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Second Reading

Favorable with Recommendation of Amendment

S. 60.

An act relating to local option taxes.

Pending Question: Shall the bill be amended as recommended by the Committee on Finance?

UNFINISHED BUSINESS OF WEDNESDAY, MARCH 22, 2023

Second Reading

Favorable with Recommendation of Amendment

S. 89.

An act relating to establishing a forensic facility.

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

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Admission to Forensic Facility for Persons in Need of Treatment or Continued Treatment * * *

Sec. 1. 18 V.S.A. § 7101 is amended to read:

§ 7101. DEFINITIONS

As used in this part of this title, the following words, unless the context otherwise requires, shall have the following meanings:

***

(31)(A) "Forensic facility" means a residential facility, licensed as a therapeutic community residence as defined in 33 V.S.A. § 7102(11), for an individual initially committed pursuant to:

(i) 13 V.S.A. § 4822 who is in need of treatment or further treatment pursuant to chapter 181 of this title within a secure setting for an extended period of time; or

(ii) 13 V.S.A. § 4823 who is in need of custody, care, and habilitation pursuant to chapter 206 of this title, within a secure setting for an extended period of time.

(B) A forensic facility shall not be used for any purpose other than the purposes permitted by this part or chapter 206 of this title. As used in this subdivision, "secure" has the same meaning as in section 7620 of this title.

Sec. 2. 18 V.S.A. § 7612 is amended to read:

§ 7612. APPLICATION FOR INVOLUNTARY TREATMENT

(a) An interested party may, by filing a written application, commence proceedings for the involuntary treatment of an individual by judicial process.

(b) The application shall be filed in the Family Division of the Superior Court.

(c) If the application is filed under section 7508 or 7620 of this title, it shall be filed in the unit of the Family Division of the Superior Court in which the hospital is located. In all other cases, it shall be filed in the unit in which the proposed patient resides. In the case of a nonresident, it may be filed in any unit. The court may change the venue of the proceeding to the unit in which the proposed patient is located at the time of the trial.

(d) The application shall contain:

(1) The name and address of the applicant.

(2) A statement of the current and relevant facts upon which the allegation of mental illness and need for treatment is based. The application shall be signed by the applicant under penalty of perjury.

(e) The application shall be accompanied by:

(1) a certificate of a licensed physician, which shall be executed under penalty of perjury stating that ~~he or she~~ the licensed physician has examined the proposed patient within five days ~~of~~ from the date the petition is filed and is of the opinion that the proposed patient is a person in need of treatment, including the current and relevant facts and circumstances upon which the physician's opinion is based; or

(2) a written statement by the applicant that the proposed patient refused to submit to an examination by a licensed physician.

(f) Before an examining physician completes the certificate of examination, ~~he or she~~ the examining physician shall consider available alternative forms of care and treatment that might be adequate to provide for the person's needs without requiring hospitalization. The examining physician shall document on

the certificate the specific alternative forms of care and treatment that ~~he or she~~ the examining physician considered and why those alternatives were deemed inappropriate, including information on the availability of any appropriate alternatives.

(g) If the Commissioner seeks to have a person receive treatment in a forensic facility pursuant to an order of nonhospitalization, the application for an order authorizing treatment shall expressly state that such treatment is being sought. The application shall contain, in addition to the statements required by this section, a statement setting forth the reasons for the Commissioner's determination that clinically appropriate treatment for the person's condition can be provided safely only in a forensic facility.

Sec. 3. 18 V.S.A. § 7615 is amended to read:

§ 7615. HEARING ON APPLICATION FOR INVOLUNTARY TREATMENT

(a)(1) Upon receipt of the application, the court shall set a date for the hearing to be held within 10 days from the date of the receipt of the application or 20 days from the date of the receipt of the application if a psychiatric examination is ordered under section 7614 of this title unless the hearing is continued by the court pursuant to subsection (b) of this section.

(2)(A) The applicant or a person who is certified as a person in need of treatment pursuant to section 7508 of this title may file a motion to expedite the hearing. The motion shall be supported by an affidavit, and the court shall rule on the motion on the basis of the filings without holding a hearing. The court:

(i) shall grant the motion if it finds that the person demonstrates a significant risk of causing the person or others serious bodily injury as defined in 13 V.S.A. § 1021 even while hospitalized, and clinical interventions have failed to address the risk of harm to the person or others;

(ii) may grant the motion if it finds that the person has received involuntary medication pursuant to section 7624 of this title during the past two years and, based upon the person's response to previous and ongoing treatment, there is good cause to believe that additional time will not result in the person establishing a therapeutic relationship with providers or regaining competence.

(B) If the court grants the motion for expedited hearing pursuant to this subdivision, the hearing shall be held within ten days from the date of the order for expedited hearing.

(3)(A) The applicant or a person for whom an order of nonhospitalization at a forensic facility is sought may file a motion to expedite the hearing. The motion shall be supported by an affidavit. The court:

(i) shall grant the motion if it finds that the person demonstrates a significant risk of causing the person or others serious bodily injury as defined in 13 V.S.A. § 1021 even while in custody, and clinical interventions have failed to address the risk of harm to the person or others;

(ii) may grant the motion if it finds that the person has received involuntary medication pursuant to section 7624 of this title during the past two years and, based upon the person's response to previous and ongoing treatment, there is good cause to believe that additional time will not result in the person establishing a therapeutic relationship with providers or regaining competence.

(B) If the court grants the motion for expedited hearing pursuant to this subdivision, the hearing shall be held within three days from the date of the order for expedited hearing. The court may grant an extension of not more than five days to allow for a psychiatric examination in accordance with section 7614 of this title.

(4) If a hearing on the application for involuntary treatment has not occurred within 60 days from the date of the court's receipt of the application, the Commissioner shall request that the court and both parties' attorneys provide the reasons for the delay. The Commissioner shall submit a report to the court, the Secretary of Human Services, and the patient's attorney that either explains why the delay was warranted or makes recommendations as to how delays of this type can be avoided in the future.

* * *

Sec. 4. 18 V.S.A. § 7618 is amended to read:

§ 7618. ORDER; NONHOSPITALIZATION

(a)(1) If the court finds that a treatment program other than hospitalization is adequate to meet the person's treatment needs, the court shall order the person to receive whatever treatment other than hospitalization is appropriate for a period of 90 days.

(2) If the Commissioner determines that treatment at a forensic facility is appropriate, and the court finds that treatment at a forensic facility is the least restrictive setting adequate to meet the person's needs, the court shall order the person to receive treatment there for a period of 90 days. The court may at any time, on its own motion or on motion of an interested party, review the need for treatment at the forensic facility.

(b) If at any time during the specified period it comes to the attention of the court either that the patient is not complying with the order or that the alternative treatment has not been adequate to meet the patient's treatment needs, the court may, after proper hearing:

(1) ~~Consider~~ consider other alternatives, modify its original order, and direct the patient to undergo another program of alternative treatment for the remainder of the 90-day period; or

(2) ~~Enter~~ enter a new order directing that the patient be hospitalized for the remainder of the 90-day period.

Sec. 5. 18 V.S.A. § 7620 is amended to read:

§ 7620. APPLICATION FOR CONTINUED TREATMENT

(a) If, prior to the expiration of any order issued in accordance with section 7623 of this title, the Commissioner believes that the condition of the patient is such that the patient continues to require treatment, the Commissioner shall apply to the court for a determination that the patient is a patient in need of further treatment and for an order of continued treatment.

(b) An application for an order authorizing continuing treatment shall contain a statement setting forth the reasons for the Commissioner's determination that the patient is a patient in need of further treatment, a statement describing the treatment program provided to the patient, and the results of that course of treatment.

(c) Any order of treatment issued in accordance with section 7623 of this title shall remain in force pending the court's decision on the application.

(d) If the Commissioner seeks to have the patient receive the further treatment in a forensic facility or secure residential recovery facility, the application for an order authorizing continuing treatment shall expressly state that such treatment is being sought. The application shall contain, in addition to the statements required by subsection (b) of this section, a statement setting forth the reasons for the Commissioner's determination that clinically appropriate treatment for the patient's condition can be provided safely only in a secure residential recovery facility or forensic facility, as appropriate.

(e) As used in this chapter:

(1) "Secure," when describing a residential facility, means that the residents can be physically prevented from leaving the facility by means of locking devices or other mechanical or physical mechanisms.

(2) "Secure residential recovery facility" means a residential facility, licensed as a therapeutic community residence as defined in 33 V.S.A.

§ 7102(11), for an individual who no longer requires acute inpatient care but who does remain in need of treatment within a secure setting for an extended period of time. A secure residential recovery facility shall not be used for any purpose other than the purposes permitted by this section.

Sec. 6. 18 V.S.A. § 7621 is amended to read:

§ 7621. HEARING ON APPLICATION FOR CONTINUED TREATMENT; ORDERS

* * *

(c) If the court finds that the patient is a patient in need of further treatment but does not require hospitalization, it shall order nonhospitalization for up to one year. If the treatment plan proposed by the Commissioner for a patient in need of further treatment includes admission to a secure residential recovery facility or a forensic facility, the court may at any time, on its own motion or on motion of an interested party, review the need for treatment at the secure residential recovery facility or forensic facility, as applicable.

* * *

Sec. 7. 18 V.S.A. § 7624 is amended to read:

§ 7624. APPLICATION FOR INVOLUNTARY MEDICATION

(a) The Commissioner may commence an action for the involuntary medication of a person who is refusing to accept psychiatric medication and meets any one of the following ~~six~~ conditions:

(1) has been placed in the Commissioner's care and custody pursuant to section 7619 of this title or subsection 7621(b) of this title;

(2) has previously received treatment under an order of hospitalization and is currently under an order of nonhospitalization, including a person on an order of nonhospitalization who resides in a secure residential recovery facility;

(3) has been committed to the custody of the Commissioner of Corrections as a convicted felon and is being held in a correctional facility ~~which~~ that is a designated facility pursuant to section 7628 of this title and for whom the Departments of Corrections and of Mental Health have determined jointly that involuntary medication would be appropriate pursuant to 28 V.S.A. § 907(4)(H);

(4) has an application for involuntary treatment pending for which the court has granted a motion to expedite pursuant to subdivision 7615(a)(2)(A)(i) of this title;

(5)(A) has an application for involuntary treatment pending;

(B) waives the right to a hearing on the application for involuntary treatment until a later date; and

(C) agrees to proceed with an involuntary medication hearing without a ruling on whether he or she is a person in need of treatment; ~~or~~

(6) has been placed under an order of nonhospitalization in a forensic facility or has an application for involuntary treatment at a forensic facility pending for which the court has granted a motion to expedite pursuant to subdivision 7615(a)(3)(A)(i) of this title, regardless of whether the person has previously been under an order of hospitalization; or

(7) has had an application for involuntary treatment pending pursuant to subdivision 7615(a)(1) of this title for more than 26 days without a hearing having occurred and the treating psychiatrist certifies, based on specific behaviors and facts set forth in the certification, that in ~~his or her~~ the psychiatrist's professional judgment there is good cause to believe that:

(A) additional time will not result in the person establishing a therapeutic relationship with providers or regaining competence; and

(B) serious deterioration of the person's mental condition is occurring.

(b)(1) Except as provided in subdivisions (2), (3), and (4) of this subsection, an application for involuntary medication shall be filed in the Family Division of the Superior Court in the county in which the person is receiving treatment.

(2) If the application for involuntary medication is filed pursuant to subdivision (a)(4) or (a)(6) of this section:

(A) the application shall be filed in the county in which the application for involuntary treatment is pending; and

(B) the court shall consolidate the application for involuntary treatment with the application for involuntary medication and rule on the application for involuntary treatment before ruling on the application for involuntary medication.

(3) If the application for involuntary medication is filed pursuant to subdivision (a)(5) or (a)~~(6)~~(7) of this section, the application shall be filed in the county in which the application for involuntary treatment is pending.

(4) Within 72 hours of the filing of an application for involuntary medication pursuant to subdivision (a)~~(6)~~(7) of this section, the court shall

determine, based solely upon a review of the psychiatrist's certification and any other filings, whether the requirements of that subdivision have been established. If the court determines that the requirements of subdivision (a)~~(6)~~(7) of this section have been established, the court shall consolidate the application for involuntary treatment with the application for involuntary medication and hear both applications within ten days of the date that the application for involuntary medication is filed. The court shall rule on the application for involuntary treatment before ruling on the application for involuntary medication. Subsection 7615(b) of this title shall apply to applications consolidated pursuant to this subdivision.

* * *

Sec. 8. 18 V.S.A. § 7627 is amended to read:

§ 7627. COURT FINDINGS; ORDERS

* * *

(o) For a person who is receiving treatment pursuant to an order of nonhospitalization in a forensic facility, if the court finds that without an order for involuntary medication there is a substantial probability that the person would continue to refuse medication and as a result would pose a danger of harm to self or others, the court may the order administration of involuntary medications at a forensic facility for up to 90 days, unless the court finds that an order is necessary for a longer period of time. An order for involuntary medication pursuant to this subsection shall not be longer than the duration of the current order of nonhospitalization. If at any time the treating psychiatrist finds that a person subject to an order for involuntary medication has become competent pursuant to subsection 7625(c) of this title, the order shall no longer be in effect.

* * * Persons in Need of Custody, Care, and Habilitation or Continued Custody, Care, and Habilitation * * *

Sec. 9. 13 V.S.A. § 4823 is amended to read:

§ 4823. FINDINGS AND ORDER; PERSONS WITH AN INTELLECTUAL DISABILITY

(a) If the court finds that such person is a person in need of custody, care, and habilitation as defined in 18 V.S.A. § 8839, the court shall issue an order of commitment directed to the Commissioner of Disabilities, Aging, and Independent Living for placement in a designated program in the least restrictive environment consistent with the person's need for custody, care, and habilitation ~~of such person for an indefinite or limited period in a designated program~~ for an indefinite or limited period.

(b) ~~Such order of commitment shall have the same force and effect as an order issued under 18 V.S.A. § 8843 and persons committed under such an order shall have the same status, and the same rights, including the right to receive care and habilitation, to be examined and discharged, and to apply for and obtain judicial review of their cases, as persons ordered committed under 18 V.S.A. § 8843~~ Judicial review procedures for an order issued pursuant to subsection (a) of this section and for discharge from an order of commitment shall occur in accordance with 18 V.S.A. § 8845.

(c)(1) ~~Section 4822 of this title shall apply to persons proposed for discharge under this section; however, judicial proceedings shall be conducted in the Criminal Division of the Superior Court in which the person then resides, unless the person resides out of State in which case the proceedings shall be conducted in the original committing court~~ If the Commissioner seeks to have a person committed pursuant to this section placed in a forensic facility, the Commissioner shall provide a statement setting forth the reasons for the Commissioner's determination that clinically appropriate treatment and programming can be provided safely only in a forensic facility.

(2) As used in this subchapter, "forensic facility" has the same meaning as in section 7101 of this title.

Sec. 10. 18 V.S.A. § 8839 is amended to read:

§ 8839. DEFINITIONS

As used in this subchapter:

(1) ~~"Danger of harm to others" means the person has inflicted or attempted to inflict serious bodily injury to another or has committed an act that would constitute a sexual assault or lewd or lascivious conduct with a child~~ "Commissioner" means the Commissioner of Disabilities, Aging, and Independent Living.

(2) "Designated program" means a program designated by the Commissioner as adequate to provide in an individual manner appropriate custody, care, and habilitation to persons with intellectual disabilities receiving services under this subchapter.

(3) "Person in need of custody, care, and habilitation" means a person:

(A) ~~a person~~ with an intellectual disability, which means significantly subaverage intellectual functioning existing concurrently with deficits in adaptive behavior that were manifest before 18 years of age;

(B) who ~~presents a danger of harm to others~~ has inflicted or attempted to inflict serious bodily injury to another or who has committed an

act that would constitute a sexual assault or lewd and lascivious conduct with a child; and

(C) for whom appropriate custody, care, and habilitation can be provided by the Commissioner in a designated program.

(4) "Person in need of continued custody, care, and habilitation" means a person who was previously found to be a person in need of custody, care, and habilitation who poses a danger of harm to others and for whom the Commissioner has, in the Commissioner's discretion, consented to or approved the continuation of the designated program. A danger of harm to others shall be shown by establishing that, in the time since the last order of commitment was issued, the person:

(A) has inflicted or attempted to inflict physical or sexual harm to another;

(B) by the person's threats or actions, has placed another person in reasonable fear of physical or sexual harm; or

(C) has exhibited behavior demonstrating that, absent treatment or programming provided by the Commissioner, there is a reasonable likelihood that the person would inflict or attempt to inflict physical or sexual harm to another.

Sec. 11. 18 V.S.A. § 8840 is amended to read:

§ 8840. ~~JURISDICTION AND VENUE~~

~~Proceedings brought under this subchapter for commitment to the Commissioner for custody, care, and habilitation shall be commenced by petition in the Family Division of the Superior Court for the unit in which the respondent resides.~~ [Repealed.]

Sec. 12. 18 V.S.A. § 8841 is amended to read:

§ 8841. ~~PETITION; PROCEDURES~~

~~The filing of the petition and procedures for initiating a hearing shall be as provided in sections 8822-8826 of this title.~~ [Repealed.]

Sec. 13. 18 V.S.A. § 8842 is amended to read:

§ 8842. ~~HEARING~~

~~Hearings under this subchapter for commitment shall be conducted in accordance with section 8827 of this title.~~ [Repealed.]

Sec. 14. 18 V.S.A. § 8843 is amended to read:

§ 8843. ~~FINDINGS AND ORDER~~

~~(a) In all cases, the court shall make specific findings of fact and state its conclusions of law.~~

~~(b) If the court finds that the respondent is not a person in need of custody, care, and habilitation, it shall dismiss the petition.~~

~~(c) If the court finds that the respondent is a person in need of custody, care, and habilitation, it shall order the respondent committed to the custody of the Commissioner for placement in a designated program in the least restrictive environment consistent with the respondent's need for custody, care, and habilitation for an indefinite or a limited period.~~ [Repealed.]

Sec. 15. 18 V.S.A. § 8844 is amended to read:

§ 8844. LEGAL COMPETENCE

No determination that a person is in need of custody, care, and habilitation or in need of continued custody, care, and habilitation and no order authorizing commitment shall lead to a presumption of legal incompetence.

Sec. 16. 18 V.S.A. § 8845 is amended to read:

§ 8845. JUDICIAL REVIEW

(a) A person committed under 13 V.S.A. § 4823 or this subchapter may be discharged from custody by a Superior judge after judicial review as provided ~~herein~~ in accordance with this subchapter or by administrative order of the Commissioner. At least 10 days prior to the effective date of any administrative order for discharge by the Commissioner, the Commissioner shall give notice of the discharge to the committing court and to the State's Attorney of the county where the prosecution occurred.

(b) ~~Procedures for judicial review of persons committed under this subchapter shall be as provided in section 8834 of this title, except that proceedings shall be brought in the Criminal Division of the Superior Court in the unit in which the person resides or, if the person resides out of state, in the unit which issued the original commitment order.~~

~~(c)~~ A person committed under 13 V.S.A. § 4823 or this subchapter shall be entitled to a judicial review of the person's need for commitment annually. The Family Division of the Superior Court shall have exclusive jurisdiction over all judicial review proceedings brought under this section. If no ~~such~~ judicial review is requested by the person within one year from the date of the last order of commitment, it shall be initiated by the Commissioner. However,

such person may initiate a judicial review under this subsection after 90 days of initial commitment but before the end of the first year of the commitment, or if commitment has been continued under this subchapter, the person may petition for review after 90 days from the date of an order for continued commitment.

~~(d)~~(c) If the Commissioner seeks to place the person committed pursuant to this subchapter in a forensic facility, the petition shall expressly state that such placement is being sought. The petition shall set forth the reasons for the Commissioner's determination that clinically appropriate treatment and programming can be provided safely only in a forensic facility.

(d) The Vermont rules of evidence and procedure applicable in civil cases shall apply in all judicial review proceedings brough under this subchapter.

(e) The Commissioner or the Commissioner's designee shall attend the commitment hearing and be available to testify. All persons to whom notice is given may attend the commitment hearing and testify, except that the court may exclude those persons not necessary for the conduct of the hearing.

(f) If at the completion of the hearing and consideration of the record, the court finds by clear and convincing evidence that at the time of the hearing that the person is still in need of continued custody, care, and habilitation, commitment shall continue in a designated program in the least restrictive environment consistent with the person's need for custody, care, and habilitation for an indefinite or limited period. If the court finds at the time of the hearing that the person is no longer in need of continued custody, care, and habilitation, it shall discharge the person from the custody of the Commissioner. An order of discharge may be conditional or absolute and may have immediate or delayed effect.

(g) In determining whether a person is in need of continued custody, care, and habilitation, the court shall consider the degree to which the person has engaged in or complied with the treatment and supervision provided by the Commissioner.

* * * Certificate of Need * * *

Sec. 17. 18 V.S.A. § 9435 is amended to read:

§ 9435. EXCLUSIONS

* * *

(g) Excluded from this subchapter is any forensic facility, as defined in 18 V.S.A. section 7101, that is supervised and operated by the Commissioner of Mental Health or the Commissioner of Disabilities, Aging, and Independent

Living, or both.

* * * Rulemaking * * *

Sec. 18. RULEMAKING; ADMISSIONS CRITERIA FOR FORENSIC FACILITY

(a) On or before July 1, 2023, the Secretary of Human Services, in consultation with the Departments of Mental Health and of Disabilities, Aging, and Independent Living, shall file an initial proposed rule with the Secretary of State pursuant to 3 V.S.A. § 836(a)(2) specifying the criteria that the Departments shall use to determine admission to a forensic facility and the process used by the Commissioners to determine appropriate admissions. The admission criteria and process shall ensure that:

(1) an individual is served in the least restrictive setting necessary to meet the needs of the individual;

(2) an individual's treatment and programming needs dictate that the treatment or programming be provided at an intensive residential level in a forensic facility; and

(3) an individual only receives treatment or programming within a forensic facility if the individual has demonstrated a significant risk of dangerousness, such as:

(A) inflicting or attempting to inflict serious bodily injury on another, attempting suicide or serious self-injury, or committing an act that would constitute a sexual assault or lewd and lascivious conduct with a child, and there is reasonable probability that the conduct will be repeated if admission to a forensic facility is not ordered;

(B) threatening to inflict serious bodily injury to the individual or on others, and there is reasonable probability that the conduct will occur if admission to a forensic facility is not ordered;

(C) obtaining results on any applicable evidence-based violence risk-assessment tool showing that the individual's behavior is deemed a significant risk to others; or

(D) being charged with a felony offense involving an act of violence against another person for which bail may be withheld pursuant to 13 V.S.A. § 7553 or 7553a.

(b) The Departments shall not admit residents to a forensic facility until a permanent rule has been adopted pursuant to this section.

Sec. 19. RULEMAKING; CONFORMING AMENDMENTS

On or before July 1, 2023, the Commissioners of Mental Health and of Disabilities, Aging, and Independent Living, respectively, shall file initial proposed rule amendments with the Secretary of State pursuant to 3 V.S.A. § 826(a)(2) to account for the establishment of the forensic facility:

(1) Department of Disabilities, Aging, and Independent Living, Licensing and Operating Regulations for Therapeutic Community Residences (CVR 13-110-12) for the purpose of allowing the use of emergency involuntary procedures and the administration of involuntary medication at a forensic facility; and

(2) Department of Mental Health, Rules for the Administration of Nonemergency Involuntary Psychiatric Medications (CVR 13-150-11) for the purpose of allowing the administration of involuntary medication at a forensic facility.

* * * Effective Dates * * *

Sec. 20. EFFECTIVE DATES

This section and Secs. 18 (rulemaking; admissions criteria for forensic facility) and 19 (rulemaking; conforming amendments) shall take effect on passage. All remaining sections shall take effect on July 1, 2024.

(Committee vote: 5-0-0)

UNFINISHED BUSINESS OF THURSDAY, MARCH 23, 2023

Committee Bill for Second Reading

S. 138.

An act relating to school safety.

By the Committee on Education. (Senator Hashim for the Committee.)

Amendment to S. 138 to be offered by Senator Hashim

Senator Hashim moves to amend the bill in Sec. 3, 16 V.S.A. § 1484, access control and visitor management policy, in subsection (a), by striking out "agricultural or recreational purposes" and inserting in lieu thereof agricultural, recreational, or other reasonably practical purposes directly related to a school's mission or curriculum

UNFINISHED BUSINESS OF FRIDAY, MARCH 24, 2023

Favorable with Recommendation of Amendment

S. 91.

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

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

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 4801 is amended to read:

§ 4801. TEST OF INSANITY IN CRIMINAL CASES

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

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

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

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

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

§ 4814. ORDER FOR EXAMINATION

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

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

~~condition bearing upon the issue of whether he or she had the mental state required for the offense charged;~~ [Repealed.]

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

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

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

(b) ~~Such~~ The order may be issued by the court on its own motion, or on motion of the State, the defendant, or an attorney, guardian, or other person acting on behalf of the defendant. The examination shall be at the expense of the moving party, provided that the State shall pay for the competency evaluation of an indigent defendant whose competency is at issue.

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

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

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

§ 4815. PLACE OF EXAMINATION; TEMPORARY COMMITMENT

* * *

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

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

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

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

* * *

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

* * *

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

§ 4816. SCOPE OF EXAMINATION; REPORT; EVIDENCE

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

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

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

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

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

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

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

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

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

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

§ 4817. COMPETENCY TO STAND TRIAL; DETERMINATION

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

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

~~(b)~~(c) If a person indicted, complained, or informed against for an alleged criminal offense, an attorney or guardian acting in ~~his or her~~ the person's behalf, or the State, at any time before final judgment, raises before the court before which such person is tried or is to be tried, the issue of whether such

person is incompetent to stand trial, or if the court has reason to believe that such person may not be competent to stand trial, a hearing shall be held before such court at which evidence shall be received and a finding made regarding ~~his or her~~ the person's competency to stand trial. However, in cases where the court has reason to believe that such person may be incompetent to stand trial due to a mental disease or mental defect, such hearing shall not be held until an examination has been made and a report submitted by an examining psychiatrist in accordance with sections 4814–4816 of this title.

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

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

§ 4820. HEARING REGARDING COMMITMENT

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

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

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

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

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

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

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

Sec. 7. COMPETENCY RESTORATION PROGRAM PLAN

On or before November 15, 2023, the Department of Mental Health and the Department of Disabilities, Aging, and Independent Living shall report to the Governor, the Senate Committees on Judiciary and on Health and Welfare, and the House Committees on Judiciary, on Health Care, and on Human Services on whether a plan for a competency restoration program should be adopted in Vermont. If a competency restoration plan is recommended, the report shall include recommendations for best practices, any changes to law necessary to establish the program, estimated costs, and a proposal for implementing the program.

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

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

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

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee vote: 5-0-0)

NEW BUSINESS

Third Reading

S. 33.

An act relating to miscellaneous judiciary procedures.

Committee Bill for Second Reading

S. 133

An act relating to miscellaneous changes to education law.

By the Committee on Education. (Senator Campion for the Committee.)

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

The Committee recommends that the bill be amended as follows

First: By striking out Sec. 1, curriculum audit; report, in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. [Deleted.]

Second: By striking out Sec. 3, Vermont postsecondary school marketing, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. [Deleted.]

(Committee vote: 6-0-1)

S. 137.

An act relating to energy efficiency modernization.

By the Committee on Natural Resources and Energy. (Senator Bray for the Committee.)

Reported favorably by Senator Starr for the Committee on Appropriations.

(Committee vote: 5-0-2)

Second Reading

Favorable with Recommendation of Amendment

S. 4.

An act relating to reducing crimes of violence associated with juveniles and dangerous weapons.

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

The Committee recommends that 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. § 5204 is amended to read:

§ 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR COURT

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court if the child had attained 16 years of age but not 19 years of age at the time the act was alleged to have occurred and the delinquent act set forth in the petition is a felony not specified in subdivisions (1)-(12) of this subsection or if the child had attained 12 years of age but not 14 years of age at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

(1) arson causing death as defined in 13 V.S.A. § 501;

(2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);

(3) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);

(4) aggravated assault as defined in 13 V.S.A. § 1024;

(5) murder as defined in 13 V.S.A. § 2301 and aggravated murder as defined in 13 V.S.A. § 2311;

(6) manslaughter as defined in 13 V.S.A. § 2304;

(7) kidnapping as defined in 13 V.S.A. § 2405;

(8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;

(9) maiming as defined in 13 V.S.A. § 2701;

(10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);

(11) aggravated sexual assault as defined in 13 V.S.A. § 3253 and aggravated sexual assault of a child as defined in 13 V.S.A. § 3253a; ~~or~~

(12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c);

(13) carrying a firearm while committing a felony in violation of 13 V.S.A. § 4005;

(14) trafficking a regulated drug in violation of 18 V.S.A. chapter 84, subchapter 1;

(15) human trafficking or aggravated human trafficking in violation of 13 V.S.A. § 2652 or 2653;

(16) aggravated stalking as defined in 13 V.S.A. § 1063(a)(3);

(17) an attempt to commit any of the offenses listed in this subsection; or

(18) a violation of a condition of release as defined in 13 V.S.A. § 7559 imposed by the Criminal Division for any of the offenses listed in this subsection or for any other offense that was transferred from the Family Division pursuant to this section, unless the proceeding is the subject of a final order accepting the case for youthful offender treatment pursuant to subsection 5281(d) of this title.

(b) The State's Attorney of the county where the juvenile petition is pending may move in the Family Division of the Superior Court for an order transferring jurisdiction under subsection (a) of this section at any time prior to adjudication on the merits. The filing of the motion to transfer jurisdiction shall automatically stay the time for the hearing provided for in section 5225 of this title, which stay shall remain in effect until such time as the Family Division of the Superior Court may deny the motion to transfer jurisdiction.

(c) Upon the filing of a motion to transfer jurisdiction under subsection (b) of this section, the Family Division of the Superior Court shall conduct a hearing in accordance with procedures specified in subchapter 2 of this chapter to determine whether:

(1) there is probable cause to believe that the child committed the charged offense; and

(2) public safety and the interests of the community would not be served by treatment of the child under the provisions of law relating to the Family Division of the Superior Court and delinquent children.

(d) In making its determination as required under subsection (c) of this section, the court may consider, among other matters:

(1) the maturity of the child as determined by consideration of the child's age, home, and environment; emotional, psychological, and physical maturity; and relationship with and adjustment to school and the community;

(2) the extent and nature of the child's prior record of delinquency;

(3) the nature of past treatment efforts and the nature of the child's response to them, including the child's mental health treatment and substance abuse treatment and needs;

(4) the nature and circumstances of the alleged offense, including whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(5) the nature of any personal injuries resulting from or intended to be caused by the alleged act;

(6) the prospects for rehabilitation of the child by use of procedures, services, and facilities available through juvenile proceedings;

(7) whether the protection of the community would be better served by transferring jurisdiction from the Family Division to the Criminal Division of the Superior Court;

(8) the youth's residential housing status;

(9) the youth's employment and educational situation;

(10) whether the youth has complied with conditions of release;

(11) the youth's criminal record and whether the youth has engaged in subsequent criminal or delinquent behavior since the original charge;

(12) whether the youth has connections to the community; and

(13) the youth's history of violence and history of illegal or violent conduct involving firearms.

(e) A transfer under this section shall terminate the jurisdiction of the Family Division of the Superior Court over the child only with respect to those delinquent acts alleged in the petition with respect to which transfer was sought.

(f)(1) The Family Division, following completion of the transfer hearing, shall make findings and, if the court orders transfer of jurisdiction from the Family Division, shall state the reasons for that order. If the Family Division orders transfer of jurisdiction, the child shall be treated as an adult. The State's Attorney shall commence criminal proceedings as in cases commenced against adults.

(2) Notwithstanding subdivision (1) of this subsection, the parties may stipulate to a transfer of jurisdiction from the Family Division at any time after a motion to transfer is made pursuant to subsection (b) of this section. The

court shall not be required to make findings if the parties stipulate to a transfer pursuant to this subdivision. Upon acceptance of the stipulation to transfer jurisdiction, the court shall transfer the proceedings to the Criminal Division and the child shall be treated as an adult. The State's Attorney shall commence criminal proceedings as in cases commenced against adults.

(3) Notwithstanding subdivision (1) of this subsection, the parties may stipulate to convert the juvenile proceeding to a youthful offender proceeding under chapter 52A of this title. If the parties stipulate to convert the proceeding pursuant to this subdivision, the court may proceed immediately to a youthful offender consideration hearing under section 5283 of this title. The Court shall request that the Department complete a youthful offender consideration report under section 5282 of this title before accepting a case for youthful offender treatment pursuant to this subdivision.

* * *

Sec. 2. 18 V.S.A. § 4252 is amended to read:

§ 4252. ~~PENALTIES FOR DISPENSING OR SELLING~~ KNOWINGLY OR RECKLESSLY PERMITTING SALE OR DISPENSING OF REGULATED DRUGS IN A DWELLING

(a) No person shall knowingly or recklessly permit a dwelling, building, or structure owned by or under the control of the person to be used for the purpose of illegally dispensing or selling a regulated drug.

(b) ~~A landlord shall be in violation of subsection (a) of this section only if the landlord knew at the time he or she signed the lease agreement that the tenant intended to use the dwelling, building, or structure for the purpose of illegally dispensing or selling a regulated drug.~~ [Repealed.]

(c) A person who violates this section shall be imprisoned not more than ~~two~~ five years or fined not more than ~~$1,000.00~~ $15,000.00, or both.

(d) It shall not be a violation of this section if the person who owns or controls the dwelling, building, or structure takes action to address the unlawful activity, including reporting the unlawful activity to law enforcement or initiating eviction proceedings.

(e) As used in this section, "recklessly" means consciously disregarding a substantial and unjustifiable risk.

Sec. 3. 13 V.S.A. chapter 60, subchapter 1, is amended to read:

Subchapter 1. Criminal Acts

* * *

§ 2659. KNOWINGLY OR RECKLESSLY PERMITTING HUMAN TRAFFICKING IN A DWELLING

(a) No person shall knowingly or recklessly permit a dwelling, building, or structure owned by or under the control of the person to be used for the purpose of human trafficking or aggravated human trafficking in violation of section 2652 or 2653 of this title.

(b) A person who violates this section shall be imprisoned not more than five years or fined not more than $15,000.00, or both.

(c) It shall not be a violation of this section if the person who owns or controls the dwelling, building, or structure takes action to address the unlawful activity, including reporting the unlawful activity to law enforcement or initiating eviction proceedings.

(d) As used in this section, "recklessly" means consciously disregarding a substantial and unjustifiable risk.

Sec. 4. 13 V.S.A. § 4024 is added to read:

§ 4024. DEFACING OF FIREARM'S SERIAL NUMBER

(a) A person shall not knowingly possess a firearm that has had the importer's or manufacturer's serial number removed, obliterated, or altered.

(b) A person who violates this section shall be imprisoned not more than five years or fined not more than $50,000.00, or both.

(c) As used in this section:

(1) "Firearm" has the same meaning as in section 4017 of this title.

(2) "Importer" means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution.

(3) "Manufacturer" means any person engaged in the business of manufacturing firearms or ammunition for purposes of sale or distribution.

(d) Conduct constituting the offense of defacing a firearm's serial number may be considered a violent act for the purposes of determining whether a person is eligible for bail under section 7553a of this title.

Sec. 5. 13 V.S.A. § 4025 is added to read:

§ 4025. STRAW PURCHASING OF FIREARMS

(a) A person shall not purchase a firearm for, on behalf of, or at the request of another person if the purchaser knows or reasonably should know that the other person:

(1) is prohibited by state or federal law from possessing a firearm;

(2) intends to carry the firearm while committing a felony; or

(3) intends to transfer the firearm to another person who:

(A) is prohibited by state or federal law from possessing a firearm; or

(B) intends to carry the firearm while committing a felony.

(b) It shall not be a violation of this section if the person purchased the firearm as a result of threats or coercion by another person.

(c) A person who violates this section shall be imprisoned not more than five years or fined not more than $50,000.00, or both.

(d) As used in this section, "firearm" has the same meaning as in section 4017 of this title.

(e) Conduct constituting the offense of straw purchasing of firearms may be considered a violent act for the purposes of determining whether a person is eligible for bail under section 7553a of this title.

Sec. 6. 13 V.S.A. § 4017a is added to read:

§ 4017a. FUGITIVES FROM JUSTICE; PERSONS SUBJECT TO FINAL RELIEF FROM ABUSE OR STALKING ORDER; PERSONS CHARGED WITH CERTAIN OFFENSES; PROHIBITION ON POSSESSION OF FIREARMS

(a) A person shall not possess a firearm if the person:

(1) is a fugitive from justice;

(2) is the subject of a final relief from abuse order issued pursuant to 15 V.S.A. § 1104;

(3) is the subject of a final order against stalking issued pursuant to 12 V.S.A. § 5133; or

(4) against whom charges are pending for:

(A) carrying a dangerous weapon while committing a felony in violation of section 4005 of this title;

(B) trafficking a regulated drug in violation of 18 V.S.A. chapter 84, subchapter 1; or

(C) human trafficking or aggravated human trafficking in violation of section 2652 or 2653 of this title.

(b) A person who violates this section shall be imprisoned not more than two years or fined not more than $1,000.00, or both.

(c) As used in this section:

(1) "Firearm" has the same meaning as in section 4017 of this title.

(2) "Fugitive from justice" means a person who has fled to avoid prosecution for a crime or to avoid giving testimony in a criminal proceeding.

Sec. 7. 13 V.S.A. § 4005 is amended to read:

§ 4005. WHILE COMMITTING A ~~CRIME~~ FELONY

(a) Except as otherwise provided in 18 V.S.A. § 4253, a person who carries a dangerous or deadly weapon, openly or concealed, while committing a felony shall be imprisoned not more than five years or fined not more than $500.00, or both.

(b)(1) Carrying a firearm while committing a felony in violation of this section may be considered a violent act for the purposes of determining whether a person is eligible for bail under section 7553a of this title.

(2) An offense that is a felony rather than a misdemeanor solely because of the monetary value of the property involved shall not be considered a violent act under this subsection.

Sec. 8. 33 V.S.A. § 5117 is amended to read:

§ 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

(a) Except as otherwise provided, court and law enforcement reports and files concerning a person subject to the jurisdiction of the court shall be maintained separate from the records and files of other persons. Unless a charge of delinquency is transferred for criminal prosecution under chapter 52 of this title or the court otherwise orders in the interests of the child, such records and files shall not be open to public inspection nor their contents disclosed to the public by any person. However, upon a finding that a child is a delinquent child by reason of commission of a delinquent act that would have been a felony if committed by an adult, the court, upon request of the victim, shall make the child's name available to the victim of the delinquent act. If the victim is incompetent or deceased, the child's name shall be released, upon request, to the victim's guardian or next of kin.

* * *

(d) Such records and files shall be available to:

(1) State's Attorneys and all other law enforcement officers in connection with record checks and other legal purposes; and

(2) the National Instant Criminal Background Check System in connection with a background check conducted on a person under 21 years of age pursuant to 18 U.S.C. § 922(t)(1)(C) and 34 U.S.C. § 40901(l).

* * *

Sec. 9. 18 V.S.A. § 13 is added to read:

§ 13. COMMUNITY VIOLENCE PREVENTION PROGRAM

(a) There is established the Community Violence Prevention Program to be administered by the Department of Health in consultation with the Department of Public Safety, the Director of Violence Prevention, and the Executive Director of Racial Equity. The Program shall work with communities to implement innovative, evidence-based, and evidence-informed programs addressing causes of youth and community violence. Grants awarded pursuant to this section shall be at the discretion of the Commissioner of Health.

(b)(1) A Vermont municipality or nonprofit organization may submit an application for a Community Violence Prevention Program grant to the Commissioner of Health. Grants awarded under this section shall be for the purpose of funding innovative, evidence-based, or evidence-informed approaches to reducing violence and associated community harm.

(2) The Commissioner of Health, in consultation with the Department of Public Safety and the Executive Director of Racial Equity, shall develop and publish guidelines, for the award of Community Violence Prevention grants. The guidelines shall include a focus on increasing community capacity to implement approaches for human services, public health, and public safety collaboration to address root causes of community violence and substance use through data-driven projects.

(c) The Community Violence Prevention Program shall collect data to monitor youth and community violence and its related risk and protective factors and to evaluate the impact of prevention efforts and shall use the data to plan and implement programs. The Program shall use monitoring and evaluation data to track the impact of interventions.

(d) Statewide strategies organized by the Department of Health may include technical assistance contracts, statewide evaluation of the Program, or

other strategies that would benefit grantees and enhance the effectiveness of the Program.

Sec. 10. APPROPRIATION

(a) The sum of $10,000,000.00 is appropriated from the General Fund to the Department of Health in fiscal year 2024 for the purpose of supporting the Community Violence Prevention Program established by 18 V.S.A. § 13. Unexpended appropriations shall carry forward into the subsequent fiscal year and remain available for use for this purpose.

(b) The Department of Health is authorized to seek and accept grant funding for the purpose of supporting the Community Violence Prevention Program to supplement State appropriations.

(c) If funding is available for the Community Violence Prevention Program from federal grants or legal settlements related to drug use or criminal activity:

(1) such federal or settlement funds shall be utilized first for the Program; and

(2) an amount of the General Fund appropriation made under subsection (a) of this section equal to the total amount of federal grants or legal settlements received by the Program shall be reverted to the General Fund.

Sec. 11. 2018 Acts and Resolves No. 201, Sec. 21, as amended by 2022 Acts and Resolves No. 160, Sec. 1, is further amended to read:

Sec. 21. EFFECTIVE DATES

* * *

(d) Secs. 17–19 shall take effect on July 1, ~~2023~~ 2024.

Sec. 12. 2020 Acts and Resolves No. 124, Sec. 12, as amended by 2022 Acts and Resolves No. 160, Sec. 2, is further amended to read:

Sec. 12. EFFECTIVE DATES

(a) Secs. 3 (33 V.S.A. § 5103(c)) and 7 (33 V.S.A. § 5206) shall take effect on July 1, ~~2023~~ 2024.

* * *

Sec. 13. PLAN FOR SECURE PLACEMENTS

On or before September 1, 2023 and December 1, 2023, the Department for Children and Families shall file a status report to the Joint Legislative Justice Oversight Committee and the Senate and House Committees on Judiciary describing the progress made toward implementing the requirement of Secs. 11 and 12 of this act that the Raise the Age initiative take effect on July 1, 2024.

Sec. 14. SENTENCING COMMISSION REPORT

On or before December 15, 2023, the Vermont Sentencing Commission shall report to the Joint Legislative Justice Oversight Committee and the Senate and House Committees on Judiciary on whether the offenses for which transfer from the Family Division to the Criminal Division is permitted under 33 V.S.A. § 5204(a) should be expanded to include:

(1) first degree arson as defined in 13 V.S.A. § 502 or second degree arson as defined in 13 V.S.A. § 503;

(2) stalking as defined in 13 V.S.A. § 1062;

(3) domestic assault as defined in 13 V.S.A. § 1042, first degree aggravated domestic assault as defined in 13 V.S.A. § 1043, and second degree aggravated domestic assault a defined in 13 V.S.A. § 1044;

(4) selling or dispensing a regulated drug with death resulting as defined in 18 V.S.A. § 4250;

(5) using a firearm while selling or dispensing a drug as defined in 18 V.S.A. § 4253;

(6) carrying a dangerous or deadly weapon while committing a felony as defined in 13 V.S.A. § 4005;

(7) lewd or lascivious conduct as defined in 13 V.S.A. § 2601 or lewd or lascivious conduct with a child as defined in 13 V.S.A. § 2602;

(8) eluding a police officer with serious bodily injury or death resulting as defined in 23 V.S.A. § 1133(b);

(9) willful and malicious injuries caused by explosives as defined in 13 V.S.A. § 1601, injuries caused by destructive devices as defined in 13 V.S.A. § 1605, or injuries caused by explosives as defined in 13 V.S.A. § 1608;

(10) grand larceny as defined in 13 V.S.A. § 2501 or larceny from the person as defined in 13 V.S.A. § 2503;

(11) operating vehicle under the influence of alcohol or other substance with either death or serious bodily injury resulting as defined in 23 V.S.A. § 1210(f) and (g);

(12) careless or negligent operation resulting in serious bodily injury or death as defined in 23 V.S.A. § 1091(b);

(13) leaving the scene of an accident with serious bodily injury or death as defined in 23 V.S.A. § 1128(b) or (c);

(14) a hate-motivated crime as defined in 13 V.S.A. § 1455;

(15) conspiracy as defined in 13 V.S.A. § 1404; or

(16) a violation of an abuse prevention order as defined in 13 V.S.A. § 1030 or violation of an order against stalking or sexual assault as defined in 12 V.S.A. § 5138.

Sec. 15. SEVERABILITY

As set forth in 1 V.S.A. § 215, the provisions of this act are severable, and if a court finds any provision of this act to be invalid, or if any application of this act to any person or circumstance is invalid, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Sec. 16. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-1-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Judiciary with the following amendments thereto:

First: In Sec. 9, 18 V.S.A. § 13, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) There is established the Community Violence Prevention Program to be administered by the Department of Health in consultation and collaboration with the Chief Prevention Officer, the Department of Public Safety, the Director of Violence Prevention, and the Executive Director of Racial Equity. The Program shall work with communities to implement innovative, evidence-based, and evidence-informed programs addressing causes of youth and community violence. Grants awarded pursuant to this section shall be at the discretion of the Commissioner of Health and shall build on and complement existing programs addressing the causes of youth and community violence.

Second: In Sec. 9, 18 V.S.A. § 13, by striking out subsection (d) in its entirety

Third: In Sec. 10 (appropriation), by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) Grants awarded from State funds to the Community Violence Prevention Program established by 18 V.S.A. § 13 shall be dependent upon the amount of the appropriation.

(Committee vote: 6-0-1)

S. 17.

An act relating to sheriff reforms.

Reported favorably with recommendation of amendment by Senator Hardy for the Committee on Government Operations.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Unprofessional Conduct of Law Enforcement Officers Reviewable by the Vermont Criminal Justice Council * * *

Sec. 1. 20 V.S.A. § 2401 is amended to read:

§ 2401. DEFINITIONS

As used in this subchapter:

* * *

(2) "Category B conduct" means gross professional misconduct amounting to actions on duty or under authority of the State, or both, that involve willful failure to comply with a State-required policy or substantial deviation from professional conduct as defined by the law enforcement agency's policy or, if not defined by the agency's policy, then as defined by Council policy, and shall include:

(A) sexual harassment involving physical contact or misuse of position;

(B) misuse of official position for personal or economic gain;

(C) excessive use of force under authority of the State, first offense;

(D) biased enforcement;

(E) use of electronic criminal records database for personal, political, or economic gain;

(F) placing a person in a chokehold;

(G) failing to intervene and report to a supervisor when the officer observes another officer placing a person in a chokehold or using excessive force;

(H) gross negligence or willful misconduct in the performance of duties; and

(I) abuse of the powers granted through law enforcement officer certification pursuant to section 2358 of this title.

* * *

* * * Audits * * *

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

§ 290. COUNTY SHERIFF'S DEPARTMENT

* * *

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

* * *

(d) Upon the election of a sheriff-elect who is not the incumbent sheriff, ~~or upon notice of the resignation of the sheriff,~~ an announcement that the incumbent sheriff will not seek re-election or an announcement that the incumbent sheriff intends to resign, whichever occurs earliest, all financial disbursements from the accounts of the department, including the transfer of real or personal property, or other assets, of the department, shall be co-signed by the sheriff and the assistant judges. A report of all financial disbursements or transfers made pursuant to this subsection shall be forwarded by the assistant judges to the Auditor of Accounts within 15 days ~~of completion of the out-going sheriff's duties~~ following the sheriff leaving office.

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

§ 290b. AUDITS

* * *

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

* * *

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

(9) procedures to notify the Auditor of Accounts and the Department of State's Attorneys and Sheriffs of the establishment and activities of any nonpublic organization of which the sheriff or any employee of the sheriff is a director and that has a mission or purpose of supplementing the efforts of the sheriff's department; and

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

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

* * *

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

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

(a) As used in this section, "conflict of interest" means an interest of a sheriff or deputy sheriff that is in conflict with the proper discharge of the sheriff's or deputy sheriff's official duties due to a significant personal or financial interest of the sheriff or deputy sheriff, of a person within the

sheriff's or deputy sheriff's immediate family, of the sheriff's or deputy sheriff's business associate, or of an organization of which the sheriff or deputy sheriff is affiliated. "Conflict of interest" does not include any interest that is not greater than that of any other persons generally affected by the outcome of a matter.

(b) A sheriff or deputy sheriff shall avoid any conflict of interest or the appearance of a conflict of interest. Except as otherwise provided in subsections (c) of this section, when confronted with a conflict of interest or an appearance of a conflict of interest, a sheriff or deputy sheriff shall disclose the conflict of interest to the Sheriff's Executive Committee, recuse themselves from the matter, and not take further action on the matter.

(c) A conflict of interest may be approved by the majority vote of the Sheriff's Executive Committee only if the material facts of the conflict of interest are disclosed or known to the Sheriff's Executive Committee. If a conflict of interest is approved, the sheriff or deputy sheriff may then act on the matter at issue.

(d) A standard operating procedures manual or policy manual created by the Department of State's Attorneys and Sheriffs may impose additional requirements relating to conflicts of interest on sheriffs and deputy sheriffs.

(e) Nothing in this section shall require a sheriff or deputy sheriff to disclose confidential information or information that is otherwise privileged under law.

* * * Sheriff Contracts * * *

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

§ 291a. CONTRACTS

* * *

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

* * *

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

* * *

(c) ~~A contract under this section may contain provisions for compensation to the sheriff for administration of the contract and related services. No compensation may be paid to a sheriff for administration of the contract or~~

~~related services unless the contract sets forth in writing the rate or method of calculation for the compensation and a schedule of payment; provided that a sheriff's compensation for administration shall not exceed five percent of the contract. A sheriff's rate of compensation shall be at a rate equivalent to other employees of the department who provide similar services under the contract. Compensation to the sheriff shall be made in accordance with the schedule set forth in the contract but in no event may a sheriff be compensated for administration of the contract and related services unless the compensation is made in the same calendar year in which the revenue was received by the department under the contract.~~ A contract under this section may contain provisions for an administrative overhead fee at a rate not to exceed five percent of the contract. Funds derived from contract administrative overhead fees shall be kept in a separate account held by the sheriff's department and used by the sheriff's department only for the costs of necessary departmental expenses not covered by State or county funds, including the cost of vehicles, uniforms, equipment, training, and professional services. Funds derived from contract administrative overhead fees shall not be used for sheriff, sheriff deputy, or other departmental employee compensation, bonuses, salary supplements, retirement contributions, or employment benefits.

* * *

(f) An agreement or contract for sheriff's departments to provide law enforcement or security services to county and State courthouses shall be subject to a single, statewide contracted rate of pay for such services over all county and State courthouses. The rate of pay shall be $51.00 per hour beginning on July 1, 2023. The contract amount that was in effect for the immediately preceding year shall be increased by the unadjusted percentage change in the CPI figure from the last reporting date available next prior to the beginning month of the next fiscal year for which the adjustment is made. Should the percentage change be negative, the State reserves the right to adjust the yearly contract amount accordingly. As used in this subsection, "CPI" means the Consumer Price Index for all urban consumers, designated as "CPI-U," in the northeast region, as published by the U.S. Department of Labor, Bureau of Labor Statistics.

* * * Sheriff Duties * * *

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

§ 293. DUTIES

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

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

(c) Each sheriff's department shall comply with the provisions of the standard operating procedures manuals and policy manuals created and maintained by the Department of State's Attorneys and Sheriffs.

(d) Sheriff's departments providing law enforcement services in the county in which an individual who has a relief from abuse order pursuant to 15 V.S.A. § 1103 resides shall have a duty to assist in the retrieval of personal belongings of the individual and that individual's dependents from the individual's residence. A sheriff's department shall not seek a fee from the individual being assisted in the retrieval of personal belongings from the residence or any representative of that individual.

Sec. 7. 24 V.S.A. § 293(e) is added to read:

(e) A sheriff shall provide a minimum of one deputy sheriff, certified as a law enforcement officer in accordance with 20 V.S.A. § 2358, for law enforcement and security services for each county and State courthouse within the sheriff's county of jurisdiction in accordance with section 291a of this title.

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

§ 299. DUTIES AS PEACE OFFICER

A sheriff shall preserve the peace~~, and suppress, with force and strong hand, if necessary, unlawful disorder~~ using force only as permitted pursuant to 20 V.S.A. chapter 151. ~~He or she~~ A sheriff may apprehend, without warrant, ~~persons~~ individuals assembled in disturbance of the peace~~,~~ and bring them before ~~a~~ the Criminal Division of the Superior Court, which shall proceed with such ~~person~~ individuals as with ~~persons~~ individuals brought before it by process issued by ~~such~~ the court.

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

Sec. 10. REPEAL OF PENALTY FOR REFUSAL TO ASSIST A SHERIFF

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

* * * Sheriff's Departments Oversight Task Force and Report * * *

Sec. 11. SHERIFF'S DEPARTMENTS OVERSIGHT TASK FORCE; REPORT

(a) Creation. There is created the Sheriff's Departments Oversight Task Force to examine issues in implementing reforms and accountability across Vermont Sheriff's Department.

(b) Membership. The Sheriff's Departments Oversight Task Force shall be composed of the following members:

(1) one member appointed by the Department of State's Attorneys and Sheriffs;

(2) one member appointed by the Department of Human Resources;

(3) one member appointed by the Attorney General's Office;

(4) one member appointed by the Vermont Sheriffs' Association;

(5) one member appointed by the State Auditor;

(6) one member appointed by the Vermont Criminal Justice Council;

(7) one member appointed by the Vermont Association of County Judges;

(8) one member of an organization focused on law enforcement reform, who shall be appointed by the Speaker of the House; and

(9) one member of a different organization focused on law enforcement reform, who shall be appointed by the Senate Committee on Committees.

(c) Powers and duties. The Sheriff's Departments Oversight Task Force shall consider issues relating to oversight of sheriffs' departments, including the following:

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

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

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

(4) the duties of sheriffs, as related to both law enforcement and administration of sheriff's departments;

(5) oversight of sheriffs, as related to both conduct and administration of sheriff's departments;

(6) creating a sustainable funding model for sheriff's departments that is not based on contracts for services; and

(7) reorganizing the Department of State's Attorneys and Sheriffs to better provide oversight and support for state's attorneys and sheriffs.

(d) Assistance. The Sheriff's Departments Oversight Task Force shall have

the administrative, technical, and legal assistance of the Department of State's Attorneys and Sheriffs.

(e) Report. On or before November 15, 2023, the Sheriff's Departments Oversight Task Force shall report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The member of the Sheriff's Departments Oversight Task Force designated by the Department of State's Attorneys and Sheriffs shall call the first meeting of the Sheriff's Departments Oversight Task Force to occur on or before July 1, 2023.

(2) The Sheriff's Departments Oversight Task Force shall select a chair from among its members at the first meeting.

(3) A majority of the members of the Sheriff's Departments Oversight Task Force shall constitute a quorum.

(4) The Sheriff's Departments Oversight Task Force shall cease to exist on July 1, 2024.

(g) Compensation and reimbursement.

The members of the public Sheriff's Departments Oversight Task Force who are appointed from an organization focused on law enforcement reform shall be entitled to per diem compensation as permitted under 32 V.S.A. § 1010 for not more than five meetings, provided that those members are not paid for their services by the organization for which the member is representing on the Sheriff's Departments Oversight Task Force. These payments shall be made from monies appropriated to the Department of State's Attorneys and Sheriffs.

(h) Appropriation. The sum of $1,000.00 is appropriated to the Department of State's Attorneys and Sheriffs from the General Fund in fiscal year 2024 for per diem compensation for members of the Committee.

* * * Effective Dates * * *

Sec. 12. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 7 (adding 24 V.S.A. § 293(e)) shall take effect on July 1, 2024.

(Committee vote: 5-1-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Government Operations with the following amendments thereto:

First: In Sec. 5, 24 V.S.A. § 291a, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

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

Second: By adding one new section to be Sec. 5a to read as follows:

Sec. 5a. USE OF ADMINISTRATIVE OVERHEAD FUNDS IN 2023 AND 2024

Notwithstanding 24 V.S.A. § 291a(c), in calendar years 2023 and 2024, a sheriff's department may use funds derived from contract administrative overhead fees to make supplemental salary payments to a sheriff of not more than 50 percent of the annual compensation for a sheriff, provided that the sheriff has been in office at least two years, and to any employee of a sheriff's department or a sheriff that has been in office less than two years of not more than 10 percent of the annual compensation for the employee. Funds derived from contract administrative overhead fees shall not be used for any other bonus or supplemental employment benefit payment.

Third: In Sec. 11, Sheriff's Departments Oversight Task Force; report, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) Powers and duties. The Sheriff's Departments Oversight Task Force shall consider issues relating to oversight of sheriff's departments, including the following:

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

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

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

(4) the duties of sheriffs, as related to both law enforcement and administration of sheriff's departments;

(5) oversight of sheriffs, as related to both conduct and administration of sheriff's departments;

(6) creating a sustainable funding model for sheriff's departments that is not based on contracts for services;

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

(8) determining the scope and timing of public sector management training that sheriffs should receive upon election and on a continuing basis to ensure departmental operations and management of public funds are consistent with generally accepted standards.

(Committee vote: 6-0-1)

Amendment to S. 17 to be offered by Senators Hardy, Clarkson, Norris, Vyhovsky and Watson

Senators Hardy, Clarkson, Norris, Vyhovsky and Watson move to amend the report of the Committee on Government Operations as follows:

First: By striking out Sec. 2, 24 V.S.A. § 290, in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

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

§ 290. COUNTY SHERIFF'S DEPARTMENT

* * *

(d) Upon the election of a sheriff-elect who is not the incumbent sheriff, ~~or upon notice of the resignation of the sheriff,~~ an announcement that the incumbent sheriff will not seek reelection, or an announcement that the incumbent sheriff intends to resign, whichever occurs earliest, all financial disbursements from the accounts of the department, including the transfer of real or personal property, or other assets, of the department, shall be co-signed by the sheriff and the assistant judges. A report of all financial disbursements or transfers made pursuant to this subsection shall be forwarded by the assistant judges to the Auditor of Accounts within 15 days ~~of completion of the out-going sheriff's duties~~ following the sheriff leaving office.

Second: In Sec. 11, Sheriff's Departments Oversight Task Force; report, by striking out subdivision (c)(3) in its entirety and inserting in lieu thereof a new subdivision (c)(3) to read as follows:

(3) the compensation structure and levels of sheriffs, deputies, and departmental staff, including salaries, overtime, retirement, benefits, and bonuses, and the appropriate employment status of courthouse security deputies;

Third: By renumbering Secs. 10–12 to be numerically correct.

S. 18.

An act relating to banning flavored tobacco products and e-liquids.

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

The Committee recommends that 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) Tobacco use is costly. Vermont spends more than $400 million annually to treat tobacco-caused illnesses, including more than $90 million each year in Medicaid expenses. This translates into a tax burden each year of over $1,000 per Vermont household. Smoking-related productivity losses add another $576 million in additional costs each year.

(2) Youth tobacco use is growing due to e-cigarettes. Seven percent of Vermont high school students smoke, but if e-cigarette use is included, 28 percent of Vermont youths use some form of tobacco product. More than one in four Vermont high school students now uses e-cigarettes. Use more than doubled among this age group, from 12 percent to 26 percent, between 2017 and 2019.

(3) More students report frequent use of e-cigarettes, which indicates possible nicotine addiction. According to the 2019 Vermont Youth Risk Behavior Survey, 31 percent of Vermont high school e-cigarette users used e-cigarettes daily, up from 15 percent in 2017.

(4) Flavored products are fueling the epidemic. Ninety-seven percent of youth e-cigarette users nationally reported in 2019 that they had used a flavored tobacco product in the last month, and 70 percent cited flavors as the reason for their use. E-cigarette and e-liquid manufacturers have marketed their products in youth-friendly flavors, such as gummy bear, birthday cake, candy cane menthol, and bubble gum.

(5) Mint- and menthol-flavored e-cigarettes are increasing in popularity among youths. Over the past few years, mint and menthol went from being

some of the least popular to being some of the most popular e-cigarette flavors among high school students. Evidence indicates that if any e-cigarette flavors remain on the market, youths will shift from one flavor to another. For example, after Juul restricted the availability of fruit, candy, and other e-cigarette flavors in retail stores in November 2018, use of mint and menthol e-cigarettes by high school users increased sharply, from 42.3 percent reportedly using mint and menthol e-cigarettes in 2017 to 63.9 percent using them in 2019.

(6) It is essential that menthol cigarettes are included in a ban on flavored tobacco products, flavored e-liquids, and flavored e-cigarettes to prevent youths who became addicted to nicotine through vaping from transitioning to traditional cigarettes. Menthol creates a cooling and numbing effect that reduces the harshness of cigarette smoke and suppresses the cough reflex. Those effects make menthol cigarettes more appealing to young, inexperienced smokers, and research shows that menthol cigarettes are more likely to addict youths.

(7) Youth smokers are the age group most likely to use menthol cigarettes but are also likely to quit if menthol cigarettes are no longer available. Fifty-four percent of youths 12–17 years of age nationwide who smoke use menthol cigarettes. Nearly 65 percent of young menthol smokers say they would quit smoking if menthol cigarettes were banned.

(8) Eliminating the sale of menthol tobacco products promotes health equity. Menthol cigarette use is more prevalent among persons of color who smoke than among white persons who smoke and is more common among lesbian, gay, bisexual, and transgender smokers than among heterosexual smokers. Eighty-five percent of African-American adult smokers use menthol cigarettes, and of black youths 12–17 years of age who smoke, seven out of 10 use menthol cigarettes. Tobacco industry documents show a concerted effort to target African-Americans through specific advertising efforts.

(9) The U.S. Food and Drug Administration (FDA) took action on flavored e-cigarettes in 2020, but that action only addresses flavored pod-based e-cigarettes, leaving open tank e-cigarettes, the e-liquids used to fill them, and flavored disposable e-cigarettes available for sale.

(10) The FDA agrees that menthol cigarettes harm the public health. In 2013, the FDA published a report concluding that removal of menthol cigarettes from the market would improve public health. In May 2022, the FDA published a proposed rule establishing a tobacco product standard that would prohibit menthol as a characterizing flavor in cigarettes, but the rule has

not been finalized and it is unclear when a final rule will be published or take effect.

Sec. 2. 7 V.S.A. chapter 40 is amended to read:

CHAPTER 40. TOBACCO PRODUCTS

§ 1001. DEFINITIONS

As used in this chapter:

* * *

(3) "Tobacco products" means cigarettes, little cigars, roll-your-own tobacco, snuff, cigars, new smokeless tobacco, and ~~other tobacco products as defined in 32 V.S.A. § 7702~~ any other product manufactured from, derived from, or containing tobacco that is intended for human consumption by smoking, by chewing, or in any other manner.

* * *

(8)(A) "Tobacco substitute" means ~~products~~ any product, including an electronic ~~cigarettes~~ cigarette or other electronic or battery-powered ~~devices~~ device, or any component, part, or accessory thereof, that ~~contain or are~~ contains or is designed to deliver nicotine or other substances into the body through the inhalation or other absorption of aerosol, vapor, or other emission and that ~~have~~ has not been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes. Products that have been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes shall not be considered to be tobacco substitutes.

(B) As used in subdivision (A) of this subdivision (8), "other substances" does not include cannabis and cannabis products that are offered by a cannabis establishment licensed pursuant to chapter 33 of this title or by a medical cannabis dispensary licensed pursuant to chapter 37 of this title.

(9) "E-liquid" means the solution, substance, or other material used in or with a tobacco substitute that is heated or otherwise acted upon to produce an aerosol, vapor, or other emission to be inhaled or otherwise absorbed by the user, regardless of whether the solution, substance, or other material contains nicotine. The term does not include cannabis and cannabis products that are offered by a cannabis establishment licensed pursuant to chapter 33 of this title or by a medical cannabis dispensary licensed pursuant to chapter 37 of this title.

§ 1002. LICENSE REQUIRED; APPLICATION; FEE; ISSUANCE

(a)(1) No person shall engage in the retail sale of tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia in ~~his or her~~ the person's place of business without a tobacco license obtained from the Division of Liquor Control.

* * *

(e) A person who sells tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia without obtaining a tobacco license and a tobacco substitute endorsement, as applicable, in violation of this section shall be guilty of a misdemeanor and fined not more than $200.00 for the first offense and not more than $500.00 for each subsequent offense.

(f) No individual under 16 years of age may sell tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia.

(g) No person shall engage in the retail sale of tobacco products, tobacco substitutes, ~~substances containing nicotine or otherwise intended for use with a tobacco substitute~~ e-liquids, or tobacco paraphernalia in the State unless the person is a licensed wholesale dealer as defined in 32 V.S.A. § 7702 or has purchased the tobacco products, tobacco substitutes, ~~substances containing nicotine or otherwise intended for use with a tobacco substitute~~ e-liquids, or tobacco paraphernalia from a licensed wholesale dealer.

* * *

§ 1003. SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES; TOBACCO PARAPHERNALIA; REQUIREMENTS; PROHIBITIONS

(a) A person shall not sell or provide tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia to any person under 21 years of age.

(b) All vending machines selling tobacco products are prohibited.

(c)(1) Persons holding a tobacco license may only display or store tobacco products ~~or,~~ tobacco substitutes, and e-liquids:

(A) behind a sales counter or in any other area of the establishment that is inaccessible to the public; or

(B) in a locked container.

(2) This subsection shall not apply to the following:

(A) a display of tobacco products, tobacco substitutes, or e-liquids that is located in a commercial establishment in which by law no person under 21 years of age is permitted to enter at any time;

(B) cigarettes in unopened cartons and smokeless tobacco in unopened multipack containers of 10 or more packages, any of which shall be displayed in plain view and under the control of a responsible employee so that removal of the cartons or multipacks from the display can be readily observed by that employee; or

(C) cigars and pipe tobacco stored in a humidor on the sales counter in plain view and under the control of a responsible employee so that the removal of these products from the humidor can be readily observed by that employee.

(d) The sale and the purchase of bidis is prohibited. A person who holds a tobacco license who sells bidis as prohibited by this subsection shall be fined not more than $500.00. A person who purchases bidis from any source shall be fined not more than $250.00.

(e) No person holding a tobacco license shall sell cigarettes or little cigars individually or in packs that contain fewer than 20 cigarettes or little cigars.

(f) As used in this section, "little cigars" means any rolls of tobacco wrapped in leaf tobacco or any substance containing tobacco, other than any roll of tobacco that is a cigarette within the meaning of 32 V.S.A. § 7702(1), and as to which 1,000 units weigh not more than three pounds.

§ 1004. PROOF OF AGE FOR THE SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES; E-LIQUIDS; TOBACCO PARAPHERNALIA

(a) A person shall exhibit proper proof of ~~his or her~~ the person's age upon demand of a person licensed under this chapter, an employee of a licensee, or a law enforcement officer. If the person fails to provide proper proof of age, the licensee shall be entitled to refuse to sell tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia to the person. The sale or furnishing of tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia to a person exhibiting proper proof of age shall be prima facie evidence of a licensee's compliance with section 1007 of this title.

(b) As used in this section, "proper proof of age" means a valid authorized form of identification as defined in section 589 of this title.

§ 1005. PERSONS UNDER 21 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE ~~OR~~ FOR PURCHASING TOBACCO PRODUCTS; PENALTY

(a)(1) A person under 21 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia to effect a sale in the course of employment.

(2) A person under 21 years of age shall not misrepresent ~~his or her~~ the person's age to purchase or attempt to purchase tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia.

(b) A person who possesses tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia in violation of subsection (a) of this section shall be subject to having the tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia immediately confiscated and shall be further subject to a civil penalty of $25.00. An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.

(c) A person under 21 years of age who misrepresents ~~his or her~~ the person's age by presenting false identification to purchase tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia shall be fined not more than $50.00 or provide up to 10 hours of community service, or both.

§ 1006. POSTING OF SIGNS

(a) A person licensed under this chapter shall post in a conspicuous place on the premises identified in the tobacco license a warning sign stating that the sale of tobacco products, tobacco substitutes, e-liquids, and tobacco paraphernalia to persons under 21 years of age is prohibited. The Board shall prepare the sign and make it available with the license forms issued under this chapter. The sign may include information about the health effects of tobacco and tobacco cessation services. The Board, in consultation with a representative of the licensees when appropriate, is authorized to change the design of the sign as needed to maintain its effectiveness.

(b) A person violating this section shall be guilty of a misdemeanor and fined not more than $100.00.

§ 1007. FURNISHING TOBACCO TO PERSONS UNDER 21 YEARS OF AGE; REPORT

(a) A person that sells or furnishes tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia to a person under 21 years of age shall be subject to a civil penalty of not more than $100.00 for the first offense and not more than $500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to

23 V.S.A. chapter 24 and shall be brought within 24 hours of the occurrence of the alleged violation.

(b)(1) The Division of Liquor Control shall conduct or contract for compliance tests of tobacco licensees as frequently and as comprehensively as necessary to ensure consistent statewide compliance with the prohibition on sales to persons under 21 years of age of at least 90 percent for buyers who are between 17 and 20 years of age. An individual under 21 years of age participating in a compliance test shall not be in violation of section 1005 of this title.

(2) Any violation by a tobacco licensee of subsection 1003(a) of this title and this section after a sale violation or during a compliance test conducted within six months of a previous violation shall be considered a multiple violation and shall result in the minimum license suspension in addition to any other penalties available under this title. Minimum license suspensions for multiple violations shall be assessed as follows:

(A) Two violations	two weekdays;
(B) Three violations	15-day suspension;
(C) Four violations	90-day suspension;
(D) Five violations	one-year suspension.

(3) The Division shall report to the House Committee on General, Housing, and Military Affairs, the Senate Committee on Economic Development, Housing and General Affairs, and the ~~Tobacco Evaluation and Review Board~~ Substance Misuse Prevention Oversight and Advisory Council annually, on or before January 15, the methodology and results of compliance tests conducted during the previous year. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subdivision.

* * *

§ 1009. CONTRABAND AND SEIZURE

(a) Any cigarettes or other tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia that have been sold, offered for sale, or possessed for sale in violation of section 1003, 1010, or 1013 of this title, 20 V.S.A. § 2757, 32 V.S.A. § 7786, or 33 V.S.A. § 1919, and any commercial cigarette rolling machines possessed or utilized in violation of section 1011 of this title, shall be deemed contraband and shall be subject to seizure by the Commissioner, the Commissioner's agents or employees, the Commissioner of Taxes or any agent or employee of the Commissioner of Taxes, or by any law enforcement officer

of this State when directed to do so by the Commissioner. All ~~cigarettes or other tobacco products~~ items seized under this subsection shall be destroyed.

* * *

§ 1010. INTERNET SALES

(a) As used in this section:

(1) "Cigarette" has the same meaning as in 32 V.S.A. § 7702(1).

(2) [Repealed.]

(3) "Licensed wholesale dealer" has the same meaning as in 32 V.S.A § 7702(5).

(4) "Little cigars" has the same meaning as in 32 V.S.A. § 7702(6).

(5) "Retail dealer" has the same meaning as in 32 V.S.A. § 7702(10).

(6) "Roll-your-own tobacco" has the same meaning as in 32 V.S.A § 7702(11).

(7) "Snuff" has the same meaning as in 32 V.S.A. § 7702(13).

(b) No person shall cause cigarettes, roll-your-own tobacco, little cigars, snuff, tobacco substitutes, ~~substances containing nicotine or otherwise intended for use with a tobacco substitute~~ e-liquids, or tobacco paraphernalia, ordered or purchased by mail or through a computer network, telephonic network, or other electronic network, to be shipped to anyone other than a licensed wholesale dealer or retail dealer in this State.

(c) No person shall, with knowledge or reason to know of the violation, provide substantial assistance to a person in violation of this section.

(d) A violation of this section is punishable as follows:

(1) A knowing or intentional violation of this section shall be punishable by imprisonment for not more than five years or a fine of not more than $5,000.00, or both.

(2) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a person has violated this section, the Attorney General may impose a civil penalty in an amount not to exceed $5,000.00 for each violation. For purposes of this subsection, each shipment or transport of cigarettes, roll-your-own tobacco, little cigars, ~~or~~ snuff, tobacco substitutes, e-liquids, or tobacco paraphernalia shall constitute a separate violation.

* * *

§ 1012. ~~LIQUID NICOTINE~~ E-LIQUIDS CONTAINING NICOTINE; PACKAGING

(a) Unless specifically preempted by federal law, no person shall manufacture, regardless of location, for sale in; offer for sale in; sell in or into the stream of commerce in; or otherwise introduce into the stream of commerce in Vermont:

(1) any ~~liquid or gel substance~~ e-liquid containing nicotine unless that product is contained in child-resistant packaging; or

(2) any ~~nicotine liquid~~ e-liquid container unless that container constitutes child-resistant packaging.

(b) As used in this section:

(1) "Child-resistant packaging" means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance in the container within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging that all children under five years of age cannot open or obtain a toxic or harmful amount of the substance in the container within a reasonable time.

(2) "~~Nicotine liquid~~ E-liquid container" means a bottle or other container of ~~a nicotine liquid or other substance~~ an e-liquid containing nicotine that is sold, marketed, or intended for use in a tobacco substitute. The term does not include a container containing nicotine in a cartridge that is sold, marketed, or intended for use in a tobacco substitute if the cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer.

§ 1013. FLAVORED TOBACCO PRODUCTS, FLAVORED TOBACCO SUBSTITUTES, AND FLAVORED E-LIQUIDS PROHIBITED

(a) As used in this section:

(1) "Characterizing flavor" means a taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a tobacco product or tobacco substitute, or a component part or byproduct of a tobacco product or tobacco substitute. The term includes tastes or aromas relating to any fruit, chocolate, vanilla, honey, maple, candy, cocoa, dessert, alcoholic beverage, mint, menthol, wintergreen, herb or spice, or other food or drink, or to any conceptual flavor that imparts a taste or aroma that is distinguishable from tobacco flavor but may not relate to any particular known flavor. The term also includes induced sensations, such as those produced by

synthetic cooling agents, regardless of whether the agent itself imparts any taste or aroma.

(2) "Flavored e-liquid" means any e-liquid with a characterizing flavor. An e-liquid shall be presumed to be a flavored e-liquid if a licensee, a manufacturer, or a licensee's or manufacturer's agent or employee has made a statement or claim directed to consumers or the public, whether express or implied, that the product has a distinguishable taste or aroma other than the taste or aroma of tobacco.

(3) "Flavored tobacco product" means any tobacco product with a characterizing flavor. A tobacco product shall be presumed to be a flavored tobacco product if a licensee, a manufacturer, or a licensee's or manufacturer's agent or employee has made a statement or claim directed to consumers or the public, whether express or implied, that the product has a distinguishable taste or aroma other than the taste or aroma of tobacco.

(4) "Flavored tobacco substitute" means any tobacco substitute with a characterizing flavor. A tobacco substitute shall be presumed to be a flavored tobacco substitute if a licensee, a manufacturer, or a licensee's or manufacturer's agent or employee has made a statement or claim directed to consumers or the public, whether express or implied, that the product has a distinguishable taste or aroma other than the taste or aroma of tobacco.

(5) "Tobacco retailer" means any individual, partnership, joint venture, society, club, trustee, trust, association, organization, or corporation who owns, operates, or manages any retail establishment that has a tobacco license from the Division of Liquor Control.

(b) No person shall engage in the retail sale of any flavored tobacco product, flavored e-liquid, or flavored tobacco substitute.

(c) If a tobacco retailer or a tobacco retailer's agent or employee violates this section, the tobacco retailer shall be subject to a civil penalty of not more than $100.00 for a first offense and not more than $500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours after the occurrence of the alleged violation.

Sec. 3. 4 V.S.A. § 1102(b) is amended to read:

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(31) Violations of 7 V.S.A. § 1013(b), relating to flavored tobacco products, flavored e-liquids, and flavored tobacco substitutes.

Sec. 4. 7 V.S.A. § 661(c) is amended to read:

(c) The provisions of subsection (b) of this section shall not apply to a violation of subsection 1005(a) of this title, relating to purchase of tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia by a person under 21 years of age.

Sec. 5. 16 V.S.A. § 140 is amended to read:

§ 140. TOBACCO USE PROHIBITED ON PUBLIC SCHOOL GROUNDS

No person shall be permitted to use tobacco products, e-liquids, or tobacco substitutes as defined in 7 V.S.A. § 1001 on public school grounds or at public school sponsored functions. Public school boards may adopt policies that include confiscation and appropriate referrals to law enforcement authorities.

Sec. 6. 18 V.S.A. § 4803(a) is amended to read:

(a) Creation. There is created the Substance Misuse Prevention Oversight and Advisory Council within the Department of Health to improve the health outcomes of all Vermonters through a consolidated and holistic approach to substance misuse prevention that addresses all categories of substances. The Council shall provide advice to the Governor and General Assembly for improving prevention policies and programming throughout the State and to ensure that population prevention measures are at the forefront of all policy determinations. The Advisory Council's prevention initiatives shall encompass all substances at risk of misuse, including:

(1) alcohol;

(2) cannabis;

(3) controlled substances, such as opioids, cocaine, and methamphetamines; and

(4) tobacco products ~~and,~~ tobacco substitutes, and e-liquids as defined in 7 V.S.A. § 1001 ~~and substances containing nicotine or that are otherwise intended for use with a tobacco substitute~~.

Sec. 7. 32 V.S.A. § 7702 is amended to read:

§ 7702. DEFINITIONS

As used in this chapter unless the context otherwise requires:

* * *

(15) "Other tobacco products" means any product manufactured from, derived from, or containing tobacco that is intended for human consumption by smoking, by chewing, or in any other manner~~, including.~~

The term also includes products sold as a tobacco substitute, as defined in 7 V.S.A. § 1001(8)~~, and including any liquids, whether nicotine based or not, or~~; e-liquids, as defined in 7 V.S.A. § 1001(9); and delivery devices sold separately for use with a tobacco substitute or e-liquid, but shall not include cigarettes, little cigars, roll-your-own tobacco, snuff, or new smokeless tobacco as defined in this section.

* * *

Sec. 8. ELECTRONIC CIGARETTES AND OTHER VAPING-RELATED PRODUCTS; ADVERTISING RESTRICTIONS; REPORT

On or before December 1, 2023, the Office of the Attorney General shall report to the House Committees on Commerce and Economic Development and on Human Services and the Senate Committees on Economic Development, Housing and General Affairs and on Health and Welfare regarding whether and to what extent Vermont may legally restrict advertising and regulate the content of labels for electronic cigarettes and other vaping-related products in this State.

Sec. 9. EFFECTIVE DATE

This act shall take effect on September 1, 2023.

(Committee vote: 3-2-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare with the following amendment thereto:

By adding a new section to be Sec. 9 to read as follows:

Sec. 9. DEPARTMENT OF HEALTH; VERMONT YOUTH RISK BEHAVIOR SURVEY; REPORT

On or before March 1, 2027, the Department of Health shall provide to the House Committee on Human Services and the Senate Committee on Health and Welfare the results of the 2025 Vermont Youth Risk Behavior Survey that relate to youth use of tobacco products, tobacco substitutes, and e-liquids, along with a comparison of the rates of use from previous Vermont Youth Risk Behavior Surveys.

And by renumbering the remaining section to be Sec. 10

(Committee vote: 7-0-0)

S. 30.

An act relating to creating a Sister State Program.

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

The Committee recommends that 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. § 2488 is added to read:

§ 2488. VERMONT SISTER STATE PROGRAM

(a) Creation; administration. The Vermont Sister State Program is created within the Agency of Commerce and Community Development.

(b) Oversight.

(1) A Vermont Sister State Committee composed of the following members shall oversee the Program:

(A) the Secretary of Commerce and Community Development or designee;

(B) the Chair of the Board of Directors of Vermont Humanities or designee;

(C) two members appointed by the Senate Committee on Committees with experience in international relations;

(D) two members appointed by the Speaker of the House with experience in international education and cultural exchange; and

(E) two members appointed by the Governor with experience in international arts, recreation, or governance.

(2) The members appointed pursuant to subdivision (1)(C)–(E) of this subsection shall serve for terms of five years or until the member's earlier resignation or removal for cause by the Governor.

(3) If a member resigns or is removed, the appointing authority shall appoint a new member for the remainder of the member's term.

(4) The members of the Committee shall select a chair by a majority vote.

(c) Administration. Subject to the approval of the Vermont Sister State Committee:

(1) the Agency may contract for administration of part or all of the Program with a nonprofit organization that has expertise in international affairs;

(2) the Agency, or its contracted administrator, shall create an application form and process for evaluating Sister State relationships; and

(3) the Agency may adopt rules and policies for the Program.

(d) Program requirements.

(1) The Vermont Sister State Committee may approve not more than five Sister State relationships at one time with countries or provinces in varying regions of the world upon finding that a relationship meets the following goals:

(A) The relationship fosters understanding and collaboration between residents, governments, businesses, and community organizations in Vermont and residents, governments, businesses, and community organizations in the Sister State.

(B) The relationship creates opportunities for cultural exchanges and joint programs for educational, recreational, artistic, humanitarian, and economic purposes that benefit both Vermont and the Sister State.

(C) The relationship promotes peace, human rights, and environmental sustainability.

(D) The relationship involves a diverse range of individuals, sectors, organizations, and communities in Vermont and the Sister State.

(2) A Sister State agreement shall not initially exceed eight years and may be renewed for five-year increments upon approval of the Committee if it determines the relationship has met the goals of the Sister State Program.

(3) The Committee shall report to the relevant legislative committees and the Governor biannually on or before February 1 concerning the status of the Sister State Program, its programs, agreements, and progress meeting the Program goals.

(4) In the event of an emergency, such as a public health emergency; war or armed conflict; or serious human rights, environmental, or economic violations, the Governor, Lieutenant Governor, and Speaker may agree to immediately terminate a Sister State agreement or individual program.

(e) Compensation.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23.

(2) Other members of the Committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010.

(3) Payments to members of the Committee authorized under this subsection shall be made from monies appropriated to the Agency of Commerce and Community Development or other specific appropriation made for that purpose.

Sec. 2. IMPLEMENTATION

The authorities authorized to make appointments to the Vermont Sister State Committee pursuant to 3 V.S.A. § 2488(b)(1)(C)–(E) shall appoint members to initial terms of three, four, and five years, respectively.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee vote: 5-0-0)

Reported favorably by Senator Perchlik for the Committee on Appropriations.

(Committee vote: 5-0-2)

S. 32.

An act relating to ranked-choice voting for presidential primary elections.

Reported favorably with recommendation of amendment by Senator Vyhovsky for the Committee on Government Operations.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Opt-in Ranked-Choice Voting System for Town, Cities, and Villages * * *

Sec. 1. 17 V.S.A. chapter 55, subchapter 4 is added to read:

Subchapter 4. Ranked-Choice Voting

§ 2691a. DEFINITIONS

As used in this subchapter:

(1) "Active candidate" means a candidate who has not been eliminated

and who is not a withdrawn candidate.

(2) "By lot" means a method, determined by the Secretary of State, for randomly choosing between two or more active candidates.

(3) "Highest-ranked active candidate" means the active candidate assigned a higher ranking than any other active candidate.

(4) "Inactive ballots" means ballots that do not count as votes for any candidate due to one or more of the reasons listed in subdivision 2691d(c)(2) of this title.

(5) "Overvote" means an instance in which a voter assigned the same ranking to more than one candidate.

(6) "Ranking" means the number available to be assigned by a voter to a candidate to express the voter's choice for that candidate. The number "1" is the highest ranking, followed by "2" and then "3" and so on.

(7) "Round" means an instance of the sequence of voting tabulation in accordance with section 2691d of this title.

(8) "Skipped ranking" means a voter does not assign a certain available ranking to any candidate but does assign a subsequent available ranking to a candidate.

(9) "Undervote" means a ballot on which a voter does not assign any ranking to any candidate in a particular contest.

(10) "Withdrawn candidate" means any candidate who has submitted a declaration of withdrawal in writing to the presiding officer, the effectiveness of which begins when filed with the presiding officer.

§ 2691b. RANKED-CHOICE VOTING SYSTEM; APPLICATION

(a) Application. The provisions of the ranked-choice voting system described in this subchapter shall only apply to the election of a candidate running for an office in a town, city, or village if:

(1) a town, city, or village has voted to elect officers by the Australian ballot system pursuant to section 2680 of this title and is using the Australian ballot system in accordance with subsection 2680 of this title; and

(2) that town, city, or village has adopted the ranked-choice voting system described in this subchapter by either:

(A) a vote of the town, city, or village, at its annual meeting or at a special meeting called for that purpose; or

(B) a vote of the legislative body of that town, city, or village.

(b) Duration. Once a town, city, or village votes to adopt the ranked-choice voting system described in this subchapter, this ranked-choice voting system shall be used in that manner until:

(1) the town, city, or village votes to discontinue use of the system; or

(2) the legislative body of that town, city, or village votes to discontinue use of the system, provided however, that the legislative body may not vote to discontinue use of the system if that town, city, or village had adopted the ranked-choice voting system by a vote of the town, city, or village.

§ 2691c. RANKED-CHOICE VOTING SYSTEM; BALLOTS

Notwithstanding any contrary provisions in section 2681a of this title, a ballot for an election using the ranked-choice system in a town, city, or village shall allow voters to rank candidates in order of ordinal preference.

(1) The names of all candidates on the ballot shall be listed in alphabetical order.

(2) The ballot shall allow voters to assign rankings to candidates that are equal to the number of printed candidate names and blank write-in lines.

§ 2691d. RANKED-CHOICE VOTING TABULATION

(a) Tabulation rounds. In any election of a candidate running for an office in a town, city, or village, each ballot shall count as one vote for the highest-ranked active candidate on that ballot. Tabulation shall proceed in rounds, as follows:

(1) Elections with one winner.

(A) If there are two or fewer active candidates, then tabulation is complete, and the candidate with the most votes is declared the winner of the election.

(B) If there are more than two active candidates, the active candidate with the fewest votes is eliminated, the votes for the eliminated candidate are transferred to each ballot's next-ranked active candidate, and a new round begins.

(2) Elections with multiple winners.

(A) If the number of active candidates is equal to the number of seats available plus one, then tabulation is complete, and the candidates with the most votes are declared the winners of the election.

(B) If the number of active candidates is more than the number of seats available plus one, then the active candidate with the fewest votes is

eliminated, the votes for the eliminated candidate are transferred to each ballot's next-ranked active candidate, and a new round begins.

(3) Ties.

(A) If there is a tie between two active candidates with the fewest votes, the tie shall be resolved by lot to determine which candidate is defeated. The result of the tie resolution must be recorded and reused in the event of a recount.

(B) If there is a tie between the final active candidates, the presiding officer shall notify each active candidate involved in the tie, or the candidate's designee, to be present at the presiding officer's office or at the polling place at a certain time. At that time, the presiding officer shall select the winner of the tabulation by lot.

(b) Withdrawn candidates. Ranking orders containing withdrawn candidates shall be treated the same as ranking orders containing candidates who have been eliminated from tabulation.

(c) Inactive ballots and undervotes.

(1) In any round of tabulation, an inactive ballot does not count for any candidate and is not considered a vote for the purposes of determining which active candidate has the majority of the active votes in the final round of tabulation pursuant to subsection (a) of this section.

(2) A ballot is an inactive ballot if any of the following is true:

(A) The ballot does not rank any active candidates and is not an undervote.

(B) The ballot has reached an overvote.

(C) The ballot has reached two consecutive skipped rankings.

(3) An undervote does not count as either an active or inactive ballot in any round of tabulation.

§ 2691e. RANKED-CHOICE VOTING RESULTS REPORTING

In addition to any other information required by law to be reported with final results, the following shall be made public:

(1) the total number of votes each candidate received in each round of the official tabulation, including votes for withdrawn candidates; and

(2) the total number of ballots that became inactive in each round because they did not contain any active candidates, reached an overvote, or reached two consecutive skipped rankings, reported as separate figures.

§ 2691f. MUNICIPAL ORDINANCES

Municipalities shall have the power to adopt ordinances pursuant to 24 V.S.A. chapter 59 for the purpose of the proper and efficient administration of the ranked-choice voting system in towns, cities, and villages, provided such ordinances do not controvert the provisions of this subchapter.

Sec. 2. FIRST PERMISSIBLE ELECTION USING RANKED-CHOICE VOTING SYSTEM

A town, city, or village may only use the ranked-choice voting system described in 17 V.S.A. chapter 55, subchapter 4 beginning at the 2024 annual meeting of that town, city, or village and then thereafter. A town, city, or village may nevertheless adopt pursuant to 17 V.S.A. § 2691b(a) a ranked-choice voting system in advance of the 2024 annual meeting.

* * * Voter and Presiding Officer Education * * *

Sec. 3. VOTER AND PRESIDING OFFICER EDUCATION; SECRETARY OF STATE'S OFFICE

The Secretary of State shall make available to voters in a town, city, or village that has adopted ranked-choice voting pursuant to 17 V.S.A. § 2691b information regarding the ranked-choice process and provide to presiding officers in those towns, cities, and villages training in order to assist them in implementing that process.

* * * Appropriation * * *

Sec. 4. APPROPRIATION; UPGRADE OF SECRETARY OF STATE ELECTION MANAGEMENT SYSTEM AND VOTE TABULATORS

The sum of $100,000.00 is appropriated from the General Fund to the Office of the Secretary of State in fiscal year 2024 to provide assistance and grants to those towns, cities, and villages that have adopted ranked-choice voting pursuant to 17 V.S.A. § 2691b.

* * * Ranked-Choice Voting Study Committee * * *

Sec. 5. RANKED-CHOICE VOTING; RANKED-CHOICE VOTING STUDY COMMITTEE; REPORT

(a) Creation. There is created the Ranked-Choice Voting Study Committee to examine issues in implementing ranked-choice voting in Vermont across all elections for state and federal office.

(b) Membership. The Ranked-Choice Voting Study Committee shall be composed of the following members:

(1) two current members of the House of Representatives, not from the same political party, who shall be appointed by the Speaker of the House;

(2) two current members of the Senate, not from the same political party, who shall be appointed by the Committee on Committees;

(3) one designee, appointed by the Secretary of State;

(4) three designees, appointed by the Vermont Municipal Clerks' and Treasurers' Association, from different-sized towns, cities, and villages, different regions, and at least one shall be from a town, city, or village that use a hand count in elections;

(5) one designee, appointed by the Vermont League of Cities and Towns;

(6) a member of an organization focused on the conduct of elections, who shall be appointed by the Speaker of the House; and

(7) a member of a different organization focused on the conduct of elections, who shall be appointed by the Senate Committee on Committees.

(c) Powers and duties. The Ranked-Choice Voting Study Committee shall study ranked-choice voting systems with the goals of having recommendations implemented for all primary and general elections for state and federal office occurring in 2026, including the following issues:

(1) education of voters;

(2) training of town clerks, presiding officers, and election staff;

(3) election integrity, security, and transportation of ballots;

(4) technological requirements in tabulators, hardware, and software;

(5) methodology of ranked-choice voting systems;

(6) canvassing of votes and roles of canvassing committees;

(7) post-election processes and reporting; and

(8) other items relating to the design and implementation of ranked-choice voting systems.

(d) Assistance. The Ranked-Choice Voting Study Committee shall have the administrative, technical, and legal assistance of the Vermont Office of Legislative Counsel and the Vermont Legislative Joint Fiscal Office.

(e) Report. On or before January 15, 2024, the Ranked-Choice Voting Study Committee shall report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government

Operations with its findings and any recommendations for legislative action.

(f) Meetings.

(1) A member of the House of Representatives designated by the Speaker of the House shall call the first meeting of the Ranked-Choice Voting Study Committee to occur on or before July 1, 2023.

(2) The Ranked-Choice Voting Study Committee shall select a chair from among its members at the first meeting.

(3) A majority of the members of the Ranked-Choice Voting Study Committee shall constitute a quorum.

(4) The Ranked-Choice Voting Study Committee shall cease to exist on November 1, 2024.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Ranked-Choice Voting Study Committee serving in the legislator'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 four meetings. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Ranked-Choice Voting Study Committee who are not paid for their services by the organization for which the member is representing on the Ranked-Choice Voting Study Committee shall be entitled to per diem compensation as permitted under 32 V.S.A. § 1010 for not more than four meetings. These payments shall be made from monies appropriated to the Office of the Secretary of State.

(h) Appropriation. The sum of $1,000.00 is appropriated to the Office of the Secretary of State from the General Fund in fiscal year 2024 for per diem compensation for members of the Committee.

* * * Ranked-Choice Voting for Presidential Primary Elections * * *

Sec. 6. REDESIGNATION

17 V.S.A. §§ 2705 and 2706 are redesignated as 17 V.S.A. §§ 2710 and 2711.

Sec. 7. 17 V.S.A. chapter 57, subchapter 1 is amended to read:

Subchapter 1. Presidential Primary

§ 2700. DEFINITIONS

As used in this subchapter:

(1) "Active candidate" means a candidate who has not been eliminated and who is not a withdrawn candidate as set forth in subdivision (12) of this section.

(2) "By lot" means a method, determined by the Secretary of State, for randomly choosing between two or more active candidates.

(3) "Highest-ranked active candidate" means the active candidate assigned a higher ranking than any other active candidate.

(4) "Inactive ballots" means ballots that do not count as votes for any candidate due to one or more of the reasons listed in subdivision 2706(c)(2) of this title.

(5) "Major political party" has the same meaning as in subdivision 2103(23)(A) of this title.

(6) "Overvote" means an instance in which a voter assigned the same ranking to more than one candidate.

(7) "Ranking" means the number available to be assigned by a voter to a candidate to express the voter's choice for that candidate. The number "1" is the highest ranking, followed by "2," and then "3," and so on.

(8) "Round" means an instance of the sequence of voting tabulation in accordance with section 2706 of this title.

(9) "Skipped ranking" means a voter does not assign a certain available ranking to any candidate but does assign a subsequent available ranking to a candidate.

(10) "Threshold for receiving delegates" means the number of votes necessary for a candidate to receive delegates in a presidential primary election conducted in accordance with subdivision 2705(a)(2) of this title.

(11) "Undervote" means a ballot on which a voter does not assign any ranking to any candidate in a particular contest.

(12) "Withdrawn candidate" means any candidate who has submitted a declaration of withdrawal in writing to the Secretary of State, the effectiveness of which begins when filed with the Secretary of State.

§ 2701. PRESIDENTIAL PRIMARY; TIME OF HOLDING; FORM OF BALLOT

In presidential election years, a presidential primary for each major political party shall be held in all municipalities on the first Tuesday in March. The Secretary of State shall prepare and distribute for use at the primary an official ranked-choice ballot for each party for which one or more candidates qualify

for the placing of their names on the ballot under section 2702 of this title. Ballots shall be printed on index stock and configured to be readable by vote tabulators.

* * *

§ 2704. RANKED-CHOICE VOTING; BALLOTS

(a) A presidential primary election for a major political party shall be conducted by ranked-choice voting.

(b) A person voting at the primary shall be required to ask for the ranked-choice ballot of the party in which the voter wishes to vote, and an election official shall record the voter's choice of ballot by marking the entrance checklist with a letter code, as designated by the Secretary of State, to indicate the voter's party choice.

(1) The ballot shall allow voters to rank candidates in order of choice. The names of all candidates on the ballot shall be listed in alphabetical order. ~~Each voter may vote for one candidate for the presidential nomination of one party, either by placing a mark opposite the printed name of a candidate as in other primaries, or by writing in the name of the candidate of the voter's choice.~~

(2) The ballot shall allow voters to assign rankings to candidates that are equal to the number of printed candidate names and blank write-in lines, except to the extent established by the Secretary pursuant to section 2709 of this title.

§ 2705. TYPE OF RANKED-CHOICE VOTING

(a) At least 150 days before the date of the presidential primary election, the State committee of each major political party shall confirm in writing with the Secretary of State whether the party will award delegates either:

(1) on a winner-take-all basis in accordance with subsection 2706(d) of this title; or

(2) on a proportional basis in accordance with subsection 2706(e) of this title, in which case the party shall also indicate the applicable threshold or thresholds for receiving delegates.

(b) If a party fails to provide notice, or its notice does not specify how the party will award its delegates, the presidential primary election for that party shall be tabulated on a winner-take-all basis in accordance with subsection 2706(d) of this title.

(c) At least 120 days before the date of the presidential primary election, the Secretary of State shall confirm with the State committee of each political party that the State is capable of implementing the party's preferences as declared under subsection (a) of this section or shall notify the State committee of any feasibility constraints that could prevent the State from implementing the party's preferences.

§ 2706. RANKED-CHOICE VOTING TABULATION

(a) Tabulation rounds. In any presidential primary election for a major political party, each ballot shall count as one vote for the highest-ranked active candidate on that ballot. Tabulation shall proceed in rounds. Each round proceeds sequentially as described in subsection (d) or (e) of this section, as applicable.

(b) Withdrawn candidates. Ranking orders containing withdrawn candidates shall be treated the same as ranking orders containing candidates who have been eliminated from tabulation.

(c) Inactive ballots and undervotes.

(1) In any round of tabulation, an inactive ballot does not count for any candidate and is not considered a vote for the purposes of determining either which active candidate has majority of the active votes in the final round of tabulation pursuant to subsection (d) of this section or which active candidates possess a vote total above the threshold for receiving delegates pursuant to subsection (e) of this section.

(2) A ballot is an inactive ballot if any of the following is true:

(A) The ballot does not rank any active candidates and is not an undervote.

(B) The ballot has reached an overvote.

(C) The ballot has reached two consecutive skipped rankings.

(3) An undervote does not count as either an active or inactive ballot in any round of tabulation.

(d) Award of delegates on winner-take-all basis. If a major political party awards all of the State's delegates to a single candidate on a winner-take-all basis, tabulation shall proceed as follows:

(1) If there are two or fewer active candidates, then tabulation is complete and the candidate with the most votes is declared the winner of the election.

(2) If there are more than two active candidates, the active candidate with the fewest votes is eliminated, the votes for the eliminated candidate are transferred to each ballot's next-ranked active candidate, and a new round begins.

(3) If there is a tie between two active candidates with the fewest votes, the tie shall be resolved by lot to determine which candidate is defeated. The result of the tie resolution must be recorded and reused in the event of a recount.

(4) If there is a tie between the final two active candidates, the Secretary of State shall notify each active candidate involved in the tie, or the candidate's designee, to be present at the Secretary of State's office at a certain time. At that time, the Secretary of State shall select the winner of the tabulation by lot.

(e) Award of delegates on proportional basis. If a major political party awards the State's delegates to multiple candidates on a proportional basis, tabulation shall proceed as follows:

(1) If the vote total of every active candidate is above the threshold for receiving delegates as confirmed by the major political party pursuant to subdivision 2705(a)(2) of this title, then tabulation is complete.

(2) If any active candidate is below the threshold for receiving delegates, then the active candidate with the fewest votes is eliminated, votes for the eliminated candidate are transferred to each ballot's next-ranked active candidate, and a new round begins.

(3) If there is a tie between two active candidates with the fewest votes and tabulation is not yet complete, the tie shall be resolved by lot to determine which candidate is defeated. The result of the tie resolution must be recorded and reused in the event of a recount.

(f) Certification of tabulation rounds. The Secretary of State shall certify the results of each round tabulated pursuant to subsection (d) or (e) of this section, as applicable, along with any other information required under section 2707 of this title, to the State chairperson and the national committee of each political party that had at least one candidate on the State-administered presidential primary election ballot to allocate national delegate votes in accordance with the party's State and national rules.

(g) Nothing in this act shall be construed to preclude a political party from allocating delegates according to its own rules for allocating such delegates.

§ 2707. RANKED-CHOICE VOTING RESULTS REPORTING

(a) Unofficial preliminary round-by-round results shall be released as soon as feasible after the polls close and at regular intervals thereafter until the counting of ballots is complete. Unofficial preliminary round-by-round results shall be clearly labeled as preliminary and, to the extent feasible, shall include the percent of ballots counted to date.

(b) In addition to any other information required by law to be reported with final results, the following shall be made public:

(1) the total number of votes each candidate received in each round of the official tabulation, including votes for withdrawn candidates; and

(2) the total number of ballots that became inactive in each round because they did not contain any active candidates, reached an overvote, or reached two consecutive skipped rankings, reported as separate figures.

(c) If a major political party allocates delegates by geographical unit or district, round-by-round results by geographical unit or district shall be made public in addition to state-wide results.

§ 2708. CANVASSING COMMITTEE CERTIFICATES

When the canvassing committee provided for in section 2592 of this title prepares its certificate of election for a presidential primary election for a major political party, the canvass shall state the number of final round votes received by each candidate who has received votes in the final round of tabulation.

Sec. 8. 17 V.S.A. § 2709 is added to read:

§ 2709. RULEMAKING

The Secretary of State shall adopt rules pursuant to 3 V.S.A. chapter 25 for the proper and efficient administration of presidential primary elections, including procedures for ensuring that voting tabulators, voting tabulator memory cards, and related software are able to tabulate rank-choice voting when necessary; procedures for ensuring that the number of rankings allowed to voters be uniform across the State for any given contest, that the number of rankings allowed in any given contest be the maximum number allowed by the equipment, and that the number of rankings allowed be not fewer than three in any event; procedures for the release of round-by-round results; procedures for requesting and conducting recounts of the results of presidential primary elections for major candidates; and procedures for filing returns in accordance with section 2588 of this title.

* * * Vote Tabulators; Returns * * *

Sec. 9. TALLY SHEETS; SUMMARY SHEETS; RETURNS

The Secretary of State shall ensure that on or before January 1, 2028, all tally sheets, summary sheets, and returns described in 17 V.S.A. § 2586 are designed to record ranked-choice voting results in accordance with this act.

* * * Effective Dates * * *

Sec. 10. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 6 (redesignation) and 7 (amending 17 V.S.A. chapter 57, subchapter 1) shall take effect on January 1, 2027 and Secs. 8 (rulemaking) and 9 (tally sheets; summary sheets; returns) shall take effect on January 1, 2025.

(Committee vote: 6-0-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Government Operations with the following amendment thereto:

By striking out Sec. 4, appropriation; upgrade of Secretary of State election management system and vote tabulators, and its reader assistance heading in their entireties and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. [Deleted.]

(Committee vote: 5-1-1)

S. 42.

An act relating to divestment of State pension funds of investments in the fossil fuel industry.

Reported favorably with recommendation of amendment by Senator Clarkson for the Committee on Government Operations.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PUBLIC PENSION FUNDS; FOSSIL FUELS; VERMONT PENSION INVESTMENT COMMISSION; PLAN AND REPORT

(a) Intent. It is the intent of the General Assembly that, on or before December 31, 2030, the Vermont Pension Investment Commission, consistent

with sound fiduciary practice and subject to any exceptions, divest the holdings of the Vermont State Employees' Retirement System, the Vermont Teachers' Retirement System, and the Vermont Municipal Employees' Retirement System from the fossil fuel industry. It is also the intent of the General Assembly that the Vermont Pension Investment Commission establish a long-term goal to divest from any private investments that contain assets in the fossil fuel industry on or before December 31, 2040, if the Commission determines that such divestment is consistent with sound fiduciary practice.

(b) Definitions. As used in this section:

(1) "Carbon footprint" means the extent to which holdings are invested in stocks, securities, or other obligations of any fossil fuel company or any subsidiary, affiliate, or parent of any fossil fuel company.

(2) "De minimis exposure" means the aggregate amount of all fossil fuel holdings in the portfolio amounting to less than two percent of the aggregate amount of all funds invested.

(c) Review. On or before December 15, 2023, the Vermont Pension Investment Commission, in consultation with the Office of the State Treasurer, shall complete a review of the carbon footprint of the holdings of the Vermont State Employees' Retirement System, the Vermont State Teachers' Retirement System, and the Vermont Municipal Employees' Retirement System.

(d) Plan.

(1) Divestment. Except as provided in subdivision (2) of this subsection, the Commission, in accordance with sound investment criteria and consistent with fiduciary obligations, shall develop a plan to divest any holdings identified in the review described in subsection (c) of this section on or before December 31, 2030. The Commission shall include in the plan consideration of the State's long-term goal of divestment from any investments that are exempt from the plan pursuant to subdivision (2) of this subsection on or before December 31, 2040.

(2) Exemptions. Until such time as the Commission deems divestment to be prudent and consistent with sound fiduciary practice, the following holdings are exempt from the plan:

(A) de minimis exposure of any funds held by the Commission to the stocks, securities, or other obligations of any fossil fuel company or any subsidiary, affiliate, or parent of any fossil fuel company; and

(B) private investments that contain fossil fuel company stocks, securities, or other obligations of any fossil fuel company or any subsidiary, affiliate, or parent of any fossil fuel company.

(3) Definitions and methodology. The Commission shall include in the plan described in this subsection:

(A) a definition for "fossil fuel company"; and

(B) a method for determining the metric of the portfolio's carbon footprint that allows for an exemption of private investments for the purpose of determining the de minimis exposure.

(e) Report.

(1) On or before February 15, 2024, the Commission shall submit a report on the review described in subsections (c) of this section to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations and to the Joint Pension Oversight Committee. The report shall include any recommendations for legislative action, if necessary, to implement the divestment plan.

(2)(A) On or before September 1, 2024, the Commission shall submit a report on the plan described in subsections (d) of this section to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations and to the Joint Pension Oversight Committee. The report shall include any recommendations for legislative action, if necessary, to implement the divestment plan.

(B) Pursuant to 2 V.S.A. § 23, with approval of the Speaker of the House and the President Pro Tempore, as appropriate, the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations may each meet up to one time when the General Assembly is not in session to evaluate the report described in subdivision (A) of this subdivision (e)(2).

(3) Beginning on January 15, 2025, and annually thereafter until January 15, 2040, the Commission shall submit a report to the House Committee on Government Operations and Military Affairs, the Senate Committee on Government Operations, and the Joint Pension Oversight Committee on the progress of divestment described in this section. The report shall also include:

(A) an update on the composition and percentage of exposure of any investments exempt from the divestment plan pursuant to subdivision (c)(2) of this section; and

(B) a summary of the fee impacts and any instance of excessive charges or demands related to the rebalancing of the funds consistent with the implementation of this act.

(4) On or before January 15, 2041, the Commission shall make a final report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations and the Joint Pension Oversight Committee regarding completion of divestment described in this section.

Sec. 2. DIVESTMENT PLAN; VERMONT PENSION INVESTMENT COMMISSION; APPROPRIATION

In FY 2024, the amount of:

(1) $100,000.00 in general funds is appropriated to the Vermont Pension Investment Commission to conduct the review and develop the plan described in Sec. 1 of this act.

(2) $127,000.00 is appropriated to the Vermont Pension Investment Commission to establish one staff position to support improvements and efficiencies in the administration of the Commission and to meet the review, planning, and reporting requirements of this act. The appropriation to the Commission shall be distributed from the following funding sources pursuant to the allocations set forth below:

(A) 40.86 percent from the Vermont State Retirement Fund, established in 3 V.S.A. § 473;

(B) 44.01 percent from the Vermont Teachers' Retirement Fund, established in 16 V.S.A. § 1944; and

(C) 15.13 percent from the Vermont Municipal Employees' Retirement Fund, established in 24 V.S.A. § 5064.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 6-0-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Government Operations with the following amendments thereto:

First: In Sec. 1, public pension funds; fossil fuels; Vermont Pension Investment Commission; plan and report, by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) Intent.

(1) It is the intent of the General Assembly that the Vermont Pension Investment Commission build upon its effective efforts to manage the State's financial risks to climate change, including investing in low carbon indexes, successfully engaging with fossil fuel and other companies, and supporting initial studies and reviews on climate change.

(2) It is also the intent of the General Assembly that, on or before December 31, 2030, the Vermont Pension Investment Commission shall, consistent with sound fiduciary practice, including consideration of any expected increased funding requirements for the actuarially determined employer contribution (ADEC) and administrative costs, and subject to any exceptions, divest the holdings of the Vermont State Employees' Retirement System, the Vermont Teachers' Retirement System, and the Vermont Municipal Employees' Retirement System from the fossil fuel industry.

(3) The General Assembly also intends that that the Vermont Pension Investment Commission establish a long-term goal to divest from any private investments that contain assets in the fossil fuel industry on or before December 31, 2040, if the Commission determines that such divestment is consistent with sound fiduciary practice.

Second: In Sec. 1, public pension funds; fossil fuels; Vermont Pension Investment Commission; plan and report, by striking out subdivision (d)(1) in its entirety and inserting in lieu thereof the following:

(1) Divestment. Except as provided in subdivision (2) of this subsection, the Commission, in accordance with sound investment criteria and consistent with fiduciary obligations, including consideration of any expected increased funding requirements for the actuarially determined employer contribution (ADEC) and administrative costs, shall develop a plan to divest any holdings identified in the review described in subsection (c) of this section on or before December 31, 2030. The Commission shall include in the plan consideration of the State's long-term goal of divestment from any investments that are exempt from the plan pursuant to subdivision (2) of this subsection on or before December 31, 2040.

Third: By striking out Sec. 2, divestment plan; Vermont Pension Investment Commission; appropriation, in its entirety and inserting in lieu thereof the following:

Sec. 2. DIVESTMENT PLAN; VERMONT PENSION INVESTMENT COMMISSION; APPROPRIATION

In FY 2024, the amount of $127,000.00 is appropriated to the Vermont Pension Investment Commission to establish one staff position to support

improvements and efficiencies in the administration of the Commission and to meet the review, planning, and reporting requirements of this act. The appropriation to the Commission shall be distributed from the following funding sources pursuant to the allocations set forth below:

(1) 40.86 percent from the Vermont State Retirement Fund, established in 3 V.S.A. § 473;

(2) 44.01 percent from the Vermont Teachers' Retirement Fund, established in 16 V.S.A. § 1944; and

(3) 15.13 percent from the Vermont Municipal Employees' Retirement Fund, established in 24 V.S.A. § 5064.

(Committee vote: 6-0-1)

S. 102.

An act relating to expanding employment protections and collective bargaining rights.

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

The Committee recommends that 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. EMPLOYER COMMUNICATIONS RELATING TO RELIGIOUS OR POLITICAL MATTERS; EMPLOYEE RIGHTS

(a) An employer, or an employer's agent, shall not discharge, discipline, penalize, or otherwise discriminate against, or threaten to discharge, discipline, penalize, or otherwise discriminate against, an employee:

(1) because the employee declines:

(A) to attend or participate in an employer-sponsored meeting that has the primary purpose of communicating the employer's opinion about religious or political matters; or

(B) to view or participate in communications with or from the employer or the employer's agent that have the primary purpose of communicating the employer's opinion about religious or political matters; or

(2) as a means of requiring an employee to:

(A) attend an employer-sponsored meeting that has the primary purpose of communicating the employer's opinion about religious or political

matters; or

(B) view or participate in communications with or from the employer or the employer's agent that have the primary purpose of communicating the employer's opinion about religious or political matters.

(b) Nothing in this section shall be construed to:

(1) limit an employee's right to bring a civil action for wrongful termination; or

(2) diminish or limit any rights provided to an employee pursuant to a collective bargaining agreement or employment contract.

(c) Nothing in this section shall be construed to prohibit an employer that is a religious or denominational institution or organization, or any organization operated for charitable or educational purposes, that is operated, supervised, or controlled by or in connection with a religious organization, from:

(1) communicating with its employees regarding the employer's opinion on religious matters;

(2) requiring its employees to attend a meeting regarding the employer's opinion on religious matters; or

(3) requiring its employees to view or participate in communications from the employer or the employer's agent regarding the employer's opinion on religious matters.

(d) Nothing in this section shall be construed to prohibit an employer that is a political organization, a political party, or an organization that engages, in substantial part, in political matters from:

(1) communicating with its employees regarding the employer's opinion on political matters;

(2) requiring its employees to attend a meeting regarding the employer's opinion on political matters; or

(3) requiring its employees to view or participate in communications from the employer or the employer's agent regarding the employer's opinion on political matters.

(e) Nothing in this section shall be construed to prohibit an employer or the employer's agent from:

(1) communicating information to an employee:

(A) that the employer is required to communicate pursuant to State or federal law; or

(B) that is necessary for the employee to perform the employee's job functions or duties;

(2) requiring an employee to attend a meeting to discuss issues related to the employer's business or operation when the discussion is necessary for the employee to perform the employee's job functions or duties; or

(3) offering meetings, forums, or other communications about religious or political matters for which attendance or participation is entirely voluntary.

(f)(1) The penalty and enforcement provisions of section 495b of this subchapter shall apply to this section.

(2) The provisions against retaliation in subdivision 495(a)(8) of this subchapter shall apply to this section.

(g) As used in this section:

(1) "Political matters" means matters relating to political affiliation, elections for political office, political parties, legislative proposals, proposals to change rules or regulations, and the decision to join or support any political party or political, civic, community, fraternal, or labor organization.

(2) "Religious matters" means matters relating to religious affiliation and practice and the decision to join or support any religious or denominational organization or institution.

Sec. 2. 21 V.S.A. § 1502 is amended to read:

§ 1502. DEFINITIONS

As used in this chapter:

* * *

(6) "Employee" includes any employee, and is not limited to the employees of a particular employer unless this chapter explicitly states otherwise, and includes any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice and who has not obtained any other regular and substantially equivalent employment, but does not include an individual~~;~~:

(A) ~~employed as an agricultural laborer;~~

~~(B)~~ employed by ~~his or her~~ the individual's parent or spouse;

~~(C) employed in the domestic service of any family or person at his or her home;~~

~~(D)~~(B) having the status of an independent contractor;

~~(E)~~(C) employed as a supervisor;

~~(F)~~(D) employed by an employer subject to the Railway Labor Act ~~as amended from time to time~~; or

~~(G)~~(E) employed by any other person who is not an employer as defined in subdivision (7) of this section.

* * *

Sec. 3. 3 V.S.A. § 941 is amended to read:

§ 941. UNIT DETERMINATION, CERTIFICATION, AND REPRESENTATION

* * *

(e)(1) Whenever, on the basis of a petition pursuant to subdivision (d)(1) of this section or a hearing pursuant to subdivision (d)(2) of this section, the Board finds substantial interest among employees in forming a bargaining unit or being represented for purposes of collective bargaining, a secret ballot election shall be conducted by the Board not more than 23 business days after the petition is filed with the Board except as otherwise provided pursuant to subdivision (4) of this subsection and subdivision (g)(4) of this section.

* * *

(g)(1) In determining the representation of State employees in a collective bargaining unit, the Board shall conduct a secret ballot of the employees within the time period set forth in subdivision (e)(1) of this section, unless the time to conduct the election is extended pursuant to subdivision (e)(4) of this section, and certify the results to the interested parties and to the State employer. The original ballot shall be so prepared as to permit a vote against representation by anyone named on the ballot. No representative will be certified with less than a majority of the votes cast by employees in the bargaining unit.

* * *

(4)(A) Notwithstanding any other provision of this subsection (g), if the Board determines that a petition to be represented for collective bargaining filed pursuant to subsection (c) of this section, which identifies a proposed exclusive representative of the employees in the bargaining unit, bears the signatures of at least 50 percent plus one of the employees in a bargaining unit deemed appropriate by the Board pursuant to this section, the Board shall certify the person or labor organization as the exclusive representative of the bargaining unit.

(B) Certification of a collective bargaining representative shall only be available pursuant to this subdivision (g)(4) when no other person or labor organization is currently certified or recognized as the exclusive representative of the employees in the bargaining unit.

(h) A representative chosen ~~by secret ballot~~ for the purposes of collective bargaining by a majority of the votes cast by secret ballot or certified pursuant to subdivision (g)(4) of this section shall be the exclusive representative of all the employees in ~~such~~ the bargaining unit for a minimum of one year. ~~Such~~ The representative shall be eligible for reelection or for recertification pursuant to subdivision (g)(4) of this section.

* * *

Sec. 4. 16 V.S.A. § 1992 is amended to read:

§ 1992. REFERENDUM PROCEDURE FOR REPRESENTATION

(a)(1) An organization purporting to represent a majority of all of the teachers or administrators employed by the school board may be recognized by the school board without the necessity of a referendum upon the submission of a petition bearing the valid signatures of a majority of the teachers or administrators employed by that school board. ~~Within 15 calendar days after receiving the petition, the school board shall notify the teachers or administrators of the school district in writing of its intention to either require or waive a secret ballot referendum. If the school board gives notice of its intention to waive a referendum and recognize an organization, 10 percent of the teachers or administrators employed by the school board may submit a petition within 15 calendar days thereafter, objecting to the granting of recognition without a referendum, in which event a secret ballot referendum shall be held in the district for the purpose of choosing an exclusive representative as provided pursuant to the provisions of this section~~ The school board and the organization purporting to represent a majority of the teachers or administrators shall, within 10 business days after the petition is submitted, agree on an impartial third party to examine the petition and determine whether a majority of the teachers or administrators support the organization. If the parties fail to agree on an impartial third party within 10 business days, the Vermont Labor Relations Board shall examine the petition and determine whether a majority of the teachers or administrators support the organization. If the impartial party or the Board determines that a majority of the teachers or administrators support the organization, it shall certify the organization as the exclusive representative of the teachers or administrators.

* * *

(b) ~~Recognition granted to~~ Certification of a negotiating unit as exclusive representative shall be valid and not subject to challenge by referendum petition or otherwise for the remainder of the fiscal year in which ~~recognition is granted~~ the certification occurs and for an additional period of 12 months after final adoption of the budget for the succeeding fiscal year and shall continue thereafter until a new referendum is called for.

(c)(1)(A) A secret ballot referendum shall be held not more than 21 calendar days after 20 percent of the teachers or administrators employed by the school board present a petition requesting a referendum on the matter of representation, except during a period of prior ~~recognition~~ certification, as provided pursuant to subsection (b) of this section.

* * *

Sec. 5. 21 V.S.A. § 1581 is amended to read:

§ 1581. PETITIONS FOR ELECTION; FILING, INVESTIGATIONS, HEARINGS, DETERMINATIONS

* * *

(b)(1) The Board shall investigate the petition and if it has reasonable cause to believe that a question of representation exists shall provide for an appropriate hearing before the Board itself, a Board member ~~thereof~~, or its agents appointed for that purpose upon due notice. Written notice of the hearing shall be mailed by certified mail to the parties named in the petition not less than seven days before the hearing.

(2) If the Board finds upon the record of the hearing that a question of representation exists, it shall conduct an election by secret ballot marked at the place of election and certify to the parties, in writing, the results ~~thereof~~ of the election.

(3)(A) If the Board finds upon the record of the hearing that a petition to be represented for collective bargaining filed pursuant to subdivision (a)(1)(A) of this section, which identifies a proposed bargaining representative, bears the signatures of at least 50 percent plus one of the employees in the bargaining unit, the Board shall certify the individual or labor organization identified as the bargaining representative.

(B) Certification of a representative shall only be available pursuant to this subdivision (B) when no other individual or labor organization is currently certified or recognized as the bargaining representative.

(c) In determining whether or not a question of representation exists, ~~it~~ the Board shall apply the same regulations and rules of decision regardless of the

identity of the persons filing the petition or the kind of relief sought.

* * *

Sec. 6. 21 V.S.A. § 1584 is amended to read:

§ 1584. PETITIONS AND ELECTION TO RESCIND REPRESENTATIVE'S AUTHORITY

* * *

(b) No election ~~may~~ shall be conducted under this section in a bargaining unit or a subdivision within which in the preceding 12 months a valid election or certification of a representative pursuant to this subchapter has ~~been held~~ occurred.

Sec. 7. 21 V.S.A. § 1724 is amended to read:

§ 1724. CERTIFICATION PROCEDURE

* * *

(e)(1) ~~In~~ Except as otherwise provided pursuant to subsection (h) of this section, in determining the representation of municipal employees in a collective bargaining unit, the Board shall conduct an election by secret ballot of the employees and certify the results to the interested parties and to the employer. The election shall be held not more than 23 business days after the petition is filed with the Board except as otherwise provided pursuant to subdivision (4) of this subsection.

* * *

(h)(1) Notwithstanding subsections (e)–(g) of this section, if following its investigation pursuant to subsection (b) of this section the Board determines that a petition to be represented for collective bargaining filed pursuant to subsection (a) of this section, which identifies a proposed bargaining agent, bears the signatures of at least 50 percent plus one of the employees in the bargaining unit, the Board shall certify the individual or labor organization identified as the bargaining agent.

(2) Certification of a bargaining agent shall only be available pursuant to this subsection when no other individual or labor organization is currently certified or recognized as the agent of the employees in the bargaining unit.

(i) No election ~~may~~ shall be conducted under this section in a bargaining unit or a subdivision within which in the preceding 12 months a valid election has been held.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee vote: 4-1-0)

Reported favorably by Senator Perchlik for the Committee on Appropriations.

(Committee vote: 5-0-2)

NOTICE CALENDAR

Committee Bill for Second Reading

S. 100.

An act relating to housing opportunities made for everyone.

By the Committee on Economic Development, Housing and General Affairs. (Senator Ram Hinsdale for the Committee.)

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

The Committee recommends that the bill be amended as follows:

First: In Sec. 2, 24 V.S.A. § 4412, in subdivision (12), by striking out the word "four" and inserting in lieu thereof the word five

Second: By striking out Sec. 6, 24 V.S.A. § 4465, in its entirety and inserting in lieu thereof a new Sec. 6 to read as follows:

Sec. 6. 24 V.S.A. § 4465 is amended to read:

§ 4465. APPEALS OF DECISIONS OF THE ADMINISTRATIVE OFFICER

(a) An interested person may appeal any decision or act taken by the administrative officer in any municipality by filing a notice of appeal with the secretary of the board of adjustment or development review board of that municipality or with the clerk of that municipality if no such secretary has been elected. This notice of appeal must be filed within 15 days ~~of~~ following the date of that decision or act, and a copy of the notice of appeal shall be filed with the administrative officer.

(b) ~~For the purposes of~~ As used in this chapter, an "interested person" means any one of the following:

(1) A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or

inappropriate restrictions of present or potential use under the particular circumstances of the case.

(2) The municipality that has a plan or a bylaw at issue in an appeal brought under this chapter or any municipality that adjoins that municipality.

(3) A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality.

(4) Any ~~ten~~ 10 persons who allege a common injury to a particularized interest protected by this chapter, who may be any combination of voters or real property owners within a municipality listed in subdivision (2) of this subsection who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.

(5) Any department and administrative subdivision of this State owning property or any interest in property within a municipality listed in subdivision (2) of this subsection, and the Agency of Commerce and Community Development of this State.

* * *

Third: By striking out Sec. 13, 24 V.S.A. § 3101(a), and its reader assistance heading in their entireties and inserting in lieu thereof a new Sec. 13 to read as follows:

* * * Energy Codes * * *

Sec. 13. 24 V.S.A. § 3101(a) is amended to read:

(a) The mayor and board of aldermen of a city, the selectboard of a town, or the trustees of an incorporated village~~,~~ may, in accordance with this chapter, establish codes and regulations for the construction, maintenance, repair, and alteration of buildings and other structures within the municipality. Such codes and regulations may include provisions relating to building materials, structural design, passageways, stairways and exits, heating systems, fire protection procedures, and such other matters as may be reasonably necessary for the health, safety, and welfare of the public, but excluding electrical

installations subject to regulation under 26 V.S.A. chapter 15. Any energy codes and regulations adopted after July 1, 2023 shall not be more restrictive than the Residential Building Energy Standards or the stretch code adopted under 30 V.S.A. § 51 or the Commercial Building Energy Standards adopted under 30 V.S.A. § 53, except where enabled by a municipal charter.

Fourth: By striking out Sec. 16, 10 V.S.A. § 6001, in its entirety and inserting in lieu thereof a new Sec. 16 to read as follows:

Sec. 16. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

* * *

(3)(A) "Development" means each of the following:

* * *

(iv) The construction of housing projects such as cooperatives, condominiums, or dwellings, or construction ~~or maintenance~~ of mobile homes or mobile home parks, with 10 or more units, constructed or maintained on a tract or tracts of land, owned or controlled by a person, within a radius of five miles of any point on any involved land and within any continuous period of five years. However:

* * *

(xi) Until July 1, 2026, the construction of housing projects such as cooperatives, condominiums, dwellings, or mobile homes, with 25 or more units, constructed or maintained on a tract or tracts of land, located entirely within a designated downtown development district, a designated neighborhood development area, or a designated growth center, owned or controlled by a person, within a radius of five miles of any point on any involved land and within any continuous period of five years.

* * *

(D) The word "development" does not include:

* * *

(viii)(I) The construction of a priority housing project in a municipality with a population of 10,000 or more.

(II) If the construction of a priority housing project in this subdivision (3)(D)(viii) involves demolition of one or more buildings that are listed or eligible to be listed on the State or National Register of Historic Places, this exemption shall not apply unless the Division for Historic

Preservation has made the determination described in subdivision (A)(iv)(I)(ff) of this subdivision (3) and any imposed conditions are enforceable in the manner set forth in that subdivision.

(III) Notwithstanding any other provision of law to the contrary, until July 1, 2026, the construction of a priority housing project located entirely within a designated downtown development district or a designated growth center.

* * *

Fifth: By adding a new Sec. 16a. to read as follows:

Sec. 16a. 10 V.S.A. § 6086b is amended to read:

§ 6086b. DOWNTOWN DEVELOPMENT; FINDINGS; MASTER PLAN PERMITS

(a) Findings and conclusions. Notwithstanding any provision of this chapter to the contrary, each of the following shall apply to a development or subdivision that is completely within a downtown development district designated under 24 V.S.A. chapter 76A and for which a permit or permit amendment would otherwise be required under this chapter:

(1) In lieu of obtaining a permit or permit amendment, a person may request findings and conclusions from the District Commission, which shall approve the request if it finds that the development or subdivision will meet subdivisions 6086(a)(1) (air and water pollution), (2) (sufficient water available), (3) (burden on existing water supply), (4) (soil erosion), (5) (traffic), (8) (aesthetics, historic sites, rare and irreplaceable natural areas), (8)(A) (endangered species; necessary wildlife habitat), (9)(B) (primary agricultural soils), (9)(C) (productive forest soils), (9)(F) (energy conservation), and (9)(K) (public facilities, services, and lands) of this title.

* * *

(b) Master plan permits.

(1) Any municipality within which a downtown development district or neighborhood development area has been formally designated pursuant to 24 V.S.A. chapter 76A may apply to the District Commission for a master plan permit for that area or any portion of that area pursuant to the rules of the Board. Municipalities making an application under this subdivision are not required to exercise ownership of or control over the affected property.

(2) Subsequent development of an individual lot within the area of the master plan permit that requires a permit under this chapter shall take the form of a permit amendment.

(3) In neighborhood development areas, subsequent master plan permit amendments may only be issued for development that is housing.

(4) In approving a master plan permit and amendments, the District Commission may include specific conditions that an applicant for an individual project permit will be required to meet.

(5) For a master plan permit issued pursuant to this section, an application for an amendment may use the findings issued in the master plan permit as a rebuttable presumption to comply within any applicable criteria under subsection 6086(a) of this title.

Sixth: By striking out Sec. 17, 10 V.S.A. § 6081, in its entirety and inserting in lieu thereof the following:

* * * Enhanced Village Centers * * *

Sec. 17. 24 V.S.A. § 2793a is amended to read:

§ 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

* * *

(e)(1) A village center designated by the State Board pursuant to subsection (a) of this section is eligible to apply to the State Board to receive an enhanced designation. This enhanced designation allows a priority housing project with 50 or fewer units located entirely within the village center to be exempt from 10 V.S.A. chapter 151.

(2) To receive enhanced designation under this subsection, a village center shall have:

(A) duly adopted permanent zoning and subdivision bylaws;

(B) municipal sewer and water infrastructure; and

(C) adequate municipal staff to support coordinated comprehensive and capital planning, development review, and zoning administration.

Sec. 17a. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

* * *

(y) Notwithstanding any other provision of law to the contrary, until July 1, 2026, no permit or permit amendment is required for a priority housing project with 50 or fewer units that is located entirely within a village center that has received enhanced designation under 24 V.S.A. § 2793a(e).

Seventh: By striking out Secs. 24 and 25 and their reader assistance heading in their entireties and inserting in lieu thereof the following:

* * * Building energy code study committee * * *

Sec. 24. FINDINGS

The General Assembly finds that:

(1) Vermont established the Residential Building Energy Standards (RBES) in 1997 and the Commercial Building Energy Standards (CBES) in 2007. The Public Service Department is responsible for adopting and updating these codes regularly but does not have the capacity to administer or enforce them.

(2) The RBES and CBES are mandatory, but while municipalities with building departments handle some aspects of review and inspection, there is no State agency or office designated to interpret, administer, and enforce them.

(3) The Division of Fire Safety in the Department of Public Safety is responsible for development, administration, and enforcement of building codes but does not currently have expertise or capacity to add administration or enforcement of energy codes in buildings.

(4) Studies in recent years show compliance with the RBES at about 54 percent and CBES at about 87 percent, with both rates declining. Both codes are scheduled to become more stringent with the goal of "net-zero ready" by 2030.

(5) In December 2022, the U.S. Department of Energy issued the Bipartisan Infrastructure Law: Resilient and Efficient Codes Implementation Funding Opportunity Announcement. The first $45 million of a five-year $225 million program is available in 2023. Vermont's increased code compliance plans should include contingencies for this potential funding.

Sec. 25. ENERGY CODE COMPLIANCE; STUDY COMMITTEE

(a) Creation. There is created the Building Energy Code Study Committee to recommend strategies for increasing compliance with the Residential Building Energy Standards (RBES) and Commercial Building Energy Standards (CBES).

(b) Membership. The Committee shall have 15 members with applicable expertise, to include program design and implementation, building code administration and enforcement, and Vermont's construction industry. The Speaker of the House shall appoint three members, including up to one legislator. The Committee on Committees shall appoint two members, including up to one legislator. The remaining members shall be the following:

(1) the Commissioner of Public Service, or designee;

(2) the Director of Fire Safety, or designee;

(3) a representative of Efficiency Vermont;

(4) a representative of American Institute of Architects–Vermont;

(5) a representative of the Vermont Builders and Remodelers Association;

(6) a representative the Burlington Electric Department;

(7) a representative of Vermont Gas Systems;

(8) a representative of the Association of General Contractors of Vermont;

(9) a representative of the Vermont League of Cities and Towns; and

(10) a representative from a regional planning commission.

(c) Powers and duties. The Committee shall consider and recommend strategies to increase awareness of and compliance with the RBES and CBES, including designation of the Division of Fire Safety (DFS) in the Department of Public Safety as the statewide authority having jurisdiction for administration, interpretation, and enforcement, in conjunction with DFS' existing jurisdiction, over building codes.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Department of Public Service. The Department shall hire a third-party consultant to assist and staff the Committee which may be funded by monies appropriated by the General Assembly or any grant funding received.

(e) Report. On or before December 1, 2023, the Committee shall submit a written report to the General Assembly with its findings and recommendations for legislative action.

(f) Meetings.

(1) The Department of Public Service shall call the first meeting of the Committee to occur on or before July 15, 2023.

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

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

(4) The final meeting shall be held on or before October 31, 2023. The Committee shall cease to exist on December 1, 2023.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee serving in the legislator'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 Committee who are not otherwise compensated by their employer 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.

(3) The payments under this subsection (g) shall be made from monies appropriated by the General Assembly or any grant funding received.

Sec. 25a. STUDY COMMITTEE; APPROPRIATION

The sum of $125,000.00 is appropriated from the General Fund to the Department of Public Service in fiscal year 2024 for the purpose of hiring the consultant described in Sec. 24(d) of this act and to pay the Committee member per diem compensation.

(Committee vote: 4-1-0)

Reported favorably by Senator Cummings for the Committee on Finance.

(Committee vote: 7-0-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendments thereto:

First: By striking out Sec. 14, appropriation, in its entirety and inserting in lieu thereof the following:

Sec. 14. [Deleted.]

Second: By striking out Sec. 15, housing resource navigator for regional planning commissions, in its entirety and inserting in lieu thereof the following:

Sec. 15. [Deleted.]

Third: By striking out Sec. 25a, study committee; appropriation, in its entirety.

Fourth: By striking out Sec. 27, human rights commission; position; appropriation, in its entirety and inserting in lieu thereof the following:

Sec. 27. [Deleted.]

Fifth: By striking out Secs. 30–39 in their entireties and inserting in lieu thereof the following:

Secs. 30–39. [Deleted.]

Sixth: By striking out Secs. 41–42 in their entireties and inserting in lieu thereof the following:

Secs. 41–42. [Deleted.]

(Committee vote: 6-0-1)

S. 115.

An act relating to miscellaneous agricultural subjects.

By the Committee on Agriculture. (Senator Collamore for the Committee.)

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

The Committee recommends that the bill be amended by striking out Secs. 8 and 9, municipal stormwater regulation of farms, in their entireties and inserting in lieu thereof the following:

Sec. 8. REPORT ON MUNICIPAL STORMWATER REGULATION OF FARMS

On or before December 1, 2023, the Commissioner of Environmental Conservation, after consultation with the Secretary of Agriculture, Food and Markets and with representatives of municipal stormwater utilities or regulators, shall submit to the Senate Committees on Agriculture and on Natural Resources and Energy and the House Committees on Agriculture, Food Resiliency, and Forestry and on Environment and Energy a report regarding the regulation by municipal stormwater entities of property subject to the Required Agricultural Practices. The report shall include:

(1) a recommendation regarding whether property subject to the Required Agricultural Practices should be subject to regulation by a municipal stormwater utility or other municipal stormwater entity;

(2) a recommendation regarding whether property subject to the Required Agricultural Practices should be required to pay an assessment or fee

imposed by a municipal stormwater utility or other municipal stormwater entity;

(3) a recommendation whether property subject to the Required Agricultural Practices should receive an offset of any stormwater assessment or fee charged by a municipal stormwater utility or other municipal stormwater entity for the stormwater management practices that the property is required to conduct under State law;

(4) if the report recommends that property subject to the required agricultural practice should be subject to a stormwater fee, rate, or assessment, a recommendation on whether owners of property subject to the Required Agricultural Practices should be required to pay stormwater fees, rates, or assessments for the period of suspension under Sec. 2 of this act; and

(5) any other recommendation that the Commissioner determines is relevant to municipal stormwater regulation of properties subject to the Required Agricultural Practices, including any proposed legislative changes.

Sec. 9. SUSPENSION OF MUNICIPAL STORMWATER FEES ON PROPERTY SUBJECT TO THE REQUIRED AGRICULTURAL PRACTICES

Between the effective date of this act and July 1, 2024, a municipal stormwater utility or other municipal entity that regulates stormwater runoff shall not assess a fee, rate, or other assessment under 24 V.S.A. chapters 97, 101, or 105 or any other authority on stormwater from or impervious surface on a property subject to the Required Agricultural Practices.

(Committee vote: 7-0-0)

S. 135.

An act relating to the establishment of VT Saves.

By the Committee on Economic Development, Housing and General Affairs. (Senator Brock for the Committee.)

Reported favorably by Senator Brock for the Committee on Finance.

(Committee vote: 6-0-1)

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

The Committee recommends that the bill be amended as follows:

First: In Sec. 2, VT Saves; implementation, in subsection (a), in the first sentence, by striking out "The" and inserting in lieu thereof Subject to an appropriation from the General Assembly, the

Second: By striking out Sec. 3, VT Saves; FY 2024; appropriations, in its entirety and by renumbering the remaining sections to be numerically correct.

(Committee vote: 6-0-1)

Second Reading

Favorable

H. 28.

An act relating to diversion and expungement.

Reported favorably by Senator Norris for the Committee on Judiciary.

(Committee vote: 5-0-0)

Favorable with Recommendation of Amendment

S. 25.

An act relating to regulating cosmetic and menstrual products containing certain chemicals and chemical classes and textiles and athletic turf fields containing perfluoroalkyl and polyfluoroalkyl substances.

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

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Chemicals in Cosmetic and Menstrual Products * * *

Sec. 1. 18 V.S.A. chapter 36 is added to read:

CHAPTER 36. CHEMICALS IN COSMETIC AND MENSTRUAL PRODUCTS

§ 1721. DEFINITIONS

As used in this chapter:

(1) "Bisphenols" means any member of a class of industrial chemicals that contain two hydroxyphenyl groups. Bisphenols are used primarily in the manufacture of polycarbonate plastic and epoxy resins.

(2) "Cosmetic product" means articles or a component of articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing,

promoting attractiveness, or improving or altering appearance, including those intended for use by professionals. "Cosmetic product" does not mean soap, dietary supplements, or food and drugs approved by the U.S. Food and Drug Administration.

(3) "Formaldehyde releasing agent" means a chemical that releases formaldehyde.

(4) "Intentionally added" means the addition of a chemical in a product that serves an intended function in the product component.

(5) "Manufacturer" means any person, firm, association, partnership, corporation, organization, joint venture, importer, or domestic distributor of a cosmetic or menstrual product. As used in this subdivision, "importer" means the owner of the product.

(6) "Menstrual product" means a product used to collect menstruation and vaginal discharge, including tampons, pads, sponges, menstruation underwear, disks, applicators, and menstrual cups, whether disposable or reusable.

(7) "Ortho-phthalates" means any member of the class of organic chemicals that are esters of phthalic acid containing two carbon chains located in the ortho position.

(8) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

(9) "Professional" means a person granted a license pursuant to 26 V.S.A. chapter 6 to practice in the field of barbering, cosmetology, manicuring, or esthetics.

§ 1722. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL PRODUCTS

(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State any cosmetic or menstrual product to which the following chemicals or chemical classes have been intentionally added in any amount:

(1) Ortho-phthalates;

(2) PFAS;

(3) Formaldehyde (CAS 50-00-0) and formaldehyde releasing agents;

(4) Methylene glycol (CAS 463-57-0);

(5) Mercury and mercury compounds (CAS 7439-97-6);

(6) 1, 4-dioxane (CAS 123-91-1);

(7) Isopropylparaben (CAS 4191-73-5);

(8) Isobutylparaben (CAS 4247-02-3);

(9) Lead and lead compounds (CAS 7439-92-1);

(10) Asbestos;

(11) Aluminum salts;

(12) Triclosan (CAS 3380-34-5);

(13) m-phenylenediamine and its salts (CAS 108-42-5); and

(14) o-phenylenediamine and its salts (CAS 95-54-5).

(b) A cosmetic or menstrual product made through manufacturing processes intended to comply with this chapter and containing a technically unavoidable trace quantity of a chemical or chemical class listed in subsection (a) of this section shall not be in violation of this chapter on account of the trace quantity where it is the result of:

(1) natural or synthetic ingredients;

(2) the manufacturing process;

(3) storage; or

(4) migration from packaging.

(c) The manufacturer of a cosmetic or menstrual product containing 1,4 dioxane, lead, lead compounds, or any combination of these chemicals may apply to the Department of Health for a one-year waiver from subsection (a) of this section. The Department shall only approve a waiver application in which the manufacturer submits evidence that the manufacturer has taken steps to reduce the presence of 1,4 dioxane, lead, lead compounds, or any combination of these chemicals in the cosmetic or menstrual product and is still unable to comply with subsection (a) of this section. The Department shall not approve more than two one-year waiver applications for a particular product.

§ 1723. PENALTIES

(a) A violation of this chapter shall be deemed a violation of the Consumer Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions, and private parties have the same rights and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

(b) Nothing in this section shall be construed to preclude or supplant any other statutory or common law remedies.

Sec. 2. COMMUNITY ENGAGEMENT PLAN

On or before December 1, 2024, the Department of Health shall develop, adopt, and submit a community engagement plan to the Senate Committee on Health and Welfare and to the House Committee on Human Services related to the enactment of 18 V.S.A. chapter 36. The community engagement plan shall:

(1) identify cosmetic products marketed to individuals who are Black, Indigenous, or Persons of Color that contain potentially harmful ingredients;

(2) direct outreach to provide culturally appropriate education concerning harmful ingredients used in cultural and other cosmetic products, prioritizing engagement with vulnerable populations;

(3) make recommendations for priority chemicals or products to be regulated; and

(4) include methods for outreach and communication with those who face barriers to participation, such as language.

* * * PFAS in Textiles * * *

Sec. 3. 18 V.S.A. chapter 33C is amended to read:

CHAPTER 33C. PFAS IN SKI WAX AND TEXTILES

§ 1691. DEFINITIONS

As used in this chapter:

(1) "Apparel" means any of the following:

(A) Clothing items intended for regular wear or formal occasions, including undergarments, shirts, pants, skirts, dresses, overalls, bodysuits, costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school uniforms, leisurewear, athletic wear, sports uniforms, everyday swimwear, formal wear, onesies, bibs, diapers, footwear, and everyday uniforms for workwear. Clothing items intended for regular wear or formal occasions does not include clothing items for exclusive use by the U.S. Armed Forces, outdoor apparel for severe wet conditions, and personal protective equipment.

(B) Outdoor apparel.

(2) "Department" means the Department of Health.

~~(2)~~(3) "Intentionally added" means the addition of a chemical in a product that serves an intended function in the product component.

(4) "Outdoor apparel" means clothing items intended primarily for outdoor activities, including hiking, camping, skiing, climbing, bicycling, and fishing.

(5) "Outdoor apparel for severe wet conditions" means outdoor apparel that are extreme and extended use products designed for outdoor sports experts for applications that provide protection against extended exposure to extreme rain conditions or against extended immersion in water or wet conditions, such as from snow, in order to protect the health and safety of the user and that are not marketed for general consumer use. Examples of extreme and extended use products include outerwear for offshore fishing, offshore sailing, whitewater kayaking, and mountaineering.

~~(3)~~(6) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in section 1661 of this title.

(7) "Personal protective equipment" has the same meaning as in section 1661 of this title.

(8) "Regulated perfluoroalkyl and polyfluoroalkyl substances" or "regulated PFAS" means:

(A) PFAS that a manufacturer has intentionally added to a product and that have a functional or technical effect in the product, including PFAS components of intentionally added chemicals and PFAS that are intentional breakdown products of an added chemical that also have a functional or technical effect in the product; or

(B) the presence of PFAS in a product or product component at or above 100 parts per million, as measured in total organic fluorine.

~~(4)~~(9) "Ski wax" means a lubricant applied to the bottom of snow runners, including skis and snowboards, to improve their grip and glide properties.

(10) "Textile" means any item made in whole or part from a natural, manmade, or synthetic fiber, yarn, or fabric, and includes leather, cotton, silk, jute, hemp, wool, viscose, nylon, or polyester. "Textile" does not include single-use paper hygiene products, including toilet paper, paper towels, tissues, or single-use absorbent hygiene products.

(11) "Textile articles" means textile goods of a type customarily and ordinarily used in households and businesses, and includes apparel, accessories, handbags, backpacks, draperies, shower curtains, furnishings, upholstery, bedding, towels, napkins, and table cloths. "Textile articles" does not include:

(A) a vehicle, as defined in 1 U.S.C. § 4, or its component parts;

(B) a vessel, as defined in 1 U.S.C. § 3, or its component parts;

(C) an aircraft, as defined in 49 U.S.C. § 40102(a)(6), or its component parts;

(D) filtration media and filter products used in industrial applications, including chemical or pharmaceutical manufacturing and environmental control technologies; and

(E) textile articles used for laboratory analysis and testing.

§ 1692. SKI WAX

(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State ski wax or related tuning products to which PFAS have been intentionally added in any amount.

(b) This section shall not apply to the sale or resale of used products.

§ 1692a. TEXTILES

(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a textile or textile article to which regulated PFAS have been intentionally added in any amount.

(b) This section shall not apply to the sale or resale of used products.

§ 1693. CERTIFICATE OF COMPLIANCE

The Attorney General may request a certificate of compliance from a manufacturer of ski wax, textiles, or textile articles. Within 30 days after receipt of the Attorney General's request for a certificate of compliance, the manufacturer shall:

(1) provide the Attorney General with a certificate attesting that the manufacturer's product or products comply with the requirements of this chapter; or

(2) notify persons who are selling a product of the manufacturer's in this State that the sale is prohibited because the product does not comply with this chapter and submit to the Attorney General a list of the names and addresses of those persons notified.

§ 1694. RULEMAKING

Pursuant to 3 V.S.A. chapter 25, the Commissioner shall adopt any rules necessary for the implementation, administration, and enforcement of this

chapter.

§ 1695. PENALTIES

(a) A violation of this chapter shall be deemed a violation of the Consumer Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions, and private parties have the same rights and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

(b) Nothing in this section shall be construed to preclude or supplant any other statutory or common law remedies.

Sec. 3a. 18 V.S.A. § 1691(8) is amended to read:

(8) "Regulated perfluoroalkyl and polyfluoroalkyl substances" or "regulated PFAS" means:

(A) PFAS that a manufacturer has intentionally added to a product and that have a functional or technical effect in the product, including PFAS components of intentionally added chemicals and PFAS that are intentional breakdown products of an added chemical that also have a functional or technical effect in the product; or

(B) the presence of PFAS in a product or product component at or above ~~100~~ 50 parts per million, as measured in total organic fluorine.

Sec. 3b. 18 V.S.A. § 1691 is amended to read:

§ 1691. DEFINITIONS

As used in this chapter:

(1) "Apparel" means any of the following:

(A) Clothing items intended for regular wear or formal occasions, including undergarments, shirts, pants, skirts, dresses, overalls, bodysuits, costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school uniforms, leisurewear, athletic wear, sports uniforms, everyday swimwear, formal wear, onesies, bibs, diapers, footwear, and everyday uniforms for workwear. Clothing items intended for regular wear or formal occasions does not include clothing items for exclusive use by the U.S. Armed Forces~~, outdoor apparel for severe wet conditions,~~ and personal protective equipment.

(B) Outdoor apparel.

(C) Outdoor apparel for severe wet conditions.

* * *

* * * PFAS in Turf Fields * * *

Sec. 4. 18 V.S.A. chapter 33D is added to read:

CHAPTER 33D. PFAS IN ATHLETIC TURF FIELDS

§ 1696. DEFINITIONS

As used in this chapter:

(1) "Athletic turf field" means an artificial or synthetic recreation area used for competitive outdoor sports that is owned or operated by a public or private postsecondary education institution that operates in Vermont.

(2) "Department" means the Department of Health.

(3) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in section 1661 of this title.

§ 1697. ATHLETIC TURF FIELDS

A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State an athletic turf field containing PFAS. This section shall not apply to the sale of athletic turf fields that have already been approved by voters prior to July 1, 2023.

§ 1698. CERTIFICATE OF COMPLIANCE

The Attorney General may request a certificate of compliance from a manufacturer of an athletic turf field. Within 30 days after receipt of the Attorney General's request for a certificate of compliance, the manufacturer shall:

(1) provide the Attorney General with a certificate attesting that the manufacturer's product or products comply with the requirements of this chapter; or

(2) notify persons who are selling a product of the manufacturer's in this State that the sale is prohibited because the product does not comply with this chapter and submit to the Attorney General a list of the names and addresses of those persons notified.

§ 1699. RULEMAKING

Pursuant to 3 V.S.A. chapter 25, the Commissioner shall adopt any rules necessary for the implementation, administration, and enforcement of this chapter.

§ 1699a. PENALTIES

(a) A violation of this chapter shall be deemed a violation of the Consumer

Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions, and private parties have the same rights and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

(b) Nothing in this section shall be construed to preclude or supplant any other statutory or common law remedies.

Sec. 5. REPORT; MANAGEMENT OF PFAS ACROSS PRODUCT CATEGORIES

On or before November 15, 2023, the Department of Environmental Conservation, in consultation with the Department of Health, shall submit a report to the House Committee on Human Services and the Senate Committee on Health and Welfare containing recommendations on how to more comprehensively manage perfluoroalkyl and polyfluoroalkyl substances and other toxic chemicals by chemical class across a range of product categories.

* * * Effective Dates * * *

Sec. 6. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except that:

(1) Sec. 1 (chemicals in cosmetic and menstrual products) and Sec. 3 (PFAS in ski wax and textiles) shall take effect on January 1, 2025.

(2) Sec. 3a (18 V.S.A. § 1691(8)) shall take effect on July 1, 2027.

(3) Sec. 3b (definitions) shall take effect on July 1, 2028.

(Committee vote: 5-0-0)

Reported favorably by Senator Bray for the Committee on Finance.

(Committee vote: 7-0-0)

S. 56.

An act relating to child care and early childhood education.

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

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Legislative Intent * * *

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that investments in and policy

changes to Vermont's child care system shall:

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

(2) provide financial stability to child care programs;

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

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

(5) provide policy recommendations for expanding access and capacity in Vermont's prekindergarten system; and

(6) reorganize the Department for Children and Families to ensure greater oversight and focus on child care and early childhood education.

* * * Prekindergarten * * *

Sec. 1a. PREKINDERGARTEN EDUCATION STUDY COMMITTEE; REPORT

(a) Creation. There is created the Prekindergarten Education Study Committee to make recommendations on how to improve and expand accessible, affordable, and high-quality prekindergarten education.

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

(1) the Secretary of Education or designee, who shall serve as chair;

(2) the Secretary of Human Services or designee;

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

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

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

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

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

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

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

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

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

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

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

(14) a family representative with a prekindergarten-age child, appointed by the Building Bright Futures Council.

(c) Powers and duties. The Committee shall examine the delivery of prekindergarten education in Vermont and make recommendations for expanding equitable access for all children three and four years of age in a manner that achieves the best outcomes for children, whether through the current mixed-delivery system, the public school system, the private prekindergarten system, or a system that allows school districts to contract with private providers. The Committee shall also examine and make recommendations on the changes necessary to provide prekindergarten education to all children three and four years of age through the public school system, including a timeline and transition plan for such changes. In conducting its analysis, the Committee shall address the following topics and questions, which may yield distinct recommendations for children three and four years of age:

(1) Outcomes and quality.

(A) What are the benchmarks for "high quality" in prekindergarten education?

(B) How should best practices be implemented and measured across various prekindergarten education settings?

(2) Capacity and demand.

(A) How many children, by age, does the current mixed-delivery system have the capacity to serve? In studying this issue, the Committee shall consider the number of children on waitlists and the number of vacancies in programs.

(B) What are the workforce requirements to expand prekindergarten education? In studying this question, the Committee may consider:

(i) whether there is a gap between the total number of licensed

teachers currently working and the number needed for expansion;

(ii) whether there is a gap between the total prekindergarten education workforce, including paraeducators, and the number needed for expansion; and

(iii) the educational and training costs associated with training and retaining the workforce necessary for expansion?

(C) If prekindergarten education in the public school system is provided solely to children four years of age, what is the impact on the capacity and workforce of private prekindergarten providers?

(3) Special education.

(A) How many children three and four years of age are currently on individual education programs receiving services in public and private settings?

(B) Are children three and four years of age on individual education plans receiving the full range of services that they are entitled to?

(C) Does the availability or cost of special education services vary between private and public prequalified providers?

(4) Public school expansion.

(A) What infrastructure changes are necessary to expand prekindergarten education?

(B) How would the current prekindergarten education mixed-delivery system transition to a program within the public school system?

(C) What capacity needs to be built for developmentally appropriate afterschool and out-of-school-time care?

(D) Are changes needed to existing health and safety standards for public schools to accommodate children three and four years of age?

(5) Funding and costs.

(A) What are fiscally strategic options to sustain and expand universal prekindergarten education?

(B) What is the financial and business impact on regulated private childcare providers if the prekindergarten system transitions to public schools?

(C) What, if any, changes need to be made to pupil weights for prekindergarten students?

(D) What, if any, changes need to be made to tuition rates for private

prekindergarten programs?

(6) Oversight.

(A) What additional Agency of Education personnel or resources would be needed to oversee an expansion of the current prekindergarten education system under either a mixed-delivery model, a public school system model, or a system that allows school districts to contract with private providers?

(B) What additional Agency of Human Services personnel or resources would be needed to oversee an expansion of the current mixed-delivery model or a private prekindergarten system?

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

(e) Report. On or before December 1, 2023, the Committee shall submit a written report to the House Committees on Education and on Human Services and the Senate Committees on Education and on Health and Welfare with its findings and recommendations based on the analysis conducted pursuant to subsection (c) of this section. The report shall include draft legislative language to support the Committee's recommendations.

(f) Meetings.

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

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

(3) The Committee shall cease to exist on February 1, 2024.

(g) Compensation and reimbursement. Members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than 10 meetings per year. These payments shall be made from monies appropriated to the Agency of Education.

(h) Appropriations.

(1) The sum of $5,000.00 is appropriated to the Agency of Education from the General Fund in fiscal year 2024 for per diem compensation and

reimbursement of expenses for members of the Committee.

(2) The sum of $100,000.000 is appropriated to the Agency of Education from the General Fund in fiscal year 2024 for cost of retaining a contractor as provided under subsection (d) of this section.

(3) Any unused portion of these appropriations shall, as of July 1, 2024, revert to the General Fund.

Sec. 1b. 16 V.S.A. § 213 is amended to read:

§ 213. DEPUTY SECRETARIES

The Secretary shall employ ~~such number of deputy secretaries as he or she deems necessary~~ at least two deputy secretaries. One deputy secretary shall:

(1) solely manage the Division of Student Support Services, which shall govern special education, early education, and multitiered systems of support; and

(2) hold at least a master's level degree in early childhood education, special education, child development, or a related field.

Sec. 1c. AGENCY OF EDUCATION; DEPUTY SECRETARY AUTHORIZATION

The establishment of a second Deputy Secretary position within the Agency of Education pursuant to 16 V.S.A. § 213 is authorized beginning in fiscal year 2025.

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

Sec. 2. 33 V.S.A. § 3512 is amended to read:

§ 3512. CHILD CARE FINANCIAL ASSISTANCE PROGRAM; ELIGIBILITY

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

(2) The subsidy authorized by this subsection shall be established by the Commissioner, by rule, and shall bear a reasonable relationship to income and family size. Families shall be found eligible using an income eligibility scale based on the current federal poverty level and adjusted for the size of the family. Co-payments shall be assigned to the whole family and shall not

increase if more than one eligible child is enrolled in child care. Families with an annual gross income of less than or equal to ~~150~~ 185 percent of the current federal poverty guidelines shall not have a family co-payment. Families with an annual gross income up to and including ~~350~~ 600 percent of current federal poverty guidelines, adjusted for family size, shall be eligible for a subsidy authorized by the subsection. The scale shall be structured so that it encourages employment. If the federal poverty guidelines decrease in a given year, the Division shall maintain the previous year's federal poverty guidelines for the purpose of determining eligibility and benefit amount under this subsection.

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

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

(5) The Department shall ensure that applications for the Child Care Financial Assistance Program use a simple, plain-language format. Applications shall be available in both electronic and paper formats.

* * *

Sec. 3. PROVIDER RATE ADJUSTMENT; CHILD CARE FINANCIAL ASSISTANCE PROGRAM

On January 1, 2024, the Department for Children and Families shall provide a one-time adjustment to the child care provider reimbursement rates in the Child Care Financial Assistance Program for child care services provided to children from birth through four years of age, including children five years of age who are not yet enrolled for kindergarten. The adjusted reimbursement rate shall account for the age of the children served and be 38.5 percent higher than the fiscal year 2023 five-STAR reimbursement rate in the Vermont STARS system. All providers in the same child care setting category shall receive an identical reimbursement rate payment dependent upon whether the provider operates a regulated child care center and preschool program or regulated family child care home.

Sec. 4. 33 V.S.A. § 3514 is amended to read:

§ 3514. PAYMENT TO PROVIDERS FOR SCHOOL AGE CHILDREN

(a) The Commissioner shall establish a payment schedule for purposes of reimbursing providers for full- or part-time child care services to children over four years of age, excluding children five years of age who are not yet enrolled for kindergarten, rendered to families who participate in the programs established under section 3512 or 3513 of this title. Payments established under this section shall reflect the following considerations: whether the provider operates a licensed child care facility or a registered family child care home, type of service provided, cost of providing the service, and the prevailing market rate for comparable service. Payments shall be based on enrollment ~~status or any other basis agreed to by the provider and the Division~~.

* * *

Sec. 4a. 33 V.S.A. § 3515 is added to read:

§ 3515. PAYMENT TO PROVIDERS FOR CHILDREN BIRTH THROUGH FOUR YEARS OF AGE; HIGH QUALITY INCENTIVE PROGRAM

(a) The Commissioner shall establish a payment schedule that accounts for the age of the children served for the purpose of reimbursing providers for full- or part-time child care services to children from birth through four years of age, including children five years of age who are not yet enrolled for kindergarten, rendered to families who participate in the programs established under section 3512 or 3513 of this title. All providers in the same child care setting category shall receive an identical reimbursement rate payment dependent upon whether the provider operates a regulated child care center and preschool program or regulated family child care home. The rate used to reimburse providers shall be increased over the previous year's rate annually on July 1 in alignment with the most recent annual average wage growth for NAICS code 611, Educational Services, not to fall below zero percent. Child care services to infants and toddlers shall receive an enhanced reimbursement rate set by the Commissioner. Payments shall be based on enrollment.

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

(c)(1) Annually, the Department shall provide a flat incentive payment to all providers earning five STARS in the Vermont STARS system from the High-Quality Early Care and Education Special Fund pursuant to section 3516 of this chapter.

(2) Upon notice from a provider that the provider has achieved an increased STAR level in the Vermont STARS system, the Department shall award the provider a flat incentive payment equivalent to that received by providers earning five STARS pursuant to subdivision (1) of this subsection. Incentive payments shall be funded through the High-Quality Early Care and Education Special Fund pursuant to section 3516 of this chapter. A provider may earn an incentive payment under this subdivision for each additional STAR level achieved in the STARS system.

Sec. 4b. 33 V.S.A. § 3516 is added to read:

§ 3516. HIGH-QUALITY EARLY CARE AND EDUCATION SPECIAL FUND

(a) There is created a High-Quality Early Care and Education Special Fund administered by the Department for Children and Families, which shall be a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5.

(b) The High-Quality Early Care and Education Special Fund shall consist of any appropriation from the General Fund and any gifts, devises, or grants received for the purpose of this section.

(c) The High-Quality Early Care and Education Special Fund shall be used for the implementation and ongoing provision of incentive payments to providers pursuant to subsection 3515(c) of this chapter.

Sec. 5. 33 V.S.A. § 3517 is added to read:

§ 3517. CHILD CARE WAITLIST AND APPLICATION FEES

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

Sec. 6. PROVIDER COMPENSATION AND TOTAL COST OF CARE; RECOMMENDATIONS

(a) On or before November 1, 2023, the Department for Children and Families, in consultation with the Department of Labor, the Agency of Education, Building Bright Futures, and the Vermont Association for the Education of Young Children, shall submit a report to the House Committee on Human Services and to the Senate Committee on Health and Welfare

addressing the following:

(1) whether and how to integrate a tiered professional pay scale for professionals who provide child care services as part of the Child Care Financial Assistance Program;

(2) the structure of tiered professional pay scales for professionals who provide child care services that have been implemented in other jurisdictions, including in New Mexico and the District of Columbia.

(3) the appropriate legal mechanism to implement any approved tiered professional pay scale for professionals who provide child care services, including consideration of statute, rule, departmental guidance, or some other appropriate mechanism.

(b) On or before November 1, 2024, the Department for Children and Families, in consultation with the Department of Labor, the Agency of Education, Building Bright Futures, and the Vermont Association for the Education of Young Children, shall submit to the House Committee on Human Services and to the Senate Committee on Health and Welfare:

(1) A tiered professional pay scale for professionals who provide child care services as defined in 33 V.S.A. § 3511 that is designed to provide professionals who provide child care services with compensation comparable to that received by early childhood educators in Vermont's public school system who serve children from prekindergarten through grade three. The tiered professional pay scale shall account for professionals' credentialing and professional child care experience and shall include the addition of an appropriate fringe benefit rate. In developing the tiered professional pay scale, the Department for Children and Families shall refer to the child care and early childhood education financing study required pursuant to 2021 Acts and Resolves No. 45, Sec. 14; and

(2) A formula to calculate the total cost of care to serve children in a regulated child care facility as defined in 33 V.S.A. § 3511.

Sec. 7. 33 V.S.A. chapter 35, subchapter 6 is added to read:

Subchapter 6. Child Care Assistance for Additional Populations

§ 3551. NONCITIZEN CHILD CARE ASSISTANCE PROGRAM; LEGISLATIVE INTENT

In establishing the Noncitizen Child Care Assistance Program to provide child care subsidies for children who are not eligible for the Child Care Financial Assistance Program because of their citizenship status, it is the intent of the General Assembly that the benefits and eligibility criteria set forth in

section 3552 of this chapter should align to the greatest extent practicable with the benefits and eligibility criteria in CCFAP as set forth in section 3512 of this chapter and corresponding rule.

§ 3552. NONCITIZEN CHILD CARE ASSISTANCE PROGRAM SUBSIDIES FOR CERTAIN VERMONT RESIDENTS

(a) For purposes of this section, the phrase "Vermont residents who have a citizenship status for which Child Care Financial Assistance Program (CCFAP) participation is not available" includes children of migrant workers who are employed in seasonal occupations in this State.

(b) The Department for Children and Families shall provide State-funded child care subsidies equivalent to those offered in the Child Care Financial Assistance Program (CCFAP) to Vermont residents who have a citizenship status for which CCFAP participation is not available and meet the service need and income eligibility standards established by the Department in rule.

(c)(1) The Department shall not inquire about or record the citizenship and immigration status of the applicant or any member of the applicant's family.

(2) All applications submitted and records created pursuant to this section shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential. Absent a request for information by a U.S. agency pursuant to federal law, the Department shall not disclose any personally identifiable information regarding applicants or enrollees to the U.S. government.

(d) The Department for Children and Families may adopt rules in accordance with 3 V.S.A. chapter 25 to carry out the purposes of this section.

Sec. 8. DEPARTMENT FOR CHILDREN AND FAMILIES; NONCITIZEN CHILD CARE ASSISTANCE PROGRAM SUBSIDIES; FISCAL YEAR 2025 ESTIMATE

The Department for Children and Families shall provide information on the estimated fiscal year 2025 costs of providing coverage to Vermont residents who have a citizenship status for which Child Care Financial Assistance Program participation is not available pursuant to 33 V.S.A. § 3552 beginning on July 1, 2024 as part of the Department's fiscal year 2025 budget presentation to the House Committees on Appropriations and on Human Services and the Senate Committees on Appropriations and on Health and Welfare.

* * * Special Accommodations Grant * * *

Sec. 9. REPORT; SPECIAL ACCOMMODATIONS GRANT

On or before January 15, 2024, the Department for Children and Families' Child Development Division shall submit a report to the House Committee on Human Services and to the Senate Committee on Health and Welfare providing a proposal to streamline the application process for special accommodation grants, including:

(1) the suitability of moving to a 12-month grant cycle and for which populations;

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

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

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

* * * Child Care Workforce Retention Grants * * *

Sec. 10. FY 2024 APPROPRIATION; CHILD CARE WORKER RETENTION GRANT PROGRAM

In fiscal year 2024, the sum of $7,300,000.00 is appropriated from the General Fund to the Department for Children and Families for the early childhood staff and home-based provider retention grant program established in 2021 Acts and Resolves No. 74, Sec. G.300(a)(30), as added by 2022 Acts and Resolves No. 83, Sec. 68.

* * * Scholarship for Prospective Early Childhood Providers * * *

Sec. 11. 2021 Acts and Resolves No. 45, Sec. 8 is amended to read:

Sec. 8. REPEALS

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

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

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

Sec. 12. APPROPRIATION; SCHOLARSHIPS FOR CURRENT EARLY CHILDHOOD PROVIDERS

In fiscal year 2024, $500,000.00 is appropriated in addition to the base funding to the Department for Children and Families for the purpose of funding scholarships for current early childhood providers pursuant to 33 V.S.A. § 3541.

* * * Transitional Assistance * * *

Sec. 13. BUILDING BRIGHT FUTURES; TECHNICAL ASSISTANCE

(a) Building Bright Futures shall consult with and provide technical assistance to the Department for Children and Families for the purpose of implementing the provisions of this act, including reorganization of the Department for Children and Families, implementation of the changes to the Child Care Financial Assistance Program, and establishment the Noncitizen Child Care Assistance Program pursuant to 33 V.S.A. chapter 35. Specifically, Building Bright Futures shall assist the Department to:

(1) develop a concrete transition plan in relation to both the reorganization of the Department and changes to the Child Care Financial Assistance Program that ensures accountability using various metrics and addresses workforce and programmatic costs; and

(2) define and measure success in process and outcomes using a continuous quality improvement framework.

(b) Building Bright Futures shall monitor the transitions referenced in subsection (a) of this section and annually on January 15 between 2025–2028, submit a report to the House Committee on Human Services and the Senate Committee on Health and Welfare with its observations and recommendations.

* * * Property Tax Exemption; Property Used by a Child Care Provider * * *

Sec. 14. 32 V.S.A. § 3802(22) is added to read:

(22) Up to $10,000.00 of value of real and personal property:

(A) owned by a home-based child care provider as defined by 33 V.S.A. § 3511(3) and used to provide child care services as defined by 33 V.S.A. § 3511(4); or

(B) rented at not less than 25 percent below fair market value as determined by the prevailing area market prices for comparable space or property to a center-based child care provider as defined by 33 V.S.A. § 3511(3) and used to provide child care services as defined by 33 V.S.A. § 3511(4).

Sec. 15. 32 V.S.A. § 3800(q) is added to read:

(q) The statutory purpose of the exemption for property owned by or rented to a child care provider in subdivision 3802(22) of this title is to lower the cost of providing child care services in Vermont.

Sec. 16. 32 V.S.A. § 5401(7) is amended to read:

(7) "Homestead":

(A) "Homestead" means the principal dwelling and parcel of land surrounding the dwelling, owned and occupied by a resident individual as the individual's domicile or owned and fully leased on April 1, provided the property is not leased for more than 182 days out of the calendar year or, for purposes of the renter credit under subsection 6066(b) of this title, is rented and occupied by a resident individual as the individual's domicile.

* * *

(F) A homestead also includes any other improvement or structure on the homestead parcel that is not used for business purposes. A homestead does not include that portion of a principal dwelling used for business purposes if the portion used for business purposes includes more than 25 percent of the floor space of the building.

* * *

(H)(i) A homestead does not include any portion of a dwelling that is rented, and a dwelling is not a homestead for any portion of the year in which it is rented.

(ii) Notwithstanding subdivision (i) of this subdivision (7)(H), a homestead shall include a dwelling, or a portion of a dwelling, that otherwise qualifies as a homestead and that is rented at not less than 25 percent below fair market value as determined by the prevailing area market prices for comparable space or property to a center-based child care provider as defined by 33 V.S.A. § 3511(3) and is used to provide child care services as defined by 33 V.S.A. § 3511(4).

* * * Department for Children and Families Restructure and Creation of Department of Economic Empowerment * * *

Sec. 17. 3 V.S.A. § 212 is amended to read:

§ 212. DEPARTMENTS CREATED

The following administrative departments are hereby created, through the instrumentality of which the Governor, under the Constitution, shall exercise such functions as are by law assigned to each department respectively:

* * *

(24) The Department of Vermont Health Access.

(25) The Department of Economic Empowerment.

Sec. 18. 3 V.S.A. § 241 is amended to read:

§ 241. BACKGROUND INVESTIGATIONS

(a) "Federal tax information" or "FTI" means returns and return information as defined in 26 U.S.C. § 6103(b) that are received directly from the Internal Revenue Service or obtained through an IRS-authorized secondary source, that are in the Recipient's possession or control, and that are subject to the confidentiality protections and safeguarding requirements of the Internal Revenue Code and corresponding federal regulations and guidance.

(b) As used in this chapter, "Recipient" means the following authorities of the Executive Branch of State government that receive FTI:

(1) Agency of Human Services, including:

(A) Department for Children and Families;

(B) Department of Economic Empowerment;

(C) Department of Health;

~~(C)~~(D) Department of Mental Health; and

~~(D)~~(E) Department of Vermont Health Access.

(2) Department of Labor.

(3) Department of Motor Vehicles.

(4) Department of Taxes.

(5) Agency of Digital Services.

(6) Department of Buildings and General Services.

* * *

Sec. 19. 3 V.S.A. § 816 is amended to read:

§ 816. EXEMPTIONS

(a) Sections 809–813 of this title shall not apply to:

(1) Acts, decisions, findings, or determinations by the Human Services Board or the ~~Commissioner~~ Commissioners of Economic Empowerment or for Children and Families or a duly authorized agent, and to procedures or hearings before and by the Board or Commissioner or agent.

* * *

Sec. 20. 3 V.S.A. § 3002 is amended to read:

§ 3002. CREATION OF AGENCY

(a) An Agency of Human Services is created consisting of the following:

(1) The Department of Corrections.

(2) The Department for Children and Families.

(3) The Department of Health.

(4) The Department of Disabilities, Aging, and Independent Living.

(5) The Human Services Board.

(6) The Department of Vermont Health Access.

(7) The Department of Mental Health.

(8) The Department of Economic Empowerment.

* * *

Sec. 21. 3 V.S.A. § 3051 is amended to read:

§ 3051. COMMISSIONERS; DEPUTY COMMISSIONERS; APPOINTMENT; TERM

* * *

(c) For the Department for Children and Families, the Secretary, with the approval of the Governor, shall appoint deputy commissioners for the following divisions of the Department:

(1) ~~Economic Services;~~

~~(2)~~ Child Development; and

~~(3)~~(2) Family Services.

* * *

(e) For the Department of Economic Empowerment, the Secretary, with the approval of the Governor, shall appoint deputy commissioners for the following divisions of the Department:

(1) Disability Determination Services; and

(2) Economic Services Division.

(f) Deputy commissioners shall be exempt from the classified service. Their appointments shall be in writing and shall be filed in the Office of the

Secretary of State.

Sec. 22. 3 V.S.A. § 3084 is amended to read:

§ 3084. DEPARTMENT FOR CHILDREN AND FAMILIES

(a) The Department for Children and Families is created within the Agency of Human Services ~~as the successor to and the continuation of the Department of Social and Rehabilitation Services, the Department of Prevention, Assistance, Transition, and Health Access, excluding the Department of Vermont Health Access, the Office of Economic Opportunity, and the Office of Child Support. The Department shall also include a Division of Child Development Programs~~ to promote the healthy development of children and youth, oversee and support a system of high-quality child care programs in home- and community-based settings, and provide assistance and support to parents and families. It shall include the Divisions of Child Development and of Family.

(b) An investigations unit is created within the Department for Children and Families as the successor to and continuation of the investigation functions of the Social Services Division of the Department of Social and Rehabilitation Services under 33 V.S.A. chapter 49.

Sec. 23. 3 V.S.A. § 3091 is amended to read:

§ 3091. HEARINGS

(a) An applicant for or a recipient of assistance, benefits, or social services from the Department for Children and Families, of Economic Empowerment, of Vermont Health Access, of Disabilities, Aging, and Independent Living, or of Mental Health~~, or~~; an applicant for a license from one of those departments~~,~~; or a licensee may file a request for a fair hearing with the Human Services Board. An opportunity for a fair hearing ~~will~~ shall be granted to any individual requesting a hearing because ~~his or her~~ the individual's claim for assistance, benefits, or services is denied~~,~~ or is not acted upon with reasonable promptness; or because the individual is aggrieved by any other Agency action affecting ~~his or her~~ the individual's receipt of assistance, benefits, or services, or license or license application; or because the individual is aggrieved by Agency policy as it affects ~~his or her~~ the individual's situation.

* * *

Sec. 24. 3 V.S.A. § 3094 is amended to read:

§ 3094. OFFICE OF CHILD SUPPORT

(a) The Office of Child Support is created within the Department ~~for Children and Families~~ of Economic Empowerment and shall be designated the

IV-D agency for purposes of Title IV-D of the federal Social Security Act.

(b) The Office shall be headed by a Director who shall be appointed by the Secretary of Human Services subject to section 3054 of this title.

Sec. 25. 3 V.S.A. § 3098 is added to read:

§ 3098. DEPARTMENT OF ECONOMIC EMPOWERMENT

The Department of Economic Empowerment is created within the Agency of Human Services to empower families and individuals through the provision of financial support, case management, and other assistance aimed at building skills and independence. It shall include the Office of Child Support, the Office of Economic Opportunity, the Disability Determination Services Division, and the Economic Services Division.

Sec. 26. 4 V.S.A. § 953 is amended to read:

§ 953. SOURCES OF NAMES

(a) The clerk, in order to ascertain names of persons eligible as jurors, may consult the latest census enumeration, the latest published city, town, or village telephone or other directory, the listers' records, the elections records, and any other general source of names.

(b) Notwithstanding any law to the contrary, the Court Administrator may obtain the names, addresses, and dates of birth of persons ~~which~~ that are contained in the records of the Department of Motor Vehicles, the Department of Labor, the Department of Taxes, the Department of Health, the Department of Economic Empowerment, and the Department for Children and Families. The Court Administrator may also obtain the names of voters from the Secretary of State. After the names have been obtained, the Court Administrator shall compile them and provide the names, addresses, and dates of birth to the clerk in a form that will not reveal the source of the names. The clerk shall include the names provided by the Court Administrator in the list of potential jurors.

* * *

Sec. 27. 8 V.S.A. § 10204 is amended to read:

§ 10204. EXCEPTIONS

This subchapter does not prohibit any of the activities listed in this section. This section shall not be construed to require any financial institution to make any disclosure not otherwise required by law. This section shall not be construed to require or encourage any financial institution to alter any procedures or practices not inconsistent with this subchapter. This section

shall not be construed to expand or create any authority in any person or entity other than a financial institution.

* * *

(4) Disclosure of information sought by the Department for Children and Families pursuant to its authority and obligations under 33 V.S.A. § 112.

* * *

(27) Disclosure of information sought by the Department of Economic Empowerment pursuant to its authority and obligations under 33 V.S.A. § 212.

Sec. 28. 9 V.S.A. § 2480h is amended to read:

§ 2480h. SECURITY FREEZE BY CREDIT REPORTING AGENCY; TIME IN EFFECT

* * *

(l) The provisions of this section, including the security freeze, do not apply to the use of a consumer report by the following:

* * *

(5) The Economic Services Division of the Department ~~for Children and Families~~ of Economic Empowerment or the Department of Vermont Health Access or its agents or assignee acting to investigate welfare or Medicaid fraud.

* * *

Sec. 29. 9 V.S.A. § 2483a is amended to read:

§ 2483a. SECURITY FREEZE FOR PROTECTED CONSUMER; TIME IN EFFECT

* * *

(l) The provisions of this section, including the protected consumer security freeze, do not apply to the use of a consumer report by the following:

* * *

(5) The Economic Services Division of the Department ~~for Children and Families~~ of Economic Empowerment or the Department of Vermont Health Access or its agents or assignees acting to investigate welfare or Medicaid fraud.

* * *

Sec. 30. 9 V.S.A. § 4472 is amended to read:

§ 4472. RIGHT TO TERMINATE RENTAL AGREEMENT

* * *

(b) Not less than 30 days before the date of termination, the protected tenant shall provide to the landlord:

(1) a written notice of termination; and

(2) documentation from one or more of the following sources supporting ~~his or her~~ the tenant's reasonable belief that it is necessary to vacate the dwelling unit:

(A) a court, law enforcement, or other government agency;

(B) an abuse, sexual assault, or stalking assistance program;

(C) a legal, clerical, medical, or other professional from whom the tenant, or the minor or dependent of the tenant, received counseling or other assistance concerning abuse, sexual assault, or stalking; or

(D) a self-certification of a protected tenant's status as a victim of abuse, sexual assault, or stalking, signed under penalty of perjury, on a standard form adopted for that purpose by:

(i) a federal or State government entity, including the federal Department of Housing and Urban Development, the Vermont Department of Economic Empowerment, or the Vermont Department for Children and Families; or

(ii) a nonprofit organization that provides support services to protected tenants.

* * *

Sec. 31. 10 App. V.S.A. § 16 is amended to read:

§ 16. SUSPENSION OF LICENSES: ENFORCEMENT OF CHILD SUPPORT ORDERS, 15 V.S.A. § 798

* * *

16.3 All notices of compliance with a child support order shall be upon a standard compliance form, as devised and approved by the court, the Vermont Agency of Human Services, Department of ~~Children and Families~~ Economic Empowerment, and this Department.

16.4 If the motion for the court order was brought by the Vermont Agency of Human Services, Department of ~~Children and Families~~ Economic

Empowerment, then notice of compliance shall only be accepted from the Vermont Agency of Human Services, Department of ~~Children and Families~~ Economic Empowerment or the court.

* * *

16.8 Department personnel shall direct all inquiries from persons seeking reinstatement to the court or the Vermont Agency of Human Services, Department of ~~Children and Families~~ Economic Empowerment, if the Vermont Agency of Human Services, Department of ~~Children and Families~~ Economic Empowerment was the entity ~~which~~ that brought the motion for suspension before this court.

Sec. 32. 12 V.S.A. § 3169 is amended to read:

§ 3169. HEARING ON MOTION; FINDINGS; ORDER

(a) At the hearing on the motion the court shall determine on the basis of the motion and any affidavit of the judgment creditor, the record in the civil action and any testimony offered by either party, and by the trustee whether the judgment debtor has neglected or refused to pay or make reasonable arrangements to pay the money judgment in question. If the court so finds, it shall also determine:

(1) the amount of the judgment unpaid;

(2) the amount of the judgment debtor's weekly disposable earnings;

(3) whether the judgment debtor has been a recipient of assistance from the Vermont ~~Department~~ Departments for Children and Families, of Economic Empowerment, or ~~the Department~~ of Vermont Health Access within the two months preceding the date of the hearing; and

* * *

Sec. 33. 12 V.S.A. § 3170 is amended to read:

§ 3170. EXEMPTIONS; ISSUANCE OF ORDER

(a) No order approving the issuance of trustee process against earnings shall be entered against a judgment debtor who was, within the two-month period preceding the hearing provided in section 3169 of this title, a recipient of assistance from the Vermont Department ~~for Children and Families~~ of Economic Empowerment or the Department of Vermont Health Access. The judgment debtor must establish this exemption at the time of hearing.

* * *

Sec. 34. 13 V.S.A. § 1028 is amended to read:

§ 1028. ASSAULT OF PROTECTED PROFESSIONAL; ASSAULT WITH BODILY FLUIDS

* * *

(d) As used in this section:

(1) "Protected professional" ~~shall mean~~ means a law enforcement officer; a firefighter; a health care worker; an employee, contractor, or grantee of the Department for Children and Families or Department of Economic Empowerment; or any emergency medical personnel as defined in 24 V.S.A. § 2651(6).

* * *

Sec. 35. 15 V.S.A. § 294 is amended to read:

§ 294. ~~MAN~~ UNRELATED ADULT IN THE HOUSE

(a) When the ~~mother~~ parent of minor children is residing within the same household as ~~a man~~ an adult unrelated to ~~her~~ the parent and not otherwise liable for the support of the ~~mother and her~~ parent and the parent's children, on the complaint of the ~~mother~~ parent or, if ~~she~~ the parent is receiving public assistance, the ~~Department~~ Departments of Economic Empowerment or for Children and Families, the Superior Court shall make such decree concerning the support of the ~~mother~~ parent and the care, custody, maintenance, and education of the children as in cases where the ~~husband~~ nonresidential parent refuses without just cause to support ~~his wife~~ the parent living with the children and the children. The decree shall by its terms continue in force for so long as the defendant resides within the household or until further order of the court.

(b) This section shall not apply to persons living in boarding houses.

Sec. 36. 15 V.S.A. § 606 is amended to read:

§ 606. ACTION TO RECOVER MAINTENANCE, CHILD SUPPORT, AND SUIT MONEY; SANCTION FOR NONCOMPLIANCE

(a) When a judgment or order for the payment of either temporary or permanent maintenance, child support, or suit money has been made by the Family Division of the Superior Court, and personal jurisdiction of the person liable for the payment of money under the judgment or order has been obtained, the party entitled by the terms of the judgment or order to payment thereunder, or the Office of Child Support in all cases in which the party or dependent children of the parties are the recipients of financial assistance from

the ~~Department~~ Departments of Economic Empowerment or for Children and Families, may file a motion in the Family Division of the Superior Court asking for a determination of the amount due. Upon notice to the other party and hearing thereon, the Family Division of the Superior Court shall render judgment for the amount due under the judgment or order; the court may order restitution to the ~~Department~~ Departments, order that payments be made to the Office of Child Support for distribution, or make such other orders or conditions as it deems proper. The judgment shall be as binding and as enforceable in all respects as though rendered in any other civil action. Notice shall be given in such manner as the Supreme Court shall by rule provide. An additional motion may be brought at any time for further unpaid balances. The Family Division of the Superior Court in which the cause was pending at the time the original judgment or order was made shall have jurisdiction of motions under the provisions of this section, irrespective of the amount in controversy or the residence of the parties. The motions may be brought and judgment obtained on judgments, decrees, and orders previously rendered and still in force.

* * *

Sec. 37. 15 V.S.A. § 658 is amended to read:

§ 658. SUPPORT

(a) In an action under this chapter or under chapter 21 of this title, the court shall order either or both parents owing a duty of support to a child to pay an amount for the support of the child in accordance with the support guidelines as set forth in this subchapter~~,~~ unless otherwise determined under section 659 of this title.

(b) A request for support may be made by either parent, a guardian, or the Department for Children and Families, Department of Economic Empowerment, or the Department of Vermont Health Access, if a party in interest. A court may also raise the issue of support on its own motion.

* * *

Sec. 38. 16 V.S.A. § 1592 is amended to read:

§ 1592. POWERS AND RESPONSIBILITIES OF BOARD OF TRUSTEES

With respect to the provision of postsecondary career technical education programs, in addition to those powers and responsibilities set forth in chapter 72 of this title, the Vermont State Colleges Board of Trustees shall:

* * *

(3) coordinate such programs with other employment and training programs such as those offered by the Department of Employment and Training, the Department of Labor, the Department ~~for Children and Families~~ of Economic Empowerment, the Agency of Commerce and Community Development, independent colleges, and the Vermont Student Assistance Corporation; and

(4) possess all other necessary and implied powers to carry out such responsibilities.

Sec. 39. 18 V.S.A. § 5227 is amended to read:

§ 5227. RIGHT TO DISPOSITION

* * *

(d)(1) If the disposition of the remains of a decedent is determined under subdivision (a)(10) of this section, the Office of the Chief Medical Examiner may contract with a funeral director or disposition facility to cremate the remains of the decedent.

(2)(A) If the cremation of the decedent is arranged and paid for under 33 V.S.A. § 2301, the Department ~~for Children and Families~~ of Economic Empowerment shall pay the cremation expenses to the funeral home, up to the maximum payment permitted by rule by the Department ~~for Children and Families~~ of Economic Empowerment.

(B) If the cremation of the decedent is not arranged and paid for under 33 V.S.A. § 2301, the Department of Health shall pay the cremation expenses to the funeral home, up to the maximum payment permitted by rule by the Department ~~for Children and Families~~ of Economic Empowerment.

* * *

Sec. 40. 18 V.S.A. § 8101 is amended to read:

§ 8101. LIABILITY

* * *

(e) In ~~his or her~~ the Commissioner's investigation, keeping of accounts, and collection of charges, the Commissioner shall have the support and cooperation of the Department ~~for Children and Families~~ of Economic Empowerment insofar as the records of that Department relate to the ability to pay.

* * *

Sec. 41. 28 V.S.A. § 755 is amended to read:

§ 755. DISPOSITION OF EARNINGS

An inmate participating in a work release program shall cause to be given to the Commissioner the inmate's total earnings less payroll deductions authorized by law, including income taxes. Upon receipt of the earnings the Commissioner, to the extent reasonable, may:

(1) Deduct an amount determined to be equivalent to the cost of providing for the living expenses of the inmate.

(2) Cause to be paid, as are needed, any of the following~~.~~:

(A) Any costs or fine imposed by the sentencing court.

(B) Any restitution included as part of the sentence of the inmate by the court.

(C) Any sum as is needed for the support of the dependents of the inmate, in which case the Commissioner shall notify the ~~Commissioner~~ Commissioners of Economic Empowerment and for Children and Families of the support payments.

* * *

Sec. 42. 30 V.S.A. § 218 is amended to read:

§ 218. JURISDICTION OVER CHARGES AND RATES

* * *

(c)(1) The Public Utility Commission shall take any action necessary to enable the State of Vermont and telecommunications companies offering service in Vermont to participate in the federal Lifeline program administered by the Federal Communications Commission (FCC) or its agent and also the Vermont Lifeline program described in subdivision (2) of this subsection.

* * *

(4) Notwithstanding any provisions of this subsection to the contrary, a subscriber who is enrolled in the Lifeline program and has obtained a final relief from abuse order in accordance with the provisions of 15 V.S.A. chapter 21 or 33 V.S.A. chapter 69 shall qualify for a Lifeline benefit credit for the amount of the incremental charges imposed by the local telecommunications company for treating the number of the subscriber as nonpublished and any charges required to change from a published to a nonpublished number. As used in this section, "nonpublished" means that the customer's telephone number is not listed in any published directories, is not listed on directory

assistance records of the company, and is not made available on request by a member of the general public, notwithstanding any claim of emergency a requesting party may present. The Department ~~for Children and Families~~ of Economic Empowerment shall develop an application form and certification process for obtaining this Lifeline benefit credit.

* * *

Sec. 43. 32 V.S.A. § 308b is amended to read:

§ 308b. HUMAN SERVICES CASELOAD RESERVE

(a) There is created within the General Fund ~~a~~ the Human Services Caseload Reserve. Expenditures from the Reserve shall be subject to an appropriation by the General Assembly or approval by the Emergency Board. Expenditures from the Reserve shall be limited to Agency of Human Services caseload-related needs primarily in the Departments for Children and Families, of Economic Empowerment, of Health, of Mental Health, of Disabilities, Aging, and Independent Living, of Vermont Health Access, and settlement costs associated with managing the Global Commitment waiver.

* * *

Sec. 44. 32 V.S.A. § 1003 is amended to read:

§ 1003. STATE OFFICERS

* * *

(b) The Governor may appoint each officer of the Executive Branch listed in this subsection at a starting salary ranging from the base salary stated for that position to a salary that does not exceed the maximum salary unless otherwise authorized by this subsection. The maximum salary for each appointive officer shall be 50 percent above the base salary. Annually, the Governor may grant to each of those officers an annual salary adjustment subject to the maximum salary. The annual salary adjustment granted to officers under this subsection shall not exceed the average rate of adjustment available to classified employees under the collective bargaining agreement then in effect. In addition to the annual salary adjustment specified in this subsection, the Governor may grant a special salary increase subject to the maximum salary, or a bonus, to any officer listed in this subsection whose job duties have significantly increased, or whose contributions to the State in the preceding year are deemed especially significant. Special salary increases or bonuses granted to any individual shall not exceed the average rate of adjustment available to classified employees under the collective bargaining agreement then in effect.

(1) Heads of the following Departments and Agencies:

		Base Salary as of January 5, 2020	Base Salary as of July 4, 2021
(A)	Administration	$121,634	$126,378
(B)	Agriculture, Food and Markets	121,634	126,378
(C)	Financial Regulation	113,710	118,145
(D)	Buildings and General Services	113,710	118,145
(E)	Children and Families	113,710	118,145
(F)	Commerce and Community Development	121,634	126,378
(G)	Corrections	113,710	118,145
(H)	Defender General	113,710	118,145
(I)	Disabilities, Aging, and Independent Living	113,710	118,145
(J)	Economic Development	103,149	107,172
(K)	Education	121,634	126,378
(L)	Environmental Conservation	113,710	118,145
(M)	Finance and Management	113,710	118,145
(N)	Fish and Wildlife	103,149	107,172
(O)	Forests, Parks and Recreation	103,149	107,172
(P)	Health	113,710	118,145
(Q)	Housing and Community Development	103,149	107,172
(R)	Human Resources	113,710	118,145
(S)	Human Services	121,634	126,378
(T)	Digital Services	121,634	126,378
(U)	Labor	113,710	118,145
(V)	Libraries	103,149	107,172
(W)	Liquor and Lottery	103,149	107,172
(X)	[Repealed.]		

(Y)	Mental Health	113,710	118,145
(Z)	Military	113,710	118,145
(AA)	Motor Vehicles	103,149	107,172
(BB)	Natural Resources	121,634	126,378
(CC)	Natural Resources Board Chair	103,149	107,172
(DD)	Public Safety	113,710	118,145
(EE)	Public Service	113,710	118,145
(FF)	Taxes	113,710	118,145
(GG)	Tourism and Marketing	103,149	107,172
(HH)	Transportation	121,634	126,378
(II)	Vermont Health Access	113,710	118,145
(JJ)	Veterans' Home	113,710	118,145
(KK)	Economic Empowerment	113,710	118,145

* * *

Sec. 45. 32 V.S.A. § 3102 is amended to read:

§ 3102. CONFIDENTIALITY OF TAX RECORDS

* * *

(f) Notwithstanding the provisions of this section, information obtained from the Commissioner for Children and Families under 33 V.S.A. § 112(c), from the Commissioner of Economic Empowerment under 33 V.S.A. § 212(c), from the Vermont Student Assistance Corporation under 16 V.S.A. § 2843, or from the Dental Health Program under 33 V.S.A. § 4507 shall be confidential, and it shall be unlawful for anyone to divulge such information except in accordance with a judicial order or as provided under another provision of law.

* * *

Sec. 46. 32 V.S.A. § 5932 is amended to read:

§ 5932. DEFINITIONS

As used in this chapter:

* * *

(2) "Debtor" means any individual owing a debt to a claimant agency or owing any support debt that may be collected by the ~~Department~~ Departments for Children and Families and of Economic Empowerment.

* * *

Sec. 47. 33 V.S.A. chapter 1 is amended to read:

CHAPTER 1. DEPARTMENT FOR CHILDREN AND FAMILIES

Subchapter 1. Policy, Organization, Powers, and Duties

§ 101. POLICY

It is the policy of the State of Vermont that:

(1) Its social and child welfare programs shall provide assistance, support, and benefits to persons of the State in proven need ~~thereof and eligible for such assistance and benefits~~ of and eligible for assistance, support, and benefits under the provisions of this title.

(2) It is the purpose of its social and child welfare laws to establish and support programs that contribute to the prevention of dependency and social maladjustment and contribute to the rehabilitation and protection of persons of the State.

(3) Assistance and benefits shall be administered promptly, with due regard for the welfare of children and youth and the preservation of family life, and without restriction of individual rights or discrimination on account of gender, sexual orientation, gender identity, race, religion, political affiliation, or place of residence within the State.

(4) Assistance and benefits shall be ~~so~~ administered ~~as~~ to maintain and encourage dignity, self-respect, and self-reliance. It is the legislative intent that assistance granted shall be adequate to maintain a reasonable standard of health and decency based on current cost of living indices. ~~Notwithstanding this subdivision, the Department will amend rules that establish new maximum Reach Up grant amounts only when the General Assembly has taken affirmative action to increase or decrease the Reach Up financial assistance appropriation.~~

(5) The programs of the Department for Children and Families shall be designed to strengthen family life for the care and protection of children; promote healthy child development and support a high-quality child care system throughout the State; to assist and encourage the use by any family of all available personal and reasonable community resources to this end; and to provide substitute care of children only when the family, with the use of available resources, is unable to provide the necessary care and protection to ensure the right of any child to sound health and to normal physical, mental, spiritual, and moral development.

(6) The child care system shall provide affordable, high-quality care in a

manner that fosters child brain development, nurtures socio-emotional skills, and supports young families. The Department shall provide leadership and expertise to early educators and child care programs to ensure that children receive age-appropriate care tailored to their unique needs.

* * *

§ 104. FUNCTION AND POWERS OF DEPARTMENT

(a) The Department shall administer all laws specifically assigned to it for administration.

(b) In addition to other powers vested in it by law, the Department may do all of the following:

(1) ~~Provide for the administration of the following programs and services:~~

~~(A) aid to the aged, blind, and disabled;~~

~~(B) Reach Up financial assistance and support services;~~

~~(C) [Repealed.]~~

~~(D) federal Supplemental Nutrition Assistance Program benefits;~~

~~(E) General Assistance;~~

~~(F) medical assistance; and~~

~~(G) public assistance programs funded with State general funds or the Temporary Assistance to Needy Families (TANF) block grant.~~ [Repealed.]

(2) Cooperate with the appropriate federal agencies in receiving, to the extent available, federal funds in support of programs that the Department administers.

(3) Submit plans and reports, adopt rules, and in other respects comply with the provisions of the Social Security Act that pertain to programs administered by the Department.

(4) Receive and disburse funds that are assigned, donated, or bequeathed to it for charitable purposes or for the benefit of recipients of assistance, benefits, or social services. This subdivision shall not be construed to require the Department to accept funds or trusts when the Commissioner, with the approval of the Governor, considers it in the best interests of the State to refuse them.

(5) Receive in trust and expend, in accordance with the provisions of the trust, funds and property assigned, donated, devised, or bequeathed to it for charitable purposes or for the benefit of recipients of assistance, benefits, or

social services. Trust funds accepted by the Department shall be safely invested by the State Treasurer. Real property received in trust may, at the discretion of the Commissioner, be administered by the Department of Buildings and General Services of the Agency of Administration. This subdivision shall not be construed to require the Department to accept funds or trusts when the Commissioner, with the approval of the Governor, considers it in the best interests of the State to refuse them.

(6) Aid and assist in charitable work as in the judgment of the Commissioner will best promote the general welfare of the State.

(7) Visit all institutions, homes, places, and establishments soliciting public support and located in the State that are devoted to or used for the care of ~~needy persons~~ children.

(8) Visit all institutions, homes, places, and establishments providing room, board, or care to ~~persons~~ children receiving social services or benefits from the Department.

(9) Supervise and control children under its care and custody and provide for their care, maintenance, and education.

(c) The Department for Children and Families, in cooperation with the Department of Corrections, shall have the responsibility to administer a comprehensive program for youthful offenders and children who commit delinquent acts, including utilization of probation services; of a range of community-based and other treatment, training, and rehabilitation programs; and of secure detention and treatment programs when necessary in the interests of public safety, designed with the objective of preparing those children to live in their communities as productive and mature adults.

§ 105. COMMISSIONER; APPOINTMENT, TERM, DUTIES, AND POWERS

(a) The Commissioner may exercise the powers and perform duties required for effective administration of the Department~~,~~ and ~~he or she~~ shall determine the policies of the Department.

(b) In addition to other duties imposed by law, the Commissioner shall:

(1) administer the laws assigned to the Department;

(2) fix standards and adopt rules necessary to administer those laws and for the custody and preservation of records of the Department;

(3) appoint all necessary assistants, prescribe their duties, and adopt rules necessary to ensure that the assistants shall hold merit system status while in the employ of the Department, unless otherwise specifically provided by

law.

(c) The Commissioner ~~or the Governor, whenever the federal law so provides, may cooperate with the federal government in providing relief and work relief and community work and training programs in the State~~ shall hold at least a master's level degree in child development, early childhood education, or related field.

(d) The Commissioner, with the approval of the Attorney General, may enter into reciprocal agreements with social and child welfare agencies in other states in matters relating to social welfare, children, and families.

(e) The Commissioner shall ensure the provision of services to children and adolescents with a severe emotional disturbance in coordination with the Secretary of Education and the Commissioners of Mental Health and of Disabilities, Aging, and Independent Living in accordance with the provisions of chapter 43 of this title.

(f) Notwithstanding any other provision of law, the Commissioner may delegate to any appropriate employee of the Department any of the administrative duties and powers imposed on ~~him or her~~ the Commissioner by law, with the exception of the duties and powers enumerated in this section. The delegation of authority and responsibility shall not relieve the Commissioner of accountability for the proper administration of the Department.

(g) The Commissioner may publicly disclose findings or information about any case of child abuse or neglect that has resulted in the fatality or near fatality of a child, including information obtained under chapter 49 of this title, unless the State's Attorney or Attorney General who is investigating or prosecuting any matter related to the fatality requests the Commissioner to withhold disclosure, in which case the Commissioner shall not disclose any information until completion of any criminal proceedings related to the fatality or until the State's Attorney or Attorney General consents to disclosure, whichever occurs earlier.

* * *

§ 112a. FINANCIAL INSTITUTIONS TO FURNISH INFORMATION; ASSET VERIFICATION

(a)(1) A financial institution, when requested by Department, shall furnish to the Commissioner or the Commissioner's designee information in the possession of the financial institution about the assets of any applicant who is applying for or is receiving assistance or benefits from the Department or the applicant's spouse. The Department shall issue instructions to the financial

institution detailing the nature of the request and the information necessary to satisfy the request.

(2) A financial institution or employee of a financial institution shall not be subject to criminal or civil liability for actions taken in accordance with this subsection.

(b)(1) Each application for assistance or benefits submitted to the Department shall contain a form of authorization, executed by the applicant, granting authority for the Department and its authorized agents to obtain financial information about the applicant's assets from financial intuitions in order to verify the applicant's eligibility for the applicable program. The Department or its authorized agent shall obtain the applicant's authorization prior to requesting the applicant's financial information from any financial institution.

(2) The Department shall ensure the applicant receives notice written in plain language explaining the Department's electronic asset verification system.

(c) In the event that the financial information of an applicant's spouse is required to determine an applicant's eligibility for a program, the Department shall provide written notice regarding the asset verification process to the spouse and shall obtain the spouse's written authorization for the Department and its agents to obtain the spouse's financial information from financial institutions prior to requesting the spouse's financial information from any financial institution. The Department may determine an applicant to be ineligible if the applicant's spouse refuses to provide or revokes consent.

(d) As used in this section:

(1) "Bank" has the same meaning as in 8 V.S.A. § 11101.

(2) "Broker-dealer" has the same meaning as in 9 V.S.A. § 5102.

(3) "Credit union" has the same meaning as in 8 V.S.A. § 30101.

(4) "Financial institution" means any Vermont financial institution, state financial institution, and national financial institution, including a bank, credit union, broker-dealer, investment advisor, mutual fund, or investment company.

(5) "Investment advisor" has the same meaning as in 9 V.S.A. § 5102.

(6) "Mutual fund" has the same meaning as in 8 V.S.A. § 3461.

* * *

Subchapter 3. Provisions of General Applicability

§ 121. CANCELLATION OF ASSISTANCE OR BENEFITS

If at any time the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ has reason to believe that assistance or benefits have been improperly obtained, ~~he or she~~ the Commissioner shall cause an investigation to be made and may suspend assistance or benefits pending the investigation. If, on investigation, the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ is satisfied that the assistance or benefits were illegally obtained, ~~he or she~~ the Commissioner shall immediately cancel them. A person having illegally obtained assistance or benefits shall not be eligible for reinstatement until ~~his or her~~ the person's need has been reestablished.

§ 122. RECOVERY OF PAYMENTS

(a) The amount of assistance or benefits may be changed or cancelled at any time if the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ finds that the recipient's circumstances have changed. Upon granting assistance or benefits, the Department for Children and Families ~~or the Department of Vermont Health Access~~ shall inform the recipient that changes in ~~his or her~~ the recipient's circumstances must be promptly reported to the Department.

(b) When on the death of a person receiving assistance it is found that the recipient possessed income or property in excess of that reported to the Department for Children and Families ~~or the Department of Vermont Health Access~~, up to double the total amount of assistance in excess of that to which the recipient was lawfully entitled may be recovered by the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ as a preferred claim from the estate of the recipient. The Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ shall calculate the amount of the recovery by applying the legal interest rate to the amount of excess recovery paid, except that the recovery shall be capped at double the excess assistance paid.

(c) When the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ finds that a recipient of benefits received assistance in excess of that to which the recipient was lawfully entitled, because the recipient possessed income or property in excess of Department standards, the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ may take actions to recover the overpayment.

(d) In the event of recovery, an amount may be retained by the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ in a special fund for use in offsetting program expenses and an amount equivalent to the pro rata share to which the United States of America is equitably entitled shall be paid promptly to the appropriate federal agency.

§ 123. ~~GUARDIAN OR LEGAL REPRESENTATIVE~~

~~(a) If the Commissioner finds that an applicant for or recipient of assistance is incapable of taking care of himself or herself or his or her business affairs, the Commissioner may direct the payment of the assistance to a guardian appointed by the Probate Division of the Superior Court.~~

~~(b) If the Commissioner finds that an applicant for or recipient of assistance is incapable of prudently attending to his or her business affairs, the Commissioner may direct the payment of the assistance to the legal representative of the person appointed by the Probate Division of the Superior Court.~~ [Repealed.]

* * *

Subchapter 5. Prohibited Practices; Penalties

§ 141. FRAUD

(a) A person who knowingly fails, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose a material fact used to determine whether that person is qualified to receive aid or benefits under a State or federally funded assistance program; or who knowingly fails to disclose a change in circumstances in order to obtain or continue to receive aid or benefits to which ~~he or she~~ the person is not entitled or in an amount larger than that to which ~~he or she~~ the person is entitled; or who knowingly aids and abets another person in the commission of any such act shall be punished as provided in section 143 of this title.

(b) ~~A person who knowingly uses, transfers, acquires, traffics, alters, forges, or possesses; or who knowingly attempts to use, transfer, acquire, traffic, alter, forge, or possess; or who knowingly aids and abets another person in the use, transfer, acquisition, traffic, alteration, forgery, or possession of a Supplemental Nutrition Assistance Program benefit card, authorization for the purchase of Supplemental Nutrition Assistance Program benefits, certificate of eligibility for medical services, or State health care program identification card in a manner not authorized by law shall be punished as provided in section 143 of this title.~~ [Repealed.]

(c) ~~A person who administers a State or federally funded assistance program who fraudulently misappropriates, attempts to misappropriate, or aids~~

~~and abets in the misappropriation of a Supplemental Nutrition Assistance Program benefit, authorization for Supplemental Nutrition Assistance Program benefits, a Supplemental Nutrition Assistance Program benefit identification card, certificate of eligibility for prescribed medicine, State health care program identification card, or assistance from any other State or federally funded program with which he or she has been entrusted or of which he or she has gained possession by virtue of his or her position; or who knowingly misappropriates, attempts to misappropriate, or aids or abets in the misappropriation of funds given in exchange for Supplemental Nutrition Assistance Program benefits shall be punished as provided in section 143 of this title.~~ [Repealed.]

(d) A person who knowingly files, attempts to file, or aids and abets in the filing of a claim for services to a recipient of benefits under a State or federally funded assistance program for services that were not rendered; or who knowingly files a false claim or a claim for unauthorized items or services under such a program; or who knowingly bills the recipient of benefits under such a program or ~~his or her~~ the person's family for an amount in excess of that provided for by law or regulation; or who knowingly fails to credit the State or its agent for payments received from Social Security, insurance, or other sources; or who in any way knowingly receives, attempts to receive, or aids and abets in the receipt of unauthorized payment as provided herein shall be punished as provided in section 143 of this title.

(e) A person providing service for which compensation is paid under a State or federally funded assistance program who requests, and receives, either actually or constructively, any payment or contribution through a payment, assessment, gift, devise, bequest, or other means, whether directly or indirectly, from either a recipient of assistance from the assistance program or from the family of the recipient shall notify the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~, on a form provided by ~~him or her~~ the Commissioner, of the amount of the payment or contribution and of such other information as specified by the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ within 10 days after the receipt of the payment or contribution or, if the payment or contribution is to become effective at some time in the future, within 10 days ~~of~~ following the consummation of the agreement to make the payment or contribution. Failure to notify the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ within the time prescribed is punishable as provided in section 143 of this title.

(f) Repayment of assistance or services wrongfully obtained shall not constitute a defense to or ground for dismissal of criminal charges brought

under this section.

§ 142. BRINGING ~~NEEDY~~ PERSON IN NEED INTO THE STATE

(a) Any person who knowingly brings or causes to be brought a ~~needy~~ person in need from out of the state into this State for the purpose of securing assistance for the ~~needy~~ person in need or making ~~him or her~~ the person in need a public charge~~,~~ shall be obligated to support the ~~needy~~ person in need at ~~his or her~~ the person's own expense for as long as the ~~needy~~ person in need or persons dependent on the ~~needy~~ person in need remain in the State.

(b) The Commissioner may bring a civil action on this statute to enforce support of the ~~needy~~ person in need and ~~his or her~~ the person's dependents. In the action, the court may make an order, which shall be subject to change by the court from time to time as the circumstances require, directing the defendant to pay a certain sum periodically to the Department for the benefit of the ~~needy~~ person in need and ~~his or her~~ the person's dependents residing in the State. The court may punish for violation of the order as for contempt.

§ 143. GENERAL PENALTY

(a) A person who knowingly violates a provision of this title for which no penalty is specifically provided shall:

(1) if the assistance or benefits obtained pursuant to a single fraudulent scheme or a course of conduct are in violation of subsection 141(a) ~~or (b)~~ of this title involving $1,000.00 or less, be fined not more than the amount of assistance or benefits wrongfully obtained or be imprisoned not more than one year, or both;

(2) if the assistance or benefits obtained pursuant to a single fraudulent scheme or course of conduct are in violation of subsection (a) ~~or (b)~~ of section 141 of this title and involve more than $1,000.00, be fined not more than an amount equal to the assistance or benefits wrongfully obtained or be imprisoned not more than three years, or both; or

(3) if the violation is under subsection ~~(c), (d),~~ 141(d) or (e) ~~of section 141~~ of this title, be fined up to $1,000.00 or up to an amount equal to twice the amount of assistance, benefits, or payments wrongfully obtained~~,~~ or be imprisoned for not more than 10 years, or both.

(b) If the person convicted is receiving assistance, benefits, or payments, the Commissioner for Children and Families or the Commissioner of Vermont Health Access may recoup the amount of assistance or benefits wrongfully obtained by reducing the assistance, benefits, or payments periodically paid to the recipient, as limited by federal law, until the amount is fully recovered.

(c) ~~If a provider of services is convicted of a violation of subsection 141(d) or (e) of this title, the Commissioner of Vermont Health Access shall, within 90 days of the conviction, suspend the provider from further participation in the medical assistance program administered under Title XIX of the Social Security Act for a period of four years. The suspension required by this subsection may be waived by the Secretary of Human Services only upon a finding that the recipients served by the convicted provider would suffer substantial hardship through a denial of medical services that could not reasonably be obtained through another provider.~~ [Repealed.]

§ 143a. CIVIL REMEDIES

(a) A person who violates subsection 141~~(c),~~ (d)~~,~~ or (e) of this title with actual knowledge may be subject to a civil suit by the Attorney General for:

(1) restitution of the amount of assistance, benefits, or payments wrongfully obtained;

(2) interest; and

(3) a civil penalty of up to three times the amount of the wrongfully obtained assistance, benefits, or payments; or $500.00 per false claim; or $500.00 for each false document submitted in support of a false claim, whichever is greatest.

(b) The remedies provided in this section shall be in addition to any other remedies provided by law.

(c) The right to a jury trial shall attach to actions under this section.

§ 143b. ~~EDUCATION AND INFORMATION~~

~~By January 1, 2005, the Department of Vermont Health Access shall issue rules establishing a procedure for health care providers enrolled in State and federally funded medical assistance programs to obtain advisory opinions regarding coverage and reimbursement under those programs. Each advisory opinion issued by the Department of Vermont Health Access shall be binding on that Department and the party or parties requesting the opinion only with regard to the specific questions posed in the opinion, the facts and information set forth in it, and the statutes and rules specifically noted in the opinion.~~ [Repealed.]

§ 144. STATUTORY CONSTRUCTION

(a) ~~Section 143 of this title shall not preclude prosecution under 13 V.S.A. § 1801, 1802, or 2002 when the alleged violation involves forging an economic assistance check or where duplicate economic assistance checks have been wrongfully negotiated during any one welfare period.~~ [Repealed.]

(b) Section 143 of this title shall not preclude prosecution under any other title or sections of this title when the alleged violation is under subsection 141~~(c) or~~ (d) of this title.

* * *

Sec. 48. 33 V.S.A. chapter 2 is added to read:

CHAPTER 2. DEPARTMENT OF ECONOMIC EMPOWERMENT

Subchapter 1. Policy, Organization, Powers, and Duties

§ 201. POLICY

It is the policy of the State of Vermont that:

(1) Its social and child welfare programs shall provide assistance and benefits to persons of the State in proven need thereof and eligible for such assistance and benefits under the provisions of this title.

(2) It is the purpose of its social and child welfare laws to establish and support programs that contribute to the prevention of dependency and social maladjustment and contribute to the rehabilitation and protection of persons of the State.

(3) Assistance and benefits shall be administered promptly, with due regard for the preservation of family life, and without restriction of individual rights or discrimination on account of gender, race, age, religion, ethnicity, sexual orientation, gender identity, political affiliation, disability status, primary language, or place of residence within the State.

(4) Assistance and benefits shall be so administered as to maintain and encourage dignity, self-respect, and self-reliance. It is the legislative intent that assistance granted shall be adequate to maintain a reasonable standard of health and decency based on current cost of living indices. Notwithstanding this subdivision, the Department shall amend rules that establish new maximum Reach Up grant amounts only when the General Assembly has taken affirmative action to increase or decrease the Reach Up financial assistance appropriation.

(5) The programs of the Department of Economic Empowerment shall be designed to strengthen family life for the care and protection of children and to assist and encourage the use by any family of all available personal and reasonable community resources to this end.

§ 202. DEFINITIONS AND CONSTRUCTION

(a) As used in this chapter:

(1) "Aid" means financial assistance.

(2) "Assistance," when not modified by an adjective, means general assistance or public assistance, or both.

(3) "Benefits" means aid or commodities furnished under chapter 17 of this title.

(4) "Commissioner" means the Commissioner of Economic Empowerment.

(5) "Department" means the Department of Economic Empowerment.

(6) "Federal department" or "federal agency" means a department or agency of the United States of America.

(7) "Guardian" means a legal guardian appointed by a Probate Division of the Superior Court or by a court in a divorce or other proceeding or action.

(8) "Public assistance" means aid provided by the Department under Title IV, XVI, or XIX of the Social Security Act.

(9) "Regulation" means a rule or regulation.

(10) "Social Security Act" means the federal Social Security Act and regulations promulgated under the Act, as amended at any time.

(b) The laws relating to the Department of Economic Empowerment and its programs shall be construed liberally to carry out the policies stated in this chapter.

§ 203. COMPOSITION OF DEPARTMENT

The Department of Economic Empowerment, created pursuant to 3 V.S.A. §§ 212 and 3098, shall consist of the Commissioner of Economic Empowerment and all divisions, councils, boards, committees, and offices within the Department.

§ 204. FUNCTION AND POWERS OF DEPARTMENT

(a) The Department shall administer all laws specifically assigned to it for administration.

(b) In addition to other powers vested in it by law, the Department may do all of the following:

(1) Provide for the administration of the following programs and services:

(A) aid to the aged, blind, and disabled;

(B) Reach Up financial assistance and support services;

(C) federal Supplemental Nutrition Assistance Program benefits;

(D) General Assistance;

(E) medical assistance; and

(F) public assistance programs funded with State general funds or the Temporary Assistance to Needy Families (TANF) block grant.

(2) Cooperate with the appropriate federal agencies in receiving, to the extent available, federal funds in support of programs that the Department administers.

(3) Submit plans and reports, adopt rules, and in other respects comply with the provisions of the Social Security Act that pertain to programs administered by the Department.

(4) Receive and disburse funds that are assigned, donated, or bequeathed to it for charitable purposes or for the benefit of recipients of assistance, benefits, or social services. This subdivision shall not be construed to require the Department to accept funds or trusts when the Commissioner, with the approval of the Governor, considers it in the best interests of the State to refuse them.

(5) Receive in trust and expend, in accordance with the provisions of the trust, funds, and property assigned, donated, devised, or bequeathed to it for charitable purposes or for the benefit of recipients of assistance, benefits, or social services. Trust funds accepted by the Department shall be safely invested by the State Treasurer. Real property received in trust may, at the discretion of the Commissioner, be administered by the Department of Buildings and General Services of the Agency of Administration. This subdivision shall not be construed to require the Department to accept funds or trusts when the Commissioner, with the approval of the Governor, considers it in the best interests of the State to refuse them.

(6) Aid and assist in charitable work as in the judgment of the Commissioner will best promote the general welfare of the State.

(7) Visit all institutions, homes, places, and establishments soliciting public support and located in the State that are devoted to or used for the care of persons in need.

(8) Visit all institutions, homes, places, and establishments providing room, board, or care to persons receiving social services or benefits from the Department.

§ 205. COMMISSIONER; APPOINTMENT, TERM, DUTIES, AND POWERS

(a) The Commissioner may exercise the powers and perform duties required for effective administration of the Department and shall determine the policies of the Department.

(b) In addition to other duties imposed by law, the Commissioner shall:

(1) administer the laws assigned to the Department;

(2) fix standards and adopt rules necessary to administer those laws and for the custody and preservation of records of the Department; and

(3) appoint all necessary assistants, prescribe their duties, and adopt rules necessary to ensure that the assistants shall hold merit system status while in the employ of the Department unless otherwise specifically provided by law.

(c) The Commissioner or the Governor, whenever the federal law so provides, may cooperate with the federal government in providing relief and work relief and community work and training programs in the State.

(d) Notwithstanding any other provision of law, the Commissioner may delegate to any appropriate employee of the Department any of the administrative duties and powers imposed on the Commissioner by law, with the exception of the duties and powers enumerated in this section. The delegation of authority and responsibility shall not relieve the Commissioner of accountability for the proper administration of the Department.

Subchapter 2. General Administrative Provisions

§ 211. RECORDS; RESTRICTIONS; PENALTIES

(a) The names of or information pertaining to applicants for or recipients of assistance or benefits, including information obtained under section 212 of this title, shall not be disclosed to anyone, except for the purposes directly connected with the administration of the Department or when required by law.

(b) A person shall not publish, use, disclose, or divulge any of those records for purposes not directly connected with the administration of programs of the Department or contrary to rules adopted by the Commissioner.

§ 212. BANKS AND AGENCIES TO FURNISH INFORMATION

(a) An officer of a financial institution, as described in 8 V.S.A. § 11101(32); a credit union; or an independent trust company in this State, when requested by the Commissioner, shall furnish the Commissioner information in the possession of the bank or company with reference to any person or the person's spouse who is applying for or is receiving assistance or

benefits from the Department.

(b) Any governmental official or agency in the State, when requested by the Commissioner, shall furnish to the Commissioner information in the official's or agency's possession with reference to aid given or money paid or to be paid to any person or person's spouse who is applying for or is receiving assistance or benefits from the Department.

(c) The Commissioner of Taxes, when requested by the Commissioner of Economic Empowerment, and unless otherwise prohibited by federal law, shall compare the information furnished by an applicant or recipient of assistance with the State income tax returns filed by such person and shall report the Commissioner of Taxes' findings to the Commissioner of Economic Empowerment. Each application for assistance shall contain a form of consent, executed by the applicant, granting permission to the Commissioner of Taxes to disclose such information to the Commissioner for Economic Empowerment.

§ 212a. FINANCIAL INSTITUTIONS TO FURNISH INFORMATION; ASSET VERIFICATION

(a)(1) A financial institution, when requested by Department, shall furnish to the Commissioner or the Commissioner's designee information in the possession of the financial institution about the assets of any applicant who is applying for or is receiving assistance or benefits from the Department or the applicant's spouse. The Department shall issue instructions to the financial institution detailing the nature of the request and the information necessary to satisfy the request.

(2) A financial institution or employee of a financial institution shall not be subject to criminal or civil liability for actions taken in accordance with this subsection.

(b)(1) Each application for assistance or benefits submitted to the Department shall contain a form of authorization, executed by the applicant, granting authority for the Department and its authorized agents to obtain financial information about the applicant's assets from financial intuitions in order to verify the applicant's eligibility for the applicable program. The Department or its authorized agent shall obtain the applicant's authorization prior to requesting the applicant's financial information from any financial institution.

(2) The Department shall ensure the applicant receives notice written in plain language explaining the Department's electronic asset verification system.

(c) In the event that the financial information of an applicant's spouse is required to determine an applicant's eligibility for a program, the Department shall provide written notice regarding the asset verification process to the spouse and shall obtain the spouse's written authorization for the Department and its agents to obtain the spouse's financial information from financial institutions prior to requesting the spouse's financial information from any financial institution. The Department may determine an applicant to be ineligible if the applicant's spouse refuses to provide or revokes consent.

(d) As used in this section:

(1) "Bank" has the same meaning as in 8 V.S.A. § 11101.

(2) "Broker-dealer" has the same meaning as in 9 V.S.A. § 5102.

(3) "Credit union" has the same meaning as in 8 V.S.A. § 30101.

(4) "Financial institution" means any Vermont financial institution, state financial institution, and national financial institution, including a bank, credit union, broker-dealer, investment advisor, mutual fund, or investment company.

(5) "Investment advisor" has the same meaning as in 9 V.S.A. § 5102.

(6) "Mutual fund" has the same meaning as in 8 V.S.A. § 3461.

§ 214. ALLOCATION OF PAYMENTS WHEN APPROPRIATION INSUFFICIENT

Should the funds available for assistance be insufficient to provide assistance to all those eligible, the amounts of assistance granted in any program or portion thereof shall be reduced equitably, in the discretion of the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access by rule.

Subchapter 3. Provisions of General Applicability

§ 221. CANCELLATION OF ASSISTANCE OR BENEFITS

If at any time the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access has reason to believe that assistance or benefits have been improperly obtained, the Commissioner shall cause an investigation to be made and may suspend assistance or benefits pending the investigation. If on investigation the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access is satisfied that the assistance or benefits were illegally obtained, the Commissioner shall immediately cancel them. A person having illegally obtained assistance or benefits shall not be eligible for reinstatement until the person's need has been reestablished.

§ 222. RECOVERY OF PAYMENTS

(a) The amount of assistance or benefits may be changed or cancelled at any time if the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access finds that the recipient's circumstances have changed. Upon granting assistance or benefits, the Department of Economic Empowerment or the Department of Vermont Health Access shall inform the recipient that changes in the recipient's circumstances must be promptly reported to the Department.

(b) When on the death of a person receiving assistance it is found that the recipient possessed income or property in excess of that reported to the Department of Economic Empowerment or the Department of Vermont Health Access, up to double the total amount of assistance in excess of that to which the recipient was lawfully entitled may be recovered by the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access as a preferred claim from the estate of the recipient. The Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access shall calculate the amount of the recovery by applying the legal interest rate to the amount of excess recovery paid, except that the recovery shall be capped at double the excess assistance paid.

(c) When the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access finds that a recipient of benefits received assistance in excess of that to which the recipient was lawfully entitled because the recipient possessed income or property in excess of Department standards, the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access may take actions to recover the overpayment.

(d) In the event of recovery, an amount may be retained by the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access in a special fund for use in offsetting program expenses, and an amount equivalent to the pro rata share to which the United States of America is equitably entitled shall be paid promptly to the appropriate federal agency.

§ 224. INALIENABILITY OF ASSISTANCE PAYMENTS

All rights to and all monies or orders granted to persons as assistance shall be inalienable by assignment, transfer, attachment, trustee process, execution, or otherwise. In case of bankruptcy, the assistance shall not pass to or through a trustee or other person acting on behalf of creditors.

Subchapter 4. Prohibited Practices; Penalties

§ 241. FRAUD

(a) A person who knowingly fails, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose a material fact used to determine whether that person is qualified to receive aid or benefits under a State or federally funded assistance program; or who knowingly fails to disclose a change in circumstances in order to obtain or continue to receive aid or benefits to which the person is not entitled or in an amount larger than that to which the person is entitled; or who knowingly aids and abets another person in the commission of any such act shall be punished as provided in section 143 of this title.

(b) A person who knowingly uses, transfers, acquires, traffics, alters, forges, or possesses; or who knowingly attempts to use, transfer, acquire, traffic, alter, forge, or possess; or who knowingly aids and abets another person in the use, transfer, acquisition, traffic, alteration, forgery, or possession of a Supplemental Nutrition Assistance Program benefit card, authorization for the purchase of Supplemental Nutrition Assistance Program benefits, certificate of eligibility for medical services, or State health care program identification card in a manner not authorized by law shall be punished as provided in section 143 of this title.

(c) A person who administers a State or federally funded assistance program who fraudulently misappropriates, attempts to misappropriate, or aids and abets in the misappropriation of a Supplemental Nutrition Assistance Program benefit, authorization for Supplemental Nutrition Assistance Program benefits, a Supplemental Nutrition Assistance Program benefit identification card, certificate of eligibility for prescribed medicine, State health care program identification card, or assistance from any other State or federally funded program with which the person has been entrusted or of which the person has gained possession by virtue of the person's position; or who knowingly misappropriates, attempts to misappropriate, or aids or abets in the misappropriation of funds given in exchange for Supplemental Nutrition Assistance Program benefits shall be punished as provided in section 143 of this title.

(d) A person who knowingly files, attempts to file, or aids and abets in the filing of a claim for services to a recipient of benefits under a State or federally funded assistance program for services that were not rendered; or who knowingly files a false claim or a claim for unauthorized items or services under such a program; or who knowingly bills the recipient of benefits under such a program or the recipient's family for an amount in excess of that

provided for by law or regulation; or who knowingly fails to credit the State or its agent for payments received from Social Security, insurance, or other sources; or who in any way knowingly receives, attempts to receive, or aids and abets in the receipt of unauthorized payment as provided herein shall be punished as provided in section 143 of this title.

(e) A person providing service for which compensation is paid under a State or federally funded assistance program who requests, and receives, either actually or constructively, any payment or contribution through a payment, assessment, gift, devise, bequest, or other means, whether directly or indirectly, from either a recipient of assistance from the assistance program or from the family of the recipient shall notify the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access, on a form provided by the Commissioner, of the amount of the payment or contribution and of such other information as specified by the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access within 10 days after the receipt of the payment or contribution or, if the payment or contribution is to become effective at some time in the future, within 10 days after the consummation of the agreement to make the payment or contribution. Failure to notify the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access within the time prescribed is punishable as provided in section 143 of this title.

(f) Repayment of assistance or services wrongfully obtained shall not constitute a defense to or ground for dismissal of criminal charges brought under this section.

§ 242. BRINGING PERSON IN NEED INTO THE STATE

(a) Any person who knowingly brings or causes to be brought a person in need from out of the state into this State for the purpose of securing assistance for the person in need or making the person in need a public charge shall be obligated to support the person in need at the person's own expense for as long as the person in need or persons dependent on the person in need remain in the State.

(b) The Commissioner may bring a civil action on this statute to enforce support of the person in need and the person's dependents. In the action, the court may make an order, which shall be subject to change by the court from time to time as the circumstances require, directing the defendant to pay a certain sum periodically to the Department for the benefit of the person in need and the person's dependents residing in the State. The court may punish for violation of the order as for contempt.

§ 243. GENERAL PENALTY

(a) A person who knowingly violates a provision of this title for which no penalty is specifically provided shall:

(1) if the assistance or benefits obtained pursuant to a single fraudulent scheme or a course of conduct are in violation of subsection 241(a) or (b) of this title involving $1,000.00 or less, be fined not more than the amount of assistance or benefits wrongfully obtained or be imprisoned not more than one year, or both;

(2) if the assistance or benefits obtained pursuant to a single fraudulent scheme or course of conduct are in violation of subsection 241(a) or (b) of this title and involve more than $1,000.00, be fined not more than an amount equal to the assistance or benefits wrongfully obtained or be imprisoned not more than three years, or both; or

(3) if the violation is under subsection 241(c), (d), or (e) of this title, be fined up to $1,000.00 or up to an amount equal to twice the amount of assistance, benefits, or payments wrongfully obtained or be imprisoned for not more than 10 years, or both.

(b) If the person convicted is receiving assistance, benefits, or payments, the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access may recoup the amount of assistance or benefits wrongfully obtained by reducing the assistance, benefits, or payments periodically paid to the recipient, as limited by federal law, until the amount is fully recovered.

(c) If a provider of services is convicted of a violation of subsection 241(d) or (e) of this title, the Commissioner of Vermont Health Access shall, within 90 days following the conviction, suspend the provider from further participation in the medical assistance program administered under Title XIX of the Social Security Act for a period of four years. The suspension required by this subsection may be waived by the Secretary of Human Services only upon a finding that the recipients served by the convicted provider would suffer substantial hardship through a denial of medical services that could not reasonably be obtained through another provider.

§ 243a. CIVIL REMEDIES

(a) A person who violates subsection 241(c), (d), or (e) of this title with actual knowledge may be subject to a civil suit by the Attorney General for:

(1) restitution of the amount of assistance, benefits, or payments wrongfully obtained;

(2) interest; and

(3) a civil penalty of up to three times the amount of the wrongfully obtained assistance, benefits, or payments; $500.00 per false claim; or $500.00 for each false document submitted in support of a false claim, whichever is greatest.

(b) The remedies provided in this section shall be in addition to any other remedies provided by law.

(c) The right to a jury trial shall attach to actions under this section.

§ 243b. EDUCATION AND INFORMATION

The Department of Vermont Health Access shall issue rules establishing a procedure for health care providers enrolled in State and federally funded medical assistance programs to obtain advisory opinions regarding coverage and reimbursement under those programs. Each advisory opinion issued by the Department of Vermont Health Access shall be binding on that Department and the party or parties requesting the opinion only with regard to the specific questions posed in the opinion, the facts and information set forth in it, and the statutes and rules specifically noted in the opinion.

§ 244. STATUTORY CONSTRUCTION

(a) Section 243 of this title shall not preclude prosecution under 13 V.S.A. § 1801, 1802, or 2002 when the alleged violation involves forging an economic assistance check or where duplicate economic assistance checks have been wrongfully negotiated during any one welfare period.

(b) Section 243 of this title shall not preclude prosecution under any other title or sections of this title when the alleged violation is under subsection 241(c) or (d) of this title.

Sec. 49. 33 V.S.A. § 1001 is amended to read:

§ 1001. DEFINITIONS

As used in this chapter:

* * *

(8) "Commissioner" means the Commissioner ~~for Children and Families or his or her~~ of Economic Empowerment or designee.

(9) "Department" means the Department ~~for Children and Families~~ of Economic Empowerment.

* * *

Sec. 50. 33 V.S.A. § 1101 is amended to read:

§ 1101. DEFINITIONS

As used in this chapter:

* * *

(8) "Commissioner" means the Commissioner ~~for Children and Families or his or her~~ of Economic Empowerment or designee.

(9) "Department" means the Department ~~for Children and Families~~ of Economic Empowerment.

* * *

Sec. 51. 33 V.S.A. § 1107 is amended to read:

§ 1107. CASE MANAGEMENT; FAMILY DEVELOPMENT PLANS; COORDINATED SERVICES

* * *

(d) The Secretary of Education, with the assistance and support of the Commissioner ~~for Children and Families~~ of Economic Empowerment, the Commissioner of Disabilities, Aging, and Independent Living, and the Commissioner of Labor, shall develop and implement comparable and reciprocally recognized literacy assessment protocols that will be used for all clients seeking adult education and literacy services; related services of the Agency of Education; or the services of the Department of Disabilities, Aging, and Independent Living, the Department of Labor, or the Department ~~for Children and Families~~ of Economic Empowerment, when such services are being sought for the purpose of developing or strengthening competencies or skills related to the clients' current or future employment. Such protocols shall, to the extent practicable, utilize the same terminology and apply comparable criteria, consistent with individual program purposes and authorization, in determining when testing, other standardized measurement tools, or referrals to relevant professionals for evaluation or diagnosis are appropriate.

* * *

Sec. 52. 33 V.S.A. § 1201 is amended to read:

§ 1201. DEFINITIONS

As used in this chapter:

* * *

(4) "Commissioner" means the Commissioner ~~for Children and Families or his or her~~ of Economic Empowerment or designee.

(5) "Department" means the Department ~~for Children and Families~~ of Economic Empowerment.

* * *

Sec. 53. 33 V.S.A. § 1301 is amended to read:

§ 1301. ELIGIBILITY REQUIREMENTS–; GENERAL

To be eligible for State aid to the aged, blind, or disabled, in addition to the requirements in sections 1301–1303 of this chapter governing eligibility for a specific program, an individual shall:

* * *

(4) Not have sufficient income or other resources to provide a reasonable subsistence compatible with decency and health, and not be receiving or able to secure support from persons legally responsible for the individual's support. In determining whether the income of an applicant for or a recipient of aid is sufficient, the Department ~~for Children and Families~~ of Economic Empowerment may disregard, within the limits of available funds, income used to further the purposes of rehabilitation and self-support.

Sec. 54. 33 V.S.A. § 1306 is amended to read:

§ 1306. APPLICATION AND INVESTIGATION

Applications for State aid to the aged, blind, or disabled may be made at any office of the Department ~~for Children and Families~~ of Economic Empowerment. Upon receipt of an application, the Commissioner ~~for Children and Families~~ of Economic Empowerment shall investigate and prescribe the amount of the grant to be given, if any. No individual shall receive more than one type of grant or aid under this chapter.

Sec. 55. 33 V.S.A. § 1307 is amended to read:

§ 1307. AMOUNT OF STATE AID

The amount of State aid to which an eligible individual is entitled shall be determined with due regard to the income, resources, and maintenance available to the individual and, when an eligible individual lives with the individual's ineligible spouse or ~~a needy~~ an essential person in need, or both, as defined by the Commissioner, with due regard to the needs of the ineligible spouse and with due regard to the needs, income, and resources of the ~~needy~~ essential person in need. To the extent funds are available, aid shall provide a reasonable subsistence compatible with decency and health. The

Commissioner ~~for Children and Families~~ of Economic Empowerment may by rule fix maximum amounts of aid and take measures to ensure that the expenditures for the programs shall not exceed the funds provided for them.

Sec. 56. 33 V.S.A. § 1308 is amended to read:

§ 1308. RULES

In fixing standards and adopting rules under this chapter, the Commissioner ~~for Children and Families~~ of Economic Empowerment shall be guided by the statutory standards set forth in this chapter, which standards shall not be deemed necessarily to incorporate by reference decisional or statutory law applicable to the aid to the aged, blind, and disabled program in effect prior to January 1, 1974.

Sec. 57. 33 V.S.A. § 1701 is amended to read:

§ 1701. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

* * *

(d) As used in this chapter, "Commissioner" means the Commissioner ~~for Children and Families~~ of Economic Empowerment and "Department" means the Department ~~for Children and Families~~ of Economic Empowerment.

Sec. 58. 33 V.S.A. § 1702 is amended to read:

§ 1702. PAYMENT ERROR RATE REPORT

On or before January 1 of the year following any federal fiscal year in which the State of Vermont receives a federal sanction for a payment error rate greater than the federal threshold in the Supplemental Nutrition Assistance Program (SNAP), the Department ~~for Children and Families~~ of Economic Empowerment shall report to the Senate Committee on Appropriations regarding:

(1) the number of households that received SNAP benefits and were discovered to have an overpayment or underpayment in the sanction year due to agency error, including the average amount of the overpayments and underpayments and the total amount of each; and

(2) the Department's specific plans for sanction reinvestment to improve its error rate for the next federal fiscal year and prevent sanction in the future.

Sec. 59. 33 V.S.A. § 1901b is amended to read:

§ 1901b. PHARMACY PROGRAM ENROLLMENT

(a) The Department of Vermont Health Access and the Department ~~for~~

~~Children and Families~~ of Economic Empowerment shall monitor actual caseloads, revenue, and expenditures; anticipated caseloads, revenue, and expenditures; and actual and anticipated savings from implementation of the preferred drug list, supplemental rebates, and other cost containment activities in each State pharmaceutical assistance program, including VPharm. When applicable, the Departments shall allocate supplemental rebate savings to each program proportionate to expenditures in each program.

* * *

Sec. 60. 33 V.S.A. § 2101 is amended to read:

§ 2101. DEFINITIONS

As used in this chapter:

(1) "Commissioner" means the Commissioner ~~for Children and Families~~ of Economic Empowerment.

* * *

Sec. 61. 33 V.S.A. § 2103 is amended to read:

§ 2103. ELIGIBILITY

(a) Consistent with available appropriations, the Department ~~for Children and Families~~ of Economic Empowerment shall furnish General Assistance under this chapter, except as provided in this section, to any otherwise eligible individual unable to provide the necessities of life for the individual and for those whom the individual is legally obligated to support. Except for those in catastrophic situations as defined in rules, no General Assistance shall be provided in the following situations:

(1) to any individual whose income from any source, including the Department ~~for Children and Families~~ of Economic Empowerment, during the 30 days immediately preceding the date on which assistance is sought is equal to the General Assistance eligibility standard; and

(2) to any able-bodied individual without minor dependents included in ~~his or her~~ the individual's application.

* * *

(e) As used in this section, "able-bodied individual" does not include a person subject to such conditions as are determined, by rule of the Commissioner ~~for Children and Families~~ of Economic Empowerment, to constitute barriers to employment.

(f) [Repealed.]

Sec. 62. 33 V.S.A. § 2114 is amended to read:

§ 2114. RENTAL OR MORTGAGE ARREARAGE PROGRAM

(a) The Department ~~for Children and Families~~ of Economic Empowerment shall provide up to three months of rental or mortgage arrearage assistance to eligible families. Assistance under this section is not an entitlement and shall be limited to the funds appropriated.

* * *

Sec. 63. 33 V.S.A. § 2115 is amended to read:

§ 2115. GENERAL ASSISTANCE PROGRAM REPORT

On or before September 1 of each year, the Commissioner ~~for Children and Families~~ of Economic Empowerment shall submit a written report to the Joint Fiscal Committee; the House Committees on Appropriations, on General~~,~~ and Housing~~, and Military Affairs~~, and on Human Services; and the Senate Committees on Appropriations and on Health and Welfare. The report shall contain the following:

* * *

Sec. 64. 33 V.S.A. § 2301 is amended to read:

§ 2301. BURIAL RESPONSIBILITY

* * *

(d) As used in this chapter:

(1) "Burial" means the final disposition of human remains, including interring or cremating a decedent and the ceremonies directly related to that cremation or interment at the gravesite.

(2) "Department" means the Department ~~for Children and Families~~ of Economic Empowerment.

(3) "Funeral" means the ceremonies prior to burial by interment, cremation, or other method.

Sec. 65. 33 V.S.A. § 2607 is amended to read:

§ 2607. PAYMENTS TO FUEL SUPPLIERS

* * *

(g)(1) The Public Utility Commission shall require natural gas suppliers subject to regulation under 30 V.S.A. § 203 to provide a discount program to customers with incomes ~~no~~ not greater than 200 percent of the federal poverty level or who meet the Department ~~for Children and Families'~~ of Economic

Empowerment's means test of eligibility for LIHEAP crisis fuel assistance. Eligibility for the discount shall be verified by the Department ~~for Children and Families~~ of Economic Empowerment.

* * *

Sec. 66. 33 V.S.A. § 3901 is amended to read:

§ 3901. DEFINITIONS

As used in this chapter:

(1) "Order of support" means any judgment or order for the support of dependent children issued by any court of the State of Vermont or another state or an order under an administrative proceeding of another state, including an order in a final decree of divorce.

(2) "Custodial parent" means any person with whom a dependent child actually resides, whether or not the parent is receiving public assistance benefits under chapter 11 of this title, or the Commissioner for Children and Families if the dependent child is under the care and control of ~~that~~ the Department for Children and Families.

(3) "Department" means the Vermont Department ~~for Children and Families~~ of Economic Empowerment.

* * *

Sec. 67. 33 V.S.A. § 3902 is amended to read:

§ 3902. ASSIGNMENT OF SUPPORT RIGHTS BY PUBLIC ASSISTANCE RECIPIENTS; PROCEEDINGS TO ESTABLISH SUPPORT OBLIGATION

(a) As a condition of eligibility for public assistance, each applicant or recipient shall assign to the Department any right to support from a responsible parent that has accrued at the time of the assignment and that the applicant may have in the applicant's own behalf or on behalf of any other family member for whom the applicant is applying or receiving assistance.

(b) An assignment in effect under this section shall be subject to the provisions of section 4106 of this title.

(c) Whenever a support obligation is in effect against a responsible parent for the benefit of a dependent child or a custodial parent, payments required under the support obligation shall be sent to the Office of Child Support upon notice to the responsible parent, without further order of the court. When an assignment is in effect pursuant to subsection (a) of this section, any amounts accrued under the support obligation as of the date of assignment, and any

amount accruing while the assignment is in effect, shall be owing to and payable to the Department ~~for Children and Families~~ without further order of the court.

* * *

(e) If a support order has been entered and the legal custodian and obligee relinquishes physical responsibility of the child to a caretaker without modifying the physical rights and responsibilities order, the Office of Child Support may change the payee of support upon the caretaker's receipt of Reach Up family assistance from the Department ~~for Children and Families~~. The obligor's obligation under the support order to pay child support and medical support continues but shall be payable to the Office of Child Support upon the caretaker's receipt of Reach Up family assistance and shall continue ~~so~~ for as long as the assignment is in effect. The Office of Child Support shall notify the obligor and obligee under the support order, by first-class mail at last known address, of the change of payee.

Sec. 68. 33 V.S.A. § 3903 is amended to read:

§ 3903. CHILD SUPPORT DEBT

(a) Except as otherwise provided in this section, any payment of Reach Up financial assistance made to or for the benefit of a dependent child creates a debt due and owing to the Department ~~for Children and Families~~ by any responsible parent in an amount equal to the amount of Reach Up financial assistance paid.

(b) Collection of child support debts shall be made as provided by this section and section 3902 of this title and by 15 V.S.A. chapter 11, subchapter 7. Regardless of the amount of Reach Up financial assistance paid, the court may limit the child support debt, taking into consideration the criteria of 15 V.S.A. § 659. The Department ~~for Children and Families~~ and the responsible parent may limit the child support debt by stipulation, which shall be enforceable on its terms unless it is modified.

Sec. 69. TRANSFER OF RULEMAKING AUTHORITY; TRANSFER OF RULES TO THE DEPARTMENT OF ECONOMIC EMPOWERMENT

(a) The statutory authority to adopt the following rules by the Department for Children and Families adopted under 3 V.S.A. chapter 25 is transferred from the Department for Children and Families to the Department of Economic Empowerment:

(1) Child Support Guidelines (CVR 13-161-001);

(2) OCS Administrative Review (CVR 13-161-002);

(3) Reach First Program (CVR 13-170-210);

(4) Reach Up (CVR 13-170-220);

(5) Reach Up Services (CVR 13-170-230);

(6) Postsecondary Education (CVR 13-170-240);

(7) Reach Ahead (CVR 13-170-250);

(8) General Assistance (CVR 130-170-260);

(9) Assistance to the Aged, Blind, or Disabled (CVR 130-170-270);

(10) Emergency Assistance (CVR 130-170-280);

(11) Fuel (CVR 130-170-290); and

(12) Refugee Cash Assistance (CVR 130-170-300).

(b) All rules listed in subsection (a) of this section adopted by the Department for Children and Families under 3 V.S.A. chapter 25 prior to July 1, 2024 shall be deemed the rules of the Department of Economic Empowerment and remain in effect until amended or repealed by the Department of Economic Empowerment pursuant to 3 V.S.A. chapter 25.

(c) The Department of Economic Empowerment shall provide notice of the transfer to the Secretary of State and the Legislative Committee on Administrative Rules in accordance with 3 V.S.A. § 848(d)(2).

* * * Parental Leave Benefit Program * * *

Sec. 70. 21 V.S.A. § 472 is amended to read:

§ 472. LEAVE

* * *

(b) During the leave, at the employee's option, the employee may use accrued sick leave ~~or~~, vacation leave, or any other accrued paid leave, not to exceed six weeks. In lieu of using sick leave, vacation leave, or other accrued paid leave, an employee may use parental leave benefits provided pursuant to 33 V.S.A. § 2001 not to exceed 12 weeks. Accrued paid leave and parental leave benefits provided pursuant to 33 V.S.A. § 2001 may be used sequentially but not concurrently. Utilization of accrued paid leave or parental leave benefits provided pursuant to 33 V.S.A. § 2001, or both, shall not extend the leave provided ~~herein~~ by this section.

* * *

Sec. 71. 33 V.S.A. chapter 20 is added to read:

CHAPTER 20. PARENTAL LEAVE BENEFIT PROGRAM

§ 2001. PARENTAL LEAVE BENEFIT PROGRAM

(a)(1) An eligible parent who is employed prior to the birth or adoption of a child and who intends to return to employment either with the same employer or a new employer after a parental leave may apply to the Department of Children and Families to receive a parental leave benefit for up to 12 weeks during which the eligible parent is caring for the child and unable to work. Only one eligible parent in a two-parent household shall apply for and receive the parental leave benefit established in this section. The benefits provided pursuant to this section shall be available for leaves that begin on or after January 1, 2024.

(2)(A) The weekly benefit provided to an eligible parent shall be $600.00 or the average weekly wage of the eligible parent during the six month period preceding the commencement of the leave, whichever is less.

(B) The benefit amount shall be calculated in increments of one full day, which shall be one-fifth of the eligible parent's weekly benefit amount.

(3) The benefit shall be paid by the Department to the eligible parent within 14 days after the Department approves the parent's application or within 14 days after the parental leave begins, whichever is last occurring, and subsequent payments shall be made biweekly.

(4) The parental leave for which the eligible parent may receive benefits shall be a single, continuous period ending within one year after the date on which the child was born or placed with the eligible parent for adoption.

(b)(1) The Department shall develop an application for the parental leave benefit using a simple, plain-language format, which shall be available in both electronic and paper formats.

(2) The Department shall develop and make available on the Department's website information and materials to educate the public regarding the availability of the parental leave benefit and the requirements to obtain the benefit.

(c)(1) To receive the parental leave benefit, an eligible parent shall submit:

(A) an application;

(B) a signed certification from the eligible parent's employer that the eligible parent is currently employed by the employer or was employed by the employer within 30 days prior to the beginning of the parental leave; and

(C) a statement of intent to return to employment or seek new employment following the parental leave.

(2) An eligible parent may submit an application with the signed certification and statement of intent to the Department in anticipation of a birth or the initial placement of a child for adoption or during the eligible parent's parental leave. The Department shall provide retroactive payments to an eligible parent provided the completed application, signed certification, and statement of intent are received not more than eight weeks after the leave began.

(d)(1) Benefits paid pursuant to this section may be used as wage replacement for a leave taken pursuant to 21 V.S.A. § 472 or the federal Family and Medical Leave Act, 29 U.S.C. §§ 2611–2654.

(2) The receipt of benefits paid pursuant to this section shall not extend the leave provided pursuant to 21 V.S.A. § 472 or the federal Family and Medical Leave Act.

(3) Nothing in this section shall be construed to alter the job protection and employment-related rights provided pursuant to 21 V.S.A. § 472 or the federal Family and Medical Leave Act or to provide job protection or employment-related rights that are in addition to the rights provided pursuant to those laws.

(e) As used in this section:

(1) "Eligible parent" means an individual whose annual gross family income is not more than 600 percent of the current federal poverty level and who is either:

(A) the parent of a child born within the preceding 12 months; or

(B) an individual with whom the initial placement of a child 10 years of age or younger for purposes of adoption has occurred within the preceding 12 months.

(2) "Parent" means an individual who:

(A) is a parent to a child, regardless of whether the relationship is a biological, adoptive, or step relationship; or

(B) has day-to-day responsibilities to care for and financially support a child.

(3) "Parental leave" means a leave of absence from employment by an eligible parent following:

(A) the birth of the eligible parent's child; or

(B) the initial placement of a child 10 years of age or younger with the eligible parent for purposes of adoption.

Sec. 72. 33 V.S.A. § 2002 is amended to read:

§ 2001. PARENTAL LEAVE BENEFIT PROGRAM

(a)(1) An eligible parent who is employed prior to the birth or adoption of a child and who intends to return to employment either with the same employer or a new employer after a parental leave may apply to the Department of ~~Children and Families~~ Economic Empowerment to receive a parental leave benefit for up to 12 weeks during which the eligible parent is caring for the child and unable to work. Only one eligible parent in a two-parent household shall apply for and receive the parental leave benefit established in this section. ~~The benefits provided pursuant to this section shall be available for leaves that begin on or after January 1, 2024.~~

* * *

* * * Appropriations * * *

Sec. 73. APPROPRIATIONS

(a) In fiscal year 2024, $90,000,000.00 is appropriated from the General Fund to the Department for Children and Families for the purpose of funding the Child Care Financial Assistance Program pursuant to Secs. 2–4b of this act and the parental leave benefit pursuant to Secs. 70–71 of this act.

(b) In fiscal year 2024, $150,000.00 is appropriated to Building Bright Futures for consultation and transition assistance services required pursuant to Secs. 6 and 13 of this act.

* * * Effective Dates * * *

Sec. 74. EFFECTIVE DATES

(a) Except as provided in subsection (b) of this section, this act shall take effect on July 1, 2023, with the Department for Children and Families making child care subsidies available to Vermont residents who have an immigration status for which Child Care Financial Assistance Program participation is not available pursuant to 33 V.S.A. § 3552 beginning on July 1, 2024, subject to fiscal year 2025 appropriations for this purpose.

(b)(1) Secs. 1b and 1c (relating to an additional Deputy Secretary within the Agency of Education) shall take effect on July 1, 2024.

(2) Sec. 2 (Child Care Financial Assistance Program; eligibility), Sec. 3 (provider rate adjustment; Child Care Financial Assistance Program); Sec. 4 (payment to providers for school age children); Sec. 4a (payment to providers

for children birth through four years of age; high quality incentive program), and Sec. 4b (High-Quality Early Care and Education Special Fund) shall take effect on January 1, 2024, except that the Commissioner for Children and Families shall adopt any rules necessary prior to that date in order to perform the Commissioner's duties under this act.

(3) Secs. 14–16 (property tax exemption; property used by child care providers) shall take effect on July 1, 2024.

(4) Secs. 17–69 (relating to the reorganization of the Department for Children and Families and creation of the Department of Economic Empowerment) shall take effect on July 1, 2024.

(5) Secs. 70–71 (relating to the parental leave benefit program) shall take effect on January 1, 2024.

(6) Sec. 72 (parent leave benefit program) shall take effect on July 1, 2024.

(Committee vote: 3-2-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare with the following amendments thereto:

First: By striking out Sec. 2, 33 V.S.A. § 3512, in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. 33 V.S.A. § 3512 is amended to read:

§ 3512. CHILD CARE FINANCIAL ASSISTANCE PROGRAM; ELIGIBILITY

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

(2) The subsidy authorized by this subsection shall be established by the Commissioner, by rule, and shall bear a reasonable relationship to income and family size. Families shall be found eligible using an income eligibility scale based on the current federal poverty level and adjusted for the size of the family. Co-payments shall be assigned to the whole family and shall not increase if more than one eligible child is enrolled in child care. Families with

an annual gross income of less than or equal to ~~150~~ 185 percent of the current federal poverty guidelines shall not have a family co-payment. Families with an annual gross income up to and including ~~350~~ 600 percent of current federal poverty guidelines, adjusted for family size, shall be eligible for a subsidy authorized by the subsection. The scale shall be structured so that it encourages employment. If the federal poverty guidelines decrease in a given year, the Division shall maintain the previous year's federal poverty guidelines for the purpose of determining eligibility and benefit amount under this subsection.

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

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

(5) The Department shall ensure that applications for the Child Care Financial Assistance Program use a simple, plain-language format. Applications shall be available in both electronic and paper formats.

Second: By striking out Secs. 14–16, 32 V.S.A. §§ 3802(22), 3800(q), and 5401(7), and their reader assistance heading in their entireties and inserting in lieu thereof the following:

* * * Repeals; Child Tax Credit * * *

Sec. 14. REPEALS; CHILD TAX CREDIT

The following are repealed:

(1) 32 V.S.A. § 5830f (Vermont child tax credit); and

(2) 32 V.S.A. § 5813(y) (statutory purpose; Vermont child tax credit).

* * * Child Care and Parental Leave Contribution * * *

Sec. 15. 32 V.S.A. chapter 246 is added to read:

CHAPTER 246. CHILD CARE AND PARENTAL LEAVE CONTRIBUTION

§ 10551. PURPOSE

The Child Care and Parental Leave Contribution is established to provide funding for State support of child care and the Parental Leave Benefit Program established pursuant to 33 V.S.A. § 2201.

§ 10552. DEFINITIONS

As used in this chapter:

(1) "Covered wages" means wages paid to an employee by an employer up to the amount of the Social Security Contribution and Benefit Base.

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

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

(4) "Self-employed individual" means a sole proprietor or partner owner of an unincorporated business, the sole member of an LLC, or the sole shareholder of a corporation.

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

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

§ 10553. CONTRIBUTION; RATE; COLLECTION

(a)(1) Each employer shall pay the Child Care and Parental Leave Contribution on all covered wages paid to each of the employer's employees and shall remit those amounts to the Department of Taxes pursuant to the provisions of this section. An employer may deduct and withhold from an employee's covered wages an amount equal to not more than one quarter of the contribution required pursuant to subsection (b) of this section. An employer shall pay the contributions required pursuant to this section as if the contributions were Vermont income tax subject to the withholding

requirements of chapter 151, subchapter 4 of this title, including the requirements relating to the time and manner of payment.

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

(b) The contribution rate shall be 0.42 percent of each employee's covered wages and each self-employed individual's self-employment income.

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

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

§ 10554. CHILD CARE AND PARENTAL LEAVE CONTRIBUTION SPECIAL FUND

(a) The Child Care and Parental Leave Contribution Special Fund is created pursuant to chapter 7, subchapter 5 of this title and shall be administered by the Department for Children and Families and the Department of Taxes. Monies in the Fund may be expended by the Department of Taxes for the administration of the Child Care and Parental Leave Contribution created under this chapter, by the Department for Children and Families for benefits provided by State supported child care and under the Parental Leave Benefit Program established pursuant to 33 V.S.A. § 2201, and by the Departments for necessary costs incurred in administering the Fund. All interest earned on Fund balances shall be credited to the Fund.

(b) The Fund shall consist of:

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

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

(3) any interest earned by the Fund.

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

Sec. 16. DEPARTMENT OF TAXES; POSITIONS

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

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

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

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

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

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

Third: By striking out Secs. 70, 71, and 72, Parental Leave Benefit Program, in their entirety and inserting in lieu thereof new Secs. 70, 71, and 72 to read as follows:

Sec. 70. 21 V.S.A. § 472 is amended to read:

§ 472. LEAVE

* * *

(b) During the leave, at the employee's option, the employee may use accrued sick leave ~~or~~, vacation leave, or any other accrued paid leave, not to exceed six weeks. In lieu of using sick leave, vacation leave, or other accrued paid leave, an employee may use parental leave benefits provided pursuant to 33 V.S.A. § 2201 not to exceed 12 weeks. Accrued paid leave and parental leave benefits provided pursuant to 33 V.S.A. § 2201 may be used sequentially but not concurrently. Utilization of accrued paid leave or parental leave benefits provided pursuant to 33 V.S.A. § 2201, or both, shall not extend the leave provided ~~herein~~ by this section.

* * *

Sec. 71. 33 V.S.A. chapter 22 is added to read:

CHAPTER 22. PARENTAL LEAVE BENEFIT PROGRAM

§ 2201. PARENTAL LEAVE BENEFIT PROGRAM

(a)(1)(A) An eligible parent may apply to the Department for Children and Families to receive a parental leave benefit for up to 12 weeks during which the eligible parent is caring for the child and unable to work if the eligible parent is:

(i) either employed or self-employed prior to the birth or adoption of a child; and

(ii) intends to either:

(I) return to employment or self-employment after the parental leave; or

(II) seek new employment or self-employment after the parental leave.

(B) Only one eligible parent in a two-parent household shall apply for and receive the parental leave benefit established in this section.

(C) The benefits provided pursuant to this section shall be available for leaves that begin on or after January 1, 2024.

(2)(A) The weekly benefit provided to an eligible parent shall be $600.00 or the average weekly wage or self-employment income of the eligible parent during the six month period preceding the commencement of the leave, whichever is less.

(B) The benefit amount shall be calculated in increments of one full day, which shall be one-fifth of the eligible parent's weekly benefit amount.

(3) The benefit shall be paid by the Department to the eligible parent within 14 days after the Department approves the parent's application or within 14 days after the parental leave begins, whichever is last occurring, and subsequent payments shall be made biweekly.

(4) The parental leave for which the eligible parent may receive benefits shall be a single, continuous period ending within one year after the date on which the child was born or placed with the eligible parent for adoption.

(b)(1) The Department shall develop an application for the parental leave benefit using a simple, plain-language format, which shall be available in both electronic and paper formats.

(2) The Department shall develop and make available on the Department's website information and materials to educate the public regarding the availability of the parental leave benefit and the requirements to obtain the benefit.

(c)(1) To receive the parental leave benefit, an eligible parent shall submit:

(A) an application;

(B) either:

(i) a signed certification from the eligible parent's employer that the eligible parent is currently employed by the employer or was employed by the employer within 30 days prior to the beginning of the parental leave; or

(ii) proof of self-employment income earned in Vermont during the prior calendar year or, if the individual did not earn self-employment income in Vermont during the prior calendar year, proof of self-employment income earned in Vermont during the current calendar year; and

(C) a statement of intent to return to employment or self-employment or to seek new employment or self-employment following the parental leave.

(2) An eligible parent may submit an application and other required materials to the Department in anticipation of a birth or the initial placement of a child for adoption or during the eligible parent's parental leave. The Department shall provide retroactive payments to an eligible parent, provided the completed application and other required materials are received not more than eight weeks after the leave began.

(d)(1) Benefits paid pursuant to this section may be used as wage replacement for a leave taken pursuant to 21 V.S.A. § 472 or the federal Family and Medical Leave Act, 29 U.S.C. §§ 2611–2654.

(2) The receipt of benefits paid pursuant to this section shall not extend the leave provided pursuant to 21 V.S.A. § 472 or the federal Family and Medical Leave Act.

(3) Nothing in this section shall be construed to alter the job protection and employment-related rights provided pursuant to 21 V.S.A. § 472 or the federal Family and Medical Leave Act or to provide job protection or employment-related rights that are in addition to the rights provided pursuant to those laws.

(e) As used in this section:

(1) "Eligible parent" means an individual whose annual gross family income is not more than 600 percent of the current federal poverty level and who is either:

(A) the parent of a child born within the preceding 12 months; or

(B) an individual with whom the initial placement of a child 10 years of age or younger for purposes of adoption has occurred within the preceding 12 months.

(2) "Parent" means an individual who:

(A) is a parent to a child, regardless of whether the relationship is a biological, adoptive, or step relationship; or

(B) has day-to-day responsibilities to care for and financially support a child.

(3) "Parental leave" means a leave of absence from employment or self-employment by an eligible parent following:

(A) the birth of the eligible parent's child; or

(B) the initial placement of a child 10 years of age or younger with the eligible parent for purposes of adoption.

Sec. 72. 33 V.S.A. § 2201 is amended to read:

§ 2201. PARENTAL LEAVE BENEFIT PROGRAM

(a)(1)(A) An eligible parent may apply to the Department ~~for Children and Families~~ of Economic Empowerment to receive a parental leave benefit for up to 12 weeks during which the eligible parent is caring for the child and unable to work if the eligible parent is:

* * *

(C) ~~The benefits provided pursuant to this section shall be available for leaves that begin on or after January 1, 2024.~~ [Repealed.]

* * *

Fourth: In Sec. 73, appropriations, by adding a new subsection (c) to read as follows:

(c) In fiscal year 2024, the amount of $6,504,916.00 is appropriated from the General Fund to the Department of Taxes to be used for the implementation of the Child Care and Parental Leave Contribution pursuant to 32 V.S.A. chapter 246 created by this act.

Fifth: In Sec. 74, effective dates, by striking out subdivision (b)(3) (property tax exemption; property used by child care providers) in its entirety and inserting in lieu thereof new subdivisions (b)(3) and (b)(4) to read as follows:

(3) Notwithstanding 1 V.S.A. § 214, Sec. 14 (repeals; child tax credit) shall take effect retroactively on January 1, 2023 and shall apply to taxable years beginning on and after January 1, 2023.

(4) Sec. 15, 32 V.S.A. chapter 246, (child care and parental leave contribution) shall take effect on July 1, 2024.

And by renumbering the remaining subdivisions to be numerically correct.

(Committee vote: 5-1-1)

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

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Legislative Intent * * *

Sec. 1. LEGISLATIVE INTENT

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

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

(2) provide financial stability to child care programs;

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

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

(5) provide policy recommendations for expanding access and capacity in Vermont's prekindergarten system.

* * * Prekindergarten * * *

Sec. 2. PREKINDERGARTEN EDUCATION STUDY COMMITTEE; REPORT

(a) Creation. There is created the Prekindergarten Education Study Committee to make recommendations on how to improve and expand accessible, affordable, and high-quality prekindergarten education.

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

(1) the Secretary of Education or designee, who shall serve as chair;

(2) the Secretary of Human Services or designee;

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

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

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

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

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

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

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

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

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

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

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

(14) a family representative with a prekindergarten-age child, appointed by the Building Bright Futures Council.

(c) Powers and duties. The Committee shall examine the delivery of prekindergarten education in Vermont and make recommendations for expanding equitable access for all children three and four years of age in a manner that achieves the best outcomes for children, whether through the current mixed-delivery system, the public school system, the private prekindergarten system, or a system that allows school districts to contract with private providers. The Committee shall also examine and make recommendations on the changes necessary to provide prekindergarten education to all children three and four years of age through the public school system, including a timeline and transition plan for such changes. In conducting its analysis, the Committee shall address the following topics and questions, which may yield distinct recommendations for children three and four years of age:

(1) Outcomes and quality.

(A) What are the benchmarks for "high quality" in prekindergarten education?

(B) How should best practices be implemented and measured across various prekindergarten education settings?

(2) Capacity and demand.

(A) How many children, by age, does the current mixed-delivery system have the capacity to serve? In studying this issue, the Committee shall consider the number of children on waitlists and the number of vacancies in programs.

(B) What are the workforce requirements to expand prekindergarten education? In studying this question, the Committee may consider:

(i) whether there is a gap between the total number of licensed teachers currently working and the number needed for expansion;

(ii) whether there is a gap between the total prekindergarten education workforce, including paraeducators, and the number needed for expansion; and

(iii) the educational and training costs associated with training and retaining the workforce necessary for expansion?

(C) If prekindergarten education in the public school system is provided solely to children four years of age, what is the impact on the capacity and workforce of private prekindergarten providers?

(D) If prekindergarten education for children who are four years of age is provided exclusively through the public school system, how will infant capacity in private child care providers be impacted?

(E) Are there areas of the State where prekindergarten education can be more effectively and conveniently furnished in an adjacent state due to geographic considerations?

(3) Special education.

(A) How many children three and four years of age are currently on individual education programs receiving services in public and private settings?

(B) Are children three and four years of age on individual education plans receiving the full range of services that they are entitled to?

(C) Does the availability or cost of special education services vary between private and public prequalified providers?

(4) Public school expansion.

(A) What infrastructure changes are necessary to expand prekindergarten education?

(B) How would the current prekindergarten education mixed-delivery system transition to a program within the public school system?

(C) What capacity needs to be built for developmentally appropriate afterschool and out-of-school-time care?

(D) Are changes needed to existing health and safety standards for public schools to accommodate children three and four years of age?

(5) Funding and costs.

(A) What are fiscally strategic options to sustain and expand universal prekindergarten education?

(B) What is the financial and business impact on regulated private child care providers if the prekindergarten system transitions to public schools or is expanded beyond the current 10-hour program?

(C) What, if any, changes need to be made to pupil weights for prekindergarten students?

(D) What, if any, changes need to be made to tuition rates for private prekindergarten programs?

(6) Oversight.

(A) What additional Agency of Education personnel or resources would be needed to oversee an expansion of the current prekindergarten education system under either a mixed-delivery model, a public school system model, or a system that allows school districts to contract with private providers?

(B) What additional Agency of Human Services personnel or resources would be needed to oversee an expansion of the current mixed-delivery model or a private prekindergarten system?

(C) Whether additional leadership capacity is needed at the Agency of Education to address early childhood education, and if so, how should the leadership capacity be expanded?

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

(e) Report. On or before December 1, 2023, the Committee shall submit a written report to the House Committees on Education and on Human Services and the Senate Committees on Education and on Health and Welfare with its findings and recommendations based on the analysis conducted pursuant to

subsection (c) of this section. The report shall include draft legislative language to support the Committee's recommendations.

(f) Meetings.

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

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

(3) The Committee shall cease to exist on February 1, 2024.

(g) Compensation and reimbursement. Members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than 10 meetings per year. These payments shall be made from monies appropriated to the Agency of Education.

(h) Appropriations.

(1) The sum of $5,000.00 is appropriated to the Agency of Education from the General Fund in fiscal year 2024 for per diem compensation and reimbursement of expenses for members of the Committee.

(2) The sum of $100,000.000 is appropriated to the Agency of Education from the General Fund in fiscal year 2024 for the cost of retaining a contractor as provided under subsection (d) of this section.

(3) Any unused portion of these appropriations shall, as of July 1, 2024, revert to the General Fund.

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

Sec. 3. 33 V.S.A. § 3512 is amended to read:

§ 3512. CHILD CARE FINANCIAL ASSISTANCE PROGRAM; ELIGIBILITY

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

(2) The subsidy authorized by this subsection shall be established by the Commissioner, by rule, and shall bear a reasonable relationship to income and family size. Families shall be found eligible using an income eligibility scale

based on the current federal poverty level and adjusted for the size of the family. Co-payments shall be assigned to the whole family and shall not increase if more than one eligible child is enrolled in child care. Families with an annual gross income of less than or equal to ~~150~~ 185 percent of the current federal poverty guidelines shall not have a family co-payment. Families with an annual gross income up to and including ~~350~~ 600 percent of current federal poverty guidelines, adjusted for family size, shall be eligible for a subsidy authorized by the subsection. The scale shall be structured so that it encourages employment. If the federal poverty guidelines decrease in a given year, the Division shall maintain the previous year's federal poverty guidelines for the purpose of determining eligibility and benefit amount under this subsection.

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

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

(5) The Department shall ensure that applications for the Child Care Financial Assistance Program use a simple, plain-language format. Applications shall be available in both electronic and paper formats.

* * *

Sec. 4. PROVIDER RATE ADJUSTMENT; CHILD CARE FINANCIAL ASSISTANCE PROGRAM

On January 1, 2024, the Department for Children and Families shall provide a one-time adjustment to the child care provider reimbursement rates in the Child Care Financial Assistance Program for child care services provided to children from birth through four years of age, including children five years of age who are not yet enrolled in kindergarten. The adjusted reimbursement rate shall account for the age of the children served and be 38.5 percent higher than the fiscal year 2023 five-STAR reimbursement rate in the Vermont STARS system. All providers in the same child care setting category shall receive an identical reimbursement rate payment, which shall be dependent upon whether the provider operates a regulated child care center and preschool program or regulated family child care home.

Sec. 5. APPROPRIATION; CHILD CARE FINANCIAL ASSISTANCE PROGRAM

(a) In addition to fiscal year 2024 funds appropriated for the Child Care Financial Assistance Program in other acts, in fiscal year 2024, $45,300,000.00 is appropriated from the General Fund to the Department for Children and Families' Child Development Division for the program eligibility expansion in Sec. 3 of this act and for the fiscal year 2024 provider rate adjustment in Sec. 4 of this act.

(b) In addition to fiscal year 2024 funds appropriated for the administration of the Department for Children and Families' Child Development Division in other acts, in fiscal year 2024, $6,000,000.00 is appropriated from the General Fund to the Division to administer the Child Care Financial Assistance Program eligibility expansion in Sec. 3 of this act and for the fiscal year 2024 provider rate adjustment in Sec. 4 of this act.

Sec. 6. READINESS PAYMENTS AND GRANTS; CHILD CARE FINANCIAL ASSISTANCE PROGRAM

(a)(1) In fiscal year 2024, $25,000,000.00 is appropriated from the General Fund to the Department for Children and Families' Child Development Division for the purpose of providing payments and grants to child care providers, as defined in 33 V.S.A. § 3511, delivering child care services to children birth through four years of age, including children five years of age who are not yet enrolled in kindergarten, in preparation of the Child Care Financial Assistance Program eligibility expansion in Sec. 3 of this act and for the fiscal year 2024 provider rate adjustment in Sec. 4 of this act. Readiness payments and grants may be used for workforce recruitment or retention bonuses, or both; child care facility improvement; and any other uses approved by the Commissioner.

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

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

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

meeting.

Sec. 7. 33 V.S.A. § 3514 is amended to read:

§ 3514. PAYMENT TO PROVIDERS FOR SCHOOL AGE CHILDREN

(a) The Commissioner shall establish a payment schedule for purposes of reimbursing providers for full- or part-time child care services to children over four years of age, excluding children five years of age who are not yet enrolled in kindergarten, rendered to families who participate in the programs established under section 3512 or 3513 of this title. Payments established under this section shall reflect the following considerations: whether the provider operates a licensed child care facility or a registered family child care home, type of service provided, cost of providing the service, and the prevailing market rate for comparable service. Payments shall be based on enrollment ~~status or any other basis agreed to by the provider and the Division~~.

* * *

Sec. 8. 33 V.S.A. § 3515 is added to read:

§ 3515. PAYMENT TO PROVIDERS FOR CHILDREN BIRTH THROUGH FOUR YEARS OF AGE

(a) The Commissioner shall establish a payment schedule that accounts for the age of the children served for the purpose of reimbursing providers for full- or part-time child care services to children from birth through four years of age, including children five years of age who are not yet enrolled in kindergarten, rendered to families who participate in the programs established under section 3512 or 3513 of this title. All providers in the same child care setting category shall receive an identical reimbursement rate payment, which shall be dependent upon whether the provider operates a regulated child care center and preschool program or regulated family child care home. The rate used to reimburse providers shall be increased over the previous year's rate annually on July 1 in alignment with the most recent annual average wage growth for NAICS code 611, Educational Services, not to fall below zero percent. Payments shall be based on enrollment.

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

Sec. 9. 33 V.S.A. § 3516 is added to read:

§ 3516. CHILD CARE QUALITY AND CAPACITY INCENTIVE PROGRAM

(a) The Commissioner shall establish a child care quality and capacity incentive program for child care providers participating in the Child Care Financial Assistance Program pursuant to 33 V.S.A. §§ 3512 and 3513 and delivering child care services to children birth through four years of age, including children who are five years old and not yet enrolled in kindergarten. Annually, consistent with funds appropriated for this purpose, the Commissioner shall provide each child care provider with a base incentive payment dependent upon the child care provider's child care setting category. A child care provider's base incentive payment shall be supplemented for each of the following achievements:

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

(2) maintaining five STARS in the Vermont STARS system;

(3) achieving an increased STAR level in the Vermont STARS system;

(4) maintaining existing infant and toddler capacity;

(5) increasing infant and toddler capacity;

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

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

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

Sec. 10. 33 V.S.A. § 3517 is added to read:

§ 3517. CHILD CARE WAITLIST AND APPLICATION FEES

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

Sec. 11. PROVIDER COMPENSATION AND TOTAL COST OF CARE; RECOMMENDATIONS

(a) On or before November 1, 2023, the Department for Children and Families, in consultation with the Department of Labor, the Agency of Education, Building Bright Futures, and the Vermont Association for the Education of Young Children, shall submit a report to the House Committee on Human Services and to the Senate Committee on Health and Welfare addressing the following:

(1) whether and how to integrate a tiered professional pay scale for professionals who provide child care services as part of the Child Care Financial Assistance Program;

(2) the structure of tiered professional pay scales for professionals who provide child care services that have been implemented in other jurisdictions, including in New Mexico and the District of Columbia; and

(3) the appropriate legal mechanism to implement any approved tiered professional pay scale for professionals who provide child care services, including consideration of statute, rule, departmental guidance, or some other appropriate mechanism.

(b) On or before November 1, 2024, the Department for Children and Families, in consultation with the Department of Labor, the Agency of Education, Building Bright Futures, and the Vermont Association for the Education of Young Children, shall submit to the House Committee on Human Services and to the Senate Committee on Health and Welfare:

(1) A tiered professional pay scale for professionals who provide child care services as defined in 33 V.S.A. § 3511 that is designed to provide professionals who provide child care services with compensation comparable to that received by early childhood educators in Vermont's public school system who serve children from prekindergarten through grade three. The tiered professional pay scale shall account for professionals' credentialing and professional child care experience and shall include the addition of an appropriate fringe benefit rate. In developing the tiered professional pay scale, the Department for Children and Families shall refer to the child care and early childhood education financing study required pursuant to 2021 Acts and Resolves No. 45, Sec. 14.

(2) A formula to calculate the total cost of care to serve children in a regulated child care facility as defined in 33 V.S.A. § 3511.

Sec. 12. 33 V.S.A. chapter 35, subchapter 6 is added to read:

Subchapter 6. Child Care Assistance for Additional Populations

§ 3551. NONCITIZEN CHILD CARE ASSISTANCE PROGRAM; LEGISLATIVE INTENT

In establishing the Noncitizen Child Care Assistance Program to provide child care subsidies for children who are not eligible for the Child Care Financial Assistance Program because of their citizenship status, it is the intent of the General Assembly that the benefits and eligibility criteria set forth in section 3552 of this chapter should align to the greatest extent practicable with the benefits and eligibility criteria in CCFAP as set forth in section 3512 of this chapter and corresponding rule.

§ 3552. NONCITIZEN CHILD CARE ASSISTANCE PROGRAM SUBSIDIES FOR CERTAIN VERMONT RESIDENTS

(a) For purposes of this section, the phrase "Vermont residents who have a citizenship status for which Child Care Financial Assistance Program (CCFAP) participation is not available" includes children of migrant workers who are employed in seasonal occupations in this State.

(b) The Department for Children and Families shall provide State-funded child care subsidies equivalent to those offered in the Child Care Financial Assistance Program (CCFAP) to Vermont residents who have a citizenship status for which CCFAP participation is not available and meet the service need and income eligibility standards established by the Department in rule.

(c)(1) The Department shall not inquire about or record the citizenship and immigration status of the applicant's family.

(2) The Department shall not record the citizenship and immigration status of the applicant.

(3) All applications submitted and records created pursuant to this section shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential. Absent a request for information by a U.S. agency pursuant to federal law, the Department shall not disclose any personally identifiable information regarding applicants or enrollees to the U.S. government.

(d) The Department for Children and Families may adopt rules in accordance with 3 V.S.A. chapter 25 to carry out the purposes of this section.

Sec. 13. DEPARTMENT FOR CHILDREN AND FAMILIES; NONCITIZEN CHILD CARE ASSISTANCE PROGRAM SUBSIDIES; FISCAL YEAR 2025 ESTIMATE

The Department for Children and Families shall provide information on the estimated fiscal year 2025 costs of providing coverage to Vermont residents who have a citizenship status for which Child Care Financial Assistance Program participation is not available pursuant to 33 V.S.A. § 3552 beginning on July 1, 2024 as part of the Department's fiscal year 2025 budget presentation to the House Committees on Appropriations and on Human Services and the Senate Committees on Appropriations and on Health and Welfare.

* * * Special Accommodations Grant * * *

Sec. 14. REPORT; SPECIAL ACCOMMODATIONS GRANT

On or before January 15, 2024, the Department for Children and Families' Child Development Division shall submit a report to the House Committee on Human Services and to the Senate Committee on Health and Welfare providing a proposal to streamline the application process for special accommodation grants, including:

(1) the suitability of moving to a 12-month grant cycle and for which populations;

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

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

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

* * * Transitional Assistance and Governance * * *

Sec. 15. BUILDING BRIGHT FUTURES; TECHNICAL ASSISTANCE; STAKEHOLDER ENGAGEMENT

Of the funds appropriated in Sec. 6 (readiness payments and grants; child care financial assistance program) of this act, up to $250,000.00 may be used by the Department for Children and Families' Child Development Division to contract for stakeholder engagement and technical assistance services from Building Bright Futures for the purposes of implementing the Division's duties in accordance with Sec. 2 (Prekindergarten Education Study Committee), Sec. 11 (provider compensation and total cost of care; recommendations), Sec. 12 (Noncitizen Child Care Assistance Program), and Sec. 14 (report; special

accommodations grant) of this act.

Sec. 16. REPORT; CHILD CARE SYSTEM GOVERNANCE

(a) The Secretary of Human Services shall conduct an assessment on the organizational structure of the Department for Children and Families that takes into consideration the investments in and expansion of early education and child care pursuant to this act. On or before January 15, 2024, the Secretary shall submit a report to the House Committees on Appropriations, on Government Operations, and on Human Services and to the Senate Committees on Appropriations, on Government Operations, and on Health and Welfare containing recommendations regarding the Department's organizational structure that shall:

(1) identify a Departmental structure that provides the appropriate alignment of programs and functions to best meet the needs of Vermonters being served by the Department, including:

(A) options for placing significant Departmental duties in one or more other departments;

(B) the impact of reorganizing the Department on other departments and agencies in State government;

(C) the potential service delivery benefits and operational improvements of reorganizing the Department, including any impacts on staff; and

(D) the fiscal impact of recommended changes to the Department's structure, including all administrative resources needed to ensure successful operation of the new structure; and

(2) identify the transition planning needed to reorganize the Department's structure, including administrative and project management support, risk mitigation and management, and a proposed transition timeline.

(b) The Secretary may utilize funds appropriated for administrative purposes to contract a consultant to assist with the assessment required pursuant to this section.

* * * Repeals; Child Tax Credit * * *

Sec. 17. REPEALS; CHILD TAX CREDIT

The following are repealed:

(1) 32 V.S.A. § 5830f (Vermont child tax credit); and

(2) 32 V.S.A. § 5813(y) (statutory purpose; Vermont child tax credit).

* * * Child Care and Parental Leave Contribution * * *

Sec. 18. 32 V.S.A. chapter 246 is added to read:

CHAPTER 246. CHILD CARE AND PARENTAL LEAVE CONTRIBUTION

§ 10551. PURPOSE

The Child Care and Parental Leave Contribution is established to provide funding for the Child Care Financial Assistance Program established in 33 V.S.A. §§ 3512 and 3513, including the provision of incentive payments pursuant to 33 V.S.A. § 3517, and the Parental Leave Benefit Program established pursuant to 33 V.S.A. § 2201.

§ 10552. DEFINITIONS

As used in this chapter:

(1) "Covered wages" means wages paid to an employee by an employer up to the amount of the Social Security Contribution and Benefit Base.

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

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

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

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

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

§ 10553. CONTRIBUTION; RATE; COLLECTION

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

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

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

(b) The contribution rate shall be 0.42 percent of each employee's covered wages and each self-employed individual's self-employment income.

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

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

§ 10554. CHILD CARE AND PARENTAL LEAVE CONTRIBUTION SPECIAL FUND

(a) The Child Care and Parental Leave Contribution Special Fund is created pursuant to chapter 7, subchapter 5 of this title and shall be administered by the Department for Children and Families and the Department of Taxes. Monies in the Fund may be expended by the Department of Taxes for the administration of the Child Care and Parental Leave Contribution created under this chapter, by the Department for Children and Families for benefits provided by the Child Care Financial Assistance Program established in 33 V.S.A. §§ 3512 and 3513, including the provision of incentive payments pursuant to 33 V.S.A. § 3517 and under the Parental Leave Benefit Program established pursuant to 33 V.S.A. § 2201, and by the Departments for necessary costs incurred in administering the Fund. All interest earned on Fund balances shall be credited to the Fund.

(b) The Fund shall consist of:

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

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

(3) any interest earned by the Fund.

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

Sec. 19. CHILD CARE AND PARENTAL LEAVE CONTRIBUTION POSITIONS AND APPROPRIATION

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

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

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

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

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

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

(b) In fiscal year 2024, the amount of $4,200,00.00 is appropriated from the General Fund to the Department of Taxes to be used for the implementation of the Child Care and Parental Leave Contribution pursuant to 32 V.S.A. chapter 246 created by this act.

* * * Parental Leave Benefit Program * * *

Sec. 20. 33 V.S.A. chapter 22 is added to read:

CHAPTER 22. PARENTAL LEAVE BENEFIT PROGRAM

§ 2201. PARENTAL LEAVE BENEFIT PROGRAM

(a) An eligible parent may apply to the Department for Children and Families to receive a parental leave benefit for a period during which the eligible parent is unable to work because the parent is caring for one or more children who were born or adopted within the preceding 12 months if the eligible parent is:

(1) either employed or self-employed prior to the birth or adoption of a

child; and

(2) intends to either:

(A) return to employment or self-employment after the parental leave; or

(B) seek new employment or self-employment after the parental leave.

(b)(1) The benefits provided pursuant to this section shall be available for leaves for births or adoptions that occur on or after January 1, 2024.

(2)(A) Benefits shall be available for a maximum period of 12 weeks during the year following a birth or adoption.

(B) Benefits may be used either by one parent or shared between two parents, provided that the use of benefits by two parents shall not increase the length of the benefit period provided pursuant to this section.

(C) Benefits may be provided for:

(i) a single continuous leave;

(ii) intermittent leaves; or

(iii) for a portion of a week in which the eligible parent works part-time, provided that benefits shall only be provided for days on which the eligible parent does not work.

(3)(A) The weekly benefit provided to an eligible parent shall be $600.00 per week or the eligible parent's average weekly wage or self-employment income during the six-month period preceding the commencement of the leave, whichever is less. If the leave benefit is shared between two eligible parents, the benefit amount for each eligible parent's leave shall be determined separately from the other eligible parent's portion of the leave.

(B) The benefit amount shall be calculated in increments of one full day, which shall be one-fifth of the eligible parent's weekly benefit amount. For eligible parents who are working part-time, the eligible parent's weekly benefit amount shall be prorated based on the number of days on which the eligible parent works in that week.

(4) The benefit shall be paid by the Department to the eligible parent within 14 days after the Department approves the parent's application or within 14 days after the parental leave begins, whichever is last occurring, and subsequent payments shall be made biweekly.

(c)(1) The Department shall develop an application for the parental leave benefit using a simple, plain-language format, which shall be available in both electronic and paper formats.

(2) The Department shall develop and make available on the Department's website information and materials to educate the public regarding the availability of the parental leave benefit and the requirements to obtain the benefit.

(d)(1) To receive the parental leave benefit, an eligible parent shall submit:

(A) an application;

(B) either:

(i) a signed certification from the eligible parent's employer that the eligible parent is currently employed by the employer or was employed by the employer within 30 days prior to the beginning of the parental leave; or

(ii) proof of self-employment income earned in Vermont during the prior calendar year or, if the individual did not earn self-employment income in Vermont during the prior calendar year, proof of self-employment income earned in Vermont during the current calendar year; and

(C) a statement of intent to return to employment or self-employment or to seek new employment or self-employment following the parental leave.

(2) An eligible parent may submit an application and other required materials to the Department in anticipation of a birth or the initial placement of a child for adoption or during the eligible parent's parental leave. The Department shall provide retroactive payments to an eligible parent, provided the completed application and other required materials are received not more than eight weeks after the leave began.

(e)(1) Benefits paid pursuant to this section may be used as wage replacement for a leave taken pursuant to 21 V.S.A. § 472 or the federal Family and Medical Leave Act, 29 U.S.C. §§ 2611–2654.

(2) The receipt of benefits paid pursuant to this section shall not extend the leave provided pursuant to 21 V.S.A. § 472 or the federal Family and Medical Leave Act.

(3) Nothing in this section shall be construed to alter the job protection and employment-related rights provided pursuant to 21 V.S.A. § 472 or the federal Family and Medical Leave Act or to provide job protection or employment-related rights that are in addition to the rights provided pursuant to those laws.

(f) As used in this section:

(1) "Eligible parent" means an individual who is domiciled in Vermont whose annual gross family income is not more than 600 percent of the current federal poverty level and who is either:

(A) the parent of a child born within the preceding 12 months; or

(B) an individual with whom the initial placement of a child 10 years of age or younger for purposes of adoption has occurred within the preceding 12 months.

(2) "Parent" means an individual who:

(A) is a parent to a child, regardless of whether the relationship is a biological, adoptive, or step relationship; or

(B) has day-to-day responsibilities to care for and financially support a child.

(3) "Parental leave" means a leave of absence from employment or self-employment by an eligible parent following:

(A) the birth of the eligible parent's child; or

(B) the initial placement of a child 10 years of age or younger with the eligible parent for purposes of adoption.

Sec. 21. APPROPRIATIONS; PARENTAL LEAVE BENEFIT PROGRAM

(a) In fiscal year 2024, $2,000,000.00 is appropriated from the General Fund to the Department for Children and Families' Child Development Division for the implementation and administration of the Parental Leave Benefit Program in accordance with of 33 V.S.A. chapter 22. The Division may contract with a third party to administer the Parental Leave Benefit Program.

(b) In fiscal year 2024, $5,600,000.00 is appropriated from the General Fund to the Department for Children and Families' Child Development Division for the benefit costs associated with the Parental Leave Benefit Program pursuant 33 V.S.A. chapter 22.

* * * Effective Dates * * *

Sec. 22. EFFECTIVE DATES

(a) Except as provided in subsection (b) of this section, this act shall take effect on July 1, 2023, with the Department for Children and Families making child care subsidies available to Vermont residents who have an immigration status for which Child Care Financial Assistance Program participation is not

available pursuant to 33 V.S.A. § 3552 beginning on July 1, 2024, subject to fiscal year 2025 appropriations for this purpose.

(b)(1) Sec. 3 (Child Care Financial Assistance Program; eligibility), Sec. 4 (provider rate adjustment; Child Care Financial Assistance Program), Sec. 7 (payment to providers for school age children), Sec. 8 (payment to providers for children birth through four years of age), and Sec. 9 (child care quality and capacity incentive program) shall take effect on January 1, 2024, except that the Commissioner for Children and Families shall adopt any rules necessary prior to that date in order to perform the Commissioner's duties under this act.

(2) Notwithstanding 1 V.S.A. § 214, Sec. 17 (repeals; child tax credit) shall take effect retroactively on January 1, 2023 and shall apply to taxable years beginning on and after January 1, 2023.

(3) Sec. 18 (32 V.S.A. chapter 246, child care and parental leave contribution) shall take effect on July 1, 2024.

(4) Sec. 20 (relating to the Parental Leave Benefit Program) shall take effect on January 1, 2024.

(Committee vote: 6-0-1)

S. 80.

An act relating to miscellaneous environmental conservation subjects.

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

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Dam Registration and Design Standards * * *

Sec. 1. 2018 Acts and Resolves No. 161, Sec. 2 is amended to read:

Sec. 2. DAM REGISTRATION PROGRAM REPORT

On or before January 1, ~~2023~~ 2025, the Department of Environmental Conservation shall submit a report to the House Committees on ~~Natural Resources, Fish, and Wildlife~~ Environment and Energy and on Ways and Means and the Senate Committees on Natural Resources and Energy and on Finance. The report shall contain:

(1) an evaluation of the dam registration program under 10 V.S.A. chapter 43;

(2) a recommendation on whether to modify the fee structure of the dam registration program;

(3) a summary of the dams registered under the program, organized by amount of water impounded and hazard potential classification; and

(4) an evaluation of any other dam safety concerns related to dam registration.

Sec. 2. 2018 Acts and Resolves No. 161, Sec. 3 is amended to read:

Sec. 3. ADOPTION OF RULES

The Secretary of Natural Resources shall adopt the rules required under 10 V.S.A. § 1110 as follows:

(1) the rules required under 10 V.S.A. § 1110(1) (exemptions), § 1110(3) (emergency action plan), § 1110(4) (hazard potential classification), § 1110(5) (dam registration), and § 1110(6) (dam inspection) shall be adopted on or before July 1, 2020; and

(2) the rules required under 10 V.S.A. § 1110(2) (dam design standards) shall be adopted on or before July 1, ~~2022~~ 2024.

* * * Public Waters; Encroachment * * *

Sec. 3. 29 V.S.A. § 402(7) is amended to read:

(7) "Public waters" means navigable waters excepting those waters in private ponds and private preserves as set forth in 10 V.S.A. ~~chapter 119~~ § 1442.

* * * Salvage Yards * * *

Sec. 4. 24 V.S.A. § 2248(d) is amended to read:

(d) No person may deliver salvage vehicles to or operate a mobile salvage vehicle crusher at a salvage yard that does not hold a certificate of registration under this subchapter. A salvage yard holding a certificate of registration under this subchapter shall post a copy of its current certificate in a clearly visible location in the proximity of each entrance to the salvage yard. Notwithstanding any other provision of law to the contrary, a salvage yard that does not hold a certificate of registration under this subchapter may operate a mobile salvage vehicle crusher with a liquids collection system, in accordance with the rules adopted under this subchapter for vehicle crushing, for the purpose of closing the salvage yard after first notifying the Secretary in writing of the intent to close the salvage yard.

* * * Water Quality Financing; State Revolving Loan Funds * * *

Sec. 5. 24 V.S.A. § 4753 is amended to read:

§ 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

(a) There is hereby established a series of special funds to be known as:

(1) The Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund, which shall be used, consistent with federal law, to provide loans for planning and construction of clean water projects, including acquisitions of project-related easements, land, options to purchase land, and temporary or permanent rights-of-way, and for implementing related management programs.

* * *

(10) The Vermont Wastewater and Potable Water Revolving Loan Fund, which shall be used to provide loans to individuals, in accordance with section 4763b of this title, for the design and construction of repairs to or replacement of wastewater systems and potable water supplies when the wastewater system or potable water supply is a failed system or supply as defined in 10 V.S.A. § 1972, or when a designer demonstrates that the wastewater system or potable water supply has a high probability of failing. The amount of up to $275,000.00 from the fees collected pursuant to 3 V.S.A. § 2822(j)(4) or from the Fund established in subdivision (1) of this subsection, or a combination of both, shall be deposited into this Fund at the beginning of each fiscal year to ensure a minimum balance of available funds of $275,000.00 exists for each fiscal year.

(b)(1) Each of such funds shall be established and held separate and apart from any other funds or monies of the State and shall be used and administered exclusively for the purpose of this chapter with the exception of transferring funds from the Vermont Drinking Water Planning Loan Fund and the Vermont Drinking Water Source Protection Fund to the Vermont Environmental Protection Agency (EPA) Drinking Water State Revolving Fund, and from the Vermont Pollution Control Revolving Fund to the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund, when authorized by the Secretary.

(2) These funds shall be administered by the Bond Bank on behalf of the State, except that:

(A) the Vermont EPA Drinking Water State Revolving Fund and the Vermont Drinking Water Planning Loan Fund shall be administered by VEDA concerning loans to privately owned public water systems in accordance with subchapter 3 of this chapter;

(B) the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund shall be administered by VEDA concerning loans to private entities for clean water projects in accordance with subchapter 4 of this chapter; and

(C) the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund and the Vermont Wastewater and Potable Water Revolving Loan Fund may be administered by a community development financial institution, as that term is defined in 12 U.S.C. § 4702, that is contracted with by the State for the purpose of providing loans to individuals ~~for failed wastewater systems and potable water supplies~~ in accordance with section 4763b of this chapter.

* * *

Sec. 6. 24 V.S.A. chapter 120, subchapter 2 is amended to read:

Subchapter 2. ~~Municipal~~ Loans to Municipalities and Individuals

* * *

§ 4757. REVOLVING LOAN FUNDS; ADDITIONAL USES

In addition to providing a source of funds from which loans may be made to municipalities under this chapter, each fund created under section 4753 of this chapter may be used for one or more of the following purposes:

(1) To make loans, to refund bonds or notes of a municipality issued after March 7, 1985 for sewerage works, or after July 1, 1993 for water supply systems for the purpose of financing the construction of any capital improvements or management program described in section 4753 and certified under section 4756 of this title.

(2) To guarantee or insure, directly or indirectly, the payment of notes or bonds issued or to be issued by a municipality for the purpose of financing the construction of any capital improvement or management program described in section 4754 of this title and certified under section 4756.

(3) To guarantee or insure, directly or indirectly, funds established by municipalities for the purpose of financing construction of any capital improvement described in section 4754 of this title.

(4) To invest available fund balances, and to credit the net interest income thereon to the particular fund providing investment funds.

(5) To pay the costs of the Bond Bank, VEDA, and the agency associated with the administration of each fund; provided, however, that no more than four percent of the aggregate of the highest fund balances in any

fiscal year shall be used for such purposes, and that a separate account be established outside the Drinking Water State Revolving Fund for such purposes. As used in this subsection, costs shall include fiscal, clerical, administrative, and issuance expenditures directly attributable and allocated to the maintenance implementation and administration of the loan funds created under this chapter.

(6) To pay from the Vermont Environmental Protection (EPA) Pollution Control Revolving Fund or the Vermont Wastewater and Potable Water Revolving Loan Fund the costs of administration of loans awarded under ~~subdivision 4753(a)(10)~~ section 4763b of this title.

* * *

§ 4763b. LOANS TO INDIVIDUALS FOR FAILED WASTEWATER SYSTEMS AND FAILED POTABLE WATER SUPPLIES

(a) Notwithstanding any other provision of law to the contrary, when the wastewater system or potable water supply serving only single-family and multifamily residences either meets the definition of a failed supply or system in 10 V.S.A. § 1972 or is demonstrated by a designer to have a high probability of failing, the Secretary of Natural Resources may lend monies to an owner of one or more of the residences from the Vermont Wastewater and Potable Water Revolving Loan Fund established in section 4753 of this title. In such cases, the following conditions shall apply:

(1) a loan may only be made to an owner with a household income equal to or less than 200 percent of the State average median household income;

(2) a loan may only be made to an owner who resides in one of the residences served by the failed supply or system on a year-round basis;

(3) ~~a loan may only be made to an owner who has been denied financing for the repair, replacement, or construction due to involuntary disconnection by at least one other financing entity;~~ [Repealed.]

(4) when the failed supply or system also serves residences owned by persons other than the loan applicant, a loan may only be made for an equitable share of the cost to repair or replace the failed supply or system that is determined through agreement of all of the owners of residences served by the failed system or supply;

(5) no construction loan shall be made to an individual under this subsection, nor shall any part of any revolving loan made under this subsection be expended, until all of the following take place:

(A) the Secretary of Natural Resources determines that if a wastewater system and potable water supply permit is necessary for the design and construction of the project to be financed by the loan, the permit has been issued to the owner of the failed system or supply; and

(B) the individual applying for the loan certifies to the Secretary of Natural Resources that the proposed project has secured all State and federal permits, licenses, and approvals necessary to construct and operate the project to be financed by the loan;

(6) all funds from the repayment of loans made under this section shall be deposited into the Vermont Wastewater and Potable Water Revolving Loan Fund.

(b) Notwithstanding any other provision of law to the contrary, when the wastewater system serving only single-family and multifamily residences either meets the definition of a failed system in 10 V.S.A. § 1972 or is demonstrated by a designer to have a high probability of failing, the Secretary of Natural Resources may lend monies to an owner of one or more of the residences from the Vermont Wastewater and Potable Water Revolving Loan Fund and capitalized by money that has been transferred from the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund pursuant to subdivision 4753(a)(10) of this title, provided that no State funds are used. In such cases, all of the following conditions shall apply:

(1) A loan may only be made to an owner with a household income equal to or less than 200 percent of the State average median household income.

(2) A loan may only be made to an owner who resides in one of the residences served by the failed system on a year-round basis.

(3) A loan may only be made to an owner who demonstrates sufficient means to pay the principal and interest on the loan.

(4) A loan may only be made for a project that is a clean water project the Secretary has designated as a priority for receipt of financial assistance.

(5) When the failed system also serves residences owned by persons other than the loan applicant, a loan may only be made for an equitable share of the cost to repair or replace the failed system that is determined through agreement of all of the owners of residences served by the failed system.

(6) No construction loan shall be made to an individual under this subsection, nor shall any part of any revolving loan made under this subsection be expended, until all of the following take place:

(A) the Secretary of Natural Resources determines that if a wastewater system and potable water supply permit is necessary for the design and construction of the project to be financed by the loan, the permit has been issued to the owner of the failed system; and

(B) the individual applying for the loan certifies to the Secretary of Natural Resources that the proposed project has secured all State and federal permits, licenses, and approvals necessary to construct and operate the project to be financed by the loan.

(7) Loans shall be awarded at or below market interest rates.

(8) All funds from the repayment of loans made under this subsection shall be deposited into the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund.

(c) Loans awarded under this section:

(1) shall include a loan repayment schedule that commences not later than one year after completion of the funded project for which loan funds have been issued; and

(2) shall not be used for the operation and maintenance expenses, or laboratory fees for monitoring, of a wastewater system or potable water supply.

(d) The Secretary of Natural Resources shall establish standards, policies, and procedures as necessary for the implementation of this section. The Secretary may establish criteria to extend the payment period of a loan or to waive all or a portion of the loan amount.

* * *

Sec. 7. 2018 Acts and Resolves No. 185, Sec. 12 is amended to read:

Sec. 12. SUSPENSION OF PRIVATE LOANS FOR CLEAN WATER PROJECTS

~~(a) Neither the Vermont Economic Development Authority (VEDA) nor the Secretary of Natural Resources shall accept, review, or act on any applications for loans to private entities under 24 V.S.A. chapter 120, subchapter 4 submitted after June 30, 2023. However, VEDA and the Secretary shall continue to review and act on initial applications submitted on or before June 30, 2023, as well as any amendments to timely initial applications.~~

~~(b)~~ It is the intent of the General Assembly that the private loans under 24 V.S.A. chapter 120, subchapter 4, the expansion of 24 V.S.A. chapter 120 to

provide funding for natural resources projects, and the sponsorship program defined at 24 V.S.A. § 4752(18) shall all be reviewed during the 2023 legislative session.

* * * Clean Water Reporting * * *

Sec. 8. 10 V.S.A. § 1264(k) is amended to read:

(k) Report on treatment practices. ~~Report on treatment practices.~~ As part of the report required under section 1389a of this title, the Secretary annually shall report the following:

(1) whether the phosphorus load from new development permitted under this section by the Secretary in the Lake Champlain watershed in the previous ~~calendar~~ State fiscal year is achieving at least a 70 percent average phosphorus load reduction;

(2) the estimated total phosphorus load reduction from new development, redevelopment, and retrofit of impervious surface permitted under this section in the previous State fiscal year; and

(3) the number of projects and the percentage of projects as a whole that implemented Tier 1 stormwater treatment practices, Tier 2 stormwater treatment practices, or Tier 3 stormwater treatment practices in the previous State fiscal year.

Sec. 9. 10 V.S.A. § 1389a(b)(6) is amended to read:

(6) Beginning on January ~~2023~~ 2024, a summary of the administration of the grant programs established under sections 925–928 of this title, including whether these grant programs are adequately funding implementation of the Clean Water Initiative and whether the funding limits for the Water Quality Enhancement Grants under subdivision 1389(e)(1)(D) of this title should be amended to improve State implementation of the Clean Water Initiative.

Sec. 10. 2019 Acts and Resolves No. 76, Sec. 7 is amended to read:

Sec. 7. RECOMMENDATIONS ON NUTRIENT CREDIT TRADING

On or before July 1, ~~2022~~ 2024, the Secretary of Natural Resources, after consultation with the Clean Water Board, shall submit to the Senate Committees on Appropriations, on Natural Resources and Energy, and on Finance and the House Committees on Appropriations, on ~~Natural Resources, Fish, and Wildlife~~ Environment and Energy, and on Ways and Means recommendations regarding implementation of a market-based mechanism that allows the purchase of water quality credits by permittees under 10 V.S.A.

chapter 47, and other entities. The report shall include information on the cost to develop and manage any recommended trading program.

* * * ANR Enforcement Practices * * *

Sec. 11. 10 V.S.A. § 1527 is amended to read:

§ 1527. PENALTY

A person who violates a provision of this chapter shall be fined ~~not more than $1,000.00 for each violation~~ in accordance with chapter 201 of this title.

Sec. 12. 10 V.S.A. § 6697 is amended to read:

§ 6697. CIVIL PENALTIES; WARNING

(a) A person, store, or food service establishment that violates the requirements of this subchapter shall~~:~~

~~(1) receive a written warning for a first offense;~~

~~(2) be subject to a civil penalty of $25.00 for a second offense; and~~

~~(3) be subject to a civil penalty of $100.00 for a third or subsequent offense~~ be fined in accordance with chapter 201 of this title.

(b) For the purposes of enforcement under this subchapter, an offense shall be each day a person, store, or food service establishment is violating a requirement of this subchapter.

Sec. 13. 24 V.S.A. § 2282 is amended to read:

§ 2282. PENALTY

A person who violates this subchapter shall be fined by the legislative body not less than $5.00 nor more than $50.00 for each day of the violation. A person who violates the requirements of this subchapter shall be fined by the Agency of Natural Resources in accordance with 10 V.S.A. chapter 201.

* * * Solid Waste Certification * * *

Sec. 14. 10 V.S.A. § 6605f(a) is amended to read:

(a) Disqualifying criteria. Any nongovernmental entity or person applying for a certification under section 6605, 6605a, or 6606 of this title, for interim certification under section 6605b of this title~~, or for a waste transportation permit under section 6607a of this title,~~ shall be denied certification or other authorization if the Secretary finds:

* * *

* * * DEC Procedural Requirements * * *

Sec. 15. 10 V.S.A. § 7716 is amended to read:

§ 7716. TYPE 5 PROCEDURES

(a) Purpose; scope.

(1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when issuing emergency permits and other permits listed in this section.

(2) The procedures under this section shall be known as Type 5 Procedures. This section shall govern each of the following:

* * *

(E) issuance of emergency sludge and septage disposal approvals under section 6605 of this title; ~~and~~

(F) shoreland registrations authorized under chapter 49A of this title; and

(G) issuance of authorization under the Construction General Permit or individual stormwater permits issued pursuant to chapter 47 of this title, for discharges of stormwater runoff related to emergency construction activities; emergency construction activities are those necessary to address imminent risk to life or a risk of damage to public or private property, including damage to lifeline infrastructure, as determined by the Secretary.

(b) Notice of final decision. The Secretary shall provide notice of the final decision through the environmental notice bulletin and shall post the decision to the bulletin.

Sec. 16. 29 V.S.A. § 405(d) is added to read:

(d) A permit issued pursuant to this section shall be effective on the date that is signed and issued to the applicant.

* * * Potable Water Supply * * *

Sec. 17. 10 V.S.A. § 1972(4) is amended to read:

(4)(A) "Failed supply" means a potable water supply:

(i) that has been found to exceed the standard set by the Secretary in rule for one or more of the following contaminants:

(I) total coliform;

(II) nitrates;

(III) nitrites;

(IV) arsenic; or

(V) uranium;

(ii) that the Secretary affirmatively determines as not potable, due to the presence of a contaminated site, a leaking underground storage tank, or other known sources of groundwater contamination or naturally occurring contaminants~~, and that information has been posted on the Agency of Natural Resources' website~~; or

(iii) the Secretary affirmatively determines to be failed due to the supply providing an insufficient quantity of water to maintain the usual and customary uses of a building or structure or campground~~, and that information has been posted on the Agency of Natural Resources' website~~.

(B) Notwithstanding the provisions of this subdivision, a potable water supply shall not be a failed supply if:

(i) these effects can be and are remedied solely by minor repairs, including the repair of a broken pipe leading from a building or structure to a well, the replacement of a broken pump, repair or replacement of a mechanical component, or deepening or hydrofracturing a well; or

(ii) these effects have lasted for only a brief period of time, the cause of the failure has been determined to be an unusual and nonrecurring event, and the supply has recovered from the state of failure. Supplies that have recurring, continuing, or seasonal failures shall be considered to be failed supplies.

(C) If a project is served by multiple potable water supplies, the failure of one supply will not require the issuance of a permit or permit amendment for any other supply that is not in a state of failure.

* * * Petroleum Cleanup Fund Assistance Program * * *

Sec. 18. 10 V.S.A. § 1941 is amended to read:

§ 1941. PETROLEUM CLEANUP FUND

* * *

(b) The Secretary may authorize disbursements from the Fund for the purpose of the cleanup and restoration of contaminated soil and groundwater caused by releases of petroleum, including aviation gasoline, from underground storage tanks and aboveground storage tanks, including air emissions for remedial actions, and for compensation of third parties for injury and damage caused by a release. This Fund shall be used for no other

governmental purposes, nor shall any portion of the Fund ever be available to borrow from by any branch of government; it being the intent of the General Assembly that this Fund and its increments shall remain intact and inviolate for the purposes set out in this chapter. Disbursements under this section may be made only for uninsured costs incurred after January 1, 1987 and for which a claim is made prior to July 1, 2029 and judged to be in conformance with prevailing industry rates. This includes:

(1) Costs incurred by taking corrective action as directed by the Secretary for any release of petroleum into the environment from:

(A) An underground storage tank defined as a category one tank used for commercial purposes, provided disbursements on any site shall not exceed $1,240,000.00 and shall be made from the Motor Fuel Account, as follows:

(i) after the first $10,000.00 of the cleanup costs have been borne by the owners or operators of double-wall tank systems ~~used for commercial purposes~~ or single-wall tank systems that were either taken out of service or abandoned prior to July 1, 1985; and

(ii) ~~after the first $15,000.00 of cleanup costs have been borne by the owners or operators of combination tank systems, whether lined or unlined, used for commercial purposes, unless the system is a lined combination tank system that has been granted a five-year extension under subsection 1927(f) of this title;~~

~~(iii)~~ after the first $25,000.00 of cleanup costs have been borne by the owners or operators of lined combination tank systems that have been granted a five-year extension to operate under subsection 1927(f) of this title~~;~~

~~(iv) after the first $25,000.00 of cleanup costs have been borne by the owners or operators of single-wall tank systems used for commercial purposes~~.

(B) An underground motor fuel tank used for farming or residential purposes either after the first $250.00 of the cleanup costs have been borne by the owners or operators of tanks with a capacity equal to or less than 1,100 gallons ~~and used for farming or residential purposes~~, or after the first $1,000.00 of the cleanup costs have been borne by the owners or operators of tanks with capacities over 1,100 gallons. Disbursements on any site shall not exceed ~~$990,000.00~~ $1,000,000.00 and shall be made from the Motor Fuel Account.

(C) An underground heating fuel tank used for on-premises heating after the first $10,000.00 of the cleanup costs have been borne by the owners or operators of tanks with capacities over 1,100 gallons used for commercial

purposes, or after the first $250.00 of the cleanup costs have been borne by the owners or operators of tanks with capacities equal to or less than 1,100 gallons used for commercial purposes, or after the first $250.00 of the cleanup costs have been borne by the owners or operators of residential and farm tanks. Disbursements on any site shall not exceed ~~$990,000.00~~ $1,000,000.00 and shall be made from the Heating Fuel Account.

(D) An aboveground storage tank site after the first $1,000.00 of the cleanup costs have been borne by the owners or operators of tanks used for commercial purposes, or after the first $250.00 of the cleanup costs have been borne by the owners or operators of residential and farm tanks. Disbursements under this subdivision (b)(1)(D) on any individual site shall not exceed ~~$25,000.00~~ $50,000.00. These disbursements shall be made from the Motor Fuel Account or Heating Fuel Account, depending upon the use or contents of the tank.

(E) A bulk storage aboveground motor fuel or heating fuel storage tank site after the first $10,000.00 of the cleanup costs have been borne by the owners or operators of tanks used for commercial purposes. Disbursements under this subdivision (b)(1)(E) on any individual site shall not exceed ~~$990,000.00~~ $1,000,000.00. These disbursements shall be made from the Motor Fuel Account.

(F) If a site is contaminated by petroleum releases from both heating fuel and motor fuel tanks, or where the source of the petroleum contamination has not been ascertained, the Secretary shall have the discretion to disburse funds from either the Heating Fuel or Motor Fuel Account, or both.

(2) Costs incurred in compensating third parties for bodily injury and property damage, as approved by the Secretary in consultation with the Commissioner of Financial Regulation, caused by release of petroleum from an underground category one storage tank into the environment from a site, up to $1 million, but shall not include payment of any punitive damages.

(3) Costs incurred in taking immediate corrective action to contain or mitigate the effects of any release of petroleum into the environment from an underground storage tank or aboveground storage tank if, in the judgment of the Secretary, such action is necessary to protect the public health and the environment. The Secretary may seek reimbursement of the first $10,000.00 of the costs.

(4) The cost of corrective action up to $1 million for any release of petroleum into the environment from an underground storage tank or tanks:

(A) whose owner, in the judgment of the Secretary, is incapable of

carrying out the corrective action; ~~or~~

(B) whose owner or operator cannot be determined; or

(C) [Repealed.]

(D) whose owner, in the judgment of the Secretary, is financially incapable of carrying out the corrective action in a timely manner.

(5) [Repealed.]

(6) The costs of creating and operating a risk retention pool authorized by section 1939 of this title, which costs are in excess of a reasonable contribution by participants, as determined by the Secretary with the advice of the Commissioner of Financial Regulation. The authority for disbursements under this subdivision shall terminate on June 1, 1992.

(7) Administrative and field supervision costs incurred by the Secretary in carrying out the provisions of this subchapter. Annual disbursements shall not exceed 10 percent of annual receipts.

(8) ~~The cost of initiating spill control procedures, removal actions, and remedial actions to clean up spills of oil and other petroleum products where the responsible party is unknown, cannot be contacted, is unwilling to take action, or does not take timely action that the Secretary considers necessary.~~ [Repealed.]

(c) The Secretary may authorize disbursements from the Fund for costs of initiating spill control procedures, removal actions, and remedial actions to clean up spills of oil and other petroleum products where the responsible party is unknown, cannot be contacted, is unwilling to take action, or does not take timely action that the Secretary considers necessary. The Secretary may seek reimbursement of the costs, including any costs determined to be covered by insurance.

(d) The Secretary may use up to one-half the amount deposited to the Motor Fuel Account of the Fund from the licensing fees assessed under section 1942 of this title to capitalize the Underground Motor Fuel Storage Tank Loan Assistance Program established by section 1944 of this title and the cost of administering the Program. If the Secretary determines that a balance will remain after all qualifying loan applications have been satisfied, the unneeded balance may be used for cleanup. The Secretary may use the amount in the Heating Fuel Account of the Fund for purposes of funding measures related to heating oil and kerosene.

~~(d)~~(e) Disbursements from the Fund for cleanup costs incurred prior to passage shall be limited to uninsured costs.

~~(e)~~(f) The Secretary shall establish the Petroleum Cleanup Fund Advisory Committee that shall meet not less than annually to review receipts and disbursements from the Fund, to evaluate the effectiveness of the Fund in meeting its purposes and the reasonableness of the cost of cleanup and to recommend alterations and statutory amendments deemed appropriate. The Advisory Committee shall submit an annual report of its findings to the General Assembly on January 15 of each year. In its annual report, the Advisory Committee shall review the financial stability of the Fund, evaluate the implementation of assistance related to underground farm or residential heating fuel storage tanks and aboveground storage tanks, and the need for continuing assistance, and shall include recommendations for sustainable funding sources to finance the provision of that assistance. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection. The membership of the Committee shall include the following or their designated representative:

(1) the Secretary of Natural Resources, who shall be chair;

(2) the Commissioner of Environmental Conservation;

(3) the Commissioner of Financial Regulation;

(4) a licensed gasoline distributor;

(5) a retail gasoline dealer;

(6) a representative of a statewide refining-marketing petroleum association;

(7) one member of the House to be appointed by the Speaker of the House;

(8) one member of the Senate to be appointed by the Committee on Committees;

(9) a licensed heating fuel dealer;

(10) a representative of a statewide heating fuel dealers' association; and

(11) a licensed real estate broker.

~~(f)~~(g) The Secretary may seek reimbursement to the Fund of cleanup expenditures only when the owner of the tank is in significant violation of ~~his or her~~ the owner's permit or rules, or when a required fee has not been paid for the tank from which the release occurred or, to the extent covered, when there is insurance coverage. When the Secretary has paid the first $10,000.00 of costs under subdivision (b)(4)(D) of this section, the Secretary may seek

reimbursement of those costs.

~~(g)~~(h) The owner of a farm or residential heating fuel storage tank used for on-premises heating or an underground or aboveground heating fuel storage tank used for on-premises heating by a mobile home park resident, as defined in section 6201 of this title, who desires assistance to close, replace, or upgrade the tank or replace their heating fuel system with advanced wood heat or a heat pump may apply to the Secretary for such assistance. The financial assistance may be in the form of grants of up to~~: $2,000.00~~ $3,000.00 or the costs of closure, replacement, or upgrade, whichever is less, for an aboveground storage tank located inside a structure; up to ~~$3,000.00~~ $4,000.00 or the costs of closure, replacement, or upgrade, whichever is less, for an aboveground storage tank located outside a structure; ~~and~~ up to ~~$4,000.00~~ $5,000.00 or the costs of closure, replacement, or upgrade, whichever is less, for an underground storage tank; and up to $4,000.00 or the actual cost of replacing their heating system with advanced wood heat or a heat pump, whichever amount is less. As used in this subsection, "structure" means any assembly of materials that is intended for occupancy or use by a person and that has at least three walls and a roof. Grants shall be made only to the current property owners, except at mobile home parks where a grant may be awarded to a mobile home park resident. To be eligible to receive the grant, an environmental site assessment must be conducted by a qualified consultant during the tank closure, replacement, or upgrade if the tank is an underground heating fuel storage tank. In addition, if the closed tank is to be replaced with an underground heating fuel storage tank, the replacement tank and piping shall provide a level of environmental protection at least equivalent to that provided by a double wall tank and secondarily contained piping. Grants shall be awarded on a priority basis to projects that will avoid the greatest environmental or health risks. The Secretary shall also give priority to applicants who are replacing their underground heating fuel tanks with aboveground heating fuel storage tanks that will be installed in accordance with the Secretary's recommended standards. The Secretary shall also give priority to ~~lower income~~ lower-income applicants. To be eligible to receive the grant, the owner must provide the previous year's financial information and, if the replacement tank is an aboveground tank, must ensure that any work to replace or upgrade a tank shall be done in accordance with industry standards (National Fire Protection Association, or NFPA, Code 31), as it existed on July 1, 2004, until another date or edition is specified by rule of the Secretary. The Secretary shall authorize only up to ~~$400,000.00~~ $500,000.00 in assistance for underground and aboveground heating fuel tanks in any one fiscal year from the Heating Fuel Account for this purpose. The application must be accompanied by the following information:

(1) proof of ownership, including information disclosing all owners of record of the property, except in the case where the applicant is a mobile home park resident;

(2) for farm or residential aboveground heating fuel storage tank owners, a copy of the federal income tax return for the previous year;

(3) identification of the contractor performing any heating fuel storage tank closure, replacement, ~~or~~ upgrade, or system replacement;

(4) an estimated cost of tank closure, replacement, ~~or~~ upgrade, or system replacement;

(5) the amount and type of assistance requested;

(6) a schedule for the work;

(7) description of surrounding area, including location of water supply wells, surface waters, and other sensitive receptors; and

(8) such other information and assurances as the Secretary may require.

* * * Effective Date * * *

Sec. 19. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee vote: 5-0-0)

Reported favorably by Senator Bray for the Committee on Finance.

(Committee vote: 7-0-0)

Reported favorably by Senator Lyons for the Committee on Appropriations.

(Committee vote: 6-0-1)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore,* for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

Robin Lunge of Berlin – Member, Green Mountain Care Board – By Senator Hardy for the Committee on Health and Welfare (3/29/23)

NOTICE OF JOINT ASSEMBLY

March 28, 2023 - 1:00 P.M. - House Chamber - Retention of a Chief Justice and four Associate Justices of the Supreme Court and eight Superior Court Judges.

FOR INFORMATION ONLY

CROSSOVER DATES

The Joint Rules Committee established the following crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 17, 2023**, and filed with the Secretary/Clerk 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 17, 2023**.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 24, 2023**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (the general Appropriations bill ("The Big Bill"), the Transportation Capital bill, the Capital Construction bill and the Fee/Revenue bills)