

House Calendar

Wednesday, March 20, 2024

78th DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 P.M.

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ACTION CALENDAR

Third Reading

H. 173

An act relating to prohibiting manipulating a child for the purpose of sexual contact

H. 233

An act relating to pharmacy benefit management and Medicaid wholesale drug distribution

H. 279

An act relating to the Uniform Trust Decanting Act

H. 350

An act relating to the Uniform Directed Trust Act

H. 606

An act relating to professional licensure and immigration status

H. 614

An act relating to land improvement fraud and timber trespass

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H. 667

An act relating to the creation of the Vermont-Ireland Trade Commission

H. 741

An act relating to health insurance coverage for colorectal cancer screening

H. 794

An act relating to services provided by the Vermont Veterans' Home

Amendment to be offered by Rep. Hooper of Burlington to H. 794

That the bill be amended in Sec. 2, 20 V.S.A. § 1717, in subdivision (b)(2), by striking out the following: “1714(13), (14), and (15)” and inserting in lieu thereof the following: “1714(5), (13), (14), and (15)”

H. 867

An act relating to miscellaneous amendments to the laws governing alcoholic beverages and the Board of Liquor and Lottery

H. 868

An act relating to the fiscal year 2025 Transportation Program and miscellaneous changes to laws related to transportation

Committee Bill for Second Reading

H. 872

An act relating to miscellaneous updates to the powers of the Vermont Criminal Justice Council and the duties of law enforcement officers

(Rep. McCarthy of St. Albans City will speak for the Committee on Government Operations and Military Affairs.)

Favorable with Amendment

H. 10

An act relating to amending the Vermont Employment Growth Incentive Program

Rep. Marcotte of Coventry, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 32 V.S.A. § 3325 is amended to read:

§ 3325. VERMONT ECONOMIC PROGRESS COUNCIL

(a) Creation. The Vermont Economic Progress Council is created to exercise the authority and perform the duties assigned to it, including its authority and duties relating to:

(1) the Vermont Employment Growth Incentive Program pursuant to subchapter 2 of this chapter; and

(2) tax increment financing districts pursuant to 24 V.S.A. chapter 53, subchapter 5 and section 5404a of this title.

(b) Membership.

(1) The Council shall have 11 voting members:

(A) nine residents of the State appointed by the Governor with the advice and consent of the Senate who are knowledgeable and experienced in the subjects of community development and planning, education funding requirements, economic development, State fiscal affairs, property taxation, or entrepreneurial ventures and represent diverse geographical areas of the State and municipalities of various sizes;

(B) one member of the Vermont House of Representatives appointed by the Speaker of the House; and

(C) one member of the Vermont Senate appointed by the Senate Committee on Committees.

(2)(A) The Council shall have two regional members from each region of the State, one appointed by the regional development corporation of the region and one appointed by the regional planning commission of the region.

(B) A regional member shall be a nonvoting member and shall serve during consideration by the Council of an application from ~~his or her~~ the member's region.

(3) The Council shall provide not less than 30 days' notice of a vacancy to the relevant appointing authority, which shall appoint a replacement not later than 30 days after receiving notice.

* * *

(e) Operation.

(1) The Governor shall appoint a chair from the Council's members.

(2) The Council shall receive administrative support from the Agency of Commerce and Community Development and the Department of Taxes.

(3) The Council shall have:

(A) an executive director appointed by the Governor with the advice and consent of the Senate who is knowledgeable in subject areas of the Council's jurisdiction and who is an exempt State employee; and

(B) administrative staff.

(4) The Council shall adopt and make publicly available a policy governing conflicts of interest that meets or exceeds the requirements of the State Code of Ethics and shall include:

(A) clear standards for when a member of the Council may participate or must be recused when an actual or perceived conflict of interest exists; and

(B) a provision that requires a witness who is an officer of the State or its political subdivision or instrumentality to disclose a conflict of interest related to an application.

(5) The Council shall not enter into executive session to discuss applications or other matters pertaining to the Vermont Employment Growth Incentive Program under subchapter 2 of this chapter unless the Executive Branch State economist is present and has been provided all relevant materials concerning the session.

* * *

Sec. 2. 32 V.S.A. § 3326 is amended to read:

§ 3326. COST-BENEFIT MODEL

(a) The Council shall adopt and maintain a cost-benefit model for assessing and measuring the projected net fiscal cost and benefit to the State of proposed economic development activities.

(b) The Council shall not modify the cost-benefit model without the prior approval of the Joint Fiscal Committee.

(c)(1) The Council shall contract with the Executive Branch State economist to perform the cost-benefit analysis using the cost-benefit model when considering an application for incentives under subchapter 2 of this chapter.

(2) The Executive Branch State economist shall consult with the Joint Fiscal Office or its agent concerning the performance of the cost-benefit analysis and the operation of the cost-benefit model for each application in which the value of potential incentives an applicant may earn equals or exceeds \$1,000,000.00.

Sec. 3. 32 V.S.A. § 3340 is amended to read:

§ 3340. REPORTING

(a) On or before September 1 of each year, the Vermont Economic Progress Council and the Department of Taxes shall submit a joint report on the incentives authorized in this subchapter to the House Committees on Ways and Means, on Commerce and Economic Development, and on Appropriations, to the Senate Committees on Finance, on Economic

Development, Housing and General Affairs, and on Appropriations, and to the Joint Fiscal Committee.

(b) The Council and the Department shall include in the joint report:

(1) the total amount of incentives authorized during the preceding year and the amount per business;

(2) with respect to each business with an approved application:

(A) the date and amount of authorization;

(B) the calendar year or years in which the authorization is expected to be exercised;

(C) whether the authorization is active; ~~and~~

(D) the date the authorization will expire; ~~and~~

(E) the aggregate number of new qualifying jobs anticipated to be created;

(F) Vermont gross wages and salaries for new qualifying jobs, sorted by groups in \$25,000.00 increments;

(G) the aggregate amount of new full-time payroll anticipated to be created; and

(H) NAICS code; and

(3) the following aggregate information for claims processed:

(A) the number of claims and incentive payments made in the current and prior claim years;

(B) the number of qualifying jobs for each approved claim; and

(C) the amount of new payroll and capital investment for each approved claim.

(c)(1) The Council and the Department shall present data and information in the joint report in a searchable format.

(2) Notwithstanding a provision of this section to the contrary, when reporting data and information pursuant to this section, the Council and Department shall take steps necessary to avoid disclosing any information that would enable the identification of an individual employee or the employee's compensation.

(d) Notwithstanding any provision of law to the contrary, an incentive awarded pursuant to this subchapter shall be treated as a tax expenditure for purposes of chapter 5 of this title.

Sec. 4. 32 V.S.A. § 3341 is amended to read:

§ 3341. CONFIDENTIALITY OF PROPRIETARY BUSINESS
INFORMATION

(a) The Vermont Economic Progress Council and the Department of Taxes shall use measures to protect proprietary financial information, including reporting information in an aggregate form.

(b) Information and materials submitted by a business concerning its application, income taxes, and other confidential financial information shall not be subject to public disclosure under the State's public records law in 1 V.S.A. chapter 5, but shall be available to the Joint Fiscal Office or its agent upon request of a legislative member of the Council or upon authorization of the Joint Fiscal Committee or a standing committee of the General Assembly, and shall also be available to the Auditor of Accounts in connection with the performance of duties under section 163 of this title; provided, however, that the Joint Fiscal Office or its agent and the Auditor of Accounts shall not disclose, directly or indirectly, to any person any proprietary business information or any information that would identify a business except in accordance with a judicial order or as otherwise specifically provided by law.

(c) Nothing in this section shall be construed to prohibit the publication of statistical information, rulings, determinations, reports, opinions, policies, or other information so long as the data are disclosed in a form that cannot identify or be associated with a particular business.

Sec. 5. 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~~ 2026.

Sec. 6. ECONOMIC DEVELOPMENT INCENTIVES; STUDY

(a) Creation. There is created the Task Force on Economic Development Incentives composed of the following five members:

(1) one member of the House Committee on Commerce and Economic Development and one at-large member with experience in business and

economic development appointed by the Speaker of the House of Representatives;

(2) one member of the Senate Committee on Economic Development, Housing and General Affairs and one at-large member with experience in business and economic development appointed by the Senate Committee on Committees; and

(3) one at-large member appointed jointly by the Speaker of the House of Representatives and the Senate Committee on Committees.

(b) Powers and duties. The Task Force shall conduct hearings, receive testimony, and review and consider:

(1) the purpose and performance of current State-funded economic development incentive programs; and

(2) models and features of economic development incentive programs from other jurisdictions, including:

(A) the structure, management, and oversight features of the program;

(B) the articulated purpose, goals, and benefits of the program, and the basis of measuring success; and

(C) the mechanism for providing an economic incentive, whether through a loan, grant, equity investment, or other approach.

(c) Assistance.

(1) The Task Force shall have the administrative, fiscal, and legal assistance of the Office of Legislative Operations, the Joint Fiscal Office, and the Office of Legislative Counsel.

(2) The Task Force may direct the Joint Fiscal Office to issue a request for proposals and enter into one or more agreements for consulting services.

(d) Report. On or before January 15, 2024, the Task Force shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action, including whether and how any proposed program addition, revision, or other legislative action would:

(1) integrate with and further advance the current workforce development and economic development systems in this State; and

(2) advance the four principles of economic development articulated in 10 V.S.A. § 3.

(e) Meetings.

(1) The member of the House Committee on Commerce and Economic Development shall call the first meeting of the Task Force to occur on or before September 1, 2023.

(2) The Committee shall select a chair from among its members at the first meeting.

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

(4) The Task Force shall cease to exist on January 15, 2024.

(f) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Task Force serving in the member's capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than six meetings.

(2) Other members of the Task Force 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.

(g) Appropriation. The amount of \$250,000.00 is appropriated from the General Fund in fiscal year 2024 for per diem compensation and reimbursement of expenses for members of the Task Force and for consulting services approved by the Task Force pursuant to this section.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee Vote: 11-0-0)

Rep. Anthony of Barre City, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Commerce and Economic Development and when further amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 32 V.S.A. chapter 105 is amended to read:

CHAPTER 105. VERMONT EMPLOYMENT GROWTH INCENTIVE PROGRAM

§ 3325. VERMONT ECONOMIC PROGRESS COUNCIL

* * *

(b) Membership.

(1) The Council shall have ~~11~~ nine voting members:

~~(A) nine who are residents of the State appointed by the Governor with the advice and consent of the Senate and~~ who are knowledgeable and experienced in the subjects of community development and planning, education funding requirements, economic development, State fiscal affairs, property taxation, or entrepreneurial ventures and represent diverse geographical areas of the State and municipalities of various sizes; appointed as follows:

(A) five members, appointed by the Governor with the advice and consent of the Senate;

(B) two members, appointed by the Speaker of the House; and

(C) two members, appointed by the Senate Committee on Committees

~~(B) one member of the Vermont House of Representatives appointed by the Speaker of the House; and~~

~~(C) one member of the Vermont Senate appointed by the Senate Committee on Committees.~~

(2)(A) The Council shall have two regional members from each region of the State, one appointed by the regional development corporation of the region and one appointed by the regional planning commission of the region.

(B) A regional member shall be a nonvoting member and shall serve during consideration by the Council of an application from ~~his or her~~ the member's region.

(3) The Council shall provide not less than 30 days' notice of a vacancy to the relevant appointing authority, which shall appoint a replacement not later than 30 days after receiving notice.

(c) Terms.

(1) Members of the Council appointed by the Governor shall serve initial staggered terms with five members serving four-year terms, and four members serving two-year terms.

(2) After the initial term expires, a member's term is four years and a member may be reappointed.

(3) A term commences on April 1 of each odd-numbered year.

(d) Compensation.

(1) For attendance at a meeting and for other official duties, a member appointed by the Governor shall be entitled to compensation for services and reimbursement of expenses as provided in section 1010 of this title, except that a member who is a member of the General Assembly shall be entitled to compensation for services and reimbursement of expenses as provided in 2 V.S.A. § 23.

(2) A regional member who does not otherwise receive compensation and reimbursement of expenses from ~~his or her~~ the member's regional development or planning organization shall be entitled to compensation and reimbursement of expenses for attendance at meetings and for other official duties as provided in section 1010 of this title.

(e) Operation.

(1) The Governor shall appoint a chair from the Council's members.

(2) The Council shall receive administrative support from the Agency of Commerce and Community Development and the Department of Taxes.

(3) The Council shall have:

(A) an executive director appointed by the Governor with the advice and consent of the Senate who is knowledgeable in subject areas of the Council's jurisdiction and who is an exempt State employee; and

(B) administrative staff.

(4) The Council shall adopt and make publicly available a policy governing conflicts of interest that meets or exceeds the requirements of the State Code of Ethics and shall include:

(A) clear standards for when a member of the Council may participate or must be recused when an actual or perceived conflict of interest exists; and

(B) a provision that requires a witness who is an officer of the State or its political subdivision or instrumentality to disclose a conflict of interest related to an application.

(5) The Council shall not enter into executive session to discuss applications or other matters pertaining to the Vermont Employment Growth Incentive Program under subchapter 2 of this chapter unless the Executive Branch State economist is present and has been provided all relevant materials concerning the session.

* * *

§ 3326. COST-BENEFIT MODEL

(a) The Council shall adopt and maintain a cost-benefit model for assessing and measuring the projected net fiscal cost and benefit to the State of proposed economic development activities.

(b) The Council shall not modify the cost-benefit model without the prior approval of the Joint Fiscal Committee.

(c)(1) The Council shall contract with the Executive Branch State economist to perform the cost-benefit analysis using the cost-benefit model when considering an application for incentives under subchapter 2 of this chapter.

(2) The Executive Branch State economist shall consult with the Joint Fiscal Office or its agent concerning the performance of the cost-benefit analysis and the operation of the cost-benefit model for each application in which the value of potential incentives an applicant may earn equals or exceeds \$1,000,000.00.

§ 3327. ECONOMIC PROGRESS AND PERFORMANCE REPORTING

(a) Each year, the Council shall engage in a strategic planning process and produce a report on the purposes and performance of current State-funded economic development incentive programs.

(b) In furtherance of producing the report, the Council shall consult with representatives of:

(1) regional development corporations;

(2) regional chambers of commerce; and

(3) business and development organizations identified by the Vermont Sustainable Jobs Fund to be geographically and demographically diverse, in reviewing and considering:

(A) the purpose and performance of current State-funded economic development incentive programs; and

(B) appropriate incentives during low employment and during high employment.

(c) On or before December 15 of each year, the Council shall submit the report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action, including whether and how any proposed program addition, revision, or other legislative action would:

(1) integrate with and further advance the current workforce development and economic development systems in this State; and

(2) advance the four principles of economic development articulated in 10 V.S.A. § 3.

* * *

§ 3340. REPORTING

(a) On or before September 1 of each year, the Vermont Economic Progress Council and the Department of Taxes shall submit a joint report on the incentives authorized in this subchapter to the House Committees on Ways and Means, on Commerce and Economic Development, and on Appropriations, to the Senate Committees on Finance, on Economic Development, Housing and General Affairs, and on Appropriations, and to the Joint Fiscal Committee.

(b) The Council and the Department shall include in the joint report:

(1) the total amount of incentives authorized during the preceding year and the amount per business;

(2) with respect to each business with an approved application:

(A) the date and amount of authorization;

(B) the calendar year or years in which the authorization is expected to be exercised;

(C) whether the authorization is active; and

(D) the date the authorization will expire; and

(E) the aggregate number of new qualifying jobs anticipated to be created;

(F) Vermont gross wages and salaries for new qualifying jobs, sorted by groups in \$25,000.00 increments;

(G) the aggregate amount of new full-time payroll anticipated to be created; and

(H) NAICS code; and

(3) the following aggregate information for claims processed:

(A) the number of claims and incentive payments made in the current and prior claim years;

(B) the number of qualifying jobs for each approved claim; and

(C) the amount of new payroll and capital investment for each approved claim.

(c)(1) The Council and the Department shall present data and information in the joint report in a searchable format.

(2) Notwithstanding a provision of this section to the contrary, when reporting data and information pursuant to this section, the Council and Department shall take steps necessary to avoid disclosing any information that would enable the identification of an individual employee or the employee's compensation.

(d) Notwithstanding any provision of law to the contrary, an incentive awarded pursuant to this subchapter shall be treated as a tax expenditure for purposes of chapter 5 of this title.

§ 3341. CONFIDENTIALITY OF PROPRIETARY BUSINESS
INFORMATION

(a) The Vermont Economic Progress Council and the Department of Taxes shall use measures to protect proprietary financial information, including reporting information in an aggregate form.

(b) Information and materials submitted by a business concerning its application, income taxes, and other confidential financial information shall not be subject to public disclosure under the State's public records law in 1 V.S.A. chapter 5, but shall be available to the Joint Fiscal Office or its agent upon request of a legislative member of the Council or upon authorization of the Joint Fiscal Committee or a standing committee of the General Assembly, and shall also be available to the Auditor of Accounts in connection with the performance of duties under section 163 of this title; provided, however, that the Joint Fiscal Office or its agent and the Auditor of Accounts shall not disclose, directly or indirectly, to any person any proprietary business information or any information that would identify a business except in accordance with a judicial order or as otherwise specifically provided by law.

(c) Nothing in this section shall be construed to prohibit the publication of statistical information, rulings, determinations, reports, opinions, policies, or other information so long as the data are disclosed in a form that cannot identify or be associated with a particular business.

* * *

Sec. 2. 2016 Acts and Resolves No. 157, Sec. H.12, as amended by 2022

Acts and Resolves No. 164, Sec. 5 and 2023 Acts and Resolves No. 72, Sec. 39, 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, ~~2025~~ 2026.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee Vote: 11-0-0)

Rep. Toleno of Brattleboro, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Commerce and Economic Development, and when further amended as recommended by the Committee on Ways and Means.

(Committee Vote: 11-0-1)

H. 121

An act relating to enhancing consumer privacy

Rep. Priestley of Bradford, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 61A is added to read:

CHAPTER 61A. VERMONT DATA PRIVACY ACT

§ 2415. DEFINITIONS

As used in this chapter:

(1) “Abortion” has the same meaning as in section 2492 of this title.

(2)(A) “Affiliate” means a legal entity that shares common branding with another legal entity or controls, is controlled by, or is under common control with another legal entity.

(B) As used in subdivision (A) of this subdivision (2), “control” or “controlled” means:

(i) ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a company;

(ii) control in any manner over the election of a majority of the directors or of individuals exercising similar functions; or

(iii) the power to exercise controlling influence over the management of a company.

(3) “Authenticate” means to use reasonable means to determine that a request to exercise any of the rights afforded under subdivisions 2418(a)(1)–(5) of this title is being made by, or on behalf of, the consumer who is entitled to exercise the consumer rights with respect to the personal data at issue.

(4) “Biometric data” means personal data generated from the technological processing of an individual’s unique biological, physical, or physiological characteristics that is linked or reasonably linkable to an individual, including:

(A) iris or retina scans;

(B) fingerprints;

(C) facial or hand mapping, geometry, or templates;

(D) vein patterns;

(E) voice prints;

(F) gait or personally identifying physical movement or patterns;

(G) depictions, images, descriptions, or recordings; and

(H) data derived from any data in subdivision (G) of this subdivision (4), to the extent that it would be reasonably possible to identify the specific individual from whose biometric data the data has been derived.

(5) “Broker-dealer” has the same meaning as in 9 V.S.A. § 5102.

(6) “Business associate” has the same meaning as in HIPAA.

(7) “Child” has the same meaning as in COPPA.

(8)(A) “Consent” means a clear affirmative act signifying a consumer’s freely given, specific, informed, and unambiguous agreement to allow the processing of personal data relating to the consumer.

(B) “Consent” may include a written statement, including by electronic means, or any other unambiguous affirmative action.

(C) “Consent” does not include:

(i) acceptance of a general or broad terms of use or similar document that contains descriptions of personal data processing along with other, unrelated information;

(ii) hovering over, muting, pausing, or closing a given piece of content; or

(iii) agreement obtained through the use of dark patterns.

(9)(A) “Consumer” means an individual who is a resident of the State.

(B) “Consumer” does not include an individual acting in a commercial or employment context or as an employee, owner, director, officer, or contractor of a company, partnership, sole proprietorship, nonprofit, or government agency whose communications or transactions with the controller occur solely within the context of that individual’s role with the company, partnership, sole proprietorship, nonprofit, or government agency.

(10) “Consumer health data” means any personal data that a controller uses to identify a consumer’s physical or mental health condition or diagnosis, including gender-affirming health data and reproductive or sexual health data.

(11) “Consumer health data controller” means any controller that, alone or jointly with others, determines the purpose and means of processing consumer health data.

(12) “Consumer reporting agency” has the same meaning as in the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f);

(13) “Controller” means a person who, alone or jointly with others, determines the purpose and means of processing personal data.

(14) “COPPA” means the Children’s Online Privacy Protection Act of 1998, 15 U.S.C. § 6501–6506, and any regulations, rules, guidance, and exemptions promulgated pursuant to the act, as the act and regulations, rules, guidance, and exemptions may be amended.

(15) “Covered entity” has the same meaning as in HIPAA.

(16) “Credit union” has the same meaning as in 8 V.S.A. § 30101.

(17) “Dark pattern” means a user interface designed or manipulated with the substantial effect of subverting or impairing user autonomy, decision-making, or choice and includes any practice the Federal Trade Commission refers to as a “dark pattern.”

(18) “Decisions that produce legal or similarly significant effects concerning the consumer” means decisions made by the controller that result in the provision or denial by the controller of financial or lending services, housing, insurance, education enrollment or opportunity, criminal justice, employment opportunities, health care services, or access to essential goods or services.

(19) “De-identified data” means data that does not identify and cannot reasonably be used to infer information about, or otherwise be linked to, an

identified or identifiable individual, or a device linked to the individual, if the controller that possesses the data:

(A)(i) takes reasonable measures to ensure that the data cannot be used to re-identify an identified or identifiable individual or be associated with an individual or device that identifies or is linked or reasonably linkable to an individual or household;

(ii) for purposes of this subdivision (A), “reasonable measures” shall include the de-identification requirements set forth under 45 C.F.R. § 164.514 (other requirements relating to uses and disclosures of protected health information);

(B) publicly commits to process the data only in a de-identified fashion and not attempt to re-identify the data; and

(C) contractually obligates any recipients of the data to satisfy the criteria set forth in subdivisions (A) and (B) of this subdivision (19).

(20) “Financial institution”:

(A) as used in subdivision 2417(a)(12) of this title, has the same meaning as in 15 U.S.C. § 6809; and

(B) as used in subdivision 2417(a)(14) of this title, has the same meaning as in 8 V.S.A. § 11101.

(21) “Gender-affirming health care services” has the same meaning as in 1 V.S.A. § 150.

(22) “Gender-affirming health data” means any personal data concerning a past, present, or future effort made by a consumer to seek, or a consumer’s receipt of, gender-affirming health care services, including:

(A) precise geolocation data that is used for determining a consumer’s attempt to acquire or receive gender-affirming health care services;

(B) efforts to research or obtain gender-affirming health care services; and

(C) any gender-affirming health data that is derived from nonhealth information.

(23) “Genetic data” means any data, regardless of its format, that results from the analysis of a biological sample of an individual, or from another source enabling equivalent information to be obtained, and concerns genetic material, including deoxyribonucleic acids (DNA), ribonucleic acids (RNA), genes, chromosomes, alleles, genomes, alterations or modifications to DNA or RNA, single nucleotide polymorphisms (SNPs), epigenetic markers,

uninterpreted data that results from analysis of the biological sample or other source, and any information extrapolated, derived, or inferred therefrom.

(24) “Geofence” means any technology that uses global positioning coordinates, cell tower connectivity, cellular data, radio frequency identification, wireless fidelity technology data, or any other form of location detection, or any combination of such coordinates, connectivity, data, identification, or other form of location detection, to establish a virtual boundary.

(25) “Health care facility” has the same meaning as in 18 V.S.A. § 9432.

(26) “Heightened risk of harm to a minor” means processing the personal data of a minor in a manner that presents a reasonably foreseeable risk of:

(A) unfair or deceptive treatment of, or unlawful disparate impact on, a minor;

(B) financial, physical, mental, emotional, or reputational injury to a minor;

(C) unintended disclosure of the personal data of a minor; or

(D) any physical or other intrusion upon the solitude or seclusion, or the private affairs or concerns, of a minor if the intrusion would be offensive to a reasonable person.

(27) “HIPAA” means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and any regulations promulgated pursuant to the act, as may be amended.

(28) “Identified or identifiable individual” means an individual who can be readily identified, directly or indirectly, including by reference to an identifier such as a name, an identification number, specific geolocation data, or an online identifier.

(29) “Independent trust company” has the same meaning as in 8 V.S.A. § 2401.

(30) “Investment adviser” has the same meaning as in 9 V.S.A. § 5102.

(31) “Mental health facility” means any health care facility in which at least 70 percent of the health care services provided in the facility are mental health services.

(32) “Nonpublic personal information” has the same meaning as in 15 U.S.C. § 6809.

(33)(A) “Online service, product, or feature” means any service, product, or feature that is provided online, except as provided in subdivision (B) of this subdivision (33).

(B) “Online service, product, or feature” does not include:

(i) telecommunications service, as that term is defined in the Communications Act of 1934, 47 U.S.C. § 153;

(ii) broadband internet access service, as that term is defined in 47 C.F.R. § 54.400 (universal service support); or

(iii) the delivery or use of a physical product.

(34) “Patient identifying information” has the same meaning as in 42 C.F.R. § 2.11 (confidentiality of substance use disorder patient records).

(35) “Patient safety work product” has the same meaning as in 42 C.F.R. § 3.20 (patient safety organizations and patient safety work product).

(36)(A) “Personal data” means any information, including derived data and unique identifiers, that is linked or reasonably linkable to an identified or identifiable individual or to a device that identifies, is linked to, or is reasonably linkable to one or more identified or identifiable individuals in a household.

(B) “Personal data” does not include de-identified data or publicly available information.

(37)(A) “Precise geolocation data” means personal data that accurately identifies within a radius of 1,850 feet a consumer’s present or past location or the present or past location of a device that links or is linkable to a consumer or any data that is derived from a device that is used or intended to be used to locate a consumer within a radius of 1,850 feet by means of technology that includes a global positioning system that provides latitude and longitude coordinates.

(B) “Precise geolocation data” does not include the content of communications or any data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility.

(38) “Process” or “processing” means any operation or set of operations performed, whether by manual or automated means, on personal data or on sets of personal data, such as the collection, use, storage, disclosure, analysis, deletion, or modification of personal data.

(39) “Processor” means a person who processes personal data on behalf of a controller.

(40) “Profiling” means any form of automated processing performed on personal data to evaluate, analyze, or predict personal aspects related to an identified or identifiable individual’s economic situation, health, personal preferences, interests, reliability, behavior, location, or movements.

(41) “Protected health information” has the same meaning as in HIPAA.

(42) “Pseudonymous data” means personal data that cannot be attributed to a specific individual without the use of additional information, provided the additional information is kept separately and is subject to appropriate technical and organizational measures to ensure that the personal data is not attributed to an identified or identifiable individual.

(43) “Publicly available information” means information that:

(A) is lawfully made available through federal, state, or local government records; or

(B) a controller has a reasonable basis to believe that the consumer has lawfully made available to the general public through widely distributed media.

(44) “Qualified service organization” has the same meaning as in 42 C.F.R. § 2.11 (confidentiality of substance use disorder patient records);

(45) “Reproductive or sexual health care” has the same meaning as “reproductive health care services” in 1 V.S.A. § 150(c)(1).

(46) “Reproductive or sexual health data” means any personal data concerning a past, present, or future effort made by a consumer to seek, or a consumer’s receipt of, reproductive or sexual health care.

(47) “Reproductive or sexual health facility” means any health care facility in which at least 70 percent of the health care-related services or products rendered or provided in the facility are reproductive or sexual health care.

(48)(A) “Sale of personal data” means the sale, rent, release, disclosure, dissemination, provision, transfer, or other communication, whether oral, in writing, or by electronic or other means, of a consumer’s personal data by the controller to a third party for monetary or other valuable consideration or otherwise for a commercial purpose.

(B) For purposes of this subdivision (48), “commercial purpose” means to advance a person’s commercial or economic interests, such as by inducing another person to buy, rent, lease, join, subscribe to, provide, or exchange products, goods, property, information, or services, or enabling or effecting, directly or indirectly, a commercial transaction.

(C) “Sale of personal data” does not include:

(i) the disclosure of personal data to a processor that processes the personal data on behalf of the controller;

(ii) the disclosure of personal data to a third party for purposes of providing a product or service requested by the consumer;

(iii) the disclosure or transfer of personal data to an affiliate of the controller;

(iv) the disclosure of personal data where the consumer directs the controller to disclose the personal data or intentionally uses the controller to interact with a third party;

(v) the disclosure of personal data that the consumer:

(I) intentionally made available to the general public via a channel of mass media; and

(II) did not restrict to a specific audience; or

(vi) the disclosure or transfer of personal data to a third party as an asset that is part of a merger, acquisition, bankruptcy or other transaction, or a proposed merger, acquisition, bankruptcy, or other transaction, in which the third party assumes control of all or part of the controller’s assets.

(49) “Sensitive data” means personal data that:

(A) reveals a consumer’s government-issued identifier, such as a Social Security number, passport number, state identification card, or driver’s license number, that is not required by law to be publicly displayed;

(B) reveals a consumer’s racial or ethnic origin, national origin, citizenship or immigration status, religious or philosophical beliefs, or union membership;

(C) reveals a consumer’s sexual orientation, sex life, sexuality, or status as transgender or nonbinary;

(D) reveals a consumer’s status as a victim of a crime;

(E) is financial information, including a consumer’s account number, financial account log-in, financial account, debit card number, or credit card number in combination with any required security or access code, password, or credentials allowing access to an account;

(F) is consumer health data;

(G) is personal data collected and analyzed concerning consumer health data or personal data that describes or reveals a past, present, or future

mental or physical health condition, treatment, disability, or diagnosis, including pregnancy, to the extent the personal data is not used by the controller to identify a specific consumer's physical or mental health condition or diagnosis;

(H) is biometric or genetic data;

(I) is personal data collected from a known child;

(J) is a photograph, film, video recording, or other similar medium that shows the naked or undergarment-clad private area of a consumer; or

(K) is precise geolocation data.

(50)(A) "Targeted advertising" means:

(i) except as provided in subdivision (ii) of this subdivision (50)(A), the targeting of an advertisement to a consumer based on the consumer's activity with one or more businesses, distinctly branded websites, applications, or services, other than the controller, distinctly branded website, application, or service with which the consumer is intentionally interacting; and

(ii) as used in section 2420 of this title, the targeting of an advertisement to a minor based on the minor's activity with one or more businesses, distinctly branded websites, applications, or services, including with the controller, distinctly branded website, application, or service with which the minor is intentionally interacting.

(B) "Targeted advertising" does not include:

(i) for targeted advertising to a consumer other than a minor, an advertisement based on activities within a controller's own commonly branded website or online application;

(ii) an advertisement based on the context of a consumer's current search query, visit to a website, or use of an online application;

(iii) an advertisement directed to a consumer in response to the consumer's request for information or feedback; or

(iv) processing personal data solely to measure or report advertising frequency, performance, or reach.

(51) "Third party" means a person, such as a public authority, agency, or body, other than the consumer, controller, or processor or an affiliate of the processor or the controller.

(52) "Trade secret" has the same meaning as in section 4601 of this title.

(53) “Victim services organization” means a nonprofit organization that is established to provide services to victims or witnesses of child abuse, domestic violence, human trafficking, sexual assault, violent felony, or stalking.

§ 2416. APPLICABILITY

(a) Except as provided in subsection (b) of this section, this chapter applies to a person that conducts business in this State or a person that produces products or services that are targeted to residents of this State and that during the preceding calendar year:

(1) controlled or processed the personal data of not fewer than 6,500 consumers, excluding personal data controlled or processed solely for the purpose of completing a payment transaction; or

(2) controlled or processed the personal data of not fewer than 3,250 consumers and derived more than 20 percent of the person’s gross revenue from the sale of personal data.

(b) Sections 2420, 2424, and 2428 of this title, and the provisions of this chapter concerning consumer health data and consumer health data controllers apply to a person that conducts business in this State or a person that produces products or services that are targeted to residents of this State.

§ 2417. EXEMPTIONS

(a) This chapter does not apply to:

(1) a federal, State, tribal, or local government entity in the ordinary course of its operation;

(2) protected health information that a covered entity or business associate processes in accordance with, or documents that a covered entity or business associate creates for the purpose of complying with HIPAA;

(3) information used only for public health activities and purposes described in 45 C.F.R. § 164.512 (disclosure of protected health information without authorization);

(4) information that identifies a consumer in connection with:

(A) activities that are subject to the Federal Policy for the Protection of Human Subjects, codified as 45 C.F.R. part 46 (HHS protection of human subjects) and in various other federal regulations;

(B) research on human subjects undertaken in accordance with good clinical practice guidelines issued by the International Council for

Harmonisation of Technical Requirements for Pharmaceuticals for Human Use;

(C) activities that are subject to the protections provided in 21 C.F.R. parts 50 (FDA clinical investigations protection of human subjects) and 56 (FDA clinical investigations institutional review boards); or

(D) research conducted in accordance with the requirements set forth in subdivisions (A) through (C) of this subdivision (a)(4) or otherwise in accordance with applicable law;

(5) patient identifying information that is collected and processed in accordance with 42 C.F.R. part 2 (confidentiality of substance use disorder patient records);

(6) patient safety work product that is created for purposes of improving patient safety under 42 C.F.R. part 3 (patient safety organizations and patient safety work product);

(7) information or documents created for the purposes of the Healthcare Quality Improvement Act of 1986, 42 U.S.C. § 11101–11152, and regulations adopted to implement that act;

(8) information that originates from, that is intermingled so as to be indistinguishable from, or that is treated in the same manner as information described in subdivisions (2)–(7) of this subsection that a covered entity, business associate, or a qualified service organization program creates, collects, processes, uses, or maintains in the same manner as is required under the laws, regulations, and guidelines described in subdivisions (2)–(7) of this subsection;

(9) information processed or maintained solely in connection with, and for the purpose of, enabling:

(A) an individual’s employment or application for employment;

(B) an individual’s ownership of, or function as a director or officer of, a business entity;

(C) an individual’s contractual relationship with a business entity;

(D) an individual’s receipt of benefits from an employer, including benefits for the individual’s dependents or beneficiaries; or

(E) notice of an emergency to persons that an individual specifies;

(10) any activity that involves collecting, maintaining, disclosing, selling, communicating, or using information for the purpose of evaluating a consumer’s creditworthiness, credit standing, credit capacity, character,

general reputation, personal characteristics, or mode of living if done strictly in accordance with the provisions of the Fair Credit Reporting Act, 15 U.S.C. § 1681–1681x, as may be amended, by:

(A) a consumer reporting agency;

(B) a person who furnishes information to a consumer reporting agency under 15 U.S.C. § 1681s-2 (responsibilities of furnishers of information to consumer reporting agencies); or

(C) a person who uses a consumer report as provided in 15 U.S.C. § 1681b(a)(3) (permissible purposes of consumer reports);

(11) information collected, processed, sold, or disclosed under and in accordance with the following laws and regulations:

(A) the Driver’s Privacy Protection Act of 1994, 18 U.S.C. § 2721–2725;

(B) the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and regulations adopted to implement that act;

(C) the Airline Deregulation Act, Pub. L. No. 95-504, only to the extent that an air carrier collects information related to prices, routes, or services, and only to the extent that the provisions of the Airline Deregulation Act preempt this chapter;

(D) the Farm Credit Act, Pub. L. No. 92-181, as may be amended;

(E) federal policy under 21 U.S.C. § 830 (regulation of listed chemicals and certain machines);

(12) nonpublic personal information that is processed by a financial institution subject to the Gramm-Leach-Bliley Act, Pub. L. No. 106-102, and regulations adopted to implement that act;

(13) information that originates from, or is intermingled so as to be indistinguishable from, information described in subdivision (12) of this subsection and that a controller or processor collects, processes, uses, or maintains in the same manner as is required under the law and regulations specified in subdivision (12) of this subsection;

(14) a financial institution, credit union, independent trust company, broker-dealer, or investment adviser or a financial institution’s, credit union’s, independent trust company’s, broker-dealer’s, or investment adviser’s affiliate or subsidiary that is only and directly engaged in financial activities, as described in 12 U.S.C. § 1843(k);

(15) a person regulated pursuant to part 3 of Title 8 (chapters 101–165) other than a person that, alone or in combination with another person, establishes and maintains a self-insurance program and that does not otherwise engage in the business of entering into policies of insurance;

(16) a third-party administrator, as that term is defined in the Third Party Administrator Rule adopted pursuant to 18 V.S.A. § 9417;

(17) personal data of a victim or witness of child abuse, domestic violence, human trafficking, sexual assault, violent felony, or stalking that a victim services organization collects, processes, or maintains in the course of its operation;

(18) a nonprofit organization that is established to detect and prevent fraudulent acts in connection with insurance; or

(19) noncommercial activity of:

(A) a publisher, editor, reporter, or other person who is connected with or employed by a newspaper, magazine, periodical, newsletter, pamphlet, report, or other publication in general circulation;

(B) a radio or television station that holds a license issued by the Federal Communications Commission;

(C) a nonprofit organization that provides programming to radio or television networks; or

(D) an entity that provides an information service, including a press association or wire service.

(b) Controllers, processors, and consumer health data controllers that comply with the verifiable parental consent requirements of COPPA shall be deemed compliant with any obligation to obtain parental consent pursuant to this chapter, including pursuant to section 2420 of this title.

§ 2418. CONSUMER PERSONAL DATA RIGHTS

(a) A consumer shall have the right to:

(1) confirm whether or not a controller is processing the consumer's personal data and access the personal data, unless the confirmation or access would require the controller to reveal a trade secret;

(2) obtain from a controller a list of third parties, other than individuals, to which the controller has transferred, at the controller's election, either the consumer's personal data or any personal data;

(3) correct inaccuracies in the consumer's personal data, taking into account the nature of the personal data and the purposes of the processing of the consumer's personal data;

(4) delete personal data provided by, or obtained about, the consumer;

(5) obtain a copy of the consumer's personal data processed by the controller, in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the data to another controller without hindrance, where the processing is carried out by automated means, provided such controller shall not be required to reveal any trade secret; and

(6) opt out of the processing of the personal data for purposes of:

(A) targeted advertising;

(B) the sale of personal data; or

(C) profiling in furtherance of solely automated decisions that produce legal or similarly significant effects concerning the consumer.

(b)(1) A consumer may exercise rights under this section by submitting a request to a controller using the method that the controller specifies in the privacy notice under section 2419 of this title.

(2) A controller shall not require a consumer to create an account for the purpose described in subdivision (1) of this subsection, but the controller may require the consumer to use an account the consumer previously created.

(3) A parent or legal guardian may exercise rights under this section on behalf of the parent's child or on behalf of a child for whom the guardian has legal responsibility. A guardian or conservator may exercise the rights under this section on behalf of a consumer that is subject to a guardianship, conservatorship, or other protective arrangement.

(4)(A) A consumer may designate another person to act on the consumer's behalf as the consumer's authorized agent for the purpose of exercising the consumer's rights under subdivision (a)(4) or (a)(6) of this section.

(B) The consumer may designate an authorized agent by means of an internet link, browser setting, browser extension, global device setting, or other technology that enables the consumer to exercise the consumer's rights under subdivision (a)(4) or (a)(6) of this section.

(c) Except as otherwise provided in this chapter, a controller shall comply with a request by a consumer to exercise the consumer rights authorized pursuant to this chapter as follows:

(1)(A) A controller shall respond to the consumer without undue delay, but not later than 45 days after receipt of the request.

(B) The controller may extend the response period by 45 additional days when reasonably necessary, considering the complexity and number of the consumer's requests, provided the controller informs the consumer of the extension within the initial 45-day response period and of the reason for the extension.

(2) If a controller declines to take action regarding the consumer's request, the controller shall inform the consumer without undue delay, but not later than 45 days after receipt of the request, of the justification for declining to take action and instructions for how to appeal the decision.

(3)(A) Information provided in response to a consumer request shall be provided by a controller, free of charge, once per consumer during any 12-month period.

(B) If requests from a consumer are manifestly unfounded, excessive, or repetitive, the controller may charge the consumer a reasonable fee to cover the administrative costs of complying with the request or decline to act on the request.

(C) The controller bears the burden of demonstrating the manifestly unfounded, excessive, or repetitive nature of the request.

(4)(A) If a controller is unable to authenticate a request to exercise any of the rights afforded under subdivisions (a)(1)–(5) of this section using commercially reasonable efforts, the controller shall not be required to comply with a request to initiate an action pursuant to this section and shall provide notice to the consumer that the controller is unable to authenticate the request to exercise the right or rights until the consumer provides additional information reasonably necessary to authenticate the consumer and the consumer's request to exercise the right or rights.

(B) A controller shall not be required to authenticate an opt-out request, but a controller may deny an opt-out request if the controller has a good faith, reasonable, and documented belief that the request is fraudulent.

(C) If a controller denies an opt-out request because the controller believes the request is fraudulent, the controller shall send a notice to the person who made the request disclosing that the controller believes the request is fraudulent, why the controller believes the request is fraudulent, and that the controller shall not comply with the request.

(5) A controller that has obtained personal data about a consumer from a source other than the consumer shall be deemed in compliance with a

consumer's request to delete the data pursuant to subdivision (a)(4) of this section by:

(A) retaining a record of the deletion request and the minimum data necessary for the purpose of ensuring the consumer's personal data remains deleted from the controller's records and not using the retained data for any other purpose pursuant to the provisions of this chapter; or

(B) opting the consumer out of the processing of the personal data for any purpose except for those exempted pursuant to the provisions of this chapter.

(6) A controller may not condition the exercise of a right under this section through:

(A) the use of any false, fictitious, fraudulent, or materially misleading statement or representation; or

(B) the employment of any dark pattern.

(d) A controller shall establish a process by means of which a consumer may appeal the controller's refusal to take action on a request under subsection (b) of this section. The controller's process must:

(1) Allow a reasonable period of time after the consumer receives the controller's refusal within which to appeal.

(2) Be conspicuously available to the consumer.

(3) Be similar to the manner in which a consumer must submit a request under subsection (b) of this section.

(4) Require the controller to approve or deny the appeal within 45 days after the date on which the controller received the appeal and to notify the consumer in writing of the controller's decision and the reasons for the decision. If the controller denies the appeal, the notice must provide or specify information that enables the consumer to contact the Attorney General to submit a complaint.

§ 2419. DUTIES OF CONTROLLERS

(a) A controller shall:

(1) specify in the privacy notice described in subsection (d) of this section the express purposes for which the controller is collecting and processing personal data;

(2) process personal data only:

(A) as reasonably necessary and proportionate to provide the services for which the personal data was collected, consistent with the reasonable expectations of the consumer whose personal data is being processed;

(B) for another disclosed purpose that is compatible with the context in which the personal data was collected; or

(C) for a further disclosed purpose if the controller obtains the consumer's consent;

(3) establish, implement, and maintain reasonable administrative, technical, and physical data security practices to protect the confidentiality, integrity, and accessibility of personal data appropriate to the volume and nature of the personal data at issue; and

(4) provide an effective mechanism for a consumer to revoke consent to the controller's processing of the consumer's personal data that is at least as easy as the mechanism by which the consumer provided the consumer's consent and, upon revocation of the consent, cease to process the data as soon as practicable, but not later than 15 days after receiving the request.

(b) A controller shall not:

(1) process personal data beyond what is reasonably necessary and proportionate to the processing purpose;

(2) process sensitive data about a consumer without first obtaining the consumer's consent or, if the controller knows the consumer is a child, without processing the sensitive data in accordance with COPPA;

(3)(A) except as provided in subdivision (B) of this subdivision (3), process a consumer's personal data in a manner that discriminates against individuals or otherwise makes unavailable the equal enjoyment of goods or services on the basis of an individual's actual or perceived race, color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, or national origin;

(B) subdivision (A) of this subdivision (3) shall not apply to:

(i) a private establishment, as that term is used in 42 U.S.C. § 2000a(e) (prohibition against discrimination or segregation in places of public accommodation);

(ii) processing for the purpose of a controller's or processor's self-testing to prevent or mitigate unlawful discrimination; or

(iii) processing for the purpose of diversifying an applicant, participant, or consumer pool.

(4) process a consumer's personal data for the purposes of targeted advertising, of profiling the consumer in furtherance of decisions that produce legal or similarly significant effects concerning the consumer, or of selling the consumer's personal data without the consumer's consent if the controller has actual knowledge that, or willfully disregards whether, the consumer is at least 13 years of age and not older than 16 years of age; or

(5) discriminate or retaliate against a consumer who exercises a right provided to the consumer under this chapter or refuses to consent to the collection or processing of personal data for a separate product or service, including by:

(A) denying goods or services;

(B) charging different prices or rates for goods or services; or

(C) providing a different level of quality or selection of goods or services to the consumer.

(c) Subsections (a) and (b) of this section shall not be construed to:

(1) require a controller to provide a good or service that requires personal data from a consumer that the controller does not collect or maintain; or

(2) prohibit a controller from offering a different price, rate, level of quality, or selection of goods or services to a consumer, including an offer for no fee or charge, in connection with a consumer's voluntary participation in a financial incentive program, such as a bona fide loyalty, rewards, premium features, discount, or club card program, provided that the controller may not transfer personal data to a third party as part of the program unless:

(A) the transfer is necessary to enable the third party to provide a benefit to which the consumer is entitled; or

(B)(i) the terms of the program clearly disclose that personal data will be transferred to the third party or to a category of third parties of which the third party belongs; and

(ii) the consumer consents to the transfer.

(d)(1) A controller shall provide to consumers a reasonably accessible, clear, and meaningful privacy notice that:

(A) lists the categories of personal data, including the categories of sensitive data, that the controller processes;

(B) describes the controller's purposes for processing the personal data;

(C) describes how a consumer may exercise the consumer's rights under this chapter, including how a consumer may appeal a controller's denial of a consumer's request under section 2418 of this title;

(D) lists all categories of personal data, including the categories of sensitive data, that the controller shares with third parties;

(E) describes all categories of third parties with which the controller shares personal data at a level of detail that enables the consumer to understand what type of entity each third party is and, to the extent possible, how each third party may process personal data;

(F) specifies an e-mail address or other online method by which a consumer can contact the controller that the controller actively monitors;

(G) identifies the controller, including any business name under which the controller registered with the Secretary of State and any assumed business name that the controller uses in this State;

(H) provides a clear and conspicuous description of any processing of personal data in which the controller engages for the purposes of targeted advertising, sale of personal data to third parties, or profiling the consumer in furtherance of decisions that produce legal or similarly significant effects concerning the consumer, and a procedure by which the consumer may opt out of this type of processing; and

(I) describes the method or methods the controller has established for a consumer to submit a request under subdivision 2418(b)(1) of this title.

(2) The privacy notice shall adhere to the accessibility and usability guidelines recommended under 42 U.S.C. chapter 126 (the Americans with Disabilities Act) and 29 U.S.C. 794d (section 508 of the Rehabilitation Act of 1973), including ensuring readability for individuals with disabilities across various screen resolutions and devices and employing design practices that facilitate easy comprehension and navigation for all users.

(e) The method or methods under subdivision (d)(1)(I) of this section for submitting a consumer's request to a controller must:

(1) take into account the ways in which consumers normally interact with the controller, the need for security and reliability in communications related to the request, and the controller's ability to authenticate the identity of the consumer that makes the request;

(2) provide a clear and conspicuous link to a website where the consumer or an authorized agent may opt out from a controller's processing of the consumer's personal data pursuant to subdivision 2418(a)(6) of this title or,

solely if the controller does not have a capacity needed for linking to a webpage, provide another method the consumer can use to opt out; and

(3) allow a consumer or authorized agent to send a signal to the controller that indicates the consumer's preference to opt out of the sale of personal data or targeted advertising pursuant to subdivision 2418(a)(6) of this title by means of a platform, technology, or mechanism that:

(A) does not unfairly disadvantage another controller;

(B) does not use a default setting but instead requires the consumer or authorized agent to make an affirmative, voluntary, and unambiguous choice to opt out;

(C) is consumer friendly and easy for an average consumer to use;

(D) is as consistent as possible with similar platforms, technologies, or mechanisms required under federal or state laws or regulations; and

(E) enables the controller to reasonably determine whether the consumer has made a legitimate request pursuant to subsection 2418(b) of this title to opt out pursuant to subdivision 2418(a)(6) of this title.

(f) If a consumer or authorized agent uses a method under subdivision (d)(1)(I) of this section to opt out of a controller's processing of the consumer's personal data pursuant to subdivision 2418(a)(6) of this title and the decision conflicts with a consumer's voluntary participation in a bona fide reward, club card, or loyalty program or a program that provides premium features or discounts in return for the consumer's consent to the controller's processing of the consumer's personal data, the controller may either comply with the request to opt out or notify the consumer of the conflict and ask the consumer to affirm that the consumer intends to withdraw from the bona fide reward, club card, or loyalty program or the program that provides premium features or discounts. If the consumer affirms that the consumer intends to withdraw, the controller shall comply with the request to opt out.

§ 2420. DUTIES OF CONTROLLERS TO MINORS

(a)(1) A controller that offers any online service, product, or feature to a consumer whom the controller actually knows or willfully disregards is a minor shall use reasonable care to avoid any heightened risk of harm to minors caused by the online service, product, or feature.

(2) In any action brought pursuant to section 2427, there is a rebuttable presumption that a controller used reasonable care as required under this section if the controller complied with this section.

(b) Unless a controller has obtained consent in accordance with subsection (c) of this section, a controller that offers any online service, product, or feature to a consumer whom the controller actually knows or willfully disregards is a minor shall not:

(1) process a minor's personal data for the purposes of:

(A) targeted advertising;

(B) the sale of personal data; or

(C) profiling in furtherance of any solely automated decisions that produce legal or similarly significant effects concerning the consumer;

(2) process a minor's personal data for any purpose other than:

(A) the processing purpose that the controller disclosed at the time the controller collected the minor's personal data; or

(B) a processing purpose that is reasonably necessary for, and compatible with, the processing purpose that the controller disclosed at the time the controller collected the minor's personal data; or

(3) process a minor's personal data for longer than is reasonably necessary to provide the online service, product, or feature;

(4) use any system design feature, except for a service or application that is used by and under the direction of an educational entity, to significantly increase, sustain, or extend a minor's use of the online service, product, or feature; or

(5) collect a minor's precise geolocation data unless:

(A) the minor's precise geolocation data is reasonably necessary for the controller to provide the online service, product, or feature;

(B) the controller only collects the minor's precise geolocation data for the time necessary to provide the online service, product, or feature; and

(C) the controller provides to the minor a signal indicating that the controller is collecting the minor's precise geolocation data and makes the signal available to the minor for the entire duration of the collection of the minor's precise geolocation data.

(c) A controller shall not engage in the activities described in subsection (b) of this section unless the controller obtains:

(1) the minor's consent; or

(2) if the minor is a child, the consent of the minor's parent or legal guardian.

(d) A controller that offers any online service, product, or feature to a consumer whom that controller actually knows or willfully disregards is a minor shall not:

(1) employ any dark pattern; or

(2) except as provided in subsection (e) of this section, offer any direct messaging apparatus for use by a minor without providing readily accessible and easy-to-use safeguards to limit the ability of an adult to send unsolicited communications to the minor with whom the adult is not connected.

(e) Subdivision (d)(2) of this section does not apply to an online service, product, or feature of which the predominant or exclusive function is:

(1) e-mail; or

(2) direct messaging consisting of text, photographs, or videos that are sent between devices by electronic means, where messages are:

(A) shared between the sender and the recipient;

(B) only visible to the sender and the recipient; and

(C) not posted publicly.

§ 2421. DUTIES OF PROCESSORS

(a) A processor shall adhere to a controller's instructions and shall assist the controller in meeting the controller's obligations under this chapter. In assisting the controller, the processor must:

(1) enable the controller to respond to requests from consumers pursuant to subsection 2418(b) of this title by means that:

(A) take into account how the processor processes personal data and the information available to the processor; and

(B) use appropriate technical and organizational measures to the extent reasonably practicable;

(2) adopt administrative, technical, and physical safeguards that are reasonably designed to protect the security and confidentiality of the personal data the processor processes, taking into account how the processor processes the personal data and the information available to the processor; and

(3) provide information reasonably necessary for the controller to conduct and document data protection assessments.

(b) Processing by a processor must be governed by a contract between the controller and the processor. The contract must:

- (1) be valid and binding on both parties;
 - (2) set forth clear instructions for processing data, the nature and purpose of the processing, the type of data that is subject to processing, and the duration of the processing;
 - (3) specify the rights and obligations of both parties with respect to the subject matter of the contract;
 - (4) ensure that each person that processes personal data is subject to a duty of confidentiality with respect to the personal data;
 - (5) require the processor to delete the personal data or return the personal data to the controller at the controller's direction or at the end of the provision of services, unless a law requires the processor to retain the personal data;
 - (6) require the processor to make available to the controller, at the controller's request, all information the controller needs to verify that the processor has complied with all obligations the processor has under this chapter;
 - (7) require the processor to enter into a subcontract with a person the processor engages to assist with processing personal data on the controller's behalf and in the subcontract require the subcontractor to meet the processor's obligations concerning personal data;
 - (8)(A) allow the controller, the controller's designee, or a qualified and independent person the processor engages, in accordance with an appropriate and accepted control standard, framework, or procedure, to assess the processor's policies and technical and organizational measures for complying with the processor's obligations under this chapter;
 - (B) require the processor to cooperate with the assessment; and
 - (C) at the controller's request, report the results of the assessment to the controller; and
 - (9) prohibit the processor from combining personal data obtained from the controller with personal data that the processor:
 - (A) receives from or on behalf of another controller or person; or
 - (B) collects from an individual.
- (c) This section does not relieve a controller or processor from any liability that accrues under this chapter as a result of the controller's or processor's actions in processing personal data.

(d)(1) For purposes of determining obligations under this chapter, a person is a controller with respect to processing a set of personal data and is subject to an action under section 2427 of this title to punish a violation of this chapter, if the person:

(A) does not adhere to a controller's instructions to process the personal data; or

(B) begins at any point to determine the purposes and means for processing the personal data, alone or in concert with another person.

(2) A determination under this subsection is a fact-based determination that must take account of the context in which a set of personal data is processed.

(3) A processor that adheres to a controller's instructions with respect to a specific processing of personal data remains a processor.

§ 2422. DUTIES OF PROCESSORS TO MINORS

(a) A processor shall adhere to the instructions of a controller and shall:

(1) assist the controller in meeting the controller's obligations under sections 2420 and 2424 of this title, taking into account:

(A) the nature of the processing;

(B) the information available to the processor by appropriate technical and organizational measures; and

(C) whether the assistance is reasonably practicable and necessary to assist the controller in meeting its obligations; and

(2) provide any information that is necessary to enable the controller to conduct and document data protection assessments pursuant to section 2424 of this title.

(b) A contract between a controller and a processor must satisfy the requirements in subsection 2421(b) of this title.

(c) Nothing in this section shall be construed to relieve a controller or processor from the liabilities imposed on the controller or processor by virtue of the controller's or processor's role in the processing relationship as described in sections 2420 and 2424 of this title.

(d) Determining whether a person is acting as a controller or processor with respect to a specific processing of data is a fact-based determination that depends upon the context in which personal data is to be processed. A person that is not limited in the person's processing of personal data pursuant to a

controller's instructions, or that fails to adhere to the instructions, is a controller and not a processor with respect to a specific processing of data. A processor that continues to adhere to a controller's instructions with respect to a specific processing of personal data remains a processor. If a processor begins, alone or jointly with others, determining the purposes and means of the processing of personal data, the processor is a controller with respect to the processing and may be subject to an enforcement action under section 2427 of this title.

§ 2423. DATA PROTECTION ASSESSMENTS FOR PROCESSING

ACTIVITIES THAT PRESENT A HEIGHTENED RISK OF HARM TO A CONSUMER

(a) A controller shall conduct and document a data protection assessment for each of the controller's processing activities that presents a heightened risk of harm to a consumer, which, for the purposes of this section, includes:

(1) the processing of personal data for the purposes of targeted advertising;

(2) the sale of personal data;

(3) the processing of personal data for the purposes of profiling, where the profiling presents a reasonably foreseeable risk of:

(A) unfair or deceptive treatment of, or unlawful disparate impact on, consumers;

(B) financial, physical, or reputational injury to consumers;

(C) a physical or other intrusion upon the solitude or seclusion, or the private affairs or concerns, of consumers, where the intrusion would be offensive to a reasonable person; or

(D) other substantial injury to consumers; and

(4) the processing of sensitive data.

(b)(1) Data protection assessments conducted pursuant to subsection (a) of this section shall:

(A) identify the categories of personal data processed, the purposes for processing the personal data, and whether the personal data is being transferred to third parties; and

(B) identify and weigh the benefits that may flow, directly and indirectly, from the processing to the controller, the consumer, other stakeholders, and the public against the potential risks to the consumer

associated with the processing, as mitigated by safeguards that can be employed by the controller to reduce the risks.

(2) The controller shall factor into any data protection assessment the use of de-identified data and the reasonable expectations of consumers, as well as the context of the processing and the relationship between the controller and the consumer whose personal data will be processed.

(c)(1) The Attorney General may require that a controller disclose any data protection assessment that is relevant to an investigation conducted by the Attorney General pursuant to section 2427 of this title, and the controller shall make the data protection assessment available to the Attorney General.

(2) The Attorney General may evaluate the data protection assessment for compliance with the responsibilities set forth in this chapter.

(3) Data protection assessments shall be confidential and shall be exempt from disclosure and copying under the Public Records Act.

(4) To the extent any information contained in a data protection assessment disclosed to the Attorney General includes information subject to attorney-client privilege or work product protection, the disclosure shall not constitute a waiver of the privilege or protection.

(d) A single data protection assessment may address a comparable set of processing operations that present a similar heightened risk of harm.

(e) If a controller conducts a data protection assessment for the purpose of complying with another applicable law or regulation, the data protection assessment shall be deemed to satisfy the requirements established in this section if the data protection assessment is reasonably similar in scope and effect to the data protection assessment that would otherwise be conducted pursuant to this section.

(f) Data protection assessment requirements shall apply to processing activities created or generated after July 1, 2025, and are not retroactive.

(g) A controller shall retain for at least five years all data protection assessments the controller conducts under this section.

§ 2424. DATA PROTECTION ASSESSMENTS FOR ONLINE SERVICES, PRODUCTS, OR FEATURES OFFERED TO MINORS

(a) A controller that offers any online service, product, or feature to a consumer whom the controller actually knows or willfully disregards is a minor shall conduct a data protection assessment for the online service product or feature:

(1) in a manner that is consistent with the requirements established in section 2423 of this title; and

(2) that addresses:

(A) the purpose of the online service, product, or feature;

(B) the categories of a minor's personal data that the online service, product, or feature processes;

(C) the purposes for which the controller processes a minor's personal data with respect to the online service, product, or feature; and

(D) any heightened risk of harm to a minor that is a reasonably foreseeable result of offering the online service, product, or feature to a minor.

(b) A controller that conducts a data protection assessment pursuant to subsection (a) of this section shall review the data protection assessment as necessary to account for any material change to the processing operations of the online service, product, or feature that is the subject of the data protection assessment.

(c) If a controller conducts a data protection assessment pursuant to subsection (a) of this section or a data protection assessment review pursuant to subsection (b) of this section and determines that the online service, product, or feature that is the subject of the assessment poses a heightened risk of harm to a minor, the controller shall establish and implement a plan to mitigate or eliminate the heightened risk.

(d)(1) The Attorney General may require that a controller disclose any data protection assessment pursuant to subsection (a) of this section that is relevant to an investigation conducted by the Attorney General pursuant to section 2427 of this title, and the controller shall make the data protection assessment available to the Attorney General.

(2) The Attorney General may evaluate the data protection assessment for compliance with the responsibilities set forth in this chapter.

(3) Data protection assessments shall be confidential and shall be exempt from disclosure and copying under the Public Records Act.

(4) To the extent any information contained in a data protection assessment disclosed to the Attorney General includes information subject to attorney-client privilege or work product protection, the disclosure shall not constitute a waiver of the privilege or protection.

(e) A single data protection assessment may address a comparable set of processing operations that include similar activities.

(f) If a controller conducts a data protection assessment for the purpose of complying with another applicable law or regulation, the data protection assessment shall be deemed to satisfy the requirements established in this section if the data protection assessment is reasonably similar in scope and effect to the data protection assessment that would otherwise be conducted pursuant to this section.

(g) Data protection assessment requirements shall apply to processing activities created or generated after July 1, 2025, and are not retroactive.

(h) A controller that conducts a data protection assessment pursuant to subsection (a) of this section shall maintain documentation concerning the data protection assessment for the longer of:

(1) three years after the date on which the processing operations cease;
or

(2) the date the controller ceases offering the online service, product, or feature.

§ 2425. DE-IDENTIFIED OR PSEUDONYMOUS DATA

(a) A controller in possession of de-identified data shall:

(1) follow industry best-practices to ensure that the data cannot be used to re-identify an identified or identifiable individual or be associated with an individual or device that identifies or is linked or reasonably linkable to an individual or household;

(2) publicly commit to maintaining and using de-identified data without attempting to re-identify the data; and

(3) contractually obligate any recipients of the de-identified data to comply with the provisions of this chapter.

(b) This section does not prohibit a controller from attempting to re-identify de-identified data solely for the purpose of testing the controller's methods for de-identifying data.

(c) This chapter shall not be construed to require a controller or processor to:

(1) re-identify de-identified data; or

(2) maintain data in identifiable form, or collect, obtain, retain, or access any data or technology, in order to associate a consumer with personal data in order to authenticate the consumer's request under subsection 2418(b) of this title; or

(3) comply with an authenticated consumer rights request if the controller:

(A) is not reasonably capable of associating the request with the personal data or it would be unreasonably burdensome for the controller to associate the request with the personal data;

(B) does not use the personal data to recognize or respond to the specific consumer who is the subject of the personal data or associate the personal data with other personal data about the same specific consumer; and

(C) does not sell or otherwise voluntarily disclose the personal data to any third party, except as otherwise permitted in this section.

(d) The rights afforded under subdivisions 2418(a)(1)–(5) of this title shall not apply to pseudonymous data in cases where the controller is able to demonstrate that any information necessary to identify the consumer is kept separately and is subject to effective technical and organizational controls that prevent the controller from accessing the information.

(e) A controller that discloses or transfers pseudonymous data or de-identified data shall exercise reasonable oversight to monitor compliance with any contractual commitments to which the pseudonymous data or de-identified data is subject and shall take appropriate steps to address any breaches of those contractual commitments.

§ 2426. CONSTRUCTION OF DUTIES OF CONTROLLERS AND PROCESSORS

(a) This chapter shall not be construed to restrict a controller's, processor's, or consumer health data controller's ability to:

(1) comply with federal, state, or municipal laws, ordinances, or regulations;

(2) comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, municipal, or other governmental authorities;

(3) cooperate with law enforcement agencies concerning conduct or activity that the controller, processor, or consumer health data controller reasonably and in good faith believes may violate federal, state, or municipal laws, ordinances, or regulations;

(4) carry out obligations under a contract under subsection 2421(b) of this title for a federal or State agency or local unit of government;

(5) investigate, establish, exercise, prepare for, or defend legal claims;

(6) provide a product or service specifically requested by the consumer to whom the personal data pertains;

(7) perform under a contract to which a consumer is a party, including fulfilling the terms of a written warranty;

(8) take steps at the request of a consumer prior to entering into a contract;

(9) take immediate steps to protect an interest that is essential for the life or physical safety of the consumer or another individual, and where the processing cannot be manifestly based on another legal basis;

(10) prevent, detect, protect against, or respond to a network security or physical security incident, including an intrusion or trespass, medical alert, or fire alarm;

(11) prevent, detect, protect against, or respond to identity theft, fraud, harassment, malicious or deceptive activity, or any criminal activity targeted at or involving the controller or processor or its services, preserve the integrity or security of systems, or investigate, report, or prosecute those responsible for the action;

(12) assist another controller, processor, consumer health data controller, or third party with any of the obligations under this chapter; or

(13) process personal data for reasons of public interest in the area of public health, community health, or population health, but solely to the extent that the processing is:

(A) subject to suitable and specific measures to safeguard the rights of the consumer whose personal data is being processed; and

(B) under the responsibility of a professional subject to confidentiality obligations under federal, state, or local law.

(b) The obligations imposed on controllers, processors, or consumer health data controllers under this chapter shall not restrict a controller's, processor's, or consumer health data controller's ability to collect, use, or retain data for internal use to:

(1) conduct internal research to develop, improve, or repair products, services, or technology;

(2) effectuate a product recall; or

(3) identify and repair technical errors that impair existing or intended functionality.

(c)(1) The obligations imposed on controllers, processors, or consumer health data controllers under this chapter shall not apply where compliance by the controller, processor, or consumer health data controller with this chapter would violate an evidentiary privilege under the laws of this State.

(2) This chapter shall not be construed to prevent a controller, processor, or consumer health data controller from providing personal data concerning a consumer to a person covered by an evidentiary privilege under the laws of the State as part of a privileged communication.

(d)(1) A controller, processor, or consumer health data controller that discloses personal data to a processor or third-party controller pursuant to this chapter shall not be deemed to have violated this chapter if the processor or third-party controller that receives and processes the personal data violates this chapter, provided, at the time the disclosing controller, processor, or consumer health data controller disclosed the personal data, the disclosing controller, processor, or consumer health data controller did not have actual knowledge that the receiving processor or third-party controller would violate this chapter.

(2) A third-party controller or processor receiving personal data from a controller, processor, or consumer health data controller in compliance with this chapter is not in violation of this chapter for the transgressions of the controller, processor, or consumer health data controller from which the third-party controller or processor receives the personal data.

(e) This chapter shall not be construed to:

(1) impose any obligation on a controller, processor, or consumer health data controller that adversely affects the rights or freedoms of any person, including the rights of any person:

(A) to freedom of speech or freedom of the press guaranteed in the First Amendment to the U.S. Constitution; or

(B) under 12 V.S.A. § 1615; or

(2) apply to any person's processing of personal data in the course of the person's purely personal or household activities.

(f)(1) Personal data processed by a controller or consumer health data controller pursuant to this section may be processed to the extent that the processing is:

(A)(i) reasonably necessary and proportionate to the purposes listed in this section; or

(ii) in the case of sensitive data, strictly necessary to the purposes listed in this section; and

(B) adequate, relevant, and limited to what is necessary in relation to the specific purposes listed in this section.

(2)(A) Personal data collected, used, or retained pursuant to subsection (b) of this section shall, where applicable, take into account the nature and purpose or purposes of the collection, use, or retention.

(B) Personal data collected, used, or retained pursuant to subsection (b) of this section shall be subject to reasonable administrative, technical, and physical measures to protect the confidentiality, integrity, and accessibility of the personal data and to reduce reasonably foreseeable risks of harm to consumers relating to the collection, use, or retention of personal data.

(g) If a controller or consumer health data controller processes personal data pursuant to an exemption in this section, the controller or consumer health data controller bears the burden of demonstrating that the processing qualifies for the exemption and complies with the requirements in subsection (f) of this section.

(h) Processing personal data for the purposes expressly identified in this section shall not solely make a legal entity a controller or consumer health data controller with respect to the processing.

§ 2427. ENFORCEMENT: PRIVATE RIGHT OF ACTION AND ATTORNEY GENERAL'S POWERS

(a)(1) A person who violates this chapter or rules adopted pursuant to this chapter commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(2) A consumer harmed by a violation of this chapter or rules adopted pursuant to this chapter may bring an action in Superior Court for the greater of \$1,000.00 or actual damages, injunctive relief, punitive damages in the case of an intentional violation, and reasonable costs and attorney's fees if the consumer has notified the controller or processor of the violation and the controller or processor fails to cure the violation within 60 days following receipt of the notice of violation.

(b)(1) The Attorney General may, prior to initiating any action for a violation of any provision of this chapter, issue a notice of violation to the controller or consumer health data controller if the Attorney General determines that a cure is possible.

(2) The Attorney General may, in determining whether to grant a controller, processor, or consumer health data controller the opportunity to

cure an alleged violation described in subdivision (1) of this subsection, consider:

(A) the number of violations;

(B) the size and complexity of the controller, processor, or consumer health data controller;

(C) the nature and extent of the controller's, processor's, or consumer health data controller's processing activities;

(D) the substantial likelihood of injury to the public;

(E) the safety of persons or property;

(F) whether the alleged violation was likely caused by human or technical error; and

(G) the sensitivity of the data.

(c) Annually, on or before February 1, the Attorney General shall submit a report to the General Assembly disclosing:

(1) the number of notices of violation the Attorney General has issued;

(2) the nature of each violation;

(3) the number of violations that were cured during the available cure period; and

(4) any other matter the Attorney General deems relevant for the purposes of the report.

§ 2428. CONFIDENTIALITY OF CONSUMER HEALTH DATA

Except as provided in subsections 2417(a) and (b) of this title and section 2426 of this title, no person shall:

(1) provide any employee or contractor with access to consumer health data unless the employee or contractor is subject to a contractual or statutory duty of confidentiality;

(2) provide any processor with access to consumer health data unless the person and processor comply with section 2421 of this title;

(3) use a geofence to establish a virtual boundary that is within 1,850 feet of any health care facility, mental health facility, or reproductive or sexual health facility for the purpose of identifying, tracking, collecting data from, or sending any notification to a consumer regarding the consumer's consumer health data; or

(4) sell or offer to sell consumer health data without first obtaining the consumer's consent.

Sec. 2. PUBLIC EDUCATION AND OUTREACH; ATTORNEY GENERAL STUDY

(a) The Attorney General and the Agency of Commerce and Community Development shall implement a comprehensive public education, outreach, and assistance program for controllers and processors, as those terms are defined in 9 V.S.A. § 2415. The program shall focus on:

(1) the requirements and obligations of controllers and processors under the Vermont Data Privacy Act;

(2) data protection assessments under 9 V.S.A. § 2421;

(3) enhanced protections that apply to children, minors, sensitive data, or consumer health data, as those terms are defined in 9 V.S.A. § 2415;

(4) a controller's obligations to law enforcement agencies and the Attorney General's office;

(5) methods for conducting data inventories; and

(6) any other matters the Attorney General or the Agency of Commerce and Community Development deems appropriate.

(b) The Attorney General and the Agency of Commerce and Community Development shall provide guidance to controllers for establishing data privacy notices and opt-out mechanisms, which may be in the form of templates.

(c) The Attorney General and the Agency of Commerce and Community Development shall implement a comprehensive public education, outreach, and assistance program for consumers, as that term is defined in 9 V.S.A. § 2415. The program shall focus on:

(1) the rights afforded consumers under the Vermont Data Privacy Act, including:

(A) the methods available for exercising data privacy rights; and

(B) the opt-out mechanism available to consumers;

(2) the obligations controllers have to consumers;

(3) different treatment of children, minors, and other consumers under the act, including the different consent mechanisms in place for children and other consumers;

(4) understanding a privacy notice provided under the act;

(5) the different enforcement mechanisms available under the act, including the consumer's private right of action; and

(6) any other matters the Attorney General or the Agency of Commerce and Community Development deems appropriate.

(d) The Attorney General and the Agency of Commerce and Community Development shall cooperate with states with comparable data privacy regimes to develop any outreach, assistance, and education programs, where appropriate.

(e) On or before December 15, 2026, the Attorney General shall assess the effectiveness of the implementation of the act and submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs with its findings and recommendations, including any proposed draft legislation to address issues that have arisen since implementation.

Sec. 3. 9 V.S.A. chapter 62 is amended to read:

CHAPTER 62. PROTECTION OF PERSONAL INFORMATION

Subchapter 1. General Provisions

§ 2430. DEFINITIONS

As used in this chapter:

(1) "Biometric data" shall have the same meaning as in section 2415 of this title.

(2)(A) "Brokered personal information" means one or more of the following computerized data elements about a consumer, if categorized or organized for dissemination to third parties:

(i) name;

(ii) address;

(iii) date of birth;

(iv) place of birth;

(v) mother's maiden name;

(vi) ~~unique biometric data generated from measurements or technical analysis of human body characteristics used by the owner or licensee of the data to identify or authenticate the consumer, such as a fingerprint,~~

~~retina or iris image, or other unique physical representation or digital representation of biometric data;~~

(vii) name or address of a member of the consumer's immediate family or household;

(viii) Social Security number or other government-issued identification number; or

(ix) other information that, alone or in combination with the other information sold or licensed, would allow a reasonable person to identify the consumer with reasonable certainty.

(B) "Brokered personal information" does not include publicly available information to the extent that it is related to a consumer's business or profession.

~~(2)~~(3) "Business" means a controller, a consumer health data controller, or a commercial entity, including a sole proprietorship, partnership, corporation, association, limited liability company, or other group, however organized and whether or not organized to operate at a profit, including a financial institution organized, chartered, or holding a license or authorization certificate under the laws of this State, any other state, the United States, or any other country, or the parent, affiliate, or subsidiary of a financial institution, but does not include the State, a State agency, any political subdivision of the State, or a vendor acting solely on behalf of, and at the direction of, the State.

~~(3)~~(4) "Consumer" means an individual ~~residing in this State who is a resident of the State or an individual who is in the State at the time a data broker collects the individual's data.~~

(5) "Consumer health data controller" has the same meaning as in section 2415 of this title.

(6) "Controller" has the same meaning as in section 2415 of this title.

~~(4)~~(7)(A) "Data broker" means a business, or unit or units of a business, separately or together, that knowingly collects and sells or licenses to third parties the brokered personal information of a consumer with whom the business does not have a direct relationship.

(B) Examples of a direct relationship with a business include if the consumer is a past or present:

(i) customer, client, subscriber, user, or registered user of the business's goods or services;

- (ii) employee, contractor, or agent of the business;
- (iii) investor in the business; or
- (iv) donor to the business.

(C) The following activities conducted by a business, and the collection and sale or licensing of brokered personal information incidental to conducting these activities, do not qualify the business as a data broker:

- (i) developing or maintaining third-party e-commerce or application platforms;
- (ii) providing 411 directory assistance or directory information services, including name, address, and telephone number, on behalf of or as a function of a telecommunications carrier;
- (iii) providing publicly available information related to a consumer's business or profession; or
- (iv) providing publicly available information via real-time or near-real-time alert services for health or safety purposes.

(D) The phrase "sells or licenses" does not include:

- (i) a one-time or occasional sale of assets of a business as part of a transfer of control of those assets that is not part of the ordinary conduct of the business; or
- (ii) a sale or license of data that is merely incidental to the business.

~~(5)~~(8)(A) "Data broker security breach" means an unauthorized acquisition or a reasonable belief of an unauthorized acquisition of more than one element of brokered personal information maintained by a data broker when the brokered personal information is not encrypted, redacted, or protected by another method that renders the information unreadable or unusable by an unauthorized person.

(B) "Data broker security breach" does not include good faith but unauthorized acquisition of brokered personal information by an employee or agent of the data broker for a legitimate purpose of the data broker, provided that the brokered personal information is not used for a purpose unrelated to the data broker's business or subject to further unauthorized disclosure.

(C) In determining whether brokered personal information has been acquired or is reasonably believed to have been acquired by a person without valid authorization, a data broker may consider the following factors, among others:

(i) indications that the brokered personal information is in the physical possession and control of a person without valid authorization, such as a lost or stolen computer or other device containing brokered personal information;

(ii) indications that the brokered personal information has been downloaded or copied;

(iii) indications that the brokered personal information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported; or

(iv) that the brokered personal information has been made public.

~~(6)~~(9) “Data collector” means a person who, for any purpose, whether by automated collection or otherwise, handles, collects, disseminates, or otherwise deals with personally identifiable information, and includes the State, State agencies, political subdivisions of the State, public and private universities, privately and publicly held corporations, limited liability companies, financial institutions, and retail operators.

~~(7)~~(10) “Encryption” means use of an algorithmic process to transform data into a form in which the data is rendered unreadable or unusable without use of a confidential process or key.

~~(8)~~(11) “License” means a grant of access to, or distribution of, data by one person to another in exchange for consideration. A use of data for the sole benefit of the data provider, where the data provider maintains control over the use of the data, is not a license.

~~(9)~~(12) “Login credentials” means a consumer’s user name or e-mail address, in combination with a password or an answer to a security question, that together permit access to an online account.

~~(10)~~(13)(A) “Personally identifiable information” means a consumer’s first name or first initial and last name in combination with one or more of the following digital data elements, when the data elements are not encrypted, redacted, or protected by another method that renders them unreadable or unusable by unauthorized persons:

(i) a Social Security number;

(ii) a driver license or nondriver State identification card number, individual taxpayer identification number, passport number, military identification card number, or other identification number that originates from a government identification document that is commonly used to verify identity for a commercial transaction;

(iii) a financial account number or credit or debit card number, if the number could be used without additional identifying information, access codes, or passwords;

(iv) a password, personal identification number, or other access code for a financial account;

~~(v) unique biometric data generated from measurements or technical analysis of human body characteristics used by the owner or licensee of the data to identify or authenticate the consumer, such as a fingerprint, retina or iris image, or other unique physical representation or digital representation of biometric data;~~

(vi) genetic information; and

(vii)(I) health records or records of a wellness program or similar program of health promotion or disease prevention;

(II) a health care professional's medical diagnosis or treatment of the consumer; or

(III) a health insurance policy number.

(B) "Personally identifiable information" does not mean publicly available information that is lawfully made available to the general public from federal, State, or local government records.

~~(11)~~(14) "Record" means any material on which written, drawn, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics.

~~(12)~~(15) "Redaction" means the rendering of data so that the data are unreadable or are truncated so that ~~no~~ not more than the last four digits of the identification number are accessible as part of the data.

~~(13)~~(16)(A) "Security breach" means unauthorized acquisition of electronic data, or a reasonable belief of an unauthorized acquisition of electronic data, that compromises the security, confidentiality, or integrity of a consumer's personally identifiable information or login credentials maintained by a data collector.

(B) "Security breach" does not include good faith but unauthorized acquisition of personally identifiable information or login credentials by an employee or agent of the data collector for a legitimate purpose of the data collector, provided that the personally identifiable information or login credentials are not used for a purpose unrelated to the data collector's business or subject to further unauthorized disclosure.

(C) In determining whether personally identifiable information or login credentials have been acquired or is reasonably believed to have been acquired by a person without valid authorization, a data collector may consider the following factors, among others:

(i) indications that the information is in the physical possession and control of a person without valid authorization, such as a lost or stolen computer or other device containing information;

(ii) indications that the information has been downloaded or copied;

(iii) indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported; or

(iv) that the information has been made public.

* * *

Subchapter 2. ~~Security Breach Notice Act~~ Data Security Breaches

* * *

§ 2436. NOTICE OF DATA BROKER SECURITY BREACH

(a) Short title. This section shall be known as the Data Broker Security Breach Notice Act.

(b) Notice of breach.

(1) Except as otherwise provided in subsection (c) of this section, any data broker shall notify the consumer that there has been a data broker security breach following discovery or notification to the data broker of the breach. Notice of the security breach shall be made in the most expedient time possible and without unreasonable delay, but not later than 45 days after the discovery or notification, consistent with the legitimate needs of the law enforcement agency, as provided in subdivisions (3) and (4) of this subsection, or with any measures necessary to determine the scope of the security breach and restore the reasonable integrity, security, and confidentiality of the data system.

(2) A data broker shall provide notice of a breach to the Attorney General as follows:

(A)(i) The data broker shall notify the Attorney General of the date of the security breach and the date of discovery of the breach and shall provide a preliminary description of the breach within 14 business days, consistent with the legitimate needs of the law enforcement agency, as provided in subdivisions (3) and (4) of this subsection (b), after the data broker's discovery

of the security breach or when the data broker provides notice to consumers pursuant to this section, whichever is sooner.

(ii) If the date of the breach is unknown at the time notice is sent to the Attorney General, the data broker shall send the Attorney General the date of the breach as soon as it is known.

(iii) Unless otherwise ordered by a court of this State for good cause shown, a notice provided under this subdivision (2)(A) shall not be disclosed to any person other than the authorized agent or representative of the Attorney General, a State's Attorney, or another law enforcement officer engaged in legitimate law enforcement activities without the consent of the data broker.

(B)(i) When the data broker provides notice of the breach pursuant to subdivision (1) of this subsection (b), the data broker shall notify the Attorney General of the number of Vermont consumers affected, if known to the data broker, and shall provide a copy of the notice provided to consumers under subdivision (1) of this subsection (b).

(ii) The data broker may send to the Attorney General a second copy of the consumer notice, from which is redacted the type of brokered personal information that was subject to the breach, that the Attorney General shall use for any public disclosure of the breach.

(3) The notice to a consumer required by this subsection shall be delayed upon request of a law enforcement agency. A law enforcement agency may request the delay if it believes that notification may impede a law enforcement investigation or a national or Homeland Security investigation or jeopardize public safety or national or Homeland Security interests. In the event law enforcement makes the request for a delay in a manner other than in writing, the data broker shall document the request contemporaneously in writing and include the name of the law enforcement officer making the request and the officer's law enforcement agency engaged in the investigation. A law enforcement agency shall promptly notify the data broker in writing when the law enforcement agency no longer believes that notification may impede a law enforcement investigation or a national or Homeland Security investigation, or jeopardize public safety or national or Homeland Security interests. The data broker shall provide notice required by this section without unreasonable delay upon receipt of a written communication, which includes facsimile or electronic communication, from the law enforcement agency withdrawing its request for delay.

(4) The notice to a consumer required in subdivision (1) of this subsection shall be clear and conspicuous. A notice to a consumer of a

security breach involving brokered personal information shall include a description of each of the following, if known to the data broker:

(A) the incident in general terms;

(B) the type of brokered personal information that was subject to the security breach;

(C) the general acts of the data broker to protect the brokered personal information from further security breach;

(D) a telephone number, toll-free if available, that the consumer may call for further information and assistance;

(E) advice that directs the consumer to remain vigilant by reviewing account statements and monitoring free credit reports; and

(F) the approximate date of the data broker security breach.

(5) A data broker may provide notice of a security breach involving brokered personal information to a consumer by two or more of the following methods:

(A) written notice mailed to the consumer's residence;

(B) electronic notice, for those consumers for whom the data broker has a valid e-mail address, if:

(i) the data broker's primary method of communication with the consumer is by electronic means, the electronic notice does not request or contain a hypertext link to a request that the consumer provide personal information, and the electronic notice conspicuously warns consumers not to provide personal information in response to electronic communications regarding security breaches; or

(ii) the notice is consistent with the provisions regarding electronic records and signatures for notices in 15 U.S.C. § 7001;

(C) telephonic notice, provided that telephonic contact is made directly with each affected consumer and not through a prerecorded message; or

(D) notice by publication in a newspaper of statewide circulation in the event the data broker cannot effectuate notice by any other means.

(c) Exception.

(1) Notice of a security breach pursuant to subsection (b) of this section is not required if the data broker establishes that misuse of brokered personal information is not reasonably possible and the data broker provides notice of

the determination that the misuse of the brokered personal information is not reasonably possible pursuant to the requirements of this subsection. If the data broker establishes that misuse of the brokered personal information is not reasonably possible, the data broker shall provide notice of its determination that misuse of the brokered personal information is not reasonably possible and a detailed explanation for said determination to the Vermont Attorney General. The data broker may designate its notice and detailed explanation to the Vermont Attorney General as a trade secret if the notice and detailed explanation meet the definition of trade secret contained in 1 V.S.A. § 317(c)(9).

(2) If a data broker established that misuse of brokered personal information was not reasonably possible under subdivision (1) of this subsection and subsequently obtains facts indicating that misuse of the brokered personal information has occurred or is occurring, the data broker shall provide notice of the security breach pursuant to subsection (b) of this section.

(d) Waiver. Any waiver of the provisions of this subchapter is contrary to public policy and is void and unenforceable.

(e) Enforcement.

(1) With respect to a controller or processor other than a controller or processor licensed or registered with the Department of Financial Regulation under title 8 or this title, the Attorney General and State's Attorney shall have sole and full authority to investigate potential violations of this chapter and to enforce, prosecute, obtain, and impose remedies for a violation of this chapter or any rules or regulations adopted pursuant to this chapter as the Attorney General and State's Attorney have under chapter 63 of this title. The Attorney General may refer the matter to the State's Attorney in an appropriate case. The Superior Courts shall have jurisdiction over any enforcement matter brought by the Attorney General or a State's Attorney under this subsection.

(2) With respect to a controller or processor that is licensed or registered with the Department of Financial Regulation under title 8 or this title, the Department of Financial Regulation shall have the full authority to investigate potential violations of this chapter and to enforce, prosecute, obtain, and impose remedies for a violation of this chapter or any rules or regulations adopted pursuant to this chapter, as the Department has under title 8 or this title or any other applicable law or regulation.

* * *

Subchapter 5. Data Brokers

§ 2446. DATA BROKERS; ANNUAL REGISTRATION

(a) Annually, on or before January 31 following a year in which a person meets the definition of data broker as provided in section 2430 of this title, a data broker shall:

- (1) register with the Secretary of State;
- (2) pay a registration fee of \$100.00; and
- (3) provide the following information:

(A) the name and primary physical, e-mail, and ~~Internet~~ internet addresses of the data broker;

(B) ~~if the data broker permits the method for~~ a consumer to opt out of the data broker's collection of brokered personal information, opt out of its databases, or opt out of ~~certain~~ sales of data:

(i) ~~the method for requesting an opt-out;~~

(ii) ~~if the opt-out applies to only certain activities or sales, which ones; and~~

(iii) ~~and~~ whether the data broker permits a consumer to authorize a third party to perform the opt-out on the consumer's behalf;

(C) ~~a statement specifying the data collection, databases, or sales activities from which a consumer may not opt out;~~

(D) ~~a statement whether the data broker implements a purchaser credentialing process;~~

(E) ~~the number of data broker security breaches that the data broker has experienced during the prior year, and if known, the total number of consumers affected by the breaches;~~

(F) where the data broker ~~has actual knowledge that it possesses the~~ brokered personal information of minors, a separate statement detailing the data collection practices, databases, and sales activities, ~~and opt-out policies~~ that are applicable to the brokered personal information of minors; and

(G)(D) any additional information or explanation the data broker chooses to provide concerning its data collection practices.

(b) A data broker that fails to register pursuant to subsection (a) of this section is liable to the State for:

(1) a civil penalty of ~~\$50.00~~ \$125.00 for each day, ~~not to exceed a total of \$10,000.00 for each year,~~ it fails to register pursuant to this section;

(2) an amount equal to the fees due under this section during the period it failed to register pursuant to this section; and

(3) other penalties imposed by law.

(c) A data broker that omits required information from its registration shall file an amendment to include the omitted information within five business days following notification of the omission and is liable to the State for a civil penalty of \$1,000.00 per day for each day thereafter.

(d) A data broker that files materially incorrect information in its registration:

(1) is liable to the State for a civil penalty of \$25,000.00; and

(2) if it fails to correct the false information within five business days after discovery or notification of the incorrect information, an additional civil penalty of \$1,000.00 per day for each day thereafter that it fails to correct the information.

(e) The Attorney General may maintain an action in the Civil Division of the Superior Court to collect the penalties imposed in this section and to seek appropriate injunctive relief.

* * *

§ 2448. DATA BROKERS; ADDITIONAL DUTIES

(a) Individual opt-out.

(1) A consumer may request that a data broker do any of the following:

(A) stop collecting the consumer's data;

(B) delete all data in its possession about the consumer; or

(C) stop selling the consumer's data.

(2) Notwithstanding subsections 2418(c)–(d) of this title, a data broker shall establish a simple procedure for consumers to submit a request and, shall comply with a request from a consumer within 10 days after receiving the request.

(3) A data broker shall clearly and conspicuously describe the opt-out procedure in its annual registration and on its website.

(b) General opt-out.

(1) A consumer may request that all data brokers registered with the State of Vermont honor an opt-out request by filing the request with the Secretary of State.

(2) On or before January 1, 2026, the Secretary of State shall develop an online form to facilitate the general opt-out by a consumer and shall maintain a Data Broker Opt-Out List of consumers who have requested a general opt-out, with the specific type of opt-out.

(3) The Data Broker Opt-Out List shall contain the minimum amount of information necessary for a data broker to identify the specific consumer making the opt-out.

(4) Once every 31 days, any data broker registered with the State of Vermont shall review the Data Broker Opt-Out List in order to comply with the opt-out requests contained therein.

(5) Data contained in the Data Broker Opt-Out List shall not be used for any purpose other than to effectuate a consumer's opt-out request.

(6) The Secretary of State shall implement and maintain reasonable security procedures and practices to protect a consumer's information under the Data Broker Opt-Out List from unauthorized use, disclosure, access, destruction, or modification, including administrative, physical, and technical safeguards appropriate to the nature of the information and the purposes for which the information will be used.

(7) The Secretary of State shall not charge a consumer to make an opt-out request.

(8) The Data Broker Opt-Out List shall include an accessible deletion mechanism that supports the ability of an authorized agent to act on behalf of a consumer.

(c) Credentialing.

(1) A data broker shall maintain reasonable procedures designed to ensure that the brokered personal information it discloses is used for a legitimate and legal purpose.

(2) These procedures shall require that prospective users of the information identify themselves, certify the purposes for which the information is sought, and certify that the information shall be used for no other purpose.

(3) A data broker shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by the prospective user prior to furnishing the user brokered personal information.

(4) A data broker shall not furnish brokered personal information to any person if it has reasonable grounds for believing that the consumer report will not be used for a legitimate and legal purpose.

(d) Exemption. Nothing in this section applies to brokered personal information that is:

(1) regulated as a consumer report pursuant to the Fair Credit Reporting Act, 15 U.S.C. § 1681–1681x, if the data broker is fully complying with the Act; or

(2) regulated pursuant to the Driver’s Privacy Protection Act of 1994, 18 U.S.C. § 2721–2725, if the data broker is fully complying with the Act.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2025.

(Committee Vote: 11-0-0)

H. 289

An act relating to the Renewable Energy Standard

Rep. Sibilia of Dover, for the Committee on Environment and Energy, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 218d is amended to read:

§ 218d. ALTERNATIVE REGULATION OF ELECTRIC AND NATURAL GAS COMPANIES

* * *

(n)(1) Notwithstanding subsection (a) of this section and sections 218, 225, 226, 227, and 229 of this title, a municipal company formed under local charter or under chapter 79 of this title and an electric cooperative formed under chapter 81 of this title shall be authorized to change its rates for service to its customers if the rate change is:

(A) applied to all customers equally;

(B) not more than ~~two~~ three percent during any twelve-month period;

(C) cumulatively not more than 10 percent from the rates last approved by the Commission; and

(D) not going to take effect more than 10 years from the last approval for a rate change from the Commission.

* * *

Sec. 2. 30 V.S.A. § 8002 is amended to read:

§ 8002. DEFINITIONS

As used in this chapter:

* * *

(8) “Existing renewable energy” means renewable energy produced by a plant that came into service prior to or on ~~June 30, 2015~~ December 31, 2009.

* * *

(10) “Group net metering system” means a net metering system serving more than one customer, or a single customer with multiple electric meters, located within the service area of the same retail electricity provider. Various buildings owned by municipalities, including water and wastewater districts, fire districts, villages, school districts, and towns, may constitute a group net metering system. A union or district school facility may be considered in the same group net metering system with buildings of its member schools that are located within the service area of the same retail electricity provider. A system that files a complete application for a certificate of public good on or after January 1, 2026 shall not qualify for group net metering, unless the plant will be located on the same parcel, or a parcel adjacent to, the parcel where the energy is utilized.

* * *

(15) “Net metering” means measuring the difference between the electricity supplied to a customer and the electricity fed back by the customer’s net metering system during the customer’s billing period:

(A) ~~using~~ Using a single, non-demand meter or ~~such~~ other meter that would otherwise be applicable to the customer’s usage but for the use of net metering; ~~or,~~

(B) ~~if~~ If the system serves more than one customer, using multiple meters. The calculation shall be made by converting all meters to a non-demand, non-time-of-day meter, and equalizing them to the tariffed kWh rate.

(16) “Net metering system” means a plant for generation of electricity that:

(A) is of ~~no~~ not more than 500 kW capacity;

(B) operates in parallel with facilities of the electric distribution system;

(C) is intended primarily to offset the customer's own electricity requirements and does not primarily supply electricity to electric vehicle supply equipment, as defined in section 201 of this title, for the resale of electricity to the public by the kWh or for other retail sales to the public, including those based in whole or in part on a flat fee per charging session or a time-based fee for occupying a parking space while using electric vehicle supply equipment; and

(D)(i) employs a renewable energy source; or

(ii) is a qualified micro-combined heat and power system of 20 kW or fewer that meets the definition of combined heat and power in subsection 8015(b) of this title and uses any fuel source that meets air quality standards; and

(E)(i) for a system that files a complete application for a certificate of public good after December 31, 2024, except for systems as provided for in subdivision (ii) of this subdivision (E), generates energy that will be used on the same parcel as, or a parcel adjacent to, the parcel where the plant is located;

(ii) for a system that files a complete application for a certificate of public good after December 31, 2025, if the system serves a multifamily building containing qualified rental units serving low-income tenants, as defined under 32 V.S.A. § 5404a(a)(6), generates energy that will be used on the same parcel as, or a parcel adjacent to, the parcel where the plant is located; and

(iii) for purposes of this subdivisions (10) and (16), two parcels shall be adjacent if they share a property boundary or are adjacent and separated only by a river, stream, railroad line, private road, public highway, or similar intervening landform.

(17) "New renewable energy" means renewable energy capable of delivery in New England and produced by a specific and identifiable plant coming into service on or after June 30, 2015 January 1, 2010, but excluding energy generated by a hydroelectric generation plant with a capacity of 200 MW or greater.

(A) Energy from within a system of generating plants that includes renewable energy shall not constitute new renewable energy, regardless of whether the system includes specific plants that came or come into service on or after June 30, 2015 January 1, 2010.

(B) Except as provided in subdivision 8005(c)(3) of this title, "New new renewable energy" also may include includes the additional energy from

an existing renewable energy plant retrofitted with advanced technologies or otherwise operated, modified, or expanded to increase the kWh output of the plant in excess of ~~an~~ a historical baseline established by calculating the average output of that plant for the 10-year period that ended ~~June 30, 2015~~ January 1, 2010. If the production of new renewable energy through changes in operations, modification, or expansion involves combustion of the resource, the system also must result in an incrementally higher level of energy conversion efficiency or significantly reduced emissions.

* * *

(31) “Load” means the total amount of electricity utilized by a retail electricity provider over a 12-month calendar year period, including its retail electric sales, any use by the provider itself not included in retail sales, and transmission and distribution line losses associated with and allocated to the retail electricity provider.

(32) “Load growth” means the increase above a baseline year in a retail electricity provider’s load.

Sec. 3. 30 V.S.A. § 8004 is amended to read:

§ 8004. SALES OF ELECTRIC ENERGY; RENEWABLE ENERGY
STANDARD (RES)

* * *

(d) Alternative compliance payment. In lieu of purchasing renewable energy or tradeable renewable energy credits or supporting energy transformation projects to satisfy the requirements of this section and section 8005 of this title, a retail electricity provider in this State may pay to the Vermont Clean Energy Development Fund established under section 8015 of this title an alternative compliance payment at the applicable rate set forth in section 8005. The administrator of the Vermont Clean Energy Development Fund shall use the payment from a retail electricity provider electing to make an alternative compliance payment to satisfy its obligations under subdivisions 8005(a)(1), 8005(a)(2), 8005(a)(4), and 8005(a)(5) of this title for the development of renewable energy plants that are intended to serve and benefit customers with low income of the retail electricity provider that has made the payment. Such plants shall be located within the provider’s service territory, if feasible. In the event that such a payment is insufficient to enable the development of a renewable energy plant, the administrator may use the payment for other initiatives allowed under section 8015 of this title that will benefit customers with low income of the retail electricity provider that has made the payment. As used in this subsection (d), “customer with low

income” means a person purchasing energy from a retail electricity provider and with an income that is less than or equal to 80 percent of area median income, adjusted for family size, as published annually by the U.S. Department of Housing and Urban Development.

* * *

Sec. 4. 30 V.S.A. § 8005 is amended to read:

§ 8005. RES CATEGORIES

(a) Categories. This section specifies ~~three~~ five categories of required resources to meet the requirements of the RES established in section 8004 of this title: total renewable energy, distributed renewable generation, ~~and energy transformation, new renewable energy, and load growth renewable energy.~~ In order to support progress toward Vermont’s climate goals and requirements, a provider may, but shall not be required to, exceed the statutorily required amounts under this section.

(1) Total renewable energy.

* * *

(B) Required amounts. The amounts of total renewable energy required by this subsection (a) shall be ~~55~~ 63 percent of each retail electricity provider’s annual ~~retail electric sales load~~ load during the year beginning on January 1, ~~2017~~ 2025, increasing by at least an additional four percent each third January 1 thereafter, until reaching ~~75~~ 100 percent:

(i) on and after January 1, 2032 2035 for a retail electricity provider who serves a single customer that takes service at 115 kilovolts and each municipal retail electricity provider formed under local charter or chapter 79 of this title; and

(ii) on and after January 1, 2030, for all other retail electricity providers.

(C) Relationship to other categories. Distributed renewable generation used to meet the requirements of subdivision (2) of this subsection (a), new renewable energy under subdivision (4) of this subsection (a), and load growth renewable generation under subdivision (5) of this subsection (a) shall also count toward the requirements of this subdivision. However, an energy transformation project under subdivision (3) of this subsection (a) shall not count toward the requirements of this subdivision.

(D) Municipal providers; petition. On petition by a provider that is a municipal electric utility serving not more than ~~6,000~~ 7,000 customers, the Commission may reduce the provider’s required amount under this subdivision

(1) for a period of up to three years. The Commission may approve one such period only for a municipal provider. The Commission may reduce this required amount if it finds that:

* * *

(2) Distributed renewable generation.

* * *

(B) Definition. As used in this section, “distributed renewable generation” means ~~one of the following~~:

(i) ~~a~~ A renewable energy plant that ~~is new renewable energy~~; has a plant capacity of five MW or less; ~~and~~.

(ii) Is one of the following:

(I) new renewable energy;

(II) a hydroelectric renewable energy plant that is, on or before January 1, 2024, owned and operated by a municipal electric utility formed under local charter or chapter 79 of this title, as of January 1, 2020, including future plant modifications that do not cause the capacity of such a plant to exceed five MW; or

(III) a hydroelectric renewable energy plant that is, on or before January 1, 2024, owned and operated by a retail electricity provider that is not a municipal electric utility, provided such plant is and continues to be certified by the Low Impact Hydropower Institute. Plants owned by such utilities on or before January 1, 2024, which are later certified by the Low Impact Hydropower Institute, and continue to be certified shall be eligible under this subdivision (2) from the date of certification. Any future modifications that do not cause the capacity of such a plant to exceed five MW shall also be eligible under this subdivision (2); and

(iii) Is one of the following:

(I) is directly connected to the subtransmission or distribution system of a Vermont retail electricity provider; ~~or~~

(II) is directly connected to the transmission system of an electric company required to submit a Transmission System Plan under subsection 218c(d) of this title, if the plant is part of a plan approved by the Commission to avoid or defer a transmission system improvement needed to address a transmission system reliability deficiency identified and analyzed in that Plan; or

~~(ii)(III)~~ is a net metering system approved under the former section 219a or under section 8010 of this title if the system is new renewable energy and the interconnecting retail electricity provider owns and retires the system's environmental attributes.

(C) Required amounts. The required amounts of distributed renewable generation shall be ~~one 5.8~~ percent of each retail electricity provider's annual retail electric sales load during the year beginning on January 1, 2017, ~~increasing by an additional three-fifths of a percent 2025,~~ increasing by at least an additional:

(i) one and a half percent each subsequent January 1 until reaching ~~10~~ 20 percent on and after January 1, 2035 for a retail electricity provider who serves a single customer that takes service at 115 kilovolts and each municipal electric utility formed under local charter or chapter 79 of this title; and

(ii) two percent each subsequent January 1 until reaching 20 percent on and after January 1, 2032 for all other retail electricity providers.

(D) Distributed generation greater than five MW. On petition of a retail electricity provider, the Commission may for a given year allow the provider to employ energy with environmental attributes attached or tradeable renewable energy credits from a renewable energy plant with a plant capacity greater than five MW to satisfy the distributed renewable generation requirement if the plant would qualify as distributed renewable generation but for its plant capacity ~~and~~ when the provider demonstrates either that:

(i) it is unable during ~~that~~ a given year to meet the requirement solely with qualifying renewable energy plants of five MW or less. To demonstrate this inability, the provider shall issue one or more requests for proposals, and show that it is unable to obtain sufficient ownership of environmental attributes to meet its required amount under this subdivision (2) for that year from:

~~(i)(I)~~ the construction and interconnection to its system of distributed renewable generation that is consistent with its approved least-cost integrated resource plan under section 218c of this title at a cost less than or equal to the sum of the applicable alternative compliance payment rate and the applicable rates published by the Department under the Commission's rules implementing subdivision 209(a)(8) of this title; and

~~(ii)(II)~~ purchase of tradeable renewable energy credits for distributed renewable generation at a cost that is less than the applicable alternative compliance rate; or

(ii) it has only one retail electricity customer who takes service at 115 kilovolts on property owned or controlled by the customer as of January 1, 2024. Such a provider may seek leave under this subdivision (D) for a period greater than a given year.

(3) Energy transformation.

* * *

(B) Required amounts. For the energy transformation category, the required amounts shall be ~~two~~ 7.33 percent of each retail electricity provider's annual ~~retail electric sales load~~ during the year beginning January 1, ~~2017~~ 2025, increasing by at least an additional two-thirds of a percent each subsequent January 1 until reaching 12 percent on and after January 1, 2032. However, in the case of a provider that is a municipal electric utility serving not more than ~~6,000~~ 7,000 customers, the required amount shall be ~~two~~ six percent of the provider's ~~annual retail sales load~~ beginning on January 1, ~~2019~~ 2025, increasing by an additional two-thirds of a percent each subsequent January 1 until reaching 10 and two-thirds percent on and after January 1, 2032. Prior to January 1, 2019, such a municipal electric utility voluntarily may engage in one or more energy transformation projects in accordance with this subdivision (3). In order to support progress toward Vermont's climate goals and requirements, a retail electricity provider may, but shall not be required to, exceed the statutorily required amounts, up to and including procuring all available energy transformation category projects and measures available at or below the relevant alternative compliance payment rate.

* * *

(4) New renewable energy.

(A) Purpose; establishment. This subdivision (4) establishes a new regional renewable energy category for the RES. This category encourages the use of new renewable generation to support the reliability of the regional ISO-NE electric system. To satisfy this requirement, a provider shall use new renewable energy with environmental attributes attached or any class of tradeable renewable energy credits generated by any renewable energy plant coming into service after January 1, 2010 whose energy is capable of delivery in New England.

(B) Required amounts and exemption. A retail electricity provider that is 100 percent renewable under subdivision (b)(1) of this section shall be exempt from any requirement for new renewable energy under this subdivision (4). For all other retail electricity providers, the amount of new renewable energy required by this subsection (a) shall be:

(i) For a retail electricity provider with 75,000 or more customers, the following percentages of each provider's annual load:

(I) Four percent beginning on January 1, 2027.

(II) 10 percent on and after January 1, 2030.

(III) 15 percent on and after January 1, 2032.

(IV) 20 percent on and after January 1, 2035. If the Commission determines in the report required under subdivision 8005b(b)(4) of this title that it is reasonable to expect that there will be sufficient new regional renewable resources available for a provider to meet its requirement under this subdivision (4) at or below the alternative compliance payment rate established in subdivision (6)(C) of this subsection (a) during a year beginning prior to January 1, 2035, the Commission shall require that provider to meet its requirement under this subdivision (4) in the earliest year the Commission determines it can, provided that the provider shall not be required to meet that requirement prior to the year starting January 1, 2032.

(ii) For a retail electricity provider with less than 75,000 customers, the following percentages of each provider's annual load:

(I) five percent beginning on January 1, 2030; and

(II) 10 percent on and after January 1, 2035.

(C) Relationship to other categories. Distributed renewable generation used to meet the requirements of subdivision (2) of this subsection (a) shall not also count toward the requirements of this subdivision (4). An energy transformation project under subdivision (3) of this subsection (a) shall not count toward the requirements of this subdivision (4).

(D) Single-customer provider. If a retail electricity provider with one customer taking service at 115 kilovolts has not satisfied the distributed renewable generation requirements of subdivision (2) of this subsection (a) on property owned or controlled by the customer as of January 1, 2024, and the cost of additional distributed renewable generation would be at or above the alternative compliance payment rate for the distributed renewable generation category or meeting that requirement with new renewable energy on its property would be economically infeasible, that provider may satisfy the requirements of subdivision (2) of this subsection (a) with an equivalent amount of increased new renewable energy as defined in this subdivision (4).

(5) Load growth; retail electricity providers; 100 percent renewable.

(A) For any retail electricity provider that is 100 percent renewable under subdivision (b)(1) of this section, that provider shall meet its load

growth above its 2024 calendar year load, with at least the following percentages of new renewable energy or any renewable energy eligible under subdivision (2) of this subsection (a):

(i) 50 percent beginning on January 1, 2025;

(ii) 75 percent on and after January 1, 2026;

(iii) 90 percent on and after January 1, 2027;

(iv) 100 percent on and after January 1, 2028 until the provider's annual load exceeds 135 percent of the provider's 2022 annual load, at which point the provider shall meet its additional load growth with at least 50 percent new renewable energy until 2035; and

(v) 75 percent on and after January 1, 2035.

(B) For a retail electricity provider with 75,000 or more customers, and for each provider, excluding any provider that is 100 percent renewable under subdivision (b)(1) of this section, that is a member of the Vermont Public Power Supply Authority or its successor, that provider shall meet its load growth above its 2035 calendar year load with 100 percent new renewable energy, which shall include the required amounts of distributed renewable generation as applicable to the provider under subdivision (2) of this subsection (a).

(C) On petition of a retail electricity provider subject to the load growth requirements in subdivision (A) of this subdivision (a)(5), the Commission may for a given year allow the provider to employ existing renewable energy with environmental attributes attached or tradeable renewable energy credits from an existing renewable energy plant to satisfy part or all of the load growth requirement if the provider demonstrates that, after making every reasonable effort, it is unable during that year to meet the requirement with energy with environmental attributes attached or tradeable renewable energy credits from qualifying new renewable energy plants.

(i) To demonstrate this inability, the provider shall at a minimum timely issue one or more subsequent requests for proposals or transactions and any additional solicitations as necessary to show that it is unable to obtain sufficient ownership of environmental attributes from new renewable energy to meet its required amount under this subdivision at a cost that is less than or equal to the applicable alternative compliance rate for the load growth category.

(ii) In the event the provider is able to meet a portion, but not all, of its load growth requirement in a calendar year with attributes from new renewable energy at a cost that is less than or equal to the applicable

alternative compliance rate for the load growth category, the Commission shall allow the provider to use existing renewables only for that portion of its requirement that it is unable to meet with new renewable energy.

(iii) In the event that the provider is unable to meet its load growth requirement with a combination of attributes from new renewable energy and existing renewable energy at a cost that is less than or equal to the alternative compliance rate laid out in subdivision (6) in this subsection (a), the Commission shall require the provider to meet the remainder of its requirement under this subdivision (5) by paying the alternative compliance rate for the load growth category.

(D) Notwithstanding any provision of law to the contrary, any additional energy available to a retail electricity provider that is 100 percent renewable under subdivision (b)(1) of this section under agreements approved or authorized by the Public Utility Commission in its April 15, 2011 Order issued in Docket No. 7670, Petition of twenty Vermont utilities and Vermont Public Power Supply Authority requesting authorization for the purchase of 218 MW to 225 MW of electricity shall also be eligible to meet the requirements laid out in subdivision (A) of this subdivision (a)(5), provided that such additional energy does not exceed two MW, and further provided that a retail electricity provider exercises its right to such energy on or before January 1, 2028 and for no longer than through December 31, 2038.

(6) Alternative compliance rates.

(A) The alternative compliance payment rates for the categories established by subdivisions (1)–(3) of this subsection (a) shall be:

(i) total renewable energy requirement — \$0.01 per kWh; and

(ii) distributed renewable generation and energy transformation requirements — \$0.06 per kWh.

(B) The Commission shall adjust these rates for inflation annually commencing January 1, 2018, using the CPI.

(C) For the new renewable energy and load growth requirements, it shall be \$0.04 per kWh annually commencing on January 1, 2025, with calculations for inflation beginning on January 1, 2023.

(D) The Commission shall have the authority to adjust the alternative compliance payment rate for the new renewable energy and load growth requirements differently than the rate of inflation in order to minimize discrepancies between this rate and alternative compliance payments for similar classes in other New England states and to increase the likelihood that Vermont retail electricity providers cost-effectively achieve these

requirements, if it determines doing so is consistent with State energy policy under section 202a of this title.

(b) Reduced amounts; providers; 100 percent renewable.

(1) The provisions of this subsection shall apply to a retail electricity provider that:

(A) as of January 1, 2015, was entitled, through contract, ownership of energy produced by its own generation plants, or both, to an amount of renewable energy equal to or more than 100 percent of its anticipated total retail electric sales in 2017, regardless of whether the provider owned the environmental attributes of that renewable energy; and

(B) annually each July 1 commencing in 2018, owns and has retired tradeable renewable energy credits monitored and traded on the New England Generation Information System or otherwise approved by the Commission equivalent to 100 percent of the provider's total retail sales of electricity for the previous calendar year.

* * *

(c) Biomass.

(1) Distributed renewable generation that employs biomass to produce electricity shall be eligible to count toward a provider's distributed renewable generation or energy transformation requirement only if the plant satisfies the requirements of subdivision (3) of this subsection and produces both electricity and thermal energy from the same biomass fuel and the majority of the energy recovered from the plant is thermal energy.

(2) Distributed renewable generation and energy transformation projects that employ forest biomass to produce energy shall comply with renewability standards adopted by the Commissioner of Forests, Parks and Recreation under 10 V.S.A. § 2751. Energy transformation projects that use wood feedstock, except for noncommercial applications, that are eligible at the time of project commissioning to meet the renewability standards adopted by the Commissioner of Forests, Parks and Recreation do not lose eligibility due to a subsequent change in the renewability standards after the project commissioning date.

(3) No new wood biomass electricity generation facility or wood biomass combined heat and power facility coming into service after January 1, 2023 shall be eligible to satisfy any requirements of this section and section 8004 of this title unless that facility achieves 60 percent overall efficiency and at least a 50 percent net lifecycle greenhouse gas emissions reduction relative to the lifecycle emissions from the combined operation of a new combined-

cycle natural gas plant using the most efficient commercially available technology. Any energy generation using wood feedstock from an existing wood biomass electric generation facility placed in service prior to January 1, 2023 remains eligible to satisfy any requirements of this section and section 8004 of this title. Changes to wood biomass electric facilities that were placed in service prior to January 1, 2023, including converting to a combined heat and power facility, adding or modifying a district energy system, replacing electric generation equipment, or repowering the facility with updated or different electric generation technologies, do not change the in service date for the facility, or affect its eligibility to satisfy the requirements of this section and section 8004 of this title, or qualify it as new renewable energy.

(d) Hydropower. A hydroelectric renewable energy plant, that is not owned by a retail electricity provider, shall be eligible to satisfy the distributed renewable generation or energy transformation requirement only if, in addition to meeting the definition of distributed renewable generation, the plant:

(1) is and continues to be certified by the Low-impact Hydropower Institute; or

(2) after January 1, 1987, received a water quality certification pursuant to 33 U.S.C. § 1341 from the Agency of Natural Resources.

(e) Intent. Nothing in this section and section 8004 of this title is intended to relieve, modify, or in any manner affect a renewable energy plant's ongoing obligation to not have an undue adverse effect on air and water purity, the natural environment and the use of natural resources, and to comply with required environmental laws and rules.

Sec. 5. 30 V.S.A. § 8006a is amended to read:

§ 8006a. GREENHOUSE GAS REDUCTION CREDITS

(a) Standard offer adjustment. In accordance with this section, greenhouse gas reduction credits generated by an eligible ratepayer shall result in an adjustment of the standard offer under subdivision 8005a(c)(1) of this title (cumulative capacity; pace) or may be utilized by a retail electricity provider that serves a single customer that takes service at 115 kilovolts to meet the energy transformation requirements under subdivision 8005(a)(3)(D) of this title. For the purpose of adjusting the standard offer under subdivision 8005a(c)(1) of this title or energy transformation requirements under subdivision 8005(a)(3)(D) of this title, the amount of a year's greenhouse gas reduction credits shall be the lesser of the following:

(1) The amount of greenhouse gas reduction credits created by the an eligible ratepayers ratepayer served by all providers an eligible provider.

(2) The ~~providers' eligible provider's~~ annual retail electric sales load during that year to those eligible ratepayers creating greenhouse gas reduction credits.

(b) Definitions. ~~In~~ As used in this section:

(1) "Eligible ratepayer" means a customer of a Vermont retail electricity provider who takes service at 115 kilovolts and has demonstrated to the Commission that it has a comprehensive energy and environmental management program. Provision of the customer's certification issued under standard 14001 (environmental management systems) of the International Organization for Standardization (ISO) shall constitute such a demonstration.

(2) "Eligible provider" means a Vermont retail electricity provider who serves a single customer that takes service at 115 kilovolts.

(3) "Eligible reduction" means a reduction in non-energy-related greenhouse gas emissions from manufacturing processes at an in-state facility of an eligible ratepayer, provided that each of the following applies:

(A) The reduction results from a specific project undertaken by the eligible ratepayer at the in-state facility after January 1, ~~2012~~ 2023.

(B) The specific project reduces or avoids greenhouse gas emissions above and beyond any reductions of such emissions required by federal and State statutes and rules.

(C) The reductions are quantifiable and verified by an independent third party as approved by the Agency of Natural Resources and the Commission. Such independent third parties shall be certified by a body accredited by the American National Standards Institute (ANSI) as having a certification program that meets the ISO standards applicable to verification and validation of greenhouse gas assertions. The independent third party shall use methodologies specified under 40 C.F.R. part 98 and U.S. Environmental Protection Agency greenhouse gas emissions factors and global warming potential figures to quantify and verify reductions in all cases where those factors and figures are available.

~~(3)~~(4) "Greenhouse gas" ~~shall be as defined under~~ has the same meaning as in 10 V.S.A. § 552.

~~(4)~~(5) "Greenhouse gas reduction credit" means a credit for eligible reductions, calculated in accordance with subsection (c) of this section and expressed as a kWh credit eligible under subdivision 8005a(c)(1) of this title, or as a credit eligible under subdivision 8005(a)(3)(D) of this title.

(c) Calculation. Greenhouse gas reduction credits shall be calculated as follows:

(1) Eligible reductions shall be quantified in metric tons of CO2 equivalent, in accordance with the methodologies specified under 40 C.F.R. part 98, and using U.S. Environmental Protection Agency greenhouse gas emissions factors and global warming potential figures, and ~~may~~ shall be counted annually for the life of the specific project that resulted in the reduction. A project that converts a gas with a high global warming potential into a gas with relatively lower global warming potential shall be eligible if the conversion produces a CO2 equivalent reduction on an annual basis.

(2) Metric tons of CO2 equivalent quantified under subdivision (1) of this subsection shall be converted into units of energy through calculation of the equivalent number of kWh of generation by renewable energy plants, other than biomass, that would be required to achieve the same level of greenhouse gas emission reduction through the displacement of market power purchases. For the purpose of this subdivision, the value of the avoided greenhouse gas emissions shall be based on the aggregate greenhouse gas emission characteristics of system power in the regional transmission area overseen by the Independent System Operator of New England (ISO-NE).

(d) Reporting. An eligible ~~ratepayer~~ provider shall report to the Commission annually on each specific project undertaken by an eligible ratepayer to create eligible reductions. The Commission shall specify the required contents of such reports, which shall be publicly available.

~~(e) Savings. A provider shall pass on savings that it realizes through greenhouse gas reduction credits proportionally to the eligible ratepayers generating the credits.~~

Sec. 6. 30 V.S.A. § 8010 is amended to read:

§ 8010. SELF-GENERATION AND NET METERING

* * *

(c) In accordance with this section, the Commission shall adopt and implement rules that govern the installation and operation of net metering systems.

(1) The rules shall establish and maintain a net metering program that:

* * *

(E) ~~ensures that all customers who want to participate in net metering have the opportunity to do so;~~ [Repealed.]

* * *

(H) allows a customer to retain ownership of the environmental attributes of energy generated by the customer's net metering system and of any associated tradeable renewable energy credits or to transfer those attributes and credits to the interconnecting retail provider, and:

(i) if the customer retains the attributes, reduces the value of the credit provided under this section for electricity generated by the customer's net metering system by an appropriate amount; and

(ii) if the customer transfers the attributes to the interconnecting provider, requires the provider to retain them for application toward compliance with sections 8004 and 8005 of this title unless the provider has fewer than 75,000 customers, in which case the attributes do not need to be applied toward compliance obligations under sections 8004 and 8005 of this title; and

(iii) if a retail electricity provider that is 100 percent renewable under subdivision 8005(b)(1) of this title does not retire the transferred attributes under sections 8004 and 8005 of this title, requires that the provider apply an equivalent amount of attributes from distributed renewable generation that qualifies under subdivision 8005(a)(2) of this title toward its compliance obligations under sections 8004 and 8005 of this title.

(2) The rules shall include provisions that govern:

* * *

(F) the amount of the credit to be assigned to each kWh of electricity generated by a net metering customer in excess of the electricity supplied by the interconnecting provider to the customer, the manner in which the customer's credit will be applied on the customer's bill, and the period during which a net metering customer must use the credit, after which the credit shall revert to the interconnecting provider.

~~(i) When assigning an amount of credit under this subdivision (F), the Commission shall consider making multiple lengths of time available over which a customer may take a credit and differentiating the amount according to the length of time chosen. For example, a monthly credit amount may be higher if taken over 10 years and lower if taken over 20 years. Factors relevant to this consideration shall include the customer's ability to finance the net metering system, the cost of that financing, and the net present value to all ratepayers of the net metering program. [Repealed.]~~

(ii) ~~In~~ As used in this subdivision (ii), “existing net metering system” means a net metering system for which a complete application was filed before January 1, 2017.

(I) Commencing 10 years from the date on which an existing net metering system was installed, the Commission may apply to the system the same rules governing bill credits and the use of those credits on the customer’s bill that it applies to net metering systems for which applications were filed on or after January 1, 2017, other than any adjustments related to siting and tradeable renewable energy credits.

(II) The amount of excess generation, as defined in the Commission’s rules, from existing net metering systems, may be applied to reduce the provider’s statutory requirements under:

(aa) subdivision 8005(a)(2) of this title for a provider with fewer than 75,000 customers, not including one that is 100 percent renewable under subdivision 8005(b)(1) of this title, and

(bb) subdivision 8005(a)(5) of this title for a provider that is 100 percent renewable under subdivision 8005(b)(1) of this title.

(III) This subdivision (ii) shall apply to existing net metering systems notwithstanding any contrary provision of 1 V.S.A. § 214 and 2014 Acts and Resolves No. 99, Sec. 10.

(3) The rules shall establish standards and procedures governing application for and issuance or revocation of a certificate of public good for net metering systems under the provisions of section 248 of this title. In establishing these standards and procedures:

* * *

(C) ~~The rules shall seek to simplify the application and review process as appropriate, including simplifying the application and review process to encourage group net metering systems when the system is at least 50 percent owned by the customers who receive the bill credits for the electricity generated by the system.~~

* * *

~~(d) Commencing in 2021 and biennially thereafter, the Department shall submit to the Commission its evaluation of the current state of net metering in Vermont, which shall be included within the Department’s Annual Energy Report required under subsection 202b(e) of this title and shall also be submitted to the Committees listed under subdivision 202b(e)(2) of this title. The evaluation shall:~~

~~(1) analyze the current pace of net metering deployment, both statewide and within the service territory of each retail electricity provider;~~

~~(2) after considering the goals and policies of this chapter, of 10 V.S.A. § 578 (greenhouse gas reduction), of section 202a (State energy policy) of this title, and of the Electrical Energy and Comprehensive Energy Plans under sections 202 and 202b of this title, recommend the future pace of net metering deployment statewide and within the service territory of each provider;~~

~~(3) analyze the existence and degree of cross-subsidy between net metering customers and other customers on a statewide and on an individual provider basis;~~

~~(4) evaluate the effect of net metering on retail electricity provider infrastructure and revenue;~~

~~(5) evaluate the benefits to net metering customers of connecting to the provider's distribution system;~~

~~(6) analyze the economic and environmental benefits of net metering, and the short- and long-term impacts on rates, both statewide and for each provider;~~

~~(7) analyze the reliability and supply diversification costs and benefits of net metering;~~

~~(8) evaluate the ownership and transfer of the environmental attributes of energy generated by net metering systems and of any associated tradeable renewable energy credits; and~~

~~(9) examine and evaluate best practices for net metering identified from other states. [Repealed.]~~

* * *

Sec. 7. 30 V.S.A. § 202b is amended to read:

§ 202b. STATE COMPREHENSIVE ENERGY PLAN

* * *

~~(b) In developing or updating the Plan's recommendations, the Department of Public Service shall seek public comment by holding public hearings in at least five different geographic regions of the State on at least three different dates, and by providing and maintaining notice through publication once a week and at least seven days apart for two or more successive weeks in a newspaper or newspapers of general circulation in the regions where the hearings will be held, and by delivering notices to all licensed commercial radio and television stations with transmitting facilities within the State, plus~~

Vermont Public Radio and Vermont Educational Television on the Department's website for at least 21 days before the day of each hearing and providing and maintaining reasonable notice consistent with best practices for public engagement. The notice shall include an internet address where more information regarding the hearings may be viewed.

* * *

(e) The Commissioner of Public Service (Commissioner) shall file an annual report on progress in meeting the goals of the Plan. The report shall address each of the following sectors of energy consumption in the State: electricity, nonelectric fuels for thermal purposes, and transportation. In preparing the report, the Commissioner shall consult with the Secretaries of Administration, of Agriculture, Food and Markets, of Natural Resources, and of Transportation and the Commissioner of Buildings and General Services.

(1) The Commissioner shall file the report on or before January 15 of each year, commencing in 2019. The provisions of 2 V.S.A. § 20(d) shall not apply to this report.

(2) The Commissioner shall file the report with the House ~~Committees~~ Committee on Environment and Energy and Technology and on Natural Resources, Fish, and Wildlife and with the Senate Committees on Finance and on Natural Resources and Energy.

(3) For each sector, the report shall provide:

(A) In millions of British thermal units (MMBTUs) for the most recent calendar year for which data are available, the total amount of energy consumed, the amount of renewable energy consumed, and the percentage of renewable energy consumed. For the electricity sector, the report shall also state the amounts in megawatt hours (MWH) of retail sales and load for Vermont as well as for each retail electricity provider and the Vermont and New England summer and winter peak electric demand, including the hour and day of peak demand.

(B) Projections of the energy reductions and shift to renewable energy expected to occur under existing policies, technologies, and markets. The most recent available data shall be used to inform these projections and shall be provided as a supplement to the data described in subdivision (A) of this subdivision (3).

(C) Recommendations of policies to further the renewable energy requirements and goals set forth in statute and the Plan, along with an evaluation of the relative cost-effectiveness and equity-related impacts of different policy approaches.

(4) The report shall include ~~a supplemental~~ an analysis setting forth how progress toward the goals of the Plan is supported by complementary work in avoiding or reducing energy consumption through efficiency and demand reduction. In this subdivision (4), “demand reduction” includes dispatchable measures, such as controlling appliances that consume energy, and nondispatchable measures, such as weatherization.

(5) The report shall include recommendations on methods to enhance the process for planning, tracking, and reporting progress toward meeting statutory energy ~~goals~~ requirements and the goals of the Plan. Such recommendations may include the consolidation of one or more periodic reports filed by the Department or other State agencies relating to renewable energy, with proposals for amending the statutes relevant to those reports.

(6) The report shall include a summary of the following information for each sector:

(A) major changes in relevant markets, technologies, and costs;

(B) average Vermont prices compared to the other New England states, based on the most recent available data; and

(C) significant Vermont and federal incentive programs that are relevant to one or more of the sectors.

(7) The report shall include ~~any activity that occurs under the Vermont Small Hydropower Assistance Program, the Vermont Village Green Program, and the Fuel Efficiency Fund.~~ the following information on progress toward meeting the Renewable Energy Standard (RES):

(A) An assessment of the costs and benefits of the RES based on the most current available data, including rate and economic impacts, customer savings, technology deployment, greenhouse gas emission reductions achieved both relative to 10 V.S.A § 578 requirements and societally, fuel price stability, effect on transmission and distribution upgrade costs, and any recommended changes based on this assessment.

(i) For the most recent calendar year for which data is available, each retail electricity provider’s retail sales and load, in MWh; required amounts of renewable energy for each category of the RES as set forth in section 8005 of this title; and amounts of renewable energy and tradeable renewable energy credits eligible to satisfy the requirements of sections 8004 and 8005 of this title actually owned by the Vermont retail electricity providers, expressed as a percentage of retail sales and total load.

(ii) The report shall summarize the energy transformation projects undertaken pursuant to section 8005 of this title, their costs and benefits, their

avoided fossil fuel consumption and greenhouse gas emissions, and, if applicable, energy savings.

(iii) The report shall summarize statewide progress toward achieving each of the categories set forth in section 8005 of this title.

(iv) The report shall assess how costs and benefits of the RES are being distributed across State, to the extent possible given available data, by retail electricity service territory, municipality, and environmental justice focus populations, as defined by 3 V.S.A. § 6002. Such an assessment shall consider metrics to monitor affordability of electric rates.

(B) Projections, looking at least 10 years ahead, of the impacts of the RES.

(i) The Department shall consider at least three scenarios based on high, mid-range, and low energy price forecasts.

(ii) The Department shall provide an opportunity for public comment on the model during its development and make the model and associated documents available on the Department's website.

(iii) The Department shall project, for the State, the impact of the RES in each of the following areas: electric utility rates, total energy consumption, electric energy consumption, fossil fuel consumption, and greenhouse gas emissions. The report shall compare the amount or level in each of these areas with and without the program.

(C) An assessment of whether the requirements of the RES have been met to date, and any recommended changes needed to achieve those requirements.

(D) A summary of the activities of distributed renewable generation programs that support the achievement of the RES, including:

(i) Standard Offer Program under section 8005a of this title, including the number of plants participating in the Program, the prices paid by the Program, and the plant capacity and average annual energy generation of the participating plants. The report shall present this information as totals for all participating plants and by category of renewable energy technology. The report also shall identify the number of applications received, the number of participating plants under contract, and the number of participating plants actually in service.

(ii) the net metering program, including: the current pace of net metering deployment, both statewide and within the service territory of each retail electricity provider; the ownership and transfer of the environmental

attributes of energy generated by net metering systems and of any associated tradeable renewable energy credits; and any other information relevant to the costs and benefits of net metering.

(8) The report shall include any recommendations for statutory change related to sections 8004, 8005, 8005a, 8010, and 8011 of this title.

(9) For the report due in 2029, the Commission as shall issue a report on whether it is reasonable to expect that there will be sufficient new regional renewable resources available for a retail electricity provider with 75,000 or more customers to meet its requirement under subdivision 8005(a)(4)(B)(i)(IV) of this title at or below the alternative compliance payment rate for the new renewable generation category of section 8005 of this title during the year beginning on January 1, 2032, or during the years beginning on January 1, 2033 or January 1, 2034. The Commission shall not be required to issue this report in a contested case under 3 V.S.A. chapter 25 but shall conduct a proceeding on the issue with opportunities for participation by the retail electricity providers, Vermont Public Power Supply Authority, Renewable Energy Vermont, and other members of the public. Notwithstanding the timeline specified in subdivision (e)(1) of this section, the Commission shall file this annual report on or before December 15, 2028.

(d) During the preparation of reports under this section, the Department shall provide an opportunity for the public to submit relevant information and recommendations.

Sec. 8. REPORT

On or before January 15, 2025, the Department of Public Service, after consultation with the Public Utility Commission, the Vermont Housing Finance Agency, Vermont Housing and Conservation Board, Evernorth, Green Mountain Power, Vermont Electric Cooperative, the Vermont Public Power Supply Authority, other electric utilities that wish to participate, and the Office of Racial Equity, shall submit a report to the House Committee on Environment and Energy and the Senate Committee on Natural Resources and Energy. The goal of this report is to develop a replacement program for group net metering to reduce operating costs, reduce resident energy burdens, and encourage electrification and decarbonization of buildings and enhance the financial capacity of housing providers to electrify the buildings developed or rehabilitated and provide relief to residents of manufactured home communities from their energy burdens. This report shall:

(1) Discuss and prioritize recommendations for replacement programs based on how they would impact Vermont's impacted and frontline communities and identify opportunities for these communities to benefit from

investments in renewables to adapt to climate and economic change within the framework of a replacement of the net-metering program.

(2) Discuss current programs electric utilities have in place to serve income-eligible customers, the number of participants in those programs, and their trends over time.

(3) Discuss progress affordable housing funders and developers have made to date in connecting projects with solar resources, as well as any barriers to this, and the comparison of the availability and cost of net metered installations on single-family dwelling units.

(4) List funding sources available for solar and other energy-related projects benefiting affordable housing and customers with low-income, including if it is federal or time-limited.

(5) Propose comparable successor programs to group net-metering for connecting affordable housing developments and income-eligible residents of manufactured home communities with solar projects in order to reduce operating costs, reduce resident energy burdens, and encourage electrification and decarbonization of buildings. Programs that meet the intent of this section shall include the following:

(A) a process to bring additional solar or other renewable energy projects online that could be owned by affordable housing developers;

(B) a process to enroll eligible customers, including property owners of qualified rental units; and

(C) if connecting directly to customers, a bill credit process to allocate a customer's kWh solar share on a monthly basis.

Sec. 9. REPEAL

30 V.S.A. § 8005b (renewable energy programs; reports) is repealed.

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee Vote: 9-1-1)

Rep. Demrow of Corinth, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Environment and Energy.

(Committee Vote: 8-4-0)

Rep. Dolan of Waitsfield, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Environment and Energy.

(Committee Vote: 8-3-1)

Amendment to be offered by Rep. Harrison of Chittenden to the report of the Committee on Environment and Energy on H. 289

In Sec. 4, 30 V.S.A. § 8005, in subdivision (a)(2), by inserting a new subdivision (E) to read as follows:

(E) Avoiding transmission and distribution constraints. Procurements and programs developed by retail electricity providers that support meeting the requirements of this subdivision (2) shall avoid development of new facilities in generation constrained areas of the distribution or transmission system that would not need to be expanded but for the addition of additional generation.

(i) Retail electricity providers may petition the Public Utility Commission for relief of the requirements of subdivision (2)(C) of this subsection (a), with relief granted if the Commission finds that additional generation cannot be added to the distribution or transmission system without incurring incremental economic harm to ratepayers in the form of transmission or distribution investments that are borne by all ratepayers. Retail electricity providers shall not be required to pay an alternative compliance payment if relief is granted.

(ii) Relief granted by the Commission shall relieve retail electricity providers of the portion of the distributed renewable generation requirement under this subdivision (a)(2) that cannot be met without economic harm to ratepayers and require retail providers to acquire new renewable generation from facilities that qualify to meet the requirements of subdivision (a)(4) of this section.

H. 621

An act relating to health insurance coverage for diagnostic breast imaging

Rep. Carpenter of Hyde Park, for the Committee on Health Care, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 4100a is amended to read:

§ 4100a. MAMMOGRAMS AND OTHER BREAST IMAGING SERVICES; COVERAGE REQUIRED

(a)(1) Insurers shall provide coverage for screening by mammography and for other medically necessary breast imaging services upon recommendation of a health care provider as needed to detect the presence of breast cancer and other abnormalities of the breast or breast tissue. In addition, insurers shall provide coverage for screening by ultrasound or another appropriate imaging service for a patient for whom the results of a screening mammogram were inconclusive or who has dense breast tissue, or both.

(2) Benefits provided shall cover the full cost of the mammography, ~~service or ultrasound, as applicable,~~ and other breast imaging services and shall not be subject to any co-payment, deductible, coinsurance, or other cost-sharing requirement or additional charge, except to the extent that such coverage would disqualify a high-deductible health plan from eligibility for a health savings account pursuant to 26 U.S.C. § 223.

(b) [Repealed.]

(c) This section shall apply only to ~~screening~~ procedures conducted by test facilities accredited by the American College of Radiologists.

(d) As used in this subchapter:

(1) “Insurer” means any insurance company that provides health insurance as defined in subdivision 3301(a)(2) of this title, nonprofit hospital and medical service corporations, and health maintenance organizations. The term does not apply to coverage for specified diseases or other limited benefit coverage.

(2) “Mammography” means the x-ray examination of the breast using equipment dedicated specifically for mammography, including the x-ray tube, filter, compression device, and digital detector. The term includes breast tomosynthesis.

(3) “Other breast imaging services” means diagnostic mammography, ultrasound, and magnetic resonance imaging services that enable health care providers to detect the presence or absence of breast cancer and other abnormalities affecting the breast or breast tissue.

(4) “Screening” includes the mammography or ultrasound test procedure and a qualified physician’s interpretation of the results of the procedure, including additional views and interpretation as needed.

Sec. 2. EFFECTIVE DATE

This act shall take effect on January 1, 2026 and shall apply to all health insurance plans issued on and after January 1, 2026 on such date as a health

insurer offers, issues, or renews the health insurance plan, but in no event later than January 1, 2027.

(Committee Vote: 10-0-1)

H. 639

An act relating to disclosure of flood history of real property subject to sale

Rep. Chesnut-Tangerman of Middletown Springs, for the Committee on General and Housing, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Flood Risk Disclosure * * *

Sec. 1. 27 V.S.A. § 380 is added to read:

§ 380. DISCLOSURE OF INFORMATION; CONVEYANCE OF REAL ESTATE

(a) Prior to or as part of a contract for the conveyance of real property, the seller shall provide the buyer with the following information:

(1) whether the real property is located in a Federal Emergency Management Agency mapped special flood hazard area;

(2) whether the real property is located in a Federal Emergency Management Agency mapped moderate flood hazard area;

(3) whether the real property was subject to flooding or flood damage while the seller possessed the property, including flood damage from inundation or from flood-related erosion or landslide damage; and

(4) whether the seller maintains flood insurance on the real property.

(b) The failure of the seller to provide the buyer with the information required under subsection (a) of this section is grounds for the buyer to terminate the contract prior to transfer of title or occupancy, whichever occurs earlier.

(c) A buyer of real estate who fails to receive the information required to be disclosed by a seller under subsection (a) of this section may bring an action to recover from the seller the amount of the buyer's damages and reasonable attorney's fees. The buyer may also seek punitive damages when the seller knowingly failed to provide the required information.

(d) A seller shall not be liable for damages under this section for any error, inaccuracy, or omission of any information required to be disclosed to the buyer under subsection (a) of this section when the error, inaccuracy, or omission was based on information provided by a public body or by another

person with a professional license or special knowledge who provided a written report that the seller reasonably believed to be correct and that was provided by the seller to the buyer.

(e) Noncompliance with the requirements of this section shall not affect the marketability of title of a real property.

Sec. 2. 9 V.S.A. § 4466 is added to read:

§ 4466. REQUIRED DISCLOSURE; MODEL FORM

(a) A landlord shall disclose in advance of entering a rental agreement with a tenant whether any portion of the premises offered for rent is located in a Federal Emergency Management Agency mapped special flood hazard area. This notice shall be provided to the tenant at or before execution of the lease in a separate written document substantially in the form prescribed by the Department of Housing and Community Development pursuant to subsection (b) of this section.

(b) The Department of Housing and Community Development shall develop a model form for the notice provided under this section that shall include the information required under subsection (a) of this section.

Sec. 3. 10 V.S.A. § 6236(e) is amended to read:

(e) All mobile home lot leases shall contain the following:

* * *

(8)(A) Notice that the mobile home park is in a flood hazard area if any lot within the mobile home park is wholly or partially located in a flood hazard area according to the flood insurance rate map effective for the mobile home park at the time the proposed lease is furnished to a prospective leaseholder. This notice shall be provided in a clear and conspicuous manner in a separate written document substantially in the form prescribed by the Department of Housing and Community Development pursuant to subdivision (B) of this subdivision (8) and attached as an addendum to the proposed lease.

(B) The Department of Housing and Community Development shall develop a model form for the notice provided under this section that shall include the information required under subdivision (A) of this subdivision (8).

Sec. 4. 10 V.S.A. § 6201 is amended to read:

§ 6201. DEFINITIONS

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

(1) “Mobile home” means:

(A) a structure or type of manufactured home, including the plumbing, heating, air-conditioning, and electrical systems contained in the structure, that is:

- (i) built on a permanent chassis;
 - (ii) designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities;
 - (iii) transportable in one or more sections; and
 - (iv)(I) at least eight feet wide, 40 feet long, or when erected has at least 320 square feet; or
- (II) if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or

(B) any structure that meets all the requirements of this subdivision (1) except the size requirements, and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the construction and safety standards established under Title 42 of the U.S. Code.

(C) [Repealed.]

(2) “Mobile home park” means any parcel of land under single or common ownership or control that contains, or is designed, laid out, or adapted to accommodate, more than two mobile homes. “Mobile home park” does not mean premises used solely for storage or display of mobile homes. Mobile home park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes.

* * *

(13) “Flood hazard area” has the same meaning as in section 752 of this title.

(14) “Flood insurance rate map” means, for any mobile home park, the official flood insurance rate map describing that park published by the Federal Emergency Management Agency on its website.

Sec. 5. 9 V.S.A. § 2602 is amended to read:

§ 2602. SALE OR TRANSFER; PRICE DISCLOSURE; MOBILE HOME
UNIFORM BILL OF SALE

(a) Appraisal; disclosure. When a mobile home is sold or offered for sale:

(1) If a mobile home is appraised, the appraisal shall include a cover sheet that itemizes the value of the unsited mobile home, the value of any adjacent or attached structures located on the site and the value of the sited location, if applicable, and valuations of sales of comparable properties.

(2) In the case of a new mobile home, the seller shall provide to a prospective buyer a written disclosure that states the retail price of the unsited mobile home, any applicable taxes, the set-up and transportation costs, and the value of the sited location, if applicable.

(3) In the case of a mobile home as defined in 10 V.S.A. § 6201, the seller shall provide to a prospective buyer a written disclosure of any flooding history or flood damage to the mobile home known to the seller, including flood damage from inundation or from flood-related erosion or landslide damage.

(4) A legible copy of the disclosure required in subdivision (2) of this subsection shall be prominently displayed on a new mobile home in a location that is clearly visible to a prospective buyer from the exterior.

* * *

* * * Accessibility Standards * * *

Sec. 6. 20 V.S.A. chapter 174 is amended to read:

CHAPTER 174. ACCESSIBILITY STANDARDS FOR PUBLIC BUILDINGS AND, PARKING, AND STATE-FUNDED RESIDENTIAL BUILDINGS

Subchapter 1. Public Buildings and Parking

§ 2900. DEFINITIONS

* * *

Subchapter 2. State-Funded Residential Construction

§ 2910. DEFINITIONS

As used in this subchapter:

(1) “Adaptable” means a residential unit that complies with the requirements for a Type A Unit or a Type B Unit set forth in section 1103 or 1104, respectively, of the 2017 ICC Standard for Accessible and Useable Buildings and Facilities or a similar standard adopted by the Access Board by rule pursuant to section 2901 of this chapter.

(2) “ICC” means the International Code Council.

(3) “State-funded residential building” means a building that is designed or intended for occupancy as a residence by one or more individuals the construction of which is funded in whole or in part by State funds.

(4) “Visitable” means a residential unit that complies with the requirements for a Type C Unit set forth in section 1105 of the 2017 ICC Standard for Accessible and Useable Buildings and Facilities or a similar standard adopted by the Access Board by rule pursuant to section 2901 of this chapter.

§ 2911. STATE-FUNDED RESIDENTIAL CONSTRUCTION;

ACCESSIBILITY REQUIREMENTS

(a) Any State-funded residential building that is constructed in Vermont on or after July 1, 2025 shall comply with the following requirements:

(1) All residential units that are located partially or wholly on the ground floor or are accessible by an elevator or lift shall be adaptable units.

(2) Any residential unit that is not located on the ground floor and is not accessible by an elevator or a lift shall be a visitable unit.

(b) A State-funded residential building constructed in accordance with the requirements of this section shall not be modified in any way that would reduce its compliance with the requirements of subsection (a) of this section, as applicable, during any subsequent repairs, renovations, alterations, or additions.

(c) The Access Board shall adopt rules as necessary to implement the provisions of this section.

Sec. 7. 24 V.S.A. § 4010 is amended to read:

§ 4010. DUTIES

(a) In the operation of or management of housing projects, an authority shall at all times observe the following duties with respect to rentals and tenant selection:

* * *

(6) When renting or leasing accessible dwelling accommodations, it shall give priority to tenants with a disability. As used in this subdivision, “accessible” means a dwelling that complies with the requirements for an accessible unit set forth in section 1102 of the 2017 ICC Standard for Accessible and Useable Buildings and Facilities or a similar standard adopted by the Access Board by rule pursuant to 20 V.S.A. § 2901.

* * *

* * * Housing Accountability * * *

Sec. 8. VERMONT STATEWIDE AND REGIONAL HOUSING TARGETS
PROGRESS; REPORT

(a) Upon publication of the Statewide Housing Needs Assessment setting out the statewide and regional housing targets required pursuant to 24 V.S.A. § 4348a, the Department of Housing and Community Development, in coordination with regional planning commissions, shall develop metrics for measuring progress toward the statewide and regional housing targets, including:

(1) for any housing target, a timeline separating the target into discrete steps with specific deadlines; and

(2) for any regional housing target:

(A) a rate measuring progress toward the total needed housing investment published in the regional plan for a region subject to the regional housing target by separate measure for each of price, quality, unit size or type, and zoning district, as applicable; and

(B) steps taken to achieve any actions recommended to satisfy the regional housing needs published in the regional plan for a region subject to the regional housing target.

(b) The Department shall employ the metrics developed under subsection (a) of this section to set annual goals for achieving the statewide and regional housing targets required pursuant to 24 V.S.A. § 4348a.

(c) Within one year following publication of the Statewide Housing Needs Assessment setting out the statewide and regional housing targets required pursuant to 24 V.S.A. § 4348a and annually thereafter through 2030, the Department shall publish a report on progress toward the statewide and regional housing targets, including:

(1)(A) annual and cumulative progress toward the statewide and regional housing targets based on the metrics developed pursuant to subsection (a) of this section; and

(B) for any statewide or regional housing target the Department determines may not practicably be measured by any of the metrics developed pursuant to subsection (a) of this section, an explanation that the statewide or regional housing target may not practicably be measured by the Department's

metrics and a description of the status of progress toward the statewide or regional housing target;

(2) progress toward the annual goals for the year of publication set pursuant to subsection (b) of this section;

(3) an overall assessment whether, in the Department’s discretion, annual progress toward the statewide and regional housing targets is satisfactory based on the measures under subdivisions (1) and (2) of this subsection and giving due consideration to the complete timeline for achieving the statewide and regional housing targets; and

(4) if the Department determines pursuant to subdivision (3) of this subsection that annual progress toward the statewide and regional housing targets is not satisfactory, recommendations for accelerating progress. The Department shall specifically consider whether the creation of a process that permits developers to propose noncompliant housing developments under certain conditions, like a builder’s remedy, or a cause of action would be likely to accelerate progress.

(d) The Department shall have broad discretion to determine any timeline or annual goal under subsection (a) or (b) of this section, provided the Department determines that any step in a timeline or annual goal, when considered together with the other steps or annual goals, will reasonably lead to achievement of the statewide or regional housing targets published in the Statewide Housing Needs Assessment.

(e) If the statewide and regional housing targets are not published in the Statewide Housing Needs Assessment published in 2024, the Department shall develop and publish the required housing targets within six months following publication of the Statewide Housing Needs Assessment. Any reference to the statewide and regional housing targets published in the Statewide Housing Needs Assessment in this section shall be deemed to refer to the housing targets published under this subsection, and any reference to the date of publication of the Statewide Housing Needs Assessment in this section shall be deemed to refer to the date of publication of the housing targets published under this subsection.

* * * Effective Date * * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

and that after passage the title of the bill be amended to read: “An act relating to flood risk disclosure, accessibility standards for State-funded residential construction, and housing accountability”

(Committee Vote: 10-1-1)

H. 661

An act relating to child abuse and neglect investigation and substantiation standards and procedures

Rep. Garofano of Essex, for the Committee on Human Services, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 4903 is amended to read:

§ 4903. RESPONSIBILITY OF DEPARTMENT

The Department may expend, within amounts available for the purposes, what is necessary to protect and promote the welfare of children and adults in this State, including the strengthening of their homes whenever possible, by:

(1) Investigating complaints of neglect, abuse, or abandonment of children, including when, whether, and how names are placed on the Child Protection Registry.

* * *

Sec. 2. 33 V.S.A. § 4911 is amended to read:

§ 4911. PURPOSE

The purpose of this subchapter is to:

(1) protect children whose health and welfare may be adversely affected through abuse or neglect;

(2) strengthen the family and make the home safe for children whenever possible by enhancing the parental capacity for good child care;

(3) provide a temporary or permanent nurturing and safe environment for children when necessary; and for these purposes require the reporting of suspected child abuse and neglect, an assessment or investigation of such reports and provision of services, when needed, to such child and family;

(4) establish a range of responses to child abuse and neglect that take into account different degrees of child abuse or neglect and that recognize that child offenders should be treated differently from adults; ~~and~~

(5) establish a tiered child protection registry that balances the need to protect children and the potential employment consequences of a registry record for ~~persons who are~~ a person's conduct that is substantiated for child abuse and neglect; and

(6) ensure that in the Department for Children and Families' efforts to protect children from abuse and neglect, the Department also ensures that investigations are thorough, unbiased, based on accurate and reliable evidence, and adhere to due process requirements.

Sec. 3. 33 V.S.A. § 4912 is amended to read:

§ 4912. DEFINITIONS

As used in this subchapter:

* * *

(16) Substantiated report” means that the Commissioner or the Commissioner’s designee has determined after investigation that a report is based upon accurate and reliable information ~~that would lead a reasonable person to believe~~ where there is a preponderance of the evidence necessary to support the allegation that the child has been abused or neglected.

* * *

Sec. 4. 33 V.S.A. § 4915b is amended to read:

§ 4915b. PROCEDURES FOR INVESTIGATION

(a) An investigation, to the extent that it is reasonable under the facts and circumstances presented by the particular allegation of child abuse, shall include all of the following:

(1) A visit to the child’s place of residence or place of custody and to the location of the alleged abuse or neglect.

(2) An interview with or observation of the child reportedly having been abused or neglected. If the investigator elects to interview the child, that interview may take place without the approval of the child’s parents, guardian, or custodian, provided that it takes place in the presence of a disinterested adult who may be, but shall not be limited to being, a teacher, a member of the clergy, a child care provider regulated by the Department, or a nurse.

(3) Determination of the nature, extent, and cause of any abuse or neglect.

(4) Determination of the identity of the person alleged to be responsible for such abuse or neglect. The investigator shall use best efforts to obtain the person’s mailing and e-mail address as soon as practicable once the person’s identity is determined. The person shall be notified of the outcome of the investigation and any notices sent by the Department using the mailing address, or if requested by the person, to the person’s e-mail address collected pursuant to this subdivision.

(5)(A) The identity, by name, of any other children living in the same home environment as the subject child. The investigator shall consider the physical and emotional condition of those children and may interview them, unless the child is the person who is alleged to be responsible for such abuse or neglect, in accordance with the provisions of subdivision (2) of this subsection (a).

(B) The identity, by name, of any other children who may be at risk if the abuse was alleged to have been committed by someone who is not a member of the subject child's household. The investigator shall consider the physical and emotional condition of those children and may interview them, unless the child is the person who is alleged to be responsible for such abuse or neglect, in accordance with the provisions of subdivision (2) of this subsection (a).

(6) A determination of the immediate and long-term risk to each child if that child remains in the existing home or other environment.

(7) Consideration of the environment and the relationship of any children therein to the person alleged to be responsible for the suspected abuse or neglect.

(8) All other data deemed pertinent, including any interviews of witnesses made known to the Department.

(b) For cases investigated and substantiated by the Department, the Commissioner shall, to the extent that it is reasonable, provide assistance to the child and the child's family. For cases investigated but not substantiated by the Department, the Commissioner may, to the extent that it is reasonable, provide assistance to the child and the child's family. Nothing contained in this section or section 4915a of this title shall be deemed to create a private right of action.

* * *

Sec. 5. 33 V.S.A. § 4916 is amended to read:

§ 4916. CHILD PROTECTION REGISTRY

(a)(1) The Commissioner shall maintain a Child Protection Registry that shall contain a record of all investigations that have resulted in a substantiated report on or after January 1, 1992. Except as provided in subdivision (2) of this subsection, prior to placement of a substantiated report on the Registry, the Commissioner shall comply with the procedures set forth in section 4916a of this title.

(2) In cases involving sexual abuse or serious physical abuse of a child, the Commissioner in ~~his or her~~ the Commissioner's sole judgment may list a substantiated report on the Registry pending any administrative review after:

- (A) reviewing the investigation file; and
- (B) making written findings in consideration of:
 - (i) the nature and seriousness of the alleged behavior; and
 - (ii) the person's continuing access to children.

(3) A person alleged to have abused or neglected a child and whose name has been placed on the Registry in accordance with subdivision (2) of this subsection shall be notified of the Registry entry, provided with the Commissioner's findings, and advised of the right to seek an administrative review in accordance with section 4916a of this title.

(4) If the name of a person has been placed on the Registry in accordance with subdivision (2) of this subsection, it shall be removed from the Registry if the substantiation is rejected after an administrative review.

(b) A Registry record means an entry in the Child Protection Registry that consists of the name of an individual whose conduct is substantiated for child abuse or neglect, the date of the finding, the nature of the finding, and at least one other personal identifier, other than a name, listed in order to avoid the possibility of misidentification.

(c) The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 to permit use of the Registry records as authorized by this subchapter while preserving confidentiality of the Registry and other Department records related to abuse and neglect.

(d) For all substantiated reports of child abuse or neglect made on or after the date the final rules are adopted, the Commissioner shall create a Registry record that reflects a designated child protection level related to the risk of future harm to children. This system of child protection levels shall be based upon an evaluation of the risk the person responsible for the abuse or neglect poses to the safety of children. The risk evaluation shall include consideration of the following factors:

- (1) the nature of the conduct and the extent of the child's injury, if any;
- (2) the person's prior history of child abuse or neglect as either a victim or perpetrator;
- (3) the person's response to the investigation and willingness to engage in recommended services; and

(4) the person's age and developmental maturity.

(e) The Commissioner shall ~~develop~~ adopt rules for the implementation of a system of Child Protection Registry levels for substantiated cases pursuant to 3 V.S.A. chapter 25. The rules shall address:

(1) when and how names are placed on the Registry;

(2) standards for determining a child protection level designation;

(3) the length of time a person's name appears on the Registry prior to seeking expungement;

~~(2)~~(4) when and how names are expunged from the Registry;

~~(3)~~(5) whether the person is a juvenile or an adult;

~~(4)~~(6) whether the person was charged with or convicted of a criminal offense arising out of the incident of abuse or neglect; and

~~(5)~~(7) whether a Family Division of the Superior Court has made any findings against the person.

(f) [Repealed.]

Sec. 6. 33 V.S.A. § 4916a is amended to read:

§ 4916a. CHALLENGING SUBSTANTIATION OR PLACEMENT ON THE REGISTRY

(a) If an investigation conducted in accordance with section 4915b of this title results in a determination that a report of child abuse or neglect should be substantiated, the Department shall notify the person alleged to have abused or neglected a child of the following:

(1) the nature of the substantiation decision, and that the Department intends to enter the record of the substantiation into the Registry;

(2) who has access to Registry information and under what circumstances;

(3) the implications of having one's name placed on the Registry as it applies to employment, licensure, and registration;

(4) the Registry child protection level designation to be assigned to the person and the date that the person is eligible to seek expungement based on the designation level;

(5) the right to request a review of the substantiation determination or the child protection level designation, or both, by an administrative reviewer,

the time in which the request for review shall be made, and the consequences of not seeking a review; ~~and~~

~~(5)~~(6) the right to receive a copy of the Commissioner's written findings made in accordance with subdivision 4916(a)(2) of this title if applicable; and

(7) ways to contact the Department for any further information.

(b) Under this section, notice by the Department to a person alleged to have abused or neglected a child shall be by first-class mail sent to the person's last known mailing address, or if requested by the person, to the person's e-mail address collected during the Department's investigation pursuant to subdivision 4915b(a)(4) of this title. The Department shall maintain a record of the notification, including who sent the notification, the date it is sent, and the address to which it is sent.

~~(c)(1) A person alleged to have abused or neglected a child whose conduct is the subject of a substantiation determination~~ may seek an administrative review of the Department's intention to place the person's name on the Registry by notifying the Department within 14 30 days of after the date the Department mailed sent notice of the right to review in accordance with subsections (a) and (b) of this section. The Commissioner may grant an extension past the ~~14-day 30-day~~ period for good cause, not to exceed 28 60 days after the Department has mailed sent notice of the right to review.

(2) The administrative review may be stayed upon request of the person ~~alleged to have committed abuse or neglect whose conduct is the subject of a substantiation determination~~ if there is a related case pending in the Criminal or Family Division of the Superior Court that arose out of the same incident of abuse or neglect for which the person person's conduct was substantiated. During the period the review is stayed, the person's name shall be placed on the Registry. Upon resolution of the Superior Court criminal or family case, the person may exercise ~~his or her~~ the person's right to review under this section by notifying the Department in writing within 30 days after the related court case, including any appeals, has been fully adjudicated. If the person fails to notify the Department within 30 days, the Department's decision shall become final and no further review under this subsection is required.

~~(d)(1) The~~ Except as provided in this subsection, the Department shall hold an administrative review conference within 35 60 days of after receipt of the request for review. At least ~~10 20~~ days prior to the administrative review conference, the Department shall provide to the person requesting review a copy of the redacted investigation file, which shall contain sufficient unredacted information to describe the allegations and the evidence relied upon as the basis of the substantiation, notice of time and place of the

conference, and conference procedures, including information that may be submitted and mechanisms for providing information. There shall be no subpoena power to compel witnesses to attend a Registry review conference. The Department shall also provide to the person those redacted investigation files that relate to prior investigations that the Department has relied upon to make its substantiation determination in the case in which a review has been requested. If the Department fails to hold an administrative review conference within 60 days after receipt of the request to review, due to good cause shown, an extension may be authorized by the Commissioner or designee in which the basis of the failure is explained.

(2) The Department may elect to not hold an administrative review conference when a person who has requested a review does not respond to Department requests to schedule the review meeting or does not appear for the scheduled review meeting. In these circumstances, unless good cause is shown, the Department's substantiation shall be accepted and the person's name shall be placed on the Registry. Upon the Department's substantiation being accepted, the Department shall provide notice that advises the person of the right to appeal the substantiation determination or child protection designation level, or both, to the Human Services Board pursuant to section 4916b of this title.

(e) At the administrative review conference, the person who requested the review shall be provided with the opportunity to present documentary evidence or other information that supports ~~his or her~~ the person's position and provides information to the reviewer in making the most accurate decision regarding the allegation. The Department shall have the burden of proving ~~that it has accurately and reliably concluded that a reasonable person would believe by a preponderance of the evidence~~ that the child has been abused or neglected by that person. Upon the person's request or during a declared state of emergency in Vermont, the conference may be held by teleconference through a live, interactive, audio-video connection or by telephone.

(f) The Department shall establish an administrative case review unit within the Department and contract for the services of administrative reviewers. An administrative reviewer shall be a neutral and independent arbiter who has no prior involvement in the original investigation of the allegation. Department information pertaining to the investigation that is obtained by the reviewer outside of the review meeting shall be disclosed to the person seeking the review.

(g) Within seven days ~~of~~ after the conference, the administrative reviewer shall:

- (1) reject the Department's substantiation determination;
- (2) accept the Department's substantiation; or
- (3) place the substantiation determination on hold and direct the Department to further investigate the case based upon recommendations of the reviewer.

(h) If the administrative reviewer accepts the Department's substantiation determination, a Registry record shall be made immediately. If the reviewer rejects the Department's substantiation determination, no Registry record shall be made.

(i) Within seven days ~~of~~ after the decision to reject or accept or to place the substantiation on hold in accordance with subsection (g) of this section, the administrative reviewer shall provide notice to the person of ~~his or her~~ the reviewer's decision to the person's requested address pursuant to subdivision 4915b(a)(4) of this title. If the administrative reviewer accepts the Department's substantiation, the notice shall advise the person of the right to appeal the administrative reviewer's decision to the human services board in accordance with section 4916b of this title.

* * *

Sec. 7. 33 V.S.A. § 4916b is amended to read:

§ 4916b. HUMAN SERVICES BOARD HEARING

(a) Within 30 days after the date on which the administrative reviewer ~~mailed~~ sent notice of placement of a report on the Registry, the person who is the subject of the substantiation may apply in writing to the Human Services Board for relief. The Board shall hold a fair hearing pursuant to 3 V.S.A. § 3091. When the Department receives notice of the appeal, it shall make note in the Registry record that the substantiation has been appealed to the Board.

* * *

Sec. 8. 33 V.S.A. § 4916c is amended to read:

§ 4916c. PETITION FOR EXPUNGEMENT FROM THE REGISTRY

(a)(1) ~~Except as provided in this subdivision~~ Pursuant to rules adopted in accordance with subsection 4916(e) of this title, a person whose name has been placed on the Registry ~~prior to July 1, 2009 and has been listed on the Registry for at least three years~~ may file a written request with the Commissioner, seeking a review for the purpose of expunging an individual Registry record or for the purpose of challenging the child protection level designation, or both. ~~A person whose name has been placed on the Registry on or after July 1, 2009~~

~~and has been listed on the Registry for at least seven years may file a written request with the Commissioner seeking a review for the purpose of expunging an individual Registry record.~~ The Commissioner shall grant a review upon request.

(2) A person who is required to register as a sex offender on the State's Sex Offender Registry shall not be eligible to petition for expungement of ~~his or her~~ the person's Registry record until the person is no longer subject to Sex Offender Registry requirements.

(b)(1) The person shall have the burden of proving that a reasonable person would believe that ~~he or she~~ the person no longer presents a risk to the safety or well-being of children.

(2) The Commissioner shall consider the following factors in making ~~his or her~~ a determination:

(A) the nature of the substantiation that resulted in the person's name being placed on the Registry;

(B) the number of substantiations;

(C) the amount of time that has elapsed since the substantiation;

(D) the circumstances of the substantiation that would indicate whether a similar incident would be likely to occur;

(E) any activities that would reflect upon the person's changed behavior or circumstances, such as therapy, employment, or education;

(F) references that attest to the person's good moral character; and

(G) any other information that the Commissioner deems relevant.

(3) The Commissioner may deny a petition for expungement based solely on subdivision (2)(A) or (2)(B) of this subsection.

(c) At the review, the person who requested the review shall be provided with the opportunity to present any evidence or other information, including witnesses, that supports ~~his or her~~ the person's request for expungement. Upon the person's request or during a declared state of emergency in Vermont, the conference may be held ~~by teleconference~~ through a live, interactive, audio-video connection or by telephone.

(d) A person may seek a review under this section ~~no~~ not more than once every 36 months.

(e) Within 30 days ~~of~~ after the date on which the Commissioner ~~mailed sent~~ notice of the decision pursuant to this section, a person may appeal the

decision to the Human Services Board. The notice shall contain specific instructions concerning the information necessary for the person to prepare any future expungement request. The person shall be prohibited from challenging ~~his or her~~ the substantiation at such hearing, and the sole ~~issue~~ issues before the Board shall be whether the Commissioner abused ~~his or her~~ the Commissioner's discretion in ~~denial of~~ denying the petition for expungement or the petition challenging the child protection level designation. The hearing shall be on the record below, and determinations of credibility of witnesses made by the Commissioner shall be given deference by the Board.

* * *

Sec. 9. 33 V.S.A. § 4916d is amended to read:

§ 4916d. AUTOMATIC EXPUNGEMENT OF REGISTRY RECORDS

Registry entries concerning a person ~~who~~ whose ~~conduct~~ was substantiated for behavior occurring before the person reached 10 years of age shall be expunged when the person reaches ~~the age of~~ 18 years of age, provided that the person has had no additional substantiated Registry entries. ~~A person substantiated for behavior occurring before the person reached 18 years of age and whose name has been listed on the Registry for at least three years may file a written request with the Commissioner seeking a review for the purpose of expunging an individual Registry record in accordance with section 4916e of this title.~~

Sec. 10. 33 V.S.A. § 4922 is amended to read:

§ 4922. RULEMAKING

(a) ~~The Commissioner shall develop rules to implement this subchapter. On or before September 1, 2025, the Commissioner shall file proposed rules pursuant to 3 V.S.A. chapter 25 implementing the provisions of this subchapter to become effective on January 1, 2026.~~ These shall include:

- (1) rules setting forth criteria for determining whether to conduct an assessment or an investigation;
- (2) rules setting out procedures for assessment and service delivery;
- (3) rules outlining procedures for investigations;
- (4) rules for conducting the administrative review conference;
- (5) rules regarding access to and maintenance of Department records of investigations, assessments, reviews, and responses; ~~and~~
- (6) rules regarding the tiered Registry as required by section 4916 of this title;

(7) rules establishing substantiation categories that require entry onto the Registry and alternatives to substantiation that do not require entry onto the Registry;

(8) rules requiring notice and appeal procedures for alternatives to substantiation;

(9) rules creating procedures for how substantiation recommendations are made by the Department district offices and how substantiation determinations are made by the Department central office; and

(10) rules implementing subsections 4916(c) and (e) of this title.

* * *

Sec. 11. CHILD ABUSE AND NEGLECT; INTERVIEWS; CAPABILITIES;
REPORT

(a) On or before November 15, 2024, the Department for Children and Families shall submit a written report to the Senate Committee on Health and Welfare and the House Committee on Human Services examining the Department's capabilities and resources necessary to safely, securely, and confidentially store any interviews recorded during a child abuse and neglect investigation.

(b) The report required pursuant to subsection (a) of this section shall include the Department's proposed model policy detailing the types of interviews that should be recorded and the storage, safety, and confidentiality requirements of such interviews.

Sec. 12. EFFECTIVE DATE

This act shall take effect on September 1, 2024.

(Committee Vote: 11-0-0)

H. 704

An act relating to disclosure of compensation in job advertisements

Rep. Bartley of Fairfax, for the Committee on General and Housing, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 495o is added to read:

§ 495o. DISCLOSURE OF COMPENSATION TO PROSPECTIVE
EMPLOYEES

(a)(1) An employer shall ensure that any advertisement of a Vermont job opening shall include the following information:

(A) the compensation or range of compensation for the job opening;
and

(B) the job description, if any, for the job opening.

(2) An advertisement for a job opening that is paid solely on a commission basis shall disclose that fact and is not required to disclose the compensation or range of compensation pursuant to subdivision (1)(A) of this subsection.

(b) It shall be a violation of this section and subdivision 495(a)(8) of this subchapter for an employer to refuse to interview, hire, promote, or employ a current or prospective employee for asserting or exercising any rights provided pursuant to this section.

(c) As used in this section:

(1) “Advertisement” means written notice, in any format, of a specific job opening that is made available to potential applicants. “Advertisement” does not include:

(A) general announcements that notify potential applicants that employment opportunities may exist with the employer but do not identify any specific job openings; or

(B) verbal announcements of employment opportunities that are made in person or on the radio, television, or other digital or electronic mediums.

(2) “Employer” means an employer, as defined pursuant to section 495d of this subchapter, that employs five or more employees.

(3) “Potential applicants” includes both current employees of the employer and members of the general public.

(4) “Range of compensation” means the minimum and maximum annual salary or hourly wage for a job opening that the employer believes in good faith to be accurate at the time the employer creates the advertisement.

(5) “Vermont job opening” and “job opening” mean any position of employment that is:

(A) either:

(i) located in Vermont; or

(ii) if it is located outside Vermont, reports to a supervisor, office, or work site in Vermont; and

(B) a position for which an employer is hiring, including:

(i) positions that are open to internal candidates or external candidates, or both; and

(ii) positions into which current employees of the employer can transfer or be promoted.

Sec. 2. EFFECTIVE DATE

This act shall take effect on January 1, 2025.

(Committee Vote: 10-1-1)

Senate Proposal of Amendment

H. 518

An act relating to the approval of amendments to the charter of the Town of Essex

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

In Sec. 2, 24 App. V.S.A. chapter 117 (Town of Essex), in section 701 (fiscal year), following the words “first day of July” by striking out the words “and end on the last day of June”

NOTICE CALENDAR

Committee Bill for Second Reading

H. 878

An act relating to miscellaneous judiciary procedures

(Rep. Rachelson of Burlington will speak for the Committee on Judiciary.)

Amendment to be offered by Rep. Small of Winooski to H. 878

That the bill be amended in Sec. 24, 15 V.S.A. § 558, in the title, by striking out “BIRTH” and inserting in lieu thereof of “PRIOR” and in the body of the statute, by striking out “birth” and inserting in lieu thereof “prior”

Favorable with Amendment

H. 585

An act relating to amending the pension system for sheriffs and certain deputy sheriffs

Rep. McCarthy of St. Albans City, for the Committee on Government Operations and Military Affairs, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 455 is amended to read:

§ 455. DEFINITIONS

(a) As used in this subchapter:

* * *

(11) “Member” means any employee included in the membership of the Retirement System under section 457 of this title.

* * *

(F) “Group G member” means:

(i) the following employees who are first employed in the positions listed in this subdivision (F)(i) on or after July 1, 2023, or who are members of the System as of June 30, 2022 and make an irrevocable election to prospectively join Group G on or before June 30, 2023, pursuant to the terms set by the Board: facility employees of the Department of Corrections, as Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community, as employees of a facility for justice-involved youth, ~~or as~~ and employees of the Vermont State Psychiatric Care Hospital employees or as employees of its successor in interest, who provide direct patient care; and

(ii) the following employees who are first employed in the positions listed in this subdivision (F)(ii) or first included in the membership of the System on or after January 1, 2025, or who are members of the System as of December 31, 2024 and make an irrevocable election to join Group G on or before December 31, 2024, pursuant to the terms set by the Board:

(I) all sheriffs; and

(II) deputy sheriffs who:

(aa) are employed by county sheriff’s departments that participate in the Vermont Employees’ Retirement System;

(bb) have attained Level II or Level III law enforcement officer certification from the Vermont Criminal Justice Council;

(cc) are required to perform law enforcement duties as the primary function of their employment; and

(dd) are not full-time deputy sheriffs compensated by the State of Vermont whose primary function is transports as defined in 24 V.S.A. § 290(b) and eligible for Group C pursuant to 3 V.S.A. § 455(9)(B).

* * *

(13) “Normal retirement date” means:

* * *

(E) with respect to a Group G member:

(i) for facility employees of the Department of Corrections, Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community, employees of a facility for justice-involved youth, or employees of the Vermont State Psychiatric Care Hospital or its predecessor or successor in interest, who provide direct patient care, who were first included in the membership of the System on or before June 30, 2008, who were employed as of June 30, 2022, and who made an irrevocable election to prospectively join Group G on or before July 1, 2023, pursuant to the terms set by the Board, the first day of the calendar month next following the earlier of:

(I) 62 years of age and following completion of five years of creditable service;

(II) completion of 30 years of creditable service; or

(III) 55 years of age and following completion of 20 years of creditable service; or

(ii) for facility employees of the Department of Corrections, Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community, as employees of a facility for justice-involved youth, or employees of the Vermont State Psychiatric Care Hospital or its predecessor or successor in interest, who provide direct patient care, who were first included in the membership of the System on or after July 1, 2008, who were employed as of June 30, 2022, and who made an irrevocable election to prospectively join Group G on or before July 1, 2023, pursuant to the terms set by the Board, the first day of the calendar month next following the earlier of:

(I) 65 years of age and following completion of five years of creditable service;

(II) attainment of 87 points reflecting a combination of the age of the member and number of years of service; or

(III) 55 years of age and following completion of 20 years of creditable service; or

(iii) for facility employees of the Department of Corrections, Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community, employees of a facility for justice-involved youth, or employees of the Vermont State Psychiatric Care Hospital or its predecessor or successor in interest, who provide direct patient care, who first become a Group G member on or after July 1, 2023, the first day of the calendar month next following the earlier of:

(I) attainment of 55 years of age and following completion of 20 years of creditable service; or

(II) 65 years of age and following completion of five years of creditable service;

(iv) for all sheriffs and those deputy sheriffs who meet the requirements pursuant to subdivision (11)(F)(ii) of this subsection (a), who were first included in the membership of the System on or before June 30, 2008, who were employed as of December 31, 2024, and who made an irrevocable election to prospectively join Group G on or before January 1, 2025, pursuant to the terms set by the Board, the first day of the calendar month next following the earlier of:

(I) 62 years of age and following completion of five years of creditable service;

(II) completion of 30 years of creditable service; or

(III) 55 years of age and following completion of 20 years of creditable service;

(v) for all sheriffs and those deputy sheriffs who meet the requirements pursuant to subdivision (11)(F)(ii) of this subsection (a), who were first included in the membership of the System on or after July 1, 2008, who were employed as of December 31, 2024, and who made an irrevocable election to prospectively join Group G on or before January 1, 2025, pursuant to the terms set by the Board, the first day of the calendar month next following the earlier of:

(I) 65 years of age and following completion of five years of creditable service;

(II) attainment of 87 points reflecting a combination of the age of the member and number of years of service; or

(III) 55 years of age and following completion of 20 years of creditable service; or

(vi) for all sheriffs and those deputy sheriffs who meet the requirements pursuant to subdivision (11)(F)(ii) of this subsection (a), who first become a Group G member after January 1, 2025, the first day of the calendar month next following the earlier of:

(I) attainment of 55 years of age and following completion of 20 years of creditable service; or

(II) 65 years of age and following completion of five years of creditable service.

* * *

Sec. 2. 3 V.S.A. § 459 is amended to read:

§ 459. NORMAL AND EARLY RETIREMENT

* * *

(b) Normal retirement allowance.

* * *

(6)(A) Upon normal retirement pursuant to subdivisions 455(a)(13)(E)(i) ~~and~~, (iii), (iv), and (vi) of this chapter, a Group G member shall receive a normal retirement allowance equal to two and one-half of a percent of the member's average final compensation times years of membership service in Group G. The maximum retirement allowance shall be 50 percent of average final compensation.

(B) Upon normal retirement pursuant to ~~subdivision~~ subdivisions 455(a)(13)(E)(ii) ~~and~~ (v) of this chapter, a Group G member shall receive a normal retirement allowance equal to two and one-half of a percent of the member's average final compensation times years of membership service in Group G. The maximum retirement allowance shall be 60 percent of average final compensation.

* * *

(d) Early retirement allowance.

* * *

(4)(A) Upon early retirement, a Group G member who was previously a Group F member first included in the membership of the System on or before June 30, 2008, and who elected to transfer into Group G ~~on July 1, 2023~~ pursuant to the terms set by the Board, shall receive an early retirement allowance that shall be equal to the normal retirement allowance reduced by the lesser of (i) one-half of one percent for each month equal to the difference between the 240 months and the member's months of creditable service, or (ii) an amount that shall be the actuarial equivalent of the normal retirement allowance computed under subsection (b) of this section.

(B) Upon early retirement, a Group G member who was previously a Group F member first included in the membership of the System on or after July 1, 2008, and who elected to transfer into Group G ~~on July 1, 2023~~ pursuant to the terms set by the Board, shall receive an early retirement allowance that shall be equal to the normal retirement allowance reduced by the lesser of (i) five-ninths of one percent for each month equal to the difference between the 240 months and the member's months of creditable service, or (ii) an amount that shall be the actuarial equivalent of the normal retirement allowance computed under subsection (b) of this section.

* * *

Sec. 3. 3 V.S.A. § 489 is amended to read:

§ 489. BENEFITS

Persons who become members of the Vermont State Retirement System under this subchapter and on behalf of whom contributions are paid as provided in this subchapter shall be entitled to benefits under the Vermont State Retirement System as though they were employees of the State of Vermont. These employees shall be considered "Group F members" as defined in subdivision 455(a)(11)(E) of this title, except that:

(1) elected municipal employees shall not be subject to mandatory retirement requirements; and

(2) sheriffs and those deputy sheriffs who meet the requirements pursuant to subdivision 455(a)(11)(F)(ii)(II) of this chapter shall be considered members of Group G.

Sec. 4. ONE-TIME IRREVOCABLE ELECTION FOR SHERIFFS AND

CERTAIN DEPUTY SHERIFFS

(a) On or before September 1, 2024, the Department of State's Attorneys and Sheriffs, in consultation with the Department of Human Resources and the Office of the State Treasurer, shall establish a list of positions newly eligible

for Group G of the Vermont State Employees' Retirement System, which shall be limited to the following:

(1) all sheriffs; and

(2) deputy sheriffs who:

(A) are employed by county sheriff's departments that participate in the Vermont State Employees' Retirement System;

(B) have attained Level II or Level III law enforcement officer certification from the Vermont Criminal Justice Council;

(C) are required to perform law enforcement duties as the primary function of their employment; and

(D) are not full-time deputy sheriffs compensated by the State of Vermont whose primary function is transports as defined in 24 V.S.A. § 290(b) and eligible for Group C pursuant to 3 V.S.A. § 455(9)(B).

(b) In establishing any new deputy sheriff position on and after January 1, 2025, the Department of State's Attorneys and Sheriffs, in consultation with sheriff's departments, shall identify that position as eligible for either Group C membership or Group G membership pursuant to the criteria as set forth in subsection (a) of this section.

(c)(1) A sheriff or deputy sheriff who qualifies for Group G membership shall have a one-time option to transfer to Group G on or before December 1, 2024. For a sheriff or deputy sheriff who qualifies for Group G membership who is first employed on or after December 1, 2024, election to join Group G under this subsection shall be made as soon as possible but shall be within 30 days from the employee's date of hire.

(2) Election to join the Group G plan under this subsection shall be irrevocable.

(d) The effective date of participation in a new group plan for those employees covered under this section and who elect to transfer to Group G shall be January 1, 2025. All past service accrued through the date of transfer shall be calculated based upon the plan in which it was accrued, with all provisions and penalties, if applicable, applied.

(e) The Department of State's Attorneys and Sheriffs shall notify the Office of the State Treasurer of changes in a deputy sheriff's eligibility for Group G within 30 days of the change in eligibility, pursuant to 3 V.S.A. § 455(11)(F)(ii)(II).

(f) Nothing in this section shall be read to extend postretirement health or other insurance benefits to Group G deputy sheriffs who work for county sheriff's departments.

Sec. 5. 32 V.S.A. § 1182(c) is added to read:

(c) Compensation under subsection (a) of this section shall be reduced by 30% for any sheriff whose law enforcement officer certification is permanently revoked pursuant to 20 V.S.A. § 2406.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee Vote: 12-0-0)

Rep. Beck of St. Johnsbury, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Government Operations and Military Affairs.

(Committee Vote: 11-0-1)

H. 706

An act relating to banning the use of neonicotinoid pesticides

Rep. Rice of Dorset, for the Committee on Agriculture, Food Resiliency, and Forestry, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Wild and managed pollinators are essential to the health and vitality of Vermont's agricultural economy, environment, and ecosystems. According to the Department of Fish and Wildlife (DFW), between 60 and 80 percent of the State's wild plants depend on pollinators to reproduce.

(2) Vermont is home to thousands of pollinators, including more than 300 native bee species. Many pollinator species are in decline or have disappeared from Vermont, including three bee species that the State lists as endangered. The Vermont Center for Ecostudies and DFW's State of Bees 2022 Report concludes that at least 55 of Vermont's native bee species need significant conservation action.

(3) Neonicotinoids are a class of neurotoxic, systemic insecticides that are extremely toxic to bees and other pollinators. Neonicotinoids are the most widely used class of insecticides in the world and include imidacloprid,

clothianidin, thiamethoxam, acetamiprid, dinotefuran, thiacloprid, and nithiazine.

(4) Among other uses, neonicotinoids are commonly applied to crop seeds as a prophylactic treatment. More than 90 percent of neonicotinoids applied to treated seeds move into soil, water, and nontarget plants. According to the Agency of Agriculture, Food and Markets, at least 1197.66 tons of seeds sold in Vermont in 2022 were treated with a neonicotinoid product.

(5) Integrated pest management is a pest management technique that protects public health, the environment, and agricultural productivity by prioritizing nonchemical pest management techniques. Under integrated pest management, pesticides are a measure of last resort. According to the European Academies Science Advisory Council, neonicotinoid seed treatments are incompatible with integrated pest management.

(6) A 2020 Cornell University report that analyzed more than 1,100 peer-reviewed studies found that neonicotinoid corn and soybean seed treatments pose substantial risks to bees and other pollinators but provide no overall net income benefits to farms. DFW similarly recognizes that neonicotinoid use contributes to declining pollinator populations.

(7) A 2014 peer-reviewed study conducted by the Harvard School of Public Health and published in the journal Bulletin of Insectology concluded that sublethal exposure to neonicotinoids is likely to be the main culprit for the occurrence of colony collapse disorder in honey bees.

(8) A 2020 peer-reviewed study published in the journal Nature Sustainability found that increased neonicotinoid use in the United States between 2008 and 2014 led to statistically significant reductions in bird biodiversity, particularly among insectivorous and grassland birds.

(9) A 2022 peer-reviewed study published in the journal Environmental Science and Technology found neonicotinoids in 95 percent of the 171 pregnant women who participated in the study. Similarly, a 2019 peer-reviewed study published in the journal Environmental Research found that 49.1 percent of the U.S. general population had recently been exposed to neonicotinoids.

(10) The European Commission and the provinces of Quebec and Ontario have implemented significant prohibitions on the use of neonicotinoids.

(11) The New York General Assembly passed legislation that prohibits the sale or use of corn, soybean, and wheat seed treated with imidacloprid, clothianidin, thiamethoxam, dinotefuran, or acetamiprid. The same legislation

prohibits the nonagricultural application of imidacloprid, clothianidin, thiamethoxam, dinotefuran, or acetamiprid to outdoor ornamental plants and turf.

Sec. 2. 6 V.S.A. § 1101 is amended to read:

§ 1101. DEFINITIONS

As used in this chapter unless the context clearly requires otherwise:

(1) “Secretary” ~~shall have~~ has the same meaning stated in subdivision 911(4) of this title.

(2) “Cumulative” when used in reference to a substance means that the substance so designated has been demonstrated to increase twofold or more in concentration if ingested or absorbed by successive life forms.

(3) “Dealer or pesticide dealer” means any person who regularly sells pesticides in the course of business, but not including a casual sale.

(4) “Economic poison” ~~shall have~~ has the same meaning stated in subdivision 911(5) of this title.

(5) “Pest” means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or ~~virus~~ viruses, bacteria, or other microorganisms that the Secretary declares as being injurious to health or environment. “Pest shall” does not mean any viruses, bacteria, or other microorganisms on or in living humans or other living animals.

(6) “Pesticide” for the purposes of this chapter ~~shall be~~ is used interchangeably with “economic poison.”

(7) “Treated article” means a pesticide or class of pesticides exempt under 40 C.F.R. § 152.25(a) from regulation under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136-136y.

(8) “Neonicotinoid pesticide” means any economic poison containing a chemical belonging to the neonicotinoid class of chemicals.

(9) “Neonicotinoid treated article seeds” are treated article seeds that are treated or coated with a neonicotinoid pesticide.

(10) “Agricultural commodity” means any food in its raw or natural state, including all fruits or vegetables that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

(11) “Agricultural emergency” means an occurrence of any pest that presents an imminent risk of significant harm, injury, or loss to agricultural crops.

(12) “Bloom” means the period from the onset of flowering or inflorescence until petal fall is complete.

(13) “Crop group” means the groupings of agricultural commodities specified in 40 C.F.R. § 180.41(c) (2023).

(14) “Environmental emergency” means an occurrence of any pest that presents a significant risk of harm or injury to the environment, or significant harm, injury, or loss to agricultural crops or turf, including any exotic or foreign pest that may need preventative quarantine measures to avert or prevent that risk, as determined by the Secretary of Agriculture, Food and Markets.

(15) “Ornamental plants” mean perennials, annuals, and groundcover purposefully planted for aesthetic reasons.

(16) “Turf” means land planted in closely mowed, managed grasses, including residential and commercial property and publicly owned land, parks, and recreation areas. “Turf” does not include pasture, cropland, land used to grow sod, or any other land used for agricultural production.

Sec. 3. 6 V.S.A. § 1105b is added to read:

§ 1105b. USE AND SALE OF NEONICOTINOID TREATED ARTICLE

SEEDS

(a) No person shall sell, offer for sale or use, distribute, or use any neonicotinoid treated article seed for soybeans or for any crop in the cereal grains crop group (crop groups 15, 15-22, 16, and 16-22).

(b) The Secretary of Agriculture, Food and Markets, after consultation with the Secretary of Natural Resource, may issue a written exemption order to suspend the provisions of subsection (a) of this section. Such written exemption order shall not be valid for more than one year.

(c) A written exemption order issued under subsection (b) of this section shall:

(1) specify the types of neonicotinoid treated article seeds to which the exemption order applies, the date on which the exemption order takes effect; the exemption order’s duration; and the exemption order’s geographic scope, which may include specific farms, fields, or properties;

(2) provide a detailed evaluation of the agricultural seed market, including a determination either that the purchase of seeds that comply with subsection (a) of this section would cause agricultural producers undue financial hardship or that there is an insufficient amount of commercially

available seed not treated with neonicotinoid pesticides to supply agricultural producers; and

(3) provide a detailed evaluation of the exemption order's anticipated effect on pollinator populations, bird populations, ecosystem health, and public health, including whether the exemption order will cause undue harm to pollinator populations, bird populations, ecosystem health, and public health.

(d) A written exemption order issued under subsection (b) of this section may:

(1) establish restrictions related to the use of neonicotinoid treated article seeds to which the exemption order applies to minimize harm to pollinator populations, bird populations, ecosystem health, and public health; or

(2) establish other restrictions related to the use of neonicotinoid treated article seeds to which the exemption order applies that the Secretary of Agriculture, Food and Markets considers necessary.

(e) Upon issuing a written exemption order under subsection (b) of this section, the Secretary of Agriculture, Food and Markets shall submit a copy of the exemption order to the Senate Committees on Natural Resources and Energy and on Agriculture; the House Committees on Environment and Energy and on Agriculture, Food Resiliency, and Forestry; and the Agricultural Innovation Board. The General Assembly shall manage a written exemption order submitted under this section in the same manner as a report to the General Assembly and shall post the written exemption order to the website of the General Assembly.

(f) The Secretary of Agriculture, Food and Markets, after consultation with the Secretary of Natural Resources, may rescind a written exemption order issued under subsection (b) of this section at any time. Such rescission shall come into effect not sooner than 30 days after its issuance and shall not apply to neonicotinoid treated article seeds planted or sown before such rescission comes into effect.

Sec. 4. 6 V.S.A. § 1105c is added to read:

§ 1105c. NEONICOTINOID PESTICIDES; PROHIBITED USES

(a) The following uses of neonicotinoid pesticides are prohibited:

(1) the outdoor application of neonicotinoid pesticides to any crop during bloom;

(2) the outdoor application of neonicotinoid pesticides to soybeans or any crop in the cereal grains crop group (crop groups 15, 15-22, 16, and 16-22);

(3) the outdoor application of neonicotinoid pesticides to crops in the leafy vegetables, brassica, bulb vegetables, herbs and spices, and stalk, stem, and leaf petiole vegetables crop groups (crop groups 3, 3-07, 4, 4-16, 5, 5-16, 19, 22, 25, and 26) harvested after bloom;

(4) the application of neonicotinoid pesticides to ornamental plants; and

(5) the application of neonicotinoid pesticides to turf.

(b) The Secretary of Agriculture, Food and Markets, after consultation with the Secretary of Natural Resources, may issue a written exemption order to suspend the provisions of subsection (a) of this section. Such written exemption order shall not be valid for more than one year.

(c) A written exemption order issued under subsection (b) of this section shall:

(1) specify the neonicotinoid pesticides, uses, and crops, plants, or turf to which the exemption order applies; the date on which the exemption order takes effect; the exemption order's duration; and the exemption order's geographic scope, which may include specific farms, fields, or properties;

(2) provide a detailed evaluation determining that an agricultural emergency or an environmental emergency exists;

(3) provide a detailed evaluation of reasonable responses available to address the agricultural emergency or the environmental emergency, including a determination that the use of the neonicotinoid pesticides to which the exemption order applies would be effective in addressing the emergency and a determination that there is no other less harmful pesticide or pest management practice that would be effective in addressing the emergency; and

(4) provide a detailed evaluation of the exemption order's anticipated effects on pollinator populations, bird populations, ecosystem health, and public health, including whether the exemption order will cause undue harm to pollinator population, bird populations, ecosystem health, and public health.

(d) A written exemption order issued under subsection (b) of this section may:

(1) establish restrictions related to the use of neonicotinoid pesticides to which the exemption order applies to minimize harm to pollinator populations, bird populations, ecosystem health, and public health; or

(2) establish other restrictions related to the use of neonicotinoid pesticides to which the exemption order applies that the Secretary of Agriculture, Food and Markets considers necessary.

(e) Upon issuing a written exemption order under subsection (b) of this section, the Secretary of Agriculture, Food and Markets shall submit a copy of the exemption order to the Senate Committees on Natural Resources and Energy and on Agriculture; the House Committees on Environment and Energy and on Agriculture, Food Resiliency, and Forestry; and the Agricultural Innovation Board. The General Assembly shall manage a written exemption order submitted under this section in the same manner as a report to the General Assembly and shall post the written exemption order to the website of the General Assembly.

(f) The Secretary of Agriculture, Food and Markets, after consultation with the Secretary of Natural Resources, may rescind any written exemption order issued under subsection (b) of this section at any time. Such rescission shall come into effect not sooner than 15 days after its issuance.

Sec. 5. 6 V.S.A. § 918 is amended to read:

§ 918. REGISTRATION

(a) Every economic poison that is distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State shall be registered in the Office of the Secretary, and such registration shall be renewed annually, provided that products that have the same formula are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same economic poison may be registered as a single economic poison, and additional names and labels shall be added by supplemental statements during the current period of registration. It is further provided that any economic poison imported into this State, which is subject to the provisions of any federal act providing for the registration of economic poisons and that has been duly registered under the provisions of this chapter, may, in the discretion of the Secretary, be exempted from registration under this chapter when sold or distributed in the unbroken immediate container in which it was originally shipped. The registrant shall file with the Secretary a statement including:

* * *

(f) Unless the use or sale of a neonicotinoid pesticide is otherwise prohibited, the Secretary shall register as a restricted use pesticide any neonicotinoid pesticide labeled as approved for outdoor use that is distributed,

sold, sold into, or offered for sale within the State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State, provided that the Secretary shall not register the following products as restricted use pesticides unless classified under federal law as restricted use products:

(1) pet care products used for preventing, destroying, repelling, or mitigating fleas, mites, ticks, heartworms, or other insects or organisms;

(2) personal care products used for preventing, destroying, repelling, or mitigating lice or bedbugs; and

(3) indoor pest control products used for preventing, destroying, repelling, or mitigating insects indoors; ~~and~~

~~(4) treated article seed.~~

Sec. 6. 6 V.S.A. § 1105a(c) is amended to read:

(c)(1) Under subsection (a) of this section, the Secretary of Agriculture, Food and Markets, after consultation with the Agricultural Innovation Board, shall adopt by rule BMPs for the use in the State of:

(A) neonicotinoid treated article seeds when used prior to January 1, 2029;

(B) neonicotinoid treated article seeds when the Secretary issues a written exemption order pursuant to section 1105b of this chapter authorizing the use of neonicotinoid treated article seeds;

(C) neonicotinoid pesticides when the Secretary issues a written exemption order pursuant to section 1105c of this chapter authorizing the use of neonicotinoid pesticides; and

(D) the agricultural use after July 1, 2025 of neonicotinoid pesticides the use of which is not otherwise prohibited under law.

(2) In developing the rules with the Agricultural Innovation Board, the Secretary shall address:

(A) establishment of threshold levels of pest pressure required prior to use of neonicotinoid treated article seeds or neonicotinoid pesticides;

(B) availability of nontreated article seeds that are not neonicotinoid treated article seeds;

(C) economic impact from crop loss as compared to crop yield when neonicotinoid treated article seeds or neonicotinoid pesticides are used;

(D) relative toxicities of different neonicotinoid treated article seeds or neonicotinoid pesticides and the effects of neonicotinoid treated article seeds or neonicotinoid pesticides on human health and the environment;

(E) surveillance and monitoring techniques for in-field pest pressure;

(F) ways to reduce pest harborage from conservation tillage practices; and

(G) criteria for a system of approval of neonicotinoid treated article seeds or neonicotinoid pesticides.

(2)(3) In implementing the rules required under this subsection, the Secretary of Agriculture, Food and Markets shall work with farmers, seed companies, and other relevant parties to ensure that farmers have access to appropriate varieties and amounts of untreated seed or treated seed that are not neonicotinoid treated article seeds.

Sec. 7. 2022 Acts and Resolves No. 145, Sec. 4 is amended to read:

Sec. 4. IMPLEMENTATION; REPORT; RULEMAKING

(a) On or before March 1, 2024, the Secretary of Agriculture, Food, and Markets shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture, Food Resiliency, and Forestry a copy of the proposed rules required to be adopted under 6 V.S.A. § 1105a(c)(1)(A).

(b) The Secretary of Agriculture shall not file the final proposal of the rules required by 6 V.S.A. § 1105a(c)(1)(A) under 3 V.S.A. § 841 until at least 90 days from submission of the proposed rules to the General Assembly under subsection (a) of this section or July 1, 2024, ~~which ever~~ whichever shall occur first.

Sec. 8. EFFECTIVE DATES

(a) This section and Secs. 1 (findings), 2 (definitions), 5 (registration), and 6 (BMP rules), 7 (implementation) shall take effect on passage.

(b) Sec. 4 (prohibited use; neonicotinoid pesticides) shall take effect on July 1, 2025.

(c) Sec. 3 (treated article seed) shall take effect on January 1, 2029.

(Committee Vote: 8-2-1)

Rep. Taylor of Colchester, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Agriculture, Food Resiliency, and Forestry.

(Committee Vote: 8-4-0)

Rep. Toleno of Brattleboro, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Agriculture, Food Resiliency, and Forestry.

(Committee Vote: 11-1-0)

H. 845

An act relating to designating November as Veterans Month

Rep. Hooper of Burlington, for the Committee on Government Operations and Military Affairs, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly to honor the special value of the military service that the veterans of the U.S. Armed Forces have contributed to the security and well-being of our nation by designating November as Vermont Month of the Veteran.

Sec. 2. 1 V.S.A. § 378 is added to read:

§ 378. VERMONT MONTH OF THE VETERAN

November of each year is designated as the Vermont Month of the Veteran.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

and that after passage the title of the bill be amended to read: “An act relating to designating November as Vermont Month of the Veteran”

(Committee Vote: 12-0-0)

For Informational Purposes

NOTICE OF CROSSOVER DATES

The Committee on Joint Rules adopted the following Crossover dates:

(1) All **House/Senate** bills must be reported out of the last committee of reference (including the Committees on Appropriations and on Ways and Means/Finance, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 15, 2024** and filed with the Clerk/Secretary so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by **Friday, March 15, 2024**.

(2) All **House/Senate** bills referred pursuant to House Rule 35(a) or Senate Rule 31 to the Committees on Appropriations and on Ways and Means/Finance must be reported out by the last of those committees on or before **Friday, March 22, 2024** and filed with the Clerk/Secretary so they may be placed on the Calendar for Notice the next legislative day.

Exceptions the foregoing deadlines include the major money bills (the general Appropriations bill (“The Big Bill”), the Transportation Capital bill, the Capital Construction bill, the Pay Act, and the Fee and miscellaneous tax bills).

JOINT FISCAL COMMITTEE NOTICES

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 #3193: Land donation of 18.6 acres of undevelopable wetlands in Newport City, VT from Linda Chamberlin Mosher to the Agency of Natural Resources, Department of Fish and Wildlife. The land abuts the existing South Bay Wildlife Management Area and will expand wildlife and fish habitats and improve public access. The donation value is \$51,500.00. Estimated closing costs of \$10,000.00 and ongoing maintenance costs are covered by already budgeted federal funds. No state funds will be used for the acquisition.

Received March 12, 2024]

JFO #3192: \$327,250.00 to the Agency of Human Services, Department of Health from the Centers for Disease Control and Prevention for data collection and public awareness related to Chronic Obstructive Pulmonary Disease. The grant is expected to fund yearly through 9/29/2027. The grant includes one (1) limited-service position, Health Systems Program Administrator, to manage contracts and grants associated with the funding and communications with the CDC. The position is also funded through 9/29/2027.

[Received March 12, 2024]

JFO #3191: One (1) limited-service position to the Agency of Human Services, Department of Health to assess and carry out work related to data on maternal mortality and sudden unexpected infant deaths. Position requires quality assurance of data and transfer to federal data tracking systems. Position is funded through 09/29/2024 through previously approved JFO #1891.

[Received March 12, 2024]

JFO #3190: \$900,000.00 to the Agency of Human Services, Department of Corrections from the U.S. Department of Justice. Funds will enhance the reentry vocational case management of incarcerated individuals who are

assessed for moderate and above risk of reoffending. The funds include one (1) limited-service position, Vocational Outreach Project Manager, fully funded through 9/30/2026.

[Received March 1, 2024]

JFO #3189: \$10,000,000.00 to the Agency of Human Services, Department of Disabilities, Aging and Independent Living from the U.S. Department of Education. The funds will be used to support the transition of youths with disabilities from high school to adulthood. The grants will support six (6) limited-service positions through 9/30/2028 that will work to support partnerships with all supervisory unions and the agencies focusing on employment opportunities for adults with disabilities.

[Received March 1, 2024]

JFO #3188: There are two sources of funds related to this request: \$50,000.00 from the Vermont Land Trust and \$20,000.00 from the Lintilhac Foundation, all to the Agency of Natural Resources, Department of Forests, Parks and Recreation. All funds will go to support the acquisition of a 19-acre property in Island Pond which will expand the Brighton State Park.

[Received March 4, 2024]

JFO #3187: Two (2) limited-service positions to the Public Service Department, Vermont Community Broadband Board: Administrative Services Manager III and Data and Information Project Manager. Positions will carry out work related to the federal Broadband Equity, Access and Deployment (BEAD) program. This program has the potential to bring in additional Broadband investment, provided local applications are successful. Positions are fully funded through 11/30/2027 and are funded by previously approved JFO #3136.

[Received February 26, 2024]

JFO #3186: \$4,525,801.81 to the Agency of Agriculture, Food and Markets from the U.S. Department of Agriculture. The majority of funds to be sub-awards to Vermont's agricultural businesses and organizations to build resilience in the middle of the food supply chain and to support market development for small farms and food businesses. Includes full funding for one (1) limited-service position, Agriculture Development Specialist II and 50% support for one (1) limited-service position, Contracts and Grants Specialist I. The other 50% for the position will come from already approved JFO #2982.

[Received February 8, 2024]

JFO #3185: \$70,000.00 to the Attorney General's Office from the Sears Consumer Protection and Education Fund to improve accessibility and outreach of the Vermont Consumer Assistance Program to underserved populations in Vermont.

[Received January 31, 2024]

JFO #3184: Three (3) limited-service positions to the Agency of Human Services, Department of Health. One (1) Substance Abuse Program Evaluator, funded through 8/31/28; and one (1) Public Health Specialist II, and one (1) Family Service Specialist both funded through 9/29/2024. The positions are fully funded by previously approved JFO requests #3036 and #1891. These positions will support Vermont's Overdose Data to Action program and the Maternal Mortality Review Panel.

[Received January 31, 2024]

JFO #3183: \$182,500.00 to the Agency of Natural Resources, Department of Forests, Parks and Recreation. Funds will be used to complete the purchase of a conservation easement on a 183-acre parcel of land in Townshend, Vermont (Peterson Farm). *[Note: Remainder of the easement (\$82,500) is supported by a State appropriation agreement between the department and the VHCB. Closing costs, including department staff time, is funded by already budgeted federal funds. Ongoing enforcement costs are managed by the department's Lands and Facilities Trust Fund. A \$15,000.00 stewardship contribution to this fund will be made by the landowner at the time of the sale.]*

[Received January 31, 2024]

JFO #3182: \$125,000.00 to Agency of Natural Resources, Department of Environmental Conservation from the New England Interstate Water Pollution Control Commission to expand current monitoring of cyanotoxins in Lake Champlain and Vermont inland lakes.

[Received January 31, 2024]

JFO #3181: \$409,960.00 to the Agency of Commerce and Community Development, Department of Housing and Community Development from the U.S. Department of the Interior/National Park Service. Funds will be used for the preservation, repair, and restoration of the Old Constitution House, located in Windsor, Vermont. The first Constitution of Vermont was adopted on this site, then known as Elijah West's Tavern, on July 8, 1777. *[Note: A State match of \$53,714.00 is accomplished within the agency budget through the reduction of a fraction of an existing position base and existing capital bill funds.]*

[Received January 31, 2024]

JFO #3180: One (1) limited-service position, Administrative Services Director III, to the Agency of Administration, Recovery Office. Position will ensure that flood recovery projects are integrated with existing state and federal programs. Will also ensure compliance and tracking of already awarded grants as well as those anticipated in the wake of the July 2023 flooding event. Position is funded through already approved JFO Request #3165 as well as Acts 74 (2021) and 185 (2022). The position is fully funded through 7/31/2027.

[Received January 31, 2024]

JFO #3179: Two (2) limited-service positions. One (1) to the Department of Mental Health, Project AWARE Lead Coordinator and one (1) to the Agency of Education, Project AWARE Co-Coordinator. The positions will liaison to coordinate and expand the state's efforts to develop sustainable infrastructure for school-based mental health. Both positions are fully funded through 9/29/28 from previous SAMHSA grant award JFO #2934.

[Received January 26, 2024]

JFO #3178: \$456,436.00 to the Agency of Natural Resources, Secretary's Office from the U.S. Environmental Protection Agency. Funds will support (1) limited-service position, Environmental Analyst IV. This position will serve as administrative lead developing the updated Climate Action Plan with the Vermont Climate Council and perform added work required by the EPA grant. Position is funded through 6/30/2027.

[Received January 11, 2024]

JFO #3177: \$2,543,564.00 to the Agency of Natural Resources, Secretary's Office from the U.S. Environmental Protection Agency. Funding is phase one of a two-phase funding opportunity aimed to support Vermont with climate change mitigation planning efforts. A comprehensive climate action plan will be developed, to overlap with and be synonymous to the required update to Vermont's Climate Action Plan in 2025.

[Received January 12, 2024]

JFO #3176: \$250,000.00 to the Agency of Human Services, Department of Mental Health from the National Association of State Mental Health Program Directors. These funds will increase rapid access to behavioral health care by supporting the peer service component of the mental health urgent care clinic being established in Chittenden County. This clinic will offer an alternative to seeking mental health care in emergency departments

[Received January 11, 2024]