in 14 V.S.A. § 4034(2), (3), and (4) as provided in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127.

POWER TO DELEGATE

[] If this box is checked, each agent appointed in this power of attorney may delegate the authority to act to another person. Any delegation shall be in writing and executed in the same manner as this power of attorney.

TERM

This power of attorney commences when fully executed and continues until the real estate transaction for which it was given is complete.

SELF DEALING

[] If this box is checked, the agent named in this power of attorney may convey the subject real estate with or without consideration to the agent, individually, in trust, or to one or more persons with the agent.

CHOICE OF LAW

This power of attorney and the effect hereof shall be determined by the application of Vermont law and the Vermont Uniform Power of Attorney Act.

SIGNATURE AND ACKNOWLEDGMENT

Your Name Printed

Your Address

Your Telephone Number

State of

County of

This document was acknowledged before me on _____ (Date)

by _____.

(Name of Principal)

(Seal, if any)

Signature of Notary _____

My commission expires: _____

(b) A power of attorney in the form above confers on the agent the powers provided in subdivisions 4034 (2), (3) and (4) of this chapter.

§ 4053. AGENT’S CERTIFICATION

The following optional form may be used by an agent to certify facts concerning a power of attorney.

AGENT’S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY AND AGENT’S AUTHORITY

State of _____

[County] of _____]

I, _____ (Name of Agent), certify under penalty of perjury that _____ (Name of Principal) granted me authority as an agent or successor agent in a power of attorney dated _____.

I further certify that to my knowledge:

(1) the Principal is alive and has not revoked the Power of Attorney or my authority to act under the Power of Attorney and the Power of Attorney and my authority to act under the Power of Attorney have not terminated;

(2) if the Power of Attorney was drafted to become effective upon the happening of an event or contingency, the event or contingency has occurred;

(3) if I was named as a successor agent, the prior agent is no longer able or willing to serve; and

(4) _____ (Insert other relevant statements below)

SIGNATURE AND ACKNOWLEDGMENT

Agent’s Name Printed

Agent's Address

Agent's Telephone Number

This document was acknowledged before me on _____,

____ (Date)

by _____

(Name of Agent)

(Seal, if any)

Signature of Notary

My commission expires: _____

Subchapter 4. Miscellaneous Provisions

§ 4061. UNIFORMITY OF APPLICATION AND CONSTRUCTION

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

§ 4062. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede subsection 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in subsection 103(b) of that act, 15 U.S.C. § 7003(b).

§ 4063. EFFECT ON EXISTING POWERS OF ATTORNEY

Except as otherwise provided in this chapter, on July 1, 2023:

(1) this chapter applies to a power of attorney created before, on, or after July 1, 2023;

(2) this chapter applies to a judicial proceeding concerning a power of attorney commenced on or after July 1, 2023;

(3) this chapter applies to a judicial proceeding concerning a power of attorney commenced before July 1, 2023 unless the court finds that application of a provision of this chapter would substantially interfere with the effective conduct of the judicial proceeding or prejudice the rights of a party, in which case that provision does not apply and the superseded law applies; and

(4) an act done before July 1, 2023 is not affected by this chapter.

Sec. 2. REPEAL

14 V.S.A. chapter 123 (powers of attorney) is repealed.

Sec. 3. 14A V.S.A. § 401 is amended to read:

§ 401. METHODS OF CREATING TRUST

A trust may be created:

(1) by transfer of property to another person as trustee or to the trust in the trust's name during the settlor's lifetime or by will or other disposition taking effect upon the settlor's death;

(2) by declaration by the owner of property that the owner holds identifiable property as trustee;

(3) by exercise of a power of appointment in favor of a trustee;

(4) pursuant to a statute or judgment or decree that requires property to be administered in the manner of an express trust; or

~~(5)(A) by an agent or attorney-in-fact under a power of attorney that expressly grants authority to create the trust; or~~

~~(B) by an agent or attorney-in-fact under a power of attorney that grants the agent or attorney-in-fact the authority to act in the management and disposition of the principal's property that is as broad or comprehensive as the principal could exercise for himself or herself and that does not expressly exclude the authority to create a trust, provided that any trust so created does not include any authority or powers that are otherwise prohibited by 14 V.S.A. § 3504. An agent or attorney-in-fact may petition the Probate Division of the Superior Court to determine whether a power of attorney described in this subdivision grants the agent or attorney-in-fact authority that is as broad or comprehensive as that which the principal could exercise for himself or herself.~~

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 1, 2023, page 377 and March 3, 2023, page 401.)

NEW BUSINESS

Third Reading

H. 178.

An act relating to commissioning Department of Corrections personnel as notaries public.

H. 494.

An act relating to making appropriations for the support of government.

Proposal of amendment to H. 494 to be offered by Senators Kitchel, Baruth, Lyons, Perchlik, Sears, Starr and Westman before Third Reading

Senators Kitchel, Baruth, Lyons, Perchlik, Sears, Starr and Westman move to amend the Senate proposal of amendment by striking out Sec. B.317 in its entirety and inserting in lieu thereof a new Sec. B.317 to read as follows:

Sec. B.317 Department for children and families - family services

Personal services	43,987,652
Operating expenses	5,180,385
Grants	<u>92,941,639</u>
Total	142,109,676
Source of funds	
General fund	59,227,017
Special funds	729,587
Federal funds	33,937,204
Global Commitment fund	48,178,131
Interdepartmental transfers	<u>37,737</u>
Total	142,109,676

Second Reading

Favorable

S. 141.

An act relating to approval of the charter of Fairfax Fire District No. 1.

Reported favorably by Senator White for the Committee on Government Operations.

(Committee vote: 6-0-0)

H. 150.

An act relating to approval of an amendment to the charter of the Village of Alburgh.

Reported favorably by Senator Norris for the Committee on Government Operations.

(Committee vote: 6-0-0)

(For House amendments, see House Journal of April 4, 2023, page 883.)

Favorable with Proposal of Amendment

H. 110.

An act relating to extending the sunset under 30 V.S.A. § 248a.

Reported favorably with recommendation of proposal of amendment by Senator Chittenden for the Committee on Finance.

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

Sec. 1. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS FACILITIES

* * *

(i) Sunset of Commission authority. Effective on July 1, ~~2023~~ 2026, no new applications for certificates of public good under this section may be considered by the Commission.

* * *

Sec. 2. SECTION 248a REPORT

On or before January 15, 2024, the Commissioner of Public Service in consultation with the Public Utility Commission shall report to the Senate Committee on Finance and the House Committee on Environment and Energy on of the process of siting telecommunications facilities under 30 V.S.A. § 248a. The report shall address how to make the process easier to participate in for municipalities and individuals, how to encourage municipal participation, and recommend any necessary updates to 30 V.S.A. § 248a. The Commissioner shall hear from the Vermont League of Cities and Towns, the utilities, and any other interested parties.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-1-1)

(No House amendments.)

H. 479.

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

Reported favorably with recommendation of proposal of amendment by Senator Mazza for the Committee on Transportation.

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

* * * Transportation Program Adopted as Amended; Definitions;
Technical Corrections * * *

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS;
TECHNICAL CORRECTIONS

(a) Adoption. The Agency of Transportation's Proposed Fiscal Year 2024 Transportation Program appended to the Agency of Transportation's proposed fiscal year 2024 budget (Revised January 27, 2023), as amended by this act, is adopted to the extent federal, State, and local funds are available.

(b) Definitions. As used in this act, unless otherwise indicated:

(1) "Agency" means the Agency of Transportation.

(2) "Candidate project" means a project approved by the General Assembly that is not anticipated to have significant expenditures for preliminary engineering or right-of-way expenditures, or both, during the budget year and funding for construction is not anticipated within a predictable time frame.

(3) "Development and evaluation (D&E) project" means a project approved by the General Assembly that is anticipated to have preliminary engineering expenditures or right-of-way expenditures, or both, during the budget year and that the Agency is committed to delivering to construction on a timeline driven by priority and available funding.

(4) "Front-of-book project" means a project approved by the General Assembly that is anticipated to have construction expenditures during the budget year or the following three years, or both, with expected expenditures

shown over four years.

(5) “Secretary” means the Secretary of Transportation.

(6) “TIB funds” means monies deposited in the Transportation Infrastructure Bond Fund in accordance with 19 V.S.A. § 11f.

(7) The table heading “As Proposed” means the Proposed Transportation Program referenced in subsection (a) of this section; the table heading “As Amended” means the amendments as made by this act; the table heading “Change” means the difference obtained by subtracting the “As Proposed” figure from the “As Amended” figure; the terms “change” or “changes” in the text refer to the project- and program-specific amendments, the aggregate sum of which equals the net “Change” in the applicable table heading; and “State” in any tables amending authorizations indicates that the source of funds is State monies in the Transportation Fund, unless otherwise specified.

(c) Technical corrections.

(1) In the Agency of Transportation’s Proposed Fiscal Year 2024 Transportation Program for Municipal Mitigation, the value “\$7,685,523” is struck and the value “\$10,113,523” is inserted in lieu thereof to correct a typographic error; the value “\$3,355,523” is struck and the value “\$4,783,523” is inserted in lieu thereof to correct a typographic error; the value “\$4,000,000” is struck and the value “\$5,000,000” is inserted in lieu thereof to correct a typographic error; and the value “\$8,060,523” is struck twice and the value “\$10,488,523” is inserted in lieu thereof twice to correct two typographic errors.

(2) In the Agency of Transportation’s Proposed Fiscal Year 2024 Transportation Program for Aviation, in the summary chart, the value “\$11,335,874” is struck and the value “\$10,885,874” is inserted in lieu thereof to correct a typographic error; the value “\$4,759,078” is struck and the value “\$4,719,078” is inserted in lieu thereof to correct a typographic error; and the value “\$17,764,405” struck and the value “\$17,274,405” is inserted in lieu thereof to correct a typographic error.

(3) In the Agency of Transportation’s Proposed Fiscal Year 2024 Transportation Program for Rail, in the project details, the following projects are deleted:

(A) Rail Statewide – Railroad Bridges; and

(B) Rail Statewide STRBMATN – Various-Railroads.

* * * Summary of Transportation Investments * * *

Sec. 2. FISCAL YEAR 2024 TRANSPORTATION INVESTMENTS
INTENDED TO REDUCE TRANSPORTATION-RELATED
GREENHOUSE GAS EMISSIONS, REDUCE FOSSIL FUEL
USE, AND SAVE VERMONT HOUSEHOLDS MONEY

This act includes the State's fiscal year 2024 transportation investments intended to reduce transportation-related greenhouse gas emissions, reduce fossil fuel use, and save Vermont households money in furtherance of the policies articulated in 19 V.S.A. § 10b and the goals of the Comprehensive Energy Plan and the Vermont Climate Action Plan and to satisfy the Executive and Legislative Branches' commitments to the Paris Agreement climate goals. In fiscal year 2024, these efforts will include the following:

(1) Park and Ride Program. This act provides for a fiscal year expenditure of \$2,266,045.00, which will fund one construction project to create a new park-and-ride facility; the design and construction of improvements to one existing park-and-ride facility; the design of improvements to one existing park-and-ride facility scheduled for construction in future fiscal years; and paving projects for existing park-and-ride facilities. This year's Park and Ride Program will create 202 new State-owned spaces. Specific additions and improvements include:

- (A) Manchester—construction of 50 new spaces;
- (B) Sharon—design for 10 new spaces; and
- (C) Williston—construction of 142 new spaces.

(2) Bike and Pedestrian Facilities Program.

(A) This act provides for a fiscal year expenditure, including local match, of \$13,039,521.00, which will fund 33 bike and pedestrian construction projects; 18 bike and pedestrian design, right-of-way, or design and right-of way projects for construction in future fiscal years; 15 scoping studies; and three projects to improve signage. The construction projects include the creation, improvement, or rehabilitation of walkways, sidewalks, shared-use paths, bike paths, and cycling lanes. Projects are funded in Arlington, Bennington, Berlin, Bethel, Brattleboro, Bristol, Burke, Burlington, Castleton, Chester, Coventry, Dorset, Dover, Enosburg Falls, Fair Haven, Fairfax, Franklin, Hartford, Hartland, Hinesburg, Jericho, Lyndonville, Middlebury, Middlesex, Montpelier, Moretown, New Haven, Newfane, Newport City, Northfield, Pawlet, Proctor, Richford, Royalton, Rutland City, Rutland Town, Shaftsbury, Shelburne, South Burlington, South Hero, Springfield, St. Albans City, St. Albans Town, Sunderland, Swanton, Tunbridge, Vergennes,

Wallingford, Waterbury, West Rutland, and Wilmington. This act also provides funding for:

(i) some of Local Motion's operation costs to run the Bike Ferry on the Colchester Causeway, which is part of the Island Line Trail;

(ii) the small-scale municipal bicycle and pedestrian grant program for projects to be selected during the fiscal year;

(iii) projects funded through the Safe Routes to School program;

(iv) education and outreach to K-8 schools to encourage higher levels of walking and bicycling to school; and

(v) community grants along the Lamoille Valley Rail Trail (LVRT).

(B) Sec. 5 of this act also creates the Rail Trail Community Connectivity Grants, with the purpose to continue the build out and enhancement of LVRT amenities and improve visitor experience.

(3) Transportation Alternatives Program. This act provides for a fiscal year expenditure of \$5,195,346.00, including local funds, which will fund 22 transportation alternatives construction projects; 19 transportation alternatives design, right-of-way, or design and right-of-way projects; and seven studies, including scoping, historic preservation, and connectivity. Of these 48 projects, 16 involve environmental mitigation related to clean water or stormwater concerns, or both clean water and stormwater concerns, and 29 involve bicycle and pedestrian facilities. Projects are funded in Bennington, Brandon, Bridgewater, Bristol, Burke, Burlington, Colchester, Derby, Duxbury, Enosburg, Fair Haven, Fairfax, Franklin, Hartford, Hinesburg, Hyde Park, Jericho, Johnson, Killington, Mendon, Milton, Montgomery, Moretown, Newfane, Norwich, Proctor, Putney, Rockingham, Rutland City, South Burlington, Stowe, Swanton, Tinmouth, Vergennes, Wardsboro, Warren, West Rutland, Williston, Wilmington, and Winooski.

(4) Public Transit Program. This act provides for a fiscal year expenditure of \$48,795,330.00 for public transit uses throughout the State. Included in the authorization are:

(A) Go! Vermont, with an authorization of \$405,000.00. This authorization supports transportation demand management (TDM) strategies, including the State's Trip Planner and commuter services, to promote the use of carpools and vanpools.

(B) Mobility and Transportation Innovations (MTI) Grant Program, with an authorization of \$500,000.00. This authorization continues to support

projects that improve both mobility and access to services for transit-dependent Vermonters, reduce the use of single-occupancy vehicles, and reduce greenhouse gas emissions.

(5) Rail Program. This act provides for a fiscal year expenditure of \$43,008,320.00, including local funds, for intercity passenger rail service and rail infrastructure throughout the State, including the recent addition of New York City–Burlington passenger rail service.

(6) Transformation of the State Vehicle Fleet. The Department of Buildings and General Services, which manages the State Vehicle Fleet, currently has 21 plug-in hybrid electric vehicles and 13 battery electric vehicles in the State Vehicle Fleet. In fiscal year 2024, the Commissioner of Buildings and General Services will continue to purchase and lease vehicles for State use in accordance with 29 V.S.A. § 903(g), which requires, to the maximum extent practicable, that the Commissioner purchase or lease hybrid or plug-in electric vehicles (PEVs), as defined in 23 V.S.A. § 4(85), with not less than 75 percent of the vehicles purchased or leased be hybrid or plug-in electric vehicles.

(7) Electric vehicle supply equipment (EVSE). This act provides for a fiscal year expenditure of \$7,625,000.00 to increase the presence of EVSE in Vermont in accordance with the State’s federally approved National Electric Vehicle Infrastructure (NEVI) Plan, which will lead to the installation of Direct Current Fast Charging (DC/FC) along designated alternative fuel corridors. This is in addition to monies that were previously appropriated, but not yet expended, for EVSE at multiunit dwellings, workplaces, and public venues and attractions.

(8) Vehicle incentive programs and expansion of the PEV market.

(A) Incentive Program for New PEVs, MileageSmart, and Replace Your Ride Program. No additional monies are authorized for the State’s vehicle incentive programs in this act, but it is estimated that approximately the following prior appropriations will be available in fiscal year 2024:

(i) \$8,200,000.00 for the Incentive Program for New PEVs;

(ii) \$2,250,000.00 for MileageSmart; and

(iii) \$3,200,000.00 for the Replace Your Ride Program.

(B) Electrify Your Fleet Program. Sec. 17 of this act creates the Electrify Your Fleet Program, which will provide incentives to Vermont municipalities and business entities in Vermont that maintain a fleet of motor vehicles to incentivize a transition to PEVs and reduce greenhouse gas emissions, including a limited number of increased incentives to nonprofit

mobility services organizations, and authorizes \$500,000.00 in incentives under the Electrify Your Fleet Program.

(C) eBike Incentive Program. Sec. 18 of this act authorizes an additional \$50,000.00 in incentives under the eBike Incentive Program.

(9) Carbon Reduction Formula Program and Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) Formula Program. This act provides for a fiscal year expenditure of \$12,771,029.00 in State and federal monies under the Carbon Reduction Formula Program and the PROTECT Formula Program.

* * * One-Time Appropriations * * *

Sec. 3. ONE-TIME APPROPRIATIONS

(a) Within the Agency of Transportation’s Proposed Fiscal Year 2024 Transportation Program for One-Time Appropriations, authorized spending is amended as follows:

<u>FY24</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Operating	3,500,000	0	-3,500,000
Grants	3,000,000	0	-3,000,000
Total	6,500,000	0	-6,500,000
<u>Sources of funds</u>			
General	3,000,000	0	-3,000,000
Capital	3,500,000	0	-3,500,000
Total	6,500,000	0	-6,500,000

(b) Within the Agency of Transportation’s Proposed Fiscal Year 2024 Transportation Program for One-Time Appropriations, the following are struck:

(1) “Rail Trail Community Connectivity Grants - \$3M General Fund Grants”; and

(2) “St. Albans District Maintenance Facility - \$3.5M Capital Fund Operating.”

* * * St. Albans District Maintenance Facility * * *

Sec. 4. ST. ALBANS DISTRICT MAINTENANCE FACILITY

The following project is added to the Agency of Transportation’s Proposed Fiscal Year 2024 Transportation Program for Transportation Buildings: St. Albans District Maintenance Facility.

* * * Rail Trail Community Connectivity Grants * * *

Sec. 5. RAIL TRAIL COMMUNITY CONNECTIVITY GRANTS

(a) Project addition. The following project is added to the Agency of Transportation's Proposed Fiscal Year 2024 Transportation Rail Program: Rail Trail Community Connectivity Grants.

(b) Purpose. The purpose of the Rail Trail Community Connectivity Grants is to continue the build-out and enhancement of Lamoille Valley Rail Trail (LVRT) amenities and improve visitor experience, which shall be consistent with the priorities outlined in the recently completed LVRT Management Plan.

(c) Eligible projects. Projects may include trail infrastructure improvements, such as trailheads, picnic areas, kiosks, and connections to towns; signage; and interpretive panel installations.

(d) Match. Grant recipients shall be required to provide a 20 percent match toward any projects that are awarded a grant.

* * * Project Cancellations; Project Addition * * *

Sec. 6. PROJECT CANCELLATIONS; PROJECT ADDITION

(a) Pursuant to 19 V.S.A. § 10g(h) (legislative approval for cancellation of projects), the General Assembly approves cancellation of the following project within the Roadway Program: Bennington Bypass South NH F 019-1(4) – Southern Segment of the Bennington Bypass.

(b) Pursuant to 19 V.S.A. § 10g(h) (legislative approval for cancellation of projects), the General Assembly approves cancellation of the following project within the Town Highway Bridge Program: Sheldon BO 1448(47) – Scoping for Bridge #20 on TH #22.

(c) The following project is added to the Town Highway Bridge Program: Sheldon BO 1448(48) – Scoping for Bridge #11 on Bridge Street, which will replace the existing Sheldon BO TRUS(11) as a Development and Evaluation project.

* * * Transportation Alternatives Grant Program * * *

Sec. 7. TRANSPORTATION ALTERNATIVES GRANT PROGRAM
AWARDS IN STATE FISCAL YEARS 2024 TO 2027

Notwithstanding 19 V.S.A. § 38(c), Transportation Alternatives Grant Program awards in State fiscal years 2024 to 2027 shall not exceed \$600,000.00 per grant allocation.

* * * Central Garage Fund * * *

* * * Amendments Effective July 1, 2023 * * *

Sec. 8. 19 V.S.A. § 13 is amended to read:

§ 13. CENTRAL GARAGE FUND

(a) There is created the Central Garage Fund, which shall be used to:

(1) ~~to~~ furnish equipment on a rental basis to the districts and other sections of the Agency for construction, maintenance, and operation of highways or other transportation activities; and

(2) ~~to~~ provide a general equipment repair and major overhaul service, inclusive of any assets, supplies, labor, or use of contractors necessary to provide that service, as well as to furnish necessary supplies for the operation of the equipment.

(b) ~~To~~ In order to maintain a safe, and reliable equipment fleet, the Agency shall use Central Garage Fund monies to acquire new or replacement highway maintenance equipment shall be acquired using Central Garage Fund monies. The Agency is authorized to acquire replacement pieces for existing highway equipment or new, additional equipment equivalent to equipment already owned; ~~however, the Agency shall not increase the total number of permanently assigned or authorized motorized or self-propelled vehicles without approval by the General Assembly.~~

(c)(1) For the purpose specified in subsection (b) of this section, the following amount shall be transferred from the Transportation Fund to the Central Garage Fund:

(A) in fiscal year 2021, \$1,355,358.00; and

(B) in subsequent fiscal years, at a minimum, the amount specified in subdivision (A) of this subdivision (1) as adjusted annually by increasing the previous fiscal year's amount by the percentage increase in the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) during the two most recently closed State fiscal years.

(2) Each fiscal year, the sum of the following shall be appropriated from the Central Garage Fund exclusively for the purpose specified in subsection (b) of this section:

(A) the amount transferred pursuant to subdivision (1) of this subsection (c);

(B) the amount of the equipment depreciation expense from the prior fiscal year; and

(C) the amount of the net equipment sales from the prior fiscal year.

(d) In each fiscal year, net income of the Fund earned during that fiscal year shall be retained in the Fund.

(e) For the purposes of computing net worth and net income, the fiscal year shall be the year ending June 30.

(f) As used in this section, “equipment” means registered motor vehicles and ~~highway maintenance equipment assigned to~~ necessary assets required by the Central Garage in order to fulfill the objectives established in subsection (a) of this section.

(g) [Repealed.]

* * * Appropriation for Acquisition of New or Replacement Equipment in State Fiscal Years 2024–2026 * * *

Sec. 9. CALCULATION OF APPROPRIATION FROM CENTRAL GARAGE FUND FOR ACQUISITION OF NEW OR REPLACEMENT EQUIPMENT IN STATE FISCAL YEARS 2024–2026

Notwithstanding 19 V.S.A. § 13(c)(2)(B), the amount appropriated from the Central Garage Fund exclusively for the purposes specified in 19 V.S.A. § 13(b) in State fiscal years 2024–2026 shall be:

(1) the amount transferred pursuant to 19 V.S.A. § 13(c)(1);

(2) the amount of the equipment depreciation expense from the prior fiscal year or, for equipment that is fully depreciated and still actively in service, an amount equal to the depreciation on that piece of equipment from the prior year; and

(3) the amount of the net equipment sales from the prior fiscal year.

* * * Public Transit * * *

Sec. 10. GREEN MOUNTAIN TRANSIT; PLAN FOR TIERED-FARE SERVICE; REPORT

(a) Green Mountain Transit shall, in consultation with community action agencies and other relevant entities, such as those that represent the migrant and refugee populations, develop and implement, not later than January 1, 2024, a plan to establish tiered-fare service on urban Green Mountain Transit routes.

(b) At a minimum, the plan to establish tiered-fare service shall:

(1) incorporate a low-income transit program to provide certain

passengers with service at no cost or a reduced cost to the passenger through digital methods, such as a handheld device, and nondigital methods, such as an electronic benefits transfer (EBT) card or a transit card; and

(2) be designed, based on reasonable revenue estimates, to generate fare revenue of at least 10 percent of projected operational costs on urban Green Mountain Transit routes.

(c) Green Mountain Transit shall advise the House and Senate Committees on Transportation of its plan to establish tiered-fare service by filing the final version of the plan to establish tiered-fare service with the House and Senate Committees on Transportation Committees on or before December 1, 2023.

Sec. 11. RECOMMENDATIONS ON FUNDING SOURCE FOR
NONFEDERAL MATCH; PUBLIC TRANSIT; REPORT

The Vermont Public Transportation Association, in consultation with the Agency of Transportation and the Vermont League of Cities and Towns, shall provide the House and Senate Committees on Transportation with a written recommendation on one or more funding sources for the nonfederal match required of public transit providers operating in the statewide transit system not later than January 15, 2024.

Sec. 12. STATEWIDE PUBLIC TRANSIT SYSTEM;
RECOMMENDATIONS; REPORT

(a) The Agency of Transportation, in consultation with the Agency of Human Services, Division of Vermont Health Access, and the Vermont Public Transportation Association, shall conduct a benefit and risk assessment of the current systems for delivering public transit and nonemergency medical transportation services in Vermont, known as the “braided service model.”

(b) The assessment shall also include a review of other public transit service approaches implemented in the United States and make recommendations on modifications to the management of Vermont’s statewide mobility service design to make Vermont’s public transit system as efficient, robust, and resilient as possible and fully maximize all available federal funding.

(c) The Agency of Transportation shall file the written assessment with the House and Senate Committees on Transportation, the House Committee on Human Services, and the Senate Committee on Health and Welfare not later than January 15, 2024.

Sec. 13. SEPARATING THE MOBILITY AND TRANSPORTATION INNOVATIONS (MTI) GRANT PROGRAM FROM GO! VERMONT

(a) Go! Vermont. Within the Agency of Transportation’s Proposed Fiscal Year 2024 Transportation Program for Public Transit, authorized spending for Go! Vermont STPG GOVT() is amended as follows:

<u>FY24</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	905,000	405,000	-500,000
Total	905,000	405,000	-500,000
<u>Sources of funds</u>			
State	30,000	30,000	0
Federal	875,000	375,000	-500,000
Total	905,000	405,000	-500,000

(b) Mobility and Transportation Innovations (MTI) Grant Program.

(1) Project addition. The following project is added to the Agency of Transportation’s Proposed Fiscal Year 2024 Transportation Program for Public Transit: Mobility and Transportation Innovations (MTI) Grant Program.

(2) Authorization. Spending authority for MTI Grant Program is authorized as follows:

<u>FY24</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	0	500,000	500,000
Total	0	500,000	500,000
<u>Sources of funds</u>			
Federal	0	500,000	500,000
Total	0	500,000	500,000

* * * Vehicle Incentive Programs * * *

* * * Repeal of Existing Vehicle Incentive Programs * * *

Sec. 14. REPEALS

(a) 2019 Acts and Resolves No. 59, Sec. 34, as amended by 2020 Acts and Resolves No. 121, Sec. 14, 2020 Acts and Resolves No. 154, Sec. G.112, 2021 Acts and Resolves No. 3, Sec. 56, 2021 Acts and Resolves No. 55, Secs. 18, 19, and 21–24, and 2022 Acts and Resolves No. 184, Sec. 6, is repealed.

(b) 2021 Acts and Resolves No. 55, Sec. 27, as amended by 2022 Acts and Resolves No. 184, Sec. 22, is repealed.

Sec. 15. 19 V.S.A. chapter 29 is added to read:

CHAPTER 29. VEHICLE INCENTIVE PROGRAMS

§ 2901. DEFINITIONS

As used in this chapter:

(1) “Adaptive electric cycle” means an electric bicycle or an electric cargo bicycle that has been modified to meet the physical needs or abilities of the operator or a passenger.

(2) “Electric bicycle” has the same meaning as in 23 V.S.A. § 4(46)(A).

(3) “Electric cargo bicycle” means a motor-assisted bicycle, as defined in 23 V.S.A. § 4(45)(B)(i), with an electric motor, as defined under 23 V.S.A. § 4(45)(B)(i)(II), that is specifically designed and constructed for transporting loads, including at least one or more of the following: goods; one or more individuals in addition to the operator; or one or more animals. A motor-assisted bicycle that is not specifically designed and constructed for transporting loads, including a motor-assisted bicycle that is only capable of transporting loads because an accessory rear or front bicycle rack has been installed, is not an electric cargo bicycle.

(4) “Plug-in electric vehicle (PEV),” “battery electric vehicle (BEV),” and “plug-in hybrid electric vehicle (PHEV)” have the same meanings as in 23 V.S.A. § 4(85).

§ 2902. INCENTIVE PROGRAM FOR NEW PLUG-IN ELECTRIC VEHICLES

(a) Creation; administration.

(1) There is created the Incentive Program for New Plug-In Electric Vehicles (PEVs), which shall be administered by the Agency of Transportation.

(2) Subject to State procurement requirements, the Agency may retain a contractor or contractors to assist with marketing, program development, and administration of the Program.

(b) Program structure. The Incentive Program for New PEVs shall structure PEV purchase and lease incentive payments by income to help all Vermonters benefit from electric driving, including Vermont’s most vulnerable. Specifically, the Incentive Program for New PEVs:

(1) shall apply to both purchases and leases of new PEVs with an

emphasis on incentivizing the purchase and lease of battery electric vehicles (BEVs) and plug-in hybrid electric vehicles (PHEVs) with an electric range of 20 miles or greater per complete charge as rated by the Environmental Protection Agency when the vehicle was new;

(2) shall provide not more than one incentive of not more than \$3,000.00 for a PEV, per individual per year, to:

(A) an individual domiciled in the State whose federal income tax filing status is single with an adjusted gross income under the laws of the United States greater than \$60,000.00 and at or below \$100,000.00;

(B) an individual domiciled in the State whose federal income tax filing status is head of household with an adjusted gross income under the laws of the United States greater than \$75,000.00 and at or below \$125,000.00;

(C) an individual domiciled in the State whose federal income tax filing status is surviving spouse with an adjusted gross income under the laws of the United States greater than \$90,000.00 and at or below \$150,000.00;

(D) an individual who is part of a married couple with at least one spouse domiciled in the State whose federal income tax filing status is married filing jointly with an adjusted gross income under the laws of the United States greater than \$90,000.00 and at or below \$150,000.00; or

(E) an individual who is part of a married couple with at least one spouse domiciled in the State and at least one spouse whose federal income tax filing status is married filing separately with an adjusted gross income under the laws of the United States greater than \$60,000.00 and at or below \$100,000.00;

(3) shall provide not more than one incentive of not more than \$6,000.00 for a PEV, per individual per year, to:

(A) an individual domiciled in the State whose federal income tax filing status is single with an adjusted gross income under the laws of the United States at or below \$60,000.00;

(B) an individual domiciled in the State whose federal income tax filing status is head of household with an adjusted gross income under the laws of the United States at or below \$75,000.00;

(C) an individual domiciled in the State whose federal income tax filing status is surviving spouse with an adjusted gross income under the laws of the United States at or below \$90,000.00;

(D) an individual who is part of a married couple with at least one spouse domiciled in the State whose federal income tax filing status is married

filing jointly with an adjusted gross income under the laws of the United States at or below \$90,000.00; or

(E) an individual who is part of a married couple with at least one spouse domiciled in the State and at least one spouse whose federal income tax filing status is married filing separately with an adjusted gross income under the laws of the United States at or below \$60,000.00;

(4) shall, as technology progresses, establish a minimum electric range in order for a PHEV to be eligible for an incentive;

(5) shall apply to:

(A) manufactured PEVs with any base Manufacturer's Suggested Retail Price (MSRP) that will be issued a special registration plate by the Commissioner of Motor Vehicles pursuant to 23 V.S.A. § 304a or will predominately be used to provide accessible transportation for the incentive recipient or a member of the incentive recipient's household, provided that the incentive recipient or the member of the incentive recipient's household has a removable windshield placard issued by the Commissioner of Motor Vehicles pursuant to 23 V.S.A. § 304a;

(B) manufactured PHEVs with a base MSRP as determined by the Agency of Transportation and meeting the following requirements:

(i) shall not exceed a base MSRP of \$55,000.00;

(ii) shall phase out incentives for PHEVs with an electric range of less than 20 miles as rated by the Environmental Protection Agency when the vehicle was new; and

(iii) shall be benchmarked to a base MSRP of the equivalent of approximately \$50,000.00 or less in model year 2023; and

(C) manufactured BEVs with a base MSRP as determined by the Agency of Transportation and meeting the following requirements:

(i) shall not exceed a base MSRP of \$55,000.00; and

(ii) shall be benchmarked to a base MSRP of the equivalent of approximately \$50,000.00 or less in model year 2023; and

(6) shall provide incentives that may be in addition to any other available incentives, including through another program funded by the State, provided that not more than one incentive under the Incentive Program for New PEVs is used for the purchase or lease of any one PEV.

(c) Administrative costs. Up to 15 percent of any appropriations for the Incentive Program for New PEVs may be used for any costs associated with

administering and promoting the Incentive Program for New PEVs.

(d) Outreach and marketing. The Agency, in consultation with any retained contractors, shall ensure that there is sufficient outreach and marketing, including the use of translation and interpretation services, of the Incentive Program for New PEVs so that Vermonters who are eligible for an incentive can easily learn how to secure as many different incentives as are available, and such costs shall be considered administrative costs for purposes of subsection (c) of this section.

§ 2903. MILEAGESMART

(a) Creation; administration.

(1) There is created a used high fuel efficiency vehicle incentive program, which shall be administered by the Agency of Transportation and known as MileageSmart.

(2) Subject to State procurement requirements, the Agency may retain a contractor or contractors to assist with marketing, program development, and administration of MileageSmart.

(b) Program structure. MileageSmart shall structure high fuel efficiency purchase incentive payments by income to help all Vermonters benefit from more efficient driving and reduced greenhouse gas emissions, including Vermont's most vulnerable. Specifically, MileageSmart shall:

(1) apply to purchases of used high fuel-efficient motor vehicles, which for purposes of this program shall be pleasure cars with a combined city/highway fuel efficiency of at least 40 miles per gallon or miles-per-gallon equivalent as rated by the Environmental Protection Agency when the vehicle was new; and

(2) provide not more than one point-of-sale voucher worth up to \$5,000.00 to an individual who is a member of a household with an adjusted gross income that is at or below 80 percent of the State median income.

(c) Administrative costs. Up to 15 percent of any appropriations for MileageSmart may be used for any costs associated with administering and promoting MileageSmart.

(d) Outreach and marketing. The Agency, in consultation with any retained contractors, shall ensure that there is sufficient outreach and marketing, including the use of translation and interpretation services, of MileageSmart so that Vermonters who are eligible for an incentive can easily learn how to secure as many different incentives as are available, and such costs shall be considered administrative costs for purposes of subsection (c) of

this section.

§ 2904. REPLACE YOUR RIDE PROGRAM

(a) Creation; administration.

(1) There is created the Replace Your Ride Program, which shall be administered by the Agency of Transportation.

(2) Subject to State procurement requirements, the Agency may retain a contractor or contractors to assist with marketing, program development, and administration of the Program.

(b) Program structure. The Replace Your Ride Program shall structure incentive payments by income to help all Vermonters benefit from replacing lower efficient modes of transportation with modes of transportation that reduce greenhouse gas emissions. The Agency may apply a sliding scale incentive based on electric range, with larger incentives being available for PEVs with a longer electric range.

(c) Incentive amount. The Replace Your Ride Program shall provide up to a \$2,500.00 incentive for those who qualify under subdivision (d)(1)(A) of this section and up to a \$5,000.00 incentive for those who qualify under subdivision (d)(1)(B) of this section, either of which may be in addition to any other available incentives, including through a program funded by the State, to individuals who qualify based on both income and the removal of an internal combustion vehicle. Only one incentive per individual is available under the Replace Your Ride Program.

(d) Eligibility. Applicants must qualify through both income and the removal of an eligible vehicle with an internal combustion engine.

(1) Income eligibility.

(A) The lower incentive amount of up to \$2,500.00 is available to the following, provided that all other eligibility requirements are met:

(i) an individual domiciled in the State whose federal income tax filing status is single with an adjusted gross income under the laws of the United States greater than \$60,000.00 and at or below \$100,000.00;

(ii) an individual domiciled in the State whose federal income tax filing status is head of household with an adjusted gross income under the laws of the United States greater than \$75,000.00 and at or below \$125,000.00;

(iii) an individual domiciled in the State whose federal income tax filing status is surviving spouse with an adjusted gross income under the laws of the United States greater than \$90,000.00 and at or below \$150,000.00;

(iv) an individual who is part of a married couple with at least one spouse domiciled in the State whose federal income tax filing status is married filing jointly with an adjusted gross income under the laws of the United States greater than \$90,000.00 and at or below \$150,000.00; or

(v) an individual who is part of a married couple with at least one spouse domiciled in the State and at least one spouse whose federal income tax filing status is married filing separately with an adjusted gross income under the laws of the United States greater than \$60,000.00 and at or below \$100,000.00.

(B) The higher incentive amount of up to \$5,000.00 is available to the following, provided that all other eligibility requirements are met:

(i) an individual domiciled in the State whose federal income tax filing status is single with an adjusted gross income under the laws of the United States at or below \$60,000.00;

(ii) an individual domiciled in the State whose federal income tax filing status is head of household with an adjusted gross income under the laws of the United States at or below \$75,000.00;

(iii) an individual domiciled in the State whose federal income tax filing status is surviving spouse with an adjusted gross income under the laws of the United States at or below \$90,000.00;

(iv) an individual who is part of a married couple with at least one spouse domiciled in the State whose federal income tax filing status is married filing jointly with an adjusted gross income under the laws of the United States at or below \$90,000.00;

(v) an individual who is part of a married couple with at least one spouse domiciled in the State and at least one spouse whose federal income tax filing status is married filing separately with an adjusted gross income under the laws of the United States at or below \$60,000.00; or

(vi) an individual who is a member of a household with an adjusted gross income that is at or below 80 percent of the State median income.

(2) Vehicle removal.

(A) In order for an individual to qualify for an incentive under the Replace Your Ride Program, the individual must remove an older low-efficiency vehicle from operation and switch to a mode of transportation that produces fewer greenhouse gas emissions. The entity that administers the Replace Your Ride Program, in conjunction with the Agency of

Transportation, shall establish Program guidelines that specifically provide for how someone can show that the vehicle removal eligibility requirement has been, or will be, met.

(B) For purposes of the Replace Your Ride Program:

(i) An “older low-efficiency vehicle”:

(I) is currently registered, and has been for two years prior to the date of application, with the Vermont Department of Motor Vehicles;

(II) is currently titled in the name of the applicant and has been for at least one year prior to the date of application;

(III) has a gross vehicle weight rating of 10,000 pounds or less;

(IV) is at least 10 model years old;

(V) has an internal combustion engine; and

(VI) passed the annual inspection required under 23 V.S.A. § 1222 within the prior year.

(ii) Removing the older low-efficiency vehicle from operation must be done by disabling the vehicle’s engine from further use and fully dismantling the vehicle for either donation to a nonprofit organization to be used for parts or destruction.

(iii) The following qualify as a switch to a mode of transportation that produces fewer greenhouse gas emissions:

(I) purchasing or leasing a new or used PEV;

(II) purchasing a new or used bicycle, electric bicycle, electric cargo bicycle, adaptive electric cycle, or motorcycle that is fully electric, and the necessary safety equipment; and

(III) utilizing shared-mobility services.

(e) Administrative costs. Up to 15 percent of any appropriations for the Replace Your Ride Program may be used for any costs associated with administering and promoting the Replace Your Ride Program.

(f) Outreach and marketing. The Agency, in consultation with any retained contractors, shall ensure that there is sufficient outreach and marketing, including the use of translation and interpretation services, of the Replace Your Ride Program so that Vermonters who are eligible for an incentive can easily learn how to secure as many different incentives as are available and such costs shall be considered administrative costs for purposes of subsection (e) of this section.

§ 2905. ANNUAL REPORTING

(a) The Agency shall annually evaluate the programs established under this chapter to gauge effectiveness and shall submit a written report on the effectiveness of the programs to the House and Senate Committees on Transportation, the House Committee on Environment and Energy, and the Senate Committee on Finance on or before the 31st day of January in each year following a year that an incentive was provided through one of the programs.

(b) The report shall also include:

(1) any intended modifications to program guidelines for the upcoming fiscal year along with an explanation for the reasoning behind the modifications and how the modifications will yield greater uptake of PEVs and other means of transportation that will reduce greenhouse gas emissions; and

(2) any recommendations on statutory modifications to the programs, including to income and vehicle eligibility, along with an explanation for the reasoning behind the statutory modification recommendations and how the modifications will yield greater uptake of PEVs and other means of transportation that will reduce greenhouse gas emissions.

(c) Notwithstanding 2 V.S.A. § 20(d), the annual report required under this section shall continue to be required if an incentive is provided through one of the programs unless the General Assembly takes specific action to repeal the report requirement.

* * * Vehicle Incentive Program; Fiscal Year 2023 Authorizations * * *

Sec. 16. 2022 Acts and Resolves No. 184, Sec. 5 is amended to read:

Sec. 5. VEHICLE INCENTIVE PROGRAMS

(a) Incentive Program for New PEVs. The Agency is authorized to spend up to \$12,000,000.00 as appropriated in the fiscal year 2023 budget on the Incentive Program for New PEVs established in 2019 Acts and Resolves No. 59, Sec. 34, as amended, and subsequently codified in 19 V.S.A. chapter 29.

(b) MileageSmart. The Agency is authorized to spend up to \$3,000,000.00 as appropriated in the fiscal year 2023 budget on MileageSmart as established in 2019 Acts and Resolves No. 59, Sec. 34, as amended, and subsequently codified in 19 V.S.A. chapter 29.

(c) Replace Your Ride Program. The Agency is authorized to spend up to \$3,000,000.00 as appropriated in the fiscal year 2023 budget on the Replace Your Ride Program established in 2021 Acts and Resolves No. 55, Sec. 27, as amended, and subsequently codified in 19 V.S.A. chapter 29.

* * *

* * * Electrify Your Fleet Program and eBike Incentive Program * * *

* * * Creation of Electrify Your Fleet Program and Authorization * * *

Sec. 17. ELECTRIFY YOUR FLEET PROGRAM; AUTHORIZATION

(a) Creation; administration.

(1) There is created the Electrify Your Fleet Program, which shall be administered by the Agency of Transportation.

(2) Subject to State procurement requirements, the Agency may retain a contractor or contractors to assist with marketing, program development, and administration of the Program.

(b) Authorization. The Agency is authorized to spend up to \$500,000.00 in one-time General Fund monies on the Electrify Your Fleet Program established pursuant to subdivision (a)(1) of this section.

(c) Definitions. The definitions in 19 V.S.A. § 2901, as added by Sec. 15 of this act, shall apply to this section.

(d) Program structure. The Electrify Your Fleet Program shall reduce the greenhouse gas emissions of persons operating a motor vehicle fleet in Vermont by structuring purchase and lease incentive payments on a first-come, first-served basis to replace vehicles other than a plug-in electric vehicle (PEV) cycled out of a motor vehicle fleet or avoid the purchase of vehicles other than a PEV for a motor vehicle fleet. Specifically, the Electrify Your Fleet Program shall:

(1) provide incentives to Vermont municipalities and business entities registered in Vermont that maintain a fleet of motor vehicles that are registered in Vermont with no single applicant being eligible for more than 20 incentives over the existence of the Program;

(2) provide \$2,500.00 purchase and lease incentives for:

(A) BEVs with a base Manufacturer's Suggested Retail Price (MSRP) of \$60,000.00 or less;

(B) PHEVs with an electric range of 20 miles or greater per complete charge as rated by the Environmental Protection Agency when the vehicle was new and a base MSRP of \$60,000.00 or less;

(C) electric bicycles and electric cargo bicycles with a base MSRP of \$6,000.00 or less;

(D) adaptive electric cycles with any base MSRP;

(E) electric motorcycles with a base MSRP of \$30,000.00 or less;
and

(F) electric snowmobiles with a base MSRP of \$20,000.00 or less;

(3) require a showing that the incentive will be used to electrify the applicant's motor vehicle fleet; and

(4) require a showing of any other requirements implemented by the Agency of Transportation that are designed to maximize the impact of State-funded Electrify Your Fleet Program incentives by ensuring that, as applicable, other incentives, subsidies, and credits are fully taken advantage of.

(e) Increased incentives for nonprofit mobility services organizations. Nonprofit mobility services organizations incorporated in the State of Vermont for the purpose of providing Vermonters with transportation alternatives to personal vehicle ownership shall be entitled to:

(1) up to 15 \$2,500.00 incentives available under subsection (d) of this section on a first-come, first-served basis amongst all applicants for incentives under the Electrify Your Fleet Program over the existence of the Program, provided that the requirements of subsection (d) of this section are met; and

(2) notwithstanding subdivisions (d)(1) and (2) of this section, up to five increased incentives at the incentive amount available to individuals who purchase or lease a BEV and who qualify for an incentive under 19 V.S.A. § 2902(b)(3) (the lower-income tier for the Incentive Program for New PEVs), as added by Sec. 15 of this act, for BEVs with a base MSRP of \$55,000.00 or less, provided that the requirements of subdivisions (d)(3) and (4) of this section are met.

(f) Administrative costs. Up to 15 percent of any appropriations for the Electrify Your Fleet Program may be used for any costs associated with administering and promoting the Electrify Your Fleet Program.

(g) Outreach and marketing. The Agency, in consultation with any retained contractors, shall ensure that there is sufficient outreach and marketing, including the use of translation and interpretation services, of the Electrify Your Fleet Program so that persons who are eligible for an incentive can easily learn how to secure an incentive and such costs shall be considered administrative costs for purposes of subsection (f) of this section.

(h) Reporting. The reporting requirements of 19 V.S.A. § 2905, as added by Sec. 15 of this act, shall, notwithstanding 2 V.S.A. § 20(d), apply to the Electrify Your Fleet Program if an incentive is provided through the Electrify Your Fleet Program unless the General Assembly takes specific action to repeal the report requirement.

* * * eBike Incentive Program; Authorization * * *

Sec. 18. MODIFICATIONS TO EBIKE INCENTIVE PROGRAM;
REPORT

(a) Definitions. The definitions in 19 V.S.A. § 2901, as added by Sec. 15 of this act, shall apply to this section.

(b) Authorization and modifications. The Agency is authorized to spend up to \$50,000.00 in one-time General Fund monies on the continuation of the eBike Incentive Program established pursuant to 2021 Acts and Resolves No. 55, Sec. 28, as amended by 2022 Acts and Resolves No. 184, Sec. 23, with the following modifications:

(1) incentives shall be provided in the form of a voucher redeemable as a point-of-sale rebate at participating retail shops;

(2) vouchers shall be provided to applicants that self-certify as to both:

(A) meeting income eligibility requirements under 19 V.S.A. § 2902(b)(3) (the lower-income tier for the Incentive Program for New PEVs), as added by Sec. 15 of this act; and

(B) that the incentivized electric bicycle, electric cargo bicycle, or adaptive electric cycle shall be used in a way that reduces greenhouse gas emissions, such as a substitute for trips that would have been taken in a vehicle other than a plug-in electric vehicle;

(3) only electric bicycles with a base Manufacturer's Suggested Retail Price (MSRP) of \$4,000.00 or less shall be eligible for an incentive;

(4) only electric cargo bicycles with a base MSRP of \$5,000.00 or less shall be eligible for an incentive;

(5) an adaptive electric cycle with any base MSRP shall be eligible for an incentive; and

(6) only electric bicycles, electric cargo bicycles, and adaptive electric cycles that meet one or more of the following standards shall be eligible for an incentive:

(A) American National Standard (ANSI)/Controller Area Network (CAN)/Underwriters Laboratories (UL) 2849 – Standard for Electrical Systems for eBikes, as amended, and any standards incorporated by reference in ANSI/CAN/UL 2849;

(B) Europäische Norm (EN) 15194 – Electrically Power Assisted Cycles (EPAC Bicycles), as amended; or

(C) another applicable standard designed to reduce the serious risk of dangerous fires, as determined by the Agency of Transportation, if neither of the standards in subdivisions (A) and (B) of this subdivision (6) are applicable.

(c) Administrative costs. Up to 15 percent of the authorization in subsection (b) of this section may be used for any costs associated with administering and promoting the eBike Incentive Program.

(d) Reporting. The Agency of Transportation shall address incentives for electric bicycles, electric cargo bicycles, and adaptive electric cycles provided pursuant to this section in the January 31, 2024 report required under 19 V.S.A. § 2905, as added by Sec. 15 of this act, including:

(1) the demographics of who received an incentive under the eBike Incentive Program;

(2) a breakdown of where vouchers were redeemed;

(3) a breakdown, by manufacturer and type, of electric bicycles, electric cargo bicycles, and adaptive electric cycles incentivized;

(4) a detailed summary of information provided in the self-certification forms; and

(5) a detailed summary of information collected through participant surveys.

Sec. 19. AGENCY OF TRANSPORTATION AUTHORITY TO MODIFY
INCOME ELIGIBILITY REQUIREMENTS FOR EBIKE
INCENTIVE PROGRAM ON PASSAGE

Notwithstanding 2022 Acts and Resolves No. 55, Sec. 28(a)(3), the Agency of Transportation may choose to only provide incentives to individuals who self-certify as to meeting income eligibility requirements under 19 V.S.A. § 2902(b)(3) (the lower-income tier for the Incentive Program for New PEVs), as added by Sec. 15 of this act.

* * * Reallocation of Funding * * *

Sec. 20. 2022 Acts and Resolves No. 184, Sec. 2(8)(C), as amended by 2023 Acts and Resolves No. 3, Sec. 83, is further amended to read:

(C) Replace Your Ride Program. Sec. 5(c) of this act authorizes ~~\$2,900,000.00~~ \$2,350,000.00 for incentives under Replace Your Ride, which will be the State's program to incentivize Vermonters to remove older low-efficiency vehicles from operation and switch to modes of transportation that produce fewer greenhouse gas emissions, and capped administrative costs.

Sec. 21. 2022 Acts and Resolves No. 184, Sec. 5(c), as amended by 2023 Acts and Resolves No. 3, Sec. 84, is further amended to read:

(c) Replace Your Ride Program. The Agency is authorized to spend up to ~~\$2,900,000.00~~ \$2,350,000.00 as appropriated in the fiscal year 2023 budget on the Replace Your Ride Program established in 2021 Acts and Resolves No. 55, Sec. 27, as amended.

Sec. 22. 2022 Acts and Resolves No. 185, Sec. G.600(b)(5), as amended by 2023 Acts and Resolves No. 3, Sec. 85, is further amended to read:

(5) ~~\$2,900,000.00~~ \$2,350,000.00 to the Agency of Transportation for the Replace Your Ride Program, established in 2021 Acts and Resolves No. 55, Sec. 27, as amended.

* * * Mileage-Based User Fee (MBUF) * * *

Sec. 23. MILEAGE-BASED USER FEE LEGISLATIVE INTENT

It is the intent of the General Assembly for the State:

(1) to start collecting a mileage-based user fee from all battery-electric vehicles registered in Vermont starting on July 1, 2025, which is expected to be the first day of the first fiscal year when more than 15 percent of new pleasure car registrations in the State are plug-in electric vehicles (PEVs);

(2) to start subjecting plug-in hybrid electric vehicles (PHEVs) that are a pleasure car to an increased annual or a biennial registration fee starting on July 1, 2025, and that PHEVs shall not be subject to a mileage-based user fee;

(3) to work towards collecting a fee on kWhs that are dispensed through certain electric vehicle supply equipment available to the public so as to supplant lost gas tax revenue from PEVs; and

(4) to not commence collecting a mileage-based user fee until such authorizing language is codified in statute and becomes effective.

Sec. 24. MILEAGE-BASED USER FEE AUTHORIZATION

(a) Within the Agency of Transportation's Proposed Fiscal Year 2024 Transportation Program for Environmental Policy and Sustainability, the Agency of Transportation, including the Department of Motor Vehicles, is authorized to apply for and accept a competitive federal Strategic Innovation for Revenue Collection grant established pursuant to the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (IIJA), Sec. 13001, with up to \$350,000.00 in Transportation Fund monies authorized for the nonfederal match in fiscal year 2024 and a to-be-determined amount for the nonfederal match in subsequent fiscal years.

(b) As permitted under federal regulations and grant terms, the Agency shall utilize grant monies to design a mileage-based user fee that is consistent with Secs. 23 and 25 of this act.

(c) Subject to State procurement requirements, the Agency may retain one or more contractors or consultants, or both, to assist with the design of a process to commence collecting a mileage-based user fee on July 1, 2025.

Sec. 25. MILEAGE-BASED USER FEE DESIGN

(a) Definitions. As used in Secs. 23–26 of this act:

(1) “Account manager” means a person under contract with the Agency of Transportation or Department of Motor Vehicles to administer and manage the mileage-based user fee.

(2) “Annual vehicle miles traveled” means the total number of miles that a BEV is driven between annual inspections as reported by an inspection mechanic to the Department of Motor Vehicles.

(3) “Mileage-based user fee” means the total amount that an owner or lessee of a BEV registered in Vermont owes the State and is calculated by multiplying the mileage-based user fee rate by the annual vehicle miles traveled or, in the case of a terminating event, by multiplying the mileage-based user fee rate by the vehicle miles traveled between the last Vermont annual inspection and the terminating event.

(4) “Mileage-based user fee rate” means the per-mile usage fee charged to the owner or lessee of a BEV registered in Vermont.

(5) “Mileage reporting period” means the time between annual inspections or the time between an annual inspection and a terminating event.

(6) “Pleasure car” has the same meaning as in 23 V.S.A. § 4(28).

(7) “Plug-in electric vehicle (PEV)” has the same meaning as in 23 V.S.A. § 4(85) and includes battery electric vehicles (BEVs) and plug-in hybrid electric vehicles (PHEVs), which have the same meaning as in 23 V.S.A. § 4(85)(A) and (B).

(8) “Terminating event” means either the registering of a BEV that had been registered in Vermont in a different state or a change in ownership or lesseeship of the BEV, or both.

(b) Commencement date. The Agency shall design a process to collect a mileage-based user fee for miles driven by a BEV registered in Vermont to commence collecting revenue on July 1, 2025.

(c) Covered vehicles. The Agency shall design a process to collect a

mileage-based user fee based on the annual vehicle miles traveled by BEVs registered in the State.

(d) Imposition of a mileage-based user fee. The Agency shall design a process to collect a mileage-based user fee from the owner or lessee of a BEV registered in Vermont for each mileage reporting period within 60 days after the Vermont annual inspection or terminating event that closes the mileage reporting period.

Sec. 26. REPORTS

The Secretary of Transportation and the Commissioner of Motor Vehicles shall file a written report not later than January 31, 2024 with the House and Senate Committees on Transportation, the House Committee on Ways and Means, and the Senate Committee on Finance that provides the following:

(1) a comprehensive implementation plan to commence collecting, on July 1, 2025, a mileage-based user fee for miles driven by a BEV registered in Vermont;

(2) a recommendation on what language should be codified in statute to enable the State to commence collecting, on July 1, 2025, a mileage-based user fee for miles driven by a BEV registered in Vermont, which shall include a recommendation for the mileage-based user fee rate and that includes, for that recommendation:

(A) an explanation for how the recommended mileage-based user fee rate was calculated;

(B) what the recommended mileage-based user fee rate is estimated to yield in revenue for the State in total per year; and

(C) how the anticipated mileage-based user fee for a pleasure car is expected to compare to the amount collected by the State in gas tax revenue from the use of a non-PEV pleasure car registered in Vermont and the amount collected by the State in gas tax revenue and increased registration fee from the use of a non-PHEV pleasure car registered in Vermont based on estimates of low, medium, and high annual vehicle miles traveled;

(3) a recommendation on what should be required in annual reporting on the mileage-based user fee starting in 2026 for fiscal year 2025, which shall, at a minimum, address whether the following should be reported on:

(A) the total amount of revenue collected in mileage-based user fees for the prior fiscal year and an estimate of the total amount of revenue anticipated to be collected in mileage-based user fees during the subsequent fiscal year;

(B) the average mileage-based user fee collected for a BEV with low, medium, and high annual vehicle miles traveled in the prior fiscal year;

(C) an estimate of the average amount in motor fuel revenue that was collected for a pleasure car that is not a plug-in electric vehicle with low, medium, and high annual vehicle miles traveled in the prior fiscal year;

(D) an estimate of the average amount in motor fuel revenue and increased registration fee that was collected for a pleasure car that is a plug-in hybrid electric vehicle with low, medium, and high annual vehicle miles traveled in the prior fiscal year;

(E) the total number of delinquent mileage-based user fees in the prior fiscal year;

(F) the total number of outstanding payment plans for delinquent mileage-based user fees; and

(G) the cost to collect the mileage-based user fees in the prior fiscal year;

(4) an outline of what the Agency intends to adopt, if authorized, as rule in order to commence collecting, on July 1, 2025, a mileage-based user fee for miles driven by a BEV registered in Vermont, which shall, at a minimum, establish:

(A) a process to calculate and report the annual vehicle miles traveled by a BEV registered in Vermont;

(B) payment periods and other payment methods and procedures for the payment of the mileage-based user fee, which shall include the option to prepay the anticipated mileage-based user fee in installments on a monthly, quarterly, or annual basis;

(C) standards for mileage reporting mechanisms for an owner or lessee of a BEV to report vehicle miles traveled throughout the year;

(D) procedures to provide security and protection of personal information and data connected to a mileage-based user fee;

(E) penalty and appeal procedures necessary for the collection of a mileage-based user fee, which, to the extent practicable, shall duplicate and build upon existing Department of Motor Vehicles processes; and

(F) Agency oversight of any account manager, including privacy protection of personal information and access and auditing capability of financial and other records related to administration of the process to collect a mileage-based user fee; and

(5) an update on what other states and the federal government are doing to address lost gas tax revenue from the adoption of PEVs along with any applicable suggestions for opportunities for regional collaboration and an explanation of the source of the information provided under this subdivision.

* * * Transportation Programs; Federal Carbon Reduction Program;
PROTECT Formula Program; Prioritization; Equity * * *

Sec. 27. AGENCY OF TRANSPORTATION EFFORTS TO IMPLEMENT
THE FEDERAL CARBON REDUCTION PROGRAM AND
PROTECT FORMULA PROGRAM; PRIORITIZATION; EQUITY

(a) The Agency of Transportation, through its development of the State's Carbon Reduction Strategy, shall:

(1) develop a methodology to:

(A) quantify the emissions reductions the Agency will achieve from the State's Transportation Program;

(B) measure the gap between the emissions reductions calculated under subdivision (A) of this subdivision (a)(1) and the emissions reductions required under the Global Warming Solutions Act, as codified in 10 V.S.A. § 578; and

(C) evaluate what additional emissions reductions are possible through the implementation of additional policies and programs within the State's Transportation Program;

(2) articulate the ongoing investments, particularly under the Carbon Reduction Program, established through the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (IIJA) and codified as 23 U.S.C. § 175, that the Agency intends to implement through the State's annual Transportation Program in order to reduce emissions from activities within the control of the Agency;

(3) identify and evaluate the effectiveness of other policies and programs to reduce transportation sector greenhouse gas emissions as required by the Global Warming Solutions Act, as codified in 10 V.S.A. § 578, and as identified in the Vermont Climate Action Plan, as amended, which shall include:

(A) an analysis of the potential to generate revenue sources sufficient for ongoing greenhouse gas emissions reduction implementation; and

(B) recommendations regarding additional policy or revenue sources to close any implementation gaps identified in subdivision (a)(1)(B) of this section;

(4) engage in public outreach through the following:

(A) establishing an advisory committee with a broad group of stakeholders, including representatives of the Vermont Climate Council, to help guide the identification and evaluation of policies and programs to reduce transportation sector greenhouse gas emissions;

(B) working with stakeholders, including environmental groups; community-based organizations that represent equity and environmental justice interests; business community groups, including chambers of commerce; transportation industry associations, including those representing rail and trucking; municipalities; regional planning commissions; and elected officials on ways to reduce transportation sector greenhouse gas emissions; and

(C) hosting not less than two public meetings, with at least one to gather input on proposed policies and programs to reduce transportation sector greenhouse gas emissions and at least one to address the evaluation of the anticipated outcomes of the draft of the State's Carbon Reduction Strategy; and

(5) coordinate with the Climate Action Office within the Agency of Natural Resources to track and report progress towards achieving the State's greenhouse gas emissions as required by the Global Warming Solutions Act and codified in 10 V.S.A. § 578.

(b) The Agency shall develop the State's Resilience Improvement Plan to establish how it will use federal monies available under the Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) Formula Program, established through the IJA and codified as 23 U.S.C. § 176, and existing tools and processes to address transportation resilience, specifically for:

(1) resilience planning, predesign, design, or the development of data tools to simulate transportation disruption scenarios, including vulnerability assessments, community response strategies, or evacuation planning and preparation;

(2) resilience projects to improve the ability of an existing surface transportation asset to withstand one or more elements of a weather event or natural disaster; and

(3) community resilience and evacuation route activities that strengthen and protect routes that are essential for providing and supporting evacuations caused by emergency events.

(c) The Agency shall develop recommendations for the integration of

carbon reduction, resilience, and equity factors into its project prioritization system through the Agency's existing prioritization process and the development of the Equity Framework Project.

Sec. 28. REPORT ON TRANSPORTATION POLICY STATUTES

The Agency of Transportation shall provide a written report summarizing the work completed pursuant to Sec. 27 of this act and written recommendations on how to amend statute, including 19 V.S.A. §§ 10b and 10i, to reflect the work completed pursuant to Sec. 27 of this act to the House and Senate Committees on Transportation on or before January 15, 2024.

* * * Complete Streets * * *

Sec. 29. 19 V.S.A. § 10b is amended to read:

§ 10b. STATEMENT OF POLICY; GENERAL

(a) The Agency shall be the responsible agency of the State for the development of transportation policy. It shall develop a mission statement to reflect:

(1) that State transportation policy shall be to encompass, coordinate, and integrate all modes of transportation and to consider “complete streets”, as defined in section 2401 of this title, principles, which are principles of safety and accommodation of all transportation system users, regardless of age, ability, or modal preference; and

(2) the need for transportation projects that will improve the State's economic infrastructure, as well as the use of resources in efficient, coordinated, integrated, cost-effective, and environmentally sound ways, and that will be consistent with the recommendations of the Comprehensive Energy Plan (CEP) issued under 30 V.S.A. § 202b.

(b) The Agency shall coordinate planning and, education, and training efforts with those of ~~the Vermont Climate Change Oversight Committee and those of~~ local and regional planning entities to:

(1) ~~to ensure that the transportation system as a whole is integrated;~~ that access to the transportation system as a whole is integrated; and that statewide, local, and regional conservation and efficiency opportunities and practices are integrated; and

(2) ~~to support employer-led or local or regional government-led~~ conservation, efficiency, rideshare, and bicycle programs and other innovative transportation advances, especially employer-based incentives.

(c) In developing the State's annual Transportation Program, the Agency

shall, consistent with the planning goals listed in 24 V.S.A. § 4302 as amended by 1988 Acts and Resolves No. 200 and with appropriate consideration to local, regional, and State agency plans:

(1) ~~Develop~~ develop or incorporate designs that provide integrated, safe, and efficient transportation and that are consistent with the recommendations of the CEP.;

~~(2)(A) Consider the safety and accommodation of all transportation system users, including motorists, bicyclists, public transportation users, and pedestrians of all ages and abilities; consider complete streets principles in all State- and municipally managed transportation projects and project phases, including planning, development, construction, and maintenance, except in the case of projects or project components involving unpaved highways. If, after the consideration required under this subdivision, a State-managed project does not incorporate complete streets principles, the project manager shall make a written determination, supported by documentation and available for public inspection at the Agency, that one or more of the following circumstances exist:~~

~~(i) Use of the transportation facility by pedestrians, bicyclists, or other users is prohibited by law.~~

~~(ii) The cost of incorporating complete streets principles is disproportionate to the need or probable use as determined by factors including land use, current and projected user volumes, population density, crash data, historic and natural resource constraints, and maintenance requirements. The Agency shall consult local and regional plans, as appropriate, in assessing these and any other relevant factors.~~

~~(iii) Incorporating complete streets principles is outside the scope of a project because of its very nature.~~

~~(B) The written determination required under subdivision (A) of this subdivision (2) shall be final and shall not be subject to appeal or further review.;~~

(3) ~~Promote~~ promote economic opportunities for Vermonters and the best use of the State's environmental and historic resources.;

(4) ~~Manage~~ manage available funding to:

* * *

Sec. 30. REPEAL

19 V.S.A. § 309d (policy for municipally managed transportation projects) is repealed.

Sec. 31. 19 V.S.A. chapter 24 is added to read:

CHAPTER 24. COMPLETE STREETS

§ 2401. DEFINITION

As used in this chapter, “complete streets” means streets that provide safe and accessible options for multiple travel modes for individuals of all ages and abilities, including walking, cycling, public transportation, and motor vehicles.

§ 2402. STATE POLICY

(a) Agency of Transportation funded, designed, or funded and designed projects shall seek to increase and encourage more pedestrian, bicycle, and public transit trips, with the State goal to promote intermodal access to the maximum extent feasible, which will help the State meet the transportation-related recommendations outlined in the Comprehensive Energy Plan (CEP) issued under 30 V.S.A. § 202b and the recommendations of the Vermont Climate Action Plan (CAP) issued under 10 V.S.A. § 592.

(b) Except in the case of projects or project components involving unpaved highways, for all transportation projects and project phases managed by the Agency or a municipality, including planning, development, construction, or maintenance, it is the policy of this State for the Agency and municipalities, as applicable, to incorporate complete streets principles that:

(1) serve individuals of all ages and abilities, including vulnerable users as defined in 23 V.S.A. § 4(81);

(2) follow state-of-the-practice design guidance; and

(3) are sensitive to the surrounding community, including current and planned buildings, parks, and trails and current and expected transportation needs.

§ 2403. PROJECTS NOT INCORPORATING COMPLETE STREETS PRINCIPLES

(a) State projects. A State-managed project shall incorporate complete streets principles unless the project manager makes a written determination, supported by documentation, that one or more of the following circumstances exist:

(1) Use of the transportation facility by pedestrians, bicyclists, or other users is prohibited by law.

(2) The cost of incorporating complete streets principles is disproportionate to the need or probable use as determined by factors including land use, current and projected user volumes, population density, crash data,

historic and natural resource constraints, and maintenance requirements. The Agency shall consult local and regional plans, as appropriate, in assessing these and any other relevant factors. If the project manager bases the written determination required under this subsection in whole or in part on this subdivision then the project manager shall provide a supplemental written determination with specific details on costs, needs, and probable uses, as applicable.

(3) Incorporating complete streets principles is outside the limited scope of a project as defined in the latest version of the Agency's Complete Streets Guidance.

(b) Municipal projects. A municipally managed project shall incorporate complete streets principles unless the municipality managing the project makes a written determination, supported by documentation, that one or more of the following circumstances exist:

(1) Use of the transportation facility by pedestrians, bicyclists, or other users is prohibited by law.

(2) The cost of incorporating complete streets principles is disproportionate to the need or probable use as determined by factors such as land use, current and projected user volumes, population density, crash data, historic and natural resource constraints, and maintenance requirements. The municipality shall consult local and regional plans, as appropriate, in assessing these and any other relevant factors. If the municipality managing the project bases the written determination required under this subsection in whole or in part on this subdivision then the project manager shall provide a supplemental written determination with specific details on costs, needs, and probable uses, as applicable.

(3) Incorporating complete streets principles is outside the limited scope of a project as defined in the latest version of the Agency's Complete Streets Guidance.

(c) Finality of determinations. The written determinations required by subsections (a) and (b) of this section shall be final and shall not be subject to appeal or further review.

(d) Posting and availability of determinations. The written determinations required by subsections (a) and (b) of this section shall be posted to a web page on the Agency of Transportation's website dedicated to complete streets, in the case of a State-managed project, and made available for public inspection at the office of the municipal clerk, in the case of a municipally managed project.

§ 2404. ANNUAL REPORT; PUBLIC DATA SOURCE

(a) Annual report. Notwithstanding 2 V.S.A. § 20(d), the Agency shall annually, on or before September 1 starting in 2025, submit a report detailing the State's efforts in following the complete streets policy established in section 2402 of this chapter during the previous fiscal year to the House and Senate Committees on Transportation.

(b) Public data source.

(1) The Agency of Transportation shall maintain a web-accessible and web-searchable data source dedicated to complete streets on the Agency's website that shall contain information on all State-managed transportation projects that have been bid since January 1, 2023, including a description of the project, the location of the project, which complete streets principles were incorporated in the project, as applicable, and an explanation as to which circumstance or circumstances contained in subsection 2403(a) of this chapter existed in the case of projects not incorporating complete streets principles.

(2) The web-accessible and web-searchable data source required under this subsection shall be updated on at least an annual basis.

Sec. 32. IMPLEMENTATION; PUBLIC DATA SOURCE

The Agency shall create and make accessible to the general public the web-accessible and web-searchable data source required under 19 V.S.A. § 2404(b), as added by Sec. 31 of this act, on or before January 1, 2024.

Sec. 33. MUNICIPAL TRAINING ON COMPLETE STREETS

The Agency of Transportation, in consultation with the Vermont League of Cities and Towns and regional planning commissions, shall design and implement a program to provide training on complete streets to municipalities.

Sec. 34. REPLACEMENT OF THE CURRENT VERMONT STATE STANDARDS

(a) The Agency of Transportation will be preparing replacements to the current Vermont State Standards and related documents, standards, guidance, and procedures in accordance with the plan required pursuant to 2022 Acts and Resolves No. 184, Sec. 19.

(b) The Agency shall provide an oral update on the process to replace the current Vermont State Standards and related documents, standards, guidance, and procedures to the House and Senate Committees on Transportation on or before February 15, 2024.

* * * Municipal and Regional Support for a Route 5 Bicycle Corridor * * *

Sec. 35. SUPPORT FOR A ROUTE 5 BICYCLE CORRIDOR; SURVEY REPORT

(a) The Agency of Transportation, in partnership with regional planning commissions through the annual Transportation Planning Initiative, shall conduct a survey of municipal support for the creation of a bicycle corridor—consisting of one or more segments of bicycle lanes or bicycle paths, or both—to provide a safe means of travel via bicycle on or along a route that is roughly adjacent to U.S. Route 5 for the approximately 190 miles spanning between the State border with Massachusetts and the State border with Quebec, Canada.

(b) The survey shall address the level of interest of municipalities and regional planning commissions in prioritizing the creation of a bicycle corridor along some or all of U.S. Route 5, including the consideration of the costs of creation and benefits to the tourism industry in Vermont in general and to the municipalities along U.S. Route 5 in particular.

(c) The Agency shall provide a report on outcome of the survey to the House and Senate Committees on Transportation on or before January 15, 2024.

* * * Micromobility Safety Education Program; Report * * *

Sec. 36. MICROMOBILITY SAFETY EDUCATION PROGRAM; REPORT

(a) The Agency, in consultation with stakeholders identified by the Agency, shall develop a comprehensive micromobility safety education program that enhances and expands on current efforts to increase safety for individuals who use roads, sidewalks, corridors, and paths in Vermont, with an emphasis on bicycle safety.

(b) The Agency shall provide an oral report on micromobility safety program design, recommended modifications to current efforts to increase micromobility safety throughout the State, and any recommendations for statutory changes needed to support expanded micromobility safety in the State to the House and Senate Committees on Transportation on or before January 31, 2024.

(c) As used in this section, “micromobility” includes the following, as defined in 23 V.S.A. § 4:

- (1) bicycles;
- (2) electric bicycles;
- (3) electric personal assistive mobility devices,

(4) motor-driven cycles, which includes scooters; and

(5) motor-assisted bicycles.

* * * Sunset Extension * * *

Sec. 37. 2018 Acts and Resolves No. 158, Sec. 21 is amended to read:

Sec. 21. REPEAL OF TRANSPORTATION P3 AUTHORITY

19 V.S.A. §§ ~~2613 (Agency of Transportation's P3 authority) and 2614 (legislative approval of P3 proposals)~~ chapter 26, subchapter 2 shall be repealed on July 1, ~~2023~~ 2026.

* * * Repeals * * *

Sec. 38. REPEALS

(a) 5 V.S.A. § 3616 (connection of passenger trains; Board may determine) is repealed.

(b) 19 V.S.A. § 314 (covered bridges restrictions; vote at town meeting) is repealed.

* * * Effective Dates * * *

Sec. 39. EFFECTIVE DATES

(a) This section and Secs. 19 (authority to modify eBike Incentive Program eligibility requirements) and 37 (extension of sunset for Agency of Transportation's P3 authority) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2023.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 29, 2023, page 817.)

Reported favorably by Senator Chittenden for the Committee on Finance.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Transportation.

(Committee vote: 6-0-1)

Reported favorably with recommendation of proposal of amendment by Senator Kitchel for the Committee on Appropriations.

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Transportation with the following amendments thereto:

First: By inserting a reader assistance heading and one new section to be Sec. 2a to read as follows:

* * * Paving * * *

Sec. 2a. PAVING; STATEWIDE DISTRICT LEVELING

(a) Within the Agency of Transportation’s Proposed Fiscal Year 2024 Transportation Program for Paving, authorized spending for STATEWIDE District Leveling TBD is amended as follows:

<u>FY24</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Const.	3,150,000	3,150,000	0
Total	3,150,000	3,150,000	0
<u>Sources of funds</u>			
State	3,150,000	150,000	-3,000,000
Other	0	3,000,000	3,000,000
Total	3,150,000	3,150,000	0

(b) Within the Agency of Transportation’s Proposed Fiscal Year 2024 Transportation Program for Paving, the following footnote is added: “Other funds of \$3,000,000 are Cash Fund for Capital and Essential Investments (21952) funds, drawn from the Other Infrastructure, Essential Investments, and Reserves subaccount.”

Second: By striking out Sec. 3, one-time appropriations, in its entirety and inserting in lieu thereof the following:

Sec. 3. ONE-TIME APPROPRIATIONS

(a) Within the Agency of Transportation’s Proposed Fiscal Year 2024 Transportation Program for One-Time Appropriations, authorized spending is amended as follows:

<u>FY24</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Operating	3,500,000	3,500,000	0
Grants	3,000,000	1,000,000	-2,000,000
Total	6,500,000	4,500,000	-2,000,000
<u>Sources of funds</u>			
General	3,000,000	0	-3,000,000
Capital	3,500,000	0	-3,500,000
Other	0	4,500,000	4,500,000
Total	6,500,000	4,500,000	-2,000,000

(b) Within the Agency of Transportation’s Proposed Fiscal Year 2024 Transportation Program for One-Time Appropriations, “St. Albans District

Maintenance Facility - \$3.5M Capital Fund Operating” is struck and “St. Albans District Maintenance Facility - \$3.5M Cash Fund for Capital and Essential Investments funds (21952, Supplemental Contingent Revenues subaccount)” is inserted in lieu thereof.

(c) Within the Agency of Transportation’s Proposed Fiscal Year 2024 Transportation Program for One-Time Appropriations, “Rail Trail Community Connectivity Grants - \$3M General Fund Grants” is struck and “Rail Trail Community Connectivity Grants - \$1M Cash Fund for Capital and Essential Investments funds (21952, Supplemental Contingent Revenues subaccount)” is inserted in lieu thereof.

(Committee vote: 6-0-1)

Amendments to proposal of amendment of the Committee on Transportation to H. 479 to be offered by Senators Ingalls, Chittenden, Kitchel, Mazza and Perchlik

Senators Ingalls, Chittenden, Kitchel, Mazza and Perchlik move to amend the proposal of amendment of the Committee on Transportation by inserting a reader assistance heading and two new sections to be Secs. 5a and 5b to read as follows:

* * * State Airports * * *

Sec. 5a. SALE OR LEASE OF CALEDONIA COUNTY STATE AIRPORT

(a) The Agency of Transportation is authorized to solicit proposals for the purchase or lease of the Caledonia County State Airport, located in the Town of Lyndon, and the Agency shall consult with the Town of Lyndon on any requests for proposals related to the purchase or lease of the Airport prior to the issuance of any requests for proposals related to the purchase or lease of the Airport.

(b) Subject to obtaining any necessary approvals from the U.S. Federal Aviation Administration, the Vermont Secretary of Transportation, as agent for the State, is authorized to convey the Airport property by warranty deed according to the terms of a purchase and sale agreement or through a long-term lease.

(c) Any such conveyance shall:

(1) include assignment of the State’s interest in easements, leases, licenses, and other agreements pertaining to the Airport and the acceptance of the State’s obligations under such easements, leases, licenses, and other agreements that requires, at a minimum, that any leases that are in effect at the

time of the conveyance of the Airport are fully honored for the balance of the lease term;

(2) ensure that there are investments in the Airport to address current deficiencies and necessary repairs;

(3) ensure that the Airport continues to be a public-use airport and that the public continues to have access to the Airport for general aviation uses in perpetuity;

(4) ensure that the Airport continues to be identified as a public-use airport within the National Plan of Integrated Airport Systems until at least 2050, subject to federal determination; and

(5) include, if the Airport is conveyed through a purchase and sale agreement, a right of first refusal for the State to repurchase the Airport if the Airport is ever resold.

(d) The Agency shall not proceed with a sale or lease of the Airport unless:

(1) there is a fair market value offer, as required under 19 V.S.A. § 10k(b) or 26a(a), that meets the requirements of subsection (c) of this section; and

(2) the Town of Lyndon is given the opportunity to review and comment on the final purchase and sale agreement or lease as applicable.

(e) This section shall constitute specific prior approval, including of any sale or lease terms, by the General Assembly for purposes of 5 V.S.A. § 204.

Sec. 5b. REPEAL OF AUTHORITY FOR SALE OR LEASE OF
CALEDONIA COUNTY STATE AIRPORT

Sec. 5a of this act shall be repealed on May 1, 2026.

House Proposal of Amendment

S. 5.

An act relating to affordably meeting the mandated greenhouse gas reductions for the thermal sector through efficiency, weatherization measures, electrification, and decarbonization

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

Sec. 1. SHORT TITLE

This act shall be known and may be cited as the “Affordable Heat Act.”

Sec. 2. FINDINGS

The General Assembly finds:

(1) All of the legislative findings made in 2020 Acts and Resolves No. 153, Sec. 2, the Vermont Global Warming Solutions Act of 2020 (GWSA), remain true and are incorporated by reference here.

(2) Under the GWSA and 10 V.S.A. § 578, Vermont has a legal obligation to reduce greenhouse gas emissions to specific levels by 2025, 2030, and 2050.

(3) The Vermont Climate Council was established under the GWSA and was tasked with, among other things, recommending necessary legislation to reduce greenhouse gas emissions. The Initial Vermont Climate Action Plan calls for the General Assembly to adopt legislation authorizing the Public Utility Commission to administer the Clean Heat Standard consistent with the recommendations of the Energy Action Network's Clean Heat Standard Working Group.

(4) As required by the GWSA, the Vermont Climate Council published the Initial Vermont Climate Action Plan on December 1, 2021. As noted in that plan, over one-third of Vermont's greenhouse gas emissions in 2018 came from the thermal sector. In that year, approximately 72 percent of Vermont's thermal energy use was fossil based, including 29 percent from the burning of heating oil, 24 percent from fossil gas, and 19 percent from propane.

(5) To meet the greenhouse gas emission reductions required by the GWSA, Vermont needs to transition away from its current carbon-intensive building heating practices to lower-carbon alternatives. It also needs to do this equitably, recognizing economic effects on energy users, especially energy-burdened users; on the workforce currently providing these services; and on the overall economy.

(6) Vermonters have an unprecedented opportunity to invest in eligible clean heat measures with funding from new federal laws including the Infrastructure Investment and Jobs Act of 2021 and the Inflation Reduction Act of 2022.

Sec. 3. 30 V.S.A. chapter 94 is added to read:

CHAPTER 94. CLEAN HEAT STANDARD

§ 8121. INTENT

Pursuant to 2 V.S.A. § 205(a), it is the intent of the General Assembly that the Clean Heat Standard be designed and implemented in a manner that achieves Vermont's thermal sector greenhouse gas emissions reductions

necessary to meet the requirements of 10 V.S.A. § 578(a)(2) and (3), minimizes costs to customers, protects public health, and recognizes that affordable heating is essential for Vermonters. It shall enhance social equity by prioritizing customers with low income and moderate income and those households with the highest energy burdens. The Clean Heat Standard shall, to the greatest extent possible, maximize the use of available federal funds to deliver clean heat measures.

§ 8122. CLEAN HEAT STANDARD

(a) The Clean Heat Standard is established. Under this program, obligated parties shall reduce greenhouse gas emissions attributable to the Vermont thermal sector by retiring required amounts of clean heat credits to meet the thermal sector portion of the greenhouse gas emission reduction obligations of the Global Warming Solutions Act.

(b) By rule or order, the Commission shall establish or adopt a system of tradeable clean heat credits earned from the delivery of clean heat measures that reduce greenhouse gas emissions.

(c) An obligated party shall obtain the required amount of clean heat credits through delivery of eligible clean heat measures by a default delivery agent, unless the obligated party receives prior approval from the Commission to use another method as described in section 8125 of this title.

(d) The Commission shall adopt rules and may issue orders to implement and enforce the Clean Heat Standard program.

§ 8123. DEFINITIONS

As used in this chapter:

(1) “Carbon intensity value” means the amount of lifecycle greenhouse gas emissions per unit of energy of fuel expressed in grams of carbon dioxide equivalent per megajoule (gCO₂e/MJ).

(2) “Clean heat credit” means a tradeable, nontangible commodity that represents the amount of greenhouse gas reduction attributable to a clean heat measure. The Commission shall establish a system of management for clean heat credits pursuant to this chapter.

(3) “Clean heat measure” means fuel delivered and technologies installed to end-use customers in Vermont that reduce greenhouse gas emissions from the thermal sector. Clean heat measures shall not include switching from one fossil fuel use to another fossil fuel use. The Commission may adopt a list of acceptable actions that qualify as clean heat measures.

(4) “Commission” means the Public Utility Commission.

(5) “Customer with low income” means a customer with a household income of up to 60 percent of the area or statewide median income, whichever is greater, as published annually by the U.S. Department of Housing and Urban Development or a customer who qualifies for a government-sponsored, low-income energy subsidy.

(6) “Customer with moderate income” means a customer with a household income between 60 percent and 120 percent of the area or statewide median income, whichever is greater, as published annually by the U.S. Department of Housing and Urban Development.

(7) “Default delivery agent” means an entity designated by the Commission to provide services that generate clean heat measures.

(8) “Energy burden” means the annual spending on thermal energy as a percentage of household income.

(9) “Entity” means any individual, trustee, agency, partnership, association, corporation, company, municipality, political subdivision, or any other form of organization.

(10) “Fuel pathway” means a detailed description of all stages of fuel production and use for any particular fuel, including feedstock generation or extraction, production, transportation, distribution, and combustion of the fuel by the consumer. The fuel pathway is used in the calculation of the carbon intensity value and lifecycle greenhouse gas emissions of each fuel.

(11) “Heating fuel” means fossil-based heating fuel, including oil, propane, natural gas, coal, and kerosene.

(12) “Obligated party” means:

(A) A regulated natural gas utility serving customers in Vermont.

(B) For other heating fuels, the entity that imports heating fuel for ultimate consumption within the State, or the entity that produces, refines, manufactures, or compounds heating fuel within the State for ultimate consumption within the State. For the purpose of this section, the entity that imports heating fuel is the entity that has ownership title to the heating fuel at the time it is brought into Vermont.

(13) “Thermal sector” has the same meaning as the “Residential, Commercial and Industrial Fuel Use” sector as used in the Vermont Greenhouse Gas Emissions Inventory and Forecast and does not include nonroad diesel or any other transportation or other fuel use categorized elsewhere in the Vermont Greenhouse Gas Emissions Inventory and Forecast.

§ 8124. CLEAN HEAT STANDARD COMPLIANCE

(a) Required amounts.

(1) The Commission shall establish the number of clean heat credits that each obligated party is required to retire each calendar year. The size of the annual requirement shall be set at a pace sufficient for Vermont's thermal sector to achieve lifecycle carbon dioxide equivalent (CO₂e) emission reductions consistent with the requirements of 10 V.S.A. § 578(a)(2) and (3) expressed as lifecycle greenhouse gas emissions pursuant to subsection 8127(g) of this title.

(2) Annual requirements shall be expressed as a percent of each obligated party's contribution to the thermal sector's lifecycle CO₂e emissions in the previous year. The annual percentage reduction shall be the same for all obligated parties. To ensure understanding among obligated parties, the Commission shall publicly provide a description of the annual requirements in plain terms.

(3) To support the ability of the obligated parties to plan for the future, the Commission shall establish and update annual clean heat credit requirements for the next 10 years. Every three years, the Commission shall extend the requirements three years; shall assess emission reductions actually achieved in the thermal sector; and, if necessary, revise the pace of clean heat credit requirements for future years to ensure that the thermal sector portion of the emission reduction requirements of 10 V.S.A. § 578(a)(2) and (3) for 2030 and 2050 will be achieved.

(4) The Commission may temporarily, for a period not to exceed 36 months, adjust the annual requirements for good cause after notice and opportunity for public process. Good cause may include a shortage of clean heat credits, market conditions as identified by the Department's potential study conducted pursuant to section 8125 of this title, or undue adverse financial impacts on particular customers or demographic segments. The Commission shall ensure that any downward adjustment has the minimum impact possible on the State's ability to comply with the thermal sector portion of the requirements of 10 V.S.A. § 578(a)(2) and (3).

(b) Annual registration.

(1) Each entity that sells heating fuel into or in Vermont shall register annually with the Commission by an annual deadline established by the Commission. The first registration deadline is January 31, 2024, and the annual deadline shall remain January 31 of each year unless a different deadline is established by the Commission. The form and information

required in the registration shall be determined by the Commission and shall include all data necessary to establish annual requirements under this chapter. The Commission shall use the information provided in the registration to determine whether the entity shall be considered an obligated party and the amount of its annual requirement.

(2) At a minimum, the Commission shall require registration information to include legal name; doing business as name, if applicable; municipality; state; types of heating fuel sold; and the exact amount of gallons of each type of heating fuels sold into or in the State for final sale or consumption in the State in the calendar year immediately preceding the calendar year in which the entity is registering with the Commission, separated by type, that was purchased by the submitting entity and the name and location of the entity from which it was purchased.

(3) Each year, and not later than 30 days following the annual registration deadline established by the Commission, the Commission shall share complete registration information of obligated parties with the Agency of Natural Resources and the Department of Public Service for purposes of updating the Vermont Greenhouse Gas Emissions Inventory and Forecast and meeting the requirements of 10 V.S.A. § 591(b)(3).

(4) The Commission shall maintain, and update annually, a list of registered entities on its website that contains the required registration information.

(5) For any entity not registered on or before January 31, 2024, the first registration form shall be due 30 days after the first sale of heating fuel to a location in Vermont.

(6) Clean heat requirements shall transfer to entities that acquire an obligated party.

(7) Entities that cease to operate shall retain their clean heat requirement for their final year of operation.

(c) Early action credits. Beginning on January 1, 2023, clean heat measures that are installed and provide emission reductions are creditable. Upon the establishment of the clean heat credit system, entities may register credits for actions taken starting in 2023.

(d) Equitable distribution of clean heat measures.

(1) The Clean Heat Standard shall be designed and implemented to enhance social equity by prioritizing customers with low income, moderate income, those households with the highest energy burdens, residents of manufactured homes, and renter households with tenant-paid energy bills. The

design shall ensure all customers have an equitable opportunity to participate in, and benefit from, clean heat measures regardless of heating fuel used, income level, geographic location, residential building type, or homeownership status.

(2) Of their annual requirement, each obligated party shall retire at least 16 percent from customers with low income and an additional 16 percent from customers with low or moderate income. For each of these groups, at least one-half of these credits shall be from installed clean heat measures that require capital investments in homes, have measure lives of 10 years or more, and are estimated by the Technical Advisory Group to lower annual energy bills. Examples shall include weatherization improvements and installation of heat pumps, heat pump water heaters, and advanced wood heating systems. The Commission may identify additional measures that qualify as installed measures.

(3) The Commission shall, to the extent reasonably possible, frontload the credit requirements for customers with low income and moderate income so that the greatest proportion of clean heat measures reach Vermonters with low income and moderate income in the earlier years.

(4) With consideration to how to best serve customers with low income and moderate income, the Commission shall have authority to change the percentages established in subdivision (2) of this subsection for good cause after notice and opportunity for public process. Good cause may include a shortage of clean heat credits or undue adverse financial impacts on particular customers or demographic segments.

(5) In determining whether to exceed the minimum percentages of clean heat measures that must be delivered to customers with low income and moderate income, the Commission shall take into account participation in other government-sponsored low-income and moderate-income weatherization programs. Participation in other government-sponsored low-income and moderate-income weatherization programs shall not limit the ability of those households to participate in programs under this chapter.

(6) A clean heat measure delivered to a customer qualifying for a government-sponsored, low-income energy subsidy shall qualify for clean heat credits required by subdivision (2) of this subsection.

(7) Customer income data collected shall be kept confidential by the Commission, the Department of Public Service, the obligated parties, and any entity that delivers clean heat measures.

(e) Credit banking. The Commission shall allow an obligated party that has met its annual requirement in a given year to retain clean heat credits in excess of that amount for future sale or application to the obligated party's annual requirements in future compliance periods, as determined by the Commission.

(f) Enforcement.

(1) The Commission shall have the authority to enforce the requirements of this chapter and any rules or orders adopted to implement the provisions of this chapter. The Commission may use its existing authority under this title. As part of an enforcement order, the Commission may order penalties and injunctive relief.

(2) The Commission shall order an obligated party that fails to retire the number of clean heat credits required in a given year, including the required amounts from customers with low income and moderate income, to make a noncompliance payment to the default delivery agent for the number of credits deficient. The per-credit amount of the noncompliance payment shall be two times the amount established by the Commission for timely per-credit payments to the default delivery agent.

(3) However, the Commission may waive the noncompliance payment required by subdivision (2) of this subsection for an obligated party if the Commission:

(A) finds that the obligated party made a good faith effort to acquire the required amount and its failure resulted from market factors beyond its control; and

(B) directs the obligated party to add the number of credits deficient to one or more future years.

(4) False or misleading statements or other representations made to the Commission by obligated parties related to compliance with the Clean Heat Standard are subject to the Commission's enforcement authority, including the power to investigate and assess penalties, under this title.

(5) The Commission's enforcement authority does not in any way impede the enforcement authority of other entities such as the Attorney General's office.

(6) Failure to register with the Commission as required by this section is a violation of the Consumer Protection Act in 9 V.S.A. chapter 63.

(g) Records. The Commission shall establish requirements for the types of records to be submitted by obligated parties, a record retention schedule for

required records, and a process for verification of records and data submitted in compliance with the requirements of this chapter.

(h) Reports.

(1) As used in this subsection, “standing committees” means the House Committee on Environment and Energy and the Senate Committees on Finance and on Natural Resources and Energy.

(2) After the adoption of the rules implementing this chapter, the Commission shall submit a written report to the standing committees detailing the efforts undertaken to establish the Clean Heat Standard pursuant to this chapter.

(3) On or before January 15 of each year following the year in which the rules are first adopted under this chapter, the Commission shall submit to the standing committees a written report detailing the implementation and operation of the Clean Heat Standard. This report shall include an assessment on the equitable adoption of clean heat measures required by subsection (d) of this section, along with recommendations to increase participation for the households with the highest energy burdens. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(i) LIHEAP pricing. The Margin Over Rack pricing program for fuel assistance shall reflect the default delivery agent credit cost established by the Commission.

§ 8125. DEFAULT DELIVERY AGENT

(a) Default delivery agent designated. In place of obligated-party specific programs, the Commission shall provide for the development and implementation of statewide clean heat programs and measures by one or more default delivery agents appointed by the Commission for these purposes. The Commission may specify that appointment of a default delivery agent to deliver clean heat services, on behalf of obligated entities who pay the per-credit fee to the default delivery agent, satisfies those entities’ corresponding obligations under this chapter.

(b) Appointment. The default delivery agent shall be one or more statewide entities capable of providing a variety of clean heat measures. The Commission shall designate the first default delivery agent on or before June 1, 2024. The designation of an entity under this subsection may be by order of appointment or contract. A designation, whether by order of appointment or by contract, may only be issued after notice and opportunity for hearing. An existing order of appointment issued by the Commission under section 209 of

this title may be amended to include the responsibilities of the default delivery agent. An order of appointment shall be for a limited duration not to exceed 12 years, although an entity may be reappointed by order or contract. An order of appointment may include any conditions and requirements that the Commission deems appropriate to promote the public good. For good cause, after notice and opportunity for hearing, the Commission may amend or revoke an order of appointment.

(c) Supervision. Any entity appointed by order of appointment under this section that is not an electric or gas utility already regulated under this title shall not be considered to be a company as defined under section 201 of this title but shall be subject to the provisions of sections 18–21, 30–32, 205–208; subsection 209(a); sections 219 and 221; and subsection 231(b) of this title, to the same extent as a company as defined under section 201 of this title. The Commission and the Department of Public Service shall have jurisdiction under those sections over the entity, its directors, receivers, trustees, lessees, or other persons or companies owning or operating the entity and of all plants, equipment, and property of that entity used in or about the business carried on by it in this State as covered and included in this section. This jurisdiction shall be exercised by the Commission and the Department so far as may be necessary to enable them to perform the duties and exercise the powers conferred upon them by law. The Commission and the Department each may, when they deem the public good requires, examine the plants, equipment, and property of any entity appointed by order of appointment to serve as a default delivery agent.

(d) Use of default delivery agent.

(1) An obligated party shall meet its annual requirement through a designated default delivery agent appointed by the Commission. However, the obligated party may seek to meet its requirement, in whole or in part, through one or more of the following ways: by delivering eligible clean heat measures, by contracting for delivery of eligible clean heat measures, or through the market purchase of clean heat credits. An obligated party shall be approved by the Commission to meet its annual requirement using a method other than the default delivery agent if it provides sufficient details on the party's capacity and resources to achieve the emissions reductions. This approval shall not be unreasonably withheld.

(2) The Commission shall provide a form for an obligated party to indicate how it intends to meet its requirement. The form shall require sufficient information to determine the nature of the credits that the default delivery agent will be responsible to deliver on behalf of the obligated party. If the Commission approves of a plan for an obligated party to meet its

obligation through a mechanism other than payment to a designated default delivery agent, then the Commission shall make such approvals known to the default delivery agent as soon as practicable.

(3) The Commission shall by rule or order establish a standard timeline under which the default delivery agent credit cost or costs are established and by which an obligated party must file its form. The default delivery agent's schedule of costs shall include sufficient costs to deliver installed measures and shall specify separately the costs to deliver measures to customers with low income and customers with moderate income as required by subsection 8124(d) of this title. The Commission shall provide not less than 120 days' notice of default delivery agent credit cost or costs prior to the deadline for an obligated party to file its election form so an obligated party can assess options and inform the Commission of its intent to procure credits in whole or in part as fulfillment of its requirement.

(4) The default delivery agent shall deliver creditable clean heat measures either directly or indirectly to end-use customer locations in Vermont sufficient to meet the total aggregated annual requirement assigned to it, along with any additional amount achievable through noncompliance payments as described in subdivision 8124(f)(2) of this title. Clean heat credits generated through installed measures delivered by the default delivery agent on behalf of an obligated party are creditable in future years. Those credits not required to meet the obligated party's existing obligations shall be owned by the obligated party.

(e) Budget.

(1) The Commission shall open a proceeding on or before July 1, 2023 and at least every three years thereafter to establish the default delivery agent credit cost or costs and the quantity of credits to be generated for the subsequent three-year period. That proceeding shall include:

(A) a potential study conducted by the Department of Public Service, the first of which shall be completed not later than September 1, 2024, to include an assessment and quantification of technically available, maximum achievable, and program achievable thermal resources. The results shall include a comparison to the legal obligations of the thermal sector portion of the requirements of 10 V.S.A. § 578(a)(2) and (3). The potential study shall consider and evaluate market conditions for delivery of clean heat measures within the State, including an assessment of workforce characteristics capable of meeting consumer demand and meeting the obligations of 10 V.S.A. § 578(a)(2) and (3);

(B) the development of a three-year plan and associated proposed budget by the default delivery agent to be informed by the final results of the Department's potential study. The default delivery agent may propose a portion of its budget towards promotion and market uplift, workforce development, and trainings for clean heat measures; and

(C) opportunity for public participation.

(2) Once the Commission provides the default delivery agent with the obligated parties' plan to meet the requirements, the default delivery agent shall be granted the opportunity to amend its plan and budget before the Commission.

(f) Compliance funds. All funds received from noncompliance payments pursuant to subdivision 8124(f)(2) of this title shall be used by the default delivery agent to provide clean heat measures to customers with low income.

(g) Specific programs. The default delivery agent shall create specific programs for multiunit dwellings, condominiums, rental properties, commercial and industrial buildings, and manufactured homes.

§ 8126. RULEMAKING

(a) The Commission shall adopt rules and may issue orders to implement and enforce the Clean Heat Standard program.

(b) The requirements to adopt rules and any requirements regarding the need for legislative approval before any part of the Clean Heat Standard goes into effect do not in any way impair the Commission's authority to issue orders or take any other actions, both before and after final rules take effect, to implement and enforce the Clean Heat Standard.

(c) The Commission's rules may include a provision that allows the Commission to revise its Clean Heat Standard rules by order of the Commission without the revisions being subject to the rulemaking requirements of the 3 V.S.A. chapter 25, provided the Commission:

(1) provides notice of any proposed changes;

(2) allows for a 30-day comment period;

(3) responds to all comments received on the proposed change;

(4) provides a notice of language assistance services on all public outreach materials; and

(5) arranges for language assistance to be provided to members of the public as requested using professional language services companies.

(d) Any order issued under this chapter shall be subject to appeal to the Vermont Supreme Court under section 12 of this title, and the Commission must immediately file any orders, a redline, and clean version of the revised rules with the Secretary of State, with notice simultaneously provided to the House Committee on Environment and Energy and the Senate Committees on Finance and on Natural Resources and Energy.

§ 8127. TRADEABLE CLEAN HEAT CREDITS

(a) Credits established. By rule or order, the Commission shall establish or adopt a system of tradeable clean heat credits that are earned by reducing greenhouse gas emissions through the delivery of clean heat measures. While credit denominations may be in simple terms for public understanding and ease of use, the underlying value shall be based on units of carbon dioxide equivalent (CO₂e). The system shall provide a process for the recognition, approval, and monitoring of the clean heat credits. The Department of Public Service shall perform the verification of clean heat credit claims and submit results of the verification and evaluation to the Commission annually.

(b) Credit ownership. The Commission, in consultation with the Technical Advisory Group, shall establish a standard methodology for determining what party or parties shall be the owner of a clean heat credit upon its creation. The owner or owners may transfer those credits to a third party or to an obligated party.

(c) Credit values. Clean heat credits shall be based on the accurate and verifiable lifecycle CO₂e emission reductions in Vermont's thermal sector that result from the delivery of eligible clean heat measures to existing or new end-use customer locations into or in Vermont.

(1) For clean heat measures that are installed, credits will be created for each year of the expected life of the installed measure. The annual value of the clean heat credits for installed measures in each year shall be equal to the lifecycle CO₂e emissions of the fuel use that is avoided in a given year because of the installation of the measure, minus the lifecycle emissions of the fuel that is used instead in that year.

(2) For clean heat measures that are fuels, clean heat credits will be created only for the year the fuel is delivered to the end-use customer. The value of the clean heat credits for fuels shall be the lifecycle CO₂e emissions of the fuel use that is avoided, minus the lifecycle CO₂e emissions of the fuel that is used instead.

(d) List of eligible measures. Eligible clean heat measures delivered to or installed in residential, commercial, and industrial buildings in Vermont shall include:

- (1) thermal energy efficiency improvements and weatherization;
- (2) cold-climate air, ground source, and other heat pumps, including district, network, grid, microgrid, and building geothermal systems;
- (3) heat pump water heaters;
- (4) utility-controlled electric water heaters;
- (5) solar hot water systems;
- (6) electric appliances providing thermal end uses;
- (7) advanced wood heating;
- (8) noncombustion or renewable energy-based district heating services;
- (9) the supply of sustainably sourced biofuels;
- (10) the supply of green hydrogen;
- (11) the replacement of a manufactured home with a high efficiency manufactured home and weatherization or other efficiency or electrification measures in manufactured homes; and
- (12) line extensions that connect facilities with thermal loads to the grid.

(e) Renewable natural gas. For pipeline renewable natural gas and other renewably generated natural gas substitutes to be eligible, an obligated party shall purchase renewable natural gas and its associated renewable attributes and demonstrate that it has secured a contractual pathway for the physical delivery of the gas from the point of injection into the pipeline to the obligated party's delivery system.

(f) Carbon intensity of fuels.

(1) To be eligible as a clean heat measure, a liquid or gaseous clean heat measure shall have a carbon intensity value as follows:

- (A) below 80 in 2025;
- (B) below 60 in 2030; and

(C) below 20 in 2050, provided the Commission may allow liquid and gaseous clean heat measures with a carbon intensity value greater than 20 if excluding them would be impracticable based on the characteristics of Vermont's buildings, the workforce available in Vermont to deliver lower

carbon intensity clean heat measures, cost, or the effective administration of the Clean Heat Standard.

(2) The Commission shall establish and publish the rate at which carbon intensity values shall decrease annually for liquid and gaseous clean heat measures consistent with subdivision (1) of this subsection as follows:

(A) on or before January 1, 2025 for 2025 to 2030; and

(B) on or before January 1, 2030 for 2031 to 2050.

(3) For the purpose of this section, the carbon intensity values shall be understood relative to No. 2 fuel oil delivered into or in Vermont in 2023 having a carbon intensity value of 100. Carbon intensity values shall be measured based on fuel pathways.

(g) Emissions schedule.

(1) To promote certainty for obligated parties and clean heat providers, the Commission shall, by rule or order, establish a schedule of lifecycle emission rates for heating fuels and any fuel that is used in a clean heat measure, including electricity, or is itself a clean heat measure, including biofuels. The schedule shall be based on transparent, verifiable, and accurate emissions accounting adapting the Argonne National Laboratory GREET Model, Intergovernmental Panel on Climate Change (IPCC) modeling, or an alternative of comparable analytical rigor to fit the Vermont thermal sector context, and the requirements of 10 V.S.A. § 578(a)(2) and (3).

(2) For each fuel pathway, the schedule shall account for greenhouse gas emissions from biogenic and geologic sources, including fugitive emissions and loss of stored carbon. In determining the baseline emission rates for clean heat measures that are fuels, emissions baselines shall fully account for methane emissions reductions or captures already occurring, or expected to occur, for each fuel pathway as a result of local, State, or federal legal requirements that have been enacted or adopted that reduce greenhouse gas emissions.

(3) The schedule may be amended based upon changes in technology or evidence on emissions, but clean heat credits previously awarded or already under contract to be produced shall not be adjusted retroactively.

(h) Review of consequences. The Commission shall biennially assess harmful consequences that may arise in Vermont or elsewhere from the implementation of specific types of clean heat measures and shall set standards or limits to prevent those consequences. Such consequences shall include environmental burdens as defined in 3 V.S.A. § 6002, public health, deforestation or forest degradation, conversion of grasslands, increased

emissions of criteria pollutants, damage to watersheds, or the creation of new methane to meet fuel demand.

(i) Time stamp. Clean heat credits shall be “time stamped” for the year in which the clean heat measure delivered emission reductions. For each subsequent year during which the measure produces emission reductions, credits shall be generated for that year. Only clean heat credits that have not been retired shall be eligible to satisfy the current year obligation.

(j) Delivery in Vermont. Clean heat credits shall be earned only in proportion to the deemed or measured thermal sector greenhouse gas emission reductions achieved by a clean heat measure delivered in Vermont. Other emissions offsets, wherever located, shall not be eligible measures.

(k) Credit eligibility.

(1) All eligible clean heat measures that are delivered in Vermont beginning on January 1, 2023 shall be eligible for clean heat credits and may be retired and count towards an obligated party’s emission reduction obligations, regardless of who creates or delivers them and regardless of whether their creation or delivery was required or funded in whole or in part by other federal or State policies and programs. This includes individual initiatives, emission reductions resulting from the State’s energy efficiency programs, the low-income weatherization program, and the Renewable Energy Standard Tier 3 program. Clean heat measures delivered or installed pursuant to any local, State, or federal program or policy may count both towards goals or requirements of such programs and policies and be eligible clean heat measures that count towards the emission reduction obligations of this chapter.

(2) The owner or owners of a clean heat credit are not required to sell the credit.

(3) Regardless of the programs or pathways contributing to clean heat credits being earned, an individual credit may be counted only once towards satisfying an obligated party’s emission reduction obligation.

(l) Credit registration.

(1) The Commission shall create an administrative system to register, sell, transfer, and trade credits to obligated parties. The Commission may hire a third-party consultant to evaluate, develop, implement, maintain, and support a database or other means for tracking clean heat credits and compliance with the annual requirements of obligated parties.

(2) The system shall require entities to submit the following information to receive the credit: the location of the clean heat measure, whether the customer or tenant has a low or moderate income, the type of property where

the clean heat measure was installed or sold, the type of clean heat measure, and any other information as required by the Commission. Customer income data collected shall be kept confidential by the Commission, the Department of Public Service, the obligated parties, and any entity that delivers clean heat measures.

(m) Greenhouse Gas Emissions Inventory and Forecast. Nothing in this chapter shall limit the authority of the Secretary of Natural Resources to compile and publish the Vermont Greenhouse Gas Emissions Inventory and Forecast in accordance with 10 V.S.A. § 582.

§ 8128. CLEAN HEAT STANDARD TECHNICAL ADVISORY GROUP

(a) The Commission shall establish the Clean Heat Standard Technical Advisory Group (TAG) to assist the Commission in the ongoing management of the Clean Heat Standard. Its duties shall include:

(1) establishing and revising the lifecycle carbon dioxide equivalent (CO₂e) emissions accounting methodology to be used to determine each obligated party's annual requirement pursuant to subdivision 8124(a)(2) of this chapter;

(2) establishing and revising the clean heat credit value for different clean heat measures;

(3) periodically assessing and reporting to the Commission on the sustainability of the production of clean heat measures by considering factors including greenhouse gas emissions; carbon sequestration and storage; human health impacts; land use changes; ecological and biodiversity impacts; groundwater and surface water impacts; air, water, and soil pollution; and impacts on food costs;

(4) setting the expected life length of clean heat measures for the purpose of calculating credit amounts;

(5) establishing credit values for each year over a clean heat measure's expected life, including adjustments to account for increasing interactions between clean heat measures over time so as to not double-count emission reductions;

(6) facilitating the program's coordination with other energy programs;

(7) calculating the impact of the cost of clean heat credits and the cost savings associated with delivered clean heat measures on per-unit heating fuel prices;

(8) calculating the savings associated with public health benefits due to clean heat measures;

(9) coordinating with the Agency of Natural Resources to ensure that greenhouse gas emissions reductions achieved in another sector through the implementation of the Clean Heat Standard are not double-counted in the Vermont Greenhouse Gas Emissions Inventory and Forecast;

(10) advising the Commission on the periodic assessment and revision requirement established in subdivision 8124(a)(3) of this chapter; and

(11) any other matters referred to the TAG by the Commission.

(b) The Clean Heat Standard Technical Advisory Group shall consist of up to 15 members appointed by the Commission. The Commission shall establish the procedure for the TAG, including member term lengths and meeting procedures. Members of the TAG shall be appointed by the Commission and shall include the Department of Public Service, the Agency of Natural Resources, the Department of Health, and parties who have, or whose representatives have, expertise in one or more of the following areas: technical and analytical expertise in measuring lifecycle greenhouse gas emissions, energy modeling and data analysis, clean heat measures and energy technologies, sustainability and non-greenhouse gas emissions strategies designed to reduce and avoid impacts to the environment, mitigating environmental burdens as defined in 3 V.S.A. § 6002, public health impacts of air quality and climate change, delivery of heating fuels, land use changes, deforestation and forest degradation, and climate change mitigation policy and law. The Commission shall accept and review motions to join the TAG from interested parties who have, or whose representatives have, expertise in one or more of the areas listed in this subsection. Members who are not otherwise compensated by their employer shall be entitled to per diem compensation and reimbursement for expenses under 32 V.S.A. § 1010.

(c) The Commission shall hire a third-party consultant responsible for developing clean heat measure characterizations and relevant assumptions, including CO₂e lifecycle emissions analyses. The TAG shall provide input and feedback on the consultant's work. The Commission may use appropriated funds to hire the consultant.

(d) Emission analyses and associated assumptions developed by the consultant shall be reviewed and approved annually by the Commission. In reviewing the consultant's work, the Commission shall provide a public comment period on the work. The Commission may approve or adjust the consultant's work as it deems necessary based on its review and the public comments received.

§ 8129. CLEAN HEAT STANDARD EQUITY ADVISORY GROUP

(a) The Commission shall establish the Clean Heat Standard Equity Advisory Group to assist the Commission in developing and implementing the Clean Heat Standard in a manner that ensures an equitable share of clean heat measures are delivered to Vermonters with low income and moderate income and that Vermonters with low income and moderate income who are not early participants in clean heat measures are not negatively impacted in their ability to afford heating fuel. Its duties shall include:

(1) providing feedback to the Commission on strategies for engaging Vermonters with low income and moderate income in the public process for developing the Clean Heat Standard program;

(2) supporting the Commission in assessing whether customers are equitably served by clean heat measures and how to increase equity;

(3) identifying actions needed to provide customers with low income and moderate income with better service and to mitigate the fuel price impacts calculated in section 8128 of this title;

(4) recommending any additional programs, incentives, or funding needed to support customers with low income and moderate income and organizations that provide social services to Vermonters in affording heating fuel and other heating expenses;

(5) providing feedback to the Commission on the impact of the Clean Heat Standard on the experience of Vermonters with low income and moderate income; and

(6) providing information to the Commission on the challenges renters and residents of manufactured homes face in equitably accessing clean heat measures and recommendations to ensure that renters and residents of manufactured homes have equitable access to clean heat measures.

(b) The Clean Heat Standard Equity Advisory Group shall consist of up to 10 members appointed by the Commission and at a minimum shall include at least one representative from each of the following groups: the Department of Public Service; the Department for Children and Families' Office of Economic Opportunity; a community action agency with expertise in low-income weatherization; a community action agency with expertise in serving residents of manufactured homes; Efficiency Vermont; the Vermont Association of Area Agencies on Aging; individuals with socioeconomically, racially, and geographically diverse backgrounds; renters; rental property owners; the Vermont Housing Finance Agency; and a member of the Vermont Fuel Dealers Association. Members who are not otherwise compensated by their employer

shall be entitled to per diem compensation and reimbursement for expenses under 32 V.S.A. § 1010.

(c) The Equity Advisory Group shall cease to exist when the initial Clean Heat Standard rules are adopted. Thereafter, the issues described in subsection (a) of this section shall be reviewed by the Commission, in compliance with 3 V.S.A. chapter 72.

§ 8130. SEVERABILITY

If any provision of this chapter or its application to any person or circumstance is held invalid or in violation of the Constitution or laws of the United States or in violation of the Constitution or laws of Vermont, the invalidity or the violation shall not affect other provisions of this chapter that can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are severable.

§ 8131. RULEMAKING AUTHORITY

Notwithstanding any other provision of law to the contrary, the Commission shall not file proposed rules with the Secretary of State implementing the Clean Heat Standard without specific authorization enacted by the General Assembly.

Sec. 4. 10 V.S.A. § 582 is amended to read:

§ 582. GREENHOUSE GAS INVENTORIES; REGISTRY

(a) Inventory and forecasting. The Secretary shall work, in conjunction with other states or a regional consortium, to establish a periodic and consistent inventory of greenhouse gas emissions. The Secretary shall publish the Vermont Greenhouse Gas Emission Inventory and Forecast by ~~no~~ not later than June 1, 2010, and updates shall be published annually until 2028, until a regional or national inventory and registry program is established in which Vermont participates, or until the federal National Emissions Inventory includes mandatory greenhouse gas reporting. The Secretary of Natural Resources shall include a supplemental accounting in the Vermont Greenhouse Gas Emissions Inventory and Forecast that measures the upstream and lifecycle greenhouse gas emissions of liquid, gaseous, solid geologic and biogenic fuels combusted in Vermont.

* * *

Sec. 5. CONFIDENTIALITY OF FUEL TAX RETURNS; 2024

(a) Notwithstanding 32 V.S.A. § 3102(a), from January 1, 2024 until December 31, 2024, the Commissioner of Taxes shall disclose to the Public Utility Commission and the Department of Public Service a return or return

information related to the fuel tax imposed under 33 V.S.A. § 2503, provided the return or return information provided is necessary to verify the identity, fuel tax liability, and registration status of an entity that sells heating fuel into Vermont for purposes of administering the Clean Heat Standard established in 30 V.S.A. chapter 94.

(b) Pursuant to 32 V.S.A. § 3102(h), the person or persons receiving return or return information under this section shall be subject to the penalty provisions of 32 V.S.A. § 3102(a) for unauthorized disclosure of return or return information as if such person were the agent of the Commissioner. Pursuant to 32 V.S.A. § 3102(g), nothing in this section shall be construed to prohibit the publication of statistical information, rulings, determinations, reports, opinions, policies, or other information, provided the data is disclosed in a form that cannot identify or be associated with a particular person.

(c) Pursuant to 1 V.S.A. § 317(c)(6), a fuel tax return and related documents, correspondence, and certain types of substantiating forms that include the same type of information as in the tax return itself filed with or maintained by the Vermont Department of Taxes disclosed to the Public Utility Commission and the Department of Public Service under this section shall be exempt from public inspection and copying.

Sec. 6. PUBLIC UTILITY COMMISSION IMPLEMENTATION

(a) Commencement. On or before August 31, 2023, the Public Utility Commission shall commence a proceeding to implement Sec. 3 (Clean Heat Standard) of this act.

(b) Facilitator. The Commission shall hire a third-party consultant with expertise in equity, justice, and diversity to design and conduct public engagement. The Commission and the facilitator shall incorporate the Guiding Principles for a Just Transition into the public engagement process. The Commission may use funds appropriated under this act on hiring the consultant. Public engagement shall be conducted by the facilitator for the purposes of:

(1) supporting the Commission in assessing whether customers will be equitably served by clean heat measures and how to increase equity in the delivery of clean heat measures;

(2) identifying actions needed to provide customers with low income and moderate income with better service and to mitigate the fuel price impacts calculated in 30 V.S.A. § 8128;

(3) recommending any additional programs, incentives, or funding needed to support customers with low income and moderate income and

organizations that provide social services to Vermonters in affording heating fuel and other heating expenses; and

(4) providing information to the Commission on the challenges renters face in equitably accessing clean heat measures and recommendations to ensure that renters have equitable access to clean heat measures.

(c) Public engagement process. Before commencing rulemaking, the Commission shall use the forms of public engagement described in this subsection to inform the design and implementation of the Clean Heat Standard. Any failure by the Commission to meet the specific procedural requirements of this section shall not affect the validity of the Commission's actions.

(1) The Commission shall allow any person to register at any time in the Commission's online case management system, ePUC, as a participant in the Clean Heat Standard proceeding. All members of the Equity Advisory Group shall be made automatic participants to that proceeding. All registered participants in the proceeding, including all members of the Equity Advisory Group, shall receive all notices of public meetings and all notices of opportunities to comment in that proceeding.

(2) The Commission shall hold at least six public hearings or workshops that shall be recorded and publicly posted on the Commission's website or on ePUC. These meetings shall be open to everyone, including all stakeholders, members of the public, and all other potentially affected parties, with translation services available to those attending.

(3) The Commission also shall provide at least three opportunities for the submission of written comments. Any person may submit written comments to the Commission.

(d) Advertising. The Commission shall use funding appropriated in this act on advertising the public meetings in order to provide notice to a wide variety of segments of the public. All advertisements of public meetings shall include a notice of language assistance services. The Commission shall arrange for language assistance to be provided to members of the public as requested using the services of professional language services companies.

(e) Draft proposed rules. The Commission shall publish draft proposed rules publicly and provide notice of them through the Commission's online case management system, ePUC, to the stakeholders in this rulemaking who registered their names and e-mail addresses with the Commission through ePUC. The Commission shall provide a 30-day comment period on the draft and accept written comments from the public and stakeholders. The

Commission shall consider changes in response to the public comments before filing the proposed rules with the Secretary of State and the Legislative Committee on Administrative Rules.

(f) Final rules.

(1) On or before January 15, 2025, the Commission shall submit to the General Assembly final proposed rules to implement the Clean Heat Standard. The Commission shall not file the final proposed rules with the Secretary of State until specific authorization is enacted by the General Assembly to do so.

(2) Notwithstanding 3 V.S.A. §§ 820, 831, 836–840, and 841(a), upon affirmative authorization enacted by the General Assembly authorizing the adoption of rules implementing the Clean Heat Standard, the Commission shall file, as the final proposed rule, the rules implementing the Clean Heat Standard approved by the General Assembly with the Secretary of State and Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841. The filing shall include everything that is required under 3 V.S.A. §§ 838(a)(1)–(5), (8)–(13), (15), and (16), (b), (c), and 841(b)(1).

(3) The review, adoption, and effect of the rules implementing the Clean Heat Standard shall be governed by 3 V.S.A. §§ 841(c); 842, exclusive of subdivision (b)(4); 843; 845; and 846, exclusive of subdivision (a)(3).

(4) Once adopted and effective, any amendments to the rules implementing the Clean Heat Standard shall be made in accordance with the Administrative Procedure Act, 3 V.S.A. chapter 25, unless the adopted rules allow for amendments through a different process in accordance with 30 V.S.A. § 8126(c) and (d).

(5) The final proposed rules shall contain the first set of annual required amounts for obligated parties as described in 30 V.S.A. § 8124(a)(1). The first set of annual required amounts shall only be adopted through the rulemaking process established in this section, not through an order.

(g) Consultant. The Commission may contract with a consultant to assist with implementation of 30 V.S.A. § 8127 (clean heat credits).

(h) Funding. On or before February 15, 2024, the Commission shall report to the General Assembly on suggested revenue streams that may be used or created to fund the Commission’s administration of the Clean Heat Standard program and shall include programs to support market transformation such as workforce development, market uplift, and training that may be administered by a third party.

(i) Check-back reports. On or before February 15, 2024 and January 15, 2025, the Commission shall submit a written report to and be available to

provide oral testimony to the House Committee on Environment and Energy and the Senate Committees on Finance and on Natural Resources and Energy detailing the efforts undertaken to establish the Clean Heat Standard. The reports shall include, to the extent available, estimates of the impact of the Clean Heat Standard on customers, including impacts to customer rates and fuel bills for participating and nonparticipating customers, net impacts on total spending on energy for thermal sector end uses, fossil fuel reductions, greenhouse gas emission reductions, and, if possible, impacts on economic activity and employment. The modeled impacts shall estimate high-, medium-, and low-price impacts. The reports shall recommend any legislative action needed to address enforcement or other aspects of the Clean Heat Standard, including how to ensure fuel use that occurs outside the thermal sector is not impacted under the program.

(j) Assistance. The Agency of Commerce and Community Development, the Department of Public Service, and other State agencies and departments shall assist the Commission with economic modeling for the required reports and rulemaking process.

(k) Report on equity issues. On or before January 15, 2025, the Equity Advisory Group shall report to the General Assembly on the Group's findings from the review of issues under 30 V.S.A. § 8129(a).

Sec. 7. PUBLIC UTILITY COMMISSION AND DEPARTMENT OF PUBLIC SERVICE POSITIONS; APPROPRIATION

(a) The following new positions are created in the Public Utility Commission for the purpose of carrying out this act:

- (1) one permanent exempt Staff Attorney;
- (2) one permanent exempt Analyst; and
- (3) one limited-service exempt Analyst.

(b) The sum of \$825,000.00 is appropriated to the Public Utility Commission from the General Fund in fiscal year 2024 for the positions established in subsection (a) of this section; for all consultants required by this act; and for additional operating costs required to implement the Clean Heat Standard, including marketing and public outreach for Sec. 6 of this act.

(c) The following new positions are created in the Department of Public Service for the purpose of carrying out this act:

- (1) one permanent exempt Staff Attorney; and
- (2) two permanent classified Program Analysts.

(d) The sum of \$900,000.00 is appropriated to the Department of Public Service from the General Fund in fiscal year 2024 for the positions established in subsection (c) of this section, to retain consultants that may be required to support verification and evaluation required by 30 V.S.A. § 8127(a), for conducting the potential study, and for associated operating costs related to the implementation of the Clean Heat Standard.

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

S. 37.

An act relating to access to legally protected health care activity and regulation of health care providers

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

* * * Definitions * * *

Sec. 1. 1 V.S.A. § 150 is added to read:

§ 150. LEGALLY PROTECTED HEALTH CARE ACTIVITY

(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.

* * * Medical Malpractice * * *

Sec. 2. 8 V.S.A. chapter 129 is amended to read:

CHAPTER 129. INSURANCE TRADE PRACTICES

* * *

§ 4722. DEFINITIONS

* * *

(4)(A) “Abusive litigation” means litigation or other legal action to deter, prevent, sanction, or punish any person engaging in legally protected health care activity by:

(i) filing or prosecuting any action in any other state where liability, in whole or part, directly or indirectly, is based on legally protected health care activity that occurred in this State, including any action in which liability is based on any theory of vicarious, joint, or several liability derived therefrom; or

(ii) attempting to enforce any order or judgment issued in connection with any such action by any party to the action or any person acting on behalf of a party to the action.

(B) A lawsuit shall be considered to be based on conduct that occurred in this State if any part of any act or omission involved in the course of conduct that forms the basis for liability in the lawsuit occurs or is initiated in this State, whether or not such act or omission is alleged or included in any pleading or other filing in the lawsuit.

(5) “Legally protected health care activity” has the same meaning as in 1 V.S.A. § 150.

* * *

§ 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR DECEPTIVE ACTS OR PRACTICES DEFINED

The following are hereby defined as unfair methods of competition or unfair or deceptive acts or practices in the business of insurance:

* * *

(7) Unfair discrimination; arbitrary underwriting action.

(A) Making or permitting any unfair discrimination between insureds of the same class and equal risk in the rates charged for any contract of insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contracts.

* * *

(F)(i) Discriminating against a health care provider, as defined by 18 V.S.A. § 9496, or adjusting or otherwise calculating a health care provider’s

risk classification or premium charges on the basis that:

(I) the health care provider provides or assists in the provision of legally protected health care activity that is unlawful in another state;

(II) another state’s laws create potential or actual liability for that activity;

(III) abusive litigation against a provider concerning legally protected health care activity resulted in a claim, settlement, or judgement against the provider; or

(IV) the license of the provider has been disciplined in any way by another state based solely on the provider’s provision of legally protected health care activity.

(ii) For purposes of this subdivision (F), it shall not be unfairly discriminatory nor an arbitrary underwriting action against a health care provider if the risk classifications, premium charges, or other underwriting considerations are based on factors other than those listed in subdivision (i) of this subdivision (F).

* * *

* * * Insurance Coverage * * *

Sec. 3. 8 V.S.A. § 4088m is added to read:

§ 4088m. COVERAGE FOR GENDER-AFFIRMING HEALTH CARE SERVICES

(a) Definitions. As used in this section:

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

(2) “Health insurance plan” means Medicaid and any other public health care assistance program, any individual or group health insurance policy, any hospital or medical service corporation or health maintenance organization subscriber contract, or any other health benefit plan offered, issued, or renewed for any person in this State by a health insurer as defined by 18 V.S.A. § 9402. For purposes of this section, health insurance plan includes any health benefit plan offered or administered by the State or any subdivision or instrumentality of the State. The term does not include benefit plans providing coverage for a specific disease or other limited benefit coverage, except that it includes any accident and sickness health plan.

(b) Coverage.

(1) A health insurance plan shall provide coverage for gender-affirming health care services that:

(A) are medically necessary and clinically appropriate for the individual's diagnosis or health condition; and

(B) are included in the State's essential health benefits benchmark plan.

(2) Coverage provided pursuant to this section by Medicaid or any other public health care assistance program shall comply with all federal requirements imposed by the Centers for Medicare and Medicaid Services.

(3) Nothing in this section shall prohibit a health insurance plan from providing greater coverage for gender-affirming health care services than is required under this section.

(c) Cost sharing. A health insurance plan shall not impose greater coinsurance, co-payment, deductible, or other cost-sharing requirements for coverage of gender-affirming health care services than apply to the diagnosis and treatment of any other physical or mental condition under the plan.

Sec. 4. 8 V.S.A. § 4099e is added to read:

§ 4099e. COVERAGE FOR ABORTION AND ABORTION-RELATED SERVICES

(a) Definitions. As used in this section:

(1) "Abortion" means any medical treatment intended to induce the termination of, or to terminate, a clinically diagnosable pregnancy except for the purpose of producing a live birth.

(2) "Health insurance plan" means Medicaid and any other public health care assistance program, any individual or group health insurance policy, any hospital or medical service corporation or health maintenance organization subscriber contract, or any other health benefit plan offered, issued, or renewed for any person in this State by a health insurer as defined by 18 V.S.A. § 9402. For purposes of this section, health insurance plan shall include any health benefit plan offered or administered by the State or any subdivision or instrumentality of the State. The term shall not include benefit plans providing coverage for a specific disease or other limited benefit coverage, except that it shall include any accident and sickness health plan.

(b) Coverage. A health insurance plan shall provide coverage for abortion and abortion-related care.

(c) Cost sharing. The coverage required by this section shall not be subject

to any co-payment, deductible, coinsurance, or other cost-sharing requirement or additional charge, except:

(1) to the extent such coverage would disqualify a high-deductible health plan from eligibility for a health savings account pursuant to 26 U.S.C. § 223; and

(2) for coverage provided by Medicaid.

Sec. 5. STATE PLAN AMENDMENT

The Agency of Human Services shall seek a state plan amendment from the Centers for Medicare and Medicaid Services or federal authorities if needed to allow Vermont's Medicaid program to provide coverage consistent with this act.

* * * Professional Regulation * * *

Sec. 6. 3 V.S.A. § 129a is amended to read:

§ 129a. UNPROFESSIONAL CONDUCT

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items or any combination of items, whether the conduct at issue was committed within or outside the State, shall constitute unprofessional conduct:

* * *

(7) Willfully making or filing false reports or records in the practice of the profession, willfully impeding or obstructing the proper making or filing of reports or records, or willfully failing to file the proper reports or records, or willfully providing inaccurate health or medical information to a patient, including purposeful misrepresentation of a patient's health status.

* * *

(29) Providing or claiming to provide services or medications that are purported to reverse the effects of a medication abortion.

* * *

(f)(1) Health care providers. Notwithstanding subsection (e) of this section or any other law to the contrary, no health care provider who is certified, registered, or licensed in Vermont shall be subject to professional disciplinary action by a board or the Director, nor shall a board or the Director take adverse action on an application for certification, registration, or licensure of a

qualified health care provider, based solely on:

(A) the health care provider providing or assisting in the provision of legally protected health care activity; or

(B) a criminal, civil, or disciplinary action in another state against the health care provider that is based solely on the provider providing or assisting in the provision of legally protected health care activity.

(2) Definitions. As used in this subsection:

(A) “Health care provider” means a person who provides professional health care services to an individual during that individual’s medical care, treatment, or confinement.

(B) “Health care services” means services for the diagnosis, prevention, treatment, cure, or relief of a physical or mental health condition, including procedures, products, devices, and medications.

(C) “Legally protected health care activity” has the same meaning as in 1 V.S.A. § 150.

Sec. 7. 26 V.S.A. § 1354 is amended to read:

§ 1354. UNPROFESSIONAL CONDUCT

* * *

(d)(1) Health care providers. Notwithstanding any other law to the contrary, no health care provider who is certified, registered, or licensed in Vermont shall be subject to professional disciplinary action by the Board, nor shall the Board take adverse action on an application for certification, registration, or licensure of a qualified health care provider, based solely on:

(A) the health care provider providing or assisting in the provision of legally protected health care activity; or

(B) a criminal, civil, or disciplinary action in another state against the health care provider that is based solely on the provider providing or assisting in the provision of legally protected health care activity.

(2) Definitions. As used in this subsection:

(A) “Health care provider” means a person who provides professional health care services to an individual during that individual’s medical care, treatment, or confinement.

(B) “Health care services” means services for the diagnosis, prevention, treatment, cure, or relief of a physical or mental health condition, including procedures, products, devices, and medications.

(C) “Legally protected health care activity” has the same meaning as in 1 V.S.A. § 150.

* * * Pregnancy Centers * * *

Sec. 8. 9 V.S.A. chapter 63, subchapter 11 is added to read:

Subchapter 11. Pregnancy Services Centers

§ 2491. FINDINGS; LEGISLATIVE INTENT

(a) Findings. The General Assembly finds that:

(1) Centers that seek to counsel clients against abortion, often referred to as crisis pregnancy centers or limited-services pregnancy centers, have become common across the country, including in Vermont. Accurate information about the services that a limited-services pregnancy center performs, in addition to forthright acknowledgement of its limitations, is essential to enable individuals in this State to make informed decisions about their care. This includes individuals being informed of whether they are receiving services from a licensed and qualified health care provider at a limited-services pregnancy center, as this allows individuals to determine if they need to seek medical care elsewhere in order to continue or terminate a pregnancy.

(2) Although some limited-services pregnancy centers openly acknowledge in their advertising, on their websites, and at their facilities that they neither provide abortions nor refer clients to other providers of abortion services, others provide confusing and misleading information to pregnant individuals contemplating abortion by leading those individuals to believe that their facilities offer abortion services and unbiased counseling. Some limited-services pregnancy centers have promoted patently false or biased medical claims about abortion, pregnancy, contraception, and reproductive health care providers.

(3) False and misleading advertising by centers that do not offer or refer clients for abortion is of special concern to the State because of the time-sensitive and constitutionally protected nature of the decision to continue or terminate a pregnancy. When a pregnant individual is misled into believing that a center offers services that it does not in fact offer or receives false or misleading information regarding health care options, the individual loses time crucial to the decision whether to terminate a pregnancy and may lose the option to choose a particular method or to terminate a pregnancy at all.

(4) Telling the truth is how trained health care providers demonstrate respect for patients, foster trust, promote self-determination, and cultivate an environment where best practices in shared decision-making can flourish.

Without veracity in information and communication, it is difficult for individuals to make informed, voluntary choices that are essential to one's sense of personal agency and autonomy.

(5) Advertising strategies and educational information about health care options that lack transparency, use misleading or ambiguous terminology, misrepresent or obfuscate services provided, or provide factually inaccurate information are a form of manipulation that disrespects individuals, undermines trust, broadens health disparity, and can result in patient harm.

(b) Intent.

(1) It is the intent of the General Assembly to ensure that the public is provided with accurate, factual information about the types of health care services that are available to pregnant individuals in this State. The General Assembly respects the constitutionally protected right of each individual to personal reproductive autonomy, which includes the right to receive clear, honest, and nonmisleading information about the individual's options and to make informed, voluntary choices after considering all relevant information.

(2) The General Assembly respects the right of limited-services pregnancy centers to counsel individuals against abortion, and nothing in this subchapter should be construed to regulate, limit, or curtail such advocacy.

§ 2492. DEFINITIONS

As used in this subchapter:

(1) "Abortion" means any medical treatment intended to induce the termination of, or to terminate, a clinically diagnosable pregnancy except for the purpose of producing a live birth.

(2) "Client" means an individual who is inquiring about or seeking services at a pregnancy services center.

(3) "Emergency contraception" means any drug approved by the U.S. Food and Drug Administration as a contraceptive method for use after sexual intercourse, whether provided over the counter or by prescription.

(4) "Health information" means any oral or written information in any form or medium that relates to health insurance or the past, present, or future physical or mental health or condition of a client.

(5) "Limited-services pregnancy center" means a pregnancy services center that does not directly provide, or provide referrals to clients for, abortions or emergency contraception.

(6) "Pregnancy services center" means a facility, including a mobile

facility, where the primary purpose is to provide services to individuals who are or may be pregnant and that either offers obstetric ultrasounds, obstetric sonograms, or prenatal care to pregnant individuals or has the appearance of a medical facility. A pregnancy services center has the appearance of a medical facility if two or more of the following factors are present:

(A) The center offers pregnancy testing or pregnancy diagnosis, or both.

(B) The center has staff or volunteers who wear medical attire or uniforms.

(C) The center contains one or more examination tables.

(D) The center contains a private or semiprivate room or area containing medical supplies or medical instruments.

(E) The center has staff or volunteers who collect health information from clients.

(F) The center is located on the same premises as a State-licensed medical facility or provider or shares facility space with a State-licensed medical provider.

(7) "Premises" means land and improvements or appurtenances or any part thereof.

§ 2493. UNFAIR AND DECEPTIVE ACT

(a) It is an unfair and deceptive act and practice in commerce and a violation of section 2453 of this title for any limited-services pregnancy center to disseminate or cause to be disseminated to the public any advertising about the services or proposed services performed at that center that is untrue or clearly designed to mislead the public about the nature of services provided. Advertising includes representations made directly to consumers; marketing practices; communication in any print medium, such as newspapers, magazines, mailers, or handouts; and any broadcast medium, such as television or radio, telephone marketing, or advertising over the Internet such as through websites and web ads. For purposes of this chapter, advertising or the provision of services by a limited-services pregnancy center is an act in commerce.

(b) Health care providers certified, registered, or licensed under Title 26 of the Vermont Statutes Annotated who are employed by, contracted to provide services for or on behalf of, or volunteer to provide services at a limited-services pregnancy center shall be responsible for conducting and providing health care services, information, and counseling at the center. The failure of a

health care professional certified, registered, or licensed under Title 26 of the Vermont Statutes Annotated to conduct or to ensure that health care services, information, and counseling at the limited-services pregnancy services center are conducted in accordance with State law and professional standards of practice may constitute unprofessional conduct under 3 V.S.A. § 129a and 26 V.S.A. § 1354.

(c) The Attorney General has the same authority to make rules, conduct civil investigations, and bring civil actions with respect to violations of subsection (a) of this section as provided under subchapter 1 of this chapter.

* * * Reports; Interstate Compacts * * *

Sec. 9. 18 V.S.A. § 9405 is amended to read:

§ 9405. STATE HEALTH IMPROVEMENT PLAN; HEALTH RESOURCE ALLOCATION PLAN

* * *

(b) The Green Mountain Care Board, in consultation with the Secretary of Human Services or designee, shall publish on its website the Health Resource Allocation Plan identifying Vermont's critical health needs, goods, services, and resources, which shall be used to inform the Board's regulatory processes, cost containment and statewide quality of care efforts, health care payment and delivery system reform initiatives, and any allocation of health resources within the State. The Plan shall identify Vermont residents' needs for health care services, programs, and facilities; the resources available and the additional resources that would be required to realistically meet those needs and to make access to those services, programs, and facilities affordable for consumers; and the priorities for addressing those needs on a statewide basis. The Board may expand the Plan to include resources, needs, and priorities related to the social determinants of health. The Plan shall be revised periodically, but not less frequently than once every four years.

* * *

(3) The Board shall receive and consider public input on the Plan at a minimum of one Board meeting and one meeting of the Advisory Committee and shall give interested persons an opportunity to submit their views orally and in writing.

(4) The Board shall include reproductive health care services and gender-affirming health care services, as those terms are defined in 1 V.S.A. § 150, in its Plan analysis.

(5) As used in this section:

(A) “Health resources” means investments into the State’s health care system, including investments in personnel, equipment, and infrastructure necessary to deliver:

* * *

Sec. 9a. AGENCY OF HUMAN SERVICES; STATE HEALTH ASSESSMENT; COMMUNITY PROFILES

The Agency of Human Services shall work with LGBTQA+ community stakeholders and health care providers during the upcoming State Health Assessment and Community Profiles community engagement processes to explore barriers to equitable access to gender-affirming health care services, as defined in 1 V.S.A. § 150.

Sec. 10. BOARD OF MEDICAL PRACTICE; OFFICE OF PROFESSIONAL REGULATION; INTERSTATE COMPACTS; REPORT

On or before November 1, 2025, the Office of Professional Regulation, in consultation with the Board of Medical Practice, shall submit a report to the House Committee on Health Care and the Senate Committee on Health and Welfare with findings and recommendations for legislative action to address any concerns regarding the State’s participation, or contemplated participation, in interstate licensure compacts as a result of the provisions of this act, including the State’s participation in the Nurse Licensure Compact pursuant to 26 V.S.A. chapter 28, subchapter 5 and the Interstate Medical Licensure Compact pursuant to 26 V.S.A. chapter 23, subchapter 3A.

Sec. 10a. 26 V.S.A. chapter 56 is amended to read:

CHAPTER 56. OUT-OF-STATE TELEHEALTH LICENSURE & REGISTRATION AND INTERSTATE COMPACTS

Subchapter 1. Out-of-State Telehealth Licensure and Registration

* * *

Subchapter 2. Interstate Compacts; Health Care Provider Compacts

§ 3071. HEALTH CARE PROVIDER COMPACTS; DIRECTION TO VERMONT REPRESENTATIVES

(a) The General Assembly finds that a state’s prohibition of or limitation on the provision of gender-affirming health care services or reproductive health care services, or both, as defined by 1 V.S.A. § 150, prohibits health care providers from following health care best practices and is a failure on the part of the state to provide health care services that are medically necessary and clinically appropriate for its residents. Therefore, it is the General

Assembly’s intent to protect the ability of professionals licensed, certified, or registered in Vermont, and professionals from other member states seeking to practice a profession in Vermont pursuant to an interstate compact or agreement, to have the benefit of compacts and agreements while at the same time engaging in, providing, or otherwise facilitating, personally or professionally, gender-affirming health care and reproductive health care services.

(b) Vermont’s representative or delegate for an interstate compact or agreement related to health care shall seek an amendment or exception to the language, rules, directives, or bylaws of the compact or agreement, as necessary, so that if a licensee is disciplined by another state solely for providing or assisting in the provision of gender-affirming health care services or reproductive health care services that would be legal and meet professional standards of care if provided in Vermont, the compact or agreement does not require that Vermont take professional disciplinary action against the licensee.

* * * Emergency Contraception * * *

Sec. 11. 26 V.S.A. chapter 36, subchapter 1 is amended to read:

Subchapter 1. General Provisions

* * *

§ 2022. DEFINITIONS

As used in this chapter:

* * *

(22) “Emergency contraception” means any drug approved by the U.S. Food and Drug Administration as a contraceptive method for use after sexual intercourse, whether provided over the counter or by prescription.

§ 2023. CLINICAL PHARMACY; PRESCRIBING

* * *

(b) A pharmacist may prescribe in the following contexts:

* * *

(2) State protocol.

(A) A pharmacist may prescribe, order, or administer in a manner consistent with valid State protocols that are approved by the Commissioner of Health after consultation with the Director of Professional Regulation and the Board and the ability for public comment:

* * *

(ix) emergency prescribing of albuterol or glucagon while contemporaneously contacting emergency services; and

(x) tests for SARS-CoV for asymptomatic individuals or related serology for individuals by entities holding a Certificate of Waiver pursuant to the Clinical Laboratory Amendments of 1988 (42 U.S.C. § 263a); and

(xi) emergency contraception.

* * *

Sec. 11a. 26 V.S.A. § 2077 is added to read:

§ 2077. EMERGENCY CONTRACEPTION; VENDING MACHINES

(a) A retail or institutional drug outlet licensed under this chapter or a postsecondary school, as defined in and subject to 16 V.S.A. § 176, may make over-the-counter emergency contraception and other nonprescription drugs or articles for the prevention of pregnancy or conception available through a vending machine or similar device.

(b) Notwithstanding any provision of subsection 2032(h) of this chapter to the contrary, the Board may adopt rules in accordance with 3 V.S.A. chapter 25 to regulate the location, operation, utilization, and oversight of the vending machines and similar devices described in subsection (a) of this section in a manner that balances consumer access with appropriate safeguards for theft prevention and safety.

* * * Higher Education; Health Care Services * * *

Sec. 12. 16 V.S.A. chapter 78 is added to read:

CHAPTER 78. ACCESS TO REPRODUCTIVE AND GENDER-AFFIRMING HEALTH CARE SERVICES

§ 2501. DEFINITIONS

As used in this chapter:

(1) “Gender-affirming health care readiness” means each institution’s preparedness to provide gender-affirming health care services to students or assist students in obtaining gender-affirming health care services, including having in place equipment, protocols, patient educational materials, informational websites, and training for staff; provided, however, that gender-affirming health care readiness may include the provision of gender-affirming health care services.

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

(3) “Institution” means the University of Vermont or a college in the Vermont State College system.

(4) “Reproductive health care services” has the same meaning as in 1 V.S.A. § 150.

(5) “Reproductive health care readiness” means each institution’s preparedness to provide reproductive health care services to students or assist students in obtaining reproductive health care services, including having in place equipment, protocols, patient educational materials, informational websites, and training for staff; provided, however, that reproductive health care readiness may include the provision of reproductive health care services.

(6) “Telehealth” has the same meaning as in 26 V.S.A. § 3052.

§ 2502. GENDER-AFFIRMING HEALTH CARE AND REPRODUCTIVE HEALTH CARE READINESS; REPORTS

(a) Each institution shall report to the Agency of Human Services annually, on or before November 1, on the current status of its gender-affirming health care and reproductive health care readiness, including:

(1) whether the institution has an operational health center on campus;

(2) whether the institution employs health care providers on campus;

(3) the types of gender-affirming health care services and reproductive health care services that the institution offers to its students on campus and the supports that the institution provides to students who receive those services;

(4) the institution’s efforts to assist students with obtaining gender-affirming health care services and reproductive health care services from licensed health care professionals through telehealth;

(5) the institution’s proximity to a hospital, clinic, or other facility that provides gender-affirming health care services or reproductive health care services, or both, that are not available to students on campus;

(6) the information that the institution provides regarding facilities that offer gender-affirming health care services and reproductive health care services that are not available to students on campus, including information regarding the scope of the services that are available at each such facility; and

(7) the availability, convenience, and cost of public transportation between the institution and the closest facility that provides gender-affirming health care services or reproductive health care services, or both, and whether the institution provides transportation.

(b) On or before January 31 of each year, the Agency of Human Services

shall compile the materials submitted pursuant to subsection (a) of this section and report to the House Committees on Education, on Health Care, and on Human Services and the Senate Committees on Education and on Health and Welfare on the status of gender-affirming health care and reproductive health care readiness at Vermont's institutions.

Sec. 13. GENDER-AFFIRMING HEALTH CARE AND REPRODUCTIVE HEALTH CARE READINESS; IMPLEMENTATION

Each institution shall submit its first report on the status of its gender-affirming health care and reproductive health care readiness as required under 16 V.S.A. § 2502(a) to the Agency of Human Services on or before November 1, 2023, and the Agency shall provide its first legislative report on or before January 31, 2024.

* * * Prohibition on Disclosure of Protected Health Information * * *

Sec. 14. 18 V.S.A. § 1881 is amended to read:

§ 1881. DISCLOSURE OF PROTECTED HEALTH INFORMATION PROHIBITED

(a) As used in this section:

(1) “Business associate” has the same meaning as in 45 C.F.R. § 160.103.

(2) “Covered entity” shall have ~~has~~ the same meaning as in 45 C.F.R. § 160.103.

(3) “Legally protected health care activity” has the same meaning as in 1 V.S.A. § 150.

(2)(4) “Protected health information” shall have ~~has~~ the same meaning as in 45 C.F.R. § 160.103.

(5) “Telehealth” has the same meaning as in 26 V.S.A. § 3052.

(b) A covered entity or business associate shall not disclose protected health information unless the disclosure is permitted under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

(c) In order to protect patients and providers who engage in legally protected health care activity, a covered entity or business associate shall not disclose protected health information related to a legally protected health care activity for use in a civil or criminal action; a proceeding preliminary to a civil or criminal action; or a probate, legislative, or administrative proceeding unless the disclosure meets one or more of the following conditions:

(1) The disclosure is authorized by the patient or the patient’s conservator, guardian, or other authorized legal representative.

(2) The disclosure is specifically required by federal law, Vermont law, or rules adopted by the Vermont Supreme Court.

(3) The disclosure is ordered by a court of competent jurisdiction pursuant to federal law, Vermont law, or rules adopted by the Vermont Supreme Court. An order compelling disclosure under this subdivision shall include the court’s determination that good cause exists to require disclosure of the information related to legally protected health care activity.

(4) The disclosure is to be made to a person designated by the covered entity or business associate and will be used solely in the defense of the covered entity or business associate against a claim that has been made, or there is a reasonable belief will be made, against the covered entity or business associate in a civil or criminal action; a proceeding preliminary to a civil or criminal action; or a probate, legislative, or administrative proceeding.

(5) The disclosure is to Vermont’s Board of Medical Practice or Office of Professional Regulation, as applicable, in connection with a bona fide investigation in Vermont of a licensed, certified, or registered health care provider or a bona fide investigation of whether an individual who is not licensed, certified, or registered to practice a health care profession in Vermont engaged in unauthorized practice in this State, whether in person or through telehealth.

(6) The disclosure is to the Vermont Department of Health or the Vermont Department of Disabilities, Aging, and Independent Living, or both, in connection with a bona fide investigation of a licensed health care facility in Vermont.

* * * Effective Dates * * *

Sec. 15. EFFECTIVE DATES

(a) This section, Sec. 1 (definitions), Sec. 2 (medical malpractice), Secs. 6 and 7 (unprofessional conduct), Sec. 8 (pregnancy services centers), Secs. 9, 9a, and 10 (reports and analyses), Sec. 11a (emergency contraception; vending machines), Secs. 12 and 13 (gender-affirming health care and reproductive health care readiness; reports), and Sec. 14 (prohibition on disclosure of protected health information) shall take effect on passage.

(b) Secs. 3 and 4 (insurance coverage) shall take effect on January 1, 2024 and shall apply to all health insurance plans issued on and after January 1, 2024 on such date as a health insurer offers, issues, or renews the health insurance plan, but in no event later than January 1, 2025.

(c) Sec. 5 (state plan amendment) shall take effect on January 1, 2024, except that the Agency of Human Services shall submit its request for approval of Medicaid coverage of the services prescribed in Sec. 4 of this act, if needed, to the Centers for Medicare and Medicaid Services on or before July 1, 2023, and the Medicaid coverage shall begin on the later of the date of approval or January 1, 2024.

(d) Sec. 10a (interstate compacts; state representatives) shall take effect on July 1, 2023.

(e) Sec. 11 (emergency contraception) shall take effect on or before September 1, 2023, on such date as the Commissioner of Health approves the State protocol.

NOTICE CALENDAR

Second Reading

Favorable

H. 288.

An act relating to liability for the sale of alcoholic beverages.

Reported favorably by Senator Vyhovsky for the Committee on Judiciary.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 22, 2023, page 582.)

Favorable with Proposal of Amendment

H. 206.

An act relating to miscellaneous changes affecting the duties of the Department of Vermont Health Access.

Reported favorably with recommendation of proposal of amendment by Senator Lyons for the Committee on Health and Welfare.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: By striking out Sec. 4, federally qualified health centers; alternative payment methodology; report, in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. FEDERALLY QUALIFIED HEALTH CENTERS; ALTERNATIVE PAYMENT METHODOLOGY; REPORT

The Department of Vermont Health Access shall collaborate with representatives of Vermont's federally qualified health centers (FQHCs) to develop a mutually agreeable alternative payment methodology for Medicaid payments to the FQHCs that is at least equal to the amount that would be paid under the prospective payment system established under the Benefits Improvement and Protections Act of 2000. On or before October 1, 2023, the Department shall provide a final report on the development of the methodology to the Joint Fiscal Committee, the House Committee on Health Care, and the Senate Committee on Health and Welfare.

Second: By striking out Sec. 5, effective date, in its entirety and inserting in lieu thereof four new sections to be Secs. 5–8 to read as follows:

Sec. 5. BLUEPRINT FOR HEALTH; DEPARTMENT OF VERMONT HEALTH ACCESS; UPDATE

On or before March 1, 2024, the Blueprint for Health, in collaboration with other partners identified by the Blueprint for Health, shall present the Senate Committee on Health and Welfare and the House Committee on Health Care with a breakdown of Blueprint for Health per-member per-month payments to patient-centered medical homes and financial contributions for community health teams made by each payer for fiscal year 2023.

Sec. 6. REPEAL OF PROSPECTIVE REPEAL OF 18 V.S.A. § 9473(g)

2021 Acts and Resolves No. 74, Sec. E.227.2 (prospective repeal; pharmacy benefit managers; 340B entities), as amended by 2022 Acts and Resolves No. 131, Sec. 7, is repealed.

Sec. 7. 18 V.S.A. § 2251 is amended to read:

§ 2251. LIEN ESTABLISHED

(a) A Except as otherwise provided in this section, a hospital in Vermont, as defined in section 1801 of this title, furnishing medical or other service, including charges of private duty nurses, to a patient injured by reason of an accident not covered by the Workers' Compensation Act, 21 V.S.A. § 601 et seq. chapter 9, shall have may file a lien upon any recovery for damages to be received by the patient, or by his or her the patient's heirs or personal representatives in the case of his or her the patient's death, whether by judgment or by settlement or compromise after the date of the services. This lien shall not attach to one-third of the recovery or \$500.00, whichever shall be the lesser, and in addition the lien shall be subordinate to an attorney's lien.

(b)(1) Notwithstanding subsection (a) of this section, a hospital shall not have a lien under this chapter if the patient has health insurance, including coverage under Medicare, Medicaid, or a health plan issued by a health insurer, as defined in section 9402 of this title, and the patient provides the hospital with proof of health insurance not later than 90 days after the patient's discharge from the hospital.

(2) Notwithstanding subdivision (1) of this subsection, a hospital may file a lien pursuant to subsection (a) of this section for any amount owed to the hospital for the patient's deductible or coinsurance, or both, under the health insurance plan for the medical or other services furnished by the hospital by filing notice of a lien at least 120 days after the hospital billed the patient's health insurance plan for the amount owed to the hospital for services furnished to the patient.

(3) The patient's health insurance plan shall not deny payment for services furnished by the hospital to the patient on the basis that some or all of the patient's medical costs may be covered by a property and casualty insurance plan, unless such denial is required or expressly permitted by State or federal law.

(c)(1) A hospital that recovers under this chapter shall be responsible for a pro rata share of the legal and administrative expenses incurred in obtaining the judgment, settlement, or compromise.

(2) In no event shall the hospital lien exceed one-third of the net judgment, settlement, or compromise received by the injured patient.

Sec. 8. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except that Sec. 7 (hospital liens) shall take effect on January 1, 2024.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 24, 2023, page 727.)

H. 230.

An act relating to implementing mechanisms to reduce suicide.

Reported favorably with recommendation of proposal of amendment by Senator Baruth for the Committee on Judiciary.

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

Sec. 1. FINDINGS

The General Assembly finds:

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

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

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

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

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

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

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

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

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

64 percent were recovered outside the State of Vermont. Over 750 of these firearms were recovered in our neighboring states of New York, Massachusetts, and New Hampshire.

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

Sec. 2. LEGISLATIVE PURPOSE

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

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

§ 4024. NEGLIGENT FIREARMS STORAGE

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

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

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

(2) This subsection shall not apply if:

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

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

(C) a child or prohibited person accesses and uses the firearm during

the course of a lawful act of self-defense or defense of another person; or

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

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

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

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

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

Posted pursuant to 13 V.S.A. § 4024.”

(c) As used in this section:

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

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

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

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

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

(6) “Prohibited person” means a person who is prohibited from

possessing a firearm by state or federal law or by court order.

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

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

§ 4051. DEFINITIONS

As used in this subchapter:

* * *

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

(A) the nature of the relationship;

(B) the length of time the relationship has existed; and

(C) the frequency of interaction between the parties.

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

§ 4053. PETITION FOR EXTREME RISK PROTECTION ORDER

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

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

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

* * *

(d)(1) The court shall hold a hearing within 14 days after a petition is filed under this section. Notice of the hearing shall be served pursuant to section

4056 of this title concurrently with the petition and any ex parte order issued under section 4054 of this title.

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

* * *

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

§ 4054. EMERGENCY RELIEF; TEMPORARY EX PARTE ORDER

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

* * *

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

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

* * *

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

§ 4019a. FIREARMS TRANSFERS; WAITING PERIOD

(a) A person shall not transfer a firearm to another person until 72 hours after the licensed dealer facilitating the transfer is provided with a unique

identification number for the transfer by the National Instant Criminal Background Check System (NICS) or seven business days have elapsed since the dealer contacted NICS to initiate the background check, whichever occurs first.

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

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

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

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

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

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

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

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

Sec. 8. SEVERABILITY

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

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

and that after passage the title of the bill be amended to read: “An act relating to implementing mechanisms to reduce suicide and community violence”

(Committee vote: 4-1-0)

(For House amendments, see House Journal for March 22, 2023, page 568.)

H. 476.

An act relating to miscellaneous changes to law enforcement officer training laws.

Reported favorably with recommendation of proposal of amendment by Senator Vyhovsky for the Committee on Government Operations.

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

* * * Domestic Violence Involving Law Enforcement Model Policy * * *

Sec. 1. 20 V.S.A. § 2365 is amended to read:

§ 2365. DOMESTIC VIOLENCE TRAINING; DOMESTIC VIOLENCE INVOLVING LAW ENFORCEMENT MODEL POLICY

* * *

(d)(1) On or before July 1, 2024, every State, county, and municipal law enforcement agency shall adopt the Domestic Violence Involving Law Enforcement Model Policy issued by the Vermont Law Enforcement Advisory Board.

(2) On or before July 1, 2024, every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and is certified pursuant to section 2358 of this title shall adopt the Domestic Violence Involving Law Enforcement Model Policy issued by the Vermont Law Enforcement Advisory Board.

(3) Agencies and constables referenced in subdivisions (1) and (2) of this subsection shall adopt any updated Domestic Violence Involving Law Enforcement Model Policy issued by Vermont Law Enforcement Advisory Board within six months following the issuance.

Sec. 2. DOMESTIC VIOLENCE INVOLVING LAW ENFORCEMENT MODEL POLICY REVISION

(a) On or before January 1, 2024, the Vermont Law Enforcement Advisory Board, after receiving input from interested stakeholders, shall issue an updated Domestic Violence Involving Law Enforcement Model Policy.

(b) The updated Domestic Violence Involving Law Enforcement Model Policy shall:

(1) address domestic violence survivors' needs and leverage best practices in awareness, prevention, and investigation of domestic violence;

(2) identify existing support offered to any law enforcement agency employee or officer who is the victim of or the person who committed domestic violence;

(3) identify new means of supporting law enforcement agency employees or officers who are the victims of or the persons who committed domestic violence;

(4) develop processes to protect the privacy of agency employees and officers who are the victims of domestic violence and to maintain the confidentiality of any information shared by these individuals; and

(5) amend or replace language found in 2010 Domestic Violence Involving Law Enforcement Model Policy, section 3.8 (Member Responsibilities), subdivision (4) to require a law enforcement agency employee or officer subject to a final relief from abuse order pursuant to 15 V.S.A. § 1103 to immediately surrender all service weapons.

* * * Officer Misconduct and Transparency of Information * * *

Sec. 3. 20 V.S.A. § 2401 is amended to read:

§ 2401. DEFINITIONS

As used in this subchapter:

* * *

(2) “Category B conduct” means gross professional misconduct amounting to actions on duty or under authority of the State, or both, that involve willful failure to comply with a State-required policy, or substantial deviation from professional conduct as defined by the law enforcement agency’s policy or if not defined by the agency’s policy, then as defined by Council policy, and shall include:

* * *

(H) while on duty or off duty, attempting to cause or causing physical harm to a family or household member, or placing a family or household member in fear of imminent serious physical harm; or

(I) while on duty or off duty, a violation of the Domestic Violence Involving Law Enforcement Model Policy adopted pursuant to section 2365 of this title.

* * *

Sec. 4. 20 V.S.A. § 2407 is amended to read:

§ 2407. ~~LIMITATION ON COUNCIL SANCTIONS FIRST OFFENSE OF CATEGORY B CONDUCT~~

~~(a) Category B conduct; first offense. — If a law enforcement agency conducts a valid investigation of a complaint alleging that a law enforcement officer committed a first offense of Category B conduct, the Council shall take no action, except that the Council may take action for a first offense under subdivision 2401(2)(C) (excessive use of force under authority of the State), 2401(2)(F) (placing a person in a chokehold), or 2401(2)(G) (failing to intervene and report to a supervisor when an officer observes another officer placing a person in a chokehold or using excessive force) of this chapter.~~

Council sanctions; first offense of Category A and certain Category B conduct. After a valid investigation of Category A and Category B conduct made pursuant to section 2404 of this title concludes, the Council may impose a sanction for a first offense of:

(1) Category A conduct as defined in subsection 2401(1) of this title; or

(2) the following instances of Category B conduct as defined in subsection 2401(2) of this title:

(A) sexual harassment involving physical contact pursuant to subdivision 2401(2)(A) of this title;

(B) excessive use of force under authority of the State pursuant to subdivision 2401(2)(C) of this title;

(C) placing a person in a chokehold pursuant to subdivision 2401(2)(F) of this title;

(D) failing to intervene and report to a supervisor when an officer observes another officer placing a person in a chokehold or using excessive force pursuant to subdivision 2401(2)(G) of this title;

(E) attempting to cause or causing physical harm to a family or household member, or placing a family or household member in fear of imminent serious physical harm pursuant to subdivision 2401(2)(H) of this title; or

(F) a violation of the Domestic Violence Involving Law Enforcement Model Policy adopted pursuant to section 2365 of this title pursuant to subdivision 2401(2)(I) of this title.

(b) Council action; second or subsequent offense of certain other Category B conduct. After a valid investigation of Category B conduct made pursuant

to section 2404 of this title concludes, the Council may impose a sanction for an offense of Category B conduct not specified in subdivision (a)(2) of this section only for the second or subsequent offense.

(c) “Offense” defined. As used in this section, an “offense” means any offense committed by a law enforcement officer during the course of ~~his or her~~ the law enforcement officer’s certification, and includes any offenses committed during employment at a current or previous law enforcement agency.

Sec. 4a. VERMONT CRIMINAL JUSTICE COUNCIL AUTHORITY;
REPORT

On or before December 15, 2023, the Vermont Criminal Justice Council, in consultation with the Department of Human Resources, the Office of Professional Regulation, and a nationally recognized organization that is a subject matter expert in the field of law enforcement professional regulation, shall report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations on the following:

(1) whether the current statutes pertaining to unprofessional conduct in 20 V.S.A. §§ 2401–2411 should be amended to apply to all off-duty conduct of law enforcement officers;

(2) whether the current statutes pertaining to unprofessional conduct in 20 V.S.A. §§ 2401–2411 should be amended to adjust the scope of Category B conduct that the Vermont Criminal Justice Council may take action on for a first offense; and

(3) any other recommendations as deemed appropriate by the Vermont Criminal Justice Council.

Sec. 5. 20 V.S.A. § 2409 is amended to read:

§ 2409. ACCESSIBILITY AND CONFIDENTIALITY

* * *

(g)(1) The Council shall collect aggregate data on the number of:

(A) complaints received that involve domestic or sexual violence;
and

(B) the number of complaints for Category A and B conduct involving domestic or sexual violence that resulted in the filing of charges or stipulations or the taking of disciplinary action.

(2) The Council shall provide a report of the aggregate data collected

pursuant to subdivision (1) of this subsection to the House Committees on Judiciary and on Government Operations and Military Affairs and the Senate Committees on Judiciary and on Government Operations annually on or before January 15.

* * * Vermont Criminal Justice Council Domestic Violence Training Position
Funding * * *

Sec. 5a. 20 V.S.A. § 2365 is amended to read:

§ 2365. DOMESTIC VIOLENCE TRAINING

* * *

(c) The Vermont Police Academy shall employ a domestic violence trainer for the sole purpose of training Vermont law enforcement and related practitioners on issues related to domestic violence. ~~Funding for this position shall be transferred by the Center for Crime Victim Services from the Domestic and Sexual Violence Special Fund created by 13 V.S.A. § 5360.~~

Sec. 5b. 13 V.S.A. § 5360 is amended to read:

§ 5360. DOMESTIC AND SEXUAL VIOLENCE SPECIAL FUND

A Domestic and Sexual Violence Special Fund is established, to be managed in accordance with 32 V.S.A. chapter 7, subchapter 5 and administered by the Center for Crime Victim Services created in section 5361 of this title. The revenues of the Fund shall consist of that portion of the additional surcharge on penalties and fines imposed by section 7282 of this title deposited in the Domestic and Sexual Violence Special Fund and that portion of the town clerks' fee for issuing and recording civil marriage or civil union licenses in 32 V.S.A. § 1712(1) deposited in the Domestic and Sexual Violence Special Fund. The Fund may be expended by the Center for Crime Victim Services for budgeted grants to the Vermont Network against Domestic and Sexual Violence ~~and for the Criminal Justice Training Council position dedicated to domestic violence training, pursuant to 20 V.S.A. § 2365(e).~~

* * * Effective Date * * *

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 6-0-0)

(No House amendments.)

House Proposal of Amendment

S. 36.

An act relating to permitting an arrest without a warrant for assaults and threats against health care workers and disorderly conduct at health care facilities

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

Sec. 1. Rule 3 of the Vermont Rules of Criminal Procedure is amended to read:

Rule 3. Arrest Without a Warrant; Citation to Appear

* * *

(c) Nonwitnessed Misdemeanor Offenses. If an officer has probable cause to believe a person has committed or is committing a misdemeanor outside the presence of the officer, the officer may issue a citation to appear before a judicial officer in lieu of arrest. The officer may arrest the person without a warrant if the officer has probable cause to believe:

* * *

(8) The person has committed a misdemeanor which involves an assault against a family member, or against a household member, as defined in 15 V.S.A. § 1101(2), or a child of such a family or household member.

* * *

(14) The person has violated 13 V.S.A. § 1023 (simple assault).

* * *

(18) The person has committed a misdemeanor that involves an assault against:

(A) a health care worker in a hospital as those terms are defined in 13 V.S.A. § 1028(d)(3) and 18 V.S.A. § 1902(1); or

(B) a person providing emergency medical treatment as defined in 24 V.S.A. § 2651(9).

(19) The person has violated 13 V.S.A. § 1702 (criminal threatening) against:

(A) a health care worker in a hospital as those terms are defined in 13 V.S.A. § 1028(d)(3) and 18 V.S.A. § 1902(1); or

(B) a person providing emergency medical treatment as defined in 24 V.S.A. § 2651(9).

(20) The person has committed a violation of 13 V.S.A. § 1026(a)(1) (disorderly conduct for engaging in fighting or in violent or threatening behavior) that interfered with the provision of medically necessary health care services:

(A) in a hospital as defined in 18 V.S.A. § 1902(1); or

(B) by a person providing emergency medical treatment as defined in 24 V.S.A. § 2651(9).

* * *

Sec. 2. 13 V.S.A. § 1702 is amended to read:

§ 1702. CRIMINAL THREATENING

(a) A person shall not by words or conduct knowingly:

(1) threaten another person or a group of particular persons; and

(2) as a result of the threat, place the other person in reasonable apprehension of death, serious bodily injury, or sexual assault to the other person, a person in the group of particular persons, or any other person.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

* * *

(f) A person who violates subsection (a) of this section with the intent to terrify, intimidate, or unlawfully influence the conduct of a candidate for public office, a public servant, an election official, or a public employee in any decision, opinion, recommendation, vote, or other exercise of discretion taken in capacity as a candidate for public office, a public servant, an election official, or a public employee, or with the intent to retaliate against a candidate for public office, a public servant, an election official, or a public employee for any previous action taken in capacity as a candidate for public office, a public servant, an election official, or a public employee, shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(g) A person who violates subsection (a) of this section with the intent to terrify or intimidate a health care worker or an emergency medical personnel member because of the worker's or member's action or inaction taken in the provision of health care services shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(h) As used in this section:

(1) “Serious bodily injury” has the same meaning as in section 1021 of this title.

(2) “Threat” and “threaten” do not include constitutionally protected activity.

(3) “Candidate” has the same meaning as in 17 V.S.A. § 2103.

(4) “Election official” has the same meaning as in 17 V.S.A. § 2455.

(5) “Public employee” means a classified employee within the Legislative, Executive, or Judicial Branch of the State and any of its political subdivisions and any employee within a county or local government and any of the county’s or local government’s political subdivisions.

(6) “Public servant” has the same meaning as in 17 V.S.A. § 2103.

(7) “Polling place” has the same meaning as described in 17 V.S.A. chapter 51, subchapter 4.

(8) “Sexual assault” has the same meaning as sexual assault as described in section 3252 of this title.

(9) “Emergency medical personnel” has the same meaning as in 24 V.S.A. § 2651(6).

~~(h)~~(i) Any person charged under this section who is younger than the age identified in 33 V.S.A. § 5201(d) shall be subject to a juvenile proceeding.

(10) “Health care services” means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.

(11) “Health care worker” has the same meaning as in section 1028 of this title.

Sec. 3. 18 V.S.A. § 1883 is added to read:

§ 1883. DISCLOSURE OF PROTECTED HEALTH INFORMATION
REQUIRED

(a) When a law enforcement officer responds to an alleged crime committed by a patient at a hospital:

(1) an authorized representative of the hospital shall disclose to the law enforcement officer the following information before the officer removes the patient from the hospital:

(A) information that is sufficient to confirm whether the patient is stabilized, has been evaluated, or is awaiting inpatient care; and

(B) any other information that will be necessary for purposes of safely taking custody of the patient; and

(2) the law enforcement officer shall not remove the patient from the hospital if an authorized representative of the hospital informs the officer that the patient is not stabilized, has not yet been evaluated, or is awaiting inpatient care.

(b) When a law enforcement officer responds to an alleged crime committed by a patient at a scene where emergency medical treatment was or is being provided:

(1) a member of the emergency medical personnel who provided the treatment shall disclose to the law enforcement officer the following information before the officer removes the patient from the emergency medical treatment scene:

(A) information that is sufficient to confirm whether the patient is stabilized, has been evaluated, or is awaiting transport for health care; and

(B) any other information that will be necessary for purposes of safely taking custody of the patient; and

(2) the law enforcement officer shall not remove the patient from the emergency medical treatment scene if a member of the emergency medical personnel who provided the treatment informs the officer that the patient is not stabilized, has not yet been evaluated, or is awaiting transport for health care.

(c) As used in this section:

(1) “Emergency medical personnel” has the same meaning as in 24 V.S.A. § 2651(6).

(2) “Emergency medical treatment” has the same meaning as in 24 V.S.A. § 2651(9).

(3) “Hospital” has the same meaning as in subdivision 1902(1) of this title.

(4) “Stabilized” means that no material deterioration of the patient’s medical condition is likely, within reasonable medical probability, to result from or occur during the transport of the patient from the hospital or the emergency medical treatment scene.

Sec. 4. REPORT ON DE-ESCALATION

On or before January 15, 2024, the Vermont Program for Quality in Health Care, in consultation with stakeholders, including hospital employee stakeholders, shall provide a report to the Senate Committee on Health and

Welfare and the House Committee on Health Care regarding adequate training, including de-escalation of potentially violent situations in hospitals, sufficient staffing levels, ongoing assessment of visitors and patients for aggressive behavior, indicators to adapt care interventions and environments appropriately, centralized reporting, and factors related to physical environments. With a health equity impact informed lens, the report shall include best practices, barriers to best practices, and recommendations for appropriate policy improvements.

Sec. 5. DEPARTMENT OF PUBLIC SAFETY REPORT ON ARRESTS
WITHOUT WARRANT

On or before January 15, 2024, the Department of Public Safety shall report to the House and Senate Committees on Judiciary on any systemic or statutory changes needed to permit the Department to collect data on responses and arrests pursuant to Vermont Rules of Criminal Procedure 3(c)(18), (19), and (20). The report shall include changes necessary to collect data on the number and demographics of persons arrested; the town, county, and type of health care facility where the arrest occurred; and the number and types of charges filed after the arrest.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to crimes against health care workers at hospitals and against emergency medical treatment providers.

S. 48.

An act relating to regulating the sale of catalytic converters

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

Sec. 1. 9 V.S.A. chapter 82 is amended to read:

CHAPTER 82. SCRAP METAL PROCESSORS

* * *

§ 3022. PURCHASE OF NONFERROUS SCRAP, METAL ARTICLES,
PROPRIETARY ARTICLES, AND RAILROAD SCRAP

(a) Catalytic converters.

(1) A scrap metal processor shall not purchase more than one used and detached catalytic converter per day from any person, other than a motor vehicle recycler or motor vehicle repair shop.

(2) A person, other than a motor vehicle recycler or motor vehicle repair shop, shall not transport simultaneously two or more used and detached catalytic converters unless:

(A) each catalytic converter is engraved or otherwise permanently marked with the vehicle identification number of the vehicle from which it was removed; and

(B) the person transporting the catalytic converter has in the person's possession documentation demonstrating proof of lawful ownership as specified in subdivision (b)(1) of this section.

(b) Documentation required for sale. A scrap metal processor may purchase nonferrous scrap, metal articles, proprietary articles, and railroad scrap only if the scrap metal processor complies with all the following procedures:

(1) At the time of sale, the processor:

(A) requires the seller to provide a current government-issued photographic identification that indicates the seller's full name, current address, and date of birth, and records in a permanent ledger the identification information of the seller, the time and date of the transaction, the license number of the seller's vehicle, and a description of the items received from the seller; and

(B) requests and, ~~if available,~~ collects:

~~(i) third-party documentation from the seller of the items offered for sale, that establishes that the seller lawfully owns the items to be sold, such as a bill of sale, itemized receipt, or letter of authorization, signed by the person from whom the seller purchased the item; or similar evidence~~

~~(ii) a written affidavit of ownership that establishes states that the seller lawfully owns the items to be sold.~~

(2) After purchasing an item from a person who ~~fails to~~ does not provide ~~documentation~~ a bill of sale, itemized receipt, or letter of authorization signed by the person from whom the seller purchased the item pursuant to subdivision (1)(B)(i) of this subsection, the processor:

(A) submits to the Department of Public Safety ~~no~~ not later than the close of the following business day a report that describes the item and the

seller's identifying information required in subdivision (1)(A) of this subsection; and

(B) holds the item for at least 10 days following purchase.

(c) Retention of records. The information collected by a scrap metal processor pursuant to this section shall be retained for at least five years at the processor's normal place of business or other readily accessible and secure location. On request, this information shall be made available to any law enforcement official or authorized security agent of a governmental entity who provides official credentials at the scrap metal processor's business location during regular business hours.

§ 3023. PENALTIES

(a) A ~~scrap metal processor~~ person who violates any provision of this chapter for the first time may be assessed a civil penalty not to exceed \$1,000.00 for each transaction.

(b) A ~~scrap metal processor~~ person who violates any provision of this chapter for a second or subsequent time shall be fined not more than \$25,000.00 for each transaction.

Sec. 2. 24 V.S.A. § 2242 is amended to read:

§ 2242. REQUIREMENT FOR OPERATION OR MAINTENANCE

(a) A person shall not operate, establish, or maintain a salvage yard unless ~~he or she~~ the person:

(1) holds a certificate of approval for the location of the salvage yard; and

(2) holds a certificate of registration issued by the Secretary to operate, establish, or maintain a salvage yard.

(b) The issuance of a certificate of registration under subsection (a) of this section shall not relieve a salvage yard from the obligation to comply with existing State and federal environmental laws and to obtain all permits required under State or federal environmental law.

(c) The Secretary may require a person to obtain a salvage yard certificate of registration under this section upon a determination, based on available information, that the person has taken action to circumvent the requirements of this subchapter.

(d) Prior to issuing a certificate of registration, the Secretary shall obtain written acknowledgment that the person seeking the certificate is aware of, and will comply with, the requirements for buying, selling, transporting, and

keeping records concerning nonferrous scrap, metal articles, proprietary articles, and railroad scrap pursuant to 9 V.S.A. chapter 82.

Sec. 3. 24 V.S.A. § 2244 is added to read:

§ 2244. PERIODIC INSPECTIONS

(a) The Secretary shall conduct an unannounced inspection of the physical operation, record-keeping practices, and regulatory compliance practices of salvage yards to ensure compliance with applicable provisions of this subchapter.

(b) As part of the inspection program, the Secretary shall annually inspect at least one facility to ensure compliance with 9 V.S.A. chapter 82.

Sec. 4. ADOPTION OF FORMS; PUBLIC OUTREACH

(a) The Department of Public Safety shall adopt and make available on its public website sample forms for an affidavit or other proof of ownership, for collection and retention of records, and for other record-keeping purposes that persons may use to comply with the requirements for buying, selling, transporting, and keeping records concerning nonferrous scrap, metal articles, proprietary articles, and railroad scrap pursuant to 9 V.S.A. chapter 82.

(b) The Department of Public Safety and the Agency of Natural Resources shall coordinate to design and implement a public outreach campaign to educate sellers of scrap metal and proprietary articles, including catalytic converters; scrap metal processors; and law enforcement on the requirements for buying, selling, transporting, and keeping records concerning nonferrous scrap, metal articles, proprietary articles, and railroad scrap pursuant to 9 V.S.A. chapter 82 and other relevant provisions of law.

Sec. 5. 20 V.S.A. § 2355 is amended to read:

§ 2355. COUNCIL POWERS AND DUTIES

* * *

(b)(1) The Council shall conduct and administer training schools and offer courses of instruction for law enforcement officers and other criminal justice personnel. The Council shall offer courses of instruction for law enforcement officers in different areas of the State and shall strive to offer nonovernight courses whenever possible.

(2) The Council may also offer the basic officer's course for preservice students and educational outreach courses for the public, including firearms safety and use of force.

(3) Following the conclusion of each session of the General Assembly, the Council shall prepare and make available to law enforcement agencies throughout the State and constables exercising law enforcement authority pursuant to 24 V.S.A. § 1936 materials or training concerning new or amended State law that affects law enforcement activities, including changes to civil, criminal, and administrative violations, procedures, penalties, and enforcement.

* * *

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

CONCURRENT RESOLUTIONS FOR NOTICE

Concurrent Resolutions For Notice Under Joint Rule 16

The following joint concurrent resolutions have been introduced for approval by the Senate and House. They will be adopted by the Senate unless a Senator requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration should be communicated to the Secretary's Office.

H.C.R. 100 - 107 (For text of Resolutions, see Addendum to House Calendar for April 27, 2023)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

Kristin L. Clouser of Jericho – Secretary, Agency of Administration – By Senator Hardy for the Committee on Government Operations (4/6/23)

John Arrison of Ascutney – Member, Connecticut River Valley Flood Control Commission – By Senator White for the Committee on Natural Resources and Energy (4/11/23)

Harold Howrigan of Sheldon – Member, Current Use Advisory Board – By Senator White for the Committee on Natural Resources and Energy (4/11/23)

Steve Larrabee of West Danville – Member, Natural Resources Board – By Senator McCormack for the Committee on Natural Resources and Energy (4/11/23)

Julie Wolcott of Enosburg – Alternate, Natural Resources Board – By Senator McCormack for the Committee on Natural Resources and Energy (4/11/23)

Walter Hastings of South Royalton – Member, Current Use Advisory Board – By Senator McCormack for the Committee on Natural Resources and Energy (4/11/23)

Michael A. Harrington of Northfield – Commissioner, Department of Labor – By Senator Clarkson for the Committee on Economic Development, Housing and General Affairs (4/18/23)

Lindsay Kurrle of Middlesex – Secretary, Agency of Commerce and Community Development – By Senator Clarkson for the Committee on Economic Development, Housing and General Affairs (4/19/23)

Gail Fallar of Tinmouth – Member, Current Use Advisory Board – By Senator MacDonald for the Committee on Natural Resources and Energy (4/25/23)

Allison Frazier of Richmond – Chittenden County Member, Fish and Wildlife Board – By Senator MacDonald for the Committee on Natural Resources and Energy (4/25/23)

Gary Moore of Bradford – Member, Connecticut River Valley Flood Control Commission – By Senator MacDonald for the Committee on Natural Resources and Energy (4/25/23)

Michael Hogan of Marshfield – Member, Current Use Advisory Board – By Senator Watson for the Committee on Natural Resources and Energy (4/25/23)

Josh Lagerquist of Montpelier – Member, Current Use Advisory Board – By Senator Watson for the Committee on Natural Resources and Energy (4/25/23)

Sabina Haskell of Burlington - Chair, Natural Resource Board - By Senator Bray for the Committee on Natural Resources and Energy (4/25/23)

Craig Bolio of Essex Junction - Commissioner, Department of Taxes - By Senator Cummings for the Committee on Finance (4/25/23)

Adam Greshin of Warren - Commissioner, Department of Finance and Management - By Senator Brock for the Committee on Finance (4/25/23)

Jenney Samuelson of Shelburne – Secretary, Agency of Human Services – By Senator Lyons for the Committee on Health and Welfare (4/26/23)

Dawn Philibert of South Burlington – Chair – Public Member, Board of Health – By Senator Lyons for the Committee on Health and Welfare (4/26/23)

Laurey Burris of Shelburne – Member, Children and Family Council Prevention Programs – By Senator Lyons for the Committee on Health and Welfare (4/26/23)

Michael Loner of Hinesburg – Member, Children and Family Council Prevention Programs – By Senator Lyons for the Committee on Health and Welfare (4/26/23)

Marga Sproul of Burlington – M.D. Member, Board of Medical Practice - By Senator Lyons for the Committee on Health and Welfare (4/26/23)

Mackenzie Mazza of Colchester – Member, Children and Family Council Prevention Programs – By Senator Weeks for the Committee on Health and Welfare (4/26/23)

Matt Wolf of East Montpelier – Member, Children and Family Council Prevention Programs – By Senator Weeks for the Committee on Health and Welfare (4/26/23)

Matt Wolf of East Montpelier – Member, Children and Family Council Prevention Programs – By Senator Weeks for the Committee on Health and Welfare (4/26/23)

Kiersten Kersey of White River Junction – Member, Children and Family Council Prevention Programs – By Senator Weeks for the Committee on Health and Welfare (4/26/23)

Christopher Winters of Berlin – Commissioner, Department for Children and Families – By Senator Gulick for the Committee on Health and Welfare (4/26/23)

Christopher Winters of Berlin – Commissioner, Department for Children and Families – By Senator Gulick for the Committee on Health and Welfare (4/26/23)

David Liebow of Townshend – Podiatrist Member, Board of Medical Practice – By Senator Gulick for the Committee on Health and Welfare (4/26/23)

Matthew Greenberg of Montpelier –Member, Board of Medical Practice – By Senator Gulick for the Committee on Health and Welfare (4/26/23)

Christopher Lukasik of Brattleboro –Member, Vermont Children and Family Council Prevention Programs – By Senator Gulick for the Committee on Health and Welfare (4/26/23)

Richard Clattenburg of Perkinsville – M.D. Member, Board of Medical Practice - By Senator Williams for the Committee on Health and Welfare (4/26/23)

Stephanie Lorentz of Rutland – Public Member, Board of Medical Practice - By Senator Williams for the Committee on Health and Welfare (4/26/23)

Katie Aiken of Bennington – Member, Human Services Board - By Senator Hardy for the Committee on Health and Welfare (4/26/23)

Linda Johnson of Montpelier – Member, Children and Family Council Prevention Programs - By Senator Hardy for the Committee on Health and Welfare (4/26/23)

Michael McShane of Montpelier – Member, State Board of Health - By Senator Hardy for the Committee on Health and Welfare (4/26/23)

Christine Payne of Peacham – M.D. Member, Board of Medical Practice - By Senator Hardy for the Committee on Health and Welfare (4/26/23)

John Beling of East Montpelier - Commissioner, Department of Environmental Conservation - By Senator Watson for the Committee on Natural Resources and Energy (4/27/23)

Wendy Knight of Panton - Commissioner, Department of Liquor and Lottery - By Senator Clarkson for the Committee on Economic Development, Housing and General Affairs (4/27/23)

Richard Grassi of White River Junction - Member, Parole Board - By Senator Wrenner for the Committee on Institutions (4/28/23)

JFO NOTICE

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

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]