

# House Calendar

Friday, May 12, 2023

129th DAY OF THE BIENNIAL SESSION

House Convenes at 10:00 A.M.

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**ORDERS OF THE DAY**

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**ACTION CALENDAR**

**Unfinished Business of Thursday, May 11, 2023**

**Favorable with Amendment**

**S. 56**

An act relating to child care and early childhood education

**Rep. Brumsted of Shelburne**, for the Committee on Human Services, recommends that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

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

Sec. 1. LEGISLATIVE INTENT

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

- (1) increase access to and the quality of child care services and afterschool and summer care programs throughout the State;
- (2) increase equitable access to and quality of prekindergarten education for children four years of age;
- (3) provide financial stability to child care programs;
- (4) stabilize Vermont's talented child care workforce;
- (5) address the workforce needs of the State's employers;
- (6) maintain a mixed-delivery system for prekindergarten, child care, and afterschool and summer care; and
- (7) assign school districts with the responsibility of ensuring equitable prekindergarten access for children who are four years of age on the date by which the child's school district requires kindergarten students to have attained five years of age or who are five years of age and not yet enrolled in kindergarten.

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

Sec. 2. PREKINDERGARTEN EDUCATION IMPLEMENTATION  
COMMITTEE; PLAN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) Meetings.

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

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

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

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

(h) Appropriations.

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

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

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

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

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

\* \* \*

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

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

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

(B) grades six through eight—0.36; and

(C) grades nine through 12—0.39.

\* \* \*

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

Sec. 4. PLAN; AGENCY OF EDUCATION LEADERSHIP

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

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

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

§ 3512. CHILD CARE FINANCIAL ASSISTANCE PROGRAM;

ELIGIBILITY

(a)(1) The Child Care Financial Assistance Program is established to subsidize, to the extent that funds permit, the costs of child care for families that need child care services in order to obtain employment, to retain employment, or to obtain training leading to employment. Families seeking employment shall be entitled to participate in the Program for up to three months and the Commissioner may further extend that period.

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



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

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

\* \* \*

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

§ 3512. CHILD CARE FINANCIAL ASSISTANCE PROGRAM;  
ELIGIBILITY

(a)(1) The Child Care Financial Assistance Program is established to subsidize, to the extent that funds permit, the costs of child care for families that need child care services in order to obtain employment, to retain employment, or to obtain training leading to employment. Families seeking employment shall be entitled to participate in the Program for up to three months and the Commissioner may further extend that period.

\* \* \*

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

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

\* \* \*

Sec. 5b. FISCAL YEAR 2024; FAMILY CONTRIBUTION

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

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

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

(b)(1) On January 1, 2024, the Department for Children and Families shall provide an adjustment to the base child care provider reimbursement rates in the Child Care Financial Assistance Program for child care services provided by center-based child care and preschool programs, family child care homes, and afterschool and summer care programs. The adjusted reimbursement rate shall account for the age of the children served and be 38.5 percent higher than the fiscal year 2023 five-STAR reimbursement rate in the Vermont STARS system. The adjusted reimbursement rate shall then be adjusted to account for the differential between family child care homes and center-based child care and preschool programs by 50 percent. All providers in the same child care setting category shall receive an identical reimbursement rate payment, which shall be dependent upon whether the provider operates a regulated child care center and preschool program, regulated family child care home, or afterschool or summer care program.

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

Sec. 7. APPROPRIATION; CHILD CARE FINANCIAL ASSISTANCE PROGRAM

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

- (1) the program eligibility expansion in Sec. 5 of this act; and
- (2) the fiscal year 2024 provider rate adjustment in Sec. 6 of this act.

(b)(1) In addition to fiscal year 2024 funds appropriated for the administration of the Department for Children and Families' Child

Development Division in other acts, in fiscal year 2024, \$4,000,000.00 is appropriated from the General Fund to the Division to administer adjustments to the Child Care Financial Assistance Program required by this act through the authorization of the following six new permanent classified positions within the Division:

- (A) business applications support manager;
- (B) licensing field specialist;
- (C) child care business technician;
- (D) administrative service coordinator II;
- (E) program integrity investigator; and
- (F) grants and contracts manager—compliance.

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

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

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

- (A) increasing capacity for infants and toddlers;
- (B) expanding the number of family child care homes;
- (C) improving child care facilities;
- (D) preparing private prequalified providers for future changes in the prekindergarten system;
- (E) expanding hours of operation to provide full-day, full-week child care services;
- (F) increasing workforce capacity, including signing and retention bonuses; and
- (G) any other uses approved by the Commissioner.

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

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

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

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

#### § 3514. PAYMENT TO PROVIDERS

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

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

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

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

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

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

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

§ 3515. CHILD CARE QUALITY AND CAPACITY INCENTIVE

PROGRAM

(a) The Commissioner shall establish a child care quality and capacity incentive program for child care providers participating in the Child Care Financial Assistance Program pursuant to 33 V.S.A. §§ 3512 and 3513. Annually, consistent with funds appropriated for this purpose, the Commissioner may provide a child care provider with an incentive payment for the following achievements:

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

(2) increasing infant and toddler capacity;

(3) maintaining existing infant and toddler capacity;

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

(5) providing nonstandard hours of child care services;

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

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

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

Sec. 10a. LEGISLATIVE INTENT; CHILD CARE QUALITY AND

## CAPACITY INCENTIVE PROGRAM

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

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

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

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

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

### § 3517. CHILD CARE TUITION RATES

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

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

### § 3518. DIVERSITY, EQUITY, AND INCLUSION

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

Sec. 13. RULEMAKING; CHILD CARE DIRECTORS

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

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

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

(b) The Department shall consider amending its rule prohibiting a person or entity registered or licensed to operate a family child care home

from concurrently operating a center-based child care and preschool program or afterschool and summer care program.

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

Sec. 14. REPORT; BACKGROUND CHECKS

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

Sec. 15. PROVIDER COMPENSATION; ESTIMATE AND ANALYSIS

(a) On or before November 1, 2024, the Joint Fiscal Office, in consultation with the Department for Children and Families and the Vermont Association for the Education of Young Children, shall submit a report to the House Committee on Human Services and to the Senate Committee on Health and Welfare containing a fiscal estimate of the cost of implementing a professional tiered system of compensation for the child care workforce using total costs of care estimates.

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

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

Sec. 16. PLAN; SPECIAL ACCOMMODATIONS GRANT

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

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

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

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

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

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

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

CHAPTER 38. AFTERSCHOOL AND SUMMER CARE GRANT PROGRAM

§ 3801. AFTERSCHOOL AND SUMMER CARE GRANT PROGRAM

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

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

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

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

§ 3802. AFTERSCHOOL AND SUMMER CARE SPECIAL FUND

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

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



belonging to the State or held in the Treasury. The Fund shall consist of any combination of the following:

- (1) cannabis sales tax revenue pursuant to 32 V.S.A. § 7910;
- (2) such sums as may be appropriated or transferred thereto from time to time by the General Assembly, the State Emergency Board, or the Joint Fiscal Committee during such times as the General Assembly is not in session;
- (3) interest earned from the investment of Fund balances; and
- (4) any other money from any other source accepted for the benefit of the Fund.

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

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

#### § 3803. AFTERSCHOOL AND SUMMER CARE SPECIAL FUND

##### ADVISORY COMMITTEE

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

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

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

(b) The Advisory Committee shall comprise the following:

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

(2) the Commissioner of Mental Health or designee;

(3) the Commissioner of Health or designee;

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

(5) the Secretary of Education or designee;

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

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

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

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

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

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

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

(d) Notwithstanding 2 V.S.A. § 20(d), on or before November 15 of each year, the Advisory Committee shall submit a report containing a summary of its activities and any recommendations to the House Committees on Appropriations and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare. The report shall address outcomes data on grants awarded pursuant to section 3801 of this title during the previous year, including:

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

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

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

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

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

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

CHAPTER 207. CANNABIS EXCISE TAX AND SALES TAX REVENUE

\* \* \*

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

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

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

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

Sec. 8. REPEALS

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

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

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

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

Sec. 20. CHILD CARE; ADMINISTRATIVE SERVICE ORGANIZATIONS

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

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

§ 4605. TECHNICAL ASSISTANCE; ACCOUNTABILITY

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

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

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

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

(B) equitable access to high-quality prekindergarten;

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

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

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

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

#### Sec. 21a. APPROPRIATION; BUILDING BRIGHT FUTURES

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

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

##### GOVERNANCE

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

and reporting structure related to early care and learning across the Agency of Education and Agency of Human Services.

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

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

#### Sec. 23. EFFECTIVE DATES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2a. PREKINDERGARTEN EDUCATION MODEL CONTRACT

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

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

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

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

(a) Definitions. As used in this section:

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

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

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

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

(b) Determination of average daily membership and weighting categories. On or before the first day of December during each school year, the Secretary shall determine the average daily membership, as defined in subdivision

4001(1) of this title, of each school district for the current school year and shall perform the following tasks-:

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

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

(B) pupils in kindergarten through grade five;

(C) pupils in grades six through eight;

(D) pupils in grades nine through 12;

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

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

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

(F) EL pupils; and

(G) all other pupils in prekindergarten.

\* \* \*

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

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

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

(B) grades six through eight—0.36; and

(C) grades nine through 12—0.39.

\* \* \*

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



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

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

Subchapter 3. Afterschool and Summer Care

§ 51. AFTERSCHOOL AND SUMMER CARE

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

(b) Agency of Human Services regulation. Pursuant to rules adopted by the Agency of Human Services in accordance with 3 V.S.A. chapter 25, if a school-based afterschool or summer learning program for students in prekindergarten through grade 12 does not subsidize access for students that qualify for free or reduced-price meals under the federal food programs, pursuant to 16 V.S.A., chapter 27, the afterschool and summer learning program shall be regulated by the Agency of Human Services.

§ 52. UNIVERSAL AFTERSCHOOL AND SUMMER CARE GRANT

PROGRAM

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

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

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

(2) populations that are currently underserved; and

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

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

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

(e) Report and plan. Notwithstanding 2 V.S.A. § 20(d), on or before November 15 of each year, the Agency of Education shall submit to the General Assembly a plan to fund grants made pursuant to this section. The report shall be inclusive of afterschool and summer learning programming supported by federal funds, State grants and contracts, the Child Care Financial Assistance Program pursuant to 33 V.S.A. § 3512 or 3513, and any matching philanthropic funding. The grants shall be in an amount equal to the official forecasted revenues to be raised from the sales and use tax imposed by 32 V.S.A. chapter 233 on cannabis or cannabis products in this State. The Agency shall also report outcomes data on grants awarded pursuant to this section during the previous year, including:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 18a. REPEALS

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

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

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

**Rep. Kornheiser of Brattleboro**, for the Committee on Ways and Means, recommends that the House propose to the Senate that the bill be amended as recommended by the Committee on Human Services and by the Committee on Education and when further amended by striking out all after the enacting clause and inserting in lieu thereof the following:

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

Sec. 1. LEGISLATIVE INTENT

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

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

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

(3) provide financial stability to child care programs;

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

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

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

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

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

Sec. 2. PREKINDERGARTEN EDUCATION IMPLEMENTATION

COMMITTEE; PLAN

(a) Creation. There is created the Prekindergarten Education Implementation Committee to assist the Agency of Education in improving and expanding accessible, affordable, and high-quality prekindergarten education for children on a full-day basis on or before July 1, 2026. The prekindergarten program under consideration would require a school district to provide prekindergarten education to all children within the district in either a public school or by contract with private providers, or both.

(b) Membership.

- (1) The Committee shall be composed of the following members:
- (A) the Secretary of Education or designee, who shall serve as co-chair;
  - (B) the Secretary of Human Services or designee, who shall serve as co-chair;
  - (C) the Executive Director of the Vermont Principals' Association or designee;
  - (D) the Executive Director of the Vermont Superintendents Association or designee;
  - (E) the Executive Director of the Vermont School Board Association or designee;
  - (F) the Executive Director of the Vermont National Education Association or designee;
  - (G) the Chair of the Vermont Council of Special Education Administrators or designee;
  - (H) the Executive Director of the Vermont Curriculum Leaders Association or designee;
  - (I) the Executive Director of Building Bright Futures or designee;
  - (J) a representative of a prequalified private provider as defined in 16 V.S.A. § 829, operating a licensed center-based child care and preschool program, appointed by the Speaker of the House;
  - (K) a representative of a prequalified private provider as defined in 16 V.S.A. § 829, providing prekindergarten education at a regulated family child care home, appointed by the Committee on Committees;
  - (L) the Head Start Collaboration Office Director or designee;
  - (M) the Executive Officer of Let's Grow Kids or designee;
  - (N) a representative, appointed by Vermont Afterschool, Inc.;
  - (O) a representative, appointed by the Vermont Association for the Education of Young Children;
  - (P) a regional prekindergarten coordinator, appointed by the Vermont Principals' Association; and
  - (Q) two family representatives, one with a child three years of age or younger when the Committee initially convenes and the second with a

prekindergarten-age child when the Committee initially convenes, appointed by the Building Bright Futures Council.

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

(c) Powers and duties. The Committee shall examine the delivery of prekindergarten education in Vermont and make recommendations to expand access for children through the public school system or private providers under contract with the school district, or both. The Committee shall examine and make recommendations on the changes necessary to provide prekindergarten education to all children by or through the public school system on or before July 1, 2026. The Committee's analysis may yield distinct recommendations for different prekindergarten ages. The Committee's recommendation shall consider:

(1) the needs of both the State and local education agencies;

(2) the minimum number of hours that shall constitute a full school day for both prekindergarten and kindergarten;

(3) whether there are areas of the State where prekindergarten education can be more effectively and conveniently furnished in an adjacent state due to geographic considerations;

(4) benchmarks and best practices to ensure high-quality prekindergarten education;

(5) measures to ensure capacity is available to meet the demand for prekindergarten education;

(6) special education services for children participating in prekindergarten in both public and private settings;

(7) any necessary infrastructure changes to expand prekindergarten;

(8) costs associated with expanding prekindergarten, including fiscally strategic options to sustain an expansion of prekindergarten;

(9) recommendations for the oversight of the prekindergarten system;  
and

(10) any other issue the Committee deems relevant.

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

the Agency of Education shall retain a contractor with the necessary expertise to assist the Committee.

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

(f) Meetings.

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

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

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

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

(h) Appropriations.

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

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

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

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

On or before December 1, 2024, the Agency of Education, in consultation with the members of the Prekindergarten Education Implementation Committee and other relevant stakeholders, shall develop a model contract for school districts to use for contracting with private providers for prekindergarten education services. The model contract shall include:

(1) an antidiscrimination provision that requires compliance with the Vermont Public Accommodations Act, 9 V.S.A. chapter 139, and the Vermont Fair Employment Practices Act, 21 V.S.A. chapter 5, subchapter 6; and

(2) requirements for the provision of special education services.

#### Sec. 2b. PREKINDERGARTEN PUPIL WEIGHT; REPORT

On or before December 1, 2023, the Agency of Education, in consultation with the Prekindergarten Education Implementation Committee, shall analyze and issue a written report to the General Assembly regarding whether the cost of educating a prekindergarten student is the same as educating a kindergarten student in the context of a full school day. The report shall include a detailed analysis, recommendation, and implementation plan for the sufficient weight to apply to prekindergarten students, in alignment with the weights under current law, for the purposes of determining weighted long-term membership of a school district under 16 V.S.A. § 4010. The report shall include draft legislative language to support the recommended prekindergarten pupil weight and implementation plan.

#### Sec. 2c. AGENCY OF EDUCATION DATA COLLECTION AND SHARING

On or before August 1, 2023, the Agency of Education shall collect and share the following data with the Joint Fiscal Office:

(1) The number of weighted pupils, which shall not be adjusted by the equalization ratio, for fiscal year 2024:

(A) using weights in effect on July 1, 2023 at both the statewide and district levels; and

(B) using weights in effect on July 1, 2024 at both the statewide and district levels.

(2) The following data, by school district:

(A) the total resources needed to operate a public prekindergarten education program that would serve each prekindergarten child in the district;

(B) the number of prekindergarten children by year of age;

(C) the total education spending and other funds spent in fiscal year 2023 for children attending public prekindergarten education programs;

(D) the total education spending and other funds spent in fiscal year 2023 for prekindergarten children receiving prekindergarten education through a prequalified private provider to whom the district pays tuition;



(E) if the school district operates a public prekindergarten education program:

(i) the number of hours and slots offered in the public prekindergarten education program;

(ii) the number of students residing in the district enrolled in the public prekindergarten education program;

(iii) the number and cost of students residing in the district enrolled in a prequalified private provider for whom the district pays tuition for prekindergarten education; and

(iv) the number of students enrolled in the public prekindergarten education program who reside outside the district and the corresponding revenues associated with the nonresident student tuition; and

(F) if the school district does not operate a prekindergarten education program:

(i) the number of hours of prekindergarten education provided to each prekindergarten child; and

(ii) the tuition costs for prekindergarten children.

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

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

\* \* \*

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

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

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

(B) grades six through eight—0.36; and

(C) grades nine through 12—0.39.

\* \* \*

Sec. 3a. CONTINGENT EFFECTIVE DATE OF PREKINDERGARTEN

EDUCATION WEIGHT CHANGE

The amendments to 16 V.S.A. § 4010 (weighted long-term membership) set forth in Sec. 3 of this act shall not take effect unless, on or before July 1, 2026, the General Assembly enacts legislation establishing the following:

(1) a definition for the minimum number of hours that constitute a full school day for prekindergarten education;

(2) a requirement that all school districts shall be required to follow the same minimum number of hour requirements for prekindergarten education; and

(3) a requirement that all school districts shall be required to follow the same contracting requirements for the provision of prekindergarten education.

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

Sec. 4. PLAN; AGENCY OF EDUCATION LEADERSHIP

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

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

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

§ 3512. CHILD CARE FINANCIAL ASSISTANCE PROGRAM;

ELIGIBILITY

(a)(1) The Child Care Financial Assistance Program is established to subsidize, to the extent that funds permit, the costs of child care for families that need child care services in order to obtain employment, to retain employment, or to obtain training leading to employment. Families seeking employment shall be entitled to participate in the Program for up to three months and the Commissioner may further extend that period.

\* \* \*

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

~~customary rate for services at the center-based child care program or family child care home~~ Nothing in this subsection shall preclude a child care provider from establishing tuition rates that are lower than the provider reimbursement rate in the Child Care Financial Assistance Program.

\* \* \*

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

§ 3512. CHILD CARE FINANCIAL ASSISTANCE PROGRAM;

ELIGIBILITY

(a)(1) The Child Care Financial Assistance Program is established to subsidize, to the extent that funds permit, the costs of child care for families that need child care services in order to obtain employment, to retain employment, or to obtain training leading to employment. Families seeking employment shall be entitled to participate in the Program for up to three months and the Commissioner may further extend that period.

(2) The subsidy authorized by this subsection and the corresponding family contribution shall be established by the Commissioner, by rule, and shall bear a reasonable relationship to income and family size. The Commissioner may adjust the subsidy and family contribution by rule to account for increasing child care costs not to exceed 1.5 times the most recent annual increase in the NAICS code 611, Educational Services. Families shall be found eligible using an income eligibility scale based on the current federal poverty level and adjusted for the size of the family. Co-payments shall be assigned to the whole family and shall not increase if more than one eligible child is enrolled in child care. Families with an annual gross income of less than or equal to ~~150~~ 175 percent of the current federal poverty guidelines shall not have a family co-payment. Families with an annual gross income up to and including ~~350~~ 400 percent of current federal poverty guidelines, adjusted for family size, shall be eligible for a subsidy authorized by the subsection. The scale shall be structured so that it encourages employment. If the federal poverty guidelines decrease in a given year, the Division shall maintain the previous year's federal poverty guidelines for the purpose of determining eligibility and benefit amount under this subsection.

\* \* \*

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

§ 3512. CHILD CARE FINANCIAL ASSISTANCE PROGRAM;

ELIGIBILITY

(a)(1) The Child Care Financial Assistance Program is established to subsidize, to the extent that funds permit, the costs of child care for families that need child care services in order to obtain employment, to retain employment, or to obtain training leading to employment. Families seeking employment shall be entitled to participate in the Program for up to three months and the Commissioner may further extend that period.

\* \* \*

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

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

\* \* \*

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

§ 3512. CHILD CARE FINANCIAL ASSISTANCE PROGRAM;

#### ELIGIBILITY

(a)(1) The Child Care Financial Assistance Program is established to subsidize, to the extent that funds permit, the costs of child care for families that need child care services in order to obtain employment, to retain employment, or to obtain training leading to employment. Families seeking employment shall be entitled to participate in the Program for up to three months and the Commissioner may further extend that period.

(2) The subsidy authorized by this subsection and the corresponding family contribution shall be established by the Commissioner, by rule, and shall bear a reasonable relationship to income and family size. The Commissioner may adjust the subsidy and family contribution by rule to account for increasing child care costs not to exceed 1.5 times the most recent annual increase in the NAICS code 611, Educational Services. Families shall be found eligible using an income eligibility scale based on the current federal

poverty level and adjusted for the size of the family. Co-payments shall be assigned to the whole family and shall not increase if more than one eligible child is enrolled in child care. Families with an annual gross income of less than or equal to 175 percent of the current federal poverty guidelines shall not have a family co-payment. Families with an annual gross income up to and including 400 ~~575~~ percent of current federal poverty guidelines, adjusted for family size, shall be eligible for a subsidy authorized by the subsection. The scale shall be structured so that it encourages employment. If the federal poverty guidelines decrease in a given year, the Division shall maintain the previous year's federal poverty guidelines for the purpose of determining eligibility and benefit amount under this subsection.

\* \* \*

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

In fiscal year 2024, a weekly family contribution for participants in the Child Care Financial Assistance Program established in 33 V.S.A. §§ 3512 and 3513 shall begin at \$52.00 for families at 176 percent of the federal poverty level and increase for families at a higher percentage of the federal poverty level as determined by the Department.

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

(a) It is the intent of the General Assembly that:

(1) the provider rate adjustment recommended in this section shall be an initial step toward implementing the professional pay scale established pursuant to 33 V.S.A. § 3544; and

(2) programs use funds to elevate quality through higher compensation for staff, curriculum implementation, staff professional development, and improvements to learning environments.

(b)(1) On January 1, 2024, the Department for Children and Families shall provide an adjustment to the base child care provider reimbursement rates in the Child Care Financial Assistance Program for child care services provided by center-based child care and preschool programs, family child care homes, and afterschool and summer care programs. The adjusted reimbursement rate shall account for the age of the children served and be 35 percent higher than the fiscal year 2023 five-STAR reimbursement rate in the Vermont STARS system. All providers in the same child care setting category shall receive a reimbursement rate payment, which shall be dependent upon whether the provider operates a regulated child care center and preschool program, regulated family child care home, or afterschool or summer care program.

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

Sec. 7. APPROPRIATION; CHILD CARE FINANCIAL ASSISTANCE  
PROGRAM

(a) In addition to fiscal year 2024 funds appropriated for the Child Care Financial Assistance Program in other acts, in fiscal year 2024, \$47,300,000.00 is appropriated from the General Fund to the Department for Children and Families' Child Development Division for:

- (1) the program eligibility expansion in Sec. 5a of this act; and
- (2) the fiscal year 2024 provider rate adjustment in Sec. 6 of this act.

(b)(1) In addition to fiscal year 2024 funds appropriated for the administration of the Department for Children and Families' Child Development Division in other acts, in fiscal year 2024, \$4,000,000.00 is appropriated from the General Fund to the Division to administer adjustments to the Child Care Financial Assistance Program required by this act through the authorization of the following 11 new permanent classified positions within the Division:

- (A) one Business Applications Support Manager;
- (B) one Licensing Field Specialist I;
- (C) two Child Care Business Techs;
- (D) one Administrative Services Coordinator II;
- (E) one Program Integrity Investigator;
- (F) one Grants and Contracts Manager – Compliance;
- (G) one Business Application Support Specialist;
- (H) one Communications and Outreach Coordinator;
- (I) one Financial Manager II; and
- (J) one Grants and Contracts Manger.

(2) The Department may seek permission from the Joint Fiscal Committee to replace a position authorized in this subsection with an alternative position.

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

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

(a)(1) In fiscal year 2024, \$20,000,000.00 is appropriated one time from the General Fund to the Department for Children and Families' Child Development Division for the purpose of providing payments to child care providers, as defined in 33 V.S.A. § 3511, delivering child care services to children, in preparation of the Child Care Financial Assistance Program eligibility expansion in Sec. 5a of this act and for the fiscal year 2024 provider rate adjustment in Sec. 6 of this act. Readiness payments may be used for the following:

(A) increasing capacity for infants and toddlers;

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

(C) improving child care facilities;

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

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

(F) addressing gaps in services and expanding capacity;

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

(H) any other uses approved by the Commissioner.

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

(b) In administering the readiness payment program established by this section, the Division shall utilize the Agency of Administration bulletin pertaining to beneficiaries in effect on May 1, 2023. The Division may either use the same distribution framework used to distribute Child Care Development Block Grant funds in accordance with the American Rescue Plan Act of 2021 or it may utilize an alternative distribution framework.

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

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

§ 3514. PAYMENT TO PROVIDERS

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

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

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

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

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

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

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

§ 3514. PAYMENT TO PROVIDERS

(a)(1) The Commissioner shall establish a payment schedule for purposes of reimbursing providers for full- or part-time child care services rendered to families who participate in the programs established under section 3512 or



3513 of this title. The payment schedule shall account for the age of the children served, and all providers in the same child care setting category shall receive a reimbursement rate payment, which shall be dependent upon whether the provider operates a child care center and preschool program, family child care home, or afterschool or summer care program. The adjusted reimbursement rate shall then be adjusted to account for the differential between family child care homes and center-based child care and preschool programs by 50 percent. The rate used to reimburse providers shall be increased over the previous year's rate annually in alignment with the most recent annual average wage growth for NAICS code 611, Educational Services, not to exceed five percent.

\* \* \*

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

§ 3515. CHILD CARE QUALITY AND CAPACITY INCENTIVE PROGRAM

(a) The Commissioner shall establish a child care quality and capacity incentive program for child care providers participating in the Child Care Financial Assistance Program pursuant to sections 3512 and 3513 of this title. Annually, consistent with funds appropriated for this purpose, the Commissioner may provide a child care provider with an incentive payment for the following achievements:

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

(2) increasing infant and toddler capacity;

(3) maintaining existing infant and toddler capacity;

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

(5) providing nonstandard hours of child care services;

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

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

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

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

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

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

§ 3516. CHILD CARE WAITLIST AND APPLICATION FEES

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

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

§ 3517. CHILD CARE TUITION RATES

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

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

§ 3518. CHILD CARE PROVIDER OWNERSHIP DISCLOSURE

(a) As used in this section:

(1) "Affiliate" means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with another person.

(2) "Applicant" means a person that applies to be eligible to receive State funding for child care services pursuant to a provider rate agreement.

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

(4) “Owner” means a person who controls an applicant.

(5) “Principal” means one of the following:

(A) the president, vice president, secretary, treasurer, manager, or similar officer of a corporation as provided for by 11A V.S.A. § 8.40, nonprofit corporation as provided for by 11B V.S.A. § 8.40, mutual benefit enterprise as provided for by 11C V.S.A. § 822, cooperative as provided for by 11 V.S.A. § 1013, or worker cooperative corporation as provided for by 11 V.S.A. § 1089;

(B) a director of a corporation as provided for by 11A V.S.A. § 8.01, nonprofit corporation as provided for by 11B V.S.A. § 8.01, mutual benefit enterprise as provided for by 11C V.S.A. § 801, cooperative as provided for by 11 V.S.A. § 1006, or worker cooperative corporation as provided for by 11 V.S.A. § 1089;

(C) a member of a member-managed limited liability company as provided for by 11 V.S.A. § 4054;

(D) a manager of a manager-managed limited liability company as provided for by 11 V.S.A. § 4054; or

(E) a partner of a partnership as provided for by 11 V.S.A. § 3212 or a general partner of a limited partnership as provided for by 11 V.S.A. chapter 23.

(b) Disclosure. The Department shall adopt procedures to require each applicant to disclose, prior to entering a provider rate agreement:

(1) the type of business organization of the applicant;

(2) the identity of the applicant’s owners and principals; and

(3) the identity of the owners and principals of the applicant’s affiliates.

Sec. 12b. 33 V.S.A. § 3519 is added to read:

#### § 3519. DIVERSITY, EQUITY, AND INCLUSION

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

#### Sec. 13. RULEMAKING; PROGRAM DIRECTORS

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

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

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

(b) The Department shall review and consider amending its:

(1) rule prohibiting a person or entity registered or licensed to operate a family child care home from concurrently operating a center-based child care and preschool program or afterschool and summer care program; and

(2) eligibility policies addressing self-employment and other areas of specialized need on a regular basis and revise them consistent with research on best practices in the field to maximize participation in the program and minimize undue burden on families applying for the Child Care Financial Assistance Program.

\* \* \* Report \* \* \*

#### Sec. 14. REPORT; BACKGROUND CHECKS

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

Sec. 15. [Deleted.]

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

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

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

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

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

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

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

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

Sec. 17. 2021 Acts and Resolves No. 45, Sec. 8 is amended to read:

Sec. 8. REPEALS

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

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

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

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

Sec. 18. CHILD CARE; ADMINISTRATIVE SERVICE ORGANIZATIONS

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

Sec. 19. 33 V.S.A. § 4605 is added to read:

§ 4605. TECHNICAL ASSISTANCE; ACCOUNTABILITY

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

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

(2) define and measure success of expanded child care, prekindergarten, and afterschool and summer care related to process, implementation, and

outcomes using a continuous quality improvement framework and engage public, private, legislative, and family partners to develop benchmarks pertaining to:

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

(B) equitable access to high-quality prekindergarten;

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

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

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

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

#### Sec. 20. APPROPRIATION; BUILDING BRIGHT FUTURES

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

#### Sec. 21. PLAN; DEPARTMENT FOR CHILDREN AND FAMILIES;

##### GOVERNANCE

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

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

\* \* \* \* Child Care Provider Wages \* \* \*

Sec. 23. WAGES FOR CHILD CARE PROVIDERS; INTENT

It is the intent of the General Assembly that, upon reaching the provider reimbursement rates recommended by the report produced pursuant to 2021 Acts and Resolves No. 45, Sec. 14:

(1) Vermont shall establish minimum wage rates for child care providers that align with the recommendations of the Vermont Association for the Education of Young Children's recommendations in the 2021 Advancing ECE as a Profession Task Force report;

(2) the minimum wage rates shall annually increase based on the percentage increase in the average wage for NAICS code 611, Educational Services; and

(3) the initial minimum wage rates shall be adjusted for inflation based on the findings and recommendations of the report prepared pursuant to Sec. 23a of this act.

Sec. 23a. REPORT; CHILD CARE PROVIDER WAGES

On or before January 1, 2026, the Joint Fiscal Office shall submit information to the House Committees on Human Services and on Ways and Means and to the Senate Committees on Health and Welfare and on Finance providing estimated current minimum wage levels based on Vermont and other state data regarding wage levels for early care and education providers.

\* \* \* Personal Income Tax Rates \* \* \*

Sec. 24. PERSONAL INCOME TAX RATES; TAXABLE YEAR 2024

(a) For taxable years beginning on and after January 1, 2024, after taking into consideration any inflation adjustments to taxable income as required by 32 V.S.A. § 5822(b)(2), all personal income tax rates under 32 V.S.A. § 5822(a)(1)–(5) shall be increased as follows:

(1) taxable income that without the passage of this act would have been subject to a rate of 3.35 percent shall be taxed at the rate of 3.65 percent instead;

(2) taxable income that without the passage of this act would have been subject to a rate of 6.60 percent shall be taxed at the rate of 7.30 percent instead;

(3) taxable income that without the passage of this act would have been subject to a rate of 7.60 percent shall be taxed at the rate of 8.30 percent instead; and

(4) taxable income that without the passage of this act would have been subject to a rate of 8.75 percent shall be taxed at the rate of 9.60 percent instead.

(b) When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Counsel shall revise the tables in 32 V.S.A. § 5822(a)(1)–(5) as follows:

(1) to reflect the changes to the income tax rates made under subsection (a) of this section; and

(2) to update the taxable income brackets to the most recent taxable year amounts available that have been adjusted for inflation as required by 32 V.S.A. § 5822(b)(2).

#### Sec. 25. PERSONAL INCOME TAX RATES; TAXABLE YEAR 2027

(a) For taxable years beginning on and after January 1, 2027, after taking into consideration any inflation adjustments to taxable income as required by 32 V.S.A. § 5822(b)(2), all personal income tax rates under 32 V.S.A. § 5822(a)(1)–(5) shall be increased as follows:

(1) taxable income that without the passage of this act would have been subject to a rate of 3.65 percent shall be taxed at the rate of 3.80 percent instead;

(2) taxable income that without the passage of this act would have been subject to a rate of 7.30 percent shall be taxed at the rate of 7.50 percent instead;

(3) taxable income that without the passage of this act would have been subject to a rate of 8.30 percent shall be taxed at the rate of 8.55 percent instead; and

(4) taxable income that without the passage of this act would have been subject to a rate of 9.60 percent shall be taxed at the rate of 10.05 percent instead.

(b) When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Counsel shall revise the tables in 32 V.S.A. § 5822(a)(1)–(5) as follows:

(1) to reflect the changes to the income tax rates made under subsection (a) of this section; and

(2) to update the taxable income brackets to the most recent taxable year amounts available that have been adjusted for inflation as required by 32 V.S.A. § 5822(b)(2).



\* \* \* Corporate Income Tax Rates \* \* \*

Sec. 26. 32 V.S.A. § 5832 is amended to read:

§ 5832. TAX ON INCOME OF CORPORATIONS

A tax is imposed for each calendar year, or fiscal year ending during that calendar year, upon the income earned or received in that taxable year by every taxable corporation, reduced by any Vermont net operating loss allowed under section 5888 of this title, such tax being the greater of:

- (1) an amount determined in accordance with the following schedule:

Vermont net income of the corporation  
for the taxable year allocated or  
apportioned to Vermont  
under section 5833 of this title

	Tax
\$ 0–10,000.00	<del>6.00%</del> <u>6.5%</u>
10,001.00–25,000.00	\$600.00 plus <del>7.0%</del> <u>8.0%</u> of the excess over \$10,000.00
25,001.00 and over	\$1,650.00 plus <del>8.5%</del> <u>10.0%</u> of the excess over \$25,000.00

or

\* \* \*

\* \* \* Earned Income Tax Credit; Child Tax Credit \* \* \*

Sec. 27. 32 V.S.A. § 5828b(a) is amended to read:

(a) A resident individual or part-year resident individual who is entitled to an earned income tax credit granted under the laws of the United States or who would have been entitled to an earned income tax credit under the laws of the United States but for the fact that the individual, the individual's spouse, or one or more of the individual's children does not have a qualifying taxpayer identification number shall be entitled to a credit against the tax imposed for each year by section 5822 of this title. The credit shall be 38 percent of the earned income tax credit granted to the individual under the laws of the United States or that would have been granted to the individual under the laws of the United States but for the fact that the individual, the individual's spouse, or one or more of the individual's children does not have a qualifying taxpayer

identification number, multiplied by the percentage that the individual's earned income that is earned or received during the period of the individual's residency in this State bears to the individual's total earned income.

Sec. 28. 32 V.S.A. § 5828b is amended to read:

§ 5828b. EARNED INCOME TAX CREDIT

(a)(1) A resident individual or part-year resident individual who is entitled to an earned income tax credit granted under the laws of the United States or who would have been entitled to an earned income tax credit under the laws of the United States but for the fact that the individual, the individual's spouse, or one or more of the individual's children does not have a qualifying taxpayer identification number shall be entitled to a credit against the tax imposed for each year by section 5822 of this title. The credit shall be 38 percent a percentage, as determined under subdivision (2) of this subsection, of the earned income tax credit granted to the individual under the laws of the United States or that would have been granted to the individual under the laws of the United States but for the fact that the individual, the individual's spouse, or one or more of the individual's children does not have a qualifying taxpayer identification number, multiplied by the percentage that the individual's income that is earned or received during the period of the individual's residency in this State bears to the individual's total income.

(2) The credit under this section shall be a percentage of the earned income tax credit granted to the individual under the laws of the United States, which shall be determined as follows:

(A) for an individual who claims one qualifying child or more than one qualifying children for purposes of the earned income tax credit under this section during the taxable year, 55 percent; and

(B) for an individual who does not claim any qualifying children for purposes of the earned income tax credit under this section during the taxable year, 100 percent.

\* \* \*

Sec. 29. 32 V.S.A. § 5830f(a) is amended to read:

(a) A resident individual or part-year resident individual who is entitled to a child tax credit under the laws of the United States or who would have been entitled to a child tax credit under the laws of the United States but for the fact that the individual or the individual's spouse does not have a taxpayer identification number shall be entitled to a refundable credit against the tax imposed by section 5822 of this title for the taxable year. The total credit per taxable year shall be in the amount of \$1,000.00 per qualifying child, as

defined under 26 U.S.C. § 152(c) but notwithstanding the taxpayer identification number requirements under 26 U.S.C. § 24(e) and (h)(7), who is five years of age or younger as of the close of the calendar year in which the taxable year of the taxpayer begins. For a part-year resident individual, the amount of the credit shall be multiplied by the percentage that the individual's income that is earned or received during the period of the individual's residency in this State bears to the individual's total income.

Sec. 30. 32 V.S.A. § 5830 is added to read:

§ 5830. TAXPAYER IDENTIFICATION NUMBERS; CREDITS

(a) The Commissioner shall provide a process for an individual to claim the child tax credit or the earned income tax credit, or both, pursuant to subsections 5828b(a) and 5830f(a) of this title when the individual, the individual's spouse, or one or more of the individual's qualifying children does not have a taxpayer identification number. The Commissioner shall not inquire about or record the citizenship and immigration status of an individual, an individual's spouse, or one or more of an individual's qualifying children when an individual claims one or more credits pursuant to this section and subsections 5828b(a) and 5830f(a) of this title.

(b) Upon the Commissioner's request, an individual who claims one or more credits pursuant to subsections 5828b(a) and 5830f(a) of this title shall provide valid documents establishing the identity and income for the taxable year of the individual and, as applicable, the individual's spouse and qualifying children. Upon receiving a valid Social Security number issued by the Social Security Administration, the individual shall notify the Commissioner in the time and manner prescribed by the Commissioner.

(c) All claims submitted and records created pursuant to this section and subsections 5828b(a) and 5830f(a) of this title shall be exempt from public inspection and copying under the Public Records Act 1 V.S.A. § 317(c)(6) and shall be kept confidential as return or return information pursuant to section 3102 of this title.

Sec. 31. 32 V.S.A. § 5830f(d) is added to read:

(d)(1) The Commissioner shall establish a program to make advance quarterly payments of the credit under this section during the calendar year that, in the aggregate, equal 50 percent of the annual amount of the credit allowed to each individual for the taxable year. The quarterly payments made to an individual during the calendar year shall be in equal amounts, except that the Commissioner may modify the quarterly amount upon receipt of any information furnished by the individual that allows the Commissioner to

determine the annual amount. The remaining 50 percent of the annual amount of the credit allowed to each individual shall be determined at the time of filing a Vermont personal income tax return for the taxable year pursuant to section 5861 of this title.

(2) The Commissioner shall provide a process by which individuals may elect not to receive advance payments under this subsection.

\* \* \* SALT deduction cap workaround \* \* \*

Sec. 32. 32 V.S.A. chapter 151, subchapter 10C is added to read:

Subchapter 10C. Elective Pass-Through Entity Income Tax

§ 5921a. DEFINITIONS

As used in this subchapter:

(1) “Distributive proceeds” means the net income, dividends, royalties, interest, rents, guaranteed payments, and gains of a pass-through entity derived from or connected with sources within the State.

(2) “Member” means:

(A) a member of a limited liability company taxed as a partnership or S corporation for federal and state income tax purposes; a partner in a general, limited, or limited liability partnership; or a shareholder of an S corporation, provided the member is a natural person;

(B) a grantor trust that passes all income through to a grantor who is subject to personal income tax on that income under section 5822 of this title;  
or

(C) a single-member limited liability company disregarded for federal income tax purposes.

(3) “Pass-through entity” means a limited liability company taxed as a partnership or S corporation for federal and state income tax purposes, a partnership, or an S corporation. “Pass-through entity” does not mean a publicly traded partnership or a single-member limited liability company.

(4) “Pass-through entity business income tax” means the tax imposed under this subchapter.

(5) “Share of distributive proceeds” means the portion of distributive proceeds attributable to a member of a pass-through entity during a taxable year.

§ 5921b. PASS-THROUGH ENTITY INCOME TAX; ELECTION

(a) A pass-through entity may elect to be liable for and pay a pass-through entity income tax during the taxable year, provided:

(1) at least one member of the entity is liable for income tax under this chapter on that member's share of distributive proceeds of the pass-through entity during a taxable year;

(2) each member of the pass-through entity is a natural person, a single-member limited liability company disregarded for federal income tax purposes, or a grantor trust that passes all income through to a grantor who is subject to personal income tax on that income under section 5822 of this title;

(3) no member is a C corporation or another pass-through entity; and

(4) consent is given by:

(A) each member of the electing entity who is a member at the time the election is filed; or

(B) any officer, manager, or member of the electing entity who is authorized, under law or the entity's organizational documents, to make the election and who represents having such authority under penalties of perjury.

(b) The tax imposed on a pass-through entity under this section shall be equal to the sum of each member's share of taxable distributive proceeds attributable to the pass-through entity for the taxable year, multiplied by the second-highest marginal tax rate in section 5822 of this chapter.

(c) The election under this section shall be made annually, on or before the due date for filing the entity's return as established by the Commissioner, and shall not apply retroactively. An election made under this section shall be binding on all members of the pass-through entity for the year in which the election is made. If the members decide to revoke an election, that revocation shall occur on or before the due date for filing the entity's return.

(d) Each pass-through entity that makes an election for a taxable year under this section shall annually report to each of its members the member's share of distributive proceeds for the taxable year.

(e) Each pass-through entity that makes an election for a taxable year under this section shall file an entity tax return and make payments on or before the 15th day of the third month following the close of each entity's taxable year as determined for federal income tax purposes. A pass-through entity shall make estimated entity tax payments as provided under subchapters 10A and 10B of this chapter except that a pass-through entity shall make the estimated entity tax payments for residents and nonresidents alike.

(f) An individual who is a member or who receives income from a disregarded entity that is a member as defined in section 5921a of this title shall not be liable for the personal income tax imposed under section 5822 of this chapter and shall not be required to file a personal income tax return as prescribed under section 5861 of this chapter, provided:

(1) the individual is a nonresident of this State; and

(2) the individual's only Vermont income during the taxable year is derived from a pass-through entity that has paid the tax imposed under this section on the individual's Vermont income.

§ 5921c. REFUNDABLE INCOME TAX CREDIT; INDIVIDUAL

MEMBERS OF PASS-THROUGH ENTITIES

An individual taxpayer of this State shall be entitled to a refundable credit against the income tax paid under this chapter for the taxable year, provided the individual is a member or receives income from a disregarded entity that is a member of a pass-through entity that elects under section 5921b of this chapter to be liable for and pay the pass-through entity income tax during the taxable year. For each pass-through entity of which the individual is a member, the amount of the credit shall equal 87.5 percent of the individual's pro rata share of the tax paid under section 5921b of this chapter for the taxable year, and that credit shall be available to the individual during the same taxable year. The credit under this section shall be available after the application of all other credits allowed by law and claimed by the individual during the taxable year.

Sec. 33. 32 V.S.A. § 5825 is amended to read:

§ 5825. CREDIT FOR TAXES PAID TO OTHER STATES AND PROVINCES

\* \* \*

(c) The credit claimed under this section shall include an amount of the tax paid to another state that imposes a tax on the distributive proceeds of a pass-through entity, provided the other state's tax is substantially similar to the pass-through entity income tax imposed under subchapter 10C of this chapter. The nonrefundable credit under this subsection shall equal 87.5 percent of the taxpayer's pro rata share of tax paid to another state, provided the amount of the credit does not exceed the amount of pass-through entity business income tax owed or that would have been owed if the pro rata share of tax paid were subject to the pass-through entity income tax under subchapter 10C of this

chapter. As used in this subsection, “distributive proceeds” and “pass-through entity” have the same meanings as under section 5921a of this chapter.

#### Sec. 34. REPEALS; SALT DEDUCTION CAP WORKAROUND

(a) 32 V.S.A. chapter 151, subchapter 10C (elective pass-through entity income tax) is repealed.

(b) 32 V.S.A. § 5825(c) (credit for taxes paid to other states and provinces) is repealed.

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

#### Sec. 35. EFFECTIVE DATES

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

(b)(1) Sec. 3 (determination of weighted long-term membership and per pupil education spending) shall take effect on July 1, 2026, subject to the contingency provisions in Sec. 3a.

(2) Sec. 5 (Child Care Financial Assistance Program; eligibility), Sec. 6 (provider rate adjustment; Child Care Financial Assistance Program), Sec. 9 (payment to providers), and Sec. 12 (child care tuition rates) shall take effect on January 1, 2024, except that the Commissioner for Children and Families shall initiate any rulemaking necessary prior to that date in order to perform the Commissioner’s duties under this act.

(3) Sec. 5a (Child Care Financial Assistance Program; eligibility) and Sec. 5d (fiscal year 2024; family contribution) shall take effect on April 1, 2024, except that the Commissioner for Children and Families shall initiate any rulemaking necessary prior to that date in order to perform the Commissioner’s duties under this act.

(4) Sec. 5b (Child Care Financial Assistance Program; eligibility), Sec. 9a (payment to providers), and Sec. 10 (child care quality and capacity incentive program) shall take effect on July 1, 2024, except that the Commissioner for Children and Families shall initiate any rulemaking necessary prior to that date in order to perform the Commissioner’s duties under this act.

(5) Sec. 5c (Child Care Financial Assistance Program; eligibility) shall take effect on October 1, 2024.

(6) Secs. 24 (personal income tax rates; taxable year 2024), 26 (32 V.S.A. § 5832; corporate income tax rates), and 28 (32 V.S.A. § 5828b; earned

income tax credit) shall take effect on January 1, 2024 and shall apply to taxable years beginning on and after January 1, 2024.

(7) Sec. 25 (personal income tax rates; taxable year 2027) shall take effect on January 1, 2027. Sec. 25 shall apply to taxable years beginning on and after January 1, 2027.

(8) Notwithstanding 1 V.S.A. § 214, Secs. 27 (earned income tax credit; taxpayer identification numbers), 29 (child tax credit; taxpayer identification numbers), 30 (taxpayer identification numbers; credits), and 32 and 33 (SALT deduction cap workaround) shall take effect retroactively on January 1, 2023 and shall apply to taxable years beginning on and after January 1, 2023.

(9) Sec. 31 (child tax credit; advance payments) shall take effect on the later of July 1, 2023 or the first day of the second quarter of the State fiscal year after the requirement to include recurring or nonrecurring State payments of income tax refunds, rebates, or credits in income-based eligibility determinations for any federal public assistance program, including the Supplemental Nutrition Assistance Program; the Special Supplemental Nutrition Program for Women, Infants, and Children; federal child care assistance; and Supplemental Security Income, is abrogated by one or more of the following federal actions:

(A) enactment of federal legislation;

(B) a decision by a controlling court from which there is no further right of appeal; or

(C) publication of federal regulations, guidelines, memorandum, or any other official action taken by the relevant federal agency with the authority to alter income-based eligibility determinations for federal public assistance programs.

(10) Sec. 34 (repeals; SALT deduction cap workaround) shall take effect on the later of December 31, 2025 or the date on which the federal limitation on individual deductions for state and local taxes under 26 U.S.C. § 164(b)(6) is repealed or otherwise abrogated.

**(Committee Vote: 9-3-0)**

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

First: In Sec. 6, provider rate adjustment; Child Care Financial Assistance Program, in subdivision (a)(1), by striking out the phrase “the professional pay



scale established pursuant to 33 V.S.A. § 3544” and inserting in lieu thereof “a professional pay scale”

Second: In Sec. 23, wages for child care providers; intent, by striking out “shall” in the three places it appears and inserting in lieu thereof “may”

**(Committee Vote: 7-4-1)**

**Amendment to be offered by Rep. Wood of Waterbury to S. 56**

First: In Sec. 7, appropriation; Child Care Financial Assistance Program, in subdivision (b)(1)(J) by striking out “Manger” and inserting “Manager”

Second: By inserting a new Sec. 8a after Sec. 8 to read as follows:

Sec. 8a. 33 V.S.A. § 3514 is amended to read:

§ 3514. PAYMENT TO PROVIDERS

(a) The Commissioner shall establish a payment schedule for purposes of reimbursing providers for full- or part-time child care services rendered to families who participate in the programs established under section 3512 or 3513 of this title. Payments established under this section shall reflect the following considerations: whether the provider operates a licensed child care facility or a registered family child care home, type of service provided, cost of providing the service, and the prevailing market rate for comparable service. Payments shall be based on enrollment status or any other basis agreed to by the provider and the Division and shall reimburse all providers using the fiscal year 2023 5-STAR rate.

\* \* \*

Third: In Sec. 9, 33 V.S.A. § 3514, by striking out subdivision (a)(2) in its entirety and inserting a new subdivision (a)(2) to read as follows:

(2) ~~Payments shall be based on enrollment status or any other basis agreed to by the provider and the Division and shall reimburse all providers using the fiscal year 2023 5-STAR rate.~~ The Department, in consultation with the Office of Racial Equity and stakeholders, shall adopt rules pursuant to 3 V.S.A. chapter 25 that define “enrollment” and the total number of allowable absences to continue participating in the Child Care Financial Assistance Program. The Department shall minimize itemization of absence categories.

Fourth: In Sec. 12a, 33 V.S.A. § 3518, in subdivision (a)(1), by striking out “affiliate” and inserting in lieu thereof “licensee”; in subdivision (b)(3), by striking out “affiliates” and by inserting in lieu thereof “licensees”; in subdivision (a)(4), by striking out “owner” and by inserting in lieu thereof

“licensee”; and in subdivisions (b)(2) and (3), by striking out “owners” in both instances in which it occurs and inserting in lieu thereof “licensees”

## **New Business**

### **Senate Proposal of Amendment**

#### **H. 67**

An act relating to household products containing hazardous substances

The Senate proposes 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 manufactures, 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

### H. 126

An act relating to community resilience and biodiversity protection

The Senate proposes 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.

### H. 171

An act relating to adult protective services

The Senate proposes 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 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,

## NOTICE CALENDAR

### Favorable with Amendment

#### S. 133

An act relating to miscellaneous changes to education law

**Rep. Conlon of Cornwall**, for the Committee on Education, recommends that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. ANR REPORT ON PCB TESTING IN SCHOOLS; FUNDING

(a) On or before January 15, 2024, the Secretary of Natural Resources, after consultation with the Secretary of Education and the Commissioner of Health, shall submit to the House Committees on Education, on Human Services, on Ways and Means, and on Appropriations and the Senate Committees on Education, on Health and Welfare, on Finance, and on Appropriations a status report and plan for the testing, remediation, and removal of polychlorinated biphenyls (PCBs) in schools. The report shall include all of the following:

(1) A summary of schools that the Agency of Natural Resources has tested as of January 1, 2024, the testing results, and a summary of the completed, ongoing, or planned remediation or removal, including the actual costs of testing and the actual costs or cost estimates of remediation or removal.

(2) An updated, detailed estimate of the cost to test for PCB contamination in schools, including a timeline for completion of testing for PCBs in schools.



(3) A new detailed estimate of the cost of future remediation or removal of PCB contamination in schools based on completed remediation or removal and ongoing or scheduled remediation or removal.

(4) A detailed recommendation of how PCB remediation or removal should be funded for public schools, and the recommended revenue sources for that funding.

(5) A detailed recommendation of how remediation or removal of PCB contamination in independent schools, including independent schools in leased or rented spaces, should be funded from sources other than the Education Fund and the recommended revenue sources for the funding of remediation or removal in independent schools.

(6) A plan for how the Agency of Natural Resources and the Agency of Education shall work with schools to find adequate, alternative educational space if PCB testing, remediation, or removal at a school facility requires interruption of school programs or relocation of students.

(7) A survey of school officials whose schools have been tested and have exceeded the State action levels for PCBs. The survey shall solicit the input of the school official on the quality or sufficiency of the State response in providing technical, public relations, and financial assistance to schools.

(8) A detailed proposal for expanding the PCB testing program to child care programs regulated under 33 V.S.A. chapter 35, including a screening level for children under one year of age, estimated costs of testing and remediation, possible sources of revenues to pay for testing and remediation costs, and proposed contingency plans for providing alternate child care services if PCB testing of child care programs requires interruption or relocation of services.

(b) As used in this section:

(1) "Independent school" has the same meaning as in 16 V.S.A. § 11.

(2) "Public school" has the same meaning as in 16 V.S.A. § 11.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

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

## Senate Proposal of Amendment

### H. 217

An act relating to miscellaneous workers' compensation amendments

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

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

#### Sec. 1. LEGISLATIVE INTENT

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

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

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

(3) provide financial stability to child care programs;

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

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

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

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

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

#### Sec. 2. PREKINDERGARTEN EDUCATION IMPLEMENTATION COMMITTEE; PLAN

(a) Creation. There is created the Prekindergarten Education Implementation Committee to assist the Agency of Education in improving and expanding accessible, affordable, and high-quality prekindergarten education for children on a full-day basis on or before July 1, 2026. The prekindergarten program under consideration would require a school district to provide prekindergarten education to all children within the district in either a public school or by contract with private providers, or both.

(b) Membership.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(O) a representative, appointed by the Vermont Association for the Education of Young Children;

(P) a regional prekindergarten coordinator, appointed by the Vermont Principals' Association;

(Q) two family representatives, one with a child three years of age or younger when the Committee initially convenes and the second with a prekindergarten-age child when the Committee initially convenes, appointed

by the Building Bright Futures Council; and

(R) a member of the School Construction Aid Task Force, appointed by the Secretary of Education.

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

(c) Powers and duties. The Committee shall examine the delivery of prekindergarten education in Vermont and make recommendations to expand access for children through the public school system or private providers under contract with the school district, or both. The Committee shall examine and make recommendations on the changes necessary to provide prekindergarten education to all children by or through the public school system on or before July 1, 2026. The Committee's analysis may yield distinct recommendations for different prekindergarten ages. The Committee's recommendation shall consider:

(1) the needs of both the State and local education agencies;

(2) the minimum number of hours that shall constitute a full school day for both prekindergarten and kindergarten;

(3) whether there are areas of the State where prekindergarten education can be more effectively and conveniently furnished in an adjacent state due to geographic considerations;

(4) benchmarks and best practices to ensure high-quality prekindergarten education;

(5) measures to ensure capacity is available to meet the demand for prekindergarten education;

(6) special education services for children participating in prekindergarten in both public and private settings;

(7) any necessary infrastructure changes to expand prekindergarten;

(8) costs associated with expanding prekindergarten, including fiscally strategic options to sustain an expansion of prekindergarten;

(9) recommendations for the oversight of the prekindergarten system; and

(10) any other issue the Committee deems relevant.

(d) Assistance. The Committee shall have the administrative, technical, fiscal, and legal assistance of the Agencies of Education and of Human

Services. If the Agencies are unable to provide the Committee with adequate support to assist with its administrative, technical, fiscal, or legal needs, then the Agency of Education shall retain a contractor with the necessary expertise to assist the Committee.

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

(f) Meetings.

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

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

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

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

(h) Appropriations.

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

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

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

## Sec. 2a. PREKINDERGARTEN EDUCATION MODEL CONTRACT

On or before December 1, 2024, the Agency of Education, in consultation with the members of the Prekindergarten Education Implementation Committee and other relevant stakeholders, shall develop a model contract for school districts to use for contracting with private providers for prekindergarten education services. The model contract shall include:

(1) an antidiscrimination provision that requires compliance with the Vermont Public Accommodations Act, 9 V.S.A. chapter 139, and the Vermont Fair Employment Practices Act, 21 V.S.A. chapter 5, subchapter 6; and

(2) requirements for the provision of special education services.

Sec. 2b. PREKINDERGARTEN PUPIL WEIGHT; REPORT

On or before December 1, 2023, the Agency of Education, in consultation with the Prekindergarten Education Implementation Committee, shall analyze and issue a written report to the General Assembly regarding whether the cost of educating a prekindergarten student is the same as educating a kindergarten student in the context of a full school day. The report shall include a detailed analysis, recommendation, and implementation plan for the sufficient weight to apply to prekindergarten students, in alignment with the weights under current law, for the purposes of determining weighted long-term membership of a school district under 16 V.S.A. § 4010. The report shall include draft legislative language to support the recommended prekindergarten pupil weight and implementation plan.

Sec. 2c. AGENCY OF EDUCATION DATA COLLECTION AND SHARING

On or before August 1, 2023, the Agency of Education shall collect and share the following data with the Joint Fiscal Office:

(1) The number of weighted pupils, which shall not be adjusted by the equalization ratio, for fiscal year 2024:

(A) using weights in effect on July 1, 2023 at both the statewide and district levels; and

(B) using weights in effect on July 1, 2024 at both the statewide and district levels.

(2) The following data, by school district:

(A) the total resources needed to operate a public prekindergarten education program that would serve each prekindergarten child in the district;

(B) the number of prekindergarten children by year of age;

(C) the total education spending and other funds spent in fiscal year 2023 for children attending public prekindergarten education programs;

(D) the total education spending and other funds spent in fiscal year 2023 for prekindergarten children receiving prekindergarten education through a prequalified private provider to whom the district pays tuition;

(E) if the school district operates a public prekindergarten education program:

(i) the number of hours and slots offered in the public prekindergarten education program;

(ii) the number of students residing in the district enrolled in the public prekindergarten education program;

(iii) the number and cost of students residing in the district enrolled in a prequalified private provider for whom the district pays tuition for prekindergarten education; and

(iv) the number of students enrolled in the public prekindergarten education program who reside outside the district and the corresponding revenues associated with the nonresident student tuition; and

(F) if the school district does not operate a prekindergarten education program:

(i) the number of hours of prekindergarten education provided to each prekindergarten child; and

(ii) the tuition costs for prekindergarten children.

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

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

\* \* \*

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

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

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

(B) grades six through eight—0.36; and

(C) grades nine through 12—0.39.

\* \* \*

Sec. 3a. CONTINGENT EFFECTIVE DATE OF PREKINDERGARTEN

## EDUCATION WEIGHT CHANGE

The amendments to 16 V.S.A. § 4010 (weighted long-term membership) set forth in Sec. 3 of this act shall not take effect unless, on or before July 1, 2026, the General Assembly enacts legislation establishing the following:

(1) a definition for the minimum number of hours that constitute a full school day for prekindergarten education;

(2) a requirement that all school districts shall be required to follow the same minimum number of hour requirements for prekindergarten education; and

(3) a requirement that all school districts shall be required to follow the same contracting requirements for the provision of prekindergarten education.

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

### Sec. 4. PLAN; AGENCY OF EDUCATION LEADERSHIP

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

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

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

### § 3512. CHILD CARE FINANCIAL ASSISTANCE PROGRAM; ELIGIBILITY

(a)(1) The Child Care Financial Assistance Program is established to subsidize, to the extent that funds permit, the costs of child care for families that need child care services in order to obtain employment, to retain employment, or to obtain training leading to employment. Families seeking employment shall be entitled to participate in the Program for up to three months and the Commissioner may further extend that period.

\* \* \*

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



~~child care home~~ Nothing in this subsection shall preclude a child care provider from establishing tuition rates that are lower than the provider reimbursement rate in the Child Care Financial Assistance Program.

\* \* \*

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

§ 3512. CHILD CARE FINANCIAL ASSISTANCE PROGRAM;  
ELIGIBILITY

(a)(1) The Child Care Financial Assistance Program is established to subsidize, to the extent that funds permit, the costs of child care for families that need child care services in order to obtain employment, to retain employment, or to obtain training leading to employment. Families seeking employment shall be entitled to participate in the Program for up to three months and the Commissioner may further extend that period.

(2) The subsidy authorized by this subsection and the corresponding family contribution shall be established by the Commissioner, by rule, and shall bear a reasonable relationship to income and family size. The Commissioner may adjust the subsidy and family contribution by rule to account for increasing child care costs not to exceed 1.5 times the most recent annual increase in the NAICS code 611, Educational Services. Families shall be found eligible using an income eligibility scale based on the current federal poverty level and adjusted for the size of the family. Co-payments shall be assigned to the whole family and shall not increase if more than one eligible child is enrolled in child care. Families with an annual gross income of less than or equal to ~~150~~ 175 percent of the current federal poverty guidelines shall not have a family co-payment. Families with an annual gross income up to and including ~~350~~ 400 percent of current federal poverty guidelines, adjusted for family size, shall be eligible for a subsidy authorized by the subsection. The scale shall be structured so that it encourages employment. If the federal poverty guidelines decrease in a given year, the Division shall maintain the previous year's federal poverty guidelines for the purpose of determining eligibility and benefit amount under this subsection.

\* \* \*

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

§ 3512. CHILD CARE FINANCIAL ASSISTANCE PROGRAM;  
ELIGIBILITY

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

employment, or to obtain training leading to employment. Families seeking employment shall be entitled to participate in the Program for up to three months and the Commissioner may further extend that period.

\* \* \*

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

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

\* \* \*

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

§ 3512. CHILD CARE FINANCIAL ASSISTANCE PROGRAM;  
ELIGIBILITY

(a)(1) The Child Care Financial Assistance Program is established to subsidize, to the extent that funds permit, the costs of child care for families that need child care services in order to obtain employment, to retain employment, or to obtain training leading to employment. Families seeking employment shall be entitled to participate in the Program for up to three months and the Commissioner may further extend that period.

(2) The subsidy authorized by this subsection and the corresponding family contribution shall be established by the Commissioner, by rule, and shall bear a reasonable relationship to income and family size. The Commissioner may adjust the subsidy and family contribution by rule to account for increasing child care costs not to exceed 1.5 times the most recent annual increase in the NAICS code 611, Educational Services. Families shall be found eligible using an income eligibility scale based on the current federal poverty level and adjusted for the size of the family. Co-payments shall be assigned to the whole family and shall not increase if more than one eligible child is enrolled in child care. Families with an annual gross income of less

than or equal to 175 percent of the current federal poverty guidelines shall not have a family co-payment. Families with an annual gross income up to and including ~~400~~ 575 percent of current federal poverty guidelines, adjusted for family size, shall be eligible for a subsidy authorized by the subsection. The scale shall be structured so that it encourages employment. If the federal poverty guidelines decrease in a given year, the Division shall maintain the previous year's federal poverty guidelines for the purpose of determining eligibility and benefit amount under this subsection.

\* \* \*

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

In fiscal year 2024, a weekly family contribution for participants in the Child Care Financial Assistance Program established in 33 V.S.A. §§ 3512 and 3513 shall begin at \$50.00 for families at 176 percent of the federal poverty level and increase for families at a higher percentage of the federal poverty level as determined by the Department.

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

(a) It is the intent of the General Assembly that:

(1) the provider rate adjustment recommended in this section shall be an initial step toward implementing a professional pay scale; and

(2) programs use funds to elevate quality through higher compensation for staff, curriculum implementation, staff professional development, and improvements to learning environments.

(b)(1) On January 1, 2024, the Department for Children and Families shall provide an adjustment to the base child care provider reimbursement rates in the Child Care Financial Assistance Program for child care services provided by center-based child care and preschool programs, family child care homes, and afterschool and summer care programs. The adjusted reimbursement rate shall account for the age of the children served and be 35 percent higher than the fiscal year 2023 five-STAR reimbursement rate in the Vermont STARS system. All providers in the same child care setting category shall receive a reimbursement rate payment, which shall be dependent upon whether the provider operates a regulated child care center and preschool program, regulated family child care home, or afterschool or summer care program.

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

#### Sec. 7. APPROPRIATION; CHILD CARE FINANCIAL ASSISTANCE

PROGRAM

(a) In addition to fiscal year 2024 funds appropriated for the Child Care Financial Assistance Program in other acts, in fiscal year 2024, \$47,800,000.00 is appropriated from the General Fund to the Department for Children and Families' Child Development Division for:

- (1) the program eligibility expansion in Sec. 5a of this act; and
- (2) the fiscal year 2024 provider rate adjustment in Sec. 6 of this act.

(b)(1) In addition to fiscal year 2024 funds appropriated for the administration of the Department for Children and Families' Child Development Division in other acts, in fiscal year 2024, \$4,000,000.00 is appropriated from the General Fund to the Division to administer adjustments to the Child Care Financial Assistance Program required by this act through the authorization of the following 11 new permanent classified positions within the Division:

- (A) one Business Applications Support Manager;
- (B) one Licensing Field Specialist I;
- (C) two Child Care Business Techs;
- (D) one Administrative Services Coordinator II;
- (E) one Program Integrity Investigator;
- (F) one Grants and Contracts Manager – Compliance;
- (G) one Business Application Support Specialist;
- (H) one Communications and Outreach Coordinator;
- (I) one Financial Manager II; and
- (J) one Grants and Contracts Manager.

(2) The Department may seek permission from the Joint Fiscal Committee to replace a position authorized in this subsection with an alternative position.

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

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

(a)(1) In fiscal year 2024, \$20,000,000.00 is appropriated one time from the General Fund to the Department for Children and Families' Child Development Division for the purpose of providing payments to child care

providers, as defined in 33 V.S.A. § 3511, delivering child care services to children, in preparation of the Child Care Financial Assistance Program eligibility expansion in Sec. 5a of this act and for the fiscal year 2024 provider rate adjustment in Sec. 6 of this act. Readiness payments may be used for the following:

(A) increasing capacity for infants and toddlers;

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

(C) improving child care facilities;

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

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

(F) addressing gaps in services and expanding capacity;

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

(H) any other uses approved by the Commissioner.

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

(b) In administering the readiness payment program established by this section, the Division shall utilize the Agency of Administration bulletin pertaining to beneficiaries in effect on May 1, 2023. The Division may either use the same distribution framework used to distribute Child Care Development Block Grant funds in accordance with the American Rescue Plan Act of 2021 or it may utilize an alternative distribution framework.

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

Sec. 8a. 33 V.S.A. § 3514 is amended to read:

#### § 3514. PAYMENT TO PROVIDERS

(a) The Commissioner shall establish a payment schedule for purposes of reimbursing providers for full- or part-time child care services rendered to families who participate in the programs established under section 3512 or 3513 of this title. Payments established under this section shall reflect the

following considerations: whether the provider operates a licensed child care facility or a registered family child care home, type of service provided, cost of providing the service, and the prevailing market rate for comparable service. Payments shall be based on enrollment status or any other basis agreed to by the provider and the Division and shall reimburse all providers using the fiscal year 2023 5-STAR rate.

\* \* \*

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

§ 3514. PAYMENT TO PROVIDERS

(a)(1) ~~The Commissioner shall establish a payment schedule for purposes of reimbursing providers for full- or part-time child care services rendered to families who participate in the programs established under section 3512 or 3513 of this title. Payments established under this section shall reflect the following considerations: whether the provider operates a licensed child care facility or a registered family child care home, type of service provided, cost of providing the service, and the prevailing market rate for comparable service. The payment schedule shall account for the age of the children served, and all providers in the same child care setting category shall receive a reimbursement rate payment, which shall be dependent upon whether the provider operates a child care center and preschool program, family child care home, or afterschool or summer care program.~~

(2) ~~Payments shall be based on enrollment status or any other basis agreed to by the provider and the Division and shall reimburse all providers using the fiscal year 2023 5-STAR rate. The Department, in consultation with the Office of Racial Equity and stakeholders, shall adopt rules pursuant to 3 V.S.A. chapter 25 that define “enrollment” and the total number of allowable absences to continue participating in the Child Care Financial Assistance Program. The Department shall minimize itemization of absence categories.~~

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

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

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

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

§ 3514. PAYMENT TO PROVIDERS

(a)(1) The Commissioner shall establish a payment schedule for purposes of reimbursing providers for full- or part-time child care services rendered to families who participate in the programs established under section 3512 or 3513 of this title. The payment schedule shall account for the age of the children served, and all providers in the same child care setting category shall receive a reimbursement rate payment, which shall be dependent upon whether the provider operates a child care center and preschool program, family child care home, or afterschool or summer care program. The reimbursement rate shall then be adjusted to reduce the differential between family child care homes and center-based child care and preschool programs by 50 percent.

\* \* \*

Sec. 9b. REPORT; ADJUSTMENT OF CHILD CARE FINANCIAL ASSISTANCE PROGRAM RATES

On or before January 15, 2024, the Department for Children and Families' Child Development Division, in collaboration with the Joint Fiscal Office, shall submit a report to the House Committees on Appropriations and on Human Services and the Senate Committees on Appropriations and on Health and Welfare providing recommendations on:

(1) the appropriate mechanism for adjusting future reimbursement rates for child care providers participating in the Child Care Financial Assistance Program pursuant to 33 V.S.A. §§ 3512 and 3513;

(2) the appropriate reimbursement rate in fiscal years 2025 and 2026 for child care providers participating in the Child Care Financial Assistance Program pursuant to 33 V.S.A. §§ 3512 and 3513; and

(3) the appropriate family contribution in fiscal years 2025 and 2026 for families participating in the Child Care Financial Assistance Program pursuant to 33 V.S.A. §§ 3512 and 3513.

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

§ 3515. CHILD CARE QUALITY AND CAPACITY INCENTIVE PROGRAM

(a) The Commissioner shall establish a child care quality and capacity incentive program for child care providers participating in the Child Care Financial Assistance Program pursuant to sections 3512 and 3513 of this title. Annually, consistent with funds appropriated for this purpose, the Commissioner may provide a child care provider with an incentive payment

for the following achievements:

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

(2) increasing infant and toddler capacity;

(3) maintaining existing infant and toddler capacity;

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

(5) providing nonstandard hours of child care services;

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

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

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

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

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

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

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

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

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

#### § 3517. CHILD CARE TUITION RATES

A child care provider shall ensure that its tuition rates are available to the public. A regulated child care provider shall not impose an increase on annual child care tuition that exceeds 1.5 times the most recent annual increase in the



NAICS code 611, Educational Services. This amount shall be posted on the Department's website annually.

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

§ 3518. CHILDCARE PROVIDER OWNERSHIP DISCLOSURE

(a) As used in this section:

(1) “Affiliate” means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with another person.

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

(3) “Licensee” means a person that the Department approves to receive Child Care Financial Assistance Program funding for child care services pursuant to a provider rate agreement.

(4) “Principal” means one of the following:

(A) the president, vice president, secretary, treasurer, manager, or similar officer of a corporation as provided for by 11A V.S.A. § 8.40, nonprofit corporation as provided for by 11B V.S.A. § 8.40, mutual benefit enterprise as provided for by 11C V.S.A. § 822, cooperative as provided for by 11 V.S.A. § 1013, or worker cooperative corporation as provided for by 11 V.S.A. § 1089;

(B) a director of a corporation as provided for by 11A V.S.A. § 8.01, nonprofit corporation as provided for by 11B V.S.A. § 8.01, mutual benefit enterprise as provided for by 11C V.S.A. § 801, cooperative as provided for by 11 V.S.A. § 1006, or worker cooperative corporation as provided for by 11 V.S.A. § 1089;

(C) a member of a member-managed limited liability company as provided for by 11 V.S.A. § 4054;

(D) manager of a manager-managed limited liability company as provided for by 11 V.S.A. § 4054; or

(E) a partner of a partnership as provided for by 11 V.S.A. § 3212 or a general partner of a limited partnership as provided for by 11 V.S.A chapter 23.

(b) Disclosure. The Department shall adopt procedures to require each licensee to disclose, as a condition of receiving Child Care Financial Assistance Program funding pursuant to a provider rate agreement:

- (1) the type of business organization of the licensee;
- (2) the identity of the licensee's owners and principals; and
- (3) the identity of the owners and principals of the licensee's affiliates.

Sec. 12b. 33 V.S.A. § 3519 is added to read:

§ 3519. DIVERSITY, EQUITY, AND INCLUSION

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

Sec. 13. RULEMAKING; PROGRAM DIRECTORS

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

- (1) Department for Children and Families, Licensing Regulations for Afterschool and Child Care Programs (CVR 13-171-003); and
- (2) Department for Children and Families, Licensing Regulations for Center-Based Child Care and Preschool Programs (CVR 13-171-004).

(b) The Department shall review and consider amending its:

- (1) rule prohibiting a person or entity registered or licensed to operate a family child care home from concurrently operating a center-based child care and preschool program or afterschool and summer care program; and
- (2) eligibility policies addressing self-employment and other areas of specialized need on a regular basis and revise them consistent with research on best practices in the field to maximize participation in the program and minimize undue burden on families applying for the Child Care Financial Assistance Program.

\* \* \* Report \* \* \*

Sec. 14. REPORT; BACKGROUND CHECKS

On or before January 15, 2024, the Vermont Crime Information Center, in collaboration with the Agency of Education and the Department for Children and Families, shall submit a report to the House Committee on Human Services and to the Senate Committee on Health and Welfare providing a

recommendation to streamline and improve the timeliness of the background check process for child care and early education providers who are required to complete two separate background checks.

Sec. 15. [Deleted.]

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

Sec. 16. PLAN; SPECIAL ACCOMMODATIONS GRANT

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

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

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

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

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

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

Sec. 17. 2021 Acts and Resolves No. 45, Sec. 8 is amended to read:

Sec. 8. REPEALS

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

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

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

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

Sec. 18. CHILD CARE; ADMINISTRATIVE SERVICE ORGANIZATIONS

On or before February 15, 2024, the Department for Children and Families shall provide a presentation to the House Committee on Human Services and to the Senate Committee on Health and Welfare regarding the feasibility of and

any progress towards establishing administrative service organizations for child care providers.

Sec. 19. 33 V.S.A. § 4605 is added to read:

§ 4605. TECHNICAL ASSISTANCE; ACCOUNTABILITY

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

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

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

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

(B) equitable access to high-quality prekindergarten;

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

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

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

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

Sec. 20. APPROPRIATION; BUILDING BRIGHT FUTURES

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

Sec. 21. PLAN; DEPARTMENT FOR CHILDREN AND FAMILIES;  
GOVERNANCE

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

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

Sec. 22. [Deleted.]

\* \* \* Child Care Provider Wages \* \* \*

Sec. 23. WAGES FOR CHILD CARE PROVIDERS; INTENT

It is the intent of the General Assembly that, upon reaching provider reimbursement rates that are equivalent, when adjusted for inflation, to the rates recommended by the report produced pursuant to 2021 Acts and Resolves No. 45, Sec. 14:

(1) Vermont may establish minimum wage rates for child care providers that align with the recommendations of the Vermont Association for the Education of Young Children's recommendations in the 2021 Advancing ECE as a Profession Task Force report;

(2) the minimum wage rates may annually increase based on the percentage increase in the average wage for NAICS code 611, Educational Services; and

(3) the initial minimum wage rates may be adjusted for inflation based on the findings and recommendations of the report prepared pursuant to Sec. 23a of this act.

Sec. 23a. REPORT; CHILD CARE PROVIDER WAGES

On or before January 1, 2026, the Department of Labor, in consultation with the Department for Children and Families Child Development Division and the Joint Fiscal Office, shall submit information to the House Committees

on Human Services and on Ways and Means and to the Senate Committees on Health and Welfare and on Finance providing estimated current minimum wage levels based on Vermont and other state data regarding wage levels for early care and education providers.

\* \* \* Child Care Contribution \* \* \*

Sec. 24. 32 V.S.A. chapter 246 is added to read:

#### CHAPTER 246. CHILD CARE CONTRIBUTION

##### § 10551. PURPOSE

The Child Care Contribution is established to provide funding for the Child Care Financial Assistance Program established in 33 V.S.A. §§ 3512 and 3513, including the provision of incentive payments pursuant to 33 V.S.A. § 3515.

##### § 10552. DEFINITIONS

As used in this chapter:

(1) “Covered wages” means wages paid to an employee by an employer.

(2) “Employee” means an individual who receives payments with respect to services performed for an employer from which the employer is required to withhold Vermont income tax pursuant to chapter 151, subchapter 4 of this title.

(3) “Employer” means a person who employs one or more employees who is required to withhold income tax from wages paid to the employees pursuant to chapter 151, subchapter 4 of this title.

(4) “Self-employed individual” means a sole proprietor or partner owner of an unincorporated business, the sole member of a limited liability company, or the sole shareholder of a corporation.

(5) “Self-employment income” has the same meaning as in 26 U.S.C. § 1402.

(6) “Wages” means payments that are included in the definition of wages set forth in 26 U.S.C. § 3401.

##### § 10553. CONTRIBUTION; RATE; COLLECTION

(a)(1) Each employer shall pay the Child Care Contribution on all covered wages paid to each of the employer’s employees and shall remit those amounts to the Department of Taxes pursuant to the provisions of this section. An employer may deduct and withhold from an employee’s covered wages an amount equal to not more than one quarter of the contribution required pursuant to subsection (b) of this section. An employer shall pay the

contributions required pursuant to this section as if the contributions were Vermont income tax subject to the withholding requirements of chapter 151, subchapter 4 of this title, including the requirements relating to the time and manner of payment.

(2) Each self-employed individual shall pay the Child Care Contribution on self-employment income earned by the individual and shall remit those amounts to the Department of Taxes pursuant to the provisions of this section. A self-employed individual shall make installment payments of estimated contributions pursuant to this subdivision from the enrolled self-employed individual's self-employment income as if the contributions were Vermont income tax subject to the estimated payment requirements of 32 V.S.A. chapter 151, subchapter 5, including the time and manner of payment.

(b) The contribution rate shall be 0.44 percent of each employee's covered wages and 0.11 percent on each self-employed individual's self-employment income.

(c)(1) The Department shall collect the contributions required pursuant to this section. The administrative and enforcement provisions of chapter 151 of this title shall apply to the contribution requirements under this section as if the contributions required pursuant to this section were Vermont income tax, except penalty and interest shall apply according to chapter 103 of this title.

(2) Employers shall be responsible for the full amount of any unpaid contributions due pursuant to subdivision (a)(1) of this section. Self-employed individuals shall be responsible for the full amount of any unpaid contributions due pursuant to subdivision (a)(2) of this section.

#### § 10554. CHILD CARE CONTRIBUTION SPECIAL FUND

(a) The Child Care Contribution Special Fund is created pursuant to chapter 7, subchapter 5 of this title and shall be administered by the Department for Children and Families and the Department of Taxes. Monies in the Fund may be expended by the Department of Taxes for the administration of the Child Care and Parental Leave Contribution created under this chapter; by the Department for Children and Families for benefits provided by the Child Care Financial Assistance Program established in 33 V.S.A. §§ 3512 and 3513, including the provision of incentive payments pursuant to 33 V.S.A. § 3515; and by the Departments for necessary costs incurred in administering the Fund. All interest earned on Fund balances shall be credited to the Fund.

(b) The Fund shall consist of:

(1) contributions collected or recovered pursuant to section 10553 of

this title;

(2) any amounts transferred or appropriated to the Fund by the General Assembly; and

(3) any interest earned by the Fund.

(c) The Departments may seek and accept grants from any source, public or private, to be dedicated for deposit into the Fund.

#### Sec. 25. CHILD CARE CONTRIBUTION POSITIONS AND APPROPRIATION

(a) The establishment of the following 15 new permanent classified positions is authorized in the Department of Taxes in fiscal year 2024:

(1) eight full-time, classified tax examiners within the Taxpayer Services Division;

(2) two full-time, classified tax examiners within the Compliance Division;

(3) three full-time, classified tax compliance officers within the Compliance Division;

(4) one full-time, classified financial specialist III within the Revenue Accounting and Returns Processing Division; and

(5) one business analyst–tax within the VTax Division.

(b) In fiscal year 2024, the amount of \$4,200,000.00 is appropriated from the General Fund to the Department of Taxes to be used for the implementation of the Child Care Contribution pursuant to 32 V.S.A. chapter 246 created by this act.

\* \* \* Workers' Compensation \* \* \*

#### Sec. 26. 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. 27. 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. 28. 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. 29. 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~~ benefits have been authorized by operation of law.

~~(e)~~(d) If the insurer denies the preauthorization of the ~~treatment~~ benefits pursuant to subdivision ~~(a)(2)~~ (b)(2), (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~~ benefits are reasonable, necessary, and related to the work injury.

Sec. 30. 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. 31. 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 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 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. 32. 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. 33. 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. 34. 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. 35. 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. 31 and 33 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.

Sec. 36. 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. 37. 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.

(e)(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. 38. ADOPTION OF RULES

The Commissioner of Labor shall, on or before July 1, 2024, adopt rules as necessary to implement the provisions of Secs. 30, 31, 32, 33, 34, 35, 37, and 38 of this act.

\* \* \* Unemployment Insurance \* \* \*

Sec. 39. 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. 40. 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 $\frac{1}{2}$ , 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. 41. 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 ~~sueh~~ 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. ~~Sueh~~ 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 ~~sueh~~ 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 ~~sueh~~ an election. ~~Sueh~~ 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 ~~sueh~~ 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 ~~sueh~~ 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 ~~sueh~~ 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 ~~sueh~~ 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~~ (e):

~~(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. 42. 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. 43. 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. 44. 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. 45. 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. 46. 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. 47. EFFECTIVE DATES

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

(b)(1) Sec. 3 (determination of weighted long-term membership and per pupil education spending) shall take effect on July 1, 2026, subject to the contingency provisions in Sec. 3a.

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

(3) Sec. 5a (Child Care Financial Assistance Program; eligibility) and Sec. 5d (fiscal year 2024; family contribution) shall take effect on April 1, 2024, except that the Commissioner for Children and Families shall initiate any rulemaking necessary prior to that date in order to perform the Commissioner’s duties under this act.

(4) Sec. 5b (Child Care Financial Assistance Program; eligibility), Sec. 9a (payment to providers), and Sec. 10 (child care quality and capacity incentive program) shall take effect on July 1, 2024, except that the Commissioner for Children and Families shall initiate any rulemaking necessary prior to that date in order to perform the Commissioner’s duties under this act.

(5) Sec. 5c (Child Care Financial Assistance Program; eligibility) shall take effect on October 1, 2024.

(6) Sec. 24 (Child Care Contribution) shall take effect on July 1, 2024.

(7) Secs. 26 (Workers’ Compensation Administrative Fund rate of contribution) and 28 (extension prior to proposed discontinuance of workers’ compensation benefits) shall take effect on passage.

(8) Sec. 40 (extension of unemployment insurance to small nonprofit employers) shall take effect on July 1, 2024.

(9) Secs. 32 and 34 (sunset of workers’ compensation dependent benefit increases) shall take effect on July 1, 2028.

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

An act relating to child care, early education, workers’ compensation, and unemployment insurance.

**Amendment to be offered by Rep. Higley of Lowell to H. 217**

That the House propose to the Senate that the bill be amended in Sec. 1, legislative intent, as follows:

First: In subdivision (6), by striking out “and” after the semicolon

Second: By inserting a new subdivision (7) after subdivision (6) to read as follows:

(7) recognize the importance of private child care providers in rural communities and allow for ongoing financial support to:

(A) enable parents to choose to send their children to private child care providers; and

(B) provide technical assistance to private child care providers to ensure high-quality child care services are accessible throughout the State; and  
and by renumbering the remaining subdivision to be numerically correct.

## H. 227

An act relating to the Vermont Uniform Power of Attorney Act

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

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

### CHAPTER 127. VERMONT UNIFORM POWER OF ATTORNEY ACT

#### Subchapter 1. General Provisions

#### § 4001. SHORT TITLE

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

#### § 4002. DEFINITIONS

As used in this chapter:

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

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

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

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

(5) “General power of attorney” means a power of attorney that is not limited by its terms to a specified transaction or series of transactions, to a specific purpose, or to a specific asset or set of assets, or a power of attorney that grants an agent the authority to do any one or more of the acts described in subsection 4031(e) of this title.

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

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

even with the use of technological assistance.

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

(i) missing;

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

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

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

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

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

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

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

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

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

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

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

(15) “State” means a state of the United States, the District of

Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

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

#### § 4003. APPLICABILITY

This chapter applies to all powers of attorney except:

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

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

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

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

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

#### § 4004. POWER OF ATTORNEY IS DURABLE

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

#### § 4005. EXECUTION OF POWER OF ATTORNEY

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

#### § 4006. VALIDITY OF POWER OF ATTORNEY

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

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

(c) A power of attorney executed other than in this State is valid in this



State if, when the power of attorney was executed, the execution complied with:

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

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

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

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

#### § 4007. MEANING AND EFFECT OF POWER OF ATTORNEY

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

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

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

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

#### § 4009. WHEN POWER OF ATTORNEY EFFECTIVE

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

(b) If a power of attorney becomes effective upon the occurrence of a future event or contingency, the principal, in the power of attorney, may

authorize one or more persons to determine in a writing or other record that the event or contingency has occurred.

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

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

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

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

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

(a) A power of attorney terminates when:

(1) the principal dies;

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

(3) the principal revokes the power of attorney;

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

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

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

(b) An agent's authority terminates when:

(1) the principal revokes the authority;

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

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

(4) the power of attorney terminates.

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

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

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

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

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

#### § 4011. CO-AGENTS AND SUCCESSOR AGENTS

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

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

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

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

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

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

#### § 4012. REIMBURSEMENT AND COMPENSATION OF AGENT

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

#### § 4013. AGENT'S ACCEPTANCE

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

#### § 4014. AGENT'S DUTIES

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

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

(2) act in good faith; and

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

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

any action taken by the agent under the power of attorney, the agent shall:

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

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

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

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

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

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

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

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

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

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

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

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

(e) If an agent is selected by the principal because of special skills or expertise possessed by the agent or in reliance on the agent's representation that the agent has special skills or expertise, the special skills or expertise must be considered in determining whether the agent has acted with care, competence, and diligence under the circumstances.

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

(g) An agent who exercises authority to delegate to another person the

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

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

#### § 4015. EXONERATION OF AGENT

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

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

(A) dishonestly;

(B) in bad faith;

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

(D) through willful misconduct;

(E) through gross negligence; or

(F) with actual fraud; or

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

#### § 4016. JUDICIAL RELIEF

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

(1) the principal or the agent;

(2) a guardian or other fiduciary acting for the principal, including an executor or administrator of the estate of a deceased principal;

(3) a person authorized to make health-care decisions for the principal;

(4) the principal's spouse, parent, or descendant;

(5) an individual who would qualify as an heir of the principal under the laws of intestacy;

(6) a person named as a beneficiary to receive any property, benefit, or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal who has a financial interest in the principal's estate;

(7) a governmental agency having regulatory authority to protect the welfare of the principal;

(8) the principal's caregiver or another person who demonstrates sufficient interest in the principal's welfare; and

(9) a person asked to accept the power of attorney.

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

#### § 4017. AGENT'S LIABILITY

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

(1) restore the value of the principal's property to what it would have been had the violation not occurred;

(2) reimburse the principal or the principal's successors in interest for the attorney's fees and costs paid on the agent's behalf;

(3) reimburse the reasonable attorney's fees and costs incurred by the principal or the principal's successor in interest in pursuing rectification of the violation by the agent; and

(4) pay such other amounts, damages, costs, or expenses that the court may award.

#### § 4018. AGENT'S RESIGNATION; NOTICE

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

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

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

(A) the principal's caregiver;

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

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

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

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

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

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

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

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

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

(3) an opinion of counsel as to any matter of law concerning the power of attorney if the person making the request provides in a writing or other record the reason for the request.

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) the person makes, or has actual knowledge that another person has made, a report to the Adult Protective Services program or other appropriate entity within the Department of Disabilities, Aging, and Independent Living or to a law enforcement agency stating a good faith belief that the principal may be subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or a person acting for or with the agent.

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

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

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

#### § 4021. PRINCIPLES OF LAW AND EQUITY

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

§ 4022. LAWS APPLICABLE TO FINANCIAL INSTITUTIONS AND ENTITIES

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

§ 4023. REMEDIES UNDER OTHER LAW

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

Subchapter 2. Authority

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

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

- (1) create, amend, revoke, or terminate an inter vivos trust;
- (2) make a gift;
- (3) create or change rights of survivorship;
- (4) create or change a beneficiary designation;
- (5) delegate authority granted under the power of attorney;
- (6) waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;
- (7) authorize another person to exercise the authority granted under the power of attorney;
- (8) exercise authority over the content of an electronic communication of the principal in accordance with chapter 125 of this title (Vermont Revised Uniform Fiduciary Access to Digital Assets Act);
- (9) disclaim property, including a power of appointment;
- (10) exercise a written waiver of spousal rights under section 323 of this title;
- (11) exercise authority with respect to intellectual property, including copyrights, contracts for payment of royalties, and trademarks; or
- (12) convey, or revoke or revise a grantee designation, by enhanced life

estate deed pursuant to chapter 6 of Title 27 or under common law.

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

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

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

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

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

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

#### § 4032. INCORPORATION OF AUTHORITY

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

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

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

#### § 4033. CONSTRUCTION OF AUTHORITY GENERALLY

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

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

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

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

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

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

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

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

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

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

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

#### § 4034. REAL PROPERTY

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

attorney granting general authority with respect to real property authorizes the agent to:

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

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

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

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

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

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

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

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

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

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

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

(A) selling or otherwise disposing of them;

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

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

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

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

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

#### § 4035. TANGIBLE PERSONAL PROPERTY

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

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

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

(3) grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

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

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

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

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

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

assessments;

(D) moving the property from place to place;

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

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

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

#### § 4036. STOCKS AND BONDS

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

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

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

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

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

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

#### § 4037. COMMODITIES AND OPTIONS

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

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

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

#### § 4038. BANKS AND OTHER FINANCIAL INSTITUTIONS

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

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



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

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

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

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

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

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

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

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

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

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

#### § 4039. OPERATION OF ENTITY OR BUSINESS

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

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

interest:

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

(3) enforce the terms of an ownership agreement;

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

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

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

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

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

(B) determine:

(i) the location of its operation;

(ii) the nature and extent of its business;

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

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

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

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

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

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

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

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

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

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

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

#### § 4040. INSURANCE AND ANNUITIES

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

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

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

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

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

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

(6) exercise an election;

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

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

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

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

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

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

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

#### § 4041. ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS

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

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

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

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

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

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

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

remove, substitute, or surcharge a fiduciary;

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

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

#### § 4042. CLAIMS AND LITIGATION

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

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

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

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

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

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

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

(7) act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other

person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value;

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

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

#### § 4043. PERSONAL AND FAMILY MAINTENANCE

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

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

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

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

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

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

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

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

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

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

(6) act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act; Sections 1171–1179 of the

Social Security Act; 42 U.S.C. § 1320d, as amended; and applicable regulations in making decisions related to the past, present, or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this State to consent to health care on behalf of the principal;

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

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

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

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

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

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

(b) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to benefits from governmental programs or civil or military service authorizes the agent to:

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

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

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

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

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

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

#### § 4045. RETIREMENT PLANS

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

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

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

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

(4) an annuity or mutual fund custodial account under Internal Revenue Code § 403(b), 26 U.S.C. § 403(b), as amended;

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

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

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

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



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

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

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

(4) make contributions to a retirement plan;

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

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

#### § 4046. TAXES

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

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

(2) pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority;

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

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

#### § 4047. GIFTS

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

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

(1) evidence of the principal's intent;

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

(3) the principal's estate plan;

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

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

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

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

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

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

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

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

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

### Subchapter 3. Statutory Forms

#### § 4051. STATUTORY FORM POWER OF ATTORNEY

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

#### VERMONT STATUTORY FORM POWER OF ATTORNEY IMPORTANT INFORMATION

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

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

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

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

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

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

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

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

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

#### DESIGNATION OF AGENT

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

Name of Agent: \_\_\_\_\_

Agent's Address: \_\_\_\_\_

Agent's Telephone Number: \_\_\_\_\_

#### DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

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

Name of Successor Agent: \_\_\_\_\_

Successor Agent's Address: \_\_\_\_\_

Successor Agent's Telephone Number: \_\_\_\_\_

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

Name of Second Successor Agent: \_\_\_\_\_

Second Successor Agent's Address: \_\_\_\_\_

Second Successor Agent's Telephone Number: \_\_\_\_\_

#### GRANT OF GENERAL AUTHORITY

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

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

( ) Real Property

( ) Tangible Personal Property

( ) Stocks and Bonds

( ) Commodities and Options

( ) Banks and Other Financial Institutions

( ) Operation of Entity or Business

( ) Insurance and Annuities

( ) Estates, Trusts, and Other Beneficial Interests

( ) Claims and Litigation

( ) Personal and Family Maintenance

( ) Benefits from Governmental Programs or Civil or Military Service

( ) Retirement Plans

( ) Taxes

( ) All Preceding Subjects

#### GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS

I have INITIALED the specific authority listed below:

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

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

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

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

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

( ) Create, amend, or change rights of survivorship

( ) Create, amend, or change a beneficiary designation

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

( ) Exercise fiduciary powers that the principal has authority to delegate

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

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

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

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

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

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

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

LIMITATION ON AGENT’S AUTHORITY

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

WHEN POWER OF ATTORNEY EFFECTIVE

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

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

OR

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

OR

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

EFFECTIVE DATE

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

NOMINATION OF GUARDIAN (OPTIONAL)

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

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

\_\_\_\_\_  
Nominee's Address: \_\_\_\_\_

Nominee's Telephone Number: \_\_\_\_\_

Name of Nominee for guardian of my person: \_\_\_\_\_

Nominee's Address: \_\_\_\_\_

Nominee's Telephone Number: \_\_\_\_\_

RELIANCE ON THIS POWER OF ATTORNEY

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

SIGNATURE AND ACKNOWLEDGMENT

\_\_\_\_\_  
Your Name Printed

\_\_\_\_\_  
Your Address

\_\_\_\_\_  
Your Telephone Number

\_\_\_\_\_  
State of

\_\_\_\_\_  
County of

This document was acknowledged before me on \_\_\_\_\_ (Date)

by \_\_\_\_\_.

(Name of Principal)

(Seal, if any)

\_\_\_\_\_  
Signature of Notary \_\_\_\_\_

My commission expires: \_\_\_\_\_

## IMPORTANT INFORMATION FOR AGENT

### Agent's Duties

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

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

(2) act in good faith;

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

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

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

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

(2) avoid conflicts that would impair your ability to act in the principal's best interest;

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

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

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

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

### Termination of Agent's Authority

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



under a power of attorney include:

- (1) death of the principal;
- (2) the principal's revocation of the power of attorney or your authority;
- (3) the occurrence of a termination event stated in the power of attorney;
- (4) the purpose of the power of attorney is fully accomplished; or
- (5) if you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

#### Liability of Agent

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

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

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

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

#### VERMONT SHORT FORM POWER OF ATTORNEY FOR REAL ESTATE TRANSACTIONS

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

#### DESIGNATION OF AGENT

I/we \_\_\_\_\_ and \_\_\_\_\_

(Name(s) of Principal) appoint the following person as my (our) agent:

Name of Agent: \_\_\_\_\_

Name of Alternate Agent: \_\_\_\_\_

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

(Street): \_\_\_\_\_, \_\_\_\_\_ (Municipality)  
\_\_\_\_\_, Vermont.

Transaction for which the power of attorney is given:

Sale

Purchase or Acquisition

Mortgage

Finance and/or Mortgage

Gift

#### GRANT OF AUTHORITY

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

#### POWER TO DELEGATE

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

#### TERM

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

#### SELF DEALING

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

#### CHOICE OF LAW

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

SIGNATURE AND ACKNOWLEDGMENT

\_\_\_\_\_  
Your Name Printed

\_\_\_\_\_  
Your Address

\_\_\_\_\_  
Your Telephone Number

\_\_\_\_\_  
State of

\_\_\_\_\_  
County of

This document was acknowledged before me on \_\_\_\_\_ (Date)

by \_\_\_\_\_.

(Name of Principal)

\_\_\_\_\_  
(Seal, if any)

Signature of Notary \_\_\_\_\_

My commission expires: \_\_\_\_\_

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

§ 4053. AGENT'S CERTIFICATION

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

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

State of \_\_\_\_\_

[County] of \_\_\_\_\_ ]

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

I further certify that to my knowledge:

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

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

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

(4) (Insert other relevant statements below)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE AND ACKNOWLEDGMENT

\_\_\_\_\_

\_\_\_\_\_  
Agent's Name Printed

\_\_\_\_\_  
Agent's Address

\_\_\_\_\_  
Agent's Telephone Number

This document was acknowledged before me on \_\_\_\_\_,

\_\_\_\_\_  
(Date)

by \_\_\_\_\_

(Name of Agent)

\_\_\_\_\_  
(Seal, if any)

Signature of Notary

My commission expires: \_\_\_\_\_

Subchapter 4. Miscellaneous Provisions

§ 4061. UNIFORMITY OF APPLICATION AND CONSTRUCTION

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

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

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

§ 4063. EFFECT ON EXISTING POWERS OF ATTORNEY

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

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

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

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

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

Sec. 2. REPEAL

14 V.S.A. chapter 123 (powers of attorney) is repealed.

Sec. 3. 14A V.S.A. § 401 is amended to read:

§ 401. METHODS OF CREATING TRUST

A trust may be created:

(1) by transfer of property to another person as trustee or to the trust in the trust's name during the settlor's lifetime or by will or other disposition taking effect upon the settlor's death;

(2) by declaration by the owner of property that the owner holds identifiable property as trustee;

(3) by exercise of a power of appointment in favor of a trustee;

(4) pursuant to a statute or judgment or decree that requires property to

be administered in the manner of an express trust; or

(5)(A) by an agent or attorney-in-fact under a power of attorney that expressly grants authority to create the trust; ~~or~~

~~(B) by an agent or attorney-in-fact under a power of attorney that grants the agent or attorney-in-fact the authority to act in the management and disposition of the principal's property that is as broad or comprehensive as the principal could exercise for himself or herself and that does not expressly exclude the authority to create a trust, provided that any trust so created does not include any authority or powers that are otherwise prohibited by 14 V.S.A. § 3504. An agent or attorney-in-fact may petition the Probate Division of the Superior Court to determine whether a power of attorney described in this subdivision grants the agent or attorney-in-fact authority that is as broad or comprehensive as that which the principal could exercise for himself or herself.~~

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

### H. 270

An act relating to miscellaneous amendments to the adult-use and medical cannabis programs

The Senate proposes 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. § 843 is amended to read:

§ 843. CANNABIS CONTROL BOARD; DUTIES; MEMBERS

\* \* \*

(h) Advisory committee.

~~(1) There is an advisory committee established within the Board that shall be composed of members with expertise and knowledge relevant to the Board's mission. The Board shall collaborate with the advisory committee on recommendations to the General Assembly. The advisory committee shall be composed of the following 14 members:~~

~~(A) one member with an expertise in public health, appointed by the Governor;~~

~~(B) the Secretary of Agriculture, Food and Markets or designee;~~

~~(C) one member with an expertise in laboratory science or toxicology, appointed by the Governor;~~

~~(D) one member with an expertise in systemic social justice and equity issues, appointed by the Speaker of the House;~~

~~(E) one member with an expertise in women and minority-owned business ownership, appointed by the Speaker of the House;~~

~~(F) the Chair of the Substance Misuse Prevention Oversight and Advisory Council or designee;~~

~~(G) one member with an expertise in the cannabis industry, appointed by the Senate Committee on Committees;~~

~~(H) one member with an expertise in business management or regulatory compliance, appointed by the Treasurer;~~

~~(I) one member with an expertise in municipal issues, appointed by the Senate Committee on Committees;~~

~~(J) one member with an expertise in public safety, appointed by the Attorney General;~~

~~(K) one member with an expertise in criminal justice reform, appointed by the Attorney General;~~

~~(L) the Secretary of Natural Resources or designee;~~

~~(M) the Chair of the Cannabis for Symptom Relief Oversight Committee or designee; and~~

~~(N) one member appointed by the Vermont Cannabis Trade Association.~~

~~(2) Initial appointments to the advisory committee as provided in subdivision (1) of this subsection (h) shall be made on or before July 1, 2021.~~

~~(3) The Board may establish subcommittees within the advisory committee to accomplish its work.~~

~~(4) Members of the advisory committee who are not otherwise compensated by the member's employer for attendance at meetings shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings annually. These payments shall be made from the Cannabis Regulation Fund. [Repealed.]~~

## Sec. 2. REPEAL; SUNSET OF CANNABIS CONTROL BOARD

2020 Acts and Resolves No. 164, Sec. 6e is repealed.

Sec. 3. 7 V.S.A. § 845 is amended to read:

## § 845. CANNABIS REGULATION FUND

\* \* \*

(c) Monies from the Fund shall only be appropriated for the purposes of implementation, administration, and enforcement of this chapter and ~~chapter 33~~ chapters 33, 35, and 37 of this title.

\* \* \*

Sec. 4. 7 V.S.A. § 861 is amended to read:

§ 861. DEFINITIONS

As used in this chapter:

\* \* \*

(2) “Advertisement” means any written or verbal statement, illustration, or depiction that ~~is calculated to induce~~ would reasonably have the effect of inducing sales of cannabis or cannabis products, including any written, printed, graphic, or other material; billboard, sign, or other outdoor display; other periodical literature, publication, or in a radio or television broadcast; the Internet; or in any other media. The term does not include:

(A) any label affixed to any cannabis or cannabis product or any individual covering, carton, or other wrapper of that container that constitutes a part of the labeling under provisions of these standards;

(B) any editorial or other reading material, such as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any cannabis establishment, and that is not written by or at the direction of the licensee;

(C) any educational, instructional, or otherwise noncommercial material that is not intended to induce sales and that does not propose an economic transaction, but that merely provides information to the public in an unbiased manner; or

(D) a sign attached to the premises of a cannabis establishment that merely identifies the location of the cannabis establishment.

\* \* \*

(8) “Cannabis establishment” means a cannabis cultivator, propagation cultivator, wholesaler, product manufacturer, retailer, testing laboratory, or integrated licensee licensed by the Board to engage in commercial cannabis activity in accordance with this chapter.

\* \* \*



(31) “Cannabis propagation cultivator” or “propagation cultivator” means a person licensed by the Board to cultivate cannabis clones, immature plants, and mature plants in accordance with this chapter.

Sec. 5. 7 V.S.A. § 863 is amended to read:

§ 863. REGULATION BY LOCAL GOVERNMENT

\* \* \*

(b) A municipality that hosts any cannabis establishment may establish a cannabis control commission composed of commissioners who may be members of the municipal legislative body. The local cannabis control commission may issue and administer local control licenses under this subsection for cannabis establishments within the municipality but shall not assess a fee for a local control license issued to a cannabis establishment. The commissioners may condition the issuance of a local control license upon compliance with any bylaw adopted pursuant to 24 V.S.A. § 4414 or upon ordinances regulating signs or public nuisances adopted pursuant to 24 V.S.A. § 2291, except that ordinances may not regulate public nuisances as applied to outdoor cultivators that are regulated in the same manner as the Required Agricultural Practices under subdivision 869(f)(2) of this title. The commission may suspend or revoke a local control license for a violation of any condition placed upon the license. The Board shall adopt rules relating to a municipality’s issuance of a local control license in accordance with this subsection and the local commissioners shall administer the rules furnished to them by the Board as necessary to carry out the purposes of this section.

(c) Prior to issuing a license to a cannabis establishment under this chapter, the Board shall ensure that the applicant has obtained a local control license from the municipality, if required, unless the Board finds that the municipality has exceeded its authority under this section.

(d) A municipality shall not:

(1) prohibit the operation of a cannabis establishment within the municipality through an ordinance adopted pursuant to 24 V.S.A. § 2291 or a bylaw adopted pursuant to 24 V.S.A. § 4414, or regulate a cannabis establishment in a manner that has the effect of prohibiting the operation of a cannabis establishment;

(2) condition the operation of a cannabis establishment, or the issuance or renewal of a municipal permit to operate a cannabis establishment, on any basis other than the conditions in subsection (b) of this section; ~~and~~ or

(3) exceed the authority granted to it by law to regulate a cannabis establishment.

Sec. 6. 7 V.S.A. § 869 is amended to read:

§ 869. CULTIVATION OF CANNABIS; ENVIRONMENTAL AND LAND  
USE STANDARDS; REGULATION OF SMALL CULTIVATORS  
CULTIVATION

(a) A cannabis establishment shall not be regulated as “farming” under the Required Agricultural Practices, 6 V.S.A. chapter 215, or other State law, and cannabis produced from cultivation shall not be considered an agricultural product, farm crop, or agricultural crop for the purposes of 32 V.S.A. chapter 124, 32 V.S.A. § 9741, or other relevant State law.

(b) The cultivation, processing, and manufacturing of cannabis regulated under this chapter shall comply with all applicable State, federal, and local environmental, energy, or public health law, unless otherwise provided under this chapter.

(c) A cannabis establishment regulated under this chapter shall be subject to regulation under 24 V.S.A. chapter 117 as authorized by this chapter, unless otherwise provided under this chapter.

(d)(1) The cultivation, processing, and manufacturing of cannabis by all cultivators regulated under this chapter shall comply with the following sections of the Required Agricultural Practices as administered and enforced by the Board:

(A) section 6, regarding conditions, restriction, and operating standards;

(B) section 8, regarding groundwater quality and groundwater quality investigations; and

(C) section 12, regarding subsurface tile drainage.

(2) Application of or compliance with the Required Agricultural Practices under subdivision (1) of this subsection shall not be construed to provide a presumption of compliance with or exemption to any applicable State, federal, and local environmental, energy, public health, or land use law required under subsections (b) and (c) of this section.

(e) Persons cultivating cannabis or handling pesticides for the purposes of the manufacture of cannabis products shall comply with the worker protection standard of 40 C.F.R. Part 170.

(f) Notwithstanding subsection (a) of this section, a ~~small~~ cultivator licensed under this chapter who initiates cultivation of cannabis outdoors on a parcel of land ~~that was subject to the Required Agricultural Practices prior to licensed cultivation of cannabis~~ shall:

(1) be regulated in the same manner as “farming” and not as “development” on the tract of land where cultivation occurs for the purposes of permitting under 10 V.S.A. chapter 151;

(2) not be regulated by a municipal bylaw adopted under 24 V.S.A. chapter 117 in the same manner that Required Agricultural Practices are not regulated by a municipal bylaw under 24 V.S.A. § 4413(d)(1)(A);

(3) be eligible to enroll in the Use Value Appraisal Program under 32 V.S.A. chapter 124 for the cultivation of cannabis, ~~provided that the agricultural land or farm building on the parcel where cannabis cultivation occurs was enrolled in the Use Value Appraisal Program prior to commencement of licensed cannabis cultivation and the parcel continues to qualify for enrollment; and~~

(4) be exempt under 32 V.S.A. § 9741(3), (25), and (50) from the tax on retail sales imposed under 32 V.S.A. § 9771; and

(5) be entitled to the rebuttable presumption that cultivation does not constitute a nuisance under 12 V.S.A. chapter 195 in the same manner as “agricultural activities” are entitled to the rebuttable presumption, provided that, notwithstanding 12 V.S.A. § 5753(a)(1)(A), the cultivation is complying with subsections (b) and (d) of this section.

Sec. 7. 7 V.S.A. § 881 is amended to read:

§ 881. RULEMAKING; CANNABIS ESTABLISHMENTS

(a) The Board shall adopt rules to implement and administer this chapter in accordance with subdivisions (1)–~~(7)~~(8) of this subsection.

\* \* \*

(3) Rules concerning product manufacturers shall include:

(A) requirements that a single package of a cannabis product shall not contain more than ~~50~~ 100 milligrams of THC, except in the case of:

(i) cannabis products that are not consumable, including topical preparations;

(ii) solid concentrates, oils, and tinctures; and

(iii) cannabis products sold to a dispensary pursuant to 18 V.S.A. chapter 86 and rules adopted pursuant to that chapter;

\* \* \*

(5) Rules concerning retailers shall include:

\* \* \*

(E) ~~facility inspection~~ requirements and procedures for facility inspection to occur at least annually.

\* \* \*

(8) Rules concerning propagators shall include:

(A) requirements for proper verification of age of customers;

(B) pesticides or classes of pesticides that may be used by propagators, provided that any rules adopted under this subdivision (8) shall comply with and shall be at least as stringent as the Agency of Agriculture, Food and Markets' Vermont Pesticide Control Regulations;

(C) standards for indoor cultivation of cannabis;

(D) procedures and standards for testing cannabis for contaminants, potency, and quality assurance and control;

(E) labeling requirements for cannabis sold to retailers and integrated licensees;

(F) regulation of visits to the establishments, including the number of visitors allowed at any one time and record keeping concerning visitors; and

(G) facility inspection requirements and procedures.

\* \* \*

Sec. 8. 7 V.S.A. § 901 is amended to read:

§ 901. GENERAL PROVISIONS

(a) Except as otherwise permitted by law, a person shall not engage in the cultivation, preparation, processing, packaging, transportation, testing, or sale of cannabis or cannabis products without obtaining a license from the Board.

\* \* \*

(d)(1) There shall be ~~six~~ seven types of licenses available:

(A) a cultivator license;

(B) a propagator license;

(C) a wholesaler license;

~~(C)~~(D) a product manufacturer license;

~~(D)~~(E) a retailer license;

~~(E)~~(F) a testing laboratory license; and

~~(F)~~(G) an integrated license.

(2)(A) The Board shall develop tiers for:

(i) cultivator licenses based on the plant canopy size of the cultivation operation or plant count for breeding stock; and

(ii) retailer licenses.

(B) The Board may develop tiers for other types of licenses.

(3)(A) Except as provided in subdivisions (B) and (C) of this subdivision (3), an applicant and its affiliates may obtain a maximum of one type of each type of license as provided in subdivisions ~~(1)(A)–(E)~~ (1)(A)–(F) of this subsection (d). Each license shall permit only one location of the establishment.

(B) An applicant and its affiliates that control a dispensary registered on April 1, 2022 may obtain one integrated license provided in subdivision ~~(1)(F)~~ (1)(G) of this subsection (d) or a maximum of one of each type of license provided in subdivisions ~~(1)(A)–(E)~~ (1)(A)–(F) of this subsection (d). An integrated licensee may not hold a separate cultivator, propagator, wholesaler, product manufacturer, retailer, or testing laboratory license, and no applicant or its affiliates that control a dispensary shall hold more than one integrated license. An integrated license shall permit only one location for each of the types of activities permitted by the license: cultivation, propagator, wholesale operations, product manufacturing, retail sales, and testing.

(C) An applicant and its affiliates may obtain multiple testing laboratory licenses.

\* \* \*

~~(h)(1) The following records shall be exempt from public inspection and copying under the Public Records Act and shall be confidential:~~

~~(A) any record in an application for a license relating to security, public safety, transportation, or trade secrets, including information provided in an operating plan pursuant to subdivision 881(a)(1)(B) of this title; and~~

~~(B) any licensee record relating to security, public safety, transportation, trade secrets, or employees.~~

~~(2) Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption created in this subsection shall continue in effect and shall not be repealed through operation of 1 V.S.A. § 317(e). [Repealed.]~~

Sec. 9. 7 V.S.A. § 901a is added to read:

§ 901a. ACCESSIBILITY AND CONFIDENTIALITY OF LICENSING  
AND DISCIPLINARY MATTERS

(a) It is the purpose of this section to protect the reputation, security practices, and trade secrets of licensees from undue public disclosure while securing the public's right to know of government licensing actions relevant to the public health, safety, and welfare.

(b) All meetings and hearings of the Board shall be subject to the Vermont Open Meeting Law.

(c) The following shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential:

(1) records related to licensee security, safety, transportation, or trade secrets, including information provided in an operating plan pursuant to subdivision 881(a)(1)(B) of this title; and

(2) records related to complaints, investigations, or proceedings, except as provided in subsection (d) of this section.

(d)(1) If a complaint or investigation results in formal action to revoke, suspend, condition, reprimand, warn, fine, or otherwise to penalize a licensee based on noncompliance with law or regulation, the case record, as defined by 3 V.S.A. § 809(e), shall be available for public inspection and copying under Vermont's Public Records Act.

(2) The Board shall prepare and maintain an aggregated list of all closed investigations into misconduct or noncompliance from whatever source derived. The information contained in the list shall be available for public inspection and copying under Vermont's Public Records Act. The list shall contain the date, nature, and outcome of each complaint. The list shall not contain the identity of the subject licensee unless formal action resulted, as described in subdivision (1) of this subsection.

(e) Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption created in this section shall continue in effect and shall not be repealed through operation of 1 V.S.A. § 317(e).

Sec. 10. 7 V.S.A. § 904 is amended to read:

§ 904. CULTIVATOR LICENSE

(a) A cultivator licensed under this chapter may:

(1) cultivate, process, package, label, transport, test, and sell cannabis to a licensed wholesaler, product manufacturer, retailer, integrated licensee, and dispensary and may;

(2) purchase and sell cannabis seeds and immature cannabis plants to another licensed cultivator and propagation cultivator; and

(3) possess and sell cannabis products to a licensed wholesaler, product manufacturer, retailer, integrated licensee, and dispensary.

\* \* \*

Sec. 11. 7 V.S.A. § 904b is added to read:

§ 904b. PROPAGATION CULTIVATOR LICENSE

(a) A propagation cultivator licensed under this section may:

(1) cultivate not more than 3,500 square feet of cannabis clones, immature cannabis plants, or mature cannabis plants;

(2) test, transport, and sell cannabis clones and immature cannabis plants to licensed cultivators; and

(3) test, transport, and sell cannabis seeds that meet the federal definition of hemp to a licensed cultivator or retailer or to the public.

(b) A licensed propagation cultivator shall not cultivate mature cannabis plants for the purpose of producing, harvesting, transferring, or selling cannabis flower for or to any person.

Sec. 12. PROPAGATION CULTIVATOR LICENSE IMPLEMENTATION

The Cannabis Control Board shall begin issuing propagation cultivator licenses on or before July 1, 2024.

Sec. 13. 7 V.S.A. § 905 is amended to read:

§ 905. WHOLESALER LICENSE

A wholesaler licensed under this chapter may:

(1) purchase cannabis from a licensed cultivator and integrated licensee, and cannabis products from a licensed product manufacturer, integrated licensee, and dispensary cannabis establishment;

(2) transport, process, package, and sell cannabis and cannabis products to a licensed product manufacturer, retailer, integrated licensee, and dispensary cannabis establishment; and

(3) sell cannabis seeds or immature cannabis plants to a licensed cultivator.

Sec. 14. 7 V.S.A. § 906 is amended to read:

§ 906. PRODUCT MANUFACTURER LICENSE

A product manufacturer licensed under this chapter may:

(1) purchase cannabis from a licensed cultivator, wholesalers, or

~~integrated licensee, and cannabis products from a licensed wholesaler, product manufacturer, integrated licensee, and dispensary~~ cannabis establishment;

(2) use cannabis and cannabis products to produce cannabis products; and

(3) transport, process, package, and sell cannabis products to a licensed ~~wholesaler, product manufacturer, retailer, integrated licensee, and dispensary~~ cannabis establishment.

Sec. 15. 7 V.S.A. § 907 is amended to read:

#### § 907. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

(1) purchase cannabis ~~from a licensed cultivator, wholesaler, or integrated licensee,~~ and cannabis products from a licensed ~~wholesaler, product manufacturer, integrated licensee, and dispensary~~ cannabis establishment; and

(2) transport, possess, package, and sell cannabis and cannabis products to the public for consumption off the registered premises or for cultivation.

\* \* \*

Sec. 16. 7 V.S.A. § 910 is amended to read:

#### § 910. CANNABIS ESTABLISHMENT FEE SCHEDULE

The following fees shall apply to each person or product licensed by the Board:

\* \* \*

(3) Manufacturers.

(A) Manufacturer tier 1. Manufacturers that process and manufacture cannabis in order to produce cannabis products without using solvent-based extraction and not more than ~~\$10,000.00~~ \$50,000.00 per year in cannabis products based on the manufacturer's total annual sales in cannabis products shall be assessed an annual licensing fee of \$750.00.

\* \* \*

(7) Propagation cultivators. Propagation cultivators shall be assessed an annual licensing fee of \$500.00.

(8) Employees. Cannabis establishments licensed by the Board shall be assessed an annual licensing fee of \$50.00 for each employee.

(8)(9) Products. Cannabis establishments licensed by the Board shall be assessed an annual product licensing fee of \$50.00 for every type of cannabis



and cannabis product that is sold in accordance with this chapter.

~~(9)~~(10) Local licensing fees. Cannabis establishments licensed by the Board shall be assessed an annual local licensing fee of \$100.00 in addition to each fee assessed under subdivisions (1)–~~(6)~~(7) of this section. Local licensing fees shall be distributed to the municipality in which the cannabis establishment is located pursuant to section 846(c) of this title.

~~(10)~~(11) One-time fees.

(A) All applicants for a cannabis establishment license shall be assessed an initial one-time application fee of \$1,000.00.

(B) An applicant may choose to be assessed an initial one-time intent-to-apply fee of \$500.00. If the applicant subsequently seeks a license within one year after paying the intent-to-apply fee, the initial one-time application fee of \$1,000.00 shall be reduced by \$500.00.

Sec. 17. 7 V.S.A. chapter 35 is amended to read:

CHAPTER 35. MEDICAL CANNABIS REGISTRY

§ 951. DEFINITIONS

As used in this chapter:

\* \* \*

(8) “Qualifying medical condition” means:

(A) cancer, multiple sclerosis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, glaucoma, Crohn’s disease, Parkinson’s disease, post-traumatic stress disorder, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms; or

~~(B) post-traumatic stress disorder, provided the Department confirms the applicant is undergoing psychotherapy or counseling with a licensed mental health care provider; or~~

~~(C)~~ a disease or medical condition or its treatment that is chronic, debilitating, and produces one or more of the following intractable symptoms: cachexia or wasting syndrome, chronic pain, severe nausea, or seizures.

\* \* \*

§ 952. REGISTRY

\* \* \*

(b) A person who is a registered patient or a registered caregiver on behalf

of a patient may:

(1) Cultivate not more than ~~two~~ six mature and ~~seven~~ 12 immature cannabis plants. Any cannabis harvested from the plants shall not count toward the two-ounce possession limit in subdivision (2) of this subsection, provided it is stored in an indoor facility on the property where the cannabis was cultivated and reasonable precautions are taken to prevent unauthorized access to the cannabis.

(2) Possess not more than two ounces of cannabis.

(3) Purchase cannabis and cannabis products at a licensed medical cannabis dispensary. Pursuant to chapter 37 of this title, a dispensary may offer goods and services that are not permitted at a cannabis establishment licensed pursuant to chapter 33 of this title.

\* \* \*

#### § 954. CAREGIVERS

(a) Pursuant to rules adopted by the Board, a person may register with the Board as a caregiver of a registered patient to obtain the benefits of the Registry as provided in section 952 of this title.

~~(b)(1) The Board shall adopt rules that set forth standards for determining whether an applicant should be denied a caregiver card because of his or her criminal history record. An applicant shall not be denied solely on the basis of a criminal conviction that is not listed in 13 V.S.A. chapter 25 or 28~~ conduct a name and date of birth Vermont criminal conviction record background check and obtain information from the Child Protection Registry maintained by the Department for Children and Families and from the Vulnerable Adult Abuse, Neglect, and Exploitation Registry maintained by the Department of Disabilities, Aging, and Independent Living (collectively, the Registries) for any person who applies to be a caregiver.

~~(2) The Board shall obtain from the Vermont Crime Information Center a copy of the caregiver applicant's fingerprint-based Vermont criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation.~~

(c) The Board shall adopt rules that set forth standards for determining whether an applicant should be denied a ~~cannabis establishment license~~ caregiver card because of ~~his or her criminal history record~~ the applicant's criminal history record or status on either Registry.

~~(d)(1) Except as provided in subdivision (2) of this subsection, a caregiver shall serve only one patient~~ may serve not more than two patients at a time,

and a patient shall have only one registered caregiver at a time. A patient may serve as a caregiver for one other patient.

(2) A patient who is under 18 years of age may have two caregivers. Additional caregivers shall be at the discretion of the Board.

(e) Medicaid funds shall not be used to support a caregiver in the cultivation or distribution of cannabis on behalf of a patient.

§ 955. REGISTRATION; FEES

(a) A registration card shall expire one year after the date of issuance for patients with a qualifying medical condition of chronic pain and the caregivers who serve those patients. For all other patients and the caregivers who serve those patients, a registration card shall expire three years after the date of issuance. A patient or caregiver may renew the card according to protocols adopted by the Board.

(b) The Board shall charge and collect a \$50.00 ~~annual~~ registration and renewal fee for patients and caregivers. Fees shall be deposited in the Cannabis Regulation Fund as provided in section 845 of this title.

§ 956. RULEMAKING

The Board shall adopt rules for the administration of this chapter. ~~No rule shall be more restrictive than any rule adopted by the Department of Public Safety pursuant to 18 V.S.A. chapter 86.~~

Sec. 18. 33 V.S.A. § 4919 is amended to read:

§ 4919. DISCLOSURE OF REGISTRY RECORDS

(a) The Commissioner may disclose a Registry record only as follows:

\* \* \*

(11) To the Cannabis Control Board, in accordance with the provisions of 7 V.S.A. § 954.

\* \* \*

Sec. 19. 33 V.S.A. § 6911 is amended to read:

§ 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

\* \* \*

(c) The Commissioner or designee may disclose Registry information only to:

\* \* \*

(12) The Cannabis Control Board for the purpose of evaluating an individual's suitability to be a registered caregiver under 7 V.S.A. § 954.

\* \* \*

Sec. 20. 7 V.S.A. § 974 is amended to read:

§ 974. RULEMAKING

(a)(1) The Board shall adopt rules to implement and administer this chapter. In adoption of rules, the Board shall strive for consistency with rules adopted for cannabis establishments pursuant to chapter 33 of this title where appropriate. ~~No rule shall be more restrictive than any rule adopted by the Department of Public Safety pursuant to 18 V.S.A. chapter 86.~~

\* \* \*

Sec. 21. CANNABIS CONTROL BOARD REPORTING; MEDICAL CANNABIS REGISTRY

(a) The Cannabis Control Board shall work with the Vermont Academic Detailing Program, Registry patients and caregivers, licensed medical cannabis dispensaries, and medical professional stakeholders to review the Medical Cannabis Registry. The review shall include:

(1) an assessment of the illnesses or symptoms most appropriately treated by cannabis;

(2) the strains of cannabis recommended for such treatment;

(3) the doses of active chemicals recommended for treatment;

(4) appropriate treatment protocols for patients, including whether ongoing medical oversight such as counseling or other services is needed for each condition being treated;

(5) how the use of cannabis is communicated to patients and patients' providers; and

(6) any other issues that will improve the Registry.

(b) The Board shall convene the working group not less than four times to complete its work.

(c) The Board shall provide recommendations for improvement to the Medical Cannabis Registry to the Senate Committee on Health and Welfare and the House Committees on Human Services and on Health Care on or before January 15, 2024.

Sec. 22. 7 V.S.A. § 1001(8) is amended to read:

(8) “Tobacco substitute” means products, including electronic cigarettes or other electronic or battery-powered devices, that contain or are designed to deliver nicotine or other substances into the body through the inhalation of vapor and that have not been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes. ~~Products~~ Cannabis products as defined in section 831 of this title or products that have been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes shall not be considered to be tobacco substitutes.

Sec. 23. 32 V.S.A. § 7702(15) is amended to read:

(15) “Other tobacco products” means any product manufactured from, derived from, or containing tobacco that is intended for human consumption by smoking, chewing, or in any other manner, including products sold as a tobacco substitute, as defined in 7 V.S.A. § 1001(8), and including any liquids, whether nicotine based or not, or delivery devices sold separately for use with a tobacco substitute, but shall not include cigarettes, little cigars, roll-your-own tobacco, snuff, ~~or~~ new smokeless tobacco as defined in this section, or cannabis products as defined in 7 V.S.A. § 831.

Sec. 23a. 7 V.S.A. § 831(3) is amended to read:

(3) “Cannabis product” means concentrated cannabis and a product that is composed of cannabis and other ingredients and is intended for use or consumption, including an edible product, ointment, and tincture. Cannabis product shall include a vaporizer cartridge containing cannabis oil that is intended for use with a battery-powered device and any device designed to deliver cannabis into the body through inhalation of vapor that is sold at a cannabis establishment licensed pursuant to chapter 33 of this title. “Cannabis product” does not mean a “tobacco product” as defined in 32 V.S.A. § 7702, a “tobacco substitute” as defined in section 1001 of this title, or “tobacco paraphernalia” as defined in section 1001 of this title.

Sec. 23b. 7 V.S.A. § 1002 is amended to read:

#### § 1002. LICENSE REQUIRED; APPLICATION; FEE; ISSUANCE

(a)(1) ~~No~~ Except as provided in subsection (h) of this section, no person shall engage in the retail sale of tobacco products, tobacco substitutes, or tobacco paraphernalia in ~~his or her~~ the person’s place of business without a tobacco license obtained from the Division of Liquor Control.

\* \* \*

(h) This section shall not apply to a cannabis establishment licensed pursuant to chapter 33 of this title to engage in the retail sale of cannabis

products as defined in section 831 of this title, but not engaged in the sale of tobacco products or tobacco substitutes.

#### Sec. 24. TRANSFER AND APPROPRIATION

Notwithstanding 7 V.S.A. § 845(c), in fiscal year 2024:

(1) \$500,000.00 is transferred from the Cannabis Regulation Fund established pursuant to 7 V.S.A. § 845 to the Cannabis Business Development Fund established pursuant to 7 V.S.A. § 987; and

(2) \$500,000.00 is appropriated from the Cannabis Business Development Fund to the Agency of Commerce and Community Development to fund technical assistance and provide loans and grants pursuant to 7 V.S.A. § 987.

#### Sec. 24a. RACIAL DISPARITIES IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEM ADVISORY PANEL REPORTING; RACIAL EQUITY AND COMMUNITY REINVESTMENT

(a) The Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel shall collaborate with local and national stakeholders to study the administration and funding of the Cannabis Business Development Fund and gather qualitative and quantitative data informing the establishment and funding of community reinvestment for individuals and communities disproportionately impacted by the criminalization of cannabis. The study shall do each of the following:

(1) Identify in an aggregated format the demographics of individuals who have been disproportionately impacted by cannabis prohibition in Vermont and nationally and identify communities most heavily impacted, while not disclosing the identity of any particular individual.

(2) Identify the ways in which such individuals and communities have been disproportionately impacted by cannabis prohibition in Vermont, including rates of poverty; access to employment, housing, and education; and involvement with the criminal justice system.

(3) Any other issues related to the impacts of the criminalization of cannabis in Vermont and the United States that will improve racial equity and community reinvestment in Vermont.

(b) The Panel shall convene not less than four times to complete its work.

(c) The Panel shall provide recommendations on how to administer and fund the Cannabis Business Development Fund and fund and administer reinvestment in individuals and communities disproportionately harmed by

cannabis criminalization to the Senate Committee on Economic Development, Housing and General Affairs and on Finance on or before January 15, 2024.

Sec. 25. EFFECTIVE DATE

This act shall take effect on passage.

**H. 471**

An act relating to technical and administrative changes to Vermont's tax laws

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Annual Link to Federal Statutes \* \* \*

Sec. 1. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect on December 31, ~~2021~~ 2022, but without regard to federal income tax rates under 26 U.S.C. § 1, are hereby adopted for the purpose of computing the tax liability under this chapter and shall continue in effect as adopted until amended, repealed, or replaced by act of the General Assembly.

Sec. 2. 32 V.S.A. § 7402(8) is amended to read:

(8) "Laws of the United States" means the U.S. Internal Revenue Code of 1986, as amended through December 31, ~~2021~~ 2022. As used in this chapter, "Internal Revenue Code" has the same meaning as "laws of the United States" as defined in this subdivision. The date through which amendments to the U.S. Internal Revenue Code of 1986 are adopted under this subdivision shall continue in effect until amended, repealed, or replaced by act of the General Assembly.

\* \* \* Taxation of Alcoholic Beverages \* \* \*

Sec. 3. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title:

\* \* \*

(10) Sales of meals or alcoholic beverages taxed or exempted under chapter 225 of this title, except alcoholic beverages under

subdivision 9202(10)(D)(v) or (11)(B)(i) of this title, or any alcoholic beverages provided served for immediate consumption.

\* \* \*

Sec. 4. 32 V.S.A. § 9202 is amended to read:

§ 9202. DEFINITIONS

As used in this chapter ~~unless the context clearly indicates a different meaning:~~

\* \* \*

(10) “Taxable meal” means:

\* \* \*

(D) “Taxable meal” ~~shall~~ does not include:

\* \* \*

(v) Alcoholic beverages produced or manufactured by the restaurant or operator and sold in sealed containers for consumption off premises, provided the restaurant or operator is licensed to sell alcohol by the Department of Liquor and Lottery pursuant to 7 V.S.A. chapter 9.

~~(11)(A) “Alcoholic beverages” means any malt beverages, vinous beverages, spirits, or fortified wines~~ has the same meaning as defined in 7 V.S.A. § 2 and when served for immediate consumption.

(B) “Alcoholic beverages” shall be exempt from the tax imposed under section 9241 of this chapter when:

(i) produced or manufactured by a restaurant or operator and sold in sealed containers for consumption off premises, provided the restaurant or operator is licensed to sell alcohol by the Department of Liquor and Lottery pursuant to 7 V.S.A. chapter 9; or

(ii) served under the circumstances enumerated in subdivision (10)(D)(ii) of this section under which food or beverages or alcoholic beverages are excepted from the definition of “taxable meal.”

\* \* \*

\* \* \* Refunds; Meals and Rooms Tax; Local Option Tax \* \* \*

Sec. 5. 32 V.S.A. § 9245 is amended to read:

§ 9245. OVERPAYMENT; REFUNDS

(a) Upon application by an operator, if the Commissioner determines that



any tax, interest, or penalty has been paid more than once, or has been erroneously or illegally collected or computed, the same shall be credited by the Commissioner on any taxes then due from the operator under this chapter, and the balance shall be refunded to the operator or ~~his or her~~ the operator's successors, administrators, executors, or assigns, together with interest at the rate per annum established from time to time by the Commissioner pursuant to section 3108 of this title. That interest shall be computed from the latest of 45 days after the date the return was filed, 45 days after the date the return was due, including any extensions of time thereto, with respect to which the excess payment was made, or, if the taxpayer filed an amended return or otherwise requested a refund, 45 days after the date such amended return or request was filed. Provided, however, no such credit or refund shall be allowed after three years from the date the return was due.

(b) An operator must prove the following to be eligible for a refund under this section:

(1) that the tax was erroneously or illegally collected or computed; and

(2) that any erroneously or illegally collected or computed tax is or will be returned to the purchaser, unless the operator made the overpayment.

(c) A purchaser may seek a refund from the Department if the purchaser establishes that the tax was erroneously or illegally collected or computed. The Commissioner shall refund a purchaser in the same manner as under subsection (a) of this section.

Sec. 6. 24 V.S.A. § 138(c) is amended to read:

(c)(1) Any tax imposed under the authority of this section shall be collected and administered by the Department of Taxes, in accordance with State law governing such State tax or taxes and subdivision (2) of this subsection; provided, however, that a sales tax imposed under this section shall be collected on each sale that is subject to the Vermont sales tax using a destination basis for taxation. Except with respect to taxes collected on the sale of aviation jet fuel, a per-return fee of \$5.96 shall be assessed to compensate the Department for the costs of administration and collection, 70 percent of which shall be borne by the municipality, and 30 percent of which shall be borne by the State to be paid from the PILOT Special Fund. The fee shall be subject to the provisions of 32 V.S.A. § 605.

(2) Notwithstanding any other law or municipal charter to the contrary, if the Commissioner determines that local option tax was collected on a transaction in a municipality not authorized to impose local option tax under this section, the Commissioner shall either refund the erroneously collected tax

pursuant to 32 V.S.A. chapter 233 or 225 or, if the purchaser cannot reasonably be determined, deposit the erroneously collected tax as required for State sales and use tax pursuant to 16 V.S.A. § 4025(a)(6) or State meals and rooms tax pursuant to 10 V.S.A. § 1388(a)(4), 16 V.S.A. § 4025(a)(4), and 32 V.S.A. § 435(b)(7).

\* \* \* Report; Department of Taxes; Tax Refund Notice to Purchasers \* \* \*

Sec. 7. REPORT; DEPARTMENT OF TAXES; TAX REFUND NOTICE  
TO PURCHASERS

On or before January 15, 2024, the Department of Taxes shall submit a written report to the House Committees on Commerce and Economic Development and on Ways and Means and the Senate Committees on Economic Development, Housing and General Affairs and on Finance recommending legislative action to require licensed operators, restaurants, and vendors to notify purchasers of the occurrence of erroneously or illegally collected sales and use tax, meals and rooms tax, alcoholic beverages tax, and any associated local option tax by the license holder and the purchasers' right to request a refund for overpayments. The Department's report shall include recommendations for legislative action regarding the following:

(1) a threshold based on a dollar amount or number of transactions, or both, exceeding which a licensed operator, restaurant, or vendor would be required to notify purchasers of erroneous or illegal tax collection by the license holder and the purchasers' right to request a refund from the license holder or the Department;

(2) options for the types, forms, and duration of time of the required notices;

(3) the role of the Department in identifying erroneous or illegal tax collection, alerting license holders of their notice requirements, and providing oversight of license holders' compliance with the required notices; and

(4) any other relevant considerations, including the tax information confidentiality requirements under 32 V.S.A. § 3102.

\* \* \* Sales Tax Exemption; Advanced Wood Boilers \* \* \*

Sec. 8. 2018 Acts and Resolves No. 194, Sec. 26b(a), as amended by 2019 Acts and Resolves No. 83, Sec. 14, is further amended to read:

(a) 32 V.S.A. §§ 9741(52) (sales tax exemption for advanced wood boilers) and 9706(11) (statutory purpose; sales tax exemption for advanced wood boilers) shall be repealed on July 1, 2023 2024.

\* \* \* Computer Assisted Property Tax Administration Program Fees \* \* \*

Sec. 9. 32 V.S.A. § 3404 is amended to read:

§ 3404. ~~CAPTAP FEES~~

~~(a) The Director is authorized to charge fees for data processing and support services rendered to municipalities relative to the Computer Assisted Property Tax Administration Program (CAPTAP) as follows:~~

~~(1) when the Department performs routine data processing for a municipality, \$1.75 per parcel;~~

~~(2) when the Department performs data processing services in connection with a town reappraisal, \$2.00 per parcel; and~~

~~(3) when the Department performs support, training, or consulting services for municipalities using CAPTAP at their own sites: \$350.00 per year for municipalities with fewer than 500 parcels; \$450.00 per year for municipalities with 500 to 1,000 parcels; \$550.00 per year for municipalities with 1,001 to 2,000 parcels; and \$650.00 per year for municipalities with more than 2,000 parcels.~~

~~(b) Pursuant to subdivision 603(2) of this title, these fees may be adjusted.~~

~~(c) The fees collected in subsection (a) of this section shall be credited to the CAPTAP fees special fund established and managed pursuant to chapter 7, subchapter 5 of this title, and shall be available to offset the costs of providing those services. [Repealed.]~~

Sec. 10. 32 V.S.A. § 3410 is amended to read:

§ 3410. ~~MAINTENANCE OF DUPLICATE PROPERTY RECORDS~~

~~(a) To supplement and ensure the safekeeping of town records, the Director shall establish and maintain a central file of municipal grand lists. These grand lists shall be maintained at the office of the Division for a period of two years.~~

~~(b) The town clerks of each town and city shall provide the Director with one copy of the grand list at a reasonable charge.~~

~~(c) At a reasonable charge to be established by the Director, the Director shall supply to any person or agency a copy of any document contained in the file established under this section. [Repealed.]~~

\* \* \* Current Use \* \* \*

Sec. 11. 32 V.S.A. § 3756 is amended to read:

§ 3756. ~~QUALIFICATION FOR USE VALUE APPRAISAL~~

~~(a) The owner of eligible agricultural land, farm buildings, or managed~~

forestland shall be entitled to have eligible property appraised at its use value, provided the owner shall have applied to the Director on or before September 1 of the previous tax year, on a form provided by the Director. A farmer whose application has been accepted on or before December 31 by the Director of the Division of Property Valuation and Review of the Department of Taxes for enrollment for the use value program for the current tax year shall be entitled to have eligible property appraised at its use value if the farmer was prevented from applying on or before September 1 of the previous year due to the severe illness of the farmer.

(b) [Repealed.]

(c) The Director shall notify the applicant ~~no~~ not later than April 15 of ~~his or her~~ the Director's decision to classify or refusal to classify ~~his or her~~ the applicant's property as eligible for use value appraisal ~~by delivery of such notification to him or her in person or by mailing such notification to his or her last and usual place of abode.~~ In the case of a refusal, the Director shall state the reasons therefor in the notification.

\* \* \*

(f) Each year the Director shall determine whether previously classified property is still eligible for use value appraisal and whether the amount of the previous appraisal is still valid. If the Director determines that previously classified property is no longer eligible, or that the property has undergone a change in use such that the use change tax may be levied in accordance with section 3757 of this chapter, or that the use value appraisal should be fixed at a different amount than the previous year, ~~he or she~~ the Director shall thereafter notify the property owner of that determination ~~by delivery of the notification to him or her in person or by mailing such notification to his or her last and usual place of abode.~~

\* \* \*

(h) ~~By~~ On or before March 15, the Director shall ~~mail~~ provide to each municipality a list of property in the municipality that is to be taxed based on its use value appraisal. The list shall include the owners' names, a grand list number or description of each parcel of land to be appraised at use value, the acreage to be taxed on the basis of use value, the use values to be used for land, and the number and type of farm buildings to be appraised by the assessing officials at use value. The assessing officials shall determine the listed value of the land to be taxed at use value and its estimated fair market value; and fill in these values and the difference between them on the form. This form shall be used by the Treasurer or the collector of current taxes to make up tax bills such that the owner is billed only for taxes due on ~~his or her~~

the owner's property not enrolled in the program, plus taxes due on the use value of property enrolled in the program. The assessing officials shall submit the completed form to the Director by on or before July 5.

\* \* \*

(2)(A) The Director shall remove from use value appraisal an entire parcel or parcels of agricultural land and farm buildings identified by the Secretary of Agriculture, Food and Markets as being used by a person:

\* \* \*

(B) The Director shall notify the owner that agricultural land or a farm building has been removed from use value appraisal by ~~mailing~~ providing notification of removal to the owner ~~or operator's last and usual place of abode~~. After removal of agricultural land or a farm building from use value appraisal under this section, the Director shall not consider a new application for use value appraisal for the agricultural land or farm building until the Secretary of Agriculture, Food and Markets submits to the Director a certification that the owner or operator of the agricultural land or farm building is complying with the water quality requirements of 6 V.S.A. chapter 215 or an order issued under 6 V.S.A. chapter 215. After submission of a certification by the Secretary of Agriculture, Food and Markets, an owner or operator shall be eligible to apply for enrollment of the agricultural land or farm building according to the requirements of this section.

\* \* \*

Sec. 12. 32 V.S.A. § 3757(m) is added to read:

(m) Land owned or acquired by a Native American tribe or a nonprofit organization that qualifies for an exemption under subdivision 3802(21) of this title shall be exempt from the levy of a land use change tax under this section.

\* \* \* Property Transfer Tax; Controlling Interests; Nonprofits \* \* \*

Sec. 13. 32 V.S.A. § 9603 is amended to read:

§ 9603. EXEMPTIONS

The following transfers are exempt from the tax imposed by this chapter:

\* \* \*

(14)(A) Transfers to organizations qualifying under 26 U.S.C. § 501(c)(3), as amended, and that prior to the transfer have been determined to meet the "public support" test of 26 U.S.C. § 509(a)(2), as amended, provided one of the stated purposes of the organization is to acquire property or rights and less than fee interest in property in order to preserve farmland or open-

space land, and provided that the property transferred, or rights and interests in the property, will be held by the organization for this purpose. As used in this section, "farmland" means real estate that will be actively operated or leased as part of a farm enterprise, including dwellings and agricultural structures, and "open-space land" shall ~~mean~~ means land without structures thereon.

\* \* \*

(C)(i) Transfers from one organization qualifying under 26 U.S.C. § 501(c)(3), as amended, to another organization qualifying under 26 U.S.C. § 501(c)(3), provided the organizations are related organizations and the Commissioner does not determine that a major purpose of the transaction is to avoid the tax imposed under this chapter. As used in this subdivision (C), "related organizations" means one organization holds 50 percent or more of the membership interest of the other organization or one organization appoints or elects, including the power to remove and replace, 50 percent or more of the members of the other organization's governing body.

(ii)(I) Notwithstanding subdivision (i) of this subdivision (C), a transferee organization that receives property in a transfer exempt under subdivision (i) of this subdivision (C) shall pay the tax imposed under this chapter on the value of the property transferred if:

(aa) not more than three years after the date of the first transfer, the transferee subsequently transfers any portion of the property;

(bb) the second transfer is not exempt under subdivision (i) of this subdivision (C) as a transfer between related organizations; and

(cc) the Commissioner determines that a major purpose of the transaction is to avoid the tax imposed under this chapter.

(II) The tax imposed under this subdivision (C)(ii) on the value of the property transferred at the time of the first transfer shall be due not later than 30 days after the second transfer and shall apply in addition to any tax due under this chapter from the subsequent transferee on the second transfer.

\* \* \*

\* \* \* Personal Income Tax Credits \* \* \*

Sec. 14. 32 V.S.A. § 5828c is amended to read:

§ 5828c. CHILD AND DEPENDENT CARE CREDIT

A resident or part-year resident of this State shall be eligible for a refundable credit against the tax imposed under section 5822 of this title. The credit shall be equal to 72 percent of the federal child and dependent care

credit allowed to the taxpayer for the taxable year for child or dependent care services ~~provided in this State~~. The amount of the credit for a part-year resident shall be multiplied by the percentage that the individual's income that is earned or received during the period of the individual's residency in this State bears to the individual's total income.

Sec. 15. 32 V.S.A. § 5828b(a) is amended to read:

(a) A resident individual or part-year resident individual who is entitled to an earned income tax credit granted under the laws of the United States or who would have been entitled to an earned income tax credit under the laws of the United States but for the fact that the individual, the individual's spouse, or one or more of the individual's children does not have a qualifying taxpayer identification number shall be entitled to a credit against the tax imposed for each year by section 5822 of this title. The credit shall be 38 percent of the earned income tax credit granted to the individual under the laws of the United States or that would have been granted to the individual under the laws of the United States but for the fact that the individual, the individual's spouse, or one or more of the individual's children does not have a qualifying taxpayer identification number, multiplied by the percentage that the individual's ~~earned~~ income that is earned or received during the period of the individual's residency in this State bears to the individual's total ~~earned~~ income.

Sec. 16. 32 V.S.A. § 5830f(a) is amended to read:

(a) A resident individual or part-year resident individual who is entitled to a child tax credit under the laws of the United States or who would have been entitled to a child tax credit under the laws of the United States but for the fact that the individual or the individual's spouse does not have a taxpayer identification number shall be entitled to a refundable credit against the tax imposed by section 5822 of this title for the taxable year. The total credit per taxable year shall be in the amount of \$1,000.00 per qualifying child, as defined under 26 U.S.C. § 152(c) but notwithstanding the taxpayer identification number requirements under 26 U.S.C. § 24(e) and (h)(7), who is five years of age or younger as of the close of the calendar year in which the taxable year of the taxpayer begins. For a part-year resident individual, the amount of the credit shall be multiplied by the percentage that the individual's income that is earned or received during the period of the individual's residency in this State bears to the individual's total income.

Sec. 17. 32 V.S.A. § 5830 is added to read:

§ 5830. TAXPAYER IDENTIFICATION NUMBERS; CREDITS

(a) The Commissioner shall provide a process for an individual to claim

the child tax credit or the earned income tax credit, or both, pursuant to subsections 5828b(a) and 5830f(a) of this title when the individual, the individual's spouse, or one or more of the individual's qualifying children does not have a taxpayer identification number. The Commissioner shall not inquire about or record the citizenship and immigration status of an individual, an individual's spouse, or one or more of an individual's qualifying children when an individual claims one or more credits pursuant to this section and subsections 5828b(a) and 5830f(a) of this title.

(b) Upon the Commissioner's request, an individual who claims one or more credits pursuant to subsections 5828b(a) and 5830f(a) of this title shall provide valid documents establishing the identity and income for the taxable year of the individual and, as applicable, the individual's spouse and qualifying children. Upon receiving a valid Social Security number issued by the Social Security Administration, the individual shall notify the Commissioner in the time and manner prescribed by the Commissioner.

(c) All claims submitted and records created pursuant to this section and subsections 5828b(a) and 5830f(a) of this title shall be exempt from public inspection and copying under the Public Records Act 1 V.S.A. § 317(c)(6) and shall be kept confidential as return or return information pursuant to section 3102 of this title.

Sec. 18. 32 V.S.A. § 5830f(d) is added to read:

(d)(1) The Commissioner shall establish a program to make advance quarterly payments of the credit under this section during the calendar year that, in the aggregate, equal 50 percent of the annual amount of the credit allowed to each individual for the taxable year. The quarterly payments made to an individual during the calendar year shall be in equal amounts, except that the Commissioner may modify the quarterly amount upon receipt of any information furnished by the individual that allows the Commissioner to determine the annual amount. The remaining 50 percent of the annual amount of the credit allowed to each individual shall be determined at the time of filing a Vermont personal income tax return for the taxable year pursuant to section 5861 of this title.

(2) The Commissioner shall provide a process by which individuals may elect not to receive advance payments under this subsection.

\* \* \* Pass-throughs; Composite Payment Rate for Nonresidents \* \* \*

Sec. 19. 32 V.S.A. § 5914(b) is amended to read:

(b) The Commissioner may upon request and for ease of administration permit S corporations to file composite returns and to make composite



payments of tax on behalf of some or all of its nonresident shareholders. In addition, the Commissioner may require an S corporation that has in excess of 50 nonresident shareholders to file composite returns and to make composite payments at the ~~middle~~ second-highest marginal rate on behalf of all of its nonresident shareholders.

Sec. 20. 32 V.S.A. § 5920(b) is amended to read:

(b) The Commissioner may permit a partnership or limited liability company to file composite returns and to make composite payments of tax on behalf of some or all of its nonresident partners or members. In addition, the Commissioner may require a partnership or limited liability company that has in excess of 50 nonresident partners or members to file composite returns and to make composite payments at the ~~middle~~ second-highest marginal rate on behalf of all of its nonresident partners or members.

\* \* \* Property Tax Valuation; Qualified Rental Units; VHFA Certificate \* \* \*

Sec. 21. 32 V.S.A. § 5404a(a) is amended to read:

(a) A tax agreement or exemption shall affect the education property tax grand list of the municipality in which the property subject to the agreement is located if the agreement or exemption is:

\* \* \*

(6) An exemption of a portion of the value of a qualified rental unit parcel. An owner of a qualified rental unit parcel shall be entitled to an exemption on the education property tax grand list of 10 percent of the grand list value of the parcel, multiplied by the ratio of square footage of improvements used for or related to residential rental purposes to total square footage of all improvements, multiplied by the ratio of qualified rental units to total residential rental units on the parcel. "Qualified rental units" means residential rental units that are subject to rent restriction under provisions of State or federal law, but excluding units subject to rent restrictions under only one of the following programs: Section 8 moderate rehabilitation, Section 8 housing choice vouchers, or Section 236 or Section 515 rural development rental housing. A municipality shall allow the percentage exemption under this subsection upon presentation by the taxpayer to the municipality, by April 1, of a certificate of education grand list value exemption obtained from the Vermont Housing Finance Agency (VHFA). VHFA shall issue a certificate of exemption upon presentation by the taxpayer of information that VHFA and the Commissioner shall require. A certificate of exemption issued by VHFA under this subsection shall expire upon transfer of the building, upon expiration of the rent restriction, or after 10 years, whichever first occurs.

~~The; provided, however, that the~~ certificate of exemption may be renewed ~~once~~ after 10 years and every 10 years thereafter if VHFA finds that the property continues to meet the requirements of this subsection.

\* \* \* Property Tax Credit; Filing Deadlines \* \* \*

Sec. 22. 32 V.S.A. § 6068 is amended to read:

§ 6068. APPLICATION AND TIME FOR FILING

(a) A property tax credit claim or request for allocation of an income tax refund to homestead property tax payment shall be filed with the Commissioner on or before the due date for filing the Vermont income tax return, without extension, and shall describe the school district in which the homestead property is located and shall particularly describe the homestead property for which the credit or allocation is sought, including the school parcel account number prescribed in subsection 5404(b) of this title. A renter credit claim shall be filed with the Commissioner on or before the due date for filing the Vermont income tax return, without extension.

(b) If the claimant fails to file a timely claim, the amount of the property tax credit under this chapter shall be reduced by \$15.00, but not below \$0.00, which shall be paid to the municipality for the cost of issuing an adjusted homestead property tax bill. ~~No benefit shall be allowed in the calendar year unless the claim is filed with the Commissioner on or before October 15. If the claimant files a claim after October 15 but on or before March 15 of the following calendar year, the property tax credit under this chapter:~~

(1) shall be reduced in amount by \$150.00, but not below \$0.00;

(2) shall be issued directly to the claimant; and

(3) shall not require the municipality where the claimant's property is located to issue an adjusted homestead property tax bill.

(c) No request for allocation of an income tax refund or for a renter credit claim may be made after October 15. No property tax credit claim may be made after March 15 of the calendar year following the due date under subsection (a) of this section.

\* \* \* Vermont Bond Bank \* \* \*

Sec. 23. 24 V.S.A. chapter 119 is redesignated to read:

CHAPTER 119. MUNICIPAL VERMONT BOND BANK

Sec. 24. 24 V.S.A. § 4551 is amended to read:

§ 4551. DEFINITIONS

~~The following definitions shall apply throughout~~ As used in this chapter unless the context clearly requires otherwise:

(1) “Bank” means the Vermont ~~Municipal~~ Bond Bank established by section 4571 of this title.

\* \* \*

(7) “Municipal bond” means a bond or note or evidence of debt or financing arrangement of a governmental unit, including a bond, note, or evidence of debt, constituting a general obligation of a governmental unit, but does not include any bond or note or evidence of debt issued by any other state or any public body or municipal corporation thereof.

\* \* \*

(10) “Public body” means any public body corporate and politic or any political subdivision of the State established under any law of the State ~~that may issue its bonds or notes, whether heretofore or hereafter established.~~

(11) “Reserve Fund” means the Vermont ~~Municipal~~ Bond Bank Reserve fund established under section 4671 of this title.

\* \* \*

(13) “Revenue bond” means a bond or note or evidence of debt constituting an obligation or financing arrangement of a governmental unit ~~authorized under laws of the State and payable solely out of the earnings or profits derived, or to be derived, from the operation of a public utility, authorized and issued in accordance with subchapter 2 of chapter 53 of this title~~ from revenues derived from the financed asset, enterprise funds, or other specified revenues and the earnings thereon.

(14) “Revenue Bond Reserve Fund” means the Vermont ~~Municipal~~ Bond Bank Revenue Bond Reserve Fund established under section 4681 of this title.

(15) “Revenue Fund” means the Vermont ~~Municipal~~ Bond Bank Revenue Fund established under section 4683 of this title.

Sec. 25. 24 V.S.A. § 4571 is amended to read:

§ 4571. ESTABLISHMENT

There is hereby established a body corporate and politic, with corporate succession, to be known as the “Vermont ~~Municipal~~ Bond Bank.” The Bank is hereby constituted as an instrumentality exercising public and essential governmental functions, and the exercise by the Bank of the powers conferred by this chapter are deemed to be an essential governmental function of the

State.

Sec. 26. 24 V.S.A. § 4571a is amended to read:

§ 4571a. REPORTS

The Vermont ~~Municipal~~ Bond Bank shall prepare and submit, consistent with 2 V.S.A. § 20(a), a report on activities for the preceding calendar year, pursuant to section 4594 of this title.

Sec. 27. 24 V.S.A. § 4592 is amended to read:

§ 4592. SUPPLEMENTARY POWERS

The Bank, in addition to any other powers granted in this chapter, has the following powers:

\* \* \*

(3) To establish any terms and provisions with respect to any loan to governmental units through the purchase of municipal bonds or revenue bonds by the Bank, including date and maturities of the bonds, provisions as to redemption or payment prior to maturity, and any other matters ~~which~~ that are necessary, desirable, or advisable in the judgment of the Bank.

\* \* \*

(10) To issue bonds, other forms of indebtedness, or other financing obligations or arrangements for projects relating to renewable energy, as ~~defined in 30 V.S.A. § 8002(17), or to energy efficiency, climate adaptation,~~ and projects under subchapter 2 of chapter 87 of this title. Bonds shall be supported by both the general obligation and the assessment payment revenues of the participating municipality that otherwise result in the reduction of greenhouse gas emissions.

Sec. 28. 24 V.S.A. § 4652 is amended to read:

§ 4652. WAIVER OF DEFENSES; RIGHTS OF HOLDER

On the sale and issuance of any municipal bonds or revenue bonds to the Bank by any governmental unit, that governmental unit is deemed to agree that on the failure of that governmental unit to pay interest or principal on any of the municipal bonds or revenue bonds owned or held by the Bank when payable, all defenses to nonpayment are waived; and further, with respect to municipal bonds that constitute general obligation bonds supported by the full faith and credit of the municipality, upon nonpayment and demand on that governmental unit for payment, if funds are not available in its treasury to make payment, the governing body of that governmental unit shall forthwith assess a tax on the grand list of the governmental unit, sufficient to make

payment with 12 percent interest thereon, and cause the tax to be collected within 60 days; and further, with respect to municipal bonds that do not constitute general obligation bonds supported by the full faith and credit of the municipality and revenue bonds, upon nonpayment and demand on that governmental unit for payment, such governmental unit shall make payment together with interest thereon of 12 percent, which shall be due and payable within 60 days; and further, notwithstanding any other law, including any law under which the municipal bonds or revenue bonds were issued by that governmental unit, the Bank upon nonpayment is constituted a holder or owner of the municipal bonds or revenue bonds as being in default. Also, notwithstanding any other law as to time or duration of default or percentage of holders or owners of bonds entitled to exercise rights of holders or owners of bonds in default, or to invoke any remedies or powers thereof or of any trustee in connection therewith or of any board, body, agency, or commission of the State having jurisdiction in the matter or circumstance, the Bank may thereupon avail itself of all other remedies, rights, and provisions of law applicable in that circumstance, and the failure to exercise or exert any rights or remedies within any time or period provided by law may not be raised as a defense by the governmental unit. All of the bonds of the issue of municipal bonds or revenue bonds of a governmental unit on which there is nonpayment, are for all of the purposes of this section deemed to be due and payable and unpaid. The Bank may carry out the provisions of this section and exercise all of the rights and remedies and provisions of law provided or referred to in this section.

Sec. 29. 24 V.S.A. § 4676 is amended to read:

§ 4676. GENERAL FUND

\* \* \*

(b) Any monies in the General Fund may, subject to any contracts between the Bank and its bondholders or noteholders, be transferred to the Reserve Fund established pursuant to section 4671 of this title, or if not so transferred, shall be used for the payment of the principal of or interest on bonds or notes of the Bank presently outstanding and any bonds or notes on a parity therewith, and any bonds or notes issued to refund such bonds or notes, all when they become due and payable, whether at maturity or upon redemption including payment of any premium upon redemption prior to maturity, and any monies in the General Fund may be used ~~for the purchase of municipal bonds to make loans to governmental units under this chapter~~ and for all other purposes of the Bank including payment of its operating expenses.

Sec. 30. 24 V.S.A. § 4683 is amended to read:

§ 4683. REVENUE FUND

(a) The Bank shall establish and maintain a fund called the “Revenue Fund” in which there shall be deposited:

\* \* \*

(3) monies received by the Bank as payments of principal of or interest on municipal bonds or revenue bonds purchased by the Bank, or received as proceeds of sale of any municipal bonds or revenue bonds or investment obligations of the Bank, or otherwise in repayment of loans made by the Bank, or received as proceeds of sale of bonds or notes of the Bank, and required under the terms of any resolution of the Bank or contract with the holders of its bonds or notes to be deposited therein;

\* \* \*

(b) Any monies in the Revenue Fund may, subject to any contracts between the Bank and its bondholders or noteholders, be transferred to the Revenue Bond Reserve Fund, or if not so transferred, shall be used for the payment of the principal of or interest on bonds or notes of the Bank as provided by resolution of the Bank when they become due and payable, whether at maturity or upon redemption including payment of any premium upon redemption prior to maturity, and any monies in the Revenue Fund may be used ~~for the purchase of municipal bonds and revenue bonds~~ for making loans to governmental units under this chapter and for all other purposes of the Bank including payment of its operating expenses.

Sec. 31. 24 V.S.A. § 4703 is amended to read:

§ 4703. POWERS OF TRUSTEE ON DEFAULT

A trustee appointed under section 4702 of this title may, and shall in ~~his or her or its~~ the trustee's name, upon written request of the holders of 25 per centum in principal amount of the outstanding notes or bonds:

(1) By suit, action, or proceeding, enforce all rights of the noteholders or bondholders, including the right to require the Bank to collect rates, charges, and other fees and to collect interest and amortization payments on loans made to governmental units and on municipal bonds, revenue bonds, and notes held by it adequate to carry out any agreement as to, or pledge of, the rates, charges, and other fees and of the interest and amortization payments, and to require the Bank to carry out any other agreements with the holders of the notes or bonds and to perform its duties under this chapter;

\* \* \*

\* \* \* Study of Financing Public Infrastructure Improvements \* \* \*

Sec. 32. FINANCING PUBLIC INFRASTRUCTURE IMPROVEMENTS;  
JOINT FISCAL OFFICE; REPORT

(a) On or before January 15, 2024, the Joint Fiscal Office shall submit a report to the House Committee on Ways and Means and the Senate Committee on Finance on financing public infrastructure improvements in Vermont municipalities. The report shall include the following:

(1) a review of public infrastructure financing programs in other states and municipalities that may be implemented in Vermont;

(2) recommendations for aligning State and federal assistance for public infrastructure; and

(3) recommendations for harmonizing or expanding existing infrastructure improvement programs and distribution of funding.

(b) The Joint Fiscal Office is authorized to submit the report described in subsection (a) of this section in the form of an issue brief or hire a consultant to perform the research and draft the report. If a consultant is hired, then the Joint Fiscal Office may use an amount not to exceed \$50,000.00 for any associated costs from legislative funds.

\* \* \* Tax Increment Financing \* \* \*

Sec. 33. 24 V.S.A. § 1891 is amended to read:

§ 1891. DEFINITIONS

~~When~~ As used in this subchapter:

\* \* \*

(4) “Improvements” means the installation, new construction, or reconstruction of infrastructure that will serve a public purpose and fulfill the purpose of tax increment financing districts as stated in section 1893 of this subchapter, including utilities, transportation, public facilities and amenities, land and property acquisition and demolition, and site preparation. “Improvements” also means the funding of debt service interest payments for a period of up to two years, beginning on the date on which the first debt is incurred.

\* \* \*

(7) “Financing” means debt incurred, including principal, interest, and any fees or charges directly related to that debt, or other instruments or borrowing used by a municipality to pay for improvements in a tax increment financing district, only if authorized by the legal voters of the municipality in accordance with section 1894 of this subchapter. Payment for the cost of

district improvements may also include direct payment by the municipality using the district increment. However, such payment is also subject to a vote by the legal voters of the municipality in accordance with section 1894 of this subchapter and, if not included in the tax increment financing plan approved under subsection 1894(d) of this subchapter, is also considered a substantial change and subject to the review process provided by subdivision 1901(2)(B) of this subchapter. If interfund loans within the municipality are used as the method of financing, no interest shall be charged. Bond anticipation notes may be used as a method of financing; provided, however, that bond anticipation notes shall not be considered a first incurrence of debt pursuant to subsection 1894(a) of this subchapter.

\* \* \*

Sec. 34. 24 V.S.A. § 1895 is amended to read:

§ 1895. ORIGINAL TAXABLE VALUE

(a) Certification. As of the date the district is created, the lister or assessor for the municipality shall certify the original taxable value and shall certify to the legislative body in each year thereafter during the life of the district the amount by which the total valuation as determined in accordance with 32 V.S.A. chapter 129 of all taxable real property located within the tax increment financing district has increased or decreased relative to the original taxable value.

(b) Boundary of the district. No adjustments to the physical boundary lines of a district shall be made after the approval of a tax increment financing district plan.

Sec. 35. 24 V.S.A. § 1896 is amended to read:

§ 1896. TAX INCREMENTS

(a) In each year following the creation of the district, the listers or assessor shall include ~~no~~ not more than the original taxable value of the real property in the assessed valuation upon which the treasurer computes the rates of all taxes levied by the municipality and every other taxing district in which the tax increment financing district is situated; but the treasurer shall extend all rates so determined against the entire assessed valuation of real property for that year. In each year for ~~which the assessed valuation exceeds the original taxable value,~~ the municipality shall hold apart, rather than remit to the taxing districts, that proportion of all taxes paid that year on the real property in the district ~~which~~ that the excess valuation bears to the total assessed valuation. The amount held apart each year is the “tax increment” for that year. ~~No~~ Not more than the percentages established pursuant to section 1894 of this



subchapter of the municipal and State education tax increments received with respect to the district and committed for the payment for financing for improvements and related costs shall be segregated by the municipality in a special tax increment financing account and in its official books and records until all capital indebtedness of the district has been fully paid. The final payment shall be reported to the treasurer, who shall thereafter include the entire assessed valuation of the district in the assessed valuations upon which municipal and other tax rates are computed and extended and thereafter no taxes from the district shall be deposited in the district's tax increment financing account.

\* \* \*

(e) In each year, a municipality shall remit not less than the aggregate tax due on the original taxable value to the Education Fund.

Sec. 36. 32 V.S.A. § 5404a is amended to read:

§ 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT FINANCING DISTRICTS

(a) A tax agreement or exemption shall affect the education property tax grand list of the municipality in which the property subject to the agreement is located if the agreement or exemption is:

\* \* \*

(b)(1) An agreement affecting the education property tax grand list defined under subsection (a) of this section shall reduce the municipality's education property tax liability under this chapter for the duration of the agreement or exemption without extension or renewal, and for a maximum of 10 years. A municipality's property tax liability under this chapter shall be reduced by any difference between the amount of the education property taxes collected on the subject property and the amount of education property taxes that would have been collected on such property if its fair market value were taxed at the equalized nonhomestead rate for the tax year.

(2) Notwithstanding any other provision of law, if a municipality has entered into an agreement that reduces the municipality's education property tax liability under this chapter and the municipality establishes a tax increment financing district under 24 V.S.A. chapter 53, subchapter 5, the municipality's municipal and education tax increment shall be calculated based on the assessed value of the properties in the municipality's grand list and not on the stabilized value.

\* \* \*

(f) A municipality that establishes a tax increment financing district under 24 V.S.A. chapter 53, subchapter 5 shall collect all property taxes on properties contained within the district and apply not more than 70 percent of the State education property tax increment, and not less than 85 percent of the municipal property tax increment, to repayment of financing of the improvements and related costs for up to 20 years pursuant to 24 V.S.A. § 1894, if approved by the Vermont Economic Progress Council pursuant to this section, subject to the following:

\* \* \*

~~(C) If, while the General Assembly is not in session, the Council receives applications for districts that would otherwise qualify for approval but, if approved, would exceed the six-district limit in the State, the Council shall make one or more presentations to the Emergency Board concerning the applications, and the Emergency Board may, in its discretion, increase the six-district limit.~~

\* \* \*

Sec. 37. TAX INCREMENT FINANCING DISTRICT; CITY OF BARRE;  
EXTENSION; INCREMENT

(a) Notwithstanding 2021 Acts and Resolves No. 73, Sec. 26a, amending 2020 Acts and Resolves No. 175, Sec. 29, or any other provision of law, the authority of the City of Barre to incur indebtedness is hereby extended to March 31, 2026.

(b) Notwithstanding any other provision of law, the authority of the City of Barre to retain municipal and education tax increment is hereby extended until June 30, 2039.

Sec. 38. 2020 Acts and Resolves No. 111, Sec. 1 is amended to read:

Sec. 1. TAX INCREMENT FINANCING DISTRICT; TOWN OF  
HARTFORD

Notwithstanding any other provision of law, the authority of the Town of Hartford to:

(1) incur indebtedness for its tax increment financing district is hereby extended for three years beginning on March 31, 2021. This extension does not extend any period that municipal or education tax increment may be retained until March 31, 2026; and

(2) retain municipal and education tax increment is hereby extended until June 30, 2036.

\* \* \* Vermont Economic Growth Incentive; Sunset \* \* \*

Sec. 39. 2016 Acts and Resolves No. 157, Sec. H.12, as amended by 2022 Acts and Resolves No. 164, Sec. 5, is further amended to read:

Sec. H.12. VEGI; REPEAL OF AUTHORITY TO AWARD INCENTIVES

Notwithstanding any provision of law to the contrary, the Vermont Economic Progress Council shall not accept or approve an application for a Vermont Employment Growth Incentive under 32 V.S.A. chapter 105, subchapter 2 on or after January 1, ~~2024~~ 2025.

\* \* \* Workers' Compensation \* \* \*

Sec. 40. 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. 41. 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. 42. 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.

\* \* \* Unemployment Insurance \* \* \*

Sec. 43. 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.

\* \* \* Effective Dates \* \* \*

#### Sec. 44. EFFECTIVE DATES

This act shall take effect on passage, except:

(1) Notwithstanding 1 V.S.A. § 214, Secs. 1 and 2 (annual link to federal statutes) shall take effect retroactively on January 1, 2023 and shall apply to taxable years beginning on and after January 1, 2022.

(2) Sec. 8 (sales tax exemption; advanced wood boilers) shall take effect on June 30, 2023.

(3) Notwithstanding 1 V.S.A. § 214, Secs. 14 (child and dependent care credit), 15 (earned income tax credit), 16 (child tax credit; taxpayer identification numbers), 17 (taxpayer identification numbers; credits), and 19 and 20 (pass-throughs; composite payment rate for nonresidents) shall take effect retroactively on January 1, 2023 and shall apply to taxable years beginning on and after January 1, 2023.

(4) Sec. 18 (child tax credit; advance payments) shall take effect on the later of July 1, 2023 or the first day of the second quarter of the State fiscal year after the requirement to include recurring or nonrecurring State payments of income tax refunds, rebates, or credits in income-based eligibility determinations for any federal public assistance program, including the Supplemental Nutrition Assistance Program; the Special Supplemental Nutrition Program for Women, Infants, and Children; federal child care assistance; and Supplemental Security Income, is abrogated by one or more of the following federal actions:

(A) enactment of federal legislation;

(B) a decision by a controlling court from which there is no further right of appeal; or

(C) publication of federal regulations, guidelines, memorandum, or any other official action taken by the relevant federal agency with the authority to alter income-based eligibility determinations for federal public assistance programs.

## H. 472

An act relating to miscellaneous agricultural subjects

The Senate proposes 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

Fourth: By striking out Sec. 23, effective date, and its reader assistance heading in their entirety and inserting in lieu thereof the following:

\* \* \* Sales Tax Exemption; Advanced Wood Boilers \* \* \*

Sec. 23. 2018 Acts and Resolves No. 194, Sec. 26b(a), as amended by 2019 Acts and Resolves No. 83, Sec. 14, is further amended to read:

(a) 32 V.S.A. § §§ 9741(52) (sales tax exemption for advanced wood boilers) and 9706(11) (statutory purpose; sales tax exemption for advanced wood boilers) shall be repealed on July 1, ~~2023~~ 2024.

\* \* \* Effective Dates \* \* \*

Sec. 24. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except Sec. 23 (sales tax exemption; advanced wood boilers) shall take effect on June 30, 2023.

## H. 480

An act relating to property valuation and reappraisals

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Reappraisals \* \* \*

Sec. 1. 32 V.S.A. § 4041a is amended to read:

§ 4041a. REAPPRAISAL

\* \* \*

(b) If the Director of Property Valuation and Review determines that a municipality’s education grand list is ~~at a common level of appraisal below 85 percent or above 115 percent,~~ or has a coefficient of dispersion greater than 20, the municipality shall reappraise its education grand list properties. If the

Director orders a reappraisal, the Director shall send the municipality written notice of the decision. The municipality shall be given 30 days to contest the finding under procedural rules adopted by the Director; or to develop a compliance plan, or both. If the Director accepts a proposed compliance plan submitted by the municipality, the Director shall not order commencement of the reappraisal until the municipality has had one year to carry out that plan.

\* \* \*

~~(d) A sum not to exceed \$100,000.00 each year shall be paid from the Education Fund to the Division of Property Valuation and Review for the purpose of providing assessment education for municipal assessing officials. The Director is authorized to establish guidelines and requirements for education programs to be provided using the funds described in this section. Education programs provided using funds described in this section shall be provided at no cost or minimal cost to the municipal assessing officials. In addition to providing the annual education programs as described in this section, up to 20 percent of the amount available for education programs may be reserved as a scholarship fund to permit municipal assessing officials to attend national programs providing education opportunities on advanced assessment topics. All applications for scholarships shall be submitted to and approved by the Director. [Repealed.]~~

\* \* \*

Sec. 2. 32 V.S.A. § 4041a is amended to read:

§ 4041a. REAPPRAISAL

\* \* \*

(b) If the Director of Property Valuation and Review determines that a municipality's education grand list has a coefficient of dispersion greater than 20 or that a municipality has not timely reappraised pursuant to subsection (d) of this section, the municipality shall reappraise its education grand list properties. If the Director orders a reappraisal, the Director shall send the municipality written notice of the decision. The municipality shall be given 30 days to contest the finding under procedural rules adopted by the Director or to develop a compliance plan, or both. If the Director accepts a proposed compliance plan submitted by the municipality, the Director shall not order commencement of the reappraisal until the municipality has had one year to carry out that plan.

\* \* \*

(d) Each municipality shall commence a full reappraisal not later than six years after the commencement of the municipality's most recent full

reappraisal unless a longer period of time is approved by the Director.

\* \* \*

Sec. 3. ONE-TIME APPROPRIATION; DEPARTMENT OF TAXES

In fiscal year 2024, \$50,000.00 shall be appropriated from the General Fund to the Department of Taxes to contract with one or more consultants with expertise in statewide reappraisal systems to assist the Department in preparing the implementation proposal required under this act.

Sec. 4. IMPLEMENTATION PROPOSAL AND PROGRESS REPORT;  
STATEWIDE REAPPRAISALS; GRAND LIST PROPERTIES;  
DEPARTMENT OF TAXES

(a) On or before December 15, 2023, the Department of Taxes shall submit in writing to the House Committees on Government Operations and Military Affairs and on Ways and Means and the Senate Committees on Finance and on Government Operations a progress report on the first six months of work on the implementation proposal and recommendations required under subsection (b) of this section. The progress report shall include the following:

(1) With regard to the proposal to implement a statewide reappraisal system, a preliminary schedule to phase in full reappraisals for each municipality every six years with the first municipalities scheduled to reappraise with a completion date on or before April 1, 2027. In setting the proposed six-year reappraisal schedule, the Department shall prioritize the following factors:

- (A) municipalities for which the last year of reappraisal is the oldest;
- (B) the geographic proximity of municipalities; and
- (C) any other relevant municipal data metrics.

(2) With regard to the recommendations on obtaining detailed, accurate, and consistent data on all properties throughout the State, a study of existing municipal data metrics that could be used to identify and differentiate between properties on the municipal and statewide education grand lists based on property types and characteristics, including use, occupancy or vacancy, square footage, and any other relevant factors.

(3) Options for and any implementation of implicit bias reduction training for listers and assessors.

(4) Considerations and recommendations for changing the annual date by which grand lists are required to be lodged from April 1 to January 1 or another date.



(b)(1) On or before December 15, 2024, in consultation with relevant stakeholders, including groups that represent individuals from different socioeconomic backgrounds and that promote diversity, equity, and inclusion, the Department of Taxes shall submit in writing to the House Committees on Government Operations and Military Affairs and on Ways and Means and the Senate Committees on Finance and on Government Operations:

(A) a detailed implementation proposal for creating a statewide system to conduct reappraisals of municipal and statewide education grand lists administered by the State within the Division of Property Valuation and Review of the Department of Taxes; and

(B) recommendations to distinguish between different types and uses of property on the municipal and statewide education grand lists and a detailed proposal for designating new or updated property types and integrating them into the municipal and statewide education grand lists, as applicable, and the overall property taxation system beginning on January 1, 2026.

(2) The written submission required under this subsection shall identify and recommend the means to achieve consistency in property valuation and taxation across the State in order to prioritize the elimination of racial, socioeconomic, and other implicit biases. Pursuant to this subdivision, the Department shall review and revise State training programs and guidance provided to listers and assessors, including the Vermont Department of Taxes, Division of Property Valuation and Review publication titled “Lister and Assessor Handbook A Guide for Vermont Listers and Assessors,” for instances of racial, socioeconomic, and other implicit biases and report on any revisions made or planned to be made to those training programs and guidance.

(3) The implementation proposal required under subdivision (1)(A) of this subsection regarding the creation of a statewide reappraisal system shall make recommendations and propose legislative language, as applicable or needed to achieve the Department’s recommendations, regarding the following:

(A) Adequate funding, including cost-saving measures and potentially reallocating the revenues from the per-parcel fee under 32 V.S.A. § 4041a(a) to operate a statewide reappraisal system. The implementation proposal shall address staffing costs for hiring or contracting with trained assessors, or both, to carry out reappraisals and hearing officers to hold appeals at locations across the State.

(B)(i) Administration of full and statistical reappraisals of each municipality’s municipal and statewide education grand list, including:

- (I) selection and prioritization criteria;
- (II) any proposed adjustments to the coefficient of dispersion threshold that causes a reappraisal order pursuant to 32 V.S.A. § 4041a;
- (III) the frequency and efficacy of conducting full and statistical reappraisals on a set schedule; and
- (IV) any other recommendations for establishing a reappraisal schedule.

(ii) The implementation proposal shall list the municipalities that, at the time of passage of this act, have been ordered to reappraise pursuant to 32 V.S.A. § 4041a for the longest period of time and propose the means to prioritize a first State-level reappraisal for those municipalities' grand lists, provided no municipality shall be required to reappraise in fewer than six years after completion of the most recent full reappraisal. The implementation proposal shall further list the municipalities that have recently undergone or are currently undergoing a reappraisal and propose the means to ensure that those municipalities' grand lists are not scheduled for a first State-level reappraisal in fewer than six years after completion of the most recent full reappraisal.

(C) Creation of a reappraisal appeal structure that:

(i) ensures impartiality and installs procedural safeguards against conflicts of interest;

(ii) ensures all communities have convenient and reasonable access to State appeal hearings, regardless of the geographical location of the appellant;

(iii) based on a study of other State administrative appeal structures, incorporates the strengths and advantages of those appeal structures; and

(iv) takes into consideration any other matters identified by the Department relating to appeals, including a recommendation on potentially narrowing or eliminating the role of Boards of Civil Authority within the appraisal appeal process.

(D) Streamlining, integrating, and updating State and municipal software vendor agreements and information technology systems relating to reappraisals and maintaining municipal and statewide education grand lists, including the integration of any new or updated property types into municipal and statewide education grand lists, as applicable, and the overall property taxation system beginning on January 1, 2026. The implementation proposal

shall further estimate costs and analyze any other considerations regarding software vendor agreements.

(E) Existing definitions and data metrics currently gathered by municipal Computer Assisted Mass Appraisal (CAMA) systems and the potential for using those definitions and data to collect information on the number of residential units, land value distinct from the value of buildings or other improvements on the land, the year of construction for buildings or other improvements, and any other pertinent data relating to properties in this State.

(F) Distinguishing between contiguous parcels for purposes of property valuation and the payment of the per-parcel fee under 32 V.S.A. § 5405(f).

(G) Incentivizing municipalities to submit grand list parcel map data to the Vermont Center for Geographic Information, including conditioning payment of higher per grand list parcel fees on the submission of data.

(H) Incorporating the principles of a high-quality tax system into a potential statewide reappraisal system as enumerated by the National Conference of State Legislatures, "Tax Policy Handbook for State Legislators" (February 2010), 3rd ed., including sustainability, reliability, fairness, simplicity, economic competitiveness, tax neutrality, and accountability.

(4) The recommendations and detailed proposal required under subdivision (1)(B) of this subsection regarding new or updated property types that apply to municipal and statewide education grand lists and the overall property taxation system shall include the following:

(A)(i) Legislative language, as applicable or needed to achieve the Department's recommendations, that differentiates between grand list properties based on property type and characteristics, including use, occupancy or vacancy, square footage, and any other relevant factors. The detailed proposal shall recommend how certain property types and characteristics could be identified and data could be collected, including:

(I) different types of rental and affordable housing properties;

(II) the number of residential units in this State, including the number of residential units per parcel;

(III) land value distinct from the value of buildings or other improvements on the land;

(IV) the year of construction for buildings or other improvements; and

(V) any other pertinent data relating to properties in this State.

(ii) The recommendation under this subdivision (4)(A) shall consider the way that existing municipal and statewide education grand list property categories used for purposes of the equalization study could be reconfigured and consolidated and any other means to identify properties in order to obtain detailed, accurate, and consistent data on all properties throughout the State.

(B) Updating existing information technology systems or creating a new data collection and reporting system, or both, and creating a designation process for integrating different property types into the municipal and statewide education grand lists and the overall property taxation system in a detailed, accurate, and consistent way that takes into consideration the compliance and administrative burdens placed on both property owners and municipal and State administrators. The detailed proposal shall provide clear and actionable guidance on any new or updated property types and the designation process for both property owners and municipal listers and assessors.

(C) Assistance during the transition period for municipal listers and assessors with conducting the initial designation, data collection, and reporting of any new or updated property types.

(D) Integration of new or updated property types into a potential statewide reappraisal system and into the overall property taxation system.

Sec. 5. 2022 Acts and Resolves No. 163, Sec. 8(2) is amended to read:

(2) Sec. 3 (State appraisal and litigation assistance program) shall take effect on July 1, 2023, ~~provided the General Assembly has, on or before July 1, 2023, appropriated funding to cover the Department of Taxes' operating costs required to create, implement, and maintain a new State appraisal and litigation assistance program.~~

\* \* \* Lister and Appraiser Education \* \* \*

Sec. 6. 32 V.S.A. § 3436 is amended to read:

§ 3436. ASSESSMENT EDUCATION

(a) The Director shall certify assessment education programs for municipal listers and assessors at convenient times and places during the year and is authorized to contract with one or more persons to provide part or all of the assessment instruction. Certified programs shall include education on racial disparities in property valuation outcomes in the United States, with a focus on Vermont in particular, and on-going bias reduction training. Certified programs may include instruction in lister duties, property inspection, data collection, valuation methods, mass appraisal techniques, property tax

administration, or such other subjects as the Director deems beneficial to listers and both mandatory and optional certified programs may be presented by Property Valuation and Review or a person pursuant to a contract with Property Valuation and Review, the International Association of Assessing Officials, the Vermont Assessors and Listers Association, or the Vermont League of Cities and Towns.

(b) The Director shall establish designations recognizing levels of achievement and the necessary course work or evaluation of equivalent experience required to attain each designation. Designation for any one level shall be for a period of three years.

(c) Designation obtained under subsection (b) of this section may be renewed for three-year periods upon completion of requirements as determined by the ~~director~~ Director.

(d) The Director shall also notify all towns annually of any new approaches that the Division of Property Valuation and Review is aware of for obtaining or performing mass reappraisals and for grand list maintenance.

(e) A sum not to exceed \$100,000.00 each year shall be paid from the Education Fund to the Division of Property Valuation and Review for the purpose of providing assessment education for municipal listers and assessors. The Director is authorized to establish guidelines and requirements for education programs to be provided using the funds described in this section. Education programs provided using funds described in this section shall be provided at no cost or minimal cost to the municipal listers and assessors. In addition to providing the annual education programs described in this section, up to 20 percent of the amount available for education programs may be reserved as a scholarship fund to permit municipal listers and assessors to attend national programs providing education opportunities on advanced assessment topics. All applications for scholarships shall be submitted to and approved by the Director.

Sec. 7. 32 V.S.A. § 4052 is amended to read:

§ 4052. CONTRACT APPRAISALS; CERTIFICATION ASSESSOR QUALIFICATIONS

(a) No municipality shall employ or contract a person, firm, or corporation shall be employed by a municipality to perform appraisals of real property for the purpose of property taxation unless approved by the Director of Property Valuation and Review as qualified under this section.

(b) No person shall conduct the work of an assessor employed or contracted by a municipality pursuant to 17 V.S.A. § 2651c(b) unless the

person meets the training requirements established by the Director of Property Valuation and Review under this section.

(c) The Director shall establish by rule reasonable qualifications for approval and training requirements, which shall include successful completion of educational and training courses approved by the Director and, in the case of an appraiser hired to do a townwide reappraisal, at least one year's experience with an appraiser who has satisfactorily completed townwide reappraisals.

~~(e)~~(d) This section shall not apply to elected or appointed officials of any town but shall apply to an assessor employed or contracted by a municipality pursuant to 17 V.S.A. § 2651c(b).

Sec. 8. 32 V.S.A. § 4052 is amended to read:

§ 4052. CONTRACT APPRAISALS; ASSESSOR AND LISTER  
QUALIFICATIONS

(a) No municipality shall employ or contract a person, firm, or corporation to perform and no elected lister or board of listers shall perform appraisals of real property for the purpose of property taxation unless approved by the Director of Property Valuation and Review as qualified under this section.

(b) No person shall conduct the work of an elected lister, board of listers, or assessor employed or contracted by a municipality pursuant to 17 V.S.A. § 2651c(b) unless the person meets the training requirements established by the Director of Property Valuation and Review under this section. An elected lister or board of listers who does not meet the training requirements of this section at the time of election shall have one year after entering into the duties of the office of lister to comply with this section.

\* \* \*

~~(d) This section shall not apply to elected or appointed officials of any town but shall apply to an assessor employed or contracted by a municipality pursuant to 17 V.S.A. § 2651c(b). [Repealed.]~~

Sec. 9. 17 V.S.A. § 2651c is amended to read:

§ 2651c. LACK OF ELECTED LISTER; APPOINTMENT OF LISTER;  
ELIMINATION OF OFFICE; HIRING ASSESSORS

(a)(1) Notwithstanding any other provisions of law to the contrary and except as provided in subsection (b) of this section, in the event the board of listers of a town falls below a majority and the selectboard is unable to find a person or persons to appoint as a lister or listers under the provisions of 24 V.S.A. § 963, the selectboard may appoint an assessor to perform the duties of

a lister as set forth in Title 32 until the next annual meeting.

(2) The appointed person need not be a resident of the town and shall have the same powers and be subject to the same duties and penalties as a duly elected lister for the town.

(b)(1) A town may vote by ballot at an annual meeting to eliminate the office of lister.

(2)(A) If a town votes to eliminate the office of lister, the selectboard shall ~~contract with or employ~~ notify the Director of Property Valuation and Review within 14 days and employ or contract a professionally qualified assessor, who, prior to conducting any work, shall meet the training requirements established by the Director under 32 V.S.A. § 4052 and need not be a resident of the town.

(B) The assessor shall have the same powers, discharge the same duties, proceed in the discharge thereof in the same manner, and be subject to the same liabilities as are prescribed for listers or the board of listers under the provisions of Title 32.

(3) A vote to eliminate the office of lister shall remain in effect until rescinded by majority vote of the registered voters present and voting at an annual or special meeting warned for that purpose.

(c) The term of office of any lister in office on the date a town votes to eliminate that office shall expire on the 45th day after the vote or on the date upon which the selectboard ~~appoints~~ employs or contracts an assessor under this subsection, whichever occurs first.

(d) The authority to vote to eliminate the office of lister as provided in this section shall extend to all towns except those towns that have a charter that specifically provides for the election or appointment of the office of lister.

(e) If an assessor is employed or contracted to assist an elected board of listers, the board of listers shall retain the same powers and duties, discharge those powers and duties in the same manner, and be subject to the same liabilities as those imposed on listers or the board of listers under the provisions of Title 32.

\* \* \* Effective Dates \* \* \*

## Sec. 10. EFFECTIVE DATES

This act shall take effect on July 1, 2023 except:

(1) notwithstanding 1 V.S.A. § 214, Sec. 1, 32 V.S.A. § 4041a, subsection (b), (reappraisal orders; CLA) shall take effect retroactively on

April 1, 2022 and shall apply to grand lists lodged on and after April 1, 2022;

(2) Sec. 2 (32 V.S.A. § 4041a; reappraisal orders) shall take effect on January 1, 2025; and

(3) Sec. 8 (32 V.S.A. § 4052; lister qualifications) shall take effect on January 1, 2026.

## **Senate Proposal of Amendment to House Proposal of Amendment**

### **S. 138**

An act relating to school safety

The Senate concurs in the House proposal of amendment with the following proposal of amendment as follows:

First: By adding a new section to be Sec. 5a. to read as follows:

Sec. 5a. WORKING GROUP ON STUDENT PROTECTIONS FROM HARASSMENT AND DISCRIMINATION IN SCHOOLS; REPORT

(a) Creation. There is created the Working Group on Student Protections from Harassment and Discrimination in Schools to study and give recommendations for how to address harassment and discrimination experienced by students.

(b) Membership. The Working Group shall be composed of the following members:

(1) the Secretary of Education or designee;

(2) the Executive Director of the Vermont Human Rights Commission or designee;

(3) the Executive Director of the Vermont Network Against Domestic and Sexual Violence or designee;

(4) the Executive Director of the Vermont National Education Association or designee;

(5) the Executive Director of the Vermont School Boards Association or designee;

(6) the Executive Director of the Vermont Principals' Association or designee;

(7) the Executive Director of the Vermont Superintendents Association or designee;

(8) the Executive Director of Outright Vermont or designee;



(9) the Executive Director of Racial Equity or designee;

(10) the Executive Director of the Vermont chapter of the National Association of Social Workers or designee;

(11) the Executive Director of Vermont Legal Aid or designee; and

(12) the Chair of the Harassment, Hazing, and Bullying Prevention Advisory Council.

(c) Powers and duties. The Working Group shall study the current protections for students against harassment and discrimination in schools and make recommendations for legislative action to ensure Vermont students have the appropriate protections from harassment and discrimination. In conducting its analysis, the Working Group shall consider and make recommendations on the following issues:

(1) eliminating the severe and pervasive standard for harassment and discrimination for students in educational institutions;

(2) compulsory educational attendance requirements for students who have been victims of harassment; and

(3) the resources required for schools to develop harassment prevention initiatives as well as supports for students who have experienced harassment.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Agency of Education.

(e) Report. On or before December 1, 2023, the Working Group shall submit a written report to the House Committees on General and Housing and on Education and the Senate Committees on Economic Development, Housing and General Affairs and on Education with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Secretary of Education shall call the first meeting of the Working Group to occur on or before July 15, 2023.

(2) The Working Group shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Working Group shall cease to exist on February 1, 2024.

Second: In Sec. 6, effective dates, by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) This section and Secs. 5 and 5a shall take effect on July 1, 2023.

## **CONSENT CALENDAR**

### **Concurrent Resolutions for Adoption Under Joint Rules 16a - 16d**

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration in that member's chamber before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Senate Secretary's Office or the House Clerk's Office, as applicable. For text of resolutions, see Addendums to House Calendar and Senate Calendar of May 10, 2023.

#### **H.C.R. 115**

House concurrent resolution congratulating the University of Vermont Catamounts women's basketball team on winning the 2023 America East Conference championship

#### **H.C.R. 116**

House concurrent resolution honoring the youth division snowboarders and skiers who represented Vermont with distinction at the 2023 United States of America Snowboard and Freeski Association National Championships

#### **H.C.R. 117**

House concurrent resolution congratulating the University of Vermont Catamounts men's basketball team on winning the 2023 America East Conference championship

#### **H.C.R. 118**

House concurrent resolution congratulating the Northfield Junior Rifle team on completing a memorable and successful 2022–2023 competitive season

#### **H.C.R. 119**

House concurrent resolution congratulating the 2023 St. Johnsbury Academy Hilltoppers Science Olympiad team on its multi-medal-winning achievements

#### **H.C.R. 120**

House concurrent resolution congratulating Thetford Town Clerk and Treasurer Tracy Borst as the first Vermont and New England recipient of the International Institute of Municipal Clerks' Institute Directors Award of Excellence

**H.C.R. 121**

House concurrent resolution congratulating the 2023 Burlington High School Seahorses championship Vermont-NEA Scholars' Bowl team and wishing the students every success in their forthcoming national competitions

**H.C.R. 122**

House concurrent resolution in memory of University of Vermont Professor Emeritus Samuel B. Feitelberg of Shelburne

**H.C.R. 123**

House concurrent resolution honoring William Boyd Davies for more than four decades of insightfully moderating the Northeast Kingdom Legislative Breakfast Series in Newport

**H.C.R. 124**

House concurrent resolution congratulating St. Peter Roman Catholic Church of Rutland on the 150th anniversary of the construction of its home

**H.C.R. 125**

House concurrent resolution recognizing May 2023 as Jewish American Heritage Month in Vermont

**H.C.R. 126**

House concurrent resolution in memory of clinical psychologist and social justice activist Dr. Ann Ellis Reynolds of Pomfret

**H.C.R. 127**

House concurrent resolution recognizing May as Mental Health Awareness Month in Vermont

**S.C.R. 6**

Senate concurrent resolution honoring Vanessa Davison for her extraordinary dedication as a staff member of the General Assembly

**S.C.R. 7**

Senate concurrent resolution honoring Stephanie Barrett for more than a quarter-century of public service excellence as a member of the Joint Fiscal Office staff

## For Informational Purposes

### NOTICE OF JFO GRANTS AND POSITIONS

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3)(D):

**JFO #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]*

**JFO #3146:** \$737,685.00 to the Vermont Department of Corrections from the U.S. Department of Justice. This grant was awarded to Vermont State Colleges who will sub-grant to the VT Department of Corrections. This grant includes two (2) limited-service positions, Post-Secondary Program Coordinators, to engage Vermont's correctional facility staff in post-secondary educational opportunities and improved employment opportunities, both within and without the Department and State government. Positions are fully funded through 8/31/2025 with a potential one-year extension. *[Received April 3, 2023]*

**JFO #3145:** \$250,000.00 to the Vermont Agency of Human Services Department of Mental Health from the National Association of State Mental Health Program Directors. Funds will support direct services to be provided to the public through the Crisis Assistance Helping Out on the Street (CAHOOTS) program. The VT Department of Health will collaborate with the City of Burlington, Burlington Police Department and local area health providers to support this pilot. The goal is to establish a trauma-informed approach that will only utilize system components that are necessary for individual situations. *[Received April 3, 2023]*

**JFO #3144:** \$173,973.00 to the Vermont Attorney General's Office from the Vermont Network Against Domestic and Sexual Violence. The Firearm Technical Assistant Project serves to improve Vermont's statewide responses to the intersection of firearms and domestic violence. The Attorney General's office will lead the management team and provide project oversight including communication with the project partners: Vermont Network, Defender General's Office, Vermont State Police, Vermont Judiciary, Disability Rights Vermont, AALV-VT and the Abenaki Nation. *[Received April 3, 2023]*

**JFO #3143:** \$514,694.00 to the Agency of Human Services, Department of Vermont Health Access from the DHHS/ONC via Passthrough from the Association of State and Territorial Health Officials. Funds will be used to support Vermont's participation in the COVID-19 Immunization Data Exchange, Advancement and Sharing learning community with the aim of advancing immunization information and health information exchange sharing. *[Received March 23, 2023]*

**JFO #3142:** \$15,000.00 to Agency of Natural Resources, Department of Environmental Conservation from the Maine Geological Society. Funds will be used to identify contradictions in mapped geological formations across state lines in New England. *[Received March 23, 2023]*

**JFO #3141:** Donation of Alexander Twilight portrait, commissioned from artist Katie Runde to the Vermont State Curator's Office from the Friends of the Vermont State House. The donation is valued at \$32,923.27. Twilight was the first person of African descent to be elected to a state legislature and served one term in Vermont. The portrait is currently displayed in the main lobby of the Vermont State House. *[Received March 23, 2023]*

**JFO #3140:** \$241,208.00 to Building and General Services, Vermont State Curator's Office from the Institute of Museum and Library Services. The

FY2020 Save America's Treasures grant will restore and conserve Sculpture on the Highway, an outdoor collection of sixteen monumental marble and concrete sculptures created at two international sculpture symposia held in Vermont during the summers of 1968 and 1971. *[Received March 23, 2023]*

**JFO #3139:** \$644,469.00 to the Vermont Judiciary, Court Administrator's Office from the U.S. Department of Justice. The grant will support the VT Judiciary Commission on Mental Health, established in July 2022. The Commission is focused on addressing the needs of court-involved individuals with behavioral health issues. Funds will help develop training activities and materials for VT Judiciary staff. *[Received March 22, 2023]*

**JFO #3138:** One (1) limited-service position, Statewide Grants Administrator, to the Agency of Administration, Department of Finance and Management to cover increased grant activity due to the Covid-19 pandemic. The position is funded through Act 185 of 2022. Sec G.801 of the Act appropriates ARPA funds for administrative costs related to the pandemic. This position is funded through 12/31/2026. The grant packet can be found at: <https://ljfo.vermont.gov/assets/grants-documents/ec01b0bea7/JFO-3138-packet.pdf>  
*[Received February 9, 2023]*

**JFO #3137:** One (1) limited-service position to the Vermont Department of Health, Senior Health Asbestos and Lead Engineer, to perform senior professional level work to educate, advise on and enforce Vermont asbestos and lead control regulations. The position is funded through 9/30/2024 through an existing Environmental Protection Agency grant. The grant packet can be found at: <https://ljfo.vermont.gov/assets/grants-documents/a44b7c8cac/JFO-3137-packet-v2.pdf>  
*[Received 1/23/2023]*

**JFO #3136:** \$5,000,000.00 to the Agency of Administration, Public Service Department, VT Community Broadband Board (VCBB) from the National Telecommunications and Information Administration, Broadband Equity, Access and Deployment Program to deliver broadband to unserved and underserved areas in Vermont. This is a 5-year grant and will fill in the technical gaps existing in the VCBB's program of broadband deployment. The grant packet can be found at: <https://ljfo.vermont.gov/assets/grants-documents/3d7b96fcb1/JFO-3136-packet.pdf>  
*[Received 1/23/2023]*

