Senate Calendar

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UNFINISHED BUSINESS OF THURSDAY, MAY 4, 2023

House Proposal of Amendment

S. 91.

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

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. 13 V.S.A. § 4801 is amended to read:

§ 4801. TEST OF INSANITY IN CRIMINAL CASES

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

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

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

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

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

§ 4814. ORDER FOR EXAMINATION OF COMPETENCY

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

(1) ~~when the defendant enters a plea of not guilty, or when such a plea is entered in the defendant's behalf, and then gives notice of the defendant's intention to rely upon the defense of insanity at the time of the alleged crime,~~

~~or to introduce expert testimony relating to a mental disease, defect, or other condition bearing upon the issue of whether he or she had the mental state required for the offense charged;~~ [Repealed.]

(2) when the defendant, the State, or an attorney, guardian, or other person acting on behalf of the defendant~~,~~ raises before such court the issue of whether the defendant is mentally competent to stand trial for the alleged offense; or

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

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

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

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

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

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

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

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

§ 4815. PLACE OF EXAMINATION; TEMPORARY COMMITMENT

* * *

(c) A motion for examination shall be made as soon as practicable after a party or the court has good faith reason to believe that there are grounds for an examination. A motion for an examination shall detail the facts indicating incompetency on which the motion is based and shall certify that the motion is made after the moving party has met with or personally observed the defendant. An attorney making such a motion shall be subject to the potential sanctions of Rule 11 of the Vermont Rules of Civil Procedure.

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

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

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

* * *

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

* * *

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

§ 4816. SCOPE OF EXAMINATION; REPORT; EVIDENCE

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

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

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

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

(c)~~(1)~~ As soon as practicable after the examination has been completed, the examining psychiatrist or, if applicable under subsection (b) of this section, ~~the psychiatrist and~~ the psychologist shall prepare a report containing findings in regard to the applicable provisions of subsection (a) of this section. The report shall be transmitted to the court issuing the order for examination, and copies of the report sent to the State's Attorney, to the respondent, to the respondent's attorney if the respondent is represented by counsel, to the Commissioner of Mental Health, and, if applicable, to the Department of Disabilities, Aging, and Independent Living.

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

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

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

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

competency shall be at the State's expense, or, if called by the court, at the court's expense.

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

§ 4817. COMPETENCY TO STAND TRIAL; DETERMINATION

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

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

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

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

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

§ 4820. HEARING REGARDING COMMITMENT

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

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

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

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

(4) ~~Upon~~ upon trial by court or jury is acquitted by reason of insanity at the time of the alleged offense; the court before which such person is tried or is to be tried for such offense, shall hold a hearing for the purpose of determining whether such person should be committed to the custody of the Commissioner of Mental Health. Such person may be confined in jail or some other suitable place by order of the court pending hearing for a period not exceeding ~~15~~ 21 days.

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

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

Sec. 7. COMPETENCY RESTORATION PROGRAM PLAN

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

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

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

(i) the Chief Superior Judge or designee;

(ii) the Commissioner of Corrections or designee;

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

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

(v) the Vermont Legal Aid Disability Law Project; and

(vi) the Defender General or designee; and

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

(b) If a competency restoration plan is recommended, the report shall include recommendations for best practices, any changes to law necessary to establish the program, estimated costs, and a proposal for implementing the program.

Sec. 8. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE REVIEW; COMPETENCY EXAMINATIONS

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

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

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

Sec. 9. REPORT ON CUMULATIVE COMPETENCY EVALUATIONS

On or before December 15, 2023, the Department of Mental Health, in consultation with the Department of Disabilities, Aging, and Independent Living shall report on cumulative competency evaluations to the House Committees on Judiciary and Health Care and the Senate Committees on Judiciary and Health and Welfare. The report shall include recommendations on how to address competency evaluations of persons who have already been determined incompetent to stand trial in another matter, including whether previous evaluations may be used or relied upon for subsequent evaluations.

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

UNFINISHED BUSINESS OF FRIDAY, MAY 5, 2023

Third Reading

H. 45.

An act relating to abusive litigation filed against survivors of domestic abuse, stalking, or sexual assault.

NEW BUSINESS

GOVERNOR'S VETO

S. 5.

An act relating to affordably meeting the mandated greenhouse gas reductions for the thermal sector through efficiency, weatherization measures, electrification, and decarbonization.

Pending question: Shall the bill pass, notwithstanding the Governor's refusal to approve the bill? (Two-thirds of the members present required to override the Governor's veto.)

Text of Communication from Governor

The Text of the communication from his excellency, the Govenror, whereby he *vetoed* and returned unsigned on **Senate Bill No. 5** to the Senate is as follows:

May 4, 2023

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State House
Montpelier, VT 05633-5401

Dear Secretary Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning S.5, *An act relating to affordably meeting the mandated greenhouse gas reductions for the thermal sector through efficiency, weatherization measures, electrification, and decarbonization,* without my signature because of my objections described herein:

As Governor, I believe we must make Vermont more affordable by helping Vermonters keep more of what they earn, while we simultaneously make transformative, strategic investments in important areas like community revitalization, climate action, housing, childcare, clean water, and broadband.

I also believe government transparency is essential to maintaining faith and trust in our democracy. When we pass laws, we must clearly communicate both the burdens and the benefits to Vermonters. From my perspective, S.5 conflicts with these principles, and I cannot support it.

It's important to note despite significant concerns with the policy, I would not veto a bill that directs the Public Utilities Commission (PUC) to design a potential clean heat standard – provided it's returned to the Legislature, in bill form with all the details, and debated, amended, and voted on with the transparency Vermonters deserve.

The so-called "check back" in S.5 does not achieve my simple request. Instead, the "check back" language in the bill is confusing, easily misconstrued, and contradictory to multiple portions of the bill.

As I have repeatedly stated publicly, this veto could have been avoided had the Legislature eliminated the confusion and spelled out, in plain language, that the proposed plan would return to the Legislature to be considered for codification and voted on in bill form.

Again, I continue to fully support efforts to reduce greenhouse gas emissions. As the Legislature is well aware, more than any previous governor, I have proposed, supported, and invested hundreds of millions of dollars to reduce emissions in the transportation and thermal sectors. I'm also committed to following through on the work outlined in our thermal sector action plan.

Here's the bottom line: The risk to Vermonters and our economy throughout the state is too great; the confusion around the language and the unknowns are too numerous; and we are making real and measurable progress reducing emissions with a more thoughtful, strategic approach that is already in motion.

For these reasons I cannot allow this bill to go into law. It's my sincere hope that members of the Legislature will have the courage to put their constituents ahead of party politics and sustain this veto.

Sincerely,
/s/Philip B. Scott
Governor

PBS/kp

Text of Bill as Passed By Senate and House

The text of the bill as passed by the Senate and House of Representatives is as follows:

S. 5. An act relating to affordably meeting the mandated greenhouse gas reductions for the thermal sector through efficiency, weatherization measures, electrification, and decarbonization.

It is hereby enacted by the General Assembly of the State of Vermont:

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.

Third Reading

H. 165.

An act relating to school food programs and universal school meals.

H. 492.

An act relating to setting the homestead property tax yields and the nonhomestead property tax rate.

Second Reading

Favorable

H. 386.

An act relating to approval of amendments to the charter of the Town of Brattleboro.

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

(Committee vote: 5-1-0)

(No House amendments.)

H. 489.

An act relating to approval of an amendment to the charter of the Town of Shelburne.

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

(Committee vote: 6-0-0)

(No House amendments.)

H. 505.

An act relating to approval of an amendment to the charter of the City of Rutland.

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

(Committee vote: 6-0-0)

(For House amendments, see House Journal of April 21, 2023, page 1042.)

Favorable with Proposal of Amendment

H. 157.

An act relating to the Vermont basic needs budget.

Reported favorably with recommendation of proposal of amendment by Senator Clarkson for the Committee on Economic Development, Housing and General Affairs.

The Committee recommends that the Senate propose to the House to amend the bill in Sec. 1, Basic Needs Budget Technical Advisory Committee; report,

in subdivision (e)(2), preceding the word "members", by inserting the word legislative

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 23, 2023, page 705.)

Reported favorably by Senator Perchlik for the Committee on Appropriations.

(Committee vote: 3-2-0)

H. 291.

An act relating to the creation of the Cybersecurity Advisory Council.

Reported favorably with recommendation of proposal of amendment by Senator Watson 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:

Sec. 1. 20 V.S.A. chapter 208 is added to read:

CHAPTER 208. CYBERSECURITY

§ 4661. DEFINITIONS

As used in this chapter:

(1) "Critical infrastructure" has the same meaning as in 11 V.S.A. § 1701.

(2) "Cybersecurity" means the practice of deploying people, policies, processes, and technologies to protect organizations, their critical systems, and sensitive information from digital attacks.

(3) "Essential supply chain" means supply chains for the production, in sufficient quantities, of the following articles:

(A) medical supplies, medicines, and personal protective equipment;

(B) articles essential to the operation, manufacture, supply, service, or maintenance of critical infrastructure;

(C) articles critical to infrastructure construction after a natural or manmade disaster;

(D) articles that are critical to the State's food systems, including food supplies for individuals and households and livestock feed; and

(E) articles that are critical to the State's thermal systems and fuels.

§ 4662. CYBERSECURITY ADVISORY COUNCIL

(a) Creation. There is created the Cybersecurity Advisory Council to advise on the State's cybersecurity infrastructure, best practices, communications protocols, standards, training, and safeguards.

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

(1) the Chief Information Officer, who shall serve as the Chair or appoint a designee from the Council to serve as the Chair;

(2) the Chief Information Security Officer;

(3) a representative from a distribution or transmission utility, appointed by the Commissioner of Public Service;

(4) a representative from a State municipal water system, appointed by Secretary of Natural Resources;

(5) a representative from a Vermont hospital, appointed by the President of the Vermont Association of Hospitals and Health Systems;

(6) a person representing a Vermont business related to an essential supply chain, appointed by the Chair of the Vermont Business Roundtable;

(7) the Director of Vermont Emergency Management or designee;

(8) the Governor's Homeland Security Advisor or designee;

(9) the Vermont Adjutant General or designee;

(10) the Attorney General or designee; and

(11) the President of Vermont Information Technology Leaders or designee.

(c) Powers and duties. The Council shall have the following duties:

(1) develop a strategic plan for protecting the State's public sector and private sector information and systems from cybersecurity attacks;

(2) evaluate statewide cybersecurity readiness and develop and share best practices for policies and procedures to strengthen administrative, technical, and physical cybersecurity safeguards as a resource for State government, Vermont businesses, and the public;

(3) build relationships and conduct outreach within State government and to federal government and the private sector to ensure the resilience of electronic information systems;

(4) build strong partnerships with local universities and colleges in order

to leverage cybersecurity resources; and

(5) conduct an inventory and review of cybersecurity standards and protocols for critical sector infrastructures and make recommendations on whether improved or additional standards and protocols are necessary; and

(6) identify and advise on opportunities to:

(A) ensure Vermont promotes, attracts, and retains a highly skilled cybersecurity workforce;

(B) raise citizen awareness through outreach and public service announcements;

(C) provide technical capabilities, training, and advice to local government and the private sector;

(D) provide recommendations on legislative action to the General Assembly to protect critical assets, infrastructure, services, and personally identifiable information;

(E) advise on strategic, operational, and budgetary impacts of cybersecurity on the State;

(F) engage State and federal partners in assessing and managing risk;

(G) investigate ways the State can implement a unified cybersecurity communications and response, including recommendations for establishing statewide communication protocols in the event of a cybersecurity incident; and

(H) access cyber-insurance, including how to increase availability and affordability of cyber-insurance for critical industries.

(d) Assistance. The Council shall have the administrative and technical assistance of the Agency of Digital Services.

(e) Working groups and consultations.

(1) The Council may establish interagency working groups to support its charge, drawing membership from any State agency or department.

(2) The Council may consult with private sector and municipal, State, and federal government professionals for information and advice on issues related to the Council's charge.

(f) Meetings.

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

(2) The Council shall meet at least quarterly.

(3)(A) In addition to 1 V.S.A. § 313, the Council is authorized to enter into an executive session to consider:

(i) testimony from a person regarding details of a cybersecurity incident or response to that incident, the disclosure of which would jeopardize public safety; or

(ii) any evaluations, recommendations, or discussions of cybersecurity standards, protocols, and incident responses, the disclosure of which would jeopardize public safety.

(B) Members of the Council and persons invited to testify before the Council shall not disclose to the public information, records, discussions, and opinions stated in connection to the Council's work if the disclosure would jeopardize public safety.

(g) Reports. On or before January 15 each year, the Council shall submit a written report to the House Committees on Commerce and Economic Development, on Environment and Energy, on Government Operations and Military Affairs, and on Ways and Means and the Senate Committees on Economic Development, Housing and General Affairs, on Finance, and on Government Operations with a status update on the work of the Council and any recommendations for legislative action. 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.

(h) Public records act exemption. Any records or information produced or acquired by the Council regarding cybersecurity standards, protocols, and incident responses, if the disclosure would jeopardize public safety, shall be kept confidential and shall be exempt from public inspection or copying under Vermont's Public Records Act. Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption created in this section shall continue in effect and shall not be reviewed for repeal.

(i) Compensation and reimbursement. Members of the Council who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010. These payments shall be made from monies appropriated to the Agency of Digital Services.

Sec. 2. 11 V.S.A. § 1701 is amended to read:

§ 1701. DEFINITIONS

~~In~~ As used in this chapter:

(1) "Critical infrastructure" means property and equipment owned or

used by communications networks and electric generation, transmission, and distribution systems; water and wastewater systems; health systems; essential supply chains; thermal fuels and systems; and communications networks, including cellular, broadband, and telecommunications networks.

* * *

Sec. 3. REPORT

On or before January 15, 2024, the Cybersecurity Advisory Council shall include in its report required by 20 V.S.A. § 4662(g) recommendations on whether to amend the definition of "essential supply chain", as defined in 20 V.S.A. § 4661, to include additional supply chains.

Sec. 4. REPEAL

20 V.S.A. chapter 208 (cybersecurity) is repealed on June 30, 2028.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee vote: 6-0-0)

(For House amendments, see House Journal for March 24, 2023, page 746.)

Reported favorably by Senator Perchlik for the Committee on Appropriations.

(Committee vote: 5-0-2)

H. 461.

An act relating to making miscellaneous changes in education laws.

Reported favorably with recommendation of proposal of amendment by Senator Gulick for the Committee on Education.

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:

* * * Shared School District Data Management System * * *

Sec. 1. 2018 (Sp. Sess.) Acts and Resolves No. 11, Sec. E.500.1, as amended by 2019 Acts and Resolves No. 72, Sec. E.500.5, 2021 Acts and Resolves No. 66, Sec. 15, and 2022 Acts and Resolves No. 185, Sec. E.500.2, is further amended to read:

Sec. E.500.1. SHARED SCHOOL DISTRICT ~~FINANCIAL~~ DATA MANAGEMENT SYSTEM

(a) ~~Not later than December 31, 2024, all Vermont supervisory unions, supervisory districts, school districts, and independent technical center districts shall utilize the same school finance and financial data management system. The system shall be selected by the Agency of Education per State procurement guidelines.~~ [Repealed.]

* * *

Sec. 2. 2021 Acts and Resolves No. 66, Sec. 16, as amended by 2022 Acts and Resolves No. 185, Sec. E.500.3, is further amended to read:

Sec. 16. ~~PAUSE~~ SUSPENSION OF IMPLEMENTATION OF SHARED SCHOOL DISTRICT ~~FINANCIAL~~ DATA MANAGEMENT SYSTEM

Notwithstanding Sec. E.500.1 of 2018 (Sp. Sess.) Acts and Resolves No. 11, as amended, the mandatory implementation of the Shared School District Data Management System (SSDDMS) shall be ~~paused until July 1, 2023~~ permanently suspended, provided that~~:~~

~~(1)~~ the Agency of Education and its contractor for implementation of the system shall continue to support existing users and any new adopters, as of the date of enactment of this act, of the system~~; and~~ , within the confines of the existing contract.

(2) ~~a supervisory union, supervisory district, school district, or independent technical center district may implement or leave SSDDMS during the pause period after consultation with the Agency of Education and upon approval by its governing body.~~ [Repealed.]

Sec. 3. REPEAL

2021 Acts and Resolves No. 66, Sec. 17, as amended by 2022 Acts and Resolves No. 185, Sec. E.500.4 (Agency of Education report on the implementation of the Shared School District Data Management System), is repealed.

* * * National Guard Tuition Benefit Program * * *

Sec. 4. 16 V.S.A. § 2857 is amended to read:

§ 2857. VERMONT NATIONAL GUARD TUITION BENEFIT PROGRAM

(a) Program creation. The Vermont National Guard Tuition Benefit Program (Program) is created, under which a member of the Vermont National Guard (member) who meets the eligibility requirements in subsection (c) of this section is entitled to the following tuition benefit for up to full-time attendance:

(1) For courses at any Vermont State College institution or the University of Vermont and State Agricultural College (UVM), the benefit shall be the in-state residence tuition rate for the relevant institution.

(2) For courses at any eligible Vermont private postsecondary institution, the benefit shall be the in-state tuition rate charged by UVM.

(3) For courses at an eligible training institution offering nondegree, certificate training, or continuing education programs, the benefit shall be the lower of the institution's standard tuition or the in-state tuition rate charged by UVM.

(4) For courses at a non-Vermont approved postsecondary education institution approved for federal Title IV funding where the degree program is not available in Vermont, the benefit shall be the in-state tuition rate charged by UVM.

* * *

* * * Home Study Program * * *

Sec. 5. 16 V.S.A. § 166b is amended to read:

§ 166b. HOME STUDY PROGRAM

(a) Enrollment notice. ~~A home study program shall send a written enrollment notice to the Secretary whenever it intends to enroll a child. Enrollments in home study programs shall expire on July 1. If a home study program intends to re-enroll a child for the following school year, a new notice under this section is required and may be submitted at any time after March 1.~~ A parent or legal guardian shall send the Secretary ~~annual~~ notice of intent to enroll the parent's or legal guardian's child in a home study program at least 10 business days prior to commencing home study. Such notice shall be submitted via a form developed by the Agency of Education. A notice under this subsection shall include the following:

(1) The name~~,~~; age~~,~~; and date, month, and year of birth of the child.

(2) The names, mailing addresses, e-mail addresses, town of legal residence, and telephone numbers of ~~the~~ all parents or guardians ~~of the child~~ with legal custody who are legally authorized to make educational decisions for the student.

(3) ~~For each child enrolled during the preceding year, any assessment of progress required under subsection (d) of this section.~~ An attestation that the academic progress of each child enrolled in a home study program will be assessed at the end of each school year and that the parent or guardian will maintain the record of such assessments. Permitted means of assessment shall

include:

(A) a standardized assessment, which may be administered by the local school district or a testing service, or administered in a manner approved by the testing company;

(B) a review of the student's progress by an individual who holds a current Vermont teacher's certificate;

(C) a parent or guardian report and portfolio to include a summary of what the student learned during the school year and at least four samples of student work;

(D) grades from an online academy or school; or

(E) evidence of passing of the GED.

(4) For each child not previously enrolled in a Vermont public school or Vermont home study program, independent professional evidence ~~on~~ regarding whether the child has a ~~disability. A comprehensive evaluation to establish eligibilities for special education is not required, but may be ordered by a hearing officer after a hearing under this section~~ documented disability and how the disability may affect the student's educational progress in a home study program.

(5) ~~Subject to the provisions of subsections (k) and (l) of this section, for each child being enrolled for the current year, a detailed outline or narrative that describes the content to be provided in each subject area of the minimum course of study, including any special services or adaptations to be made to accommodate any disability. Methods and materials to be used may be included but are not required.~~ An attestation that each child being enrolled in home study will be provided the equivalent of at least 175 days of instruction in the minimum course of study per year, specifically:

(A) for a child who is younger than 13 years of age, the subject areas listed in section 906 of this title;

(B) for a child who is 13 years of age or older, the subject areas listed in subdivisions 906(b)(1), (2), (4), and (5) of this title; or

(C) for students with documented disabilities, a parent or guardian must attest to providing adaptations to support the student in the home study program.

(6) ~~The names, addresses, telephone numbers, and signatures of the persons who will provide ongoing instruction in each subject area of the minimum course of study, as defined in subsection (i) of this section.~~ [Repealed.]

(7) The signatures of all ~~custodial~~ parents or guardians with legal custody who are legally authorized to make educational decisions for the student. In the alternative, the parent seeking enrollment may provide attestation of sole primary educational decision-making authority.

(b) ~~Notice to home study programs~~ Enrollment. Within ~~14~~ 10 business days ~~of receiving an~~ following submission of a complete enrollment notice, the Secretary or designee shall send the home study program a written acknowledgment of receipt, which shall constitute sufficient enrollment verification for purposes of section 1121 of this title. ~~The acknowledgment shall include a determination:~~

~~(1) either that the enrollment notice is complete and no further information is needed, or specifically identifying information required under subsection (a) of this section which is missing. If information is missing, the home study program shall provide the additional information in writing within 14 days; and~~ [Repealed.]

~~(2) either that the child may be enrolled immediately or that the child may be enrolled 45 days after the enrollment notice was received. At any time before the child may be enrolled, the Secretary may order that a hearing be held. After notice of such a hearing is received, the child shall not be enrolled until after an order has been issued by the hearing officer to that effect.~~ [Repealed.]

(c) ~~Enrollment reports~~ Withdrawal. ~~Each home study program shall notify the Secretary within seven days of the day that any student ceases to be enrolled in the program. Within ten days of receiving any enrollment report, the Secretary shall notify the appropriate superintendent of schools~~ The parent or guardian shall notify the Secretary in writing within 10 business days following the date that any student is withdrawn from the student's home study program.

(d) ~~Progress assessment. Each home study program shall assess annually the progress of each of its students. Progress shall be assessed in each subject area of the minimum course of study, as defined in subsection (i) of this section, by one or more of the following methods:~~

~~(1) A report in a form designated by the Secretary, by a teacher licensed in Vermont. In determining the form of the report, the Secretary shall consult with parents who have provided home study programs for their children. Nothing in this section shall be construed to require the Secretary to consult with parents on an individual basis regarding the form of a teacher report.~~

~~(2) A report prepared by the student's parents or instructor, or a teacher~~

~~advisory service report from a publisher of a commercial curriculum, together with a portfolio of the student's work that includes work samples to demonstrate progress in each subject area in the minimum course of study.~~

~~(3) The complete results of a standardized achievement test approved by the Secretary, administered in a manner approved by the testing company, and scored in accordance with this subdivision. In selecting the list of tests to be approved, the Secretary shall:~~

~~(A) Consult with parents who have provided home study programs for their children. Nothing in this section shall be construed to require the Secretary to consult with parents on an individual basis regarding the test to be administered as a progress assessment for their own home study programs.~~

~~(B) Select at least four tests to be scored by a testing company, and at least four tests to be administered and scored by a teacher licensed in Vermont who is not the parent or legal guardian of the student.~~ [Repealed.]

(e) ~~Hearings before enrollment. If the Secretary has information that creates a significant doubt about whether a home study program can or will provide a minimum course of study for a student who has not yet enrolled, the Secretary may call a hearing. At the hearing, the home study program shall establish that it has complied with this section and will provide the student with a minimum course of study.~~ [Repealed.]

(f) ~~Hearings after enrollment. If the Secretary has information that reasonably could be expected to justify an order of termination under this section, he or she may call a hearing. At the hearing, the Secretary shall establish one or more of the following:~~

~~(1) the home study program has substantially failed to comply with the requirements of this section;~~

~~(2) the home study program has substantially failed to provide a student with the minimum course of study;~~

~~(3) the home study program will not provide a student with the minimum course of study.~~ [Repealed.]

(g) ~~Notice and procedure. Notice of any hearing shall include a brief summary of the material facts and shall be sent to each parent or guardian and each instructor of the student or students involved who are known to the Secretary. The hearing shall occur within 30 days of the day that notice is given or sent. If a notice concerns a child not yet enrolled in a home study program, enrollment shall not occur until an order has been issued after the hearing. The hearing shall be conducted by an impartial hearing officer appointed by the Secretary from a list approved by the State Board. At the~~

~~request of the child's parent or guardian, the hearing officer shall conduct the hearing at a location in the vicinity of the home study program.~~ [Repealed.]

(h) ~~Order following hearing. After hearing evidence, the hearing officer shall enter an order within ten working days. If the child is not enrolled, the order shall provide that the child be enrolled or that enrollment be disallowed. If the child is enrolled, the order shall provide that enrollment be continued or that the enrollment be terminated. An order shall take effect immediately. Unless the hearing officer provides for a shorter period, an order disallowing or terminating enrollment shall extend until the end of the following school year, as defined in this title. If the order is to disallow or terminate the enrollment, a copy shall be given to the appropriate superintendent of schools, who shall take appropriate action to ensure that the child is enrolled in a school as required by this title. Following a hearing, the Secretary may petition the hearing officer to reopen the case only if there has been a material change in circumstances.~~ [Repealed.]

(i) ~~The minimum course of study required under this section shall be provided every school year, and the educational content provided shall be adapted in each area of study to the age and ability of each child and to any disability of the child. Nothing in this section requires that a home study program follow the program or methods used by the public schools. In this section, "minimum course of study" means:~~

~~(1) For a child who is younger than 13 years of age, the subject areas listed in section 906 of this title.~~

~~(2) For a child who is 13 years of age or older, the subject areas listed in subdivisions 906(b)(1), (2), (4), and (5) of this title, and other subject areas selected by the home study program. The child's progress in the elective areas shall not be subject to the annual progress assessment.~~ [Repealed.]

(j) Waiver. After the filing of the enrollment notice ~~or at a hearing~~, if the home study program is unable to comply with any specific requirements due to deep religious conviction shared by an organized group, the Secretary may waive such requirements if ~~he or she~~ the Secretary determines that the educational purposes of this section are being or will be substantially met.

(k) ~~A Vermont home study program that has successfully completed the last two consecutive school years of home study with any enrolled child, provided those two years fall within the most recent five years, shall not thereafter be required to submit an annual detailed outline or narrative describing the content of the minimum course of study. For the purposes of this subsection, successful completion of a home study program shall mean that, in each of the two consecutive years, the program has not been disallowed~~

~~by order of a hearing officer, the previously enrolled student made progress commensurate with age and ability in all subject areas of the minimum course of study, and the home study program has otherwise complied with the requirements of this section.~~ Annual notice. A parent or guardian who has provided a complete enrollment notice as described in subsection (a) of this section shall notify the Secretary on or before the start of each following year of the parent's or guardian's intention to continue to provide instruction through a home study program via a form provided by the Agency of Education. This notice shall be provided at least 10 business days prior to the intended start date of the home study program.

(l) ~~A home study program that has successfully completed two consecutive school years of home study as defined in subsection (k) of this section shall not be exempt from any other requirements of this section and shall annually submit a description of special services and adaptations to accommodate any disability of the child consistent with subsection (i) of this section. In addition, the program shall submit a detailed outline or narrative describing the content to be provided in each subject area of the minimum course of study as part of its enrollment notice for each child who is 12 years of age at the time the enrollment notice is submitted.~~ [Repealed.]

* * * Vermont Ethnic and Social Equity Standards Advisory Working Group * * *

Sec. 6. 2019 Acts and Resolves No. 1, Sec. 1, as amended by 2021 Acts and Resolves No. 66, Sec. 12 and 2022 Acts and Resolves No. 185, Sec. E.500.6, is further amended to read:

Sec. 1. ETHNIC AND SOCIAL EQUITY STANDARDS ADVISORY WORKING GROUP

* * *

(d) Appointment and operation.

* * *

(D) The Working Group shall cease to exist on ~~July 1, 2023~~ September 1, 2023.

(g) Duties of the Working Group.

(1) The Working Group shall review standards for student performance adopted by the State Board of Education under 16 V.S.A. § 164(9) and, on or before ~~December 31, 2022~~ June 30, 2023, recommend to the State Board updates and additional standards to recognize fully the history, contributions, and perspectives of ethnic groups and social groups. These recommended

additional standards shall be designed to:

* * *

(i) Duties of the State Board of Education. The Board of Education shall, on or before ~~December 31, 2022~~ December 31, 2023, consider adopting ethnic and social equity studies standards into standards for student performance adopted by the State Board under 16 V.S.A. § 164(9) for students in prekindergarten through grade 12, taking into account the report submitted by the Working Group under subdivision (g)(1) of this section.

Sec. 7. ACT 1 TECHNICAL ADVISORY GROUP

(a) Creation. There is created the Act 1 Technical Advisory Group (Advisory Group) to provide ongoing assistance regarding the work of the Ethnic and Social Equity Standards Advisory Working Group (Working Group), created by 2019 Acts and Resolves No. 1, as amended.

(b) Membership. The Technical Advisory Group shall be composed of the following 12 active members of the Working Group as of August 31, 2023, designated or appointed by the following organizations:

(1) the Chairperson of the Working Group, the designee of the Vermont Human Rights Commission;

(2) the Vice Chairperson of the Working Group, the designee of the Vermont-National Education Association;

(3) the designee of the Vermont School Boards Association;

(4) the designee of the Vermont Superintendents Association;

(5) the designee of the Vermont Principals' Association with expertise in the development of school curriculum;

(6) the designee of the Vermont Curriculum Leaders Association;

(7) the Vermont Coalition for Ethnic and Social Equity in Schools appointee member from Outright Vermont;

(8) the Vermont-based, college-level faculty expert in ethnic studies;

(9) the designee of the Vermont Office of Racial Equity;

(10) the student appointee from Montpelier High School;

(11) the designee of the Vermont Independent Schools Association; and

(12) the designee of the Agency of Education.

(c) Powers and duties. The Advisory Group shall provide assistance to the General Assembly, the Agency of Education, and the State Board of Education

on the following recommendations made by the Working Group:

(1) proposed revisions and comments to Agency of Education, State Board Rule 2000 Education Quality Standards (CVR 22-000-003);

(2) recommended updates and additional standards for student performance proposed to the State Board of Education pursuant to 2019 Acts and Resolves No. 1, Sec. 1, subdivision (g)(1);

(3) policy recommendations submitted to the General Assembly; and

(4) any other recommendations submitted to the General Assembly or State Board of Education.

(d) Assistance. The Advisory Group shall have the assistance of the Agency of Education for the purposes of scheduling meetings.

(e) Meetings.

(1) The Chair of the Advisory Group shall be the Chair of the Working Group as of August 31, 2023. If a member resigns before the Advisory Group ceases to exist, the organization impacted by the resignation shall have the authority to appoint a replacement member in consultation with the Advisory Group. The Advisory Group shall meet as needed.

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

(3) The Advisory Group shall cease to exist on January 31, 2024.

* * * Driver Education * * *

Sec. 8. REGIONAL STUDENT DRIVER EDUCATION CLINICS; PILOT PROJECT; REPORT; APPROPRIATION

(a) Pilot program. On or before December 15, 2023, the Agency of Education and the Department of Motor Vehicles, in partnership with interested school districts, shall establish a regional pilot student driver clinic program to provide the required minimum 6 hours of behind-the-wheel instruction by a certified driver education instructor as required by State Board of Education rule.

(1) The Agency and Department shall appoint one or more certified driver education instructors who shall assist in the development of the pilot program.

(2) The pilot program shall be designed to be implemented on a regional level, with an adequate number of programs provided to meet the reasonably anticipated needs of all public and approved independent schools participating in the pilot program. The Agency and Department shall partner with

participating school districts to define regions.

(3) The pilot program shall meet all legal requirements of student driver education and training programs.

(4) The Agency and Department shall adopt policies, procedures, and guidelines necessary to implement the pilot program.

(b) Implementation. Regional pilot programs developed in accordance with the pilot program created under subsection (a) of this section shall begin offering student driver clinics on or before July 15, 2024.

(c) Reports.

(1) On or before December 15, 2023, the Agency of Education shall submit a written report to the House and Senate Committees on Education with information on the progress made in developing the pilot program created under this section and the implantation plan for pilot clinics to take place in the summer of 2024. The report shall also include an update on the certification process for driver education teachers and the steps the Agency has taken to address the workforce shortage in driver education. In reporting on the workforce shortage, the Agency shall include any recommendations for legislative action.

(2) On or before January 15, 2025, the Agency of Education shall submit a written report to the House and Senate Committees on Education with the results of the pilot program created under this section. The report shall include data relating to the number of participating school districts and participating students and the use of appropriated funds, and any recommendations for program expansion. If the recommendation is to expand the pilot program beyond the initial participating school districts, the report shall include any modifications and resources necessary for the expansion, as well as a timeline for such changes.

(d) Appropriation. Notwithstanding 16 V.S.A. § 4025(d), the sum of $200,000.00 is appropriated from the Education Fund to the Agency of Education in fiscal year 2024 for the purpose of developing a regional pilot student driver clinic program. Prior to using the funds appropriated under this subsection, the Agency shall consult with the Vermont State Highway Safety Office on whether the student driver clinic program created pursuant to this section is eligible for federal highway safety grant funds.

* * *Union School District Board Member Nominating Petitions * * *

Sec. 9. 16 V.S.A. § 711 is amended to read:

§ 711. VOTE TO ELECT INITIAL MEMBERS OF THE UNION SCHOOL DISTRICT BOARD

* * *

(d) Proposed unified union school district. Subject to the provisions of subsections 706(c) (existing union school districts) and 708(b) (necessary and advisable school districts) of this chapter, the voters of each school district identified as "necessary" or "advisable" shall vote whether to elect initial board members of a proposed unified union school district, as follows:

* * *

(3) At-large representation. When representation on the board of a proposed unified union school district is not apportioned or allocated to the potential towns within the proposed district pursuant to subdivision (1) (proportional to town population) or (2) (modified at-large) of this subsection and the board member is elected at-large:

(A) The voters of one or more school districts identified as "necessary" to formation of the proposed unified union school district shall file a petition nominating a candidate for the office of unified union school district board member at-large. A petition shall be valid only if:

* * *

(iii) the petition is signed by at least ~~60~~ 30 voters residing in one or more school districts identified as "necessary" to the formation of the proposed unified union school district or one percent of the legal voters residing in the combined "necessary" school districts that would form the proposed unified union school district, whichever is less;

* * *

(e) Proposed union elementary or union high school district. Subject to the provisions of subsections 706(c) (existing union school districts) and 708(b) (necessary and advisable school districts) of this chapter, the voters of each school district identified as "necessary" or "advisable" shall vote whether to elect initial board members of the proposed union school district, as follows:

* * *

(3) At-large representation. When representation on the board of a proposed union elementary or union high school district board is not apportioned or allocated to the potential member districts pursuant to

subdivision (1) (proportional to town population) or (2) (modified at large) of this subsection and the board member is elected at-large:

(A) The voters of one or more school districts identified as "necessary" to the formation of the proposed union school district shall file a petition nominating a candidate for the office of union school district board member at-large. A petition shall be valid only if:

* * *

(iii) the petition is signed by at least ~~60~~ 30 voters residing in one or more school districts identified as "necessary" to the formation of the proposed union school district or one percent of the legal voters residing in the combined "necessary" school districts that would form the proposed union school district, whichever is less;

* * *

Sec. 10. 16 V.S.A. § 730 is amended to read:

§ 730. UNIFIED UNION SCHOOL DISTRICT BOARD MEMBERS; NOMINATION AND ELECTION; BOND

(a) If by Australian ballot. The provisions of this subsection ~~(a)~~ shall apply to a unified union school district that conducts elections for board membership by Australian ballot.

* * *

(2) Modified at-large model: allocation to town; at-large representation.

(A) When membership on the board of a unified union school district is allocated to each town within the district, but the allocation is not closely proportional to the town's relative population and the board member is elected at-large, the voters residing in any one or more of the towns within the district may file a petition nominating a candidate for board membership under the "modified at-large" model. A petition is valid only if:

* * *

(iii) the petition is signed by at least ~~60~~ 30 voters residing in the unified union school district or one percent of the legal voters in the district, whichever is less;

* * *

(3) At-large representation.

(A) When membership on a unified union school district board is not apportioned or allocated pursuant to subdivision (1) (proportional to town

population) or (2) (modified at-large) of this subsection (a) and the board member is elected at large, the voters residing in any one or more of the towns within the district may file a petition nominating a candidate for at-large board membership. A petition is valid only if:

* * *

(iii) the petition is signed by at least ~~60~~ 30 voters residing in the unified union school district or one percent of the legal voters in the district, whichever is less;

* * *

Sec. 11. 16 V.S.A. § 748 is amended to read:

§ 748. UNION ELEMENTARY AND UNION HIGH SCHOOL DISTRICT BOARD MEMBERS; NOMINATION AND ELECTION; BOND

(a) If by Australian ballot. The provisions of this subsection ~~(a)~~ shall apply to a union elementary or union high school district that conducts elections for board membership by Australian ballot.

* * *

(2) Modified at-large model: allocation to town; at-large representation.

(A) When membership on the board of a union elementary or union high school district is allocated to each member district, but the allocation is not closely proportional to the member district's population and the board member is elected at-large, the voters residing in any one or more of the member districts may file a petition nominating a candidate for board membership under the "modified at-large" model. A petition is valid only if:

* * *

(iii) the petition is signed by at least ~~60~~ 30 voters residing in the union elementary or union high school district or one percent of the legal voters in the district, whichever is less;

* * *

(3) At-large representation.

(A) When membership on the board of a union elementary or union high school district is not apportioned or allocated pursuant to subdivision (1) (proportional to town population) or (2) (modified at-large) of this subsection (a) (Australian ballot) and the board member is elected at large, the voters residing in any one or more of the member districts may file a petition nominating a candidate for at-large board membership. A petition is valid

only if:

* * *

(iii) the petition is signed by at least ~~60~~ 30 voters residing in the union elementary or union high school district or one percent of the legal voters in the district, whichever is less;

* * *

* * * Effective Dates * * *

Sec. 12. EFFECTIVE DATES

(a) Secs. 6 (Ethnic and Social Equity Standards Advisory Working Group) and this section shall take effect on passage.

(b) Sec. 7 (Act 1 Technical Advisory Group) shall take effect on September 1, 2023.

(c) All other sections shall take effect on July 1, 2023.

(Committee vote: 4-0-1)

(No House amendments.)

Reported favorably by Senator Perchlik for the Committee on Appropriations.

(Committee vote: 6-0-1)

H. 470.

An act relating to miscellaneous amendments to alcoholic beverage laws.

Reported favorably with recommendation of proposal of amendment by Senator Clarkson for the Committee on Economic Development, Housing and General Affairs.

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. 7 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

As used in this title:

* * *

(44) ~~"Cider"~~ "Hard cider" means a vinous beverage, made a majority from the fermented natural sugar content of apples or pears, that contains an

alcoholic content of not less than one percent or more than 16 percent by volume at 60 degrees Fahrenheit. ~~"Cider"~~ "Hard cider" includes sweetened, flavored, and carbonated hard cider.

Sec. 2. 7 V.S.A. § 204 is amended to read:

§ 204. APPLICATION AND RENEWAL FEES FOR LICENSES AND PERMITS; DISPOSITION OF FEES

(a) The following fees shall be paid when applying for a new license or permit or to renew a license or permit:

* * *

(9) For up to ~~ten~~ 20 fourth-class licenses, $70.00.

* * *

(12) For a ~~festival~~ sampling event permit, $125.00.

* * *

(14) For ~~an educational sampling~~ a limited event permit, $250.00.

* * *

Sec. 3. 7 V.S.A. § 224 is amended to read:

§ 224. FOURTH-CLASS LICENSES

(a) The Board of Liquor and Lottery may grant up to a combined total of ~~ten~~ 20 fourth-class licenses to a manufacturer or rectifier that submits an application and the fee provided in section 204 of this title.

(b) At each licensed location, a fourth-class licensee may sell by the unopened container or distribute by the glass, with or without charge, alcoholic beverages manufactured by the licensee.

(1) A licensee may, for consumption at the licensed premises or location, distribute the following amounts of alcoholic beverages to a retail customer:

(A) At a farmer's market location, not more than:

(i) two ounces of malt beverages, vinous beverages, or ready-to-drink spirits beverages with a total of eight ounces; and

~~(B)~~(ii) ~~no more than~~ one-quarter ounce of spirits or fortified wine with a total of one ounce.

(B) At a tasting room and retail shop, not more than:

(i) an aggregate total of 16 ounces of malt beverages or hard

cider;

(ii) an aggregate total of 12 ounces of vinous beverages or ready-to-drink spirits beverages; and

(iii) not more than one-quarter ounce of spirits or fortified wine with a total of two ounces.

* * *

(c)(1) At ~~only one~~ a maximum of two fourth-class license ~~location~~ locations, a licensed manufacturer or rectifier may sell by the unopened container or distribute by the glass, with or without charge, alcoholic beverages produced by ~~no~~ not more than five additional manufacturers or rectifiers, provided these beverages are purchased on invoice from the manufacturer or rectifier.

* * *

Sec. 4. 7 V.S.A. § 228 is amended to read:

§ 228. SAMPLER FLIGHTS

(a) The holder of a first-class license may serve a sampler flight of up to 32 ounces in the aggregate of malt beverages or hard ciders to a single customer at one time.

* * *

Sec. 5. 7 V.S.A. § 251 is amended to read:

§ 251. ~~EDUCATIONAL SAMPLING~~ LIMITED EVENT PERMIT

(a) The Division of Liquor Control may grant ~~an educational sampling~~ a limited event permit to a person if:

(1) the limited event is also approved by the local control commissioners; and

(2) at least 15 days prior to the event, the applicant submits an application to the Division in a form required by the Commissioner that ~~includes a list of the alcoholic beverages to be acquired for sampling at the event and~~ is accompanied by the fee provided in section 204 of this title.

(b)(1) ~~An educational sampling~~ A limited event permit holder ~~is permitted to conduct an event that is open to the public at which~~ may purchase invoiced volumes of malt beverages, vinous beverages, ready-to-drink spirits beverages, fortified wines, or spirits, or all five ~~are served only for the purposes of marketing and educational sampling~~, directly from a manufacturer, packager,

wholesale dealer, or importer licensed in Vermont or a manufacturer or packager that holds a federal Basic Permit or Brewer's Notice or evidence of licensure in a foreign country that is satisfactory to the Board.

(2) The invoiced volumes of alcoholic beverages may be transported into the site and sold by the glass to the public by the permit holder or the permit holder's employees and volunteers only during the event.

(c)~~(1)~~ ~~No~~ Not more than four ~~educational sampling~~ limited event permits shall be issued annually to the same person~~.~~, and

~~(2) An educational sampling event~~ each permit shall be valid for ~~no~~ not more than four consecutive days.

(d) The permit holder shall ~~ensure all the following:~~

~~(1) Attendees at the educational sampling event shall be required to pay an entry fee of not less than $5.00.~~

~~(2)(A) Malt beverages, vinous beverages, or ready-to-drink spirits beverages for sampling shall be offered in glasses that contain not more than two ounces of either beverage.~~

~~(B) Fortified wines and spirits for sampling shall be offered in glasses that contain no more than one-quarter ounce of either beverage.~~

~~(3) The event shall be conducted in compliance with all the requirements~~ be subject to the provisions of this title, including section 214 of this title, and the rules of the Board regarding the sale of alcoholic beverages. The permit holder shall pay the tax on the alcoholic beverages served at the event pursuant to section 421 of this title.

~~(e) An educational sampling event permit holder:~~

~~(1) may receive shipments directly from a manufacturer, packager, certificate of approval holder, wholesale dealer, or importer licensed in Vermont or that provides evidence of licensure in another state or foreign country satisfactory to the Board;~~

~~(2) may transport alcoholic beverages to the event site, and those beverages may be served at the event by the permit holder or the holder's employees, volunteers, or representatives of a manufacturer, packager, or importer participating in the event, provided they meet the server age and training requirements under section 259 of this chapter; and~~

~~(3) shall mark all cases and bottles of alcoholic beverages to be served at the event "For sampling only. Not for resale."~~

~~(f) Taxes for the alcoholic beverages served at the event shall be paid as~~

~~follows:~~

~~(1) malt beverages:~~

~~(A) $0.265 per gallon of malt beverages served that contain not more than six percent alcohol by volume at 60 degrees Fahrenheit; and~~

~~(B) $0.55 per gallon of malt beverages served that contain more than six percent alcohol by volume at 60 degrees Fahrenheit;~~

~~(2) vinous beverages: $0.55 per gallon served;~~

~~(3) spirits: $19.80 per gallon served;~~

~~(4) fortified wines: $19.80 per gallon served; and~~

~~(5) ready-to-drink spirits beverages: $1.10 per gallon served.~~

Sec. 6. 7 V.S.A. § 252 is amended to read:

§ 252. SPECIAL EVENT PERMITS

(a)(1) The Division of Liquor Control may issue a special event permit if the application is submitted to the Division of Liquor Control with the fee provided in section 204 of this title at least five days prior to the date of the event.

(2) A manufacturer or rectifier may be issued one special event permit ~~shall be valid for the duration of~~ per physical location for each public event ~~or four days, whichever is shorter~~. A special event permit shall be valid for not more than 40 days in a calendar year.

* * *

~~(c) A licensed manufacturer or rectifier may be issued not more than 10 special event permits for the same physical location in a calendar year.~~

Sec. 7. 7 V.S.A. § 253 is amended to read:

§ 253. ~~FESTIVAL~~ SAMPLING EVENT PERMITS

(a) The Division of Liquor Control may grant a ~~festival~~ sampling event permit if the applicant has:

(1) received approval from the local control commissioners;

(2) submitted a request for ~~a festival~~ the permit to the Division in a form required by the Commissioner at least 15 days prior to the ~~festival~~ event; and

(3) paid the fee provided in section 204 of this title.

(b) ~~A festival~~ An event required to be permitted under this section is any event that ~~is open to the public for which the primary purpose is to serve one~~

~~or more of the following: malt beverages, vinous beverages, ready-to-drink spirits beverages, fortified wines, or spirits~~ has more than five sampling outlets and expected event attendance is greater than 50 patrons.

(c) A ~~festival~~ sampling event permit holder is permitted to conduct an event that is open to the public at which one or more of the following are served: malt beverages, vinous beverages, ready-to-drink spirits beverages, fortified wines, or spirits.

(d) The permit holder shall ensure the following:

(1) Attendees at the ~~festival~~ sampling event shall be required to pay an entry fee of not less than $5.00.

* * *

(2)(A) Malt beverages and hard ciders for sampling shall be offered in glasses that contain not more than ~~12~~ 16 ounces with not more than 60 ounces served to any patron at one event.

* * *

(E) Patrons attending a ~~festival~~ sampling event where combinations of malt beverages, vinous beverages, ready-to-drink spirits beverages, fortified wines, or spirits are mutually sampled shall not be served more than a combined total of ~~six U.S.~~ five standard ~~drinks containing 3.6 fluid ounces or 84 grams of pure ethyl alcohol~~ drink units as defined by the World Health Organization.

* * *

(e)(1) A ~~festival~~ sampling event permit holder may purchase invoiced volumes of malt beverages, vinous beverages, or ready-to-drink spirits beverages directly from a manufacturer or packager licensed in Vermont or a manufacturer or packager that holds a federal Basic Permit or Brewers Notice or evidence of licensure in a foreign country that is satisfactory to the Board.

* * *

(f) A ~~festival~~ sampling event permit holder shall be subject to the provisions of this title, including section 214 of this title, and the rules of the Board regarding the sale of the alcoholic beverages and shall pay the tax on the malt beverages, vinous beverages, or ready-to-drink spirits beverages pursuant to section 421 of this title.

(g) A person shall be granted not more than four ~~festival~~ sampling event permits per year, and each permit shall be valid for not more than four consecutive days.

Sec. 8. 7 V.S.A. § 421 is amended to read:

§ 421. TAX ON MALT AND VINOUS BEVERAGES

(a) Every packager and wholesale dealer shall pay to the Commissioner of Taxes:

(1) the sum of 26 and one-half cents per gallon for every gallon or its equivalent of:

* * *

(B) hard ciders containing not more than seven percent of alcohol by volume at 60 degrees Fahrenheit sold by them to retailers in the State;

(2) the sum of 55 cents per gallon for each gallon of:

* * *

(B) hard ciders containing more than seven percent of alcohol by volume at 60 degrees Fahrenheit sold by them to retailers in the State; and

* * *

Sec. 9. 2021 Acts and Resolves No. 70, Sec. 7 is amended to read:

Sec. 7. REPEAL

7 V.S.A. § 230 is repealed on July 1, ~~2023~~ 2025.

Sec. 10. DEPARTMENT OF LIQUOR AND LOTTERY; ALCOHOLIC BEVERAGES; PUBLIC HEALTH IMPACT STUDY AND REPORT

On or before January 15, 2025, the Department of Liquor and Lottery, in consultation with other stakeholders, shall study and report on the public safety impacts of the sale of alcoholic beverages for off-premises consumption since the passage of 7 V.S.A. § 230. The Department shall submit the written report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Economic Development, Housing, and General Affairs. The Department shall include with its findings any recommendations for legislative action.

* * * Effective Dates * * *

Sec. 11. EFFECTIVE DATES

(a) This section and Sec. 9 (extension of sunset; 7 V.S.A. 230) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2023.

(Committee vote: 5-0-0)

(No House amendments.)

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

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendment thereto:

In Sec. 2, 7 V.S.A. § 204 (application and renewal fees for licenses and permits), by striking out subdivision (a)(9) (fourth-class licenses) in its entirety and inserting in lieu thereof a new subdivision (a)(9) to read as follows:

(9) For ~~up to ten~~ each fourth-class ~~licenses~~ license, $70.00.

(Committee vote: 6-0-1)

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(c)~~.

* * * Effective Date * * *

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 6-0-0)

(No House amendments.)

Reported favorably by Senator Sears for the Committee on Appropriations.

(Committee vote: 5-0-2)

House Proposal of Amendment

S. 17.

An act relating to sheriff reforms.

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:

* * * Findings * * *

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Sheriffs provide essential public safety services to the State, counties, and communities of Vermont.

(2) Incidents of criminal and unprofessional behavior by elected sheriffs and sheriff's deputies have shaken the public's trust in the office of sheriff.

(3) The office of sheriff requires reform to provide more consistent structure, financial practices, accountability, and increased transparency.

(4) While criminal charges or misconduct may lead to sanctions on Vermont sheriffs, including decertification by the Vermont Criminal Justice Council, removal from office can only be achieved through expiration of term, resignation, or impeachment by the General Assembly.

* * * Audits * * *

Sec. 2. 24 V.S.A. § 290 is amended to read:

§ 290. COUNTY SHERIFF'S DEPARTMENT

* * *

(d)(1) Upon the election of a sheriff-elect who is not the incumbent sheriff, ~~or upon notice of the resignation of the sheriff,~~ an announcement that the incumbent sheriff will not seek reelection, or an announcement that the incumbent sheriff intends to resign, whichever occurs earliest, all financial disbursements from the accounts of the department, including the transfer of real or personal property, or other assets, of the department, shall be co-signed by the sheriff and ~~the~~ at least one assistant ~~judges~~ judge in that county. The sheriff shall provide a written transition plan to the assistant judges of that county and the Sheriffs' Executive Committee detailing all anticipated disbursements or transfers of departmental assets. Assistant judges shall consult with the Department and Sheriff's Executive Committee prior to co-signing any disbursements or transfer of sheriff's department assets. If the assistant judges refuse to co-sign a disbursement or transfer of sheriff's department assets, the Sheriffs' Executive Committee may instead approve the disbursements or transfer of sheriff's department assets and shall thereafter inform the sheriff and the assistant judges of the county of the Committee's decision.

(2) ~~A~~ An assistant judge shall forward the sheriff's written transition plan and a report of all financial disbursements ~~or~~ and transfers made pursuant to this subsection ~~shall be forwarded by the assistant judges~~ to the Auditor of Accounts within 15 days ~~of completion of the out-going sheriff's duties~~ following the sheriff leaving office.

Sec. 3. 24 V.S.A. § 290b is amended to read:

§ 290b. AUDITS

* * *

(b) The Auditor of Accounts shall adopt and sheriffs shall comply with a uniform system of accounts, controls, and procedures for the sheriff's department, which accurately reflects the receipt and disbursement of all funds by the department, the sheriff, and all employees of the department. The uniform system shall include:

* * *

(8) procedures and controls ~~which~~ that identify revenues received from public entities through appropriations or grants from the federal, State, or local governments from revenues received through contracts with private entities; ~~and~~

(9) procedures to notify the Auditor of Accounts and the Department of State's Attorneys and Sheriffs of the establishment and activities of any

nonpublic organization of which the sheriff or any employee of the sheriff is a director or participant and that has a mission or purpose of supplementing the efforts of the sheriff's department; and

(10) other procedures and requirements as the Auditor of Accounts deems necessary.

(c) The Auditor of Accounts and ~~his or her~~ the Auditor's designee may at any time examine the records, accounts, books, papers, contracts, reports, and other materials of the county sheriff departments as they pertain to the financial transactions, obligations, assets, and receipts of that department. The Auditor ~~or his or her designee shall conduct an audit of the accounts for a sheriff's department whenever the incumbent sheriff leaves office, and the auditor~~ shall charge for ~~the~~ any associated costs ~~of the report pursuant to~~ in the same manner described in 32 V.S.A. § 168(b).

* * *

* * * Conflict of Interest * * *

Sec. 4. 24 V.S.A. § 314 is added to read:

§ 314. CONFLICT OF INTEREST; APPEARANCE OF CONFLICT OF INTEREST

(a) Sheriffs and deputy sheriffs are considered public servants for the purposes of 3 V.S.A. § 1202(1). A conflict of interest may also exist when a member of a sheriff's or deputy sheriff's immediate family or household, or the sheriff's or deputy sheriff's business associate, or an organization with which the sheriff or deputy sheriff is affiliated, interferes with the proper discharge of a lawful duty. A conflict of interest does not include any interest that is not greater than that of other individuals generally affected by the outcome of the matter.

(b) A sheriff or deputy sheriff shall avoid any conflict of interest or the appearance of a conflict of interest. When confronted with a conflict of interest or an appearance of a conflict of interest, a sheriff or deputy sheriff shall disclose the conflict of interest to the Sheriff's Executive Committee, recuse themselves from the matter, and not take further action on the matter.

(c) The Department of State's Attorneys and Sheriffs shall establish procedures for forwarding ethics complaints from any source to the State Ethics Commission based on the procedures set forth in 3 V.S.A. § 1223.

(d) Nothing in this section shall require a sheriff or deputy sheriff to disclose confidential information or information that is otherwise privileged under law. "Confidential information," as used in this subsection, means

information that is exempt from public inspection and copying under 1 V.S.A. § 315 et seq. or is otherwise designated by law as confidential.

Sec. 4a. 24 V.S.A. § 315 is added to read:

§ 315. SHERIFFS; ANNUAL DISCLOSURE

(a) Annually, each sheriff shall file with the State Ethics Commission a disclosure form that contains the following information in regard to the previous 12 months:

(1) Each source, but not amount, of personal income of the sheriff and of the sheriff's spouse or domestic partner, and of the sheriff together with the sheriff's spouse or domestic partner, that totals more than $5,000.00, including any of the sources meeting that total described as follows:

(A) employment, including the employer or business name and address and, if self-employed, a description of the nature of the self-employment without needing to disclose any individual clients; and

(B) investments, described generally as "investment income."

(2) Any board, commission, or other entity that is regulated by law or that receives funding from the State on which the sheriff served and the sheriff's position on that entity.

(3) Any company of which the sheriff or the sheriff's spouse or domestic partner, or the sheriff together with the sheriff's spouse or domestic partner, owned more than 10 percent.

(4) Any lease or contract with the State held or entered into by:

(A) the sheriff or the sheriff's spouse or domestic partner; or

(B) a company of which the sheriff or the sheriff's spouse or domestic partner, or the sheriff together with the sheriff's spouse or domestic partner, owned more than 10 percent.

(b) In addition, if a sheriff's spouse or domestic partner is a lobbyist, the sheriff shall disclose that fact and provide the name of the sheriff's spouse or domestic partner and, if applicable, the name of that individual's lobbying firm.

(c)(1) Disclosure forms shall contain the statement, "I certify that the information provided on all pages of this disclosure form is true to the best of my knowledge, information, and belief."

(2) Each sheriff shall sign the disclosure form in order to certify it in accordance with this subsection.

(d)(1) A sheriff shall file the disclosure form on or before January 15 of each year or, if the sheriff is appointed after January 15, within 10 days after that appointment.

(2) A sheriff who filed this disclosure form as a candidate in accordance with 17 V.S.A. § 2414 in the preceding year and whose disclosure information has not changed since that filing may update that filing to indicate that there has been no change.

* * * Sheriff's Department Compensation and Benefits * * *

Sec. 5. 24 V.S.A. § 291a is amended to read:

§ 291a. CONTRACTS

* * *

(b) A contract made with a town, city, village, or county to provide law enforcement or related services shall contain provisions governing the following subjects as best suit the needs of the parties:

* * *

(4) the type, frequency, and information to be contained in reports submitted by the sheriff's department to the town, city, village, or county;

* * *

(c) A contract under this section may contain provisions for compensation to the sheriff for administration of the contract and related services. No compensation may be paid to a sheriff for administration of the contract or related services unless the contract sets forth in writing the rate or method of calculation for the compensation and a schedule of payment; provided that a sheriff's compensation for administration shall not exceed five percent of the contract. A sheriff's rate of compensation shall be at a rate equivalent to other employees of the department who provide similar services under the contract. Compensation to the sheriff shall be made in accordance with the schedule set forth in the contract but in no event may a sheriff be compensated for administration of the contract and related services unless the compensation is made in the same calendar year in which the revenue was received by the department under the contract. Funds derived from charges for the administration of a contract, if used for sheriff, sheriff deputy, or other departmental employee compensation, bonuses, salary supplements, retirement contributions, or employment benefits, shall be expended in accordance with the model policy created and maintained by the Department of State's Attorneys and Sheriffs. Willful failure to comply with this policy shall constitute Category B conduct pursuant to 20 V.S.A. § 2401(2).

* * *

(f) An agreement or contract for sheriff's departments to provide law enforcement or security services to county and State courthouses shall be subject to a single, statewide contracted rate of pay for such services over all county and State courthouses.

Sec. 5a. SHERIFF'S DEPARTMENTS COMPENSATION AND BENEFITS MODEL POLICY

(a) On or before January 1, 2024, the Department of State's Attorneys and Sheriffs, after receiving input from the sheriffs, the Auditor of Accounts, and the Department of Human Resources, shall develop the Sheriff's Departments Compensation and Benefits Model Policy and submit it for review and approval to the Vermont Criminal Justice Council. The Vermont Criminal Justice Council may, in consultation with the Department of State's Attorneys and Sheriffs, subsequently alter and update the Model Policy.

(b) The Sheriff's Departments Compensation and Benefits Model Policy shall address the structure and use of funds for compensation, bonuses, salary supplements, retirement contributions, and employment benefits for sheriffs, sheriff's deputies, and other departmental employees.

(c) On or before July 1, 2024, each sheriff's department shall adopt the model Sheriff's Departments Compensation and Benefits Model Policy. A sheriff's department may include additional provisions to the Model Policy in its own policy, provided that none of these provisions contradict any provisions of the Model Policy.

Sec. 5b. 24 V.S.A. § 367 is amended to read:

§ 367. DEPARTMENT OF STATE'S ATTORNEYS AND SHERIFFS

* * *

(e)(1) The Executive Director of the Department of State's Attorneys and Sheriffs, in consultation with the Sheriff's Executive Committee, shall appoint a Director of Sheriffs' Operations who shall serve at the pleasure of the Executive Director.

(2) The Director of Sheriffs' Operations shall provide centralized support services for the sheriffs with respect to budgetary planning, policy development and compliance, training, and office management, and perform such other duties as directed by the Executive Director.

(3) The Director of Sheriffs' Operations shall develop, maintain, and provide to each sheriff's department model policies on operational topics, including service of civil process, relief from abuse orders, transportation of

prisoners, ethics, and sheriffs' responsibilities.

Sec. 5c. DEPARTMENT OF STATE'S ATTORNEYS AND SHERIFFS; POSITION

The following position is created in the Department of State's Attorneys and Sheriffs: one full-time, exempt Director of Sheriffs' Operations.

Sec. 5d. 24 V.S.A. § 290(b) is amended to read:

(b) Full-time State deputy sheriffs whose primary responsibility is transportation of prisoners ~~and,~~ persons with a mental condition or psychiatric disability, or juveniles being transported to court or to a court-ordered facility shall be paid by the State of Vermont. The positions and their funding shall be assigned to the Department of State's Attorneys and Sheriffs. The Executive Director shall have the authority to determine job duties for the position, assignment of positions to county, regular and temporary work locations, assistance to other State agencies and departments, timesheet systems, daily work logs, and to have final approval of personnel matters, including, but not limited to, approval for hiring, paygrade assignment, hiring rate, discipline, and termination. The sheriffs shall have an Executive Committee of not more than five current sheriffs, elected for a two-year term by a vote of the sheriffs held not later than January 15, for a term starting February 1. The Executive Committee shall have a Chair, Vice-Chair, Secretary-Treasurer, and two members at large. The Executive Committee shall meet at least quarterly to provide input to the Department of State's Attorneys and sheriffs regarding budget, legislation, personnel and policies, and the assignment of positions, when vacancies arise, for efficient use of resources.

* * * Sheriff Duties * * *

Sec. 6. 24 V.S.A. § 293 is amended to read:

§ 293. DUTIES

(a) A sheriff so commissioned and sworn shall serve and execute lawful writs, warrants, and processes directed to ~~him or her~~ the sheriff, according to the precept thereof, and do all other things pertaining to the office of sheriff.

(b) A sheriff shall maintain a record of the sheriff's work schedule, including work days, leave taken, and any remote work performed outside the sheriff's district for a period of more than three days.

(c) If an individual who has a relief from abuse order pursuant to 15 V.S.A. § 1103 requires assistance in the retrieval of personal belongings from the individual's residence and that individual requests assistance from a sheriff's department providing law enforcement services in the county in which that individual resides, the sheriff's department shall provide the assistance.

Sec. 6a. 20 V.S.A. chapter 209 is added to read:

CHAPTER 209. GENERAL LAW ENFORCEMENT SERVICES

§ 4661. PROHIBITION; STANDBY FEES

No law enforcement officer or law enforcement agency shall seek a fee from the individual seeking assistance or being assisted in the retrieval of personal belongings or the personal belongings of the individual's dependents from the individual's residence, pursuant to 24 V.S.A. § 293(c), or any representative of that individual.

Sec. 6b. SHERIFF'S DEPARTMENTS' PROVISION OF STANDBY SERVICES FOR DOMESTIC VIOLENCE SURVIVORS; REPORT

On or before January 15, 2024, the Department of State's Attorneys and Sheriffs, in consultation with the State sheriffs and the Vermont Network Against Domestic and Sexual Violence, shall report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations data, as available through December 1, 2023, regarding sheriff's departments' assistance in the retrieval of personal belongings of domestic violence survivors pursuant to 24 V.S.A. § 293(c), including the aggregate number of episodes of assistance provided, the time spent, and the costs accumulated by sheriff's departments for providing this assistance.

Sec. 7. SHERIFF'S DEPUTY PROVISION OF COURTHOUSE SECURITY; REPORT

On or before December 1, 2023, the Judiciary, in consultation with the Department of State's Attorneys and Sheriffs, the Vermont Sheriffs' Association, Vermont State Employees' Association, and other relevant stakeholders, shall report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations on the number of sheriff's deputies needed to be made available to provide law enforcement and security services to county and State courthouses to facilitate regular courthouse operations. The report shall also include recommendations regarding any needed creation of classified positions responsible for courthouse security services, similar to the classified position of transport deputy, and any corresponding budget request for these positions.

Sec. 8. 24 V.S.A. § 299 is amended to read:

§ 299. DUTIES AS PEACE OFFICER

A sheriff shall preserve the peace~~, and suppress, with force and strong hand, if necessary, unlawful disorder~~ using force only as permitted pursuant to 20 V.S.A. chapter 151. ~~He or she~~ A sheriff may apprehend, without warrant,

~~persons~~ individuals assembled in disturbance of the peace~~,~~ and bring them before ~~a~~ the Criminal Division of the Superior Court, which shall proceed with such ~~person~~ individuals as with ~~persons~~ individuals brought before it by process issued by ~~such~~ the court.

* * * Repeal of Penalty for Refusal to Assist a Sheriff * * *

Sec. 9. REPEAL OF PENALTY FOR REFUSAL TO ASSIST A SHERIFF

24 V.S.A. § 301 (penalty for refusal to assist) is repealed.

* * * Sheriff's Departments Reform Report * * *

Sec. 10. SHERIFF'S DEPARTMENTS REFORM; REPORT

On or before November 15, 2023, the Department of State's Attorneys and Sheriffs, in consultation with the Vermont Criminal Justice Council, the Auditor of Accounts, the Vermont Association of County Judges, the Chief Superior Court Judge, and the Vermont Sheriffs Association, shall report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations on the following:

(1) recommended policies and best practices to be included in standard operating procedures, manuals and policy manuals;

(2) increasing efficiency and equity in the delivery of public safety services by sheriff's departments;

(3) recommendations for the compensation structure and levels of sheriffs, deputies, and departmental staff, including salaries, overtime, retirement, and benefits;

(4) the duties of sheriffs, including law enforcement and administration of sheriff's departments;

(5) recommended membership and duties of an advisory commission for sheriffs comparable to, or combined with, the Vermont State Police Advisory Commission, as related to both conduct and administration of sheriff's departments;

(6) the creation of a sustainable funding model for sheriff's departments, including the consolidation or reorganization of sheriff's departments;

(7) recommendations for the Department of State's Attorneys and Sheriffs to better provide oversight and support for State's Attorneys and sheriffs; and

(8) recommendations for the scope and timing of public sector management training that sheriffs should receive upon election and on a continuing basis to ensure departmental operations and management of public

funds are consistent with generally accepted standards.

* * * Effective Dates * * *

Sec. 11. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 5 (amending 24 V.S.A. § 291a) shall take effect on January 1, 2024.

S. 99.

An act relating to miscellaneous changes to laws related to vehicles.

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:

* * * New Motor Vehicle Arbitration * * *

Sec. 1. 9 V.S.A. § 4173(d) is amended to read:

(d) Within the 45-day period set forth in subsection (c) of this section but at least five days prior to hearing, the manufacturer shall have one final opportunity to correct and repair the defect that the consumer claims entitles ~~him or her~~ the consumer to a refund or replacement vehicle. Any right to a final repair attempt is waived if the manufacturer does not complete it at least five days prior to hearing. If the consumer is satisfied with the corrective work done by the manufacturer or ~~his or her~~ the manufacturer's delegate, the arbitration proceedings shall be terminated without prejudice to the consumer's right to request arbitration be recommenced ~~if the repair proves unsatisfactory for the duration of the~~ within one year following the expiration of the express warranty term in accordance with subsection 4179(a) of this title.

* * * Definition of Mail * * *

Sec. 2. 23 V.S.A. § 4(87) is added to read:

(87) "Mail," "mail or deliver," "mails," "mails or delivers," "mailing," "mailing or delivering," "mailed," and "mailed or delivered" mean any method of delivery authorized by the Commissioner, which may include by hand, U.S. mail, and electronic transmission.

* * * Mobile Identification * * *

Sec. 3. 23 V.S.A. § 116 is added to read:

§ 116. ISSUANCE OF MOBILE IDENTIFICATION

(a) Definitions. As used in this section:

(1) "Data field" means a discrete piece of information that appears on a mobile identification.

(2) "Full profile" means all the information provided on a mobile identification.

(3) "Limited profile" means a portion of the information provided on a mobile identification.

(4) "Mobile identification" means an electronic representation of the information contained on a nonmobile credential.

(5) "Mobile identification holder" means an individual to whom a mobile identification has been issued.

(6) "Nonmobile credential" means a nondriver identification card issued under section 115 of this title, a driver's license issued under section 603 of this title, a junior operator's license issued under section 602 of this title, a learner's permit issued under section 617 of this title, a commercial driver's license issued under section 4111 of this title, or a commercial learner's permit issued under section 4112 of this title.

(b) Issuance. The Commissioner of Motor Vehicles may issue a mobile identification to an individual in addition to, and not instead of, a nonmobile credential. If issued, the mobile identification shall:

(1) be capable of producing both a full profile and a limited profile;

(2) satisfy the purpose for which the profile is presented;

(3) allow the mobile identification holder to maintain physical possession of the device on which the mobile identification is accessed during verification; and

(4) not be a substitute for an individual producing a nonmobile credential upon request.

(c) Agreements with other entities. The Commissioner may enter into agreements to facilitate the issuance, use, and verification of a mobile identification or other electronic credentials issued by the Commissioner or another state.

(d) Administration.

(1) The Commissioner may operate, or may operate through a third-party administrator, a verification system for mobile identifications.

(2) Access to the verification system and any data field by a person presented with a mobile identification requires the credential holder's consent,

and, if consent is granted, the Commissioner may release the following through the verification system:

(A) for a full profile, all data fields that appear on the mobile identification; and

(B) for a limited profile, only the data fields represented in the limited profile for the mobile identification.

* * * License Plate Stickers; Validation Stickers * * *

Sec. 4. 23 V.S.A. § 305 is amended to read:

§ 305. REGISTRATION PERIODS

(a) The Commissioner of Motor Vehicles shall issue registration certificates~~, validation stickers,~~ and number plates upon initial registration, and registration certificates ~~and validation stickers~~ for each succeeding renewal period of registration upon payment of the registration fee. Number plates so issued will become void one year from the first day of the month following the month of issue, unless a longer initial registration period is authorized by law or unless this period is extended through renewal. Registrations issued for motor trucks shall become void one year from the first day of the month following the month of issue.

(b) The Commissioner shall issue a registration certificate~~, validation sticker,~~ and a number plate or number plates for each motor vehicle owned by the State, which shall be valid for a period of five years. Such motor vehicle shall be considered properly registered while the issued number plate or number plates are attached to the motor vehicle. The Commissioner may replace such number plate or number plates when in ~~his or her~~ the Commissioner's discretion their condition requires.

(c) ~~Except as otherwise provided in subsection (d) of this section, no plate is valid unless the validation sticker is affixed to the rear plate in the manner prescribed by the Commissioner in section 511 of this title.~~ [Repealed.]

(d) When a registration for a motor vehicle, snowmobile, motorboat, or all-terrain vehicle is processed electronically, a receipt shall be available electronically and for printing. An electronic or printed receipt shall serve as a temporary registration for 10 days after the date of the transaction. An electronic receipt may be shown to an enforcement officer using a portable electronic device. Use of a portable electronic device to display the receipt does not in itself constitute consent for an officer to access other contents of the device.

Sec. 5. 23 V.S.A. § 326 is amended to read:

§ 326. REFUND UPON LOSS OF VEHICLE

The Commissioner may cancel the registration of a motor vehicle when the owner ~~thereof~~ of the motor vehicle proves to ~~his or her~~ the Commissioner's satisfaction that ~~it~~ the motor vehicle has been totally destroyed by fire or, through crash or wear, has become wholly unfit for use and has been dismantled. After the Commissioner cancels the registration and the owner returns to the Commissioner either the registration certificate~~,~~ or the number plate or number plates ~~and the validation sticker~~, the Commissioner shall certify to the Commissioner of Finance and Management the fact of the cancellation, giving the name of the owner of the motor vehicle, ~~his or her~~ the owner's address, the amount of the registration fee paid, and the date of cancellation. The Commissioner of Finance and Management shall issue ~~his or her~~ the Commissioner of Finance and Management's warrant in favor of the owner for such percent of the registration fee paid as the unexpired term of the registration bears to the entire registration period, but in no case shall the Commissioner of Finance and Management retain less than $5.00 of the fee paid.

Sec. 6. 23 V.S.A. § 364b is amended to read:

§ 364b. ALL-SURFACE VEHICLES; REGISTRATION

(a) The annual fee for registration of an all-surface vehicle (ASV) shall be the sum of the fees established by sections 3305 and 3504 of this title, plus $26.00.

(b) Evidence of the registration shall be a ~~sticker, as determined by the Commissioner, affixed to~~ registration certificate and the number plate issued pursuant to chapter 31 of this title.

Sec. 7. 23 V.S.A. § 453(f) is amended to read:

(f) In any year that number plates are reused ~~and validation stickers are issued~~, the Commissioner shall not be required to issue new number plates to persons renewing registrations under this section.

Sec. 8. 23 V.S.A. § 457 is amended to read:

§ 457. TEMPORARY PLATES

At the time of the issuance of a registration certificate to a dealer as provided in this chapter, the Commissioner shall furnish the dealer with a sufficient number of number plates ~~and temporary validation stickers~~, temporary number plates, or temporary decals for use during the 60-day period immediately following sale of a vehicle or motorboat by the dealer. The plates and decals shall have the same general design as the plates or decals furnished

individual owners, but the plates and decals may be of a material and color as the Commissioner may determine. The Commissioner shall collect a fee of $5.00 for each temporary plate issued.

Sec. 9. 23 V.S.A. § 458 is amended to read:

§ 458. TEMPORARY PLATE ON SOLD OR EXCHANGED VEHICLES

On the day of the sale or exchange of a motor vehicle, motorboat, snowmobile, or all-terrain vehicle to be registered in this State, a dealer may issue to the purchaser, for attachment to the motor vehicle, snowmobile, or all-terrain vehicle, or to be carried in or on the motorboat, a number plate ~~with temporary validation stickers~~, a temporary number plate, or a temporary decal, provided that the purchaser deposits with such dealer, for transmission to the Commissioner, a properly executed application for the registration of such motor vehicle, motorboat, snowmobile, or all-terrain vehicle and the required fee. If a properly licensed purchaser either attaches to the motor vehicle, snowmobile, or all-terrain vehicle or carries in the motorboat such number plate or decal, ~~he or she~~ the purchaser may operate the same for a period not to exceed 60 consecutive days immediately following the purchase. ~~An individual shall not operate a motor vehicle, motorboat, snowmobile, or all-terrain vehicle with a number plate with temporary validation stickers, a temporary number plate, or a temporary decal attached to the motor vehicle or carried in the motorboat except as provided in this section.~~

Sec. 10. 23 V.S.A. § 459 is amended to read:

§ 459. NOTICE, APPLICATION, AND FEES TO COMMISSIONER

(a) Upon issuing a number plate ~~with temporary validation stickers~~, a temporary number plate, or a temporary decal to a purchaser, a dealer shall have 15 calendar days, or up to 30 calendar days as applicable pursuant to subsection 2015(b) of this title, to forward to the Commissioner the application and fee, deposited with ~~him or her~~ the dealer by the purchaser, together with notice of such issue and such other information as the Commissioner may require.

(b) If a number plate with ~~temporary validation stickers,~~ a temporary registration plate~~,~~ or a temporary decal is not issued by a dealer in connection with the sale or exchange of a vehicle or motorboat, the dealer may accept from the purchaser a properly executed registration, tax, and title application and the required fees for transmission to the Commissioner. The dealer shall have 15 calendar days, or up to 30 calendar days as applicable pursuant to subsection 2015(b) of this title, to forward to the Commissioner the application and fee together with such other information as the Commissioner may

require.

Sec. 11. 23 V.S.A. § 465 is amended to read:

§ 465. LOANING OF PLATES, VEHICLES, OR MOTORBOATS PROHIBITED

A dealer shall not lend or lease registration certificates, ~~validation stickers,~~ numbers, decals, or number plates that have been assigned to ~~him or her~~ the dealer under the provisions of this chapter, nor shall ~~he or she~~ the dealer lend or lease a vehicle or motorboat to which ~~his or her~~ the dealer's decals, numbers, or number plates have been attached, nor lend or lease ~~his or her~~ the dealer's decals, numbers, or number plates to a subagent.

Sec. 12. 23 V.S.A. § 494 is amended to read:

§ 494. FEES

The annual fee for a transporter's registration certificate~~,~~ or number plate~~, or validation sticker~~ is $123.00.

Sec. 13. 23 V.S.A. § 511 is amended to read:

§ 511. MANNER OF DISPLAY

(a) Number plates. A motor vehicle operated on any highway shall have displayed in a conspicuous place either one or two number plates as the Commissioner may require. Such number plates shall be furnished by the Commissioner and shall show the number assigned to such vehicle by the Commissioner. If only one number plate is furnished, the same shall be securely attached to the rear of the vehicle. If two are furnished, one shall be securely attached to the rear and one to the front of the vehicle. The number plates shall be kept entirely unobscured, and the numerals and letters thereon shall be plainly legible at all times. They shall be kept horizontal, shall be so fastened as not to swing, excepting, however, there may be installed on a motor truck or truck tractor a device that would, upon contact with a substantial object, permit the rear number plate to swing toward the front of the vehicle, provided such device automatically returns the number plate to its original rigid position after contact is released, and the ground clearance of the lower edges thereof shall be established by the Commissioner pursuant to the provisions of 3 V.S.A. chapter 25.

(b) ~~Validation sticker. A registration validation sticker shall be unobstructed and shall be affixed as follows:~~

~~(1) for vehicles issued registration plates with dimensions of approximately 12 x 6 inches, in the lower right corner of the rear registration plate; and~~

~~(2) for vehicles issued a registration plate with a dimension of approximately 7 x 4 inches, in the upper right corner of the rear registration plate.~~ [Repealed.]

(c) Violation. A person shall not operate a motor vehicle unless a number plate or number plates ~~and a validation sticker~~ are displayed as provided in this section.

(d) ~~Failure to display a validation sticker. An operator cited for violating subsection (c) of this section with respect to failure to display a validation sticker on a pleasure car, motorcycle, or truck that could be registered for less than 26,001 pounds shall be subject to a civil penalty of not more than $5.00, which penalty shall be exempt from surcharges under 13 V.S.A. § 7282(a), if he or she is cited within the 14 days following the expiration of the motor vehicle's registration.~~ [Repealed.]

* * *

Sec. 14. VALIDATION STICKER REQUIREMENTS IN RULE

(a) Registration and Operation of Snowmobiles, Approved Helmets and VAST Snowmobile Registrations.

(1) Notwithstanding Department of Motor Vehicles, Registration and Operation of Snowmobiles, Approved Helmets and VAST Snowmobile Registrations (CVR 14-050-027), Secs. I(3)(a) and III:

(A) the Department of Motor Vehicles shall not issue temporary and permanent validation stickers, temporary and permanent validating stickers, or "S" stickers;

(B) operators of snowmobiles shall not be required to display temporary or permanent validation stickers, temporary or permanent validating stickers, or "S" stickers; and

(C) the Vermont Association of Snow Travelers (VAST) shall not be required to maintain a log of "S" stickers or have unused registration "S" stickers available for inspection in Department of Motor Vehicles audits, nor shall VAST agents be eligible to issue "S" stickers.

(2) The Department of Motor Vehicles shall amend the Approved Helmets and VAST Snowmobile Registrations rule to eliminate requirements related to temporary and permanent validation stickers, temporary and permanent validating stickers, and "S" stickers the next time the rule is amended pursuant to 3 V.S.A. chapter 25.

(b) Vermont Dealer Licensing and Schedule of Penalties and Suspension.

(1) Notwithstanding Department of Motor Vehicles, Vermont Dealer Licensing and Schedule of Penalties and Suspension (CVR 14-050-050), Sec. VI(j), there shall not be an administrative penalty assessed for a dealer failing to display a validation sticker on a dealer's registration plate.

(2) The Department of Motor Vehicles shall amend the Vermont Dealer Licensing and Schedule of Penalties and Suspension rule to eliminate the administrative penalty for a dealer failing to display a validation sticker on a dealer's registration plate the next time the rule is amended pursuant to 3 V.S.A. chapter 25.

* * * Electronic Proof of Registration * * *

Sec. 15. 23 V.S.A. § 307 is amended to read:

§ 307. CARRYING OF REGISTRATION CERTIFICATE; REPLACEMENT AND CORRECTED CERTIFICATES

(a) ~~A person~~ An individual shall not operate a motor vehicle nor draw a trailer or semi-trailer unless all required registration certificates are carried in some easily accessible place in the motor vehicle or electronically on a portable electronic device; however, use of a device for this purpose does not in itself constitute consent for an enforcement officer to access other contents of the device.

* * *

(d)(1) An operator cited for violating subsection (a) of this section shall not be convicted if the operator sends a copy of or produces to the issuing enforcement agency within seven business days after the traffic stop proof of a valid registration certificate that was in effect at the time of the traffic stop.

(2) An operator cited for violating subsection (a) of this section with respect to a pleasure car, motorcycle, or truck that could be registered for less than 26,001 pounds shall be subject to a civil penalty of not more than $5.00, which penalty shall be exempt from surcharges under 13 V.S.A. § 7282(a), if ~~he or she~~ the operator is cited within the 14 days following the expiration of the motor vehicle's registration.

* * * Registration Fees; Plug-In Electric Vehicles * * *

Sec. 16. 23 V.S.A. § 361 is amended to read:

§ 361. PLEASURE CARS

The annual registration fee for ~~registration of any motor vehicle of the~~ a pleasure car ~~type, and all vehicles powered by electricity~~ as defined in subdivision 4(28) of this title, and including a pleasure car that is a plug-in

electric vehicle, as defined in subdivision 4(85) of this title, shall be $74.00~~,~~ and the biennial fee shall be $136.00.

Sec. 17. 23 V.S.A. § 362 is amended to read:

§ 362. SPECIALIZED FUEL MOTOR VEHICLES AND MOTOR BUSES

(a) The annual registration fee for ~~the registration of~~ any ~~"~~specialized fuel driven motor vehicle~~",~~ as defined in ~~section~~ subdivision 4(22) of this title, and of motor buses, as defined in section 3002 of this title, shall be one and three-quarters times the amount of the annual fee provided for a motor vehicle of the classification and weight under the terms of this chapter.

(b) Notwithstanding subsection (a) of this section, the annual and biennial registration fees for a pleasure car, as defined in subdivision 4(28) of this title, that is a plug-in electric vehicle, as defined in subdivision 4(85) of this title, shall be determined pursuant to section 361 of this chapter, and the annual registration fee for a motorcycle, as defined in subdivision 4(18)(A) of this title, that is a plug-in electric vehicle, as defined in subdivision 4(85) of this title, shall be determined pursuant to section 364 of this chapter.

* * * Distracted Driving; Hands-Free Use * * *

Sec. 18. 23 V.S.A. § 1095b is amended to read:

§ 1095b. HANDHELD USE OF PORTABLE ELECTRONIC DEVICE PROHIBITED

(a) ~~Definition~~ Definitions. As used in this section~~, "hands-free~~:

(1) "Hands-free use" means the use of a portable electronic device without ~~use of~~ utilizing either hand by employing an internal feature of, or an attachment to, the device or a motor vehicle.

(2) "Public highway" means a State or municipal highway as defined in 19 V.S.A. § 1(12).

(3) "Securely mounted" means the portable electronic device is placed in an accessory specifically designed or built to support the hands-free use of a portable electronic device that is not affixed to the windshield in violation of section 1125 of this title and either:

(A) is utilized in accordance with manufacturer specifications; or

(B) causes the portable electronic device to remain completely stationary under typical driving conditions.

(4) "Use" means the use of a portable electronic device in any way that is not a hands-free use, including an operator of a motor vehicle holding a

portable electronic device in the operator's hand or hands while operating a motor vehicle.

(b) Use of handheld portable electronic device prohibited.

(1) An individual shall not use a portable electronic device while operating:

(A) a moving motor vehicle in a place open temporarily or permanently to public or general circulation of vehicles.; or

~~(2) In addition, an individual shall not use a portable electronic device while operating~~

(B) a motor vehicle on a public highway in Vermont, including while the vehicle is stationary, ~~unless otherwise provided in this section. As used in this subdivision (b)(2):~~

~~(A) "Public highway" means a State or municipal highway as defined in 19 V.S.A. § 1(12).~~

~~(B) "Operating" means operating a motor vehicle on a public highway, including while temporarily stationary because of traffic, a traffic control device, or other temporary delays. "Operating" does not include operating a motor vehicle with or without the motor running when the operator has moved the vehicle to the side of or off the public highway and has halted in a location where the vehicle can safely and lawfully remain stationary~~ including while temporarily stationary because of traffic, a traffic control device, or other temporary delays.

~~(3)~~(2) The prohibitions of this subsection shall not apply:

(A) ~~To~~ to hands-free use.;

(B) ~~To~~ to activation or deactivation of hands-free use, ~~as long as any accessory for securely mounting the device is not affixed to the windshield in violation of section 1125 of this title.~~ provided the portable electronic device is securely mounted or the activation or deactivation is done through an internal feature of the device or the motor vehicle being operated and without the operator utilizing either hand to hold the portable electronic device;

(C) ~~When~~ when use of a portable electronic device is necessary for an individual to communicate with law enforcement or emergency service personnel under emergency circumstances or in response to a direction or order from law enforcement.;

(D) ~~To~~ to use of an ignition interlock device, as defined in section 1200 of this title.;

(E) ~~To~~ to use of a global positioning or navigation system if it is installed by the manufacturer or securely mounted in the vehicle ~~in a manner that does not violate section 1125 of this title. As used in this subdivision (b)(3)(E), "securely mounted" means the device is placed in an accessory or location in the vehicle, other than the operator's hands, where the device will remain stationary under typical driving conditions~~; or

(F) when the operator has moved the motor vehicle to the side of or off the public highway and has halted, with or without the motor running, in a location where the vehicle can safely and lawfully remain stationary.

* * *

* * * Total Abstinence Program * * *

Sec. 19. 23 V.S.A. § 1209a is amended to read:

§ 1209a. CONDITIONS OF REINSTATEMENT; ALCOHOL AND DRIVING EDUCATION; SCREENING; THERAPY PROGRAMS

(a) Conditions of reinstatement. No license or privilege to operate suspended or revoked under this subchapter, except a license or privilege to operate suspended under section 1216 of this title, shall be reinstated except as follows:

(1) In the case of a first suspension, a license or privilege to operate shall be reinstated only:

(A) after the ~~person~~ individual has successfully completed the Alcohol and Driving Education Program, at the ~~person's~~ individual's own expense, followed by an assessment of the need for further treatment by a State-designated counselor, at the ~~person's~~ individual's own expense, to determine whether reinstatement should be further conditioned on satisfactory completion of a therapy program agreed to by the ~~person~~ individual and the Drinking Driver Rehabilitation Program Director;

(B) if the screening indicates that therapy is needed, after the ~~person~~ individual has satisfactorily completed or shown substantial progress in completing a therapy program at the ~~person's~~ individual's own expense agreed to by the ~~person~~ individual and the Driver Rehabilitation Program Director;

(C) if the ~~person~~ individual elects to operate under an ignition interlock RDL or ignition interlock certificate, after the ~~person~~ individual operates under the RDL or certificate for the applicable period set forth in subsection 1205(a) or section 1206 of this title, plus any extension of this period arising from a violation of section 1213 of this title; and

(D) if the ~~person~~ individual has no pending criminal charges, civil

citations, or unpaid fines or penalties for a violation under this chapter.

(2) In the case of a second suspension, a license or privilege to operate shall not be reinstated until:

(A) the ~~person~~ individual has successfully completed an alcohol and driving rehabilitation program;

(B) the ~~person~~ individual has completed or shown substantial progress in completing a therapy program at the ~~person's~~ individual's own expense agreed to by the ~~person~~ individual and the Driver Rehabilitation Program Director;

(C) after the ~~person~~ individual operates under an ignition interlock RDL or ignition interlock certificate for 18 months or, in the case of ~~a person~~ someone subject to the one-year hard suspension prescribed in subdivision 1213(a)(1)(C) of this title, for one year, plus any extension of the relevant period arising from a violation of section 1213 of this title, except if otherwise provided in subdivision (4) of this subsection (a); and

(D) the ~~person~~ individual has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(3) In the case of a third or subsequent suspension or a revocation, a license or privilege to operate shall not be reinstated until:

(A) the ~~person~~ individual has successfully completed an alcohol and driving rehabilitation program;

(B) the ~~person~~ individual has completed or shown substantial progress in completing a therapy program at the ~~person's~~ individual's own expense agreed to by the ~~person~~ individual and the Driver Rehabilitation Program Director;

(C) the ~~person~~ individual has satisfied the requirements of subsection (b) of this section; and

(D) the ~~person~~ individual has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(4) The Commissioner shall waive a requirement under subdivision (2) of this subsection or subsection (b) of this section that ~~a person~~ an individual operate under an ignition interlock RDL or certificate prior to eligibility for reinstatement if:

(A) the ~~person~~ individual furnishes sufficient proof as prescribed by the Commissioner that ~~he or she~~ the individual is incapable of using an ignition interlock device because of a medical condition that will persist

permanently or at least for the term of the suspension or, in the case of suspensions or revocations for life, for a period of at least three years; or

(B) the underlying offenses arose solely from being under the influence of a drug other than alcohol.

(b) Total Abstinence Program.

(1) As used in this subsection:

(A) "Drug" means:

(i) a regulated drug, as defined in 18 V.S.A. § 4201, that is used in any way other than as prescribed for a legitimate medical use in conformity with instructions from the prescriber; or

(ii) any substance or combination of substances, other than alcohol or a regulated drug, that potentially affects the nervous system, brain, or muscles of an individual so as to impair an individual's ability to drive a vehicle safely to the slightest degree.

(B) "Total abstinence" means refraining from consuming any amount of alcohol or drugs at any time, regardless of whether the alcohol or drugs are consumed by an individual when attempting to operate, operating, or in actual physical control of a vehicle.

(2)(A) Notwithstanding any other provision of this subchapter, ~~a person~~ an individual whose license or privilege to operate has been suspended or revoked for life under this subchapter may apply to the Commissioner for reinstatement of ~~his or her~~ the individual's driving privilege if the individual satisfies the requirements set forth in subdivision (3) of this subsection (b). ~~The person shall have completed three years of total abstinence from consumption of alcohol and nonprescription regulated drugs. The use of a regulated drug in accordance with a valid prescription shall not disqualify an applicant for reinstatement of his or her driving privileges unless the applicant used the regulated drug in a manner inconsistent with the prescription label.~~

(B) The beginning date for the period of total abstinence shall be not earlier than the effective date of the suspension or revocation from which the ~~person~~ individual is requesting reinstatement and shall not include any period during which the ~~person~~ individual is serving a sentence of incarceration to include furlough. The application shall include the applicant's authorization for a urinalysis examination, or another examination if it is approved as a preliminary screening test under this subchapter, to be conducted prior to reinstatement under this subdivision (2). The application to the Commissioner shall be accompanied by a fee of $500.00. The Commissioner shall have the discretion to waive the application fee if the Commissioner determines that

payment of the fee would present a hardship to the applicant.

~~(2)~~(3) If the Commissioner or a medical review board convened by the Commissioner is satisfied by a preponderance of the evidence that the applicant has ~~abstained for the required number of years~~ maintained total abstinence for the three years immediately preceding the application, has successfully completed a therapy program as required under this section, and has operated under a valid ignition interlock RDL or under an ignition interlock certificate for at least three years following the suspension or revocation, and the ~~person~~ applicant provides a written acknowledgment that ~~he or she cannot drink any amount of alcohol at all and cannot consume nonprescription regulated drugs under any circumstances~~ the applicant must maintain total abstinence at all times while participating in the Total Abstinence Program, the ~~person's~~ applicant's license or privilege to operate shall be reinstated immediately, subject to the condition that the ~~person's~~ applicant's suspension or revocation will be put back in effect in the event any further investigation reveals a ~~return to the consumption of alcohol or drugs~~ failure to maintain total abstinence and to ~~such~~ any additional conditions as the Commissioner may impose to advance the public interest in public safety. The requirement to operate under an ignition interlock RDL or ignition interlock certificate shall not apply if the ~~person~~ applicant is exempt under subdivision (a)(4) of this section.

~~(3)~~(4) If after notice and an opportunity for a hearing the Commissioner later finds that the ~~person~~ individual was violating the conditions of the ~~person's~~ individual's reinstatement under this subsection, the ~~person's~~ individual's operating license or privilege to operate shall be immediately suspended or revoked for life.

~~(4)~~(5) If the Commissioner finds that ~~a person~~ an individual reinstated under this subsection is suspended pursuant to section 1205 of this title or is convicted of a violation of section 1201 of this title subsequent to reinstatement under this subsection, the ~~person~~ individual shall be conclusively presumed to be in violation of the conditions of ~~his or her~~ the reinstatement.

~~(5)~~(6) ~~A person~~ An individual shall be eligible for reinstatement under this subsection only once following a suspension or revocation for life.

~~(6)~~(7)(A) If an applicant for reinstatement under this subsection (b) resides in a jurisdiction other than Vermont, the Commissioner may elect not to conduct an investigation. If the Commissioner elects not to conduct an investigation, ~~he or she~~ the Commissioner shall provide a letter to the applicant's jurisdiction of residence stating that Vermont does not object to the jurisdiction issuing the applicant a license if the applicant is required to operate

only vehicles equipped with an ignition interlock device for at least a three-year period, unless exempt under subdivision (a)(4) of this section, and is required to complete any alcohol rehabilitation or treatment requirements of the licensing jurisdiction.

(B) If the applicant's jurisdiction of residence is prepared to issue or has issued a license in accordance with subdivision (A) of this subdivision (6) and the applicant satisfies the requirements of section 675 of this title, the Commissioner shall update relevant State and federal databases to reflect that the applicant's lifetime suspension or revocation in Vermont under chapter 13, subchapter 13 of this title has terminated.

(c) Screening and therapy programs. In the case of a second or subsequent suspension, the Commissioner shall notify the ~~person that he or she is required~~ individual of the requirement to enroll in the alcohol and driving education screening and therapy program provided for in this section within 30 days ~~of~~ after license suspension. If the ~~person~~ individual fails to enroll or fails to remain so enrolled until completion, the Drinking Driver Rehabilitation Program shall report such failure to the sentencing court. The court may order the ~~person~~ individual to appear and show cause why ~~he or she~~ the individual failed to comply.

(d) Judicial review. ~~A person~~ An individual aggrieved by a decision of a designated counselor under this section may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

* * *

Sec. 20. CURRENT TOTAL ABSTINENCE PROGRAM PARTICIPANTS

(a) Not later than September 1, 2023, the Commissioner of Motor Vehicles shall provide written notice to all individuals participating in or applying to participate in the Total Abstinence Program as of the effective date of this section of amendments to 23 V.S.A. § 1209a and that, as of the effective date of this section, they must maintain total abstinence, as defined in 23 V.S.A. § 1209a(b)(1) as amended by Sec. 19 of this act, at all times while participating in or applying to participate in the Total Abstinence Program. Notice shall be mailed to an individual's residence or mailing address as currently listed with the Department of Motor Vehicles.

(b) Notwithstanding any provision of law to the contrary, the license or privilege to operate of an individual participating in the Total Abstinence Program on the effective date of this section may be suspended or revoked for life in accordance with 23 V.S.A. § 1209a(b)(3), as amended by Sec. 19 of this act, in the event that any further investigation reveals a failure to maintain total

abstinence, as defined in 23 V.S.A. § 1209a(b)(1) as amended by Sec. 19 of this act.

* * * Overweight Permits * * *

Sec. 21. 23 V.S.A. § 1392 is amended to read:

§ 1392. GROSS WEIGHT LIMITS ON HIGHWAYS

Except as provided in section 1400 of this title, a person or corporation shall not operate or cause to be operated a motor vehicle in excess of the total weight, including vehicle, object, or contrivance and load, of:

* * *

(3) No vehicle may exceed a gross weight in excess of 80,000 pounds unless the operator or owner of the vehicle has complied with the provisions of section 1400 of this title or except as otherwise provided in this section.

* * *

(13) Despite the axle-load provisions of section 1391 of this title and the maximum gross load of subdivision (4) of this section, a special annual permit, which shall expire with the vehicle's registration, except for vehicles not registered in Vermont in which case the permit shall become void on January 1 following date of issue, may be issued to a person ~~or corporation~~ operating on designated routes on the State Highway System for a fee of ~~$415.00~~ $382.00 for each vehicle ~~that must be~~ registered for a weight of 80,000 pounds. This special permit shall be issued only for a combination of vehicle and semi-trailer or trailer equipped with five or more axles, with a distance between axles that meets the minimum requirements of registering the vehicle to 80,000 pounds as allowed under subdivision (4) of this section. The maximum gross load under this special permit shall be 90,000 pounds. Unless authorized by federal law, this subdivision shall not apply to operation on the Dwight D. Eisenhower National System of Interstate and Defense Highways.

(14) Despite the axle-load provisions of section 1391 of this title and the axle spacing and maximum gross load provisions of subdivision (4) of this section, a special annual permit, which shall expire with the vehicle's registration, except for vehicles not registered in Vermont in which case the permit shall become void on January 1 following date of issue, may be issued to a person ~~or corporation~~ transporting loads on vehicles on designated routes on the State Highway System for the following fees for each vehicle unit. Unless authorized by federal law, the provisions of this subdivision regarding weight limits~~,~~ or tolerances, or both, shall not apply to operation on the Dwight D. Eisenhower National System of Interstate and Defense Highways. This special permit shall be issued for the following vehicles and conditions:

* * *

(16) Notwithstanding the axle load provisions of section 1391 of this title and the maximum gross load of subdivision (4) of this section, a five or more axle truck tractor, semi-trailer combination, or truck trailer combination, when the load consists solely of unprocessed milk products as defined in subdivision 4(55) of this title, may be registered for and operated with a maximum gross weight of 90,000 pounds on State highways without permit and upon posted State and town highways ~~and those highways designated as the Dwight D. Eisenhower National System of Interstate and Defense Highways~~ when the vehicle has been issued a permit in compliance with the provisions of section 1400 of this title; however:

(A) Vehicles operated pursuant to this subdivision (16) shall be subject to the same axle spacing restrictions as are applied to five or more axle vehicles registered to 80,000 pounds as set forth in subdivision (4) of this section.

(B) ~~On those highways designated as the Dwight D. Eisenhower National System of Interstate and Defense Highways, the provisions of subsection 1391(c) of this title shall apply unless other axle load limits, tolerances, or both, are authorized under federal law.~~ Unless prohibited by federal law, the provisions of this subdivision (16) shall apply to operation on the Dwight D. Eisenhower National System of Interstate and Defense Highways.

(C) ~~The fee for the annual permit as provided in this subdivision (16) shall be $10.00 when the fee has been paid to register the vehicle for 90,000 pounds or $382.00 when the vehicle is registered for 80,000 pounds.~~ [Repealed.]

(17) Notwithstanding the gross vehicle weight provisions of subdivision (4) of this section, a truck trailer combination or truck tractor, semi-trailer combination with six or more load-bearing axles registered for 80,000 pounds shall be allowed to bear a maximum of 99,000 pounds by special annual permit, which shall expire with the vehicle's registration, except for vehicles not registered in Vermont in which case the permit shall become void on January 1 following the date of issue, for operating on designated routes on State and town highways, subject to the following:

(A) The combination of vehicles must have, as a minimum, a distance of 51 feet between extreme axles.

(B) The axle weight provisions of section 1391 of this title and ~~subdivision 1392~~ the axle weight provisions of subdivisions (6)(A)–(D) of this

section shall also apply to vehicles permitted under this subdivision (17).

(C) When determining the ~~fine~~ civil penalty for a gross overweight violation of this subdivision (17), the ~~fine~~ civil penalty for any portion of the first 10,000 pounds over the permitted weight shall be the same as provided in section 1391a of this title, and for overweight violations 10,001 pounds or more over the permitted weight, the ~~fine~~ civil penalty schedule provided in section 1391a shall be doubled.

(D) The weight permitted by this subdivision (17) shall be allowed for foreign trucks that are registered or permitted for 99,000 pounds in a state or province that recognizes Vermont vehicles for weights consistent with this subdivision (17).

(E) Unless authorized by federal law, the provisions of this subdivision (17) shall not apply to operation on the Dwight D. Eisenhower National System of Interstate and Defense Highways.

(F) The fee for the annual permit as provided in this subdivision (17) shall be ~~$415.00~~ $382.00 for vehicles bearing up to 90,000 pounds and $560.00 for vehicles bearing up to 99,000 pounds.

* * *

(19)(A) A person issued a permit under the provisions of subdivision (13), (14), ~~(16),~~ or (17) of this section, and upon payment of a $10.00 administrative fee for each additional permit, may obtain additional permits for the same vehicle, provided the additional permit is for a lesser weight and provided the vehicle or combination of vehicles meets the minimum requirements for the permit sought as set forth in this section.

* * *

Sec. 22. [Deleted.]

* * * Electronic Permits * * *

Sec. 23. 23 V.S.A. § 1392 is amended to read:

§ 1392. GROSS WEIGHT LIMITS ON HIGHWAYS

Except as provided in section 1400 of this title, a person ~~or corporation~~ shall not operate or cause to be operated a motor vehicle in excess of the total weight, including vehicle, object, or contrivance and load, of:

* * *

(21) ~~All permits issued pursuant to this section shall be carried in the vehicle. The fine for violation of this subdivision shall be $150.00. A~~

~~violation of this subdivision shall be considered an offense separate from an overweight violation.~~ [Repealed.]

Sec. 24. 23 V.S.A. § 1455 is added to read:

§ 1455. CARRYING OF PERMITS IN THE PERMITTED MOTOR VEHICLE

All permits issued pursuant to this subchapter shall be carried in the motor vehicle in either paper or electronic form. Use of a portable electronic device to display an electronic permit does not in itself constitute consent for an enforcement officer to access other contents of the device. The civil penalty for violation of this section shall be $150.00. A violation of this section shall be considered an offense separate from any other related violations.

* * * Title * * *

* * * Prospective Elimination of 15-Year Limitation; Electronic Title * * *

Sec. 25. 23 V.S.A. § 2012 is amended to read:

§ 2012. EXEMPTED VEHICLES

No certificate of title need be obtained for:

* * *

(10) a vehicle that is more than 15 years old on January 1, 2024.

Sec. 26. 23 V.S.A. § 2013 is amended to read:

§ 2013. WHEN CERTIFICATE REQUIRED~~; ISSUANCE OF EXEMPT VEHICLE TITLE UPON REQUEST~~

(a)(1) Except as provided in section 2012 of this title, the provisions of this chapter shall apply to and a title must be obtained for all motor vehicles at the time of first registration or when a change of registration is required under the provisions of section 321 of this title by reason of a sale for consideration.

(2) ~~In addition, a Vermont resident may apply at any time to the Commissioner to obtain an "exempt vehicle title" for a vehicle that is more than 15 years old. Such titles shall be in a form prescribed by the Commissioner and shall include a legend indicating that the title is issued under the authority of this subdivision. The Commissioner shall issue an exempt vehicle title if the applicant pays the applicable fee and fulfills the requirements of this section, and if the Commissioner is satisfied that:~~

~~(A) the applicant is the owner of the vehicle;~~

~~(B) the applicant is a Vermont resident; and~~

~~(C) the vehicle is not subject to any liens or encumbrances.~~ [Repealed.]

(3) ~~Prior to issuing an exempt vehicle title pursuant to subdivision (2) of this subsection, the Commissioner shall require all of the following:~~

~~(A) The applicant to furnish one of the following proofs of ownership, in order of preference:~~

~~(i) a previous Vermont or out-of-state title indicating the applicant's ownership;~~

~~(ii) an original or a certified copy of a previous Vermont or out-of-state registration indicating the applicant's ownership;~~

~~(iii) sufficient evidence of ownership as determined by the Commissioner, including bills of sale or original receipts for major components of homebuilt vehicles; or~~

~~(iv) a notarized affidavit certifying that the applicant is the owner of the vehicle and is unable to produce the proofs listed in subdivisions (i) (iii) of this subdivision (3)(A) despite reasonable efforts to do so.~~

~~(B) A notarized affidavit certifying:~~

~~(i) the date the applicant purchased or otherwise took ownership of the vehicle;~~

~~(ii) the name and address of the seller or transferor, if known;~~

~~(iii) that the applicant is a Vermont resident; and~~

~~(iv) that the vehicle is not subject to any liens or encumbrances.~~

~~(C) Assignment of a new vehicle identification number pursuant to section 2003 of this title, if the vehicle does not have one.~~ [Repealed.]

* * *

Sec. 27. 23 V.S.A. § 2017 is amended to read:

§ 2017. ISSUANCE OF CERTIFICATE; RECORDS

(a) The Commissioner shall file each application received and, when satisfied as to its genuineness and regularity and that the applicant is entitled to the issuance of a certificate of title, shall issue a certificate of title of the vehicle, without regard to the age of the vehicle.

(b) The Commissioner may issue an electronic certificate of title, provided that the applicant is entitled to the issuance of the certificate of title pursuant to subsection (a) of this section.

(c) The Commissioner shall maintain ~~at his or her central office~~ a record of all certificates of title issued ~~by him or her for vehicles 15 years old and newer,~~ and of all exempt vehicle titles issued ~~by him or her,~~ under a distinctive title number assigned to the vehicle; under the identification number of the vehicle; alphabetically, under the name of the owner; and, in the discretion of the Commissioner, by any other method ~~he or she~~ the Commissioner determines. The original records may be maintained on microfilm or electronic imaging.

Sec. 28. 23 V.S.A. § 2091(a) is amended to read:

(a) Except for vehicles for which no certificate of title is required pursuant to section 2012 of this title ~~and for vehicles that are more than 15 years old~~, any person who purchases or in any manner acquires a vehicle as salvage; any person who scraps, dismantles, or destroys a motor vehicle; or any insurance company or representative thereof who declares a motor vehicle to be a total loss, shall apply to the Commissioner for a salvage certificate of title within 15 days ~~of~~ after the time the vehicle is purchased or otherwise acquired as salvage; is scrapped, dismantled, or destroyed; or is declared a total loss. However, an insurance company or representative thereof proceeding under subsection (c) of this section may apply outside this 15-day window to the extent necessary to comply with the requirements of that subsection.

* * * Nonresident Title * * *

Sec. 29. 23 V.S.A. § 2020 is amended to read:

§ 2020. WITHHOLDING OF CERTIFICATE; BOND REQUIRED

If the Commissioner is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, the Commissioner may register the vehicle but shall either:

(1) Withhold issuance of a certificate of title until the applicant presents documents reasonably sufficient to satisfy the Commissioner as to the applicant's ownership of the vehicle and that there are no undisclosed security interests in it~~; or~~.

(2) As a condition of issuing a certificate of title, require ~~the~~ an applicant who is a Vermont resident to file with the Commissioner a bond in the form prescribed by the Commissioner and executed by the applicant, and either accompanied by the deposit of cash with the Commissioner or also executed by a person authorized to conduct a surety business in this State. The bond shall be in an amount equal to one and one-half times the value of the vehicle as determined by the Commissioner and conditioned to indemnify any prior owner and lienholder and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in

interest, against any expense, loss, or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of title of the vehicle or on account of any defect in or undisclosed security interest upon the right, title, and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, and any deposit accompanying it, shall be returned at the end of three years or earlier if the vehicle is no longer registered in this State and the currently valid certificate of title is surrendered to the Commissioner, unless the Commissioner has been notified of the pendency of an action to recover on the bond. The Commissioner shall not issue titles to nonresidents under the provisions of this subdivision.

* * * Towing; Abandoned Vehicles * * *

Sec. 30. 23 V.S.A. § 4(88) is added to read:

(88) "Towing business" means a person that regularly engages in one or more of the following: recovery, impoundment, transport, storage, or disposal of motor vehicles.

Sec. 31. 23 V.S.A. § 2151 is amended to read:

§ 2151. DEFINITIONS

As used in this subchapter:

(1)(A) "Abandoned motor vehicle" means:

(i) a motor vehicle that has remained on public or private property or on or along a highway for more than 48 hours without the consent of the owner or person in control of the property and has a valid registration plate or public vehicle identification number that has not been removed, destroyed, or altered; or

(ii) a motor vehicle that has remained on public or private property or on or along a highway without the consent of the owner or person in control of the property for any period of time if:

(I) the vehicle does not have a valid registration plate or the public vehicle identification number has been removed, destroyed, or altered; or

(II) a law enforcement officer has requested that the vehicle be removed by a towing business.

(B) "Abandoned motor vehicle" does not include a vehicle or other equipment used or to be used in construction or in the operation or

maintenance of highways or public utility facilities, which is left in a manner that does not interfere with the normal movement of traffic.

(2) "Landowner" means a person who owns or leases or otherwise has authority to control use of real property.

(3) "Law enforcement officer" means a State Police officer, municipal police officer, motor vehicle inspector, Capitol Police officer, constable, sheriff, or deputy sheriff certified by the Vermont Criminal Justice Council under 20 V.S.A. § 2358.

(4) "Motor vehicle" means all vehicles propelled or drawn by power other than muscular power that have, or could have, one or more of the following:

(A) a registration plate, registration decal, or certificate of number;

(B) a public vehicle identification number; or

(C) a certificate of title.

~~(3)~~(5) "Public vehicle identification number" means the public vehicle identification number that is usually visible through the windshield and attached to the driver's side of the dashboard, instrument panel, or windshield pillar post or on the doorjamb on the driver's side of the vehicle.

Sec. 32. 23 V.S.A. § 2153(a) is amended to read:

(a) A landowner on whose property an abandoned motor vehicle ~~is located~~ was discovered or has been relocated to shall apply to the Department for an abandoned motor vehicle certification on forms supplied by the Department within ~~30~~ 90 days ~~of~~ after the date the vehicle was discovered ~~on or brought to the property unless the vehicle has been removed from the property~~ or relocated. An abandoned motor vehicle certification form shall indicate the date that the abandoned motor vehicle was discovered or ~~brought to the property~~ relocated; the make, color, model, and location of the vehicle; the name, address, and telephone number of the landowner of the property where the vehicle is currently located; and a certification of the public vehicle identification number, if any, ~~to be recorded~~ prepared by a law enforcement officer, licensed dealer, or inspection station designated by the Commissioner of Motor Vehicles. This subsection shall not be construed as creating a private right of action against the landowner of the property where an abandoned motor vehicle is located.

Sec. 33. 23 V.S.A. § 2158 is amended to read:

§ 2158. FEES FOR TOWING; PUBLIC PROPERTY; FUNDING

(a) A towing service may charge a fee of up to ~~$40.00~~ $125.00 for towing an abandoned motor vehicle from public property under the provisions of sections 2151–2157 of this ~~title~~ subchapter. This fee shall be paid to the towing service upon the issuance by the Department of Motor Vehicles of a certificate of abandoned motor vehicles under section 2156 of this title. The Commissioner of Motor Vehicles shall notify the Commissioner of Finance and Management who shall issue payment to the towing service for vehicles removed from public property. ~~Payments under this section shall terminate upon the payment of a total of $16,000.00 for towing abandoned motor vehicles from public property in any fiscal year. A towing company shall not be eligible for more than 50 percent of this annual allocation.~~

(b) ~~The Commissioner of Motor Vehicles is authorized to expend up to $16,000.00 of the Department's annual appropriation for the purpose of this section.~~ [Repealed.]

Sec. 34. REPORTS ON AMOUNT PAID BY STATE FOR TOWING ABANDONED MOTOR VEHICLES FROM PUBLIC PROPERTY

(a) The Department of Motor Vehicles shall provide an oral report on the following to the House and Senate Committees on Transportation on or before February 15, 2024:

(1) the amount paid by the State pursuant to 23 V.S.A. § 2158 during the first six months of fiscal year 2024; and

(2) a summary of any changes to Department processes related to the payment for the towing of abandoned motor vehicles from public property that were implemented after May 1, 2023.

(b) The Department of Motor Vehicles shall file a written report on the following with the House and Senate Committees on Transportation on or before December 15, 2025:

(1) the amount paid by the State pursuant to 23 V.S.A. § 2158 during fiscal year 2024;

(2) the amount paid by the State pursuant to 23 V.S.A. § 2158 during fiscal year 2025;

(3) a summary of any changes to Department processes related to the payment for the towing of abandoned motor vehicles from public property that were implemented after May 1, 2023; and

(4) any recommendations on changes to State statute related to the towing of abandoned motor vehicles from public property.

Sec. 35. TOWING WORKING GROUP; REPORT

(a) The Office of the Attorney General, in consultation with the Department of Financial Regulation, the Department of Motor Vehicles, the Office of Professional Regulation, and the Office of the Vermont State Treasurer, shall engage in a working group process to study vehicle towing practices in the State of Vermont.

(b) The working group process shall include stakeholder engagement and at least one public hearing. The following shall be invited to participate as a stakeholder:

(1) AAA Northern New England;

(2) Associated General Contractors of Vermont;

(3) Association of Vermont Credit Unions;

(4) Vermont Bankers Association;

(5) Vermont Insurance Agents Association;

(6) Vermont League of Cities and Towns;

(7) Vermont Legal Aid;

(8) Vermont Towing Association;

(9) Vermont Truck and Bus Association;

(10) Vermont Public Interest Research Group; and

(11) any other persons identified by the Office of the Attorney General.

(c) The study shall, at a minimum, address:

(1) pricing of pleasure car and commercial vehicle towing and recovery, including from State and town highways that are restricted based on motor vehicle size;

(2) crash site remediation, including costs borne by towing companies;

(3) storage practices, including:

(A) pricing;

(B) vehicle access for removal of personal belongings; and

(C) vehicle access for removal of cargo;

(4) practices relating to abandonment or suspected abandonment when necessary or appropriate;

(5) any applicable recommendations for amendments to State statute;

(6) best practices from other states; and

(7) any other information that the Office of the Attorney General deems pertinent to the study.

(d) The Attorney General shall file a written report on the study, including any recommendations it deems appropriate, with the House Committees on Commerce and Economic Development, on Government Operations and Military Affairs, and on Transportation and the Senate Committees on Economic Development, Housing and General Affairs, on Finance, on Government Operations, and on Transportation on or before December 15, 2023.

* * * Proof of Liability Insurance; Snowmobiles * * *

Sec. 36. 23 V.S.A. § 3206(b) is amended to read:

(b) A snowmobile shall not be operated:

* * *

(19) Without carrying proof of liability insurance as described in this subdivision. No owner or operator of a snowmobile shall operate or permit the operation of the snowmobile on the Statewide Snowmobile Trail System or public right of way, except on the property of the owner, without having in effect a liability policy or bond in the amounts of at least $25,000.00 for one person and $50,000.00 for two or more persons killed or injured and $10,000.00 for damages to property in any one crash. In lieu thereof, evidence of self-insurance in the amount of $115,000.00 must be filed with the Commissioner. Such financial responsibility shall be maintained and evidenced in a form prescribed by the Commissioner. The standards and process established in subsection 801(c) of this title shall be adopted. An operator may prove financial responsibility using a portable electronic device; however, use of a device for this purpose does not in itself constitute consent for an enforcement officer to access other contents of the device. An operator cited for violating this subsection shall not be convicted if the operator sends or produces to the issuing enforcement agency within seven business days after the traffic stop proof of financial responsibility that was in effect at the time of the traffic stop.

* * *

* * * Commercial Driver's License; Federal Motor Carrier Safety Administration Drug and Alcohol Clearinghouse * * *

Sec. 37. 23 V.S.A. § 4108 is amended to read:

§ 4108. COMMERCIAL DRIVER'S LICENSE, COMMERCIAL

LEARNER'S PERMIT QUALIFICATION STANDARDS

(a) Before issuing a commercial driver's license or commercial learner's permit, the Commissioner shall request the applicant's complete operating record from any state in which the applicant was previously licensed to operate any type of motor vehicle in the past 10 years and conduct a check of the applicant's operating record by querying the National Driver Register established under 49 U.S.C. § 30302 ~~and~~, the Commercial Driver's License Information System established under 49 U.S.C. § 31309, and the Commercial Driver's License Drug and Alcohol Clearinghouse established under 49 C.F.R. Part 382, Subpart G and required pursuant to 49 C.F.R. § 382.725 to determine if:

(1) the applicant has already been issued a commercial driver's license;

(2) the applicant's commercial driver's license has been suspended, revoked, or canceled; ~~or~~

(3) the applicant has been convicted of any offense listed in 49 U.S.C. § 30304(a)(3); or

(4) the applicant has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of 49 C.F.R. § 382.211; or the applicant's employer has reported actual knowledge, as defined at 49 C.F.R. § 382.107, that the applicant used alcohol on duty in violation of 49 C.F.R. § 382.205, used alcohol before duty in violation of 49 C.F.R. § 382.207, used alcohol following an accident in violation of 49 C.F.R. § 382.209, or used a controlled substance in violation of 49 C.F.R. § 382.213.

(b) The Commissioner shall not issue a commercial driver's license or commercial learner's permit to any individual:

* * *

(4) Who has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of 49 C.F.R. § 382.211; or for whom an employer has reported actual knowledge, as defined in 49 C.F.R. § 382.107, that the applicant used alcohol on duty in violation of 49 C.F.R. § 382.205, used alcohol before duty in violation of 49 C.F.R. § 382.207, used alcohol following an accident in violation of 49 C.F.R. § 382.209, or used a controlled substance in violation of 49 C.F.R. § 382.213.

* * *

* * * Purchase and Use Tax * * *

Sec. 38. 32 V.S.A. § 8902(5) is amended to read:

(5) "Taxable cost" means the purchase price as defined in subdivision (4) of this section or the taxable cost as determined under section 8907 of this title. For any purchaser who has paid tax on the purchase or use of a motor vehicle that was sold or traded by the purchaser or for which the purchaser received payment under a contract of insurance, the taxable cost of the replacement motor vehicle other than a leased vehicle shall exclude:

(A) The value allowed by the seller on any motor vehicle accepted by ~~him or her~~ the seller as part of the consideration of the motor vehicle, provided the motor vehicle accepted by the seller is owned and previously or currently registered or titled by the purchaser, with no change of ownership since registration or titling, except for motor vehicles for which registration is not required under the provisions of Title 23 or motor vehicles received under the provisions of subdivision 8911(8) of this title.

(B) The amount received from the sale of a motor vehicle last registered or titled in ~~his or her~~ the seller's name, the amount not to exceed the clean trade-in value of the same make, type, model, and year of manufacture as designated by the manufacturer and as shown in the NADA Official Used Car Guide (New England edition), or any comparable publication, provided such sale occurs within three months ~~of~~ after the taxable purchase. However, this three-month period shall be extended day-for-day for any time that a member of a guard unit or of the U.S. Armed Forces, as defined in 38 U.S.C. § 101(10), spends outside Vermont due to activation or deployment~~,~~ and an additional 60 days following the ~~person's~~ individual's return from activation or deployment. Such amount shall be reported on forms supplied by the Commissioner of Motor Vehicles.

* * *

Sec. 39. 32 V.S.A. § 8911 is amended to read:

§ 8911. EXCEPTIONS

The tax imposed by this chapter shall not apply to:

* * *

(22) Motor vehicles that have been registered to the applicant ~~for a period of at least three years~~ in a jurisdiction that imposes a state sales or use tax on motor vehicles. An applicant for exemption under this subdivision shall bear the burden of establishing to the satisfaction of the Commissioner that the vehicle was registered in a qualifying jurisdiction ~~for the requisite period~~.

* * *

* * * Gross Weight Limits on Highways; Report * * *

Sec. 40. REPORT ON INCREASING GROSS WEIGHT LIMITS ON HIGHWAYS THROUGH SPECIAL ANNUAL PERMIT

(a) The Secretary of Transportation or designee, in collaboration with the Commissioner of Forests, Parks and Recreation or designee; the Executive Director of the Vermont League of Cities and Towns or designee; and the President of the Vermont Forest Products Association or designee and with the assistance of the Commissioner of Motor Vehicles or designee, shall examine adding one or more additional special annual permits to 23 V.S.A. § 1392 to allow for the operation of motor vehicles at a gross vehicle weight over 99,000 pounds and shall file a written report on the examination and any recommendations with the House and Senate Committees on Transportation on or before January 15, 2024.

(b) At a minimum, the examination shall address:

(1) allowing for a truck trailer combination or truck tractor, semi-trailer combination transporting cargo of legal dimensions that can be separated into units of legal weight without affecting the physical integrity of the load to bear a maximum of 107,000 pounds on six axles or a maximum of 117,000 pounds on seven axles by special annual permit;

(2) limitations for any additional special annual gross vehicle weight permits based on highway type, including limited access State highway, non-limited-access State highway, class 1 town highway, and class 2 town highway;

(3) limitations for any additional special annual gross vehicle weight permits based on axle spacing and axle-weight provisions;

(4) reciprocity treatment for foreign trucks from a state or province that recognizes Vermont vehicles permitted at increased gross weights;

(5) permit fees for any additional special annual gross vehicle weight permits;

(6) additional penalties, including civil penalties and permit revocation, for gross vehicle weight violations; and

(7) impacts of any additional special annual gross vehicle permits on the forest economy and on the management and forest cover of Vermont's landscape.

* * * Implementation of DMV Modernization Project; Driver Services * * *

Sec. 41. IMPLEMENTATION OF DEPARTMENT OF MOTOR VEHICLES MODERNIZATION PROJECT; GENERAL ASSEMBLY OVERSIGHT

(a) Findings. The General Assembly finds that:

(1) The Department of Motor Vehicles provides services to almost all Vermonters, including, in fiscal year 2022, engaging in more than a million transactions, with almost half of all transactions being conducted online.

(2) The Department is in the middle of the DMV Core System Modernization project, with an estimated launch date for the vehicle services module in November 2023 and with the driver services module expected to launch approximately 18 months after it commences in February 2024.

(3) As part of its design and implementation of the vehicle services module, the Department has discovered that one of the barriers to modernizing Department operations is certain outdated statutes. In order to best modernize and optimize Department processes for the future during the months-long module design and development process, the Commissioner of Motor Vehicles has had to make business decisions based on the needs of the Department to modernize processes to best meet the needs of Vermonters. These business decisions will, upon future implementation, conflict with statute if certain statutes are not amended through the legislative process.

(4) The driver services module of the DMV Core System Modernization project will design and implement processes to issue and maintain driver's licenses and other credentials; support fraud detection and investigation; administer hearings; and administer, manage, and report driver restrictions, convictions, and other information related to driver improvement.

(5) Driver services processes are regulated by statute in 23 V.S.A. chapters 1, 3, 5, 9, 11, 24, 25, and 39, as well as more than 15 rules adopted pursuant to authority under Title 23.

(6) It is anticipated that in designing and implementing the driver services module, the Commissioner will, in order to modernize and optimize Department processes to best serve Vermonters, need to make additional business decisions that will, upon future implementation, conflict with statute if certain statutes are not amended through the legislative process.

(7) Of the modernization projects in which the State is currently engaged, the DMV Core System Modernization Project will likely have the most significant impact on existing statutory language, but it is anticipated that other modernization projects, such as the one that the Department of Labor

will undertake related to unemployment insurance, will raise similar tensions between promoting efficiencies as part of modernization and contending with outdated statutory provisions.

(8) A collaborative partnership between the Department and the General Assembly throughout the driver services module, monitored during legislative adjournment by the Joint Transportation Oversight Committee, the Joint Fiscal Committee, and members of the House and Senate Committees on Transportation, provides the best opportunity to save money, promote transparency, streamline the process of amending statute to optimize potential efficiencies for Vermonters, and serve as a model for collaboration between branches of State government in future modernization projects.

(b) Reports.

(1) The Commissioner of Motor Vehicles shall file three written reports on the design and implementation of the driver services module of the DMV Core System Modernization project with the Joint Transportation Oversight Committee, the Joint Fiscal Committee, and the House and Senate Committees on Transportation. The first shall be due on or before July 31, 2024, the second shall be due on or before October 15, 2024, and the third shall be due on or before January 15, 2025.

(2) To the extent practicable, at the time each written report is filed, the Department shall include recommendations on which provisions of statute and rule the Department anticipates will need to be amended or repealed in order to best modernize and optimize Department processes related to the provision of driver services.

(c) General Assembly oversight. To the extent practicable, the Joint Transportation Oversight Committee, the Joint Fiscal Committee, and the House and Senate Committees on Transportation shall promptly express any concerns to the Department regarding any Department recommendations contained in any written report filed pursuant to subsection (b) of this section.

* * * Excessive Motor Vehicle Noise Report * * *

Sec. 42. EXCESSIVE MOTOR VEHICLE NOISE REPORT

(a) The Commissioner of Motor Vehicles, in consultation with the Commissioner of Public Safety and the Vermont League of Cities and Towns, shall study and report on current and potential enforcement practices around excessive motor vehicle noise and make recommendations on ways to limit excessive motor vehicle noise in Vermont.

(b) The study and report shall, at a minimum, address:

(1) if there should be a noise standard in statute or the Periodic Inspection Manual, or both, and, if so, what that standard should be;

(2) costs to incorporate noise testing into the State motor vehicle inspection required under 23 V.S.A. § 1222 and the State's Periodic Inspection Manual;

(3) costs to train law enforcement officers on noise testing;

(4) possible options to address excessive motor vehicle noise that do not involve noise testing such as visual inspections for modifications to a motor vehicle's exhaust system, whether as part of enforcement of the State motor vehicle inspection, and labeling on one or more components of a motor vehicle's exhaust system; and

(5) approaches to minimize excessive motor vehicle noise that have been taken in other states, including increased enforcement by law enforcement coupled with an objective noise standard defense.

(c) On or before January 1, 2025, the Commissioner of Motor Vehicles shall submit a written report to the House and Senate Committees on Judiciary and on Transportation with the Commissioner's findings and any recommendations for legislative action.

* * * Outreach to Municipalities on Speed Limits * * *

Sec. 43. OUTREACH TO MUNICIPALITIES ON SPEED LIMITS

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 outreach to municipalities on the setting, posting, and enforcement of speed limits on town highways. The outreach materials shall, at a minimum, provide information on applicable State statutes, applicable portions of the Manual on Uniform Traffic Control Devices, and best practices when it comes to setting and posting speed limits on town highways.

* * * ATV Fees and Penalties * * *

Sec. 44. REPEALS

(a) 2018 Acts and Resolves No. 158, Secs. 29 (July 1, 2023 amendment to 23 V.S.A. § 3513(a)) and 43(c) (effective date) are repealed.

(b) 2022 Acts and Resolves No. 185, Sec. E.702 (July 1, 2023 amendment to 23 V.S.A. § 3513) is repealed.

Sec. 45. 2022 Acts and Resolves No. 185, Sec. H.100(d) is amended to read:

(d) Secs. E.240.1 (7 V.S.A. § 845); E.240.2 (32 V.S.A. § 7909); ~~E.702 (Fish and Wildlife);~~ F.100(b), F.101(b), F.102(b) and F.103 (Executive Branch; Exempt Employees, Misc. Statutory Salaries; Fiscal Year 2024); F.104–106 (Judicial Branch; Statutory Salaries, Fiscal Year 2024); F.107 (Sheriffs, Statutory Salaries, Fiscal Year 2024); F.108 (State's Attorney's; Statutory Salaries; Fiscal Year 2024); and Secs. F.109(a)(2), F.109(b)(3), and F.109(c)(2) (Appropriations; Fiscal Year 2024) shall take effect on July 1, 2023.

Sec. 46. 23 V.S.A. § 3513(a) is amended to read:

(a) The amount of 90 percent of the fees and penalties collected under this chapter, except interest, is allocated to the ~~Agency of Natural Resources~~ Department of Forests, Parks and Recreation for use by the Vermont ATV Sportsman's Association (VASA) for development and maintenance of a Statewide ATV Trail Program, for trail liability insurance, and to contract for law enforcement services with any constable, sheriff's department, municipal police department, the Department of Public Safety, and the Department of Fish and Wildlife for purposes of trail compliance pursuant to this chapter. The Departments of Public Safety and of Fish and Wildlife are authorized to contract with VASA to provide these law enforcement services. The ~~Agency of Natural Resources~~ Department of Forests, Parks and Recreation shall retain for its use up to $7,000.00 during each fiscal year to be used for administration of the State grant that supports this ~~program~~ Program.

* * * Effective Dates * * *

Sec. 47. EFFECTIVE DATES

(a) This section and Secs. 1 (new motor vehicle arbitration; 9 V.S.A. § 4173(d)), 2 (definition of mail; 23 V.S.A. § 4(87)), 14 (validation sticker requirements in rule), 15 (electronic proof of registration; 23 V.S.A. § 307), 16 and 17 (plug-in electric vehicle registration fees; 23 V.S.A. §§ 361 and 362), 20 (current Total Abstinence Program participants), and 23 and 24 (electronic permits; 23 V.S.A. §§ 1392(21) and 1455) shall take effect on passage.

(b) Sec. 19 (Total Abstinence Program; 23 V.S.A. § 1209a) shall take effect on passage and apply to all individuals participating in or in the process of applying to participate in the Total Abstinence Program as of the effective date of this section without regard to when the individual's license was reinstated under the Total Abstinence Program.

(c) Secs. 4–13 (license plate stickers; validation stickers) shall take effect on November 1, 2023.

(d) Secs. 25–28 (title; 23 V.S.A. §§ 2012, 2013, 2017, and 2091(a)) shall take effect upon completion of the vehicle services module of the DMV Core

System Modernization project.

(e) Sec. 37 (commercial driver's license clearinghouse; 23 V.S.A. § 4108) shall take effect on November 18, 2024.

(f) All other sections shall take effect on July 1, 2023.

House Proposal of Amendment to Senate Proposal of Amendment

H. 473.

An act relating to radiologist assistants.

The House concurs in the Senate proposal of amendment with further proposal of amendment thereto by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 26 V.S.A. § 2851 is amended to read:

§ 2851. DEFINITIONS

As used in this chapter:

* * *

(6) "Radiologist" means a person who is licensed to practice medicine or osteopathy under chapter 23 or 33 of this title and who meets one or both of the following requirements:

(A) The person is certified by or eligible for certification by the American Board of Radiology or the American Osteopathic Board of Radiology or their predecessors or successors ~~or who~~.

(B) The person is credentialed by a hospital to practice radiology and engages in the practice of radiology at that hospital full-time.

* * *

(8) "Readily available" means that a supervising radiologist is available in person or is available remotely by telephone or through a live, interactive audio and video connection.

(9) "Supervision" means the direction and review by a supervising radiologist, as determined to be appropriate by the Board, of the medical services provided by the radiologist assistant. At a minimum, supervision shall mean that a radiologist is readily available for consultation and intervention. A radiologist assistant may provide services under the direction and review of more than one supervising radiologist during the course of ~~his or her~~ the radiologist assistant's employment, subject to the limitations on ~~his or her~~ the radiologist assistant's scope of practice as set forth in this chapter and the protocol filed under subsection 2853(b) of this title.

Sec. 2. 26 V.S.A. § 2857 is amended to read:

§ 2857. SUPERVISION AND SCOPE OF PRACTICE

(a)(1) The number of radiologist assistants permitted to practice under the direction and supervision of a radiologist shall be determined by the Board after review of the system of care delivery in which the supervising radiologist and radiologist assistants propose to practice. Scope of practice and levels of supervision shall be consistent with guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the ARRT.

(2) The authority of a radiologist assistant to practice shall terminate immediately upon termination of the radiologist assistant's employment, and the primary supervising radiologist shall immediately notify the Board and the Commissioner of the Department of Health of the termination. The radiologist assistant's authority to practice shall not resume until ~~he or she~~ the radiologist assistant provides proof of other employment and a protocol as required under this chapter.

(3) The primary supervising radiologist and radiologist assistant shall be employed by and have as their primary work site the same health care facility or an affiliate of the facility, provided that:

(A) the radiologist assistant's primary work site shall be located in Vermont; and

(B) the primary supervising radiologist does not need to be physically present at the same location where the radiologist assistant is practicing as long as a supervising radiologist is readily available for consultation and intervention.

(4) If a supervising radiologist is not physically present at the location at which a radiologist assistant is practicing, the radiologist assistant shall provide services only when a physician licensed pursuant to chapter 23 or 33 of this title, who need not be a radiologist, is physically present at the location and would be responsible for providing intervention or assistance in the event of a medical emergency.

(b)(1) Subject to the limitations set forth in subsection (a) of this section, the radiologist assistant's scope of practice shall be limited to that delegated to the radiologist assistant by the primary supervising radiologist and for which the radiologist assistant is qualified by education, training, and experience. At no time shall the practice of the radiologist assistant exceed the normal scope of the supervising radiologist's practice.

(2) A radiologist assistant ~~may~~ shall not interpret images, make diagnoses, or prescribe medications or therapies but may communicate with patients regarding the radiologist assistant's preliminary observations regarding the technical performance of a procedure or examination and regarding the findings from a radiologist's report. Preliminary observations shall not include any communication about the presence or absence of features or characteristics that would be considered in making a diagnosis.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

NOTICE CALENDAR

Second Reading

Favorable

H. 282.

An act relating to the Psychology Interjurisdictional Compact.

Reported favorably by Senator Hardy for the Committee on Health and Welfare.

(Committee vote: 5-0-0)

Reported favorably by Senator Cummings for the Committee on Finance.

(Committee vote: 4-1-2)

Reported favorably by Senator Perchlik for the Committee on Appropriations.

(Committee vote: 7-0-0)

Favorable with Proposal of Amendment

H. 31.

An act relating to aquatic nuisance control.

Reported favorably with recommendation of proposal of amendment by Senator Bray for the Committee on Natural Resources and Energy.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

In Sec. 1, Aquatic Nuisance Control Study Committee; report, in subdivision (f)(1), by striking out "July 31, 2023" where it appears and inserting in lieu thereof September 1, 2023

(Committee vote: 5-0-0)

(No House Amendments)

Reported favorably with recommendation of proposal of amendment by Senator Lyons for the Committee on Appropriations.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, Aquatic Nuisance Control Study Committee; report, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Membership. The Aquatic Nuisance Control Study Committee shall be composed of the following members:

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

(2) one current member of the Senate, who shall be appointed by the Committee on Committees;

(3) the Commissioner of Health or designee;

(4) a scientist from the Department of Fish and Wildlife, appointed by the Commissioner of Fish and Wildlife;

(5) a scientist from the Department of Environmental Conservation, appointed by the Commissioner of Environmental Conservation; and

(6) two scientists or researchers from the University of Vermont, appointed by the President of the University of Vermont, one with expertise in the potential human health impacts related to the invasives and control eradication and one with expertise in aquatic biology, including flora, fauna, and ecosystem health.

Second: In Sec. 1, Aquatic Nuisance Control Study Committee; report, by striking out subsection (g) in its entirety and inserting in lieu thereof the following:

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Aquatic Nuisance Control Study Committee serving in the member's capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than eight meetings. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Study Committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than eight meetings. These payments shall be made from monies appropriated to the General Assembly.

(Committee vote: 6-0-1)

H. 62.

An act relating to the interstate Counseling Compact.

Reported favorably with recommendation of proposal of amendment by Senator Gulick for the Committee on Health and Welfare.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

In Sec. 1, 26 V.S.A. chapter, subchapter 2, by inserting a section 3275 before section 3275a to read as follows:

§ 3275. COUNSELING COMPACT; ADOPTION

This subchapter is the Vermont adoption of the Counseling Compact. The form, format, and text of the Compact have been conformed to the conventions of the Vermont Statutes Annotated. It is the intent of the General Assembly that this subchapter be interpreted as substantively the same as the Counseling Compact that is enacted by other Compact party states.

(Committee vote: 5-0-0)

(No House Amendments)

Reported favorably by Senator Cummings for the Committee on Finance.

(Committee vote: 6-0-1)

Reported favorably by Senator Perchlik for the Committee on Appropriations.

(Committee vote: 7-0-0)

H. 67.

An act relating to household products containing hazardous substances.

Reported favorably with recommendation of proposal of amendment by Senator Watson for the Committee on Natural Resources and Energy.

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 that:

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

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

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

(4) Many SWMEs already offer more than two HHW collection events, and seven of the SWMEs have established permanent facilities for the regular collection of HHW.

(5) HHW collection events and permanent facilities are expensive to operate, and SWMEs spend approximately $2.2 million a year to manage HHW, costs that are subsequently passed on to the residents of Vermont through taxes, fees, or disposal charges.

(6) As a result of the failure to divert HHW, it is estimated that 855 tons or more per year of HHW are being disposed of in landfills.

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

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

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

(10) To improve diversion of HHW from landfills, reduce the financial burden on SWMEs and taxpayers, reduce the cost of the overall system of managing HHW, and lessen the environmental and public health risk posed by improperly disposed of HHW, the State shall implement a program to require the manufacturers of household products containing a hazardous substance to implement a stewardship organization to collect household products containing

a hazardous substance free of charge to the public.

Sec. 2. 10 V.S.A. chapter 164B is added to read:

CHAPTER 164B. COLLECTION AND MANAGEMENT OF HOUSEHOLD HAZARDOUS PRODUCTS

§ 7181. DEFINITIONS

As used in this chapter:

(1) "Agency" means the Agency of Natural Resources.

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

(3) "Covered entity" means any person who presents to a collection facility or event that is included in an approved collection plan any number of covered household hazardous products, with the exception of large quantity generators or small quantity generators as those terms are defined in the Agency of Natural Resources' Vermont Hazardous Waste Regulations.

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

(i) the product or a component of the product is a hazardous waste under subchapter 2 of the Vermont Hazardous Waste Management Regulations, regardless of the status of the generator of the hazardous waste; or

(ii) the product is a gas cylinder.

(B) "Covered household hazardous product" does not mean any of the following:

(i) a primary or rechargeable battery;

(ii) a lamp that contains mercury;

(iii) a thermostat that contains mercury;

(iv) architectural paint as that term is defined in section 6672 of this title;

(v) a covered electronic device as that term is defined in section 7551 of this title;

(vi) a pharmaceutical drug;

(vii) citronella candles;

(viii) flea and tick collars;

(ix) pesticides required to be registered with the Agency of Agriculture, Food and Markets;

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

(xi) gas cylinders determined by the Secretary by rule not to pose an unacceptable risk to human health, solid waste facility operation, or the environment, and which are not hazardous waste.

(5)(A) "Gas cylinder" means:

(i) any nonrefillable cylinder and its contents supplied to a consumer for personal, family, or household use and shall include those containing flammable pressurized gas, spray foam insulating products, single-use and rechargeable handheld fire extinguishers, helium, or carbon dioxide, of any size not exceeding any cylinder with a water capacity of 50 pounds, including seamless cylinders and tubes, welded cylinders, and insulated cylinders intended to contain helium, carbon dioxide, or flammable materials such as propane, butane, or other flammable compressed gasses; or

(ii) refillable cylinders containing propane for personal, family, or household use not exceeding a water capacity of one pound.

(B) "Gas cylinder" does not include any medical or industrial-grade cylinder.

(6)(A) "Manufacturer" means a person who:

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

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

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

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

(v) manufactures a covered household hazardous product for sale

in the State without affixing a brand name; or

(vi) assumes the responsibilities, obligations, and liabilities of a manufacturer as defined under subdivisions (i) through (v) of this subdivision (6)(A), provided that the Secretary may enforce the requirements of this chapter against a manufacturer defined under subdivisions (i) through (v) of this subdivision (6)(A) if a person who assumes the manufacturer's responsibilities fails to comply with the requirements of this chapter.

(B) "Manufacturer" does not mean a person set forth under subdivisions (A)(i)–(vi) of this subdivision (6) if the person manufacturers, sells, licenses, or imports less than $5,000.00 of covered household hazardous products in the United States in a program year and is registered with the Secretary.

(7) "Orphan covered product" means a covered household hazardous product for which no manufacturer is participating in a stewardship organization pursuant to section 7182 of this title.

(8) "Program year" means the period from January 1 through December 31.

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

(10) "Secretary" means the Secretary of Natural Resources.

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

(12) "Stewardship organization" means a legal entity such as an organization, association, or entity that has developed a system, method, or other mechanism that assumes the responsibilities, obligations, and liabilities under this chapter of multiple manufacturers of covered household hazardous products and that is:

(A) exempt from taxation under 26 U.S.C. §501(c)(3) of the Internal Revenue Code; and

(B) created by a group of producers to implement a collection plan in accordance with section 7183 of this title.

§ 7182. SALE OF COVERED HOUSEHOLD HAZARDOUS PRODUCTS; STEWARDSHIP ORGANIZATION REGISTRATION

(a) Sale prohibited. Beginning six months after a final decision on the adequacy of a collection plan by the Secretary, a manufacturer of a covered household hazardous product shall not sell, offer for sale, or deliver to a retailer for subsequent sale a covered household hazardous product unless all the following have been met:

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

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

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

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

(b) Stewardship organization registration requirements.

(1) On or before January 1, 2025 and annually thereafter, a stewardship organization shall file a registration form with the Secretary. The Secretary shall provide the registration form to the stewardship organization. The registration form shall include:

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

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

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

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

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

(F) the name, address, and contact information of a person for a

nonmember manufacturer to contact regarding how to participate in the stewardship organization to satisfy the requirements of this chapter.

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

§ 7183. COLLECTION PLANS

(a) Collection plan required. Prior to July 1, 2025, any stewardship organization registered with the Secretary as representing manufacturers of covered household hazardous products shall coordinate and submit to the Secretary for review one collection plan for all manufacturers.

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

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

(2) Free statewide collection of covered household hazardous products. The collection program shall provide for free, convenient, and accessible statewide opportunities for the collection from covered entities of covered household hazardous products, including orphan covered products. A stewardship organization shall accept all covered household hazardous products collected from a covered entity and shall not refuse the collection of a covered household hazardous product, including orphan covered household products, based on the brand or manufacturer of the covered household hazardous product unless specifically exempt from this requirement. The collection program shall also provide for the payment of collection, processing, and end-of-life management of the covered household hazardous products. Collection costs include facility costs, equipment costs, labor, supplies, maintenance, events costs, and event contractor costs, including collection event set-up fees, environmental service fees, insurance fees, and shipping containers and materials.

(3) Convenient collection location. The stewardship organization shall develop a collection program that allows all municipal household hazardous waste collection programs to opt to be a part of the collection plan, including collection events and facilities offered by solid waste planning entities. The plan shall make efforts to site points of collection equitably across all regions of the State to allow for convenient and reasonable access of all Vermonters to collection facilities or collection events.

(4) Public education and outreach. The collection plan shall include an education and outreach program that shall include a website and may include media advertising, retail displays, articles and publications, and other public educational efforts. Outreach and education shall be suitable for the State's diverse ethnic populations, through translated and culturally appropriate materials, including in-language and targeted outreach. Public education and outreach should include content to increase meaningful participation by environmental justice focus populations as required by 3 V.S.A. chapter 72. During the first year of program implementation and two years after adoption of the collection plan, each stewardship organization shall carry out a survey of public awareness regarding the requirements of the program established under this chapter that can identify communities that have disparities in awareness and need more outreach. Each stewardship organization shall share the results of the public awareness surveys with the Secretary. If multiple stewardship organizations are implementing plans approved by the Secretary, the stewardship organizations shall coordinate in carrying out their education and outreach responsibilities under this subdivision and shall include in their annual reports to the Secretary a summary of their coordinated education and outreach efforts. The education and outreach program and website shall notify the public of the following:

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

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

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

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

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

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

in the following priority order: source reduction, reuse, recycling, energy recovery, and disposal. Collected covered household hazardous products shall be recycled when technically and economically feasible.

(7) Performance goals. A collection plan shall include:

(A) A performance goal for covered household hazardous products determined by the number of total participants at collection events and facilities listed in the collection plan during a program year divided by the total number of households. The number of households shall include seasonal households. The calculation methodology for the number of households shall be included in the plan.

(B) At a minimum, the collection performance goal for the first approved plan shall be an annual participation rate of five percent of the households for every collection program based on the number of households the collection program serves. After the initial approved program plan, the stewardship organization shall propose performance goals for subsequent program plans. The Secretary shall approve the performance goals for the plan at least every five years. The stewardship organization shall use the results of the most recent waste composition study required under 6604 of this title and other relevant factors to propose the performance goals of the collection plan. If a stewardship organization does not meet its performance goals, the Secretary may require the stewardship organization to revise the collection plan to provide for one or more of the following: additional public education and outreach, additional collection events, or additional hours of operation for collection sites. A stewardship organization is not authorized to reduce or cease collection, education and outreach, or other activities implemented under an approved plan on the basis of achievement of program performance goals.

(8) Collection plan funding. The collection plan shall describe how the stewardship organization will fund the implementation of the collection plan and collection activities under the plan, including the costs for education and outreach, collection, processing, and end-of-life management of the covered household hazardous product. Collection costs include facility costs, equipment costs, labor, supplies, maintenance, events costs, and event contractor costs, including collection event set-up fees, environmental service fees, insurance fees, and shipping containers and materials. The collection plan shall include how municipalities will be compensated for all costs attributed to collection of covered household hazardous products. The Secretary shall resolve disputes relating to compensation.

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

(d) Collection plan implementation. Stewardship organizations shall implement the collection plan on or before six months after the date of a final decision by the Secretary on the adequacy of the collection plan.

§ 7184. STEWARDSHIP ORGANIZATIONS

(a) Participation in a stewardship organization. A manufacturer shall meet the requirements of this chapter by participating in a stewardship organization that undertakes the responsibilities under sections 7182, 7183, and 7185 of this title.

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

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

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

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

§ 7185. ANNUAL REPORT; COLLECTION PLAN AUDIT

(a) Annual report. Not later than 18 months after the date a collection plan has been implemented, and annually thereafter, a stewardship organization of manufacturers of covered household hazardous products shall submit a report to the Secretary that contains all of the following:

(1) A description of the collection program.

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

(3) The name and address of all the recycling and disposal facilities where the covered household hazardous products are collected and delivered

and deposited.

(4) The weight or volume by hazard category of covered household hazardous products sold in the State in the previous calendar year by a manufacturer participating in a stewardship organization's collection plan. Sales data provided under this section shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential. Confidential information shall be redacted from any final public report. If manufacturers can demonstrate that they do not have Vermont specific data, the stewardship organization may use national data prorated to Vermont based upon Vermont's population.

(5) A comparison of the collection plan's performance goals, including participation rate, compared to the actual performance and how the program will be improved if the performance goals are not met.

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

(7) The cost of implementing the collection plan, including the costs of administration, collection, transportation, recycling, disposal, and education and outreach.

(8) A description and evaluation of the success of the education and outreach materials. If multiple stewardship organizations are implementing the collection plan approved by the Secretary, the stewardship organizations shall include a summary of their coordinated education and outreach efforts.

(9) Recommendations for any changes to the program.

(b) Collection plan audit. On or before September 1, 2030 and every five years thereafter, a stewardship organization of manufacturers of covered household hazardous products shall hire an independent third party to audit the collection plan and the plan's operation. The auditor shall examine the effectiveness of the program in collecting and disposing of covered household hazardous products. The auditor shall examine the cost-effectiveness of the program and compare it to that of collection programs for covered household hazardous products in other jurisdictions. The auditor shall examine the effectiveness of the plan in satisfying the requirement of this chapter that all Vermonters have convenient and reasonable access to collection facilities or collection events. The auditor shall make recommendations to the Secretary on ways to increase the program's efficacy and cost-effectiveness.

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

§ 7186. ANTITRUST; CONDUCT AUTHORIZED

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

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

§ 7187. AGENCY RESPONSIBILITIES

(a) Review and approve collection plans. The Secretary shall review and approve or deny collection plans submitted under section 7183 of this title according to the public notice and comment requirements of section 7714 of this title.

(b) Criteria for plan approval.

(1) The Secretary shall approve a collection plan if the Secretary finds that the collection plan:

(A) complies with the requirements of subsection 7183(b) of this title;

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

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

(D) promotes the collection and disposal of covered household hazardous products; and

(E) is reasonably expected to meet performance goals and convenience standards.

(2) If a manufacturer or a stewardship organization fails to submit a plan that is acceptable to the Secretary because it does not meet the requirements of this chapter, the Secretary shall modify the submitted plan to make it conform to the requirements of this chapter and place the modified draft plan on notice pursuant to section 7714 of this title.

(c) Collection plan amendment. The Secretary, in the Secretary's discretion or at the request of a manufacturer or a stewardship organization, may require a stewardship organization to amend an approved collection plan. Collection plan amendments shall be subject to the public input provisions of section 7717 of this title.

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

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

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

§ 7188. OTHER DISPOSAL PROGRAMS

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

§ 7189. RULEMAKING

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

Sec. 3. AGENCY OF NATURAL RESOURCES RECOMMENDATION OF REGISTRATION FEE FOR COVERED HOUSEHOLD HAZARDOUS PRODUCTS

On or before January 15, 2024, the Secretary of Natural Resources shall submit to the House Committees on Ways and Means and on Environment and Energy and the Senate Committees on Finance and on Natural Resources and Energy a recommended fee for the registration of stewardship organizations under the covered household hazardous product program under 10 V.S.A. chapter 164B.

Sec. 4. 10 V.S.A. § 6621a(a) is amended to read:

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

* * *

(12) Covered household hazardous products after July 1, 2025.

Sec. 5. 10 V.S.A. § 7714 is amended to read:

§ 7714. TYPE 3 PROCEDURES

(a) Purpose; scope.

(1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when adopting general permits, except for general permits governed by section 7712 of this chapter, and when considering other permits listed in this section.

(2) The procedures under this section shall be known as Type 3 Procedures. This section governs each of the following:

(A) Each general permit issued pursuant to the Secretary's authority under this title other than a general permit subject to section 7712 of this chapter. However, this section does not apply to a notice of intent under a general permit.

(B) Issuance of a dam safety order under chapter 43 of this title, except for an unsafe dam order under section 1095 of this title.

(C) An application or request for approval of:

(i) an aquatic nuisance control permit under chapter 50 of this title;

(ii) a change in treatment for a public water supply under chapter 56 of this title;

(iii) a collection plan for mercury-containing lamps under section

7156 of this title;

(iv) an individual plan for the collection and recycling of electronic waste under section 7554 of this title; ~~and~~

(v) a primary battery stewardship plan under section 7586 of this title; and

(vi) a covered household hazardous products collection plan under section 7183 of this title.

* * *

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

§ 8003. APPLICABILITY

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

* * *

(30) 3 V.S.A. § 2810, relating to interim environmental media standards; ~~and~~

(31) 10 V.S.A. chapter 124, relating to the trade in covered animal parts or products; and

(32) 10 V.S.A. chapter 164B, relating to collection and management of covered household hazardous products.

* * *

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

§ 8503. APPLICABILITY

(a) This chapter shall govern all appeals of an act or decision of the Secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

(1) The following provisions of this title:

* * *

(V) chapter 124 (trade in covered animal parts or products); and

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

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

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

(4) 3 V.S.A. § 2810 (interim environmental media standards).

* * *

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 1, 2023, page 335.)

Reported favorably by Senator Bray for the Committee on Finance.

(Committee vote: 6-0-1)

H. 77.

An act relating to Vermont's adoption of the Physical Therapy Licensure Compact.

Reported favorably with recommendation of proposal of amendment by Senator Weeks for the Committee on Health and Welfare.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

In Sec. 2, 3 V.S.A. § 123(j)(1), in subdivision (E), following the words "physical therapists", by inserting the words and physical therapist assistants

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 16, 2023, page 490.)

Reported favorably by Senator Cummings for the Committee on Finance.

(Committee vote: 6-0-1)

Reported favorably by Senator Perchlik for the Committee on Appropriations.

(Committee vote: 7-0-0)

H. 86.

An act relating to Vermont's adoption of the Audiology and Speech-Language Pathology Interstate Compact.

Reported favorably by Senator Williams for the Committee on Health and Welfare.

(Committee vote: 6-0-1)

Reported favorably by Senator Cummings for the Committee on Finance.

(Committee vote: 6-0-1)

Reported favorably with recommendation of proposal of amendment by Senator Perchlik for the Committee on Appropriations.

The Committee recommends that the Senate propose to the House to amend the bill by adding a new Sec. 7 to read as follows:

Sec. 7. 1 V.S.A. chapter 5, subchapter 5 is amended to read:

Subchapter 5. Interpreters for Judicial, Administrative, and Legislative Findings

§ 331. DEFINITIONS

As used in the subchapter:

(1) "Person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind" means any person who has ~~such~~ difficulty hearing, even with amplification, to the extent that ~~he or she~~ the person cannot rely on hearing for communication.

(2) "Proceeding" means any judicial proceeding, contested case under 3 V.S.A. chapter 25, or other hearing before an administrative agency not included under 3 V.S.A. chapter 25.

(3) "Qualified interpreter" means an interpreter for a person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind who meets standards of competency established by the national or Vermont Registry of Interpreters for the Deaf ~~as amended, by rule, by the Vermont Commission of the Deaf and Hard of Hearing~~.

§ 332. RIGHT TO INTERPRETER; ASSISTIVE LISTENING EQUIPMENT

(a) Any person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind who is a party or witness in any proceeding shall be entitled to be provided with a qualified interpreter for the duration of the person's participation in the proceeding.

(b) Any person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind shall be entitled to be provided with a qualified interpreter upon

five working days' notice that the person has reasonable need to do any of the following:

* * *

(c) If a person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind is unable to use or understand sign language, the presiding officer or State board or agency or State legislative official shall, upon five working days' notice, make available appropriate assistive listening equipment for use during the proceeding or activity.

§ 333. APPOINTMENT OF INTERPRETER

(a) The presiding officer in a proceeding shall appoint an interpreter after making a preliminary determination that the interpreter is able to:

(1) readily communicate with the person who is ~~deaf or hard of hearing, to~~ Deaf, Hard of Hearing, or DeafBlind;

(2) accurately interpret statements or communications from the person who is ~~deaf or hard of hearing,~~ Deaf, Hard of Hearing, or DeafBlind; and ~~to~~

(3) interpret the proceedings to the person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind.

* * *

§ 336. RULES; INFORMATION; LIST OF INTERPRETERS

(a) The ~~Vermont Commission of the Deaf and Hard of Hearing shall, by rule, establish factors to be considered by the presiding officer under section 333 of this title before appointing an interpreter who is not a qualified interpreter. Such factors shall encourage the widest availability of interpreters in Vermont while at the same time ensuring~~ State of Vermont shall maintain a contract to operate a statewide sign language interpreter referral service to provide services to a person who has a right to an interpreter under section 332 of this subchapter. The contract shall require that ~~the~~ an interpreter providing services through the sign language interpreter referral service:

(1) is able to communicate readily with the person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind;

(2) is able to interpret accurately statements or communications by the person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind;

(3) is able to interpret the proceedings to the person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind;

(4) ~~shall~~ maintain confidentiality;

(5) ~~shall~~ be impartial with respect to the outcome of the proceeding;

(6) ~~shall~~ does not exert any influence over the person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind; and

(7) ~~shall~~ does not accept assignments the interpreter does not feel competent to handle.

(b) ~~Rules established by the Vermont Commission of the Deaf and Hard of Hearing pursuant to subdivision 331(3) of this title amending the standards of competency established by the national or Vermont Registry of the Deaf shall be limited to the factors set forth in subsection (a) of this section.~~ [Repealed.]

(c) ~~The Vermont Commission of the Deaf and Hard of Hearing shall prepare an explanation of the provisions of this subchapter which shall be distributed to all State agencies and courts.~~ [Repealed.]

(d) The ~~Department of Disabilities, Aging, and Independent Living shall maintain a list of qualified interpreters in Vermont and, where such information is available, in surrounding states. The list shall be distributed to~~ State of Vermont shall maintain access to qualified interpreters in Vermont for all State agencies and courts through the statewide contract maintained by the State pursuant to subsection (a) of this section.

§ 337. REVIEW

(a) A decision, order, or judgment of a court or administrative agency may be reversed on appeal if the court or agency finds that a person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind who was a party or a witness in the proceeding was deprived of an opportunity to communicate effectively, and that the deprivation was prejudicial.

* * *

§ 338. ADMISSIONS; CONFESSIONS

(a) An admission or confession by a person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind made to a law enforcement officer or any other person having a prosecutorial function may only be used against the person in a criminal proceeding if:

(1) ~~The~~ the admission or confession was made knowingly, voluntarily, and intelligently and is not subject to alternative interpretations resulting from the person's habits and patterns of communication~~.~~; and

(2) ~~The~~ the admission or confession, if made during a custodial interrogation, was made after reasonable steps were taken, including the

appointment of a qualified interpreter, to ensure that the defendant understood ~~his or her~~ the defendant's constitutional rights.

(b) The provisions of subsection (a) of this section supplement the constitutional rights of the person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind.

§ 339. COMMUNICATIONS MADE TO INTERPRETERS; PROHIBITION ON DISCLOSURE

(a) An interpreter, whether or not the interpreter is a qualified interpreter, shall not disclose or testify to:

(1) a communication made by a person to an interpreter acting in ~~his or her~~ the capacity ~~as~~ of an interpreter for a person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind or a person with limited English proficiency; or

(2) any information obtained by the interpreter while acting in ~~his or her~~ the capacity ~~as~~ of an interpreter for a person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind or a person with limited English proficiency.

(b) There is no prohibition on disclosure under this section if the services of the interpreter were sought or obtained to enable or aid anyone to commit or plan to commit what the person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind or the person with limited English proficiency knew or reasonably should have known to be a crime or fraud.

* * *

(d) As used in this section, "person with limited English proficiency" means a person who does not speak English as ~~his or her~~ the person's primary language and who has a limited ability to read, write, speak, or understand English.

and by renumbering the remaining section to be numerically correct.

(Committee vote: 7-0-0)

(No House amendments)

H. 126.

An act relating to community resilience and biodiversity protection.

Reported favorably with recommendation of proposal of amendment by Senator Bray for the Committee on Natural Resources and Energy.

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. SHORT TITLE

This act may be cited as the "Community Resilience and Biodiversity Protection Act" or "CRBPA."

Sec. 2. FINDINGS

The General Assembly finds:

(1) Nature is facing a catastrophic loss of biodiversity, both globally and locally.

(2) In addition to its intrinsic value, biodiversity is essential to human survival.

(3) According to the United Nations:

(A) one million species of plants and animals are threatened with extinction;

(B) human activity has altered almost 75 percent of the Earth's surface, squeezing wildlife and nature into ever-smaller natural areas of the planet;

(C) the health of ecosystems on which humans and all other species depend is deteriorating more rapidly than ever, affecting the very foundations of economies, livelihoods, food security, health, and quality of life worldwide; and

(D) the causes of the drivers of changes in nature rank as follows:

(i) changes in land, water, and sea use;

(ii) direct exploitation of organisms;

(iii) climate change;

(iv) pollution; and

(v) invasive species.

(4) The 2017 Vermont Forest Action Plan found that fragmentation and parcelization represent major threats to forest health and productivity and exacerbate the impacts of climate change.

(5) In 2022 Acts and Resolves No. 183, the Department of Forests, Parks and Recreation was tasked with developing the Vermont Forest Future Strategic Roadmap to strengthen, modernize, promote, and protect the forest

products sector and the greater forest economy and promote the importance of healthy, resilient, and sustainably managed working forests that provide a diverse array of high-quality products now and in the future.

(6) The 2021 Vermont Climate Assessment highlights an increase in extreme weather events such as droughts and floods as a significant impact of climate change in Vermont and recommends nature-based solutions as a proven, low-cost strategy for climate adaptation and resilience.

(7) The initial Vermont Climate Action Plan calls for investing in strategic conservation to increase the pace of permanent conservation towards 30 by 30 targets, with Vermont Conservation Design guiding prioritization of efforts.

(8) Freshwater vertebrate populations have declined by 84 percent globally since 1970, twice the rate of decline of biodiversity in terrestrial and marine biomes. Almost one in three freshwater species are threatened with extinction.

(9) Approximately 75 percent of all river miles assessed in Vermont are disconnected from their floodplains, indicating degradation and exacerbating flood-related damages.

(10) The Nature Conservancy has developed the Resilient and Connected Landscapes project and found that Vermont plays a key role in the conservation of biodiversity regionally.

(11) The Staying Connected Initiative is an international partnership of public and private organizations. Its goal is to maintain, enhance, and restore landscape connectivity for wide-ranging mammals across the Northern Appalachians-Acadian region, from the Adirondack Mountains to the Maritime Provinces. The Staying Connected Initiative has identified nine linkages across this vast region that are extremely important to wildlife. Six of these linkages lie within Vermont.

(12) The Vermont Department of Fish and Wildlife, working within the Agency of Natural Resources and with Vermont conservation organizations, has developed Vermont Conservation Design, a framework to sustain the State's ecologically functional landscape into the future.

(13) Intact and connected ecosystems support Vermont's biodiversity, reduce flood risks, mitigate drought, and sequester and store carbon.

(14) Vermont's most effective and efficient contribution to conserving biological diversity and maintaining a landscape resilient to climate change is to conserve an intact and connected landscape.

(15) In order to maintain ecological functions in intact and connected ecosystems, the full range of conservation approaches is needed, including supporting private landowner education, technical assistance, and programs; conservation easements that promote sustainable forest management; and conservation easements and fee acquisitions focused on passive management.

(16) The Vermont Housing Finance Agency's 2020 Housing Needs Assessment projected an urgent pre-pandemic need for new housing. Strategic investment in conservation is consistent with construction of housing in Vermont's villages and town centers.

(17) The land and waters, forests and farms, and ecosystems and natural communities in Vermont are the traditional and unceded home of the Abenaki people. Access to land and land-based enterprises has excluded Black, Indigenous, and Persons of Color (BIPOC) Vermonters and others from historically marginalized and disadvantaged communities in the centuries of European settlement. Efforts to increase land conservation must also include opportunities to increase access to land and land-based enterprise for Indigenous People and all who come from historically marginalized and disadvantaged communities.

Sec. 3. 10 V.S.A. chapter 89 is added to read:

CHAPTER 89. COMMUNITY RESILIENCY AND BIODIVERSITY PROTECTION

§ 2801. DEFINITIONS

As used in this section:

(1) "Ecological reserve area" means an area having permanent protection from conversion and that is managed to maintain a natural state within which natural ecological processes and disturbance events are allowed to proceed with minimal interference.

(2) "Biodiversity conservation area" means an area having permanent protection from conversion for the majority of the area and that is managed for the primary goal of sustaining species or habitats. These areas may include regular, active interventions to address the needs of particular species or to maintain or restore habitats.

(3) "Natural resource management area" means an area having permanent protection from conversion for the majority of the area but that is subject to long-term, sustainable land management.

(4) "Conversion" means a fundamental change in natural ecosystem type or habitat, natural or undeveloped land cover type, or natural form and function of aquatic systems.

(5) "Sustainable land management" means the stewardship and use of forests and forestlands, grasslands, wetlands, riparian areas, and other lands, including the types of agricultural lands that support biodiversity, in a way, and at a rate, that maintains or restores their biodiversity, productivity, regeneration capacity, vitality, and their potential to fulfill, now and in the future, relevant ecological, economic, and social functions at local, State, and regional levels, and that does not degrade ecosystem function.

(6) "Conserved" means permanently protected and meeting the definition of ecological reserve area, biodiversity conservation area, or natural resource management area as defined in this section for purposes of meeting the 30 percent goal in subsection 2802(b) of this title. For purposes of meeting the 50 percent goal of subsection 2802(b) of this title, "conserved" primarily means permanently protected and meeting the definition of ecological reserve area, biodiversity conservation area, or natural resource management area as defined in this section, although other long-term land protection mechanisms and measures that achieve the goals of Vermont Conservation Design that are enforceable and accountable and that support an ecologically functional and connected landscape may be considered.

§ 2802. CONSERVATION VISION AND GOALS

(a) The vision of the State of Vermont is to maintain an ecologically functional landscape that sustains biodiversity, maintains landscape connectivity, supports watershed health, promotes climate resilience, supports working farms and forests, provides opportunities for recreation and appreciation of the natural world, and supports the historic settlement pattern of compact villages surrounded by rural lands and natural areas.

(b) It is the goal of the State that 30 percent of Vermont's total land area shall be conserved by 2030, and 50 percent of the State's total land area shall be conserved by 2050. The Secretary of Natural Resources shall lead the effort in achieving these goals. The land conserved shall include State, federal, municipal, and private land.

(c) Reaching 30 percent by 2030 and 50 percent by 2050 shall include a mix of ecological reserve areas, biodiversity conservation areas, and natural resource management areas. In order to support an ecologically functional and connected landscape with sustainable production of natural resources and recreational opportunities, the approximate percentages of each type of conservation category shall be guided by the principles of conservation science

and the conservation targets within Vermont Conservation Design, prioritizing ecological reserve areas to protect highest priority natural communities and maintain or restore old forests.

§ 2803. CONSERVED LAND INVENTORY

(a) On or before July 1, 2024, the Vermont Housing and Conservation Board, in consultation with the Secretary, shall create an inventory of Vermont's conserved land and conservation policies to serve as the basis of meeting the conservation goals of Vermont Conservation Design and to meet the goals established in section 2802 of this title. The inventory shall be submitted for review to the House Committees on Environment and Energy and on Agriculture, Food Resiliency, and Forestry and the Senate Committee on Natural Resources and Energy.

(b) The inventory shall include:

(1) A review of the three conservation categories defined in section 2801 of this title and suggestions for developing any modifications or additions to these categories that maintain or complement the core concepts of ecological reserve areas, biodiversity conservation areas, and natural resource management areas in order to complete the conserved land inventory and inform the comprehensive strategy in the conservation plan. As part of this review, criteria shall be developed to determine the types of agricultural lands that will qualify as supporting and restoring biodiversity and therefore count towards the natural resource management area category.

(2) The amount of conserved land in Vermont that fits into each of the three conservation categories defined in section 2801 of this title, including public and private land. The inventory shall also include other lands permanently protected from development by fee ownership or subject to conservation easements.

(3) A summary of the totality of conservation practices, both permanent and intermediate, available for reaching the goals of this chapter, including what they are, what they do, how they contribute, and what metrics are available to quantify them.

(4) An assessment of how State lands will be used to increase conserved ecological reserve areas.

(5) The implementation methods that could be utilized for achieving the goals of this chapter using Vermont Conservation Design as a guide.

(6) A review of how aquatic systems are currently conserved or otherwise protected in the State, including a description of the benefits land conservation provides for aquatic systems, whether this is sufficient to

maintain aquatic system functions and services, and how the implementation methods for achieving the goals of this chapter using Vermont Conservation Design as a guide would include specific strategies for protecting aquatic system health.

(7) How existing programs will be used to meet the conservation goals of this chapter and recommendations for new programs, if any, that will be needed to meet the goals.

(8) An assessment of existing funding and recommendations for new funding sources that will be needed for acquisition of land, purchase or donation of conservation easements, staffing capacity, and long-term stewardship to meet the goals.

(9) An equity assessment of existing land protection and conservation strategies and programs.

(10) An evaluation of the opportunities related to intergenerational land transfer trends and how the State could proactively direct resources to achieve conservation at the time of transfer.

§ 2804. CONSERVATION PLAN

(a) On or before December 31, 2025, the Vermont Housing and Conservation Board, in consultation with the Secretary, shall develop a plan to implement the conservation goals of Vermont Conservation Design and to meet the vision and goals established in section 2802 of this title. The plan shall be submitted for review to the House Committees on Environment and Energy and on Agriculture, Food Resiliency, and Forestry and the Senate Committee on Natural Resources and Energy.

(b) The plan shall include:

(1) a comprehensive strategy for achieving the vision and goals of section 2802 of this title while continuing to conserve and protect Vermont's agricultural land, working forests, historic properties, recreational lands, and surface waters;

(2) the implementation methods for achieving the vision and goals of this chapter using Vermont Conservation Design as a guide;

(3) recommendations to provide and increase equitable access to protected and conserved lands and land-based enterprises, including recreational access to and use of conserved lands; and

(4) recommendations to implement the vision and goals of this chapter while also enhancing the State of Vermont's current investments and commitments to working lands enterprises, rural landowners, and the broad

conservation mission implemented by the Secretary and VHCB, including conservation of agricultural land, working forests, historic properties, recreational lands, and surface waters.

(c) In developing the plan, the Vermont Housing and Conservation Board, in consultation with the Secretary, shall hold 12 or more public meetings on the plan between July 1, 2023 and December 31, 2025 to solicit input from stakeholders. Stakeholders shall include private owners of forestlands and agricultural lands, land trusts, conservation organizations, environmental organizations, working lands enterprises, outdoor recreation groups and businesses, Indigenous groups and representatives from historically marginalized and disadvantaged communities, watershed groups, municipalities, regional planning commissions, conservation commissions, and relevant State and federal agencies. At least three of the meetings shall be designed to solicit comments from the general public.

(d) The conserved land inventory established in 2803 of this title shall be updated biennially to track progress toward meeting the vision and goals of this chapter, which shall be publicly available, and the Secretary shall submit a report to the relevant committees on or before January 15 following each update.

Sec. 4. APPROPRIATIONS

(a) The sum of $75,000.00 is appropriated from the General Fund to the Vermont Housing and Conservation Board in fiscal year 2024 to support public education and outreach to inform the development of the statewide conservation plan.

(b) The sum of $150,000.00 is appropriated from the General Fund to the Agency of Natural Resources in fiscal year 2024 to hire a limited-service position to support the development of the statewide conservation plan.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 23, 2023, page 601.)

Reported favorably by Senator Lyons for the Committee on Appropriations.

(Committee vote: 7-0-0)

H. 171.

An act relating to adult protective services.

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: In Sec. 1, 33 V.S.A. chapter 69, subchapter 1, in section 6902, in subdivision (1)(A), by inserting the word or before the word "recklessly" and by striking out ", or negligently"

Second: In Sec. 1, 33 V.S.A. chapter 69, subchapter 1, in section 6902, in subdivision (21)(A), by inserting the word or before "reckless" and by striking out ", or negligent"

Third: In Sec. 1, 33 V.S.A. chapter 69, subchapter 1, in section 6902, by striking out subdivision (9) in its entirety and by inserting a new subdivision (9) to read as follows:

(9) "Caregiver" means ~~a person, agency, facility, or other organization with responsibility for providing subsistence or medical or other care to an adult who is an elder or has a disability, who has assumed the responsibility voluntarily, by contract, or by an order of the court; or a person providing care, including medical care, custodial care, personal care, mental health services, rehabilitative services, or any other kind of care provided that is required because of another's age or disability~~:

(A) a worker or employee in a facility or program that provides care to an adult who is an elder or has a disability and who has assumed the responsibility voluntarily, by contract, or by an order of the court; or

(B) a person with a designated responsibility for providing care to a person that is required because of the person's age or disability.

Fourth: In Sec. 1, 33 V.S.A. chapter 69, subchapter 1, in section 6902, in subdivision (34)(B), by inserting before the semicolon the phrase or is determined to be clinically eligible to receive Long-Term Medicaid waiver services

Fifth: In Sec. 1, 33 V.S.A. chapter 69, subchapter 1, in section 6902, in subdivision (34)(C), by inserting or before "infirmities of aging" and by striking out "; or is determined to be clinically eligible to receive Long-Term Medicaid waiver services"

Sixth: In Sec. 1, 33 V.S.A. chapter 69, subchapter 1, in section 6902, in subdivision (34)(C)(ii), by inserting the phrase the specific report of before "abuse"

Seventh: In Sec. 1, 33 V.S.A. chapter 69, subchapter 1, in section 6911, in subsection (a), in subdivision (1), in first sentence, after "protections," by inserting the following phrase except those provided by the Health Insurance Portability and Accountability Act of 1996, its corresponding regulations, and 18 V.S.A. § 1881,

(For House amendments, see House Journal for March 21, 2023, page 526.)

Reported favorably by Senator Chittenden for the Committee on Finance.

(Committee vote: 5-0-2)

Amendment to proposal of amendment of the Committee on Health and Welfare to H. 171 to be offered by Senators Lyons, Gulick and Williams

Senators Lyons, Gulick and Williams move to amend the proposal of amendment of the Committee on Health and Welfare by striking out the *sixth* proposal of amendment in its entirety and by numbering the remaining proposal of amendment to be numerically correct.

H. 217.

An act relating to miscellaneous workers' compensation amendments.

Reported favorably with recommendation of proposal of amendment by Senator Harrison for the Committee on Economic Development, Housing and General Affairs.

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:

* * * Workers' Compensation * * *

Sec. 1. WORKERS' COMPENSATION RATE OF CONTRIBUTION

For fiscal year 2024, after consideration of the formula in 21 V.S.A. § 711(b) and historical rate trends, the General Assembly determines that the rate of contribution for the direct calendar year premium for workers' compensation insurance shall be 1.5 percent. The contribution rate for self-insured workers' compensation losses and workers' compensation losses of corporations approved under 21 V.S.A. chapter 9 shall remain at one percent.

Sec. 2. 21 V.S.A. § 711 is amended to read:

§ 711. WORKERS' COMPENSATION ADMINISTRATION FUND

* * *

(b)(1) Annually, the General Assembly shall establish the rate of contribution for the direct calendar year premium for workers' compensation insurance. The rate shall equal the amount approved in the appropriations process for the program and the Department's projection of salary and benefit increases for that fiscal year, less the amount collected in the prior calendar year under subsection (a) of this section from self-insured workers' compensation losses and from corporations approved under this chapter, adjusted by any balance in the fund from the prior fiscal year, divided by the total direct calendar year premium for workers' compensation insurance for the prior year.

(2) In the event that the General Assembly does not establish the rate of contribution for the direct calendar year premium for workers' compensation insurance for a given fiscal year, the rate shall remain unchanged from the prior fiscal year.

Sec. 3. 2014 Acts and Resolves No. 199, Sec. 54b is amended to read:

Sec. 54b. 21 V.S.A. § 643a is added to read:

§ 643a. DISCONTINUANCE OF BENEFITS

Unless an injured worker has successfully returned to work, an employer shall notify both the Commissioner and the employee prior to terminating benefits under either section 642 or 646 of this title. The notice of intention to discontinue payments shall be filed on forms prescribed by the Commissioner and shall include the date of the proposed discontinuance, the reasons for it, and, if the employee has been out of work for 90 days, a verification that the employer offered vocational rehabilitation screening and services as required under this chapter. All relevant evidence, including evidence that does not support discontinuance in the possession of the employer not already filed, shall be filed with the notice. The liability for the payments shall continue for seven days after the notice is received by the Commissioner and the employee. If the claimant disputes the discontinuance, the claimant may file with the Commissioner an objection to the discontinuance and seek an extension of 14 days. The objection to the discontinuance shall be specific as to the reasons and include supporting evidence. A copy of the objection shall be provided to the employer at the time the request is made to the Commissioner. ~~Those~~ The payments shall be made without prejudice to the employer and may be deducted from any amounts due pursuant to section 648 of this title if the

Commissioner determines that the discontinuance is warranted or if otherwise ordered by the Commissioner. Every notice shall be reviewed by the Commissioner to determine the sufficiency of the basis for the proposed discontinuance. If, after review of all the evidence in the file, the Commissioner finds that a preponderance of all the evidence in the file does not reasonably support the proposed discontinuance, the Commissioner shall order that payments continue until a hearing is held and a decision is rendered. Prior to a formal hearing, an injured worker may request reinstatement of benefits by providing additional new evidence to the Department that establishes that a preponderance of all evidence now supports the claim. If the Commissioner's decision, after a hearing, is that the employee was not entitled to any or all benefits paid between the discontinuance and the final decision, upon request of the employer, the Commissioner may order that the employee repay all benefits to which the employee was not entitled. The employer may enforce a repayment order in any court of law having jurisdiction.

Sec. 4. 21 V.S.A. § 640b is amended to read:

§ 640b. REQUEST FOR PREAUTHORIZATION TO DETERMINE IF PROPOSED ~~TREATMENT IS~~ BENEFITS ARE NECESSARY

(a) As used in this section, "benefits" means medical treatment and surgical, medical, and nursing services and supplies, including prescription drugs and durable medical equipment.

(b) Within 14 days ~~of~~ after receiving a written request for preauthorization for ~~a~~ proposed ~~medical treatment~~ benefits and medical evidence supporting the requested ~~treatment~~ benefits, a workers' compensation insurer shall do one of the following, in writing:

(1) ~~authorize~~ Authorize the ~~treatment~~ benefits and notify the health care provider, the injured worker, and the Department~~; or~~.

(2)~~(A) deny~~ Deny the ~~treatment~~ benefits because the entire claim is disputed and the Commissioner has not issued an interim order to pay benefits~~; or~~. The insurer shall notify the health care provider, the injured worker, and the Department of the decision to deny benefits.

~~(B)~~(3) ~~deny~~ Deny the ~~treatment~~ benefits if, based on a preponderance of credible medical evidence specifically addressing the proposed ~~treatment~~ benefits, ~~it is~~ the benefits are unreasonable ~~or~~, unnecessary, or unrelated to the work injury. The insurer shall notify the health care provider, the injured worker, and the Department of the decision to deny ~~treatment; or~~ benefits.

~~(3)~~(4) ~~notify~~ Notify the health care provider, the injured worker, and the Department that the insurer has scheduled an examination of the employee

pursuant to section 655 of this title or ordered a medical record review pursuant to section ~~655~~ 655a of this title. Based on the examination or review, the insurer shall authorize or deny the ~~treatment~~ benefits and notify the Department and the injured worker of the decision within 45 days ~~of~~ after a request for preauthorization. The Commissioner may, in ~~his or her~~ the Commissioner's sole discretion, grant a 10-day extension to the insurer to authorize or deny ~~treatment~~ benefits, and such an extension shall not be subject to appeal.

~~(b)~~(c) If the insurer fails to authorize or deny the ~~treatment~~ benefits pursuant to subsection ~~(a)~~ (b) of this section within 14 days ~~of~~ after receiving a request, the claimant or health care provider may request that the Department issue an order authorizing ~~treatment~~ benefits. After receipt of the request, the Department shall issue an interim order within five days after notice to the insurer, and five days in which to respond, absent evidence that the entire claim is disputed. Upon request of a party, the Commissioner shall notify the parties that the ~~treatment has~~ benefits have been authorized by operation of law.

~~(c)~~(d) If the insurer denies the preauthorization of the ~~treatment~~ benefits pursuant to subdivision (a)(2) ~~or~~, (3), or (4) of this section, the Commissioner may, on ~~his or her~~ the Commissioner's own initiative or upon a request by the claimant, issue an order authorizing the ~~treatment~~ benefits if ~~he or she~~ the Commissioner finds that the evidence shows that the ~~treatment is~~ benefits are reasonable, necessary, and related to the work injury.

Sec. 5. 21 V.S.A. § 643d is added to read:

§ 643d. WORK SEARCH; REQUIREMENTS; EXCEPTIONS

(a) An employer may require an employee who is receiving temporary disability benefits pursuant to section 646 of this chapter to engage in a good faith search for suitable work if:

(1) the injured employee is medically released to return to work, either with or without limitations;

(2) the employer has provided the injured employee with written notification that the employee is medically released to return to work and the notification describes any applicable limitations; and

(3) the employer cannot offer the injured employee work that the employee is medically released to do.

(b) An injured employee shall not be required to engage in a good faith search for suitable work if the employee:

(1) is already employed; or

(2) has been referred for or is scheduled to undergo one or more surgical procedures.

(c) An employer shall not require an injured employee to contact more than three employers per week as part of a good faith work search performed pursuant to this section.

Sec. 6. 21 V.S.A. § 646 is amended to read:

§ 646. TEMPORARY PARTIAL DISABILITY BENEFITS

(a)(1) Where the disability for work resulting from an injury is partial, ~~during the disability and~~ beginning on the eighth day ~~thereof~~ of the period of disability, the employer shall pay the injured employee a weekly compensation equal to the greater of:

(A) the difference between the amount the injured employee would be eligible to receive pursuant to section 642 of this chapter, including any applicable cost of living adjustment or dependency benefits that would be due, and the wage the injured employee earns during the period of disability; and

(B) two-thirds of the difference between ~~his or her~~ the injured employee's average weekly wage before the injury and the ~~average weekly wage which he or she is able to earn thereafter~~ amount the employee earns during the period of disability.

(2) Compensation paid pursuant to this subsection shall be adjusted following the receipt of 26 weeks of benefits and annually on each subsequent July 1, so that the compensation continues to bear the same percentage relationship to the average weekly wage in the State as it did at the time of injury.

(b)(1) In addition to the amount paid pursuant to subsection (a) of this section, the employer shall pay the injured employee during the disability $20.00 per week for each dependent child under 21 years of age, provided that no other injured worker is receiving the same benefits on behalf of the dependent child or children.

(2) The amount allowed for dependent children shall be adjusted weekly to reflect the number of dependent children during each week of payment.

Sec. 7. 21 V.S.A. § 646 is amended to read:

§ 646. TEMPORARY PARTIAL DISABILITY BENEFITS

* * *

(b)~~(1) In addition to the amount paid pursuant to subsection (a) of this section, the employer shall pay the injured employee during the disability $20.00 per week for each dependent child under 21 years of age, provided that no other injured worker is receiving the same benefits on behalf of the dependent child or children.~~

~~(2) The amount allowed for dependent children shall be adjusted weekly to reflect the number of dependent children during each week of payment.~~ [Repealed.]

Sec. 8. 21 V.S.A. § 642 is amended to read:

§ 642. TEMPORARY TOTAL DISABILITY BENEFITS

(a)(1) Where the injury causes total disability for work, during ~~such~~ the disability, but not including the first three days~~,~~ with the day of the accident to be counted as the first day~~,~~ unless the employee received full wages for that day, the employer shall pay the injured employee a weekly compensation equal to two-thirds of the employee's average weekly wages~~, but~~.

(2) The weekly compensation shall be in an amount that is not more than the maximum nor less than the minimum weekly compensation.

(3) Compensation paid pursuant to this subsection shall be adjusted on the first July 1 following the receipt of 26 weeks of benefits and annually on each subsequent July 1, so that the compensation continues to bear the same percentage relationship to the average weekly wage in the State as it did at the time of injury.

(b)(1) In addition~~, the injured employee, during the disability period shall receive $10.00 a~~ to the amount paid pursuant to subsection (a) of this section, the employer shall pay the injured employee during the disability $20.00 per week for each dependent child who is ~~unmarried and~~ under ~~the age of~~ 21 years of age, provided that no other injured worker is receiving the same benefits on behalf of the dependent child or children. ~~However, in no event shall an~~

(2) The amount allowed for the dependent children shall be adjusted weekly to reflect the number of dependent children during each week of payment.

(c) Notwithstanding any provision of subsection (a) or (b) of this section to the contrary:

(1) An employee's total weekly wage replacement benefits, including any payments for a dependent child, shall not exceed 90 percent of the employee's average weekly wage prior to applying any applicable cost of living adjustment. ~~The amount allowed for dependent children shall be~~

~~increased or decreased weekly to reflect the number of dependent children extant during the week of payment.~~

(2) If the total disability continues after the third day for a period of seven consecutive calendar days or more, compensation shall be paid for the whole period of the total disability.

Sec. 9. 21 V.S.A. § 642 is amended to read:

§ 642. TEMPORARY TOTAL DISABILITY BENEFITS

* * *

(b)(1) In addition to the amount paid pursuant to subsection (a) of this section, the employer shall pay the injured employee during the disability ~~$20.00~~ $10.00 per week for each dependent child who is under 21 years of age, provided that no other injured worker is receiving the same benefits on behalf of the dependent child or children.

* * *

Sec. 10. 21 V.S.A. § 650 is amended to read:

§ 650. PAYMENT; AVERAGE WAGE; COMPUTATION

* * *

(d)(1) Compensation computed pursuant to this section shall be adjusted annually on July 1, so that ~~such~~ the compensation continues to bear the same percentage relationship to the average weekly wage in the State ~~as computed under this chapter~~ as it did at the time of injury.

(2) Temporary total or temporary partial compensation shall first be adjusted on the first July 1 following the receipt of 26 weeks of benefits.

(3) Permanent total and permanent partial compensation shall be adjusted for each July 1 following the date of injury regardless of whether indemnity benefits were paid on each intervening July 1.

(e)(1) If weekly compensation benefits or weekly accrued benefits are not paid within 21 days after becoming due and payable pursuant to an order of the Commissioner, or in cases in which the overdue benefit is not in dispute, 10 percent of the overdue amount shall be added and paid to the employee, in addition to any amounts due pursuant to subsection (f) of this section and interest and any other penalties.

(2) In the case of an initial claim, benefits are due and payable upon entering into an agreement pursuant to subsection 662(a) of this title, upon issuance of an order of the Commissioner pursuant to subsection 662(b) of this

title, or if the employer has not denied the claim within 21 days after the claim is filed.

(3) Benefits are in dispute if the claimant has been provided actual written notice of the dispute within 21 days ~~of~~ after the benefit being due and payable and the evidence reasonably supports the denial.

(4) Interest shall accrue and be paid on benefits that are found to be compensable during the period of nonpayment.

(5) The Commissioner shall promptly review requests for payment under this section and, consistent with subsection 678(d) of this title, shall allow for the recovery of reasonable attorney's fees associated with an employee's successful request for payment under this subsection.

(f)(1)(A) When benefits have been awarded or are not in dispute as provided in subsection (e) of this section, the employer shall establish a weekday on which payment shall be mailed or deposited and notify the claimant and the Department of that day. The employer shall ensure that each weekly payment is mailed or deposited on or before the day established.

(B) Payment shall be made by direct deposit to a claimant who elects that payment method. The employer shall notify the claimant of ~~his or her~~ the claimant's right to payment by direct deposit.

(2) If the benefit payment is not mailed or deposited on the day established, the employer shall pay to the claimant a late fee of $10.00 or five percent of the benefit amount, whichever is greater, for each weekly payment that is made after the established day.

(3) As used in this subsection, "paid" means the payment is mailed to the claimant's mailing address or, in the case of direct deposit, transferred into the designated account. In the event of a dispute, proof of payment shall be established by affidavit.

Sec. 11. 21 V.S.A. § 678 is amended to read:

§ 678. COSTS; ATTORNEY'S FEES

(a) ~~Necessary costs of proceedings under this chapter, including deposition expenses, subpoena fees, and expert witness fees, shall be assessed by the Commissioner against the employer or its workers' compensation carrier when the claimant prevails. The Commissioner may allow the claimant to recover reasonable attorney's fees when the claimant prevails.~~ Costs shall not be taxed or allowed either party except as provided in this section.

(b)(1) When a claimant prevails in either a formal or informal proceeding under this chapter, the Commissioner shall award the claimant necessary costs

incurred in relation to the proceeding, including deposition expenses, subpoena fees, and expert witness fees.

(2) The Commissioner may allow a claimant to recover reasonable attorney's fees when the claimant prevails.

(3) In cases for which a formal hearing is requested and the case is resolved prior to a formal hearing:

(A) the Commissioner may award reasonable attorney's fees if the claimant retained an attorney in response to an actual or effective denial of a claim and payments were made to the claimant as a result of the attorney's efforts; and

(B) the Commissioner shall award necessary costs if the claimant incurred the costs in response to an actual or effective denial of a claim and payments were made to the claimant as a result of the costs incurred.

(c)(1) In appeals to the Superior or Supreme Court, if the claimant prevails, ~~he or she~~ the claimant shall be entitled to reasonable attorney's fees as approved by the court~~,~~; necessary costs, including deposition expenses, subpoena fees, and expert witness fees~~,~~; and interest at the rate of 12 percent per annum on that portion of any award the payment of which is contested.

(2) Interest shall be computed from the date of the award of the Commissioner.

~~(c)~~(d) By January 1, 1999~~,~~ and at least every five years thereafter, the Commissioner shall amend existing rules regarding reasonable attorney's fees awarded under subsection (a) of this section. In amending these rules, the Commissioner shall consider accessibility to legal services, appropriate inflation factors, and any other related factors consistent with the purposes of this chapter. In the event the Commissioner proposes no change in the rules in any five-year period, the Commissioner shall provide a written report to the Legislative Committee on Administrative Rules of the General Assembly explaining the reasons for not changing the rules.

~~(d) In cases for which a formal hearing is requested and the case is resolved prior to formal hearing, the Commissioner may award reasonable attorney's fees if the claimant retained an attorney in response to an actual or effective denial of a claim and thereafter payments were made to the claimant as a result of the attorney's efforts.~~

* * *

Sec. 12. ADOPTION OF RULES

The Commissioner of Labor shall, on or before July 1, 2024, adopt rules as

necessary to implement the provisions of Secs. 4 through 11 of this act.

* * * Unemployment Insurance * * *

Sec. 13. 21 V.S.A. § 1301 is amended to read:

§ 1301. DEFINITIONS

~~The following words and phrases, as~~ As used in this chapter~~, shall have the following meanings unless the context clearly requires otherwise~~:

* * *

(25) "Son," "daughter," and "child" include an individual's biological child, foster child, adoptive child, stepchild, a child for whom the individual is listed as a parent on the child's birth certificate, a legal ward of the individual, a child of the individual's spouse, or a child that the individual has day-to-day responsibilities to care for and financially support.

(26) "Spouse" includes an individual's domestic partner or civil union partner. As used in this subdivision, "domestic partner" means another individual with whom an individual has an enduring domestic relationship of a spousal nature, provided that the individual and the individual's domestic partner:

(A) have shared a residence for at least six months;

(B) are at least 18 years of age;

(C) are not married to, in a civil union with, or considered the domestic partner of another individual;

(D) are not related by blood closer than would bar marriage under State law; and

(E) have agreed between themselves to be responsible for each other's welfare.

Sec. 14. 21 V.S.A. § 1301 is amended to read:

§ 1301. DEFINITIONS

As used in this chapter:

* * *

(5) "Employer" includes:

(A) Any employing unit ~~which, after December 31, 1971~~ that in any calendar quarter in either the current or preceding calendar year paid for service in employment, as ~~hereinafter~~ defined pursuant to subdivision (6) of this section, wages of $1,500.00 or more, or for some portion of a day in each

of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, had in employment~~, as hereinafter defined,~~ at least one individual (irrespective of whether the same individual was in employment in each such day). When an employing unit described in either this subdivision or subdivision ~~(5)~~(B) of this ~~section~~ subdivision (5), becomes an employer within any calendar year, it shall be subject to this chapter for the whole of ~~such~~ the calendar year.

(B)(i) Any employing unit for which service in employment for a religious, charitable, educational, or other organization as defined in subdivision (6)(A)(ix) of this section is performed after December 31, 1971~~;~~, except as provided in subdivision ~~(5)~~(C) of this ~~section~~ subdivision (5).

* * *

(6)(A)(i) "Employment," subject to the other provisions of this subdivision (6), means service within the jurisdiction of this State~~, performed prior to January 1, 1978, which was employment as defined in this subdivision prior to such date and, subject to the other provisions of this subdivision, service performed after December 31, 1977,~~ performed by an employee, as defined in subsections 3306(i) and (o) of the Federal Unemployment Tax Act, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, expressed or implied. Services partly within and partly ~~without~~ outside this State may by election as ~~hereinbefore~~ provided in subdivision (5)(E)(i) of this section be treated as if wholly within the jurisdiction of this State. ~~And whenever~~ If an employing unit ~~shall have~~ has elected to come under the provisions of a similar act of a state where a part of the services of an employee are performed, the Commissioner, upon ~~his or her approval of said~~ approving the election as to ~~any such~~ the employee, may treat the services covered by ~~said approved~~ the election as having been performed wholly ~~without~~ outside the jurisdiction of this State.

* * *

(ix) The term "employment" shall also include service for any employing unit ~~which is~~ performed ~~after December 31, 1971~~ by an individual in the employ of a religious, charitable, educational, or other organization ~~but only~~ if~~:~~

~~(I)~~ the service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of ~~section~~ subdivision 3306(c)(8) of that act~~; and~~

~~(II) the organization had four or more individuals in employment for some portion of a day in each of 20 different weeks, whether~~

~~or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time~~.

* * *

Sec. 15. 21 V.S.A. § 1321 is amended to read:

§ 1321. CONTRIBUTIONS; TAXABLE WAGE BASE CHANGES

* * *

(c)(1) Financing benefits paid to employees of nonprofit organizations.

(A) Benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this subsection (c).

(B) ~~For the purposes of~~ As used in this subsection (c), ~~a~~ "nonprofit organization" ~~is~~ means an organization ~~(~~, or group of organizations~~),~~ described in Section 501(c)(3) of the U.S. Internal Revenue Code ~~which~~ that is exempt from income tax under Section 501(a) of ~~such~~ the Internal Revenue Code.

(2) Liability for contributions and election of reimbursement. Any nonprofit organization ~~which~~ that, pursuant to subdivision 1301(5)(B)(i) of this ~~title~~ chapter, is~~,~~ or becomes~~,~~ subject to this chapter ~~on or after January 1, 1972~~ shall pay contributions under the provisions of this section~~,~~ unless it elects, in accordance with this subsection, to pay to the Commissioner~~,~~ for the Unemployment Insurance Trust Fund~~,~~ an amount equal to the amount of regular benefits and of one-half of the extended benefits paid~~,~~ that is attributable to service in the employ of ~~such~~ the nonprofit organization~~,~~ to individuals for weeks of unemployment ~~which~~ that begin during the effective period of ~~such~~ the election.

(A) ~~Any nonprofit organization which is, or becomes, subject to this chapter on January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of not less than one calendar year beginning with January 1, 1972 provided it files with the Commissioner a written notice of its election within the 30-day period immediately following such date or within a like period immediately following April 16, 1971, whichever occurs later.~~ [Repealed.]

(B) Any nonprofit organization ~~which~~ that becomes subject to this chapter ~~after January 1, 1972~~ may elect to become liable for payments in lieu of contributions for a period of not less than 12 months ~~beginning with the date on which such subjectivity begins~~ by filing a written notice of its election with the Commissioner not later than 30 days immediately following the date of the determination ~~of such subjectivity~~ that the organization is subject to this

chapter.

(C) Any nonprofit organization ~~which~~ that makes an election in accordance with ~~subdivisions (c)(2)(A) and~~ subdivision (B) of this ~~section will~~ subdivision (c)(2) shall continue to be liable for payments in lieu of contributions until it files with the Commissioner a written notice terminating its election not later than 30 days prior to the beginning of the calendar year for which ~~such~~ the termination shall first be effective.

(D) Any nonprofit organization ~~which~~ that has been paying contributions under this chapter ~~for a period subsequent to January 1, 1972~~ may ~~change to a reimbursable basis~~ elect to become liable for payments in lieu of contributions by filing with the Commissioner not later than 30 days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. ~~Such~~ An election under this subdivision (c)(2)(D) shall not be terminable by the organization for that year and the next year.

(E) The Commissioner may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive ~~but not any earlier than with respect to benefits paid after December 31, 1969~~.

(F) The Commissioner, in accordance with ~~such~~ any applicable rules ~~as~~ adopted by the Board ~~may prescribe~~, shall notify each nonprofit organization of any determination ~~which he or she may make of~~ that the Commissioner makes with regard to its status as an employer and ~~of~~ the effective date of any election ~~which it~~ that the organization makes and of any termination of ~~such~~ an election. ~~Such~~ The determinations shall be subject to reconsideration and to appeal and review in accordance with the provisions of section 1337a of this title.

(3) Reimbursement payments. Payments in lieu of contributions shall be made in accordance with the provisions of this subdivision, including either subdivision (A) or ~~subdivision~~ (B).

(A) At the end of each calendar quarter, or at the end of any other period as determined by the Commissioner, the Commissioner shall bill each nonprofit organization, or group of ~~such~~ nonprofit organizations, ~~which~~ that has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during ~~such~~ the quarter or other prescribed period that is attributable to service in the employ of ~~such~~ the organization.

(B)(i) Each nonprofit organization that has elected payments in lieu

of contributions may request permission to make ~~such~~ payments as provided in this subdivision (c)(3)(B). ~~Such method of payment~~ Payment pursuant to the provisions of this subdivision (c)(3)(B) shall become effective upon approval of the Commissioner.

(ii) At the end of each calendar quarter, the Commissioner shall bill each nonprofit organization approved to make payments pursuant to the provisions of this subdivision (c)(3)(B) for an amount representing ~~one of the following:~~

~~(I) For 1972, two-tenths of one percent of its total payroll for 1971.~~

~~(II) For years after 1972, such~~ a percentage of its total payroll for the immediately preceding calendar year ~~as~~ that the Commissioner ~~shall determine. The determination shall be~~ determines to be appropriate based ~~each year~~ on the average benefit costs attributable to service in the employ of nonprofit organizations during the preceding calendar year.

~~(III) For~~ The Commissioner may determine a different rate for any organization ~~which~~ that did not pay wages throughout the four calendar quarters of the preceding calendar year~~, such percentage of its payroll during that year as the Commissioner shall determine~~.

(iii) At the end of each calendar year, the Commissioner may modify the quarterly percentage of payroll thereafter payable by the nonprofit organization in order to minimize excess or insufficient payments.

(iv) At the end of each calendar year, the Commissioner shall determine whether the total of payments for ~~such~~ the year made by a nonprofit organization is less than, or in excess of, the total amount of regular benefits plus one-half of the amount of extended benefits paid to individuals during ~~such~~ the taxable year based on wages attributable to service in the employ of ~~such~~ the organization. Each nonprofit organization whose total payments for ~~such~~ the year are less than the amount ~~so~~ determined shall be liable for payment of the unpaid balance to the Trust Fund in accordance with subdivision ~~(3)~~(C) of this ~~subsection~~ subdivision (c)(3). If the total payments exceed the amount so determined for the taxable year, all or a part of the excess shall, at the election of the nonprofit organization, be refunded from the Trust Fund or retained in the Trust Fund as part of the payments ~~which~~ that may be required for the next calendar year.

(C) Payment of any bill rendered under subdivision (2) ~~or subdivision (3)~~ of this subsection (c) or this subdivision (c)(3) shall be made not later than 30 days after the bill is mailed to the last known address of the

nonprofit organization or is otherwise delivered to it~~,~~ unless there has been an application for redetermination by the Commissioner or a petition for hearing before a referee in accordance with subdivision ~~(3)~~(E) of this ~~subsection~~ subdivision (c)(3).

(D) Payments made by any nonprofit ~~corporation~~ organization under the provisions of this section shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

(E)(i) The amount due specified in any bill from the Commissioner shall be conclusive on the organization unless, not later than 30 days after the date of the bill, the organization files an application for reconsideration by the Commissioner, or a petition for a hearing before a referee, setting forth the grounds for ~~such~~ the application or petition.

(ii) The Commissioner shall promptly review and reconsider the amount due specified in the bill and shall thereafter issue a redetermination in any case in which ~~such~~ an application for redetermination has been filed. Any such redetermination shall be conclusive on the organization unless, not later than 30 days after the date of the redetermination, the organization files a petition for a hearing before a referee~~,~~ setting forth the grounds for the petition.

(iii) Proceedings on the petition for a hearing before a referee on the amount of a bill rendered under this section or a redetermination of ~~such~~ the amount shall be in accordance with the provisions of section 1331 of this title, and the decision of the referee shall be subject to the provisions of that section. Review of the decision of the referee by the Employment Security Board shall be in accordance with, and its decision shall be subject to, the provisions of section 1332 of this title.

(F) Any employer, including the State of Vermont ~~which~~, that makes payments in lieu of contributions under this section shall be subject to the provisions of sections 1314, 1322, 1328, 1329, 1334, and 1336 of this title as follows:

(i) ~~that~~ The employer shall be liable for any reports ~~as~~ required by the Commissioner ~~may require~~ pursuant to sections 1314 and 1322 of this title~~;~~.

(ii) ~~that~~ The employer shall be liable for any penalty imposed pursuant to sections 1314 and 1328 of this title~~;~~.

(iii) ~~that~~ The employer shall be liable for the same interest on past due payments pursuant to subsection 1329(a) of this title~~;~~.

(iv) ~~that~~ The employer shall be subject to a civil action for the collection of past due payments as if those payments were contributions pursuant to subsections 1329(b) and 1334(a) of this title~~; and~~.

(v) ~~that~~ The employer shall be subject to ~~those~~ actions for the collection of past due payments as if those payments were contributions pursuant to subsections 1329(c) and (d)~~,~~ and 1334(b) and (c)~~,~~ and section 1336 of this title; however, those provisions shall not apply to the State of Vermont.

(4) Authority to terminate elections. If any nonprofit organization is delinquent in making payments in lieu of contributions as required under this subsection, the Commissioner may terminate ~~such~~ the organization's election to make payments in lieu of contributions as of the beginning of the next taxable year, and the termination shall be effective for that and the next taxable year.

(5) Allocation of benefit costs.

(A) Each employer that is liable for payments in lieu of contributions shall pay to the Commissioner for the Trust Fund the amount of regular benefits plus the amount of one-half of extended benefits paid that are attributable to service in the employ of ~~such~~ the employer.

(B) If benefits paid to an individual are based on wages paid by more than one employer and one or more of ~~such~~ the employers are liable for payments in lieu of contributions, the amount payable to the Trust Fund by each employer that is liable for ~~such~~ payments in lieu of contributions shall be ~~determined in accordance with subdivisions (5)(A) and (B) of this subsection (c):~~

~~(A) Proportionate allocation when fewer than all base-period employers are liable for reimbursement. If benefits paid to an individual are based on wages paid by one or more employers that are liable for payments in lieu of contributions and on wages paid by one or more employers who are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be~~ an amount ~~which~~ that bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by ~~such~~ the employer bear to the total base-period wages paid to the individual by all of ~~his or her~~ the individual's base-period employers.

~~(B) Proportionate allocation when all base-period employers are liable for reimbursement. If benefits paid to an individual are based on wages paid by two or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each employer shall be an~~

~~amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by the employer bear to the total base-period wages paid to the individual by all of his or her base-period employers.~~

(6) Group accounts. Two or more employers that have become liable for payments in lieu of contributions, in accordance with the provisions of this section and section 1380 of this title, may file a joint application to the Commissioner for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of ~~such~~ the employers. Each application shall identify and authorize a group representative to act as the group's agent for the purpose of this section. Upon ~~his or her~~ approval of the application, the Commissioner shall establish a group account for ~~such~~ the employers effective as of the beginning of the calendar quarter in which ~~he or she~~ the Commissioner receives the application and shall notify the group's representative of the effective date of the account. The account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the Commissioner or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in ~~such~~ the quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by ~~such~~ the member in ~~such~~ the quarter bear to the total wages paid during ~~such~~ the quarter for service performed in the employ of all members of the group. The Board shall ~~prescribe regulations~~ adopt rules as it deems necessary with respect to applications for establishment, maintenance, and termination of group accounts that are authorized by this subdivision, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this ~~section~~ subsection by members of the group and the time and manner of ~~such~~ the payments.

(7) ~~Notwithstanding any of the foregoing provisions of this section, any nonprofit organization that prior to January 1, 1969, paid contributions required by this section, and, pursuant to subsection (c) of this section, elects within 30 days after January 1, 1972, to make payments in lieu of contributions, shall not be required to make any such payment on account of any regular or extended benefits paid, on the basis of wages paid by such organization to individuals for weeks of unemployment which begin on and after the effective date of the election until the total amount of benefits equals the amount (1) by which the contributions paid by the organization with respect to the two-year period before the effective date of the election under subsection (b) of this section exceed (2) the total amount of unemployment~~

~~benefits paid for the same period that were attributable to service performed in the employ of the organization and were charged to the experience rating record of the organization.~~ [Repealed.]

* * *

(f) Any employer who makes payments in lieu of contributions under the provisions of this section is considered to be self-insuring and shall pay to the Commissioner for the Unemployment Compensation Trust Fund ~~such~~ any amounts ~~as~~ the Commissioner finds to be due under this chapter, including benefits paid but denied on appeal or benefits paid in error ~~which~~ that cannot be properly charged either against another employer who makes payments in lieu of contributions or against the experience-rating record of another employer who pays contributions. Benefits improperly paid where repayment by the claimant is ordered pursuant to subsection 1347(a) or (b) of this title will be credited to the employer's account when repayment from the claimant is actually received by the Commissioner.

Sec. 16. NONPROFIT AND MUNICIPAL REIMBURSABLE EMPLOYERS; EDUCATION; OUTREACH

(a) On or before October 1, 2023, the Commissioner of Labor, in consultation with the Vermont League of Cities and Towns, Common Good Vermont, United Way of Northwest Vermont, and other interested stakeholders, shall develop information and education materials for nonprofit and municipal employers regarding the unemployment insurance system. At a minimum, the materials shall:

(1) explain the options available to nonprofit and municipal employers, including paying regular unemployment insurance contributions, reimbursing the Unemployment Insurance Trust Fund for attributable unemployment insurance costs, and, with respect to nonprofit employers, quarterly payments of estimated unemployment insurance costs;

(2) identify the potential benefits and drawbacks of each of the options identified in subdivision (1) of this subsection;

(3) provide information on how a nonprofit or municipal employer can evaluate its potential liability under each of the options identified in subdivision (1) of this subsection;

(4) provide information developed by the Vermont League of Cities and Towns, Common Good Vermont, United Way of Northwest Vermont, and other interested stakeholders regarding how a nonprofit or municipal employer can plan and budget for the potential expenses associated with each of the options identified in subdivision (1) of this subsection; and

(5) provide additional information regarding the Unemployment Insurance program and related laws that the Commissioner determines, in consultation with the Vermont League of Cities and Towns, Common Good Vermont, United Way of Northwest Vermont, and other interested stakeholders, to be helpful or necessary for nonprofit and municipal employers.

(b)(1) The informational and educational materials developed pursuant to subsection (a) of this section shall be made available on the Department's website and shall, in coordination with the Secretary of State, Common Good Vermont, United Way of Northwest Vermont, the Vermont League of Cities and Towns, and other interested stakeholders, be shared directly with Vermont nonprofit and municipal employers to the extent practicable.

(2) The Secretary of State shall assist the Commissioner of Labor in identifying and contacting all active Vermont nonprofit employers. The Office of the Secretary of State shall also make available on its website a link to the information and educational materials provided on the Department of Labor's website pursuant to this section.

(c) The Department of Labor, in collaboration with the Vermont League of Cities and Towns, Common Good Vermont, United Way of Northwest Vermont, and other interested stakeholders, shall hold one or more informational sessions to present the materials and information developed pursuant to subsection (a) of this section to nonprofit employers and municipal employers. At least one session shall be held on or before November 1, 2023. Each session shall allow for both in-person and remote participation and shall be recorded. Recordings shall be made available to the public and to stakeholder organizations for distribution to their members.

Sec. 17. 2021 Acts and Resolves No. 183, Sec. 59(b)(6) is amended to read:

(6) Sec. 52g (prospective repeal of unemployment insurance benefit increase) shall take effect ~~upon the payment of a~~ when the cumulative ~~total~~ amount of additional benefits paid pursuant to 21 V.S.A. § 1338(e) ~~when,~~ compared to the rate at which benefits would have been paid under the formula set forth in 21 V.S.A. § 1338(e) on June 30, 2025 ~~equal to $92,000,000.00,~~ plus the ~~difference between $8,000,000.00 and the~~ amount of additional benefits paid ~~out~~ pursuant to section 52b~~, if any~~, compared to the amount that would have been paid pursuant to the provisions of 21 V.S.A. § 1338(f)(1) on June 30, 2022, equals $100,000,000.00 and shall apply to benefit weeks beginning after that date.

Sec. 18. UNEMPLOYMENT DUE TO URGENT, COMPELLING, OR NECESSITOUS CIRCUMSTANCES; COVERAGE; IMPACT; REPORT

(a) On or before January 15, 2024, the Commissioner of Labor shall submit a written report prepared in consultation with the Joint Fiscal Office to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs regarding the potential impact of extending eligibility for unemployment insurance benefits to individuals who separate from employment due to urgent, compelling, or necessitous circumstances, including the individual's injury or illness, to obtain or recover from medical treatment, to escape domestic or sexual violence, to care for a child following an unexpected loss of child care, or to care for an ill or injured family member.

(b) The report shall include:

(1) a list of states in which individuals who separate from employment due to circumstances similar to those described in subsection (a) of this section are eligible for unemployment insurance and shall identify the specific circumstances for separation from employment in each identified state for which there is no waiting period or period of disqualification related to the circumstance;

(2) information, to the extent it is available, regarding the number of approved claims in the states identified pursuant to subdivision (1) of this subsection where the individual separated from employment due to circumstances similar to those described in subsection (a) of this section;

(3) an estimate of the projected range of additional approved claims per year in Vermont if individuals who separate from employment due to circumstances similar to those described in subsection (a) of this section are made eligible for unemployment insurance;

(4) an estimate of the range of potential impacts on the Unemployment Insurance Trust Fund of making individuals who separate from employment due to circumstances similar to those described in subsection (a) of this section eligible for unemployment insurance; and

(5) any recommendations for legislative action.

Sec. 19. DOMESTIC AND SEXUAL VIOLENCE SURVIVORS' TRANSITIONAL EMPLOYMENT PROGRAM; UTILIZATION; REPORT

On or before January 15, 2024, the Commissioner of Labor shall submit a written report to the House Committee on Commerce and Economic

Development and the Senate Committee on Economic Development, Housing and General Affairs regarding the utilization of the Domestic and Sexual Violence Survivors' Transitional Employment Program. The report shall include information regarding the utilization of the Program during the past 10 years, a summary of the Department's efforts to make members of the public aware of the Program and improve access to it, how the identified changes have impacted utilization of the Program in comparison to prior years, any potential ways to further increase awareness and utilization of the Program, and any suggestions for legislative action to improve awareness or utilization of the Program.

Sec. 20. 21 V.S.A. § 1256 is added to read:

§ 1256. NOTIFICATION TO THE PUBLIC

The Department shall take reasonable measures to provide information to the public about the Program, including publishing information on the Department's website and providing timely materials related to the Program to public agencies of the State and organizations that work with domestic and sexual violence survivors, including law enforcement, State's Attorneys, community justice centers, the Center for Crime Victim Services, the Vermont Network Against Domestic and Sexual Violence (the Network), and any others deemed appropriate by the Commissioner in consultation with the Network.

* * * Effective Dates * * *

Sec. 21. EFFECTIVE DATES

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

(b) Sec. 14 shall take effect on July 1, 2024.

(c) Secs. 7 and 9 shall take effect on July 1, 2028.

(d) The remaining sections shall take effect on July 1, 2023.

(Committee vote: 5-0-0)

(No House amendments)

Substitute amendment for the recommendation of amendment of the Committee on Economic Development, Housing and General Affairs to H. 217, to be offered by Senator Harrison

Senator Harrison moves to substitute a recommendation of proposal of amendment for the recommendation of proposal of amendment of the Committee on Economic Development, Housing and General Affairs as follows:

First: In Sec. 6, 21 V.S.A. § 646, in subdivision (a)(2), following the words "shall be adjusted" by inserting on the first July 1

Second: After Sec. 9, 21 V.S.A. § 642, by inserting a Sec. 9a to read as follows:

Sec. 9a. DEPENDENT BENEFIT INCREASE; IMPACT; REPORT

On or before January 15, 2027, the Commissioner of Labor, in consultation with the Commissioner of Financial Regulation, shall submit a written report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development regarding the impact of the increase in the dependent benefit enacted pursuant to Secs. 6 and 8 of this act on the workers' compensation system. The report shall include an estimate of the number of claims that have received additional benefits as a result of the increase and the additional cost to the workers' compensation system of the additional dependent benefits.

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

An act relating to miscellaneous workers' compensation and unemployment insurance amendments.

Reported favorably by Senator Cummings for the Committee on Finance.

(Committee vote: 5-0-2)

H. 472.

An act relating to miscellaneous agricultural subjects.

Reported favorably with recommendation of proposal of amendment by Senator Collamore for the Committee on Agriculture.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: In Sec. 7, 6 V.S.A. § 3024, in the first sentence, after "~~his or her~~" and before "the Secretary's", by striking out "or"

Second: In Sec. 8, 6 V.S.A. § 3025, in the first sentence, after "~~his or her~~" and before "the Secretary's", by striking out "or"

Third: In Sec. 13, 6 V.S.A. § 3031, in the first sentence, after "~~his or her authorized~~" and before "Secretary's", by inserting the

(Committee vote: 5-0-0)

(No House amendments)

Reported favorably by Senator Bray for the Committee on Finance.

(Committee vote: 5-0-2)

H. 488.

An act relating to approval of the adoption of the charter of the Town of Ludlow.

Reported favorably with recommendation of proposal of amendment by Senator White for the Committee on Government Operations.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

In Sec. 2, 24 App. V.S.A. chapter 125 (Town of Ludlow), in section 2, by striking out all after the section heading and inserting in lieu thereof the following:

Except as otherwise specifically provided by law or by a vote of the citizens of the Town at an annual or special meeting, the Select Board may determine the articles to be voted upon by Australian ballot at a special or annual Town meeting and shall indicate such in the warning.

(Committee vote: 6-0-0)

(No House amendments)

ORDERED TO LIE

H. 227.

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

PENDING ACTION: Second Reading of the bill.

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.

Robert Katims of Hinesburg - Superior Court Judge - By Senator Vyhovsky for the Committee on Judiciary (5/5/23)

Julie Moore of Middlesex - Secretary, Agency of Natural Resources - By Senator Bray for the Committee on Natural Resources and Energy (5/5/23)

H. Dickson Corbett of East Thetford - Superior Court Judge - By Senator Hashim for the Committee on Judiciary (5/8/23)

Abbie Sherman of Randolph - Executive Director, Vermont Economic Progress Council - By Senator Cummings for the Committee on Economic Development, Housing and General Affairs (5/8/23)

Eric Peterson of South Burlington - Member, Community High School of Vermont Board - By Senator Gulick for the Committee on Education (5/8/23)

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 #3149: One (1) limited-service position, Recreational Boating Safety Administrator, to the Vermont State Police, Department of Public Safety to administer the Recreational Boating Safety program. Funded through the ongoing and annually awarded Recreational Boating Safety grant from the United States Coast Guard.

[Received April 18, 2023]

JFO #3148: $7,797,240.00 to the VT Department of Health from the Centers for Disease Control and Prevention. The majority of funds, $7,346,379.00, will be used to reinforce the public health workforce and the remainder, $450,861.00, will support strengthening of systems, policies and processes.

*[**Note:** A supplemental award to this grant for data modernization is expected, but not yet funded.] [Received April 18, 2023]*

JFO #3147 - $2,00,000.00 to the VT Department of Children and Families, Office of Economic Development from the U.S. Department of Energy. Funds will be used to launch a VT Weatherization Training Center to support weatherization of Vermont households. This facility will be operationalized via contract to a provider and sub-grants to several community partners. The performance period ends on 2/28/2026 with an end goal of over one thousand trained specialists. This program will work in conjunction with the ARPA funded $45M Weatherization project currently in the Office of Economic Development.

[Received April 18, 2023]