Senate Calendar

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UNFINISHED BUSINESS OF FRIDAY, MARCH 15, 2024

Second Reading

Favorable with Recommendation of Amendment

S. 150.

An act relating to automobile insurance.

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. 23 V.S.A. § 941 is amended to read:

§ 941. INSURANCE AGAINST UNINSURED, UNDERINSURED, OR UNKNOWN MOTORIST

* * *

(f) For the purpose of this subchapter, a motor vehicle is underinsured to the extent that:

(1) the liability insurance limits applicable at the time of the crash are less than the ~~limits of the uninsured motorist coverage applicable to the insured~~ damages that a person insured pursuant to this section is legally entitled to recover because of injury or death; or

(2) the available liability insurance has been reduced by payments to others injured in the crash to an amount less than the ~~limits of the uninsured motorist coverage applicable to the insured~~ damages that a person insured pursuant to this section is legally entitled to recover because of injury or death.

* * *

(h) Payments made to an injured party under the liability insurance policy of the person legally responsible for the damage or personal injury shall not be deducted from the underinsured motorist coverage otherwise available to the injured party.

Sec. 2. 8 V.S.A. § 4203(4) is amended to read:

(4) Payment of any judicial judgment or claim by the insured for any of the company's liability under the policy shall not bar the insured from any action or right of action against the company. In case of payment of loss or expense under the policy, the company shall be subrogated to all rights of the insured against any party, as respects such loss or expense, to the amount of such payment, and the insured shall execute all papers required and shall cooperate with the company to secure to the company such rights. However, the right of subrogation against any third party shall not exist or be claimed in favor of the insurer who has paid or reimbursed, to or for the benefit of the insured, medical costs payable pursuant to medical payments coverage.

Sec. 3. EFFECTIVE DATE; APPLICATION

This act shall take effect on passage and shall apply to all automobile insurance policies offered, issued, or renewed on or after January 1, 2025.

(Committee vote: 5-0-0)

UNFINISHED BUSINESS OF TUESDAY, MARCH 19, 2024

Second Reading

Favorable with Recommendation of Amendment

S. 183.

An act relating to planning for the Agency of Health Care Administration.

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. REENVISIONING THE AGENCY OF HUMAN SERVICES; REPORT

(a) The Secretary of Human Services, in collaboration with the Deputy Secretary of Human Services and the commissioner of each department within the Agency of Human Services and in consultation with the Office of the Health Care Advocate; the Office of the Child, Youth, and Family Advocate; Disability Rights Vermont; the Office of the Long-Term Care Ombudsman; and other relevant stakeholders, shall consider options for reenvisioning the Agency of Human Services, such as restructuring the existing Agency of Human Services or dividing the existing Agency of Human Services into two or more separate agencies.

(b) The Secretary of Human Services and the other stakeholders identified in subsection (a) of this section shall evaluate the current structure of the Agency of Human Services, identify potential options for reenvisioning the Agency and engage in a cost-benefit analysis of each option, and develop one or more recommendations for implementation.

(c) On or before February 1, 2025, the Secretary shall provide the recommendations developed by the Secretary and stakeholders to the House Committees on Government Operations and Military Affairs, on Health Care, and on Human Services and the Senate Committees on Government Operations and on Health and Welfare, including the following:

(1) the rationale for selecting the recommended option or options;

(2) the likely impact of the recommendations on the departments within the Agency and on the Vermonters served by those departments, including Vermonters who are members of historically marginalized communities;

(3) how the recommendations would center the needs of and lead to better outcomes for the individuals and families served by the Agency and its departments and make the Agency more accountable to the Vermonters whom it serves;

(4) how the recommendations could improve collaboration, integration, and alignment of the services currently provided by the Agency and its departments and how they could enhance coordination and communication among the departments;

(5) how the recommendations could address the workforce and personnel capacity challenges that the Agency and its departments encounter;

(6) how the recommendations could address the technology and facility challenges that the Agency and its departments encounter;

(7) a transition and implementation plan for the recommendations that is designed to minimize confusion and disruption for individuals and families served by the Agency and its departments, as well as for Agency and departmental staff;

(8) a proposed organizational chart for any recommended reconfigurations; and

(9) the estimated costs or savings associated with the recommendations.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read:

An act relating to reenvisioning the Agency of Human Services

(Committee vote: 6-0-0)

NEW BUSINESS

Third Reading

S. 55.

An act relating to authorizing public bodies to meet electronically under Vermont's Open Meeting Law.

S. 186.

An act relating to the systemic evaluation of recovery residences and recovery communities.

S. 284.

An act relating to the use of electronic devices and digital and online products in schools.

Amendment to S. 284 to be offered by Senators Watson, Campion, Chittenden, Gulick, Hashim, Vyhovsky, Weeks and Williams before Third Reading

Senators Watson, Campion, Chittenden, Gulick, Hashim, Vyhovsky, Weeks and Williams move to amend the bill as follows:

First: In Sec. 1, cell phone use in schools; model policy, by striking out subdivision (b)(1) in its entirety, and inserting in lieu thereof a new subdivision (b)(1) to read as follows:

(1) information on how many school districts have adopted cell phone or personal electronic device use policies, whether and how those policies differ from the Agency's model policy and guidance, and qualitative information regarding the effectiveness of those policies, including:

(A) information regarding student compliance;

(B) information regarding whether such polices are being enforced, including information on the effort required on the part of educators to ensure student compliance; and

(C) information regarding parent, student, and educator satisfaction with such policies;

Second: In Sec. 1, cell phone use in schools; model policy, by striking out subdivision (b)(3) in its entirety, and inserting in lieu thereof a new subdivision (b)(3) to read as follows:

(3) in consultation with the Vermont Department of Health, recommendations for:

(A) further legislative action regarding cell phone or personal electronic device use in schools; and

(B) age-appropriate educational opportunities regarding media literacy and the safe and appropriate use of cell phones or personal electronic devices.

S. 289.

An act relating to age-appropriate design code.

Committee Bill for Second Reading

Favorable with Recommendation of Amendment

S. 305.

An act relating to miscellaneous changes related to the Public Utility Commission.

By the Committee on Natural Resources and Energy. (Senator Bray 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 by striking out Sec. 7, effective date, in its entirety and inserting in lieu thereof the following:

* * * Energy Efficiency Modernization Act * * *

Sec. 7. 2020 Acts and Resolves No. 151, Sec. 1, as amended by 2023 Acts and Resolves No. 44, Sec. 1, is further amended to read:

Sec. 1. ALLOWANCE OF THE USE OF ENERGY EFFICIENCY CHARGE FUNDS FOR GREENHOUSE GAS EMISSIONS REDUCTION PROGRAMS

(a) The electric resource acquisition budget for an entity appointed to provide electric energy efficiency and conservation programs and measures

pursuant to 30 V.S.A. § 209(d)(2)(A) for the calendar years 2021–2026 shall be determined pursuant to 30 V.S.A. § 209(d)(3)(B). This section shall apply only if the entity's total electric resource acquisition budget for 2024–2026 does not exceed the entity's total electric resource acquisition budget for 2021–2023, adjusted for cumulative inflation between January 1, 2021, and July 1, 2023, using the national consumer price index. An entity may include proposals for activities allowed under this pilot in its 2027–2029 demand resource plan filing, but these activities shall only be implemented if this section is extended to cover that ~~timeframe~~ time frame.

(b) Notwithstanding any provision of law or order of the Public Utility Commission (PUC) to the contrary, ~~the PUC shall authorize~~ an entity ~~pursuant to subsection (a) of this section to~~ appointed under 30 V.S.A. § 209(d)(2)(A) may spend a portion of its electric resource acquisition budget, in an amount ~~to be determined by the PUC but~~ not to exceed $2,000,000.00 per year, on programs, measures, and services that reduce greenhouse gas emissions in the thermal energy or transportation sectors. ~~Programs measures, and services authorized pursuant to subsection (a) of this section shall~~ An entity spending a portion of its electric resource acquisition budget as outlined in this section shall submit notice of the amount of the annual electric resource acquisition budget to be spent pursuant to this subsection to the PUC, the Department of Public Service, the electric distribution utilities, and the Vermont Public Power Supply Authority with a sworn statement attesting that the programs, measures, or services comply with the following criteria:

(1) Reduce greenhouse gas emissions in the thermal energy or transportation sectors, or both.

(2) Have a nexus with electricity usage.

(3) Be additive and complementary to and shall not replace or be in competition with electric utility energy transformation projects pursuant to 30 V.S.A. § 8005(a)(3) and existing thermal efficiency programs operated by an entity appointed under 30 V.S.A. § 209(d)(2)(A) such that they result in the largest possible greenhouse gas emissions reductions in a cost-effective manner.

(4) Be proposed after the entity consults with any relevant State agency or department and shall not be duplicative or in competition with programs delivered by that agency or department.

(5) Be delivered on a statewide basis. However, this shall not preclude the delivery of services specific to a retail electricity provider. Should such services be offered, all distribution utilities and Vermont Public Power Supply Authority shall be provided the opportunity to participate, and those services

shall be designed and coordinated in partnership with each of them. For programs and services that are not offered on a statewide basis, the proportion of utility-specific program funds used for services to any distribution utility shall be ~~no~~ not less than the proportionate share of the energy efficiency charge, which in the case of Vermont Public Power Supply Authority, is the amount collected across their combined member utility territories during the period this section remains in effect.

(c) An entity that ~~is approved to provide~~ provides a program, measure, or service pursuant to this section shall provide the program, measure, or service in cooperation with a retail electricity provider.

~~(1)~~ The entity shall not claim any savings and reductions in fossil fuel consumption and in greenhouse gas emissions by the customers of the retail electricity provider resulting from the program, measure, or service if the provider elects to offer the program, measure, or service pursuant to 30 V.S.A. § 8005(a)(3) unless the entity and provider agree upon how savings and reductions should be accounted for, apportioned, and claimed.

~~(2) The PUC shall develop standards and methods to appropriately measure the effectiveness of the programs, measures, and services in relation to the entity's Demand Resources Plan proceeding.~~

(d) Any funds spent on programs, measures, and services pursuant to this section shall not be counted towards the calculation of funds used by a retail electricity provider for energy transformation projects pursuant to 30 V.S.A. § 8005(a)(3) and the calculation of project costs pursuant to 30 V.S.A. § 8005(a)(3)(C)(iv).

(e) ~~On or before April 30, 2021 and every April 30 for six years thereafter, the PUC shall submit a written report to the House Committee on Environment and Energy and the Senate Committees on Natural Resources and Energy and on Finance concerning any programs, measures, and services approved pursuant to this section.~~

~~(f)~~ Thermal energy and process fuel efficiency funding. Notwithstanding 30 V.S.A. § 209(e), a retail electricity provider that is also an entity appointed under 30 V.S.A. § 209(d)(2)(A), may during the years of 2024–2026, use monies subject to 30 V.S.A. § 209(e) to deliver thermal and transportation measures or programs that reduce fossil fuel use regardless of the preexisting fuel source of the customer, including measures or programs permissible under this pilot program, with special emphasis on measures or programs that take a new or innovative approach to reducing fossil fuel use, including modifying or supplementing existing vehicle incentive programs and electric vehicle supply equipment grant programs to incentivize high-consumption fuel users,

especially individuals using more than 1000 gallons of gasoline or diesel annually and those with low and moderate income, to transition to the use of battery electric vehicles.

* * * Clean Heat Standard * * *

Sec. 8. 30 V.S.A. § 8124 is amended to read:

§ 8124. CLEAN HEAT STANDARD COMPLIANCE

* * *

(b) Annual registration.

* * *

(4) The Commission shall maintain, and update annually, a list of registered entities on its website ~~that contains the required registration information~~.

* * *

Sec. 9. 30 V.S.A. § 8125 is amended to read:

§ 8125. DEFAULT DELIVERY AGENT

* * *

(b) Appointment. The default delivery agent shall be one or more statewide entities capable of providing a variety of clean heat measures. ~~The Commission shall designate the first default delivery agent on or before June 1, 2024.~~ The designation of an entity under this subsection may be by order of appointment or contract. A designation, whether by order of appointment or by contract, may only be issued after notice and opportunity for hearing. An existing order of appointment issued by the Commission under section 209 of this title may be amended to include the responsibilities of the default delivery agent. An order of appointment shall be for a limited duration not to exceed 12 years, although an entity may be reappointed by order or contract. An order of appointment may include any conditions and requirements that the Commission deems appropriate to promote the public good. For good cause, after notice and opportunity for hearing, the Commission may amend or revoke an order of appointment.

* * *

(d) Use of default delivery agent.

* * *

(3) The Commission shall by rule or order establish a standard timeline under which the default delivery agent credit cost or costs are established and by which an obligated party must file its form. The default delivery agent's schedule of costs shall include sufficient costs to deliver installed measures and shall specify separately the costs to deliver measures to customers with low income and customers with moderate income as required by subsection 8124(d) of this title. The Commission shall provide not less than ~~120~~ 90 days' notice of default delivery agent credit cost or costs prior to the deadline for an obligated party to file its election form so an obligated party can assess options and inform the Commission of its intent to procure credits in whole or in part as fulfillment of its requirement.

* * *

(e) Budget.

* * *

(B) the development of a three-year plan and associated proposed budget by the default delivery agent to be informed by the final results of the Department's potential study. The default delivery agent may propose a portion of its budget towards promotion and market uplift, workforce development, and trainings for clean heat measures. The Commission shall approve the first three-year plan and associated budget by no later than September 1, 2025; and

* * *

Sec. 10. 30 V.S.A. § 8126 is amended to read:

§ 8126. RULEMAKING

(a) The Commission shall adopt rules and may issue orders to implement and enforce the Clean Heat Standard program.

* * *

(c) The Commission's rules may include a provision that allows the Commission to revise its Clean Heat Standard rules by order of the Commission without the revisions being subject to the rulemaking requirements of ~~the~~ 3 V.S.A. chapter 25, provided the Commission:

(1) provides notice of any proposed changes;

(2) allows for a 30-day comment period;

(3) responds to all comments received on the proposed change;

(4) provides a notice of language assistance services on all public outreach materials; and

(5) arranges for language assistance to be provided to members of the public as requested using professional language services companies.

(d) Any order issued under ~~this chapter~~ subsection (c) of this section shall be subject to appeal to the Vermont Supreme Court under section 12 of this title, and the Commission must immediately file any orders, a redline, and clean version of the revised rules with the Secretary of State, with notice simultaneously provided to the House Committee on Environment and Energy and the Senate Committees on Finance and on Natural Resources and Energy.

Sec. 11. 2023 Acts and Resolves No. 18, Sec. 6 is amended to read:

Sec. 6. PUBLIC UTILITY COMMISSION IMPLEMENTATION

* * *

(f) Final rules.

* * *

(5) The final proposed rules shall contain the first set of annual required amounts for obligated parties as described in 30 V.S.A. § 8124(a)~~(1)~~(2). The first set of annual required amounts shall only be adopted through the rulemaking process established in this section, not through an order.

* * *

Sec. 12. 32 V.S.A. § 3102 is amended to read:

§ 3102. CONFIDENTIALITY OF TAX RECORDS

* * *

(d) The Commissioner shall disclose a return or return information:

* * *

(7) to the Joint Fiscal Office pursuant to subsection 10503(e) of this title and subject to the conditions and limitations specified in that subsection; ~~and~~

(8) to the Attorney General; the Data Clearinghouse established in the October 2017 Non-Participating Manufacturer Adjustment Settlement Agreement, which the State of Vermont joined in 2018; the National Association of Attorneys General; and counsel for the parties to the Agreement as required by the Agreement and to the extent necessary to comply with the Agreement and only as long as the State is a party to the Agreement; and

(9) to the Public Utility Commission and the Department of Public Service, provided the disclosure relates to the sale of heating fuel into or in the State for compliance with the Clean Heat Standard established in 30 V.S.A. chapter 94.

* * *

* * * Effective Date * * *

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-1-0)

Second Reading

Favorable

S. 246.

An act relating to amending the Vermont basic needs budget and livable wage.

Reported favorably by Senator Clarkson for the Committee on Economic Development, Housing and General Affairs.

(Committee vote: 5-0-0)

H. 554.

An act relating to approval of the adoption of the charter of the Town of South Hero.

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

The Committee on Government Operations recommends that the bill ought to pass in concurrence.

(Committee vote: 6-0-0)

(No House amendments)

Reported favorably by Senator Brock for the Committee on Finance.

The Committee on Finance recommends that the bill ought to pass in concurrence.

(Committee vote: 7-0-0)

H. 801.

An act relating to approval of the adoption of the charter of the Town of Waterbury.

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

The Committee on Government Operations recommends that the bill ought to pass in concurrence.

(Committee vote: 6-0-0)

(For House amendments, see House Journal of February 14, 2024, page 213)

Reported favorably by Senator Cummings for the Committee on Finance.

The Committee on Finance recommends that the bill ought to pass in concurrence.

(Committee vote: 6-0-1)

Favorable with Recommendation of Amendment

S. 58.

An act relating to increasing the penalties for subsequent offenses for trafficking and dispensing or sale of a regulated drug with death resulting.

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:

* * * Big 12 Juvenile Offenses * * *

Sec. 1. 33 V.S.A. § 5201 is amended to read:

§ 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

* * *

(c)(1) Any proceeding concerning a child who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining 14 years of age, but not 22 years of age, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter and chapter 52A of this title, unless the State's Attorney files the charge directly as a youthful offender petition in the Family Division.

(2)(A) Any proceeding concerning a child who is alleged to have committed one of the following acts after attaining 14 years of age, but not 22 years of age, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter and chapter 52A of this title, unless the State's Attorney files the charge directly as a youthful offender petition in the Family Division:

(i) 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 subsection 5204(a) of this title; or

(ii) a violation of a condition of release as defined in 13 V.S.A. § 7559 imposed by the Criminal Division for an offense that was transferred from the Family Division pursuant to section 5204 of this title.

(B) This subdivision (2) shall not apply to a proceeding that is the subject of a final order accepting the case for youthful offender treatment pursuant to subsection 5281(d) of this title.

(3) Any proceeding concerning a child who is alleged to have committed one of the following acts after attaining 16 years of age, but not 22 years of age, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter and chapter 52A of this title, unless the State's Attorney files the charge directly as a youthful offender petition in the Family Division:

(i) using a firearm while committing a felony in violation of 13 V.S.A. § 4005, or an attempt to commit that offense;

(ii) trafficking a regulated drug in violation of 18 V.S.A. chapter 84, subchapter 1, or an attempt to commit that offense; or

(iii) aggravated stalking as defined in 13 V.S.A. § 1063(a)(3), or an attempt to commit that offense.

* * *

Sec. 2. 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)~~(11) 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:

* * *

(10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2) or an attempt to commit that offense; or

(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 an attempt to commit either of those offenses~~; or~~

~~(12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c) or an attempt to commit that offense~~.

* * *

* * * Raise the Age * * *

Sec. 3. 2018 Acts and Resolves No. 201, Secs. 17–19, are amended to read:

Sec. 17. [Deleted.]

Sec. 18. [Deleted.]

Sec. 19. [Deleted.]

Sec. 4. 2018 Acts and Resolves No. 201, Sec. 21, as amended by 2022 Acts and Resolves No. 160, Sec. 1, and 2023 Acts and Resolves No. 23, Sec. 12, is further amended to read:

Sec. 21. EFFECTIVE DATES

* * *

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

Sec. 5. 2020 Acts and Resolves No. 124, Secs. 3 and 7, are amended to read:

Sec. 3. [Deleted.]

Sec. 7. [Deleted.]

Sec. 6. 2020 Acts and Resolves No. 124, Sec. 12, as amended by 2022 Acts and Resolves No. 160, Sec. 2, and 2023 Acts and Resolves No. 23, Sec. 13, 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, 2024.~~ [Deleted.]

* * *

Sec. 7. 33 V.S.A. § 5201(d) is amended to read:

(d) Any proceeding concerning a child who is alleged to have committed any offense other than those specified in subsection 5204(a) of this title before attaining ~~19~~ 20 years of age shall originate in the Family Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

Sec. 8. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a Criminal Division of the Superior Court that the defendant was under ~~19~~ 20 years of age at the time the offense charged was alleged to have been committed and the offense charged is an offense not specified in subsection 5204(a) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

* * *

(c) If it appears to the State's Attorney that the defendant was under ~~19~~ 20 years of age at the time the felony offense charged was alleged to have been committed and the felony charged is not an offense specified in subsection 5204(a) of this title, the State's Attorney shall file charges in the Family Division of the Superior Court, pursuant to section 5201 of this title. The Family Division may transfer the proceeding to the Criminal Division pursuant to section 5204 of this title.

* * *

Sec. 9. 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~~ 20 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)–(11) 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:

* * *

Sec. 10. 33 V.S.A. § 5103(c) is amended to read:

(c)(1) Except as otherwise provided by this title and by subdivision (2) of this subsection, jurisdiction over a child shall not be extended beyond the child's 18th birthday.

(2)(A) Jurisdiction over a child with a delinquency may be extended until six months beyond the child's:

(i) 19th birthday if the child was 16 or 17 years of age when ~~he or she~~ the child committed the offense; ~~or~~

(ii) 20th birthday if the child was 18 years of age when ~~he or she~~ the child committed the offense; or

(iii) 21st birthday if the child was 19 years of age when the child committed the offense.

* * *

Sec. 11. 33 V.S.A. § 5206 is amended to read:

§ 5206. CITATION OF 16- TO ~~18-YEAR OLDS~~ 19-YEAR-OLDS

(a)(1) If a child was over 16 years of age and under ~~19~~ 20 years of age at the time the offense was alleged to have been committed and the offense is not specified in subsection (b) of this section, law enforcement shall cite the child to the Family Division of the Superior Court.

* * *

Sec. 12. BIMONTHLY PROGRESS REPORTS TO JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE

(a) On or before the last day of every other month from July 2024 through March 2025, the Department for Children and Families shall report to the Joint Legislative Justice Oversight Committee, the Senate and House Committees on Judiciary, the House Committee on Corrections and Institutions, the House Committee on Human Services, and the Senate Committee on Health and Welfare on its progress toward implementing the requirement of Secs. 7–11 of this act that the Raise the Age initiative take effect on April 1, 2025. The progress reports required by this section shall describe the steps taken to implement the following goals:

(1) establishing a secure residential facility;

(2) expanding capacity for nonresidential treatment programs to provide community-based services;

(3) ensuring that residential treatment programs are used appropriately and to their full potential;

(4) expanding capacity for Balanced and Restorative Justice (BARJ) contracts;

(5) expanding capacity for the provision of services to children with developmental disabilities;

(6) establishing a stabilization program for children who are experiencing a mental health crisis;

(7) enhancing long-term treatment for children;

(8) programming to help children, particularly 18- and 19-year-olds, transition from youth to adulthood;

(9) developing district-specific data and information on family services workforce development, including turnover, retention, and vacancy rates; times needed to fill open positions; training opportunities and needs; and instituting a positive culture for employees;

(10) installation of a comprehensive child welfare information system; and

(11) plans for and measures taken to secure funding for the goals listed in this section.

(b) Failure to meet one or more of the progress report elements listed in subsection (a) of this section shall not be a basis for extending the implementation of the Raise the Age initiative beyond April 1, 2025.

* * * Drug Crimes * * *

Sec. 13. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

* * *

(29) "Regulated drug" means:

(A) a narcotic drug;

(B) a depressant or stimulant drug, other than methamphetamine;

(C) a hallucinogenic drug;

(D) Ecstasy;

(E) cannabis; ~~or~~

(F) methamphetamine; or

(G) xylazine.

* * *

(48) "Fentanyl" means any quantity of fentanyl, including any compound, mixture, or preparation including salts, isomers, or salts of isomers containing fentanyl. "Fentanyl" also means fentanyl-related substances as defined in rules adopted by the Department of Health pursuant to section 4202 of this title.

(49) "Knowingly" means actual knowledge that one or more preparations, compounds, mixtures, or substances contain the regulated drug identified in the applicable section of this chapter, or consciously ignoring a substantial risk that one or more preparations, compounds, mixtures, or substances contain the regulated drug identified in the applicable section of this chapter.

(50) "Xylazine" means any compound, mixture, or preparation including salts, isomers, or salts of isomers containing N-(2,6-dimethylphenyl)-5,6-dihydro-4H-1,3-thiazin-2-amine.

Sec. 14. 18 V.S.A. § 4233b is added to read:

§ 4233b. XYLAZINE

(a) No person shall dispense or sell xylazine except as provided in subsection (b) of this section.

(b) The following are permitted activities related to xylazine:

(1) dispensing or prescribing for, or administration to, a nonhuman species a drug containing xylazine approved by the Secretary of Health and Human Services pursuant to section 512 of the Federal Food, Drug, and Cosmetic Act as provided in 21 U.S.C. § 360b;

(2) dispensing or prescribing for, or administration to, a nonhuman species permissible pursuant to section 512(a)(4) of the Federal Food, Drug, and Cosmetic Act as provided in 21 U.S.C. § 360b(a)(4);

(3) manufacturing, distribution, or use of xylazine as an active pharmaceutical ingredient for manufacturing an animal drug approved under section 512 of the Federal Food, Drug, and Cosmetic Act as provided in 21 U.S.C. § 360b or issued an investigation use exemption pursuant to section 512(j);

(4) manufacturing, distribution, or use of a xylazine bulk chemical for pharmaceutical compounding by licensed pharmacists or veterinarians; and

(5) any other use approved or permissible under the Federal Food, Drug, and Cosmetic Act.

(c) A person knowingly and unlawfully dispensing xylazine shall be imprisoned not more than three years or fined not more than $75,000.00, or both. A person knowingly and unlawfully selling xylazine shall be imprisoned not more than five years or fined not more than $100,000.00, or both.

Sec. 15. 18 V.S.A. § 4250 is amended to read:

§ 4250. SELLING OR DISPENSING A REGULATED DRUG WITH DEATH RESULTING

(a) If the death of a person results from the selling or dispensing of a regulated drug to the person in violation of this chapter, the person convicted of the violation shall be imprisoned not less than two years nor more than 20 years.

(b) This section shall apply only if the person's use of the regulated drug is the proximate cause of ~~his or her~~ the person's death. The fact that a dispensed or sold substance contains more than one regulated drug shall not be a defense under this section if the proximate cause of death is the use of the dispensed or sold substance containing more than one regulated drug. There shall be a permissive inference that the proximate cause of death is the person's use of the regulated drug if the regulated drug contains fentanyl.

(c)(1) Except as provided in subdivision (2) of this subsection, the two-year minimum term of imprisonment required by this section shall be served and may not be suspended, deferred, or served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the two-year term of imprisonment.

(2) Notwithstanding subdivision (1) of this subsection, the court may impose a sentence that does not include a term of imprisonment or that includes a term of imprisonment of less than two years if the court makes written findings on the record that the sentence will serve the interests of justice.

Sec. 16. 18 V.S.A. § 4252a is added to read:

§ 4252a. UNLAWFUL DRUG ACTIVITY IN A DWELLING; FLASH CITATION; CONDITIONS OF RELEASE

(a) Except for good cause shown, a person cited or arrested for dispensing or selling a regulated drug in violation of this chapter shall be arraigned on the next business day after the citation or arrest if the alleged illegal activity occurred at a dwelling where the person is not a legal tenant.

(b) Unless the person is held without bail for another offense, the State's Attorney shall request conditions of release for a person subject to subsection (a) of this section. The court may include as a condition of release that the person is prohibited from coming within a fixed distance of the dwelling.

Sec. 17. 18 V.S.A. § 4254(j) is added to read:

(j) To encourage persons to seek medical assistance for someone who is experiencing an overdose, the Department of Health, in partnership with entities that provide education, outreach, and services regarding substance use disorder, shall engage in continuous efforts to publicize the immunity protections provided in this section.

* * * Effective Dates * * *

Sec. 18. EFFECTIVE DATES

(a) Secs. 1–6, 12–17, and this section shall take effect on July 1, 2024.

(b) Secs. 7–11 shall take effect on April 1, 2025.

And that after passage the title of the bill be amended to read:

An act relating to public safety

(Committee vote: 4-1-0)

S. 184.

An act relating to the use of automated traffic law enforcement (ATLE) systems.

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

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. 23 V.S.A. chapter 15 is amended to read:

CHAPTER 15. POWERS OF ENFORCEMENT OFFICERS

Subchapter 1. General Provisions

§ 1600. DEFINITION

Notwithstanding subdivision 4(4) of this title, as used in this chapter, "Commissioner" means the Commissioner of Public Safety.

* * *

Subchapter 2. Automated Law Enforcement

§ 1605. DEFINITIONS

As used in this subchapter:

(1) "Active data" is distinct from historical data as defined in subdivision (5) of this section and means data uploaded to individual automated license plate recognition system units before operation as well as data gathered during the operation of an ALPR system. Any data collected by an ALPR system in accordance with section 1607 of this subchapter shall be considered collected for a legitimate law enforcement purpose.

(2) "Automated license plate recognition system" or "ALPR system" means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration number plates into computer-readable data.

(3) "Automated traffic law enforcement system" or "ATLE system" means a device with one or more sensors working in conjunction with a speed measuring device to produce recorded images of the rear registration number plates of motor vehicles traveling at more than five miles above the speed limit.

(4) "Calibration laboratory" means an International Organization for Standardization (ISO) 17025 accredited testing laboratory that is approved by the Commissioner of Public Safety.

(5) "Historical data" means any data collected by an ALPR system and stored on the statewide automated law enforcement server operated by the Vermont Justice Information Sharing System of the Department of Public Safety. Any data collected by an ALPR system in accordance with section 1607 of this subchapter shall be considered collected for a legitimate law enforcement purpose.

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

(7) "Legitimate law enforcement purpose" applies to access to active or historical data and means investigation, detection, analysis, or enforcement of a crime or of a commercial motor vehicle violation or a person's defense against a charge of a crime or commercial motor vehicle violation, or operation of AMBER alerts or missing or endangered person searches.

(8) "Owner" means the first- or only listed registered owner of a motor vehicle or the first- or only listed lessee of a motor vehicle under a lease of one year or more.

(9) "Recorded image" means a photograph, microphotograph, electronic image, or electronic video that shows, clearly enough to identify, the rear registration number plate of a motor vehicle that has activated the radar component of an ATLE system by traveling past the ATLE system at more than 10 miles above the speed limit.

(10) "Vermont Intelligence Center analyst" means any sworn or civilian employee who through employment with the Vermont Intelligence Center (VIC) has access to secure storage systems that support law enforcement investigations.

§ 1606. AUTOMATED TRAFFIC LAW ENFORCEMENT SYSTEMS; SPEEDING

(a) Use. Deployment of ATLE systems on behalf of the Agency of Transportation by a third-party pursuant to subsection (b) of this section is intended to provide automated law enforcement for speeding violations in instances of insufficient staffing or inherent on-site difficulties in such a way so as to improve work crew safety and reduce traffic crashes resulting from an increased adherence to traffic laws achieved by effective deterrence of potential violators, which could not be achieved by traditional law enforcement methods or traffic calming measures, or both. Deployment of ATLE systems on behalf of the Agency is not intended to replace law enforcement personnel, nor is it intended to mitigate problems caused by deficient road design, construction, or maintenance.

(b) Vendor. The Agency of Transportation shall enter into a contract with a third party for the operation and deployment of ATLE systems on behalf of the Agency.

(c) Locations. An ATLE system may only be utilized at a location in the vicinity of a work zone on a limited-access highway under the jurisdiction of the Agency of Transportation and selected by the Agency, in consultation with the Department of Public Safety, upon determination that it may be impractical or unsafe to utilize traditional law enforcement methods or traffic calming measures, or both, or that the use of law enforcement personnel or traffic calming measures, or both, has failed to deter violators, provided that:

(1) the Agency confirms, through a traffic engineering analysis of the proposed location, that the location meets highway safety standards;

(2) the ATLE system is not used as a means of combating deficiencies in roadway design or environment;

(3) at least two signs notifying members of the traveling public of the use of an ATLE system are in place before any recorded images or other data is collected by the ATLE system;

(4) there is a sign at the end of the work zone;

(5) the ATLE system is only in operation when workers are present in the work zone and at least one of the signs required under subdivision (3) of this subsection indicates whether the ATLE system is currently in operation; and

(6) there is notice of the use of the ATLE system on the Agency's website, including the location and typical hours when workers are present and the ATLE system is in operation.

(d) Daily log.

(1) The vendor that deploys an ATLE system in accordance with this section must maintain a daily log for each deployed ATLE system that includes:

(A) the date, time, and location of the ATLE system setup; and

(B) the name of the employee who performed any self-tests required by the ATLE system manufacturer and the results of those self-tests.

(2) The daily log shall be retained in perpetuity by the Agency and admissible in any proceeding for a violation involving ATLE systems deployed on behalf of the Agency.

(e) Annual calibration. All ATLE systems shall undergo an annual calibration check performed by a calibration laboratory. The calibration laboratory shall issue a signed certificate of calibration after the annual calibration check, which shall be retained in perpetuity by the Agency and admissible in any proceeding for a violation involving the ATLE system.

(f) Penalty.

(1) The owner of the motor vehicle bearing the rear registration number plate captured in a recorded image shall be liable for one of the following civil penalties unless, for the violation in question, the owner is convicted of exceeding the speed limit under chapter 13 of this title or has a defense under subsection (h) of this section:

(A) $0.00, which shall be exempt from surcharges under 13 V.S.A. § 7282(a), for a first violation within 12 months;

(B) $80.00 for a second violation within 12 months; provided, however, that a violation shall be considered a second violation for purposes of this subdivision only if it has occurred at least 30 days after the date on which the notice of the first violation was mailed; and

(C) $160.00 for a third or subsequent violation within 12 months.

(2) The owner of the motor vehicle bearing the rear registration number plate captured in a recorded image shall not be deemed to have committed a crime or moving violation unless otherwise convicted under another section of this title, and a violation of this section shall not be made a part of the operating record of the owner or considered for insurance purposes.

(g) Notice and complaint.

(1) An action to enforce this section shall be initiated by issuing a Vermont civil violation complaint to the owner of a motor vehicle bearing the rear registration number plate captured in a recorded image and mailing the Vermont civil violation complaint to the owner by U.S. mail.

(2) The civil violation complaint shall:

(A) be based on an inspection of recorded images and data produced by one or more ATLE systems or one or more ATLE and ALPR systems;

(B) be issued, sworn, and affirmed by the law enforcement officer who inspected the recorded images and data;

(C) enclose copies of applicable recorded images and at least one recorded image showing the rear registration number plate of the motor vehicle;

(D) include the date, time, and place of the violation;

(E) include the applicable civil penalty amount and the dates, times, and places for any prior violations from the prior 12 months;

(F) include written verification that the ATLE system was operating correctly at the time of the violation and the date of the most recent inspection that confirms the ATLE system to be operating properly; and

(G) in compliance with 4 V.S.A. § 1105(f), include an affidavit that the issuing officer has determined the owner's military status to the best of the officer's ability by conducting a search of the available Department of Defense Manpower Data Center (DMDC) online records, together with a copy of the record obtained from the DMDC that is the basis for the issuing officer's affidavit.

(3) In the case of a violation involving a motor vehicle registered under the laws of this State, the civil violation complaint shall be mailed within 30 days after the violation to the address of the owner as listed in the records of the Department of Motor Vehicles.

(4) In the case of a violation involving a motor vehicle registered under the laws of a jurisdiction other than this State, the notice of violation shall be mailed within 30 days after the discovery of the identity of the owner to the address of the owner as listed in the records of the official in the jurisdiction having charge of the registration of the motor vehicle. A notice of violation issued under this subdivision shall be issued not more than 90 days after the date of the violation. A notice issued after 90 days is void.

(h) Defenses. The following shall be defenses to a violation under this section:

(1) that the motor vehicle or license plates shown in one or more recorded images was in the care, custody, or control of another person at the time of the violation; and

(2) that the radar component of the ATLE system was not properly calibrated or tested at the time of the violation.

(i) Proceedings before the Judicial Bureau.

(1) To the extent not inconsistent with this section, the provisions for the adjudication of a Vermont civil violation complaint, the payment of a Vermont civil violation complaint, and the collection of civil penalties associated with a civil violation complaint in 4 V.S.A. chapter 29 shall apply to civil violation complaints issued under this section.

(2) Notwithstanding an owner's failure to request a hearing, a Vermont civil violation complaint issued pursuant to this section shall be dismissed, without consequence, upon showing by the owner that the motor vehicle in question was not in the care, custody, or control of the owner at the time of the violation because, at the time, the owner was a person in military service as defined in 50 U.S.C. § 3911.

(j) Retention.

(1) All recorded images shall be retained by the vendor pursuant to the requirements of subdivision (2) of this subsection.

(2) A recorded image shall only be retained for 12 months after the date it was obtained or until the resolution of the applicable violation and the appeal period if the violation is contested. When the retention period has expired, the vendor and any law enforcement agency with custody of the recorded image shall destroy it and cause to have destroyed any copies or backups made of the original recorded image.

(k) Review process and annual report.

(1) The Department of Public Safety, in consultation with the Agency of Transportation, shall establish a review process to ensure that recorded images are used only for the purposes permitted by this section. The Department of Public Safety shall report the results of this review annually on or before January 15 to the Senate and House Committees on Judiciary and on Transportation. The report shall contain the following information based on prior calendar year data:

(A) the total number of ATLE systems units being operated on behalf of the Agency in the State;

(B) the terms of any contracts entered into with any vendors for the deployment of ATLE on behalf of the Agency;

(C) all of the locations where an ATLE system was deployed along with the dates and hours that the ATLE system was in operation;

(D) the number of violations issued based on recorded images and the outcomes of those violations by category, including first, second, and third and subsequent violations and contested violations;

(E) the number of recorded images the Agency submitted to the automated traffic law enforcement storage system;

(F) the total amount paid in civil penalties; and

(G) any recommended changes for the use of ATLE systems in Vermont.

(2) Notwithstanding 2 V.S.A. § 20(d), the annual report required under this section shall continue to be required if an ATLE system is deployed in the State unless the General Assembly takes specific action to repeal the report requirement.

(l) Limitations.

(1) ATLE systems shall only record violations of this section and shall not be used for any other surveillance purposes.

(2) Recorded images shall only be accessed to determine if a violation of this section was committed in the prior 12 months.

(3)(A) Recorded images are exempt from public inspection and copying under the Public Records Act.

(B) Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption created in subdivision (A) of this subdivision (3) shall continue in effect and shall not be repealed through operation of 1 V.S.A. § 317(e).

(m) Rulemaking. The Department of Public Safety may adopt rules pursuant to 3 V.S.A. chapter 25 to implement this section.

§ 1607. AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS

(a) ~~Definitions. As used in this section:~~

~~(1) "Active data" is distinct from historical data as defined in subdivision (3) of this subsection and means data uploaded to individual automated license plate recognition system units before operation as well as data gathered during the operation of an ALPR system. Any data collected by an ALPR system in accordance with this section shall be considered collected for a legitimate law enforcement purpose.~~

~~(2) "Automated license plate recognition system" or "ALPR system" means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration plates into computer-readable data.~~

~~(3) "Historical data" means any data collected by an ALPR system and stored on the statewide ALPR server operated by the Vermont Justice Information Sharing System of the Department of Public Safety. Any data collected by an ALPR system in accordance with this section shall be considered collected for a legitimate law enforcement purpose.~~

~~(4) "Law enforcement officer" means a State Police officer, municipal police officer, motor vehicle inspector, Capitol Police officer, constable, sheriff, or deputy sheriff certified by the Vermont Criminal Justice Council as a level II or level III law enforcement officer under 20 V.S.A. § 2358.~~

~~(5) "Legitimate law enforcement purpose" applies to access to active or historical data, and means investigation, detection, analysis, or enforcement of a crime or of a commercial motor vehicle violation or a person's defense against a charge of a crime or commercial motor vehicle violation, or operation of AMBER alerts or missing or endangered person searches.~~

~~(6) "Vermont Intelligence Center analyst" means any sworn or civilian employee who through his or her employment with the Vermont Intelligence~~

~~Center (VIC) has access to secure databases that support law enforcement investigations.~~

~~(b)~~ Operation. A Vermont law enforcement officer shall be certified in ALPR operation by the Vermont Criminal Justice Council in order to operate an ALPR system.

~~(c)~~(b) ALPR use and data access; confidentiality.

(1)(A) Deployment of ALPR equipment by Vermont law enforcement agencies is intended to provide access to law enforcement reports of wanted or stolen vehicles and wanted persons and to further other legitimate law enforcement purposes. Use of ALPR systems by law enforcement officers and access to active data are restricted to legitimate law enforcement purposes.

(B) Active data may be accessed by a law enforcement officer operating the ALPR system only if ~~he or she~~ the law enforcement officer has a legitimate law enforcement purpose for the data. Entry of any data into the system other than data collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(C)(i) Requests to access active data shall be in writing and include the name of the requester, the law enforcement agency the requester is employed by, if any, and the law enforcement agency's Originating Agency Identifier (ORI) number. To be approved, the request must provide specific and articulable facts showing that there are reasonable grounds to believe that the data are relevant and material to an ongoing criminal, missing person, or commercial motor vehicle investigation or enforcement action. The written request and the outcome of the request shall be transmitted to VIC and retained by VIC for not less than three years.

(ii) In each department operating an ALPR system, access to active data shall be limited to designated personnel who have been provided account access by the department to conduct authorized ALPR stored data queries. Access to active data shall be restricted to data collected within the past seven days.

(2)(A) A VIC analyst shall transmit historical data only to a Vermont or out-of-state law enforcement officer or person who has a legitimate law enforcement purpose for the data. A law enforcement officer or other person to whom historical data are transmitted may use such data only for a legitimate law enforcement purpose. Entry of any data onto the ~~statewide ALPR server~~ automated traffic law enforcement storage system other than data collected by an ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(B) Requests for historical data within six months ~~of~~ after the date of the data's creation, whether from Vermont or out-of-state law enforcement officers or other persons, shall be made in writing to a VIC analyst. The request shall include the name of the requester, the law enforcement agency the requester is employed by, if any, and the law enforcement agency's ORI number. To be approved, the request must provide specific and articulable facts showing that there are reasonable grounds to believe that the data are relevant and material to an ongoing criminal, missing person, or commercial motor vehicle investigation or enforcement action. VIC shall retain all requests and shall record in writing the outcome of the request and any information that was provided to the requester or, if applicable, why a request was denied or not fulfilled. VIC shall retain the information described in this subdivision ~~(c)(2)(B)~~ (b)(2)(B) for ~~no~~ not fewer than three years.

(C) After six months from the date of its creation, VIC may only disclose historical data:

(i) pursuant to a warrant if the data are not sought in connection with a pending criminal charge; or

(ii) to the prosecution or the defense in connection with a pending criminal charge and pursuant to a court order issued upon a finding that the data are reasonably likely to be relevant to the criminal matter.

(3) Active data and historical data shall not be subject to subpoena or discovery, or be admissible in evidence, in any private civil action.

(4) Notwithstanding any contrary provisions of subdivision (2) of this subsection, in connection with commercial motor vehicle screening, inspection, and compliance activities to enforce the Federal Motor Carrier Safety Regulations, the Department of Motor Vehicles (DMV):

(A) may maintain or designate a server for the storage of historical data that is separate from the ~~statewide server~~ automated traffic law enforcement storage system;

(B) may designate a DMV employee to carry out the same responsibilities as a VIC analyst and a supervisor as specified in subdivision (2) of this subsection (b); and

(C) shall have the same duties as the VIC with respect to the retention of requests for historical data.

~~(d)~~(c) Retention.

(1) Any ALPR information gathered by a Vermont law enforcement agency shall be sent to the Department of Public Safety to be retained pursuant to the requirements of subdivision (2) of this subsection. The Department of Public Safety shall maintain the ~~ALPR~~ automated traffic law enforcement storage system for Vermont law enforcement agencies.

(2) Except as provided in this subsection and section 1608 of this title, information gathered by a law enforcement officer through use of an ALPR system shall only be retained for 18 months after the date it was obtained. When the permitted 18-month period for retention of the information has expired, the Department of Public Safety and any local law enforcement agency with custody of the information shall destroy it and cause to have destroyed any copies or backups made of the original data. Data may be retained beyond the 18-month period pursuant to a preservation request made or disclosure order issued under section 1608 of this title or pursuant to a warrant issued under Rule 41 of the Vermont or Federal Rules of Criminal Procedure.

~~(e)~~(d) Oversight; rulemaking.

(1) The Department of Public Safety, in consultation with the Department of Motor Vehicles, shall establish a review process to ensure that information obtained through use of ALPR systems is used only for the purposes permitted by this section. The Department of Public Safety shall report the results of this review annually on or before January 15 to the Senate and House Committees on Judiciary and on Transportation. The report shall contain the following information based on prior calendar year data:

(A) the total number of ALPR units being operated by government agencies in the State, the number of such units that are stationary, and the number of units submitting data to the ~~statewide ALPR database~~ automated traffic law enforcement storage system;

(B) the number of ALPR readings each agency submitted, and the total number of all such readings submitted, to the ~~statewide ALPR database~~ automated traffic law enforcement storage system;

(C) the 18-month cumulative number of ALPR readings being housed on the ~~statewide ALPR database~~ automated traffic law enforcement storage system as of the end of the calendar year;

(D) the total number of requests made to VIC for historical data, the average age of the data requested, and the number of these requests that resulted in release of information from the ~~statewide ALPR database~~ automated traffic law enforcement storage system;

(E) the total number of out-of-state requests to VIC for historical data, the average age of the data requested, and the number of out-of-state requests that resulted in release of information from the ~~statewide ALPR database~~ automated traffic law enforcement storage system;

(F) the total number of alerts generated on ALPR systems operated by law enforcement officers in the State by a match between an ALPR reading and a plate number on an alert ~~database~~ storage system and the number of these alerts that resulted in an enforcement action;

(G) the total number of criminal, missing person, and commercial motor vehicle investigations and enforcement actions to which active data contributed, and a summary of the nature of these investigations and enforcement actions;

(H) the total number of criminal, missing person, and commercial motor vehicle investigations and enforcement actions to which historical data contributed, and a summary of the nature of these investigations and enforcement actions; and

(I) the total annualized fixed and variable costs associated with all ALPR systems used by Vermont law enforcement agencies and an estimate of the total of such costs per unit.

(2) ~~Before January 1, 2018, the~~ The Department of Public Safety ~~shall~~ may adopt rules to implement this section.

§ 1608. PRESERVATION OF DATA

(a) Preservation request.

(1) A law enforcement agency or the Department of Motor Vehicles or other person with a legitimate law enforcement purpose may apply to the Criminal Division of the Superior Court for an extension of up to 90 days of the 18-month retention period established under subdivision 1607~~(d)~~(c)(2) of this ~~title~~ subchapter if the agency or Department offers specific and articulable facts showing that there are reasonable grounds to believe that the captured plate data are relevant and material to an ongoing criminal or missing persons investigation or to a pending court or Judicial Bureau proceeding involving enforcement of a crime or of a commercial motor vehicle violation. Requests for additional 90-day extensions or for longer periods may be made to the Superior Court subject to the same standards applicable to an initial extension request under this subdivision.

(2) A governmental entity making a preservation request under this section shall submit an affidavit stating:

(A) the particular camera or cameras for which captured plate data must be preserved or the particular license plate for which captured plate data must be preserved; and

(B) the date or dates and time frames for which captured plate data must be preserved.

(b) Destruction. Captured plate data shall be destroyed on the schedule specified in section 1607 of this ~~title~~ subchapter if the preservation request is denied or 14 days after the denial, whichever is later.

Sec. 2. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) The Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.

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

(1) Traffic violations alleged to have been committed on or after July 1, 1990.

* * *

(33) Automated traffic law enforcement violations issued pursuant to 23 V.S.A. § 1606.

* * *

Sec. 3. IMPLEMENTATION; OUTREACH

(a) The Agency shall develop an implementation plan and secure federal funding from the Federal Highway Administration for a work zone ATLE pilot program to run in locations throughout Vermont from July 1, 2025 until October 1, 2026.

(b) The Department of Public Safety, in consultation with the Agency of Transportation, shall implement a public outreach campaign not later than January 1, 2025 that, at a minimum, addresses:

(1) the use of automated traffic law enforcement (ATLE) systems in work zones throughout the State;

(2) what recorded images captured by ATLE systems will show;

(3) the legal significance of recorded images captured by ATLE systems; and

(4) the process to challenge and defenses to a Vermont civil violation complaint issued based on a recorded image captured by an ATLE system.

(c) The public outreach campaign shall disseminate information on ATLE systems through the Department of Public Safety's web page and through other mediums such as social media platforms, community posting websites, radio, television, and printed materials.

Sec. 4. REPEAL OF CURRENT PROSPECTIVE REPEAL

2013 Acts and Resolves No. 69, Sec. 3(b), as amended by 2015 Acts and Resolves No. 32, Sec. 1, 2016 Acts and Resolves No. 169, Sec. 6, 2018 Acts and Resolves No. 175, Sec. 1, 2020 Acts and Resolves No. 134, Sec. 3, and 2022 Acts and Resolves No. 147, Sec. 34 (July 1, 2024 repeal of Automated License Plate Recognition system standards), is repealed.

Sec. 5. PROSPECTIVE REPEAL

4 V.S.A. § 1102(b)(33) (Vermont Judicial Bureau jurisdiction over automated traffic law enforcement violations) and 23 V.S.A. §§ 1606–1608 (automated law enforcement) are repealed on July 1, 2027; provided, however, if the Agency is unable to secure federal funding for a work zone ATLE pilot program by June 30, 2025, then 4 V.S.A. § 1102(b)(33) and 23 V.S.A. §§ 1606–1608 are repealed on July 2, 2025.

Sec. 6. 23 V.S.A. § 1605 is amended to read:

§ 1605. DEFINITIONS

As used in this subchapter:

(1) ~~"Active data" is distinct from historical data as defined in subdivision (5) of this section and means data uploaded to individual automated license plate recognition system units before operation as well as data gathered during the operation of an ALPR system. Any data collected by an ALPR system in accordance with section 1607 of this subchapter shall be considered collected for a legitimate law enforcement purpose.~~ [Repealed.]

(2) "Automated license plate recognition system" or "ALPR system" means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration number plates into computer-readable data.

(3) "Automated traffic law enforcement system" or "ATLE system" means a device with one or more sensors working in conjunction with a speed measuring device to produce recorded images of the rear registration number plates of motor vehicles traveling at more than five miles above the speed limit.

(4) ~~"Calibration laboratory" means an International Organization for Standardization (ISO) 17025 accredited testing laboratory that is approved by the Commissioner of Public Safety.~~ [Repealed.]

(5) ~~"Historical data" means any data collected by an ALPR system and stored on the statewide automated law enforcement server operated by the Vermont Justice Information Sharing System of the Department of Public Safety. Any data collected by an ALPR system in accordance with section 1607 of this subchapter shall be considered collected for a legitimate law enforcement purpose.~~ [Repealed.]

(6) ~~"Law enforcement officer" means a State Police officer, municipal police officer, motor vehicle inspector, Capitol Police officer, constable, sheriff, or deputy sheriff certified by the Vermont Criminal Justice Council as a level II or level III law enforcement officer under 20 V.S.A. § 2358.~~ [Repealed.]

(7) ~~"Legitimate law enforcement purpose" applies to access to active or historical data, and means investigation, detection, analysis, or enforcement of a crime or of a commercial motor vehicle violation or a person's defense against a charge of a crime or commercial motor vehicle violation, or operation of AMBER alerts or missing or endangered person searches.~~ [Repealed.]

(8) ~~"Owner" means the first- or only listed registered owner of a motor vehicle or the first- or only listed lessee of a motor vehicle under a lease of one year or more.~~ [Repealed.]

(9) ~~"Recorded image" means a photograph, microphotograph, electronic image, or electronic video that shows, clearly enough to identify, the rear registration number plate of a motor vehicle that has activated the radar component of an ATLE system by traveling past the ATLE system at more than five miles above the speed limit.~~ [Repealed.]

(10) ~~"Vermont Intelligence Center analyst" means any sworn or civilian employee who through his or her employment with the Vermont Intelligence Center (VIC) has access to storage systems that support law enforcement investigations.~~ [Repealed.]

Sec. 7. 23 V.S.A. § 1609 is added to read:

§ 1609. PROHIBITION ON USE OF AUTOMATED LAW ENFORCEMENT

No State agency or department or any political subdivision of the State shall use automated license plate recognition systems or automated traffic law enforcement systems.

Sec. 8. EFFECTIVE DATES

(a) Secs. 1 (powers of enforcement officers; 23 V.S.A. chapter 15) and 2 (Judicial Bureau jurisdiction; 4 V.S.A. § 1102) shall take effect on July 1, 2025.

(b) Secs. 6 (amended automated law enforcement definitions; 23 V.S.A. § 1605) and 7 (prohibition on the use of automated law enforcement; 23 V.S.A. § 1609) shall take effect upon the repeal of 4 V.S.A. § 1102(b)(33) (Vermont Judicial Bureau jurisdiction over automated traffic law enforcement violations) and 23 V.S.A. §§ 1606–1608 (automated law enforcement) pursuant to the provisions of Sec. 5.

(c) All other sections shall take effect on passage.

And that after passage the title of the bill be amended to read:

An act relating to the temporary use of automated traffic law enforcement (ATLE) systems

(Committee vote: 5-0-0)

Reported favorably by Senator Chittenden for the Committee on Finance.

The Committee recommends that the bill ought to pass when amended as recommended by the committee on Transportation.

(Committee vote: 5-0-2)

Reported favorably by Senator Perchlik for the Committee on Appropriations.

The Committee recommends that the bill ought to pass when amended as recommended by the committee on Transportation.

(Committee vote: 5-1-1)

Amendment to the recommendation of amendment of the Committee on Transportation to S. 184 to be offered by Senators Perchlik, Chittenden, Ingalls, Kitchel and Mazza

Senators Perchlik, Chittenden, Ingalls, Kitchel and Mazza move to amend the recommendation of amendment of the Committee on Transportation as follows:

First: In Sec. 1, 23 V.S.A. chapter 15, in section 1606, in subdivision (d)(2), by striking out the words "in perpetuity" and inserting in lieu thereof the words for not fewer than three years

Second: In Sec.1, 23 V.S.A. chapter 15, in section 1606, in subsection (e), by striking out the words "in perpetuity" and inserting in lieu thereof the words for not fewer than three years

Third: In Sec. 1, 23 V.S.A. chapter 15, in section 1606, by striking out subdivision (l)(3) (Public Records Act exemption) in its entirety

S. 192.

An act relating to forensic facility admissions criteria and processes.

Reported favorably with recommendation of amendment by Senator Lyons 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:

* * * Purpose and Legislative Intent * * *

Sec. 1. PURPOSE AND LEGISLATIVE INTENT

It is the purpose of this act to enable the Commissioners of Mental Health and of Disabilities, Aging, and Independent Living to seek treatment and programming for certain individuals in a forensic facility as anticipated by the passage of 2023 Acts and Resolves No. 27. It is the intent of the General Assembly that an initial forensic facility be authorized and operational beginning on July 1, 2025.

* * * Human Services Community Safety Panel * * *

Sec. 2. 3 V.S.A. § 3098 is added to read:

§ 3098. HUMAN SERVICES COMMUNITY SAFETY PANEL

(a) There is hereby created the Human Services Community Safety Panel within the Agency of Human Services. The Panel shall be designated as the entity responsible for assessing the potential placement of individuals at a forensic facility pursuant to 13 V.S.A. § 4821 for individuals who:

(1) present a significant risk of danger to self or others if not held in a secure setting; and

(2)(A) are charged with a crime for which there is no right to bail pursuant to 13 V.S.A. §§ 7553 and 7553a and are found not competent to stand trial due to mental illness or intellectual disability; or

(B) were charged with a crime for which bail is not available and adjudicated not guilty by reason of insanity.

(b)(1) The Panel shall comprise the following members:

(A) the Secretary of Human Services;

(B) the Commissioner of Mental Health;

(C) the Commissioner of Disabilities, Aging, and Independent Living; and

(D) the Commissioner of Corrections.

(2) The Panel shall have the technical, legal, fiscal, and administrative support of the Agency of Human Services and the Departments of Mental Health; of Disabilities, Aging, and Independent Living; and of Corrections.

(c) As used in this section, "forensic facility" has the same meaning as in 18 V.S.A. § 7101.

Sec. 3. 13 V.S.A. § 4821 is amended to read:

§ 4821. NOTICE OF HEARING; PROCEDURES

(a) The person who is the subject of the proceedings~~, his or her~~; the person's attorney~~,~~; the person's legal guardian, if any~~,~~; the Commissioner of Mental Health or the Commissioner of Disabilities, Aging, and Independent Living~~,~~; and the State's Attorney or other prosecuting officer representing the State in the case shall be given notice of the time and place of a hearing under section 4820 of this title. Procedures for hearings for persons with a mental illness shall be as provided in 18 V.S.A. chapter 181. Procedures for hearings for persons with an intellectual disability shall be as provided in 18 V.S.A. chapter 206, subchapter 3.

(b)(1) Once a report concerning competency or sanity is completed or disclosed to the opposing party, the Human Services Community Safety Panel established in 3 V.S.A. § 3098 may conduct a review on its own initiative regarding whether placement of the person who is the subject of the report is appropriate in a forensic facility. The review shall inform either the Commissioner of Mental Health's or Commissioner of Disabilities, Aging, and Independent Living's decision as to whether to seek placement of the person in a forensic facility.

(2)(A) If the Panel does not initiate its own review, a party to a hearing under section 4820 of this chapter may file a written motion to the court requesting that the Panel conduct a review within seven days after receiving a report under section 4816 of this chapter or within seven days after being adjudicated not guilty by reason of insanity.

(B) A motion filed pursuant to this subdivision (2) shall specify that the person who is the subject of the proceedings is charged with a crime for which there is no right to bail pursuant to sections 7553 and 7553a of this title,

and may include a person adjudicated not guilty by reason of insanity, and that the person presents a significant risk of danger to themselves or the public if not held in a secure setting.

(C) The court shall rule on a motion filed pursuant to this subdivision (2) within five days. A Panel review ordered pursuant to this subdivision (2) shall be completed and submitted to the court at least three days prior to a hearing under section 4820 of this title.

(c) In conducting a review as whether to seek placement of a person in a forensic facility, the Human Services Community Safety Panel shall consider the following criteria:

(1) clinical factors, including:

(A) that the person is served in the least restrictive setting necessary to meet the needs of the person; and

(B) that the person's treatment and programming needs dictate that the treatment or programming be provided at an intensive residential level; and

(2) risk of harm factors, including:

(A) whether the person has inflicted or attempted to inflict serious bodily injury on another, attempted suicide or serious self-injury, or committed an act that would constitute sexual conduct with a child as defined in section 2821 of this title or lewd and lascivious conduct with a child as provided in section 2602 of this title, and there is reasonable probability that the conduct will be repeated if admission to a forensic facility is not ordered;

(B) whether the person has threatened to inflict serious bodily injury to the person or others and there is reasonable probability that the conduct will occur if admission to a forensic facility is not ordered;

(C) whether the results of any applicable evidence-based violence risk assessment tool indicates that the person's behavior is deemed a significant risk to others;

(D) the position of the parties to the criminal case as well as that of any victim as defined in subdivision 5301(4) of this title; and

(E) any other factors the Human Services Community Safety Panel determines to be relevant to the assessment of risk.

(d) As used in this chapter, "forensic facility" has the same meaning as in 18 V.S.A. § 7101.

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

Sec. 4. 13 V.S.A. § 4822 is amended to read:

§ 4822. FINDINGS AND ORDER; PERSONS WITH A MENTAL ILLNESS

(a)(1) If the court finds that the person is a person in need of treatment or a patient in need of further treatment as defined in 18 V.S.A. § 7101, the court shall issue an order of commitment directed to the Commissioner of Mental Health that shall admit the person to the care and custody of the Department of Mental Health for ~~an indeterminate~~ a period of 90 days. In any case involving personal injury or threat of personal injury, the committing court may issue an order requiring a court hearing before a person committed under this section may be discharged from custody.

(2) If the Commissioner seeks to have a person receive treatment in a forensic facility pursuant to an order of nonhospitalization under subdivision (1) of this subsection, the Commissioner shall submit a petition to the court expressly stating that such treatment is being sought, including:

(A) 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; and

(B) the recommendation of the Human Services Community Safety Panel pursuant to section 4821 of this title.

(3) 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 at a forensic facility for a period of 90 days. The court may, at any time following the issuance of an order, on its own motion or on motion of an interested party, review whether treatment at the forensic facility continues to be the least restrictive treatment option.

* * *

Sec. 5. 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 continued 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 or continued 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 (31), "secure" has the same meaning as in section 7620 of this title.

Sec. 6. 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. An application for continued treatment in a forensic facility shall include the recommendation of the Human Services Community Safety Panel pursuant to 13 V.S.A. § 4821.

(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. 7. 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. 8. 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 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~~ the person is a person in need of treatment; ~~or~~

(6) has been placed under an order of nonhospitalization in a forensic facility; 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 10 days after 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.

* * *

* * * 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~~ up to one year.

(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~~ Commitment procedures for an order initially issued

pursuant to subsection (a) of this section and for discharge from an order of commitment or continued commitment shall occur in accordance with 18 V.S.A. §§ 8845–8847.

(c) ~~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~~ In accordance with 18 V.S.A. § 8845, 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, including the recommendation of the Human Services Community Safety Panel pursuant to section 4821 of this title.

Sec. 10. 18 V.S.A. chapter 206, subchapter 3 is amended to read:

Subchapter 3. Judicial Proceeding; Persons with an Intellectual Disability Who Present a Danger of Harm to Others

§ 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) "Forensic facility" has the same meaning as in section 7101 of this title.

(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.

(5) "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 sexual conduct with a child as defined in section 2821 of this title or lewd and lascivious conduct with a child as provided in section 2602 of this title; and

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

(6) "Victim" has the same meaning as in 13 V.S.A. § 5301(4).

§ 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.]

§ 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.]

§ 8842. ~~HEARING~~

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

§ 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.]

§ 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.

§ 8845. ~~JUDICIAL REVIEW~~ INITIAL ORDER FOR CUSTODY, CARE, AND HABILITATION

(a)(1) ~~A person committed under this subchapter may be discharged from custody by a Superior judge after judicial review as provided herein or by administrative order of the Commissioner~~ If a person is found incompetent to stand trial pursuant to 13 V.S.A. § 4820, the Criminal Division of the Superior Court shall automatically schedule a hearing to determine whether the person is a person in need of custody, care, and habilitation and requiring commitment.

(2) The Commissioner's recommendation that a person be placed in a forensic facility, if applicable, shall be filed with the court in advance of the commitment hearing and shall:

(A) expressly state the reasons for the Commissioner's determination that clinically appropriate treatment and programming can be provided safely only in a forensic facility; and

(B) include the recommendation of the Human Services Community Safety Panel pursuant to 13 V.S.A. § 4821.

(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 that issued the original commitment order~~ The Commissioner or designee shall attend a commitment hearing for custody, care, and habilitation 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.

(c) ~~A person committed under this subchapter shall be entitled to a judicial~~

~~review annually. If no such review is requested by the person, it shall be initiated by the Commissioner. However, such person may initiate a judicial review under this subsection after 90 days after initial commitment but before the end of the first year of the commitment~~ The Vermont Rules of Evidence shall apply in all judicial proceedings brought under this subchapter.

(d)(1) ~~If at the completion of the hearing and consideration of the record, the court finds at the time of the hearing that the person is still in need of custody, care, and habilitation, commitment shall continue 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 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.~~ If the court finds by clear and convincing evidence that the person is a person in need of custody, care, and habilitation, the court shall order that the person be committed to the Commissioner and receive appropriate treatment and programming in a designated program that provides the least restrictive environment consistent with the person's need for custody, care, and habilitation for up to one year.

(2) Notwithstanding subdivision (1) of this subsection, a person may initiate a judicial review in the Family Division of the Superior Court under this subchapter at any time after 90 days following a current order of commitment.

(e) If the Commissioner has recommended to the court that a person be placed in a forensic facility, the court, after determining that the person is a person in need of custody, care, and habilitation, shall determine whether placement at a forensic facility is both appropriate and the least restrictive setting adequate to meet the person's needs. If so determined, the court shall order the person placed in a forensic facility for a term not to exceed the duration of the initial commitment order. The committing court shall automatically review any placement at a forensic facility 90 days after commitment to ensure that the placement remains the least restrictive setting adequate to meet the person's needs.

§ 8846. PETITION AND ORDER FOR CONTINUED CUSTODY, CARE, AND HABILITATION

(a)(1) If, prior to the expiration of any previous commitment order issued in accordance with 13 V.S.A. § 4823 or this subchapter, the Commissioner believes that the person is a person in need of continued custody, care, and habilitation, the Commissioner shall initiate a judicial review in the Family Division of the Superior Court. The Commissioner shall, by filing a written

petition, commence proceedings for the continued custody, care, and habilitation of a person. The petition shall include:

(A) the name and address of the person alleged to need continued custody, care, and habilitation; and

(B) a statement of the current and relevant facts upon which the person's alleged need for continued custody, care, and habilitation is predicated.

(2) Any commitment order for custody, care, and habilitation or continued custody, care, and habilitation issued in accordance with 13 V.S.A. § 4823 or this subchapter shall remain in force pending the court's decision on the petition.

(3) If the Commissioner seeks placement for the person alleged to need continued custody, care, and habilitation at a forensic facility, the petition for continued custody, care, and habilitation shall:

(A) expressly state the reasons for the Commissioner's determination that clinically appropriate treatment and programming can be provided safely only in a forensic facility; and

(B) include a renewed recommendation of the Human Services Community Safety Panel pursuant to 13 V.S.A. § 4821.

(b) Upon receipt of the petition, the court shall set a date for the hearing within 10 days after the date of filing, which shall be held in accordance with subsections 8845(b) and (c) of this subchapter.

(c)(1) If at the completion of the hearing and consideration of the record, the court finds by clear and convincing evidence at the time of the hearing that the person is still in need of continued custody, care, and habilitation, it shall issue an order of commitment for up to one year in a designated program in the least restrictive environment consistent with the person's need for continued custody, care, and habilitation. 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 in accordance with section 8847 of this subchapter. In determining whether a person is a person in need of continued custody, care, and habilitation, the court shall consider the degree to which the person has previously engaged in or complied with the treatment and programming provided by the Commissioner. Nothing in this section shall prohibit the Commissioner from seeking, nor the court from ordering, consecutive commitment orders when the criteria for commitment are otherwise met.

(2) In a petition in which placement at a forensic facility is sought, a court shall first determine whether an order for continued custody, care, and habilitation is appropriate. If the court grants the petition for continued custody, care, and habilitation, it shall then determine whether placement at a forensic facility is appropriate and the least restrictive setting adequate to meet the person's needs. If so determined, the court shall order the person placed in a forensic facility for a term not exceed the duration of the order for continued custody, care, and habilitation. The committing court shall automatically review any placement at a forensic facility 90 days after commitment to ensure that the placement remains the least restrictive setting adequate to meet the person's needs.

(d) Notwithstanding subdivision (1) of subsection (a), a person may initiate a judicial review in the Family Division of the Superior Court under this subchapter at any time after 90 days following a current order of continued commitment.

§ 8847. DISCHARGE FROM COMMITMENT OR PLACEMENT IN A FORENSIC FACILITY

(a) A person committed under 13 V.S.A. § 4823 or this subchapter may be discharged from an order of custody, care, and habilitation; an order of continued custody, care, and habilitation; or placement at a forensic facility by:

(1) a Family Division Superior judge after judicial review pursuant to subsection (b) of this section; or

(2) administrative order of the Commissioner pursuant to subsection (c) of this section.

(b)(1) A person under a commitment order for custody, care, and habilitation under 13 V.S.A. § 4823 or a commitment order for continued custody, care, and habilitation under this subchapter shall be entitled to a judicial review of the person's need for continued custody, care, and habilitation pursuant to sections 8845(d)(2) and 8846(d) of this subchapter. If the court finds that the person is not a person in need of custody, care, and habilitation or continued custody, care, and habilitation, the person shall be discharged from the custody of the Commissioner. A judicial order of discharge may be conditional or absolute and may have immediate or delayed effect.

(2)(A) In reviewing the placement of a person receiving treatment and programming at a forensic facility, the court may determine that while the placement at a forensic facility is no longer appropriate or that the setting is no longer the least restrictive setting adequate to meet the person's needs, the

person is still a person in need of continued custody, care, and habilitation. In this instance, the court shall discharge the person from placement at the forensic facility while maintaining the person's order of commitment or continued commitment.

(B) When a person subject to judicial review pursuant to this subsection (b) is receiving treatment or programming at a forensic facility, either the State's Attorney of the county where the person's prosecution originated, or the Office of the Attorney General if that office prosecuted the person's case, or the victim, or both, may file a position with the court as an interested person concerning whether the person's discharge from placement at the forensic facility is appropriate.

(c)(1)(A) If the Commissioner determines that a person is no longer a person in need of custody, care, and habilitation; of continued custody, care, and habilitation; or of placement at a forensic facility, the Commissioner shall issue an administrative discharge from commitment or from placement at a forensic facility, or both. An administrative discharge from commitment or from placement at a forensic facility may be conditional or absolute and may have immediate or delayed effect. At least 10 days prior to the effective date of any administrative discharge by the Commissioner from commitment or placement at a forensic facility, or 10 days prior to the expiration of a current commitment order for which the Commissioner has decided not to not seek continued commitment, the Commissioner shall give notice of the pending discharge to the committing court and to either the State's Attorney of the county where the prosecution originated or to the Office of the Attorney General if that Office prosecuted the case.

(B) In reviewing the placement of a person receiving treatment and programming at a forensic facility, the Commissioner may determine that while the placement at a forensic facility is no longer appropriate or that the setting is no longer the least restrictive setting adequate to meet the person's needs, the person is still a person in need of continued custody, care, and habilitation. In this instance, the Commissioner shall discharge the person from placement at the forensic facility while maintaining the person's order of commitment or continued commitment.

(2)(A) When a person subject to administrative discharge pursuant to this subsection (c) is receiving treatment and programming at a forensic facility, the State's Attorney or Office of the Attorney General shall provide notice of the pending administrative discharge from placement at a forensic facility and from commitment, if applicable, to any victim of the offense for which the person has been charged who has not opted out of receiving notice.

(B) During the period in which the Commissioner gives notice of the pending administrative discharge pursuant to subdivision (1)(A) of this subsection (c) and the anticipated date of administrative discharge, which shall not be less than 10 days, the State's Attorney or the Office of the Attorney General or the victim, or both, may request a hearing in the Family Division of the Superior Court on whether the person's pending administrative discharge from placement at a forensic facility is appropriate, which shall be held within 10 days after the request. The pending administrative discharge from placement at the forensic facility shall be stayed until the hearing has concluded and any subsequent orders are issued, but in no event shall a subsequent order be issued more than five days after the hearing.

(d) Whenever a person is subject to a judicial or administrative discharge from commitment, the Criminal Division of the Superior Court shall retain jurisdiction over the person's underlying charge and any orders holding the person without bail or concerning bail, and conditions of release shall remain in place. Those orders shall be placed on hold while a person is in the custody, care, and habilitation of the Commissioner. When a person is discharged from the Commissioner's custody, care, and habilitation to a correctional facility, the custody of the Commissioner shall cease when the person enters the correctional facility.

§ ~~8846~~ 8848. RIGHT TO COUNSEL

Persons subject to commitment or ~~judicial review~~ continued commitment under this subchapter shall have a right to counsel as provided in section 7111 of this title.

* * * Competency Examination * * *

Sec. 11. 13 V.S.A. § 4814 is amended to read:

§ 4814. ORDER FOR EXAMINATION OF COMPETENCY

* * *

(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.~~

* * *

* * * Fiscal Estimate of Competency Restoration Program * * *

Sec. 12. REPORT; COMPETENCY RESTORATION PROGRAM; FISCAL ESTIMATE

On or before November 1, 2024, the Agency of Human Services shall submit a report to the House Committees on Appropriations, on Health Care, and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare that provides a fiscal estimate for the implementation of a competency restoration program operated or under contract with the Department of Mental Health. The estimate shall include:

(1) whether and how to serve individuals with an intellectual disability in a competency restoration program;

(2) varying options dependent upon which underlying charges are eligible for court-ordered competency restoration; and

(3) costs associated with establishing a residential program where court-ordered competency restoration programming may be performed on an individual who is neither in the custody of the Commissioner of Mental Health pursuant to 13 V.S.A. § 4822 nor in the custody of the Commissioner of Disabilities, Aging, and Independent Living pursuant to 13 V.S.A. § 4823.

* * * Rulemaking * * *

Sec. 13. RULEMAKING; CONFORMING AMENDMENTS

On or before August 1, 2024, the Commissioner of Disabilities, Aging, and Independent Living, in consultation with the Commissioner of Mental Health, shall file initial proposed rule amendments with the Secretary of State pursuant to 3 V.S.A. § 836(a)(2) to the Department of Disabilities, Aging, and Independent Living, Licensing and Operating Regulations for Therapeutic Community Residences (CVR 13-110-12) for the purpose of:

(1) adding a forensic facility section of the rule that includes allowing the use of emergency involuntary procedures and the administration of involuntary medication at a forensic facility; and

(2) amending the secure residential recovery facility section of the rule to allow the use of emergency involuntary procedures and the administration of involuntary medication at the secure residential recovery facility.

* * * Effective Dates * * *

Sec. 14. EFFECTIVE DATES

This section, Sec. 12 (report; competency restoration program; fiscal estimate), and Sec. 13 (rulemaking; conforming amendments) shall take effect on passage. All remaining sections shall take effect on July 1, 2025.

(Committee vote: 5-0-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare, with further amendments as follows:

First: In Sec. 1, purpose and legislative intent, by striking out the second sentence

Second: In Sec. 13, rulemaking; conforming amendments, in the first sentence, by striking out "August" and inserting in lieu thereof November

(Committee vote: 5-0-2)

Amendment to the recommendation of amendment of the Committee on Health and Welfare to S. 192 to be offered by Senators Lyons, Weeks, Gulick, Hardy and Williams

Senators Lyons, Weeks, Gulick, Hardy and Williams move to amend the recommendation of amendment of the Committee on Health and Welfare as follows:

First: By striking out Sec. 4, 13 V.S.A. § 4822, in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. 13 V.S.A. § 4822 is amended to read:

§ 4822. FINDINGS AND ORDER; PERSONS WITH A MENTAL ILLNESS

(a)(1) If the court finds that the person is a person in need of treatment or a patient in need of further treatment as defined in 18 V.S.A. § 7101, the court shall issue an order of commitment directed to the Commissioner of Mental Health that shall admit the person to the care and custody of the Department of Mental Health for ~~an indeterminate~~ a period of 90 days. In any case involving personal injury or threat of personal injury, the committing court may issue an order requiring a court hearing before a person committed under this section may be discharged from custody.

(2) If the Commissioner seeks to have a person receive treatment in a forensic facility pursuant to an order of nonhospitalization under subdivision (1) of this subsection, the Commissioner shall submit a petition to the court expressly stating that such treatment is being sought, including:

(A) 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; and

(B) the recommendation of the Human Services Community Safety Panel pursuant to section 4821 of this title.

(3) 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 at a forensic facility for a period of 90 days. The court may, at any time following the issuance of an order, on its own motion or on motion of an interested party, review whether treatment at the forensic facility continues to be the least restrictive treatment option.

(b) An order of commitment issued pursuant to this section shall have the same force and effect as an order issued under 18 V.S.A. §§ 7611–7622, and a person committed under this order shall have the same status and the same rights, including the right to receive care and treatment, to be examined and discharged, and to apply for and obtain judicial review of ~~his or her~~ the person's case, as a person ordered committed under 18 V.S.A. §§ 7611–7622.

(c)(1) Notwithstanding the provisions of subsection (b) of this section, at least 10 days prior to the proposed discharge of any person committed under this section, the Commissioner of Mental Health shall give notice of the discharge to the committing court and State's Attorney of the county where the prosecution originated. In all cases requiring a hearing prior to discharge of a person found incompetent to stand trial under section 4817 of this title, the hearing shall be conducted by the committing court issuing the order under that section. In all other cases, when the committing court orders a hearing under subsection (a) of this section or when, in the discretion of the Commissioner of Mental Health, a hearing should be held prior to the discharge, the hearing shall be held in the Family Division of the Superior Court to determine if the committed person is no longer a person in need of treatment or a patient in need of further treatment as set forth in subsection (a) of this section. Notice of the hearing shall be given to the Commissioner, the State's Attorney of the county where the prosecution originated, the committed person, and the person's attorney. Prior to the hearing, the State's Attorney

may enter an appearance in the proceedings and may request examination of the patient by an independent psychiatrist, who may testify at the hearing.

(2)(A) This subdivision (2) shall apply when a person is committed to the care and custody of the Commissioner of Mental Health under this section after having been found:

(i) not guilty by reason of insanity; or

(ii) incompetent to stand trial, provided that the person's criminal case has not been dismissed.

(B)(i) When a person has been committed under this section, the Commissioner shall provide notice to the State's Attorney of the county where the prosecution originated or to the Office of the Attorney General if that office prosecuted the case:

(I) at least 10 days prior to discharging the person from:

(aa) the care and custody of the Commissioner; or

(bb) a hospital, a forensic facility, or a secure residential recovery facility to the community on an order of nonhospitalization pursuant to 18 V.S.A. § 7618;

(II) at least 10 days prior to the expiration of a commitment order issued under this section if the Commissioner does not seek continued treatment; or

(III) any time that the person elopes from the custody of the Commissioner.

(ii) When the State's Attorney or Attorney General receives notice under subdivision (i) of this subdivision (B), the Office shall provide notice of the action to any victim of the offense for which the person has been charged who has not opted out of receiving notice. A victim receiving notice pursuant to this subdivision (ii) has the right to submit a victim impact statement to the Family Division of the Superior Court in writing or through the State's Attorney or Attorney General's office.

(iii) As used in this subdivision (B), "victim" has the same meaning as in section 5301 of this title.

(d) The court may continue the hearing provided in subsection (c) of this section for a period of 15 additional days upon a showing of good cause.

(e) If the court determines that commitment shall no longer be necessary, it shall issue an order discharging the patient from the custody of the Department of Mental Health.

(f) The court shall issue its findings and order not later than 15 days from the date of hearing.

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

Sec. 8a. 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 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.

Third: In Sec. 10, 18 V.S.A. chapter 206, subchapter 3, in section 8847, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) A person committed under 13 V.S.A. § 4823 or this subchapter may be discharged as follows:

(1) by a Criminal Division Superior Court judge after an automatic 90-day review of placement at a forensic facility pursuant to subsection 8845(e) of this subchapter;

(2) by a Family Division Superior Court judge after judicial review of an order of custody, care, and habilitation; an order of continued custody, care, and habilitation; or placement at a forensic facility pursuant to subsection (b) of this section; or

(3) by administrative order of the Commissioner regarding an order of custody, care, and habilitation; an order of continued custody, care, and habilitation; or placement at a forensic facility pursuant to subsection (c) of this section.

S. 204.

An act relating to reading assessment and intervention.

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

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

* * * Findings * * *

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Literacy, particularly in early grades, is critical for success in future education, work, and life.

(2) Roughly half of Vermont students are still at or below proficiency.

(3) Research in recent years is clear. We know how to teach reading in a proven, evidence-based manner. Yet outdated practices linger in classrooms and in educator preparation programs.

* * * Reading Assessment and Intervention * * *

Sec. 2. 16 V.S.A. § 2907 is added to read:

§ 2907. KINDERGARTEN THROUGH GRADE THREE READING ASSESSMENT AND INTERVENTION

(a)(1) Annually, the Agency of Education shall update and publish a list of reviewed universal reading screeners and assessments to be used by supervisory unions and approved independent schools for determining reading skills and identifying students in kindergarten through grade three demonstrating reading struggles or showing characteristics associated with dyslexia.

(2) The Agency's review of universal reading screeners and assessments shall include a review of the evidence base of the screeners and assessments. In publishing the list required under subdivision (1) of this subsection, the Agency shall issue guidance on measuring skills based on grade-level predictive measures, including:

(A) phonemic awareness;

(B) letter naming;

(C) letter sound correspondence;

(D) real- and nonword reading;

(E) oral text reading accuracy and rate;

(F) comprehension;

(G) handwriting; and

(H) spelling inventory.

(3) The screeners shall align with assessment guidance from the Agency, including that they shall, at a minimum:

(A) be brief;

(B) assist in identifying students at risk for or currently experiencing reading deficits; and

(C) produce data that inform decisions related to the need for additional, targeted assessments and necessary layered supports, accommodations, interventions, or services for students, in accordance with existing federal and State law.

(b) All public schools and approved independent schools shall screen all students in kindergarten through grade three using age and grade-level appropriate universal reading screeners. The universal screeners shall be given in accordance with best practices and the technical specifications of the specific screener used. The Agency shall include in its guidance issued pursuant to subdivision (a)(2) of this section instances in which public and approved independent schools can leverage assessments that meet overlapping requirements and guidelines to maximize the use of assessments that provide the necessary data to understand student needs while minimizing the number of assessments used and the disruption to instructional time.

(c) Additional diagnostic assessment and evidence-based curriculum and instruction for students demonstrating a substantial deficit in reading or dyslexia characteristics shall be determined by data-informed decision-making within existing processes in accordance with required federal and State law. Specific instructional content, programs, strategies, interventions, and other identified supports for individual students shall be documented in the most appropriate plan informed by assessment and other data and as determined through team-based decision making. These plans may include, as applicable, an education support team (EST) plan, 504 plan, individualized education plan, and a personalized learning plan. These plans shall include the following:

(1) the student's specific reading deficit as determined or identified by diagnostic assessment data;

(2) the goals and benchmarks for growth;

(3) the type of evidence-based instruction and supports the student will receive; and

(4) the strategies and supports available to the student's parent or legal guardian to support the student to achieve reading proficiency.

(d) Public and approved independent schools shall not use instructional strategies that do not have an evidence base, such as the three-cueing system. Evidence-based reading instructional practices, programs, or interventions provided pursuant to subsection (c) of this section shall be effective, explicit, systematic, and consistent with federal and State guidance and shall address the foundational concepts of literacy proficiency, including phonemic awareness, phonics, fluency, vocabulary, and comprehension.

(e) The parent or guardian of any kindergarten through grade three student who exhibits a reading deficit at any time during the school year shall be notified in writing not later than 30 days after the identification of the reading deficit. Written notification shall contain information consistent with the documentation requirements contained in subsection (d) of this section and shall follow the Agency's recommendations for such notification.

(f) Each local school district and approved independent school shall engage local stakeholders, as defined by the school district or approved independent school, to discuss the importance of reading and solicit suggestions for improving literacy and plans to increase reading proficiency.

(g) The Agency shall provide professional learning opportunities for educators in evidence-based reading instructional practices that address the areas of phonemic awareness, phonics, fluency, vocabulary, and comprehension.

(h) Each supervisory union and approved independent school shall annually report, in writing, to the Agency the following information and prior year performance, by school:

(1) the number and percentage of students in kindergarten through grade three performing below proficiency on local and statewide reading assessments, as applicable;

(2) the universal reading screeners utilized;

(3) the number and percentage of students identified with a potential reading deficit; and

(4) growth measure assessment data.

(i) On or before January 15 of each year, the Agency shall issue a written report to the Governor and the Senate and House Committees on Education on

the status of State progress to improve literacy learning. The report shall include the information required pursuant to subsection (h) of this section.

Sec. 3. PARENTAL NOTIFICATION; AGENCY OF EDUCATION RECOMMENDATIONS

On or before November 1, 2024, the Agency of Education shall develop and issue recommendations for the substance and form of the parental or guardian notification required under 16 V.S.A. § 2907(e). The Agency's recommendations shall be consistent with applicable State and federal law as well as legislative intent.

Sec. 4. REVIEWED READING SCREENERS; AGENCY OF EDUCATION; REPORT

On or before January 15, 2025, the Agency of Education shall submit a written report to the Senate and House Committees on Education with a list of the reviewed universal reading screeners and assessments it has published pursuant to 16 V.S.A. § 2907. The Agency shall include any information it deems relevant to provide an understanding of the list of reviewed screeners and assessments.

Sec. 5. 16 V.S.A. § 2903 is amended to read:

§ 2903. PREVENTING EARLY SCHOOL FAILURE; READING INSTRUCTION

(a) Statement of policy. The ability to read is critical to success in learning. Children who fail to read by the end of the first grade will likely fall further behind in school. The personal and economic costs of reading failure are enormous both while the student remains in school and long afterward. All students need to receive systematic and explicit evidence-based reading instruction in the early grades from a teacher who is skilled in teaching the foundational components of reading ~~through a variety of instructional strategies that take into account the different learning styles and language backgrounds of the students~~, including phonemic awareness, phonics, fluency, vocabulary, and comprehension. ~~Some students may~~ Students who require ~~intensive~~ supplemental instruction tailored to the unique difficulties encountered shall be provided those additional supports by an appropriately licensed and trained education professional.

(b) Foundation for literacy.

(1) The ~~State Board~~ Agency of Education, in collaboration with the State Board of Education, the Agency of Human Services, higher education, literacy organizations, and others, shall develop a plan for establishing a comprehensive system of services for early education in ~~the first three grades~~

prekindergarten through third grade to ensure that all students learn to read by the end of the third grade. The plan shall be updated at least once every five years following its initial submission in 1998.

(2) Approved independent schools shall develop a grade-level appropriate school literacy plan that is informed by student needs and assessment data. The plan may include identification of a literacy vision, goals, and priorities and shall address the following topics:

(A) measures and indicators;

(B) screening, assessment, instruction and intervention, and progress monitoring, consistent with section 2907 of this title; and

(C) professional development for all unlicensed teachers consistent with subsection 1710(b) of this title.

(c) Reading instruction. A public school that offers instruction in grades prekindergarten, kindergarten, one, two, or three shall provide ~~highly effective, research-based~~ systemic and explicit evidence-based reading instruction to all students. In addition, a school shall provide:

(1) supplemental reading instruction to any enrolled student ~~in grade four~~ whose reading proficiency falls below ~~third grade reading expectations~~ proficiency standards for the student's grade level or whose reading proficiency prevents success in school, as identified using the tiered system of supports, as defined under ~~subdivision 164(9)~~ section 2902 of this title;

(2) supplemental reading instruction to any enrolled student ~~in grades 5-12~~ whose reading proficiency creates a barrier to the student's success in school; and

(3) support and information to parents and legal guardians.

Sec. 6. LITERACY PLAN IMPLEMENTATION; APPROVED INDEPENDENT SCHOOLS

All approved independent schools shall develop a grade-level appropriate school literacy plan pursuant to 16 V.S.A. § 2903(b)(2) on or before January 1, 2025.

* * * Literacy Professional Learning* * *

Sec. 7. 16 V.S.A. § 1710 is added to read:

§ 1710. LITERACY PROFESSIONAL LEARNING

(a) Definition. As used in this section, "professionally licensed" means a nonconditional, current license comparable to a level I or level II Vermont

educator license and does not include provisional, emergency, teaching intern, or apprenticeship licenses or their equivalent in other states.

(b) Professionally licensed educators.

(1) On or before July 1, 2027, all professionally licensed Vermont teachers employed in a Vermont public or approved independent school shall complete a program of professional learning on evidence-based literacy instruction developed and offered or approved by the Vermont Agency of Education.

(2) After July 1, 2026, all newly professionally licensed Vermont teachers employed in a Vermont public or approved independent school shall complete a program of professional learning on evidenced-based literacy instruction developed and offered or approved by the Agency before the end of the teacher's second year of teaching.

(3) Professional learning programs approved by the Agency pursuant to this section shall be substantially similar in content to professional learning programs developed and offered by the Agency pursuant to this section.

(c) Unlicensed teachers employed by an approved independent school. On or before July 1, 2027, all unlicensed teachers employed by an approved independent school shall complete an explicit, evidence-based literacy instruction professional development program. The professional development program shall be approved by the approved independent school and may be differentiated by grade level, role, and experience and may account for prior training. Unlicensed teachers hired by an approved independent school on or after July 1, 2026 shall complete a professional development program pursuant to this subsection within one year after hire. An approved independent school shall maintain a record of completion of professional development consistent with this provision.

Sec. 8. RESULTS-ORIENTED PROGRAM APPROVAL

(a) On or before July 1, 2025, the Agency of Education shall submit recommendations to the Vermont Standards Board for Professional Educators on how to strengthen educator preparation programs' teaching of evidence-based literacy practices. The Agency shall also simultaneously communicate its recommendations to Vermont's educator preparation programs and submit its recommendations in writing to the Senate and House Committees on Education.

(b) On or before July 1, 2026, the Vermont Standards Board for Professional Educators shall consider the Agency's recommendations pursuant to subsection (a) of this section and, as appropriate, update the educator

preparation requirements in Agency of Education, Licensing of Educators and the Preparation of Educational Professionals (5000) (CVR 022-000-010).

(c) As part of its review under subsection (a) of this section, the Agency shall make recommendations to the Vermont Standards Board for Professional Educators regarding whether an additional mandatory examination is needed to assess candidates for educator licensure skills in mathematics and English language arts fundamentals, as well as candidates' understanding of the importance of evidence-based approaches to literacy and numeracy, beyond the requirements in Agency of Education, Licensing of Educators and the Preparation of Educational Professionals (5000) (CVR 022-000-010) in effect during the period of the Agency's review.

* * * Advisory Council on Literacy * * *

Sec. 9. 16 V.S.A. § 2903a is amended to read:

§ 2903a. ADVISORY COUNCIL ON LITERACY

(a) Creation. There is created the Advisory Council on Literacy. The Council shall advise the Agency of Education, the State Board of Education, and the General Assembly on how to improve proficiency outcomes in literacy for students in prekindergarten through grade 12 and how to sustain those outcomes.

(b) Membership. The Council shall be composed of the following ~~16~~ 19 members:

(1) ~~eight~~ nine members who shall serve as ex officio members:

(A) the Secretary of Education or designee;

(B) a member of the Standards Board for Professional Educators who is knowledgeable in licensing requirements for teaching literacy, appointed by the Standards Board;

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

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

(E) the Executive Director of the Vermont Council of Special Education Administrators or designee;

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

(G) the Executive Director of the Vermont Independent Schools

Association or designee; ~~and~~

(H) the Executive Director of the Vermont-National Education Association or designee; and

(I) the State Librarian or designee;

(2) eight members who shall serve two-year terms:

(A) a representative, appointed by the Vermont Curriculum Leaders Association;

(B) three teachers, appointed by the Vermont-National Education Association, who teach literacy, one of whom shall be a special education literacy teacher and two of whom shall teach literacy to students in prekindergarten through grade three;

(C) three community members who have struggled with literacy proficiency or supported others who have struggled with literacy proficiency, one of whom shall be a high school student, appointed by the Agency of Education in consultation with the Vermont Family Network; and

(D) one member appointed by the Agency of Education who has expertise in working with students with dyslexia; and

(3) two faculty members of approved educator preparation programs located in Vermont, one of whom shall be employed by a private college or university, appointed by the Agency of Education in consultation with the Association of Vermont Independent Colleges, and one of whom shall be employed by a public college or university, appointed by the Agency of Education in consultation with the University of Vermont and State Agricultural College and the Vermont State Colleges Corporation.

* * *

(d) Powers and duties. The Council shall advise the ~~Agency~~ Secretary of Education~~, the State Board of Education, and the General Assembly~~ on how to improve proficiency outcomes in literacy for students in prekindergarten through grade 12 and how to sustain those outcomes and shall:

(1) advise the ~~Agency of Education~~ Secretary on how to:

(A) update section 2903 of this title;

(B) implement the statewide literacy plan required by section 2903 of this title and whether, based on its implementation, changes should be made to the plan; and

(C) maintain the statewide literacy plan;

(2) advise the ~~Agency of Education~~ Secretary on what services the Agency should provide to school districts to support implementation of the plan and on staffing levels and resources needed at the Agency to support the statewide effort to improve literacy;

(3) develop a plan for collecting literacy-related data that informs:

(A) literacy instructional practices;

(B) teacher professional development in the field of literacy;

(C) what proficiencies and other skills should be measured through literacy assessments and how those literacy assessments are incorporated into local assessment plans; and

(D) how to identify school progress in achieving literacy outcomes, including closing literacy gaps for students from historically underserved populations;

(4) recommend best practices for Tier 1, Tier 2, and Tier 3 literacy instruction within the multitiered system of supports required under section 2902 of this title to best improve and sustain literacy proficiency; and

(5) review literacy assessments and outcomes and provide ongoing advice as to how to continuously improve those outcomes and sustain that improvement.

* * *

(f) Meetings.

(1) The Secretary of Education shall call the first meeting of the Council to occur on or before August 1, 2021.

(2) The Council shall select a chair from among its members.

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

(4) The Council shall meet not more than ~~eight~~ four times per year.

(g) Assistance. The Council shall have the administrative, technical, and legal assistance of the Agency of Education.

(h) Compensation and reimbursement. Members of the Council shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than ~~eight~~ four meetings of the Council per year.

Sec. 10. 2021 Acts and Resolves No. 28, Sec. 7 is amended to read:

Sec. 7. REPEAL; ADVISORY COUNCIL ON LITERACY

16 V.S.A. § 2903a (Advisory Council on Literacy) as added by this act is repealed on June 30, ~~2024~~ 2027.

* * * Agency of Education Literacy Position * * *

Sec. 11. 2021 Acts and Resolves No. 28, Sec. 4(a) is amended to read:

(a) There is appropriated to the Agency of Education from the American Rescue Plan Act of 2021 pursuant to Section 2001(f)(4), Pub. L. No. 117-2 in fiscal year 2022 the amount of $450,000.00 for the costs of the contractor or contractors under Sec. 3 of this act for fiscal years 2022, 2023, and 2024. The Agency may shift the use of this funding from the contractor or contractors to a limited service position ~~that would expire at the end of fiscal year 2024~~ within the Agency focused on coordinating the Statewide literacy efforts.

Sec. 12. AGENCY OF EDUCATION; LITERACY POSITION; APPROPRIATION

(a) The conversion of the limited service position within the Agency of Education authorized pursuant to 2021 Acts and Resolves No. 28, Sec. 4(a) to a classified permanent status is authorized in fiscal year 2025.

(b) The sum of $150,000.00 is appropriated from the General Fund to the Agency of Education in fiscal year 2025 for personal services and operating expenses for the position converted pursuant to subsection (a) of this section.

* * * Expanding Early Childhood Literacy Resources * * *

Sec. 13. EXPANDING EARLY CHILDHOOD LITERACY RESOURCES; REPORT

On or before January 15, 2025, the Department of Libraries shall submit a written report to the Senate and House Committees on Education with recommendations for expanding access to early childhood literacy resources with a focus on options that target low-income or underserved areas of the State. Options considered by the Advisory Council shall include State or local partnership with or financial support for book gifting programs, book distribution programs, and any other compelling avenue for supporting early childhood literacy in Vermont.

* * * Effective Date * * *

Sec. 14. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read:

An act relating to supporting Vermont's young readers through evidence-based literacy instruction

(Committee vote: 5-0-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Education, with further amendment as follows:

By striking out Sec. 12, Agency of Education; literacy position; appropriation, in its entirety and inserting in lieu thereof the following:

Sec. 12. [Deleted.]

(Committee vote: 6-0-1)

S. 213.

An act relating to the regulation of wetlands, river corridor development, and dam safety.

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:

* * * Short Title * * *

Sec. 1. SHORT TITLE

This act may be cited as the "Flood Safety Act."

* * * Development in River Corridors * * *

Sec. 2. FINDINGS

The General Assembly finds that for purposes of Secs. 3–11 of this act:

(1) According to the 2023 National Climate Assessment, the northeastern region of the United States has experienced a 60 percent increase in more extreme precipitation events since 1958, particularly in inland flooding of valleys, where persons, infrastructure, and agriculture tend to be concentrated.

(2) The 2021 Vermont Climate Assessment highlights that Vermont has seen:

(A) a 21 percent increase in average annual precipitation since 1990; and

(B) 2.4 additional days of heavy precipitation since the 1960s.

(3) According to the National Oceanic and Atmospheric Administration's National Centers for Environmental Information, average annual damages from flooding and flood-related disasters between 1980 and 2023 exceeds 30 million, conservatively.

(4) According to the Department of Environmental Conservation, 70 to 80 percent of all flood-related damages occur within Vermont's river corridors.

(5) According to the Department of Environmental Conservation, only 10 percent of Vermont municipalities, cities, or incorporated villages have adopted full river corridor protections through the Department's model bylaws.

(6) Promoting existing compact settlements, located along Vermont waterways, will require improved flood resilience efforts, as described in the initial Vermont Climate Action Plan of 2021, such as managing flood and fluvial erosion hazards to protect Vermont's compact settlements, which will be a critical component of a successful climate adaptation response.

(7) The State, as recommended in the initial Vermont Climate Action Plan of 2021, should adopt legislation that would authorize the Agency of Natural Resources to revise the Vermont Flood Hazard Area and River Corridor rule to provide the Agency with delegable, statewide jurisdiction and permitting authority for new development taking place in mapped river corridors.

Sec. 3. DEPARTMENT OF ENVIRONMENTAL CONSERVATION; RIVER CORRIDOR BASE MAP; INFILL MAPPING; EDUCATION AND OUTREACH

(a) On or before January 1, 2026, the Department of Environmental Conservation shall amend by procedure the statewide River Corridor Base Map to identify areas suitable for development that are located within existing settlements and that will not cause or contribute to increases in fluvial erosion hazards.

(b) Beginning on January 1, 2025 and ending on January 1, 2027, the Department of Environmental Conservation shall conduct an education and outreach program to consult with and collect input from municipalities,

environmental justice focus populations, the Environmental Justice Advisory Council, businesses, property owners, farmers, and other members of the public regarding how State permitting of development in mapped river corridors will be implemented, including potential restrictions on the use of land within mapped river corridors. The Department shall develop educational materials for the public as part of its charge under this section. The Department shall collect input from the public regarding the permitting of development in mapped river corridors as proposed by this act. On or before January 15, 2027 and until permitting of development in mapped river corridors begins under 10 V.S.A. §754, the Department shall submit to the Senate Committee on Natural Resources and Energy, the House Committee on Environment and Energy, and the Environmental Justice Advisory Council a report that shall include:

(1) a summary of the public input it received regarding State permitting of development in mapped river corridors during the public education and outreach required under this section;

(2) recommendations, based on the public input collected, for changes to the requirements for State permitting of development in mapped river corridors;

(3) an analysis and summary of State permitting of development in mapped river corridors on environmental justice populations; and

(4) a summary of the Department's progress in adopting the rules required under 10 V.S.A. § 754 for the regulation of development in mapped river corridors.

(c) In addition to other funds appropriated to the Agency of Natural Resources in fiscal year 2025:

(1) the amount of $900,000.00 shall be appropriated from the General Fund for six new, full-time positions to conduct infill and redevelopment mapping of mapped river corridors under subsection (a) of this section, to conduct the education and outreach required under subsection (b) of this section, and to conduct the rulemaking and permitting required under Sec. 5 of this act; and

(2) the amount of $225,000.00 is appropriated from the General Fund for the purpose of contracting costs necessary to implement the mapping, education and outreach, rulemaking, and permitting required under this section and Sec. 5 of this act.

Sec. 4. 10 V.S.A. § 752 is amended to read:

§ 752. DEFINITIONS

~~For the purpose of~~ As used in this chapter:

* * *

(2) "Development," for the purposes of flood hazard area management and regulation, ~~shall have~~ has the same meaning as "development" under 44 C.F.R. § 59.1.

(3) "Flood hazard area" ~~shall have~~ has the same meaning as "area of special flood hazard" under 44 C.F.R. § 59.1.

* * *

(8) "~~Uses~~ Development exempt from municipal regulation" means ~~land use or activities that are~~ development that is exempt from municipal land use regulation under 24 V.S.A. chapter 117.

* * *

(13) "Existing settlement" has the same meaning as in section 6001 of this title.

(14) "Mapped river corridor" means a river corridor drawn and adopted by the Secretary of Natural Resources as part of the statewide River Corridor Base Map Layer in accordance with the Flood Hazard Area and River Corridor Protection Procedure for rivers and streams with a watershed area greater than two square miles.

Sec. 5. 10 V.S.A. § 754 is amended to read:

§ 754. ~~FLOOD HAZARD AREA RULES ; USES EXEMPT FROM MUNICIPAL REGULATION~~ MAPPED RIVER CORRIDOR RULES

(a) Rulemaking authority.

(1) ~~On or before November 1, 2014, the Secretary shall adopt rules pursuant to 3 V.S.A. chapter 25 that establish requirements for the issuance and enforcement of permits applicable to:~~

~~(i) uses exempt from municipal regulation that are located within a flood hazard area or river corridor of a municipality that has adopted a flood hazard bylaw or ordinance under 24 V.S.A. chapter 117; and~~

~~(ii) State-owned and -operated institutions and facilities that are located within a flood hazard area or river corridor~~ On or before July 1, 2027, the Secretary shall adopt rules pursuant to 3 V.S.A. chapter 25 that establish requirements for issuing and enforcing permits for:

(A) all development within a mapped river corridor in the State; and

(B) for development exempt from municipal regulation in flood hazard areas.

* * *

(b) Required rulemaking content. The rules shall:

(1) set forth the requirements necessary to ensure ~~uses~~ that development exempt from municipal regulation ~~are~~ in flood hazard areas is regulated by the State in order to comply with the regulatory obligations set forth under the National Flood Insurance Program~~.~~;

(2) be designed to ensure that the State and municipalities meet community eligibility requirements for the National Flood Insurance Program;

(3) establish requirements for the permitting of development within the mapped river corridors of the State;

(4) provide certain regulatory exemptions for minor development activities in a mapped reiver corridor when the development activities have no adverse environmental effects;

(5) establish the requirements and process for a municipality to be delegated the State's permitting authority for development in a mapped river corridor when the development is not exempt from municipal regulation and when the municipality has adopted an ordinance or bylaw under 24 V.S.A. chapter 117 that has been approved by the Secretary and that meets or exceeds the requirements established under State rule;

(6) set forth a process for amending the statewide River Corridor Base Map; and

~~(c)~~(7) ~~Discretionary rulemaking. The rules required under this section may~~ establish requirements that exceed the requirements of the National Flood Insurance Program for ~~uses~~ development exempt from municipal regulation in flood hazard areas, including requirements for the maintenance of existing native riparian vegetation, provided that any rules adopted under this subsection that exceed the minimum requirements of the National Flood Insurance Program shall be designed to prevent or limit a risk of harm to life, property, or infrastructure from flooding.

~~(d)~~(c) General permit. The rules authorized by this section may establish requirements for a general permit to implement the requirements of this section, including authorization under the general permit to conduct a specified use exempt from municipal regulation without notifying or reporting to the Secretary or an agency delegated under subsection ~~(g)~~(f) of this section. A general permit implementing the requirements of this section shall not be required to be issued by rule.

~~(e)~~(d) Consultation with interested parties. Prior to submitting the rules required by this section to the Secretary of State under 3 V.S.A. § 838, the Secretary shall solicit the recommendations of and consult with affected and interested persons and entities such as: the Secretary of Commerce and Community Development; the Secretary of Agriculture, Food and Markets; the Secretary of Transportation; the Commissioner of Financial Regulation; representatives of river protection interests; representatives of fishing and recreational interests; representatives of the banking industry; representatives of the agricultural community; representatives of the forest products industry; the regional planning commissions; municipal interests; and representatives of municipal associations.

~~(f)~~(e) Permit requirement. ~~A~~ Beginning on January 1, 2028, a person shall not commence or conduct ~~a use~~ development exempt from municipal regulation in a flood hazard area or commence or conduct any development in a mapped river corridor ~~in a municipality that has adopted a flood hazard area bylaw or ordinance under 24 V.S.A. chapter 117 or commence construction of a State-owned and -operated institution or facility located within a flood hazard area or river corridor,~~ without a permit issued under the rules required under subsection (a) of this section by the Secretary or by a State agency delegated permitting authority under subsection ~~(g)~~(f) of this section. When an application is filed under this section, the Secretary or delegated State agency shall proceed in accordance with chapter 170 of this title.

~~(g)~~(f) Delegation.

(1) The Secretary may delegate to another State agency the authority to implement the rules adopted under this section, to issue a permit under subsection ~~(f)~~(e) of this section, and to enforce the rules and a permit.

(2) A memorandum of understanding shall be entered into between the Secretary and a delegated State agency for the purpose of specifying implementation of requirements of this section and the rules adopted under this section, issuance of a permit or coverage under a general permit under this section, and enforcement of the rules and permit required by this section.

(3) Prior to entering a memorandum of understanding, the Secretary shall post the proposed memorandum of understanding on its website for 30 days for notice and comment. When the memorandum of understanding is posted, it shall include a summary of the proposed memorandum; the name, telephone number, and address of a person able to answer questions and receive comments on the proposal; and the deadline for receiving comments. A final copy of a memorandum of understanding entered into under this section shall be sent to the chairs of the House ~~Committees on Energy and Technology and on Natural Resources, Fish, and Wildlife~~ Committee on Environment and Energy, the Senate Committee on Natural Resources and Energy, and any other committee that has jurisdiction over an agency that is a party to the memorandum of understanding.

~~(h)~~(g) Municipal authority. This section and the rules adopted under it shall not prevent a municipality from adopting substantive requirements for development in a flood hazard area bylaw or ordinance under 24 V.S.A. chapter 117 that are more stringent than the rules required by this section, provided that the bylaw or ordinance shall not apply to uses exempt from municipal regulation.

Sec. 6. 10 V.S.A. § 755 is amended to read:

§ 755. STATE FLOOD HAZARD AREA STANDARDS; MUNICIPAL EDUCATION; MODEL FLOOD HAZARD AREA BYLAW OR ORDINANCE

(a) State flood hazard area standards.

(1) On or before January 1, 2026, the Secretary shall adopt rules pursuant to 3 V.S.A. chapter 25 that establish a set of flood hazard area standards for enrollment in the National Flood Insurance Program (NFIP).

(2) The rules shall contain flood hazard area standards that meet or exceed the minimum standards of the NFIP by reducing flood risk to new development and ensuring new development does not create adverse impacts to adjacent preexisting development.

(3) Any municipality with a municipal flood hazard area bylaw or ordinance shall update their bylaw or ordinance to incorporate the State Flood Hazard Area Standards. Nothing in this section shall prohibit a municipality from adopting a more protective flood hazard standard with language and standards approved by the Agency.

(4) On or after January 1, 2028, the State Flood Hazard Areas adopted under subdivision (1) of this subsection shall be the State minimum flood hazard areas standards.

(b) Education and assistance. The Secretary, in consultation with regional planning commissions, shall provide ongoing education, technical assistance, and guidance to municipalities regarding the requirements under 24 V.S.A. chapter 117 necessary for compliance with the ~~National Flood Insurance Program~~ (NFIP), including implementation of the State Flood Hazard Area Standards adopted under subsection (a) of this section.

~~(b)~~(c) Model flood hazard area bylaw or ordinance. The Secretary shall create and make available to municipalities a model flood hazard area bylaw or ordinance for potential adoption by municipalities pursuant to 24 V.S.A. chapter 117 or 24 V.S.A. § 2291. The model bylaw or ordinance shall set forth the minimum provisions necessary to meet the requirements of the ~~National Flood Insurance Program~~ NFIP, including implementation of the State Flood Hazard Area Standards adopted under subsection (a) of this section. The model bylaw may include alternatives that exceed the minimum requirements for compliance with the ~~National Flood Insurance Program~~ NFIP and State Flood Hazard Area Standards in order to allow a municipality to elect whether it wants to adopt the minimum requirement or an alternate requirement that further minimizes the risk of harm to life, property, and infrastructure from flooding.

~~(c)~~(d) Assistance to municipalities with no flood hazard area bylaw or ordinance. The Secretary, in consultation with municipalities, municipal organizations, and regional planning commissions, shall provide education and technical assistance to municipalities that lack a flood hazard area bylaw or ordinance in order to encourage adoption of a flood hazard area bylaw or ordinance that qualifies the municipality for the ~~National Flood Insurance Program~~ (NFIP).

Sec. 7. 24 V.S.A. § 4302(c)(14) is amended to read:

(14) To encourage flood resilient communities.

(A) New development in identified flood hazard, fluvial erosion, and river corridor protection areas should be avoided. If new development is to be built in such areas, it should not exacerbate flooding and fluvial erosion and should meet or exceed the statewide minimum flood hazard area standards established by rule by the Agency of Natural Resources.

* * *

Sec. 8. 24 V.S.A. § 4382(a)(12) is amended to read:

(12)(A) A flood resilience plan that:

(i) identifies flood hazard and fluvial erosion hazard areas, based on river corridor maps provided by the Secretary of Natural Resources pursuant to 10 V.S.A. § 1428(a) or maps recommended by the Secretary, and designates those areas to be protected, including floodplains, river corridors, land adjacent to streams, wetlands, and upland forests, to reduce the risk of flood damage to infrastructure and improved property; and

(ii) recommends policies and strategies to protect the areas identified and designated under subdivision (12)(A)(i) of this subsection and to mitigate risks to public safety, critical infrastructure, historic structures, and municipal investments. These strategies shall include adoption and implementation of the State Flood Hazard Area Standards.

(B) A flood resilience plan may reference an existing local hazard mitigation plan approved under 44 C.F.R. § 201.6.

Sec. 9. 24 V.S.A. § 4424 is amended to read:

§ 4424. SHORELANDS; ~~RIVER CORRIDOR PROTECTION AREAS;~~ FLOOD OR HAZARD AREA; SPECIAL OR FREESTANDING BYLAWS

(a) Bylaws; flood and other hazard areas~~; river corridor protection~~. Any municipality may adopt freestanding bylaws under this chapter to address particular hazard areas in conformance with the municipal plan, the State Flood Hazard Area Standards or, for the purpose of adoption of a flood hazard area bylaw, a local hazard mitigation plan approved under 44 C.F.R. § 201.6. Such freestanding bylaws may include the following, which may also be part of zoning or unified development bylaws:

(1) Bylaws to regulate development and use along shorelands.

(2) Bylaws to regulate development and use in ~~flood areas, river corridor protection areas,~~ flood hazard areas or other hazard areas. The following shall apply if flood hazard or other hazard area bylaws are enacted:

(A) Purposes.

(i) To minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public service that result from flooding, landslides, erosion hazards, earthquakes, and other natural or human-made hazards.

(ii) To ensure that the design and construction of development in flood~~, river corridor protection,~~ hazard and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property and ensures new development will not adversely affect existing development in a flood hazard area ~~or that minimizes the potential for fluvial erosion and loss or damage to life and property in a river corridor protection area~~.

(iii) To manage all flood hazard areas designated pursuant to 10 V.S.A. § 753.

(iv) To make the State and municipalities eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

(B) Contents of bylaws. Except as provided in subsection (c) of this section, flood~~, river corridor protection area,~~ hazard and other hazard area bylaws ~~may~~ shall:

(i) ~~Contain standards and criteria that prohibit the placement of damaging obstructions or structures, the use and storage of hazardous or radioactive materials, and practices that are known to further exacerbate hazardous or unstable natural conditions~~ Require compliance with the State Flood Hazard Area Standards established by rule pursuant to 10 V.S.A. § 755(c) and meet all additional requirements under the National Flood Insurance Program as set forth in 44 C.F.R. § 60.3.

(ii) ~~Require flood, fluvial erosion, and hazard protection through elevation, floodproofing, disaster preparedness, hazard mitigation, relocation, or other techniques.~~

~~(iii) Require adequate provisions for flood drainage and other emergency measures.~~

~~(iv) Require provision of adequate and disaster-resistant water and wastewater facilities.~~

~~(v) Establish other restrictions to promote the sound management and use of designated flood, river corridor protection, and other hazard areas.~~

~~(vi) Regulate~~ Regulate all land development in a flood hazard area~~, river corridor protection area,~~ or other hazard area, except for development that is regulated under 10 V.S.A. § 754.

(C) Effect on zoning bylaws. Flood hazard or other hazard area bylaws may alter the uses otherwise permitted, prohibited, or conditional in a flood hazard area or other hazard area under a bylaw, as well as the

applicability of other provisions of that bylaw. Where a flood hazard bylaw, a hazard area bylaw, or both apply along with any other bylaw, compliance with the flood or other hazard area bylaw shall be prerequisite to the granting of a zoning permit. Where a flood hazard area bylaw or a hazard area bylaw but not a zoning bylaw applies, the flood hazard and other hazard area bylaw shall be administered in the same manner as are zoning bylaws, and a flood hazard area or hazard area permit shall be required for land development covered under the bylaw.

(D) Mandatory provisions.

(i) Except as provided in subsection (c) of this section, all flood hazard and other hazard area bylaws shall provide that no permit for new construction or substantial improvement shall be granted for a flood hazard or other hazard area until after both the following:

(I) ~~A~~ a copy of the application is mailed or delivered by the administrative officer or by the appropriate municipal panel to the Agency of Natural Resources or its designee, which may be done electronically, provided the sender has proof of receipt~~.~~; and

(II) ~~Either~~ either 30 days have elapsed following the mailing or the Agency or its designee delivers comments on the application.

(ii) The Agency of Natural Resources may delegate to a qualified representative of a municipality with a flood hazard area bylaw or ordinance or to a qualified representative for a regional planning commission the Agency's authority under this subdivision (a)(2)(D) to review and provide technical comments on a proposed permit for new construction or substantial improvement in a flood hazard area. Comments provided by a representative delegated under this subdivision (a)(2)(D) shall not be binding on a municipality.

(b) Ordinances. A municipality may adopt a flood hazard area~~, river corridor protection area,~~ or other hazard area regulation that meets the requirements of this section by ordinance under subdivision 2291(25) of this title.

* * *

Sec. 10. STUDY COMMITTEE ON STATE ADMINISTRATION OF THE NATIONAL FLOOD INSURANCE PROGRAM

(a) Creation. There is created the Study Committee on State Administration of the National Flood Insurance Program to review and recommend how to reduce vulnerability to inundation flooding, including how and to what scale to shift responsibility for the administration and enforcement

of the National Flood Insurance Program from individual municipalities to the State Department of Environmental Conservation.

(b) Membership. The Study Committee on State Administration of the National Flood Insurance Program shall be composed of the following members:

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

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

(3) two members of the Department of Environmental Conservation Rivers Program, appointed by the Governor;

(4) two members of Vermont's Regional Planning Commissions, appointed by the Vermont Association of Planning and Development Agencies; and

(5) one member to represent Vermont municipalities, appointed by the Committee on Committees.

(c) Powers and duties. The Study Committee on State Administration of the National Flood Insurance Program shall:

(1) summarize the existing responsibilities of individual municipalities that are enrolled in the National Flood Insurance Program;

(2) assess the ability of individual municipalities enrolled in the National Flood Insurance Program to comply with the program's minimum standards, identifying the specific barriers to enrollment and compliance;

(3) assess the feasibility of the Department of Environmental Conservation Rivers Program to take on the administrative burden of the National Flood Insurance Program, including an assessment of the various scales with which this could occur;

(4) estimate the staffing needs to effectively administer the National Flood Insurance Program for Vermont's municipalities;

(5) recommend how to phase in a proposed state-administered National Flood Insurance Program; and

(6) propose to the General Assembly funding sources to support all potential administrative costs for a proposed state-administered National Flood Insurance Program, including the permanent full-time classified staff positions in the Department of Environmental Conservation's Rivers Program needed to establish a flood hazard area permitting program and a permitting fee for

applications to the Department of Environmental Conservation's Rivers Program and other potential funding sources.

(d) Assistance. For purposes of scheduling meetings and administrative support, the Study Committee shall have the assistance of the Office of Legislative Operations. For purposes of providing legal assistance and drafting of legislation, the Study Committee shall have the assistance of the Office of Legislative Counsel. For the purpose of providing fiscal assistance, the Study Committee shall have the assistance of the Joint Fiscal Office.

(e) Report. On or before August 15, 2025, the Study Committee shall submit a written report to the General Assembly with its findings and any recommendations for legislative action. Any recommendation for legislative action shall be as draft legislation.

(f) Meetings.

(1) The Office of Legislative Counsel shall call the first meeting of the Study Committee.

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

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

(4) The Study Committee shall cease to exist on December 31, 2025.

(g) Compensation and reimbursement.

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

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

Sec. 11. TRANSITION; IMPLEMENTATION; APPROPRIATIONS; POSITIONS

(a) The Secretary of Natural Resources shall initiate rulemaking, including pre-rulemaking, for the rules required in Sec. 5 of this act, 10 V.S.A. § 754 (river corridor development), not later than July 1, 2025. The rules shall be adopted on or before July 1, 2027.

(b) Prior to the effective date of the rules required in Sec. 5 of this act, 10 V.S.A. § 754 (river corridor development), the Secretary of Natural Resources shall continue to implement the Vermont Flood Hazard Area and River Corridor Rule as that rule existed on July 1, 2024 for development exempt from municipal regulation in flood hazard areas and relevant river corridors.

(c) The Secretary of Natural Resources shall not require a permit under the rules required by 10 V.S.A. § 754 for development in a flood hazard area or mapped river corridor for development that has the same meaning as "development" under 44 C.F.R. § 59.1 for activities for which:

(1) all necessary local, State, or federal permits have been obtained prior to January 1, 2028 and the permit holder takes no subsequent act that would require a permit or registration under 10 V.S.A. chapter 32; or

(2) a complete application for all applicable local, State, and federal permits has been submitted on or before January 1, 2028, provided that the applicant does not subsequently file an application for a permit amendment that would require a permit under 10 V.S.A. chapter 32 and that substantial construction of the impervious surface or cleared area commences within two years following the date on which all applicable local, State, and federal permits become final.

(d) In addition to other funds appropriated to the Agency of Natural Resources in fiscal year 2025:

(1) the amount of $300,000.00 shall be appropriated from the General Fund to fund two new positions to adopt the State Flood Hazard Area Standards required under Sec. 6 of this act and to assist municipalities in the adoption of the State Flood Hazard Area Standards; and

(2) the amount of $225,000.00 is appropriated from the General Fund for the purpose of contracting costs necessary to support adoption of the State Flood Hazard Area Standards required under Sec. 6 of this act.

* * * Wetlands * * *

Sec. 12. 10 V.S.A. § 901 is amended to read:

§ 901. WATER RESOURCES MANAGEMENT POLICY

It is hereby declared to be the policy of the State that:

(1) the water resources of the State shall be protected~~,~~; regulated; and, where necessary, controlled under authority of the State in the public interest and to promote the general welfare;

(2) the wetlands of the State shall be protected, regulated, and restored so that Vermont achieves a net gain of wetlands acreage; and

(3) regulation and management of the water resources of the State, including wetlands, should be guided by science, and authorized activities in water resources and wetlands should have a net environmental benefit to the State.

Sec. 13. 10 V.S.A. § 902(13) is added to read:

(13) "Dam removal" has the same meaning as in section 1080 of this title.

Sec. 14. 10 V.S.A. § 916 is amended to read:

§ 916. ~~REVISION~~ UPDATE OF VERMONT SIGNIFICANT WETLANDS INVENTORY MAPS

~~The Secretary shall revise the Vermont significant wetlands inventory maps to reflect wetland determinations issued under section 914 of this title and rulemaking by the panel under section 915 of this title.~~ (a) On or before January 1, 2026, and not less than annually thereafter, the Agency of Natural Resources shall update the Vermont Significant Wetlands Inventory (VSWI) maps. The annual updates to the VSWI shall include integration of georeferenced shapefiles or similar files for all verified delineations performed within the State and submitted to the Agency of Natural Resources as part of a permit application, as well as a wetlands determination issued under section 914 of this title and rulemaking conducted pursuant to section 915 of this title. The VSWI layer shall include integration of any additional town specific inventories of otherwise unmapped wetlands performed by consultants on the Agency's Wetland Consultant List if the consultant has presented the map to a municipality or the Agency of Natural Resources.

(b) On or before January 1, 2030, the Secretary of Natural Resources shall complete High Quality Wetlands Inventory (NWI) Plus level mapping for all of the tactical basins in the State. The high-quality mapping shall include a ground truthing component, as recommended by the U.S. Fish and Wildlife Service (USFWS). Once all tactical basins are mapped, the Agency shall evaluate the need for NWI Plus level map updates on a five-year cycle, simultaneously with updates to the corresponding tactical basin plan.

Sec. 15. 10 V.S.A. §§ 918 and 919 are added to read:

§ 918. NET GAIN OF WETLANDS; STATE GOAL; RULEMAKING

(a) On or before July 1, 2025, the Secretary of Natural Resources shall amend the Vermont Wetlands Rules pursuant to 3 V.S.A. chapter 25 to clarify

that the goal of wetlands regulation and management in the State is the net gain of wetlands to be achieved through protection of existing wetlands and restoration of wetlands that were previously adversely affected. This condition shall not apply to wetland, river, and flood plain restoration projects, including dam removals.

(b) The Vermont Wetlands Rules shall prioritize the protection of existing intact wetlands from adverse effects. Where a permitted activity in a wetland will cause more than 5,000 square feet of adverse effects that cannot be avoided, the Secretary shall mandate that the permit applicant restore, enhance, or create wetlands or buffers to compensate for the adverse effects on a wetland. The amount of wetlands to be restored, enhanced, or created shall be calculated, at a minimum, by determining the acreage or square footage of wetlands permanently drained or filled as a result of the permitted activity and multiplying that acreage or square footage by two, to result in ratio of 2:1 restoration to wetland loss. Establishment of a buffer zone contiguous to a wetland shall not substitute for the restoration, enhancement, or creation of wetlands. Adverse impacts to wetland buffers shall be compensated for based on the effects of the impact on wetland function.

(c) At a minimum, the Wetlands Rules shall be revised to:

(1) Require an applicant for a wetland permit that authorizes adverse impacts to more than 5,000 square feet of wetlands to compensate for those impacts through restoration, enhancement, or creation of wetland resources. Wetland, river, and floodplain restoration projects, including dam removal, shall be an allowed use within a wetland under this rule.

(2) Incorporate the net gain rule into requirements for permits issued after September 1, 2025.

(3) Establish a set of parameters and restoration ratios applicable to permittee-designed restored wetland restoration projects, including a minimum 2:1 ratio of restoration to loss to compensate for permanently filled or drained wetlands. These parameters shall include consideration of the following factors:

(A) the existing level of wetland function at the site prior to mitigation or restoration of wetlands;

(B) the amount of wetland acreage and wetland function lost as a result of the project;

(C) how the wetland acreage and functions will be restored at the proposed compensation site;

(D) the length of time before the compensation site will be fully functional;

(E) the risk that the compensation project may not succeed;

(F) the differences in the location of the adversely affected wetland and the wetland subject to compensation that affect the services and values offered; and

(G) the requirement that permittees conduct five years of post-restoration monitoring for the restored wetlands, at which time the Agency can decide if further action is needed.

(d) When amending the Vermont Wetlands Rules under this section, the Secretary shall establish a Vermont in-lieu fee (ILF) compensation program for wetlands impacts that may be authorized as compensation for an adverse effect on a wetland when the permittee cannot achieve restoration. The Secretary may implement a Vermont ILF compensation program through agreements with third-party entities such as the U.S. Army Corps of Engineers or environmental organizations, provided that any ILF monetary compensation authorized under the rules shall be expended on restoration, reestablishment, enhancement, or conservation projects within the State at the HUC 8 level of the adversely affected wetland when practicable.

§ 919. WETLANDS PROGRAM REPORTS

(a) On or before April 30, 2025, and annually thereafter, the Secretary of Natural Resources shall submit to the House Committee on Environment and Energy and to the Senate Committee on Natural Resources and Energy a report on annual losses and gains of significant wetlands in the State. The report shall include:

(1) the location and acreage of Class II wetland and buffer losses permitted by the Agency in accordance with section 913 of this title, for which construction of the permitted project has commenced;

(2) the acreage of Class II wetlands and buffers gained through permit-related enhancement and restoration;

(3) the number of site visits and technical assistance calls conducted by the Agency of Natural Resources, the number of permits processed by the Agency, and any enforcement actions that were taken by the Agency or the Office of the Attorney General in the previous year for violations of this chapter; and

(4) an updated mitigation summary of the extent of wetlands restored on-site compared with compensation performed off-site, in-lieu fees paid, or conservation.

(b) On or before April 30, 2027, and every five years thereafter, the Agency of Natural Resources shall submit to the House Committee on Environment and Energy and to the Senate Committee on Natural Resources and Energy a comprehensive report on the status of wetlands in the State. The report shall include:

(1) an analysis of historical trends of wetlands, including data analyzing the projects for which wetland permits were issued by county and tactical basin;

(2) the results of each NWI Plus Mapping Project, including net acres mapped, dominant vegetative composition, connected tributaries, locations of confirmed ground truthing, if applicable, and any other hydrologic soil or vegetative observations or trends noted; and

(3) relevant updates related to Class I and Class II wetlands to include additional wetlands identified under these categories, their composition and general characteristics, potential threats, patterns of use, and other unique features.

Sec. 16. 10 V.S.A. § 1274(a) is amended to read:

(a) Notwithstanding any other provision or procedure set forth in this chapter, if the Secretary finds that any person has discharged or is discharging any waste or damaging the ecological functions of wetlands in violation of this chapter or chapter 37 of this title, or that any person has failed to comply with any provisions of any order or permit issued in accordance with this chapter or chapter 37 of this title, the Secretary may bring suit in the Superior Court in any county where the discharge, damage to wetlands, or noncompliance has occurred to enjoin the discharge ~~and to~~, obtain compliance, and mandate restoration of damaged wetlands. The suit shall be brought by the Attorney General in the name of the State. The court may issue a temporary injunction or order in any such proceedings and may exercise all the plenary powers available to it in addition to the power to:

(1) Enjoin future discharges.

(2) Order the design, construction, installation, or operation of pollution abatement facilities or alternate waste disposal systems.

(3) Order the restoration of damaged wetlands. Wetlands damaged in violation of chapter 37 of this title may be ordered restored, enhanced, or created.

(4) Order the removal of all wastes discharged and the restoration of water quality.

~~(4)~~(5) Fix and order compensation for any public property destroyed, damaged, or injured or any aquatic or terrestrial biota harmed or destroyed. Compensation for fish taken or destroyed shall be deposited into the Fish and Wildlife Fund.

~~(5)~~(6) Assess and award punitive damages.

~~(6)~~(7) Levy civil penalties not to exceed $10,000.00 a day for each day of violation.

~~(7)~~(8) Order reimbursement to any agency of federal, State, or local government from any person whose discharge caused governmental expenditures.

Sec. 17. APPROPRIATIONS

In addition to other funds appropriated to the Agency of Natural Resources in fiscal year 2025, the amount of $300,000.00 shall be appropriated from the General Fund to fund two new positions to implement and comply with the requirements of Secs. 12–15 of this act.

* * * Dam Safety * * *

Sec. 18. 10 V.S.A. chapter 43 is amended to read:

CHAPTER 43. DAMS

§ 1079. PURPOSE

It is the purpose of this chapter to protect public safety and provide for the public good through the inventory, inspection, and evaluation of dams in the State.

§ 1080. DEFINITIONS

As used in this chapter:

(1) "Department" means the Department of Environmental Conservation.

* * *

(4) "Engineer" means a professional engineer licensed under Title 26 who has experience in the design and investigation of dams.

* * *

(6)(A) "Dam" means any artificial barrier, including its appurtenant works, that is capable of impounding water, other liquids, or accumulated sediments.

(B) "Dam" includes an artificial barrier that meets all of the following:

(i) previously was capable of impounding water, other liquids, or accumulated sediments;

(ii) was partially breached; and

(iii) has not been properly removed or mitigated.

(C) "Dam" ~~shall~~ does not mean:

(i) barriers or structures created by beaver or any other wild animal as that term is defined in section 4001 of this title;

(ii) transportation infrastructure that has no normal water storage capacity and that impounds water only during storm events;

(iii) an artificial barrier at a stormwater management structure that is regulated by the Agency of Natural Resources under chapter 47 of this title;

(iv) an underground or elevated tank to store water otherwise regulated by the Agency of Natural Resources;

(v) an agricultural waste storage facility regulated by the Agency of Agriculture, Food and Markets under 6 V.S.A. chapter 215; or

(vi) any other structure identified by the Department by rule.

(7) "Federal dam" means:

(A) a dam owned by the United States; or

(B) a dam subject to a Federal Energy Regulatory Commission license or exemption.

(8) "Intake structure" means a dam that is constructed and operated for the primary purposes of minimally impounding water for the measurement and withdrawal of streamflow to ensure use of the withdrawn water for snowmaking, potable water, irrigation, or other purposes approved by the Department.

(9) "Nonfederal dam" means a dam that is not a federal dam.

(10) "Dam removal" means all actions needed to eliminate the risk of dam failure-related inundation below the dam and include partial or complete structural removal to the extent that the dam is no longer capable of impounding water, liquid, or sediment.

§ 1081. JURISDICTION OF DEPARTMENT ~~AND PUBLIC UTILITY COMMISSION~~

(a) Powers and duties. Unless otherwise provided, the powers and duties authorized by this chapter shall be exercised by the Department~~, except that the Public Utility Commission shall exercise those powers and duties over nonfederal dams and projects that relate to or are incident to the generation of electric energy for public use or as a part of a public utility system~~ of Environmental Conservation. Nonfederal dams at which the generation of electric energy is subject to licensing jurisdiction under the Federal Power Act, 16 U.S.C. chapter 12, subchapter 1, and the dam structure is regulated separately from electric generation shall ~~not~~ be under the jurisdiction of the ~~Public Utility Commission~~ Department, except to the extent of regulation at those facilities related solely to electric generation under the Federal Power Act.

(b) Transfer of jurisdiction. ~~Jurisdiction over a nonfederal dam is transferred from the Department to the Public Utility Commission when the Public Utility Commission receives an application for a certificate of public good for electricity generation at that dam.~~ Jurisdiction over a federal dam is transferred to the Department when the license or exemption for a federal dam expires or is otherwise lost~~; when a certificate of public good is revoked or otherwise lost; or when the Public Utility Commission denies an application for a certificate of public good~~.

(c) Transfer of records. ~~Upon transfer of jurisdiction as set forth in subsection (b) of this section and upon written request, the State agency having former jurisdiction over a dam shall transfer copies of all records pertaining to the dam to the agency acquiring jurisdiction~~ Upon transfer of jurisdiction of any dam from the Public Utility Commission to the Department, the Public Utility Commission shall transfer copies of all records pertaining to the subject dam, including record drawings, construction drawings, engineering investigations and analyses, photographs, inspection reports, design, permitting, and emergency action planning documents and any other files pertaining to the subject dam, to the Department in digital and hardcopy format acceptable to the Department within 30 days following the jurisdictional transfer.

§ 1082. AUTHORIZATION

(a) No person shall construct, enlarge, raise, lower, remodel, reconstruct, or otherwise alter any nonfederal dam, pond, or impoundment or other structure that is or will be capable of impounding more than 500,000 cubic feet of water or other liquid after construction or alteration, or remove, breach, or otherwise lessen the capacity of an existing nonfederal dam that is or was capable of impounding more than 500,000 cubic feet within or along the borders of this State where land in this State is proposed to be overflowed, or at the outlet of any body of water within this State, unless authorized by the ~~State agency having jurisdiction so to do~~ Department, provided that an application for activities that require authorization under 30 V.S.A. § 248 also shall be approved by the Public Utility Commission. However, in the matter of flood control projects where cooperation with the federal government is provided for by the provisions of section 1100 of this title, that section shall control.

(b) For the purposes of this chapter, the volume a dam or other structure is capable of impounding is the volume of water or other liquid, including any accumulated sediments, controlled by the structure with the water or liquid level at the top of the lowest nonoverflow part of the structure.

(c) An intake structure in existence on July 1, 2018 that continues to operate in accordance with a valid Department permit or approval that contains requirements for inspection and maintenance subject to section 1105 of this title shall have a rebuttable presumption of compliance with the requirements of this chapter and rules adopted under this chapter, provided that no presumption of compliance shall apply if one or both of the following occur on or after July 1, 2018:

(1) the owner or operator of the intake takes an action that requires authorization under this section; or

(2) the Department issues an order under section 1095 of this title directing reconstruction, repair, removal, breaching, draining, or other action it considers necessary to improve the safety of the dam.

§ 1083. APPLICATION

(a) Any person who proposes to undertake an action subject to regulation pursuant to section 1082 of this title shall apply in writing to the ~~State agency having jurisdiction~~ Department. The application shall set forth:

(1) the location; the height, length, and other dimensions; and any proposed changes to any existing dam;

(2) the approximate area to be overflowed and the approximate number of or any change in the number of cubic feet of water to be impounded;

(3) the plans and specifications to be followed in the construction, remodeling, reconstruction, altering, lowering, raising, removal, breaching, or adding to;

(4) any change in operation and maintenance procedures; and

(5) other information that the ~~State agency having jurisdiction~~ Department considers necessary to review the application.

(b) The plans and specifications shall be prepared under the supervision of an engineer.

§ 1084. DEPARTMENT OF FISH AND WILDLIFE; INVESTIGATION

The Commissioner of Fish and Wildlife shall investigate the potential effects on fish and wildlife habitats of any proposal subject to section 1082 of this title and shall certify the results to the ~~State agency having jurisdiction~~ Department prior to any hearing or meeting relating to the determination of public good and public safety.

§ 1085. NOTICE OF APPLICATION

Upon receipt of the application required by section 1082 of this title, the ~~State agency having jurisdiction~~ Department shall give notice to the legislative body of each municipality in which the dam is located and to all interested persons. The Department shall provide notice of and an opportunity for public comment in accordance with chapter 170 of this title.

~~(1) The Department shall proceed in accordance with chapter 170 of this title.~~

~~(2) For any project subject to its jurisdiction under this chapter, the Public Utility Commission shall hold a hearing on the application. The purpose of the hearing shall be to determine whether the project serves the public good as defined in section 1086 of this title and provides adequately for the public safety. The hearing shall be held in a municipality in the vicinity of the proposed project and may be consolidated with other hearings, including hearings under 30 V.S.A. § 248 concerning the same project. Notice shall be given at least 10 days before the hearing to interested persons by posting in the municipal offices of the towns in which the project will be completed and by publishing in a local newspaper.~~

§ 1086. DETERMINATION OF PUBLIC GOOD; CERTIFICATES

(a) "Public good" means the greatest benefit of the people of the State. In determining whether the public good is served, the ~~State agency having jurisdiction~~ Department shall give due consideration to public safety and, among other things, the effect the proposed project will have on:

(1) the quantity, kind, and extent of cultivated agricultural land that may be rendered unfit for use by or enhanced by the project, including both the immediate and long-range agricultural land use impacts;

(2) scenic and recreational values;

(3) fish and wildlife;

(4) forests and forest programs;

(5) [Repealed.]

(6) the existing uses of the waters by the public for boating, fishing, swimming, and other recreational uses;

(7) the creation of any hazard to navigation, fishing, swimming, or other public uses;

(8) the need for cutting clean and removal of all timber or tree growth from all or part of the flowage area;

(9) the creation of any public benefits;

(10) attainment of the Vermont water quality standards;

(11) any applicable State, regional, or municipal plans;

(12) municipal grand lists and revenues; and

(13) ~~public safety; and~~

~~(14)~~ in the case of the proposed removal of a dam that formerly related to or was incident to the generation of electric energy, but that was not subject to a memorandum of understanding dated prior to January 1, 2006 relating to its removal, the potential for and value of future power production.

(b) If the ~~State agency having jurisdiction~~ Department finds that the project proposed under section 1082 of this title will serve the public good, and, in case of any waters designated by the Secretary as outstanding resource waters, will preserve or enhance the values and activities sought to be protected by designation, the agency shall issue its order approving the application. The order shall include conditions for attainment of water quality standards, as determined by the Agency of Natural Resources, and such other conditions as the ~~agency having jurisdiction~~ Department considers necessary to protect any element of the public good listed in subsection (a) of this section. Otherwise it shall issue its order disapproving the application.

(c) The ~~State agency having jurisdiction~~ Department shall provide the applicant and interested persons with copies of its order.

(d) In the case of a proposed removal of a dam that is under the jurisdiction of the Department and that formerly related to or was incident to the generation of electric energy but that was not subject to a memorandum of understanding dated before January 1, 2006 relating to its removal, the Department shall consult with the Department of Public Service regarding the potential for and value of future power production at the site.

§ 1087. REVIEW OF PLANS AND SPECIFICATIONS

For any proposal subject to authorization under section 1082 of this title, the ~~State agency having jurisdiction~~ Department shall ~~employ~~ require an engineer to investigate the property, review the plans and specifications, and make additional investigations as the ~~State agency having jurisdiction~~ Department considers necessary to ensure that the project adequately provides for the public safety. The engineer conducting an investigation under this section shall be an employee of the Department or shall be operating under the supervision of the Department as an independent consultant hired by either the Department or the project proponent. The engineer shall report ~~his or her~~ the engineer's findings to the ~~State agency having jurisdiction~~ Department.

§ 1089. EMPLOYMENT OF ENGINEER

~~With the approval of the Governor, the State agency having jurisdiction may employ an engineer to investigate the property, review the plans and specifications, and make such additional investigation as the State agency shall deem necessary, and such engineer shall report to the State agency his or her findings in respect thereto~~ The Department shall employ engineers to perform the duties required under this chapter to adequately provide for public safety.

§ 1090. CONSTRUCTION SUPERVISION

The construction, alteration, or other action authorized in section 1086 of this title shall be supervised by an engineer employed by the applicant. Upon completion of the authorized project, the engineer shall ~~certify~~ provide confirmation to the ~~agency having jurisdiction~~ Department that the project has been completed in ~~conformance~~ general accordance with the approved plans and specifications and dam order conditions.

§ 1095. UNSAFE DAM; PETITION; HEARING; EMERGENCY

(a) On receipt of a petition signed by ~~no~~ not fewer than ~~ten~~ 10 interested persons or the legislative body of a municipality, the ~~State agency having jurisdiction~~ Department shall, or upon its own motion it may, institute investigations by an engineer as described in section 1087 of this title regarding the safety of any existing nonfederal dam or portion of the dam of any size. The ~~agency~~ Department may fix a time and place for hearing and

shall give notice in the manner it directs to all interested persons. The engineer shall present ~~his or her~~ the engineer's findings and recommendations at the hearing. After the hearing, if the Department finds that the nonfederal dam or portion of the dam as maintained or operated is unsafe or is a menace to people or property above or below the dam, it shall issue an order directing reconstruction, repair, removal, breaching, draining, or other action it considers necessary to improve the safety of the dam sufficiently to protect life and property as required by the ~~State agency having jurisdiction~~ Department.

(b) If, upon the expiration of ~~such~~ a date as may be ordered, the person owning legal title to ~~such~~ the dam or the owner of the land on which the dam is located has not complied with the order directing the reconstruction, repair, breaching, removal, draining, or other action of ~~such~~ the unsafe dam, the ~~State agency having jurisdiction~~ Department may petition the Superior Court in the county in which the dam is located to enforce its order or exercise the right of eminent domain to acquire the rights that may be necessary to effectuate a remedy as the public safety or public good may require. If the order has been appealed, the court may prohibit the exercise of eminent domain by the ~~State agency having jurisdiction~~ Department pending disposition of the appeal.

(c) If, upon completion of the investigation described in subsection (a) of this section, the ~~State agency having jurisdiction~~ Department considers the dam to present an imminent threat to human life or property, it shall take whatever action it considers necessary to protect life and property and subsequently shall conduct the hearing described in subsection (a) of this section.

§ 1099. APPEALS

~~(a)~~ Appeals of any act or decision of the Department under this chapter shall be made in accordance with chapter 220 of this title.

~~(b) Appeals from actions or orders of the Public Utility Commission may be taken in the Supreme Court in accord with 30 V.S.A. § 12.~~

* * *

§ 1105. INSPECTION OF DAMS

(a) Inspection; schedule. All nonfederal dams in the State shall be inspected according to a schedule adopted by rule by the ~~State agency having jurisdiction over the dam~~ Department.

(b) Dam inspection. A nonfederal dam in the State shall be inspected under one or both of the following methods:

(1) The ~~State agency having jurisdiction over a dam~~ Department may employ an engineer to make periodic inspections of nonfederal dams in the State to determine their condition and the extent, if any, to which they pose a possible or probable threat to life and property.

(2) The ~~State agency having jurisdiction~~ Department shall adopt rules pursuant to 3 V.S.A. chapter 25 to require an adequate level of inspection by an independent engineer.

(c) Dam safety reports. If a dam inspection report is completed by the ~~State agency having jurisdiction, the agency~~ Department, the Department shall provide the person owning legal title to the dam or the owner of the land on which the dam is located with a copy of the inspection report and shall make all inspection reports available on the Department website for public review. For dams owned by the State, the Department shall provide the inspection report to the designated point of contact for the dam at the State entity owning the dam and make the information available to the public on the Department website.

(d) Notice of unsafe State dam. Notwithstanding the timing for submission of a dam safety report under subsection (c) of this section, if the Department determines that a State dam is unsafe and in need of repair or removal, the Department shall immediately notify the designated point of contact of the State entity that owns the dam and make this information available to the public on the Department website.

§ 1106. ~~UNSAFE~~ DAM SAFETY REVOLVING LOAN FUND

(a) There is hereby established a special fund to be known as the Vermont ~~Unsafe~~ Dam Safety Revolving Loan Fund that shall be used to provide ~~grants and loans to municipalities, nonprofit entities, and private individuals~~ low- or zero-interest loans, including subsidized loans as established under subsection (b) of this section and the rules adopted under section 1110 of this title, pursuant to rules adopted by the Agency of Natural Resources, for the reconstruction, repair, removal, breaching, draining, or other action necessary to reduce the ~~threat~~ risk of a dam ~~or portion of a dam determined to be unsafe pursuant to section 1095 of this chapter~~.

(b) Funds from the Dam Safety Revolving Loan Fund shall be available for both emergency and nonemergency projects. To be eligible for a Dam Safety Loan, the dam shall meet the conditions associated with the funding type:

(1) Emergency funding. To provide emergency funding for critical, time-sensitive temporary safety or risk reduction measures such as reservoir drawdown, partially or fully breaching the dam, stabilization or buttressing of the dam, including engineering and emergency action planning activities. To be eligible for emergency funding, the dam must meet the following criteria:

(A) The dam must be under the regulatory jurisdiction of the DEC Dam Safety Program, including dams owned by the State of Vermont.

(B) The dam must be in need of critical time-sensitive safety or risk reduction measures in order to protect public safety and property, or be a dam found to be unsafe or a menace to public safety under section 1095 of this title. The Dam Safety Program shall be able to access the fund on behalf of owners in cases of emergency, immediate need, or in the case of unwilling or unable dam owners.

(2) Nonemergency funding. For permanent safety or risk reduction projects such as repair, rehabilitation, or removal, including engineering, analyses, design, and construction. To be eligible for nonemergency funding, the dam must meet the following criteria:

(A) The dam must be under the regulatory jurisdiction of the DEC Dam Safety Program, excluding dams owned by the State of Vermont.

(B) The dam must be classified as a significant or high-hazard potential dam and in fair, poor, or unsatisfactory condition based on the last periodic or comprehensive inspection.

(C) For funding for nonemergency repair or rehabilitation projects, the dam owner shall provide an operation and maintenance plan and dam safety compliance schedule as well as financial information to show sufficient resources are available to maintain the dam and comply with the dam safety rules after the completion of repairs or the rehabilitation project.

(D) For funding for nonemergency construction, the applicant shall provide proof that applicable local, State, and federal permits have been obtained, including the State Dam Safety Order.

(E) To be eligible for nonemergency funding, an alternatives analysis of dam repair, rehabilitation, and removal options that considers an evaluation of risk reduction, dam safety and ecological resilience and public benefits considerations, and costs shall be completed, pursuant to the rule adopted by the Department.

(F) Under this subdivision (b)(2), only engineering, analysis, design, and construction that result in acceptable risk reduction are eligible for loan subsidy.

(c) The Fund created by this section 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 purposes set forth in this section. The funds shall be invested in the same manner as permitted for investment of funds belonging to the State or held in the Treasury. The Fund shall consist of the following:

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

(2) ~~Principal~~ principal and interest received from the repayment of loans made from the Fund~~.~~;

(3) ~~Capitalization~~ capitalization grants and awards made to the State by the United States of America for the purposes for which the Fund has been established~~.~~;

(4) ~~Interest~~ interest earned from the investment of Fund balances~~.~~;

(5) ~~Private~~ private gifts, bequests, and donations made to the State for the purposes for which the Fund has been established~~.~~; and

(6) ~~Other~~ other funds from any public or private source intended for use for any of the purposes for which the Fund has been established.

~~(c)~~(d) The Secretary may bring an action under this subsection or other available State and federal laws against the owner of the dam to seek reimbursement to the Fund for all loans made from the Fund pursuant to this section.

(e)(1) Annually, on or before January 31, the Department shall report to the House Committee on Environment and Energy and the Senate Committee on Natural Resources and Energy regarding operation and administration of the Dam Safety Program. The report shall include:

(A) details on all emergency and nonemergency loans made from the Dam Safety Fund during the previous year;

(B) a description of each project funded from the Dam Safety Fund, including dam name, town and waterbody in which the dam is located, hazard classification, dam condition, details of the repair or removal, year of the last and next Department inspection, project cost, loan amount, and repayment terms;

(C) for emergency loans, justification for the emergency and an explanation why action was needed to be undertaken immediately using State funds; and

(D) a projection of loan repayment income to the fund.

(2) The Department shall post reports made under this subsection to its website on the same date the report is submitted to the General Assembly.

§ 1107. HAZARD POTENTIAL CLASSIFICATIONS

(a) The ~~State agency having jurisdiction over a nonfederal dam listed in the Vermont Dam Inventory~~ Department shall assess the hazard potential classification of ~~the dam~~ all nonfederal dams listed in the Vermont Dam Inventory based on the potential loss of human life, property damage, and economic loss that would occur in the event of the failure of the dam. There shall be four hazard potential classifications: high, significant, low, and minimal.

(b) The ~~State agency having jurisdiction over a nonfederal dam on the Vermont Dam Inventory~~ Department may assess or reassess the hazard potential classification of the dam at any time.

* * *

§ 1110. RULEMAKING

The Commissioner of Environmental Conservation shall adopt rules to implement the requirements of this chapter for dams under the jurisdiction of the Department. The rules shall include:

(1) a standard or regulatory threshold under which a dam is exempt from the registration or inspection requirements of this chapter;

(2) standards for:

(A) the siting, design, construction, reconstruction, enlargement, modification, or alteration of a dam;

(B) operation and maintenance of a dam;

(C) inspection, monitoring, record keeping, and reporting;

(D) repair, breach, or removal of a dam;

(E) application for authorization under section 1082 of this title; and

(F) the development of an emergency action plan for a dam, including guidance on how to develop an emergency action plan, the content of a plan, and when and how an emergency action plan should be updated;

(3) criteria for the hazard potential classification of dams in the State;

(4) a process by which a person owning legal title to a dam or a person owning the land on which the dam is located shall register a dam and record the existence of the dam in the lands records; ~~and~~

(5) requirements for the person owning legal title to a dam or the person owning the land on which the dam is located to conduct inspections of the dam; and

(6) requirements for access to financing and subsidy from the Dam Safety Revolving Loan Fund, including the requirement that an alternatives analysis be performed by an engineering consultant hired by either the dam owner or the Department.

§ 1111. ~~NATURAL RESOURCES ATLAS; DAM STATUS~~

~~Annually on or before January 1, the Public Utility Commission shall submit to the Department updated inventory information from the previous calendar year for dams under the jurisdiction of the Public Utility Commission.~~ [Repealed.]

Sec. 19. 2018 Acts and Resolves No. 161, Sec. 2, as amended by 2023 Acts and Resolves No. 79, Sec. 1, is further amended to read:

Sec. 2. DAM REGISTRATION PROGRAM REPORT

On or before January 1, ~~2025~~ 2026, 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. 20. 2018 Acts and Resolves No. 161, Sec. 3, as amended by 2023 Acts and Resolves No. 79, Sec. 2, is further 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, ~~2024~~ 2025.

Sec. 21. DAM SAFETY DIVISION POSITIONS

In addition to other funds appropriated to the Agency of Natural Resources in fiscal year 2025:

(1) $900,000.00 is appropriated from the General Fund for the purposes of funding six new permanent full-time classified positions in the Dam Safety Division of the Department of Environmental Conservation; and

(2) $2,000,000.00 is appropriated from the General Fund for the purposes of implementation of the Dam Safety Revolving Loan Fund.

Sec. 22. STUDY COMMITTEE ON DAM EMERGENCY OPERATIONS PLANNING

(a) Creation. There is created the Study Committee on Dam Emergency Operations Planning to review and recommend how to improve regional emergency action planning for hazards caused by dam failure, including how to shift responsibility for emergency planning from individual municipalities to regional authorities, how to improve regional implementation of dam emergency response plans, and how to fund dam emergency action planning at the regional level.

(b) Membership. The Study Committee on Dam Emergency Operations Planning shall be composed of the following members:

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

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

(3) one member of the Department of Environmental Conservation Dam Safety Program, who shall be appointed by the Governor;

(4) two members representing regional planning commissions in the State, who shall be appointed by the Committee on Committees;

(5) one member of the Division of Emergency Management, who shall be appointed by the Governor;

(6) two legal owners of a dam, one of whom shall own a dam capable of generating electricity, who shall be appointed by the Speaker upon recommendation of the Dam Safety Program of the Department of Environmental Conservation; and

(7) one or more emergency management director or incident commander from a municipality with experience in developing and carrying out an emergency operation plan.

(c) Powers and duties. The Study Committee on Dam Emergency Operations Planning shall:

(1) identify those dams in the State that are classified as high-hazard dams;

(2) summarize the existing responsibilities of individual municipalities to prepare for and implement existing emergency response plans, including how those responsibilities are funded and whether placing responsibility with individual municipalities is appropriate;

(3) identify the regional planning commissions in which a dam identified under subdivision (1) of this subsection are located;

(4) recommend the content for a regional emergency action plan for each dam identified under subdivision (1) of this subsection, including identifying necessary evacuations, how evacuees will be sheltered and provided care, and the location of emergency management centers for each dam;

(5) recommend who should prepare a regional emergency action plan for each dam identified under subdivision (1) of this subsection, including the basis for the recommendation and the role that regional planning commissions should play in the preparation of the plans;

(6) estimate the cost of the production of regional emergency action plans for dams; and

(7) estimate the cost for regional planning commissions and municipalities to implement an emergency action plan, including a recommended source of the funding.

(d) Assistance. For purposes of scheduling meetings and administrative support, the Study Committee shall have the assistance of the Office of Legislative Operations. For purposes of providing legal assistance and drafting of legislation, the Study Committee shall have the assistance of the Office of Legislative Counsel. For the purpose of providing fiscal assistance, the Study Committee shall have the assistance of the Joint Fiscal Office.

(e) Report. On or before December 15, 2024, the Study Committee shall submit a written report to the General Assembly with its findings and any recommendations for legislative action. Any recommendation for legislative action shall be submitted as draft legislation.

(f) Meetings.

(1) The Office of Legislative Counsel shall call the first meeting of the Study Committee.

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

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

(4) The Study Committee shall cease to exist on March 1, 2025.

(g) Compensation and reimbursement.

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

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

Sec. 23. DETERMINATION OF FEDERAL ENERGY REGULATORY COMMISSION (FERC) JURISDICTION

Nonfederal hydroelectric projects without a valid pre-1920 license may be subject to the Federal Energy Regulatory Commission's (FERC) jurisdiction and may require a license from FERC to operate. By July 31, 2025, the

Department of Environmental Conservation, in coordination with the Public Utility Commission, shall file petitions for a Declaratory Order from FERC to determine whether projects currently under the Public Utility Commission's jurisdiction fall under FERC's hydroelectric licensing jurisdiction. The Public Utility Commission shall provide notice to the dam owner when a petition is filed with FERC.

Sec. 24. TRANSITION; DAMS

(a) On or before July 1, 2028, the Department of Environmental Conservation shall assume jurisdiction under 10 V.S.A. chapter 43 of all dams within the jurisdiction of the Public Utility Commission as of July 1, 2024.

(b) On or before January 15, 2026 and annually thereafter until the Department of Environmental Conservation has assumed jurisdiction under 10 V.S.A. chapter 43 over all dams from the Public Utility Commission, the Department of Environmental Conservation shall report to the Senate Committee on Natural Resources and Energy and the House Committee on Environment and Energy regarding progress in preparation for transfer of jurisdiction of the dams from the Public Utility Commission to the Department of Environmental Conservation.

(c) Notwithstanding the effective date of Sec. 18 of this act (transfer of dam safety jurisdiction), the Public Utility Commission shall retain jurisdiction over dams within its control as of July 1, 2024 until the Department of Environmental Conservation assumes the jurisdiction of each dam as required by subsection (a) of this section. While the Public Utility Commission continues to exercise authority under 10 V.S.A. chapter 43, as it existed on June 30, 2024, the Public Utility Commission shall apply the dam design standard rules as adopted by the Department of Environmental Conservation.

(d) The rulemaking required under Sec. 18 (dam safety transfer) of this act under 10 V.S.A. § 1110(6) and (7) shall be completed on or before July 1, 2027.

(e) Funding from the Dam Safety Revolving Fund, as amended by Sec. 18 of this act (dam safety transfer) shall be available for nonemergency use upon the completion of rulemaking required under 10 V.S.A. §1110 (6) and (7).

* * * Basin Planning * * *

Sec. 25. 10 V.S.A. § 1253(d) is amended to read:

(d)(1) Through the process of basin planning, the Secretary shall determine what degree of water quality and classification should be obtained and maintained for those waters not classified by the Board before 1981 following the procedures in sections 1254 and 1258 of this title. Those waters shall be

classified in the public interest. The Secretary shall prepare and maintain an overall surface water management plan to assure that the State water quality standards are met in all State waters. The surface water management plan shall include a schedule for updating the basin plans. The Secretary, in consultation with regional planning commissions and the Natural Resources Conservation Council, shall revise all 15 basin plans and update the basin plans on a five-year rotating basis. On or before January 15 of each year, the Secretary shall report to the House Committees on Agriculture, Food Resiliency, and Forestry and on ~~Natural Resources, Fish, and Wildlife~~ Environment and Energy and to the Senate Committees on Agriculture and on Natural Resources and Energy regarding the progress made and difficulties encountered in revising basin plans. The report shall include a summary of basin planning activities in the previous calendar year, a schedule for the production of basin plans in the subsequent calendar year, and a summary of actions to be taken over the subsequent three years. 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.

(2) In developing a basin plan under this subsection, the Secretary shall:

(A) identify waters that should be reclassified outstanding resource waters or that should have one or more uses reclassified under section 1252 of this title;

(B) identify wetlands that should be reclassified as Class I wetlands;

(C) identify projects or activities within a basin that will result in the protection and enhancement of water quality;

* * *

(J) provide for public notice of a draft basin plan; ~~and~~

(K) provide for the opportunity of public comment on a draft basin plan; and

(L) identify opportunities to mitigate impacts of severe precipitation events on communities through implementation of nature-based restoration projects or practices that increase natural flood water attenuation and storage.

* * * Expanded Polystyrene Foam * * *

Sec. 26. 10 V.S.A. chapter 47, subchapter 2B is added to read:

Subchapter 2B. Expanded Polystyrene Foam

§ 1321. DEFINITIONS

As used in this subchapter:

(1) "Buoy" means any float or marker that is attached to a mooring anchor and either is suitable for attachment to a boat through the use of a pennant or other device or facilitates the attachment of the boat to the mooring anchor.

(2) "Dock" means an unenclosed structure secured to land, land under waters, or a mooring or a floating structure that is used for mooring boats or for recreational activities, such as a swimming, fishing, or sunbathing platform. A dock includes a structure that is partially enclosed or has two or more levels.

(3) "Encapsulated" means a protective covering or physical barrier between the polystyrene device and the water.

(4) "Expanded polystyrene foam" means a thermoplastic petrochemical material utilizing the styrene monomer that is processed according to multiple techniques, including fusion of polymer spheres, injection molding, form molding, and extrusion-blow molding.

(5) "Floating structure" means a structure constructed on or in a water of the State that is supported by flotation and is secured in place by a piling or mooring anchor, including boathouses, fueling structures, floating homes, marinas, walkways, or boarding platforms.

(6) "Mooring anchor" means any anchor or weight that is designed to:

(A) rest on the land under water or be buried in the land under water;

(B) be attached to a buoy or floating structure by a chain, rope, or other mechanism; and

(C) be left in position permanently or on a seasonal basis.

§ 1322. INSTALLATION, REPAIR, REMOVAL, AND SALE OF BUOYS, DOCKS, OR FLOATING STRUCTURES

(a) Encapsulation required. Expanded polystyrene foam used for flotation, including buoys, docks, or floating structures, shall be encapsulated by a protective covering or shall be designed to prevent the expanded polystyrene foam from disintegrating into the water.

(b) Prohibition; unencapsulated polystyrene and open-cell (beaded) polystyrene; repair. No person shall use unencapsulated polystyrene or open-cell (beaded) polystyrene for the installation of a new buoy, dock, or floating structure on the waters of the State. Unencapsulated polystyrene materials and open-cell beaded polystyrene shall not be used for the repair of buoys, docks, or floating structures on waters of the State.

(c) Methods of encapsulation.

(1) Encapsulation of a buoy, dock, or floating structure required under subsection (a) of this section shall completely cover or be a physical barrier between the expanded polystyrene foam and the water. Small gaps up to 0.75-inch-diameter ballast holes are permitted in the physical barrier or covering provided they are 0.1 percent or less of the square footage of the buoy, dock, or floating structure.

(2) All materials and methods of encapsulation shall provide an effective physical barrier between the expanded polystyrene foam and the water for a period not less than 10 years. Any fasteners used to hold encapsulation materials together shall be effectively treated or be of a form resistant to corrosion and decay.

(d) Disposal. Irreparable encapsulated polystyrene, unencapsulated polystyrene, and irreparable encapsulated open-cell (beaded) polystyrene used for flotation, including buoys, docks, or floating structures, shall be properly disposed of in an approved manner.

(e) Sale or distribution. No person shall sell, offer for sale, or otherwise distribute for compensation within the State dock floats, mooring buoys, or anchor or navigation markers made, in whole or in part, from expanded polystyrene foam that is:

(1) not wholly encapsulated or encased within a more durable material; or

(2) open-cell (beaded) polystyrene, including materials that are encapsulated and unencapsulated.

§ 1323. NUISANCE

The use of unencapsulated polystyrene as a flotation device in waters of the State, including in any dock system, float, mooring system, or buoy, is declared a nuisance and public health hazard and may be prosecuted as provided in the Vermont Revised Statutes.

§ 1324. RULEMAKING

The Secretary may adopt rules to implement the requirements of this subchapter.

Sec. 27. APPROPRIATIONS

The amount of $50,000.00 shall be appropriated from the General Fund to the Department of Environmental Conservation to support education and outreach regarding the requirements and prohibitions for the use of expanded polystyrene foam or open-cell (beaded) polystyrene in waters of the State.

* * * Floodplain Management; Use Value Appraisal Program * * *

Sec. 28. STUDY COMMITTEE ON ENROLMENT OF FLOODPLAIN MANAGEMENT LAND IN USE VALUE APPRAISAL; REPORT

(a) Creation. There is created the Study Committee on Enrolling Floodplain Management Land in the Use Value Appraisal Program to determine whether or how to authorize the enrollment of land designated for floodplain management in the Use Value Appraisal (UVA) Program.

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

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

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

(3) the Director of Property Valuation and Review or designee;

(4) the Director of the Rivers Program within the Watershed Management Division at the Department of Environmental Conservation or designee;

(5) the Secretary of Agriculture, Food and Markets or designee;

(6) a member of the Current Use Advisory Board, who shall be appointed by the Speaker of the House; and

(7) a member of a statewide environmental organization, who shall be appointed by the Committee on Committees.

(c) Powers and duties. The Study Committee shall evaluate the following questions:

(1) whether and why real property managed to provide flood mitigation or flood resilience services should or should not be authorized to enroll in the UVA Program; and

(2) if the Study Committee recommends that real property that provides flood mitigation or flood resilience services should be allowed to enroll in the UVA Program, what should be the criteria for enrollment, what should be the

use value rate for qualifying enrolled real property, and what should be the timeline for enrollment.

(d) Assistance. The Study Committee shall have the administrative, technical, legal, and fiscal assistance of the Department of Taxes.

(e) Report. On or before January 15, 2025, the Study Committee shall submit a written report to the Senate Committees on Finance and on Natural Resources and Energy and the House Committees on Ways and Means and on Environment and Energy with its findings and any recommendations for legislative action, including proposed legislative language.

(f) Meetings.

(1) The Director of Property Valuation and Review or designee shall call the first meeting of the Study Committee to occur on or before September 1, 2025.

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

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

(4) The Study Committee shall cease to exist on March 1, 2025.

(g) Compensation and reimbursement.

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

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

* * * Effective Dates * * *

Sec. 29. EFFECTIVE DATES

(a) This section and Secs. 19 (dam registration report), 20 (dam design standard rules), and 23 (FERC petition) shall take effect on passage.

(b) All other sections shall take effect July 1, 2024, except that:

(1) in Sec. 18, 10 V.S.A. § 1106 (Dam Safety Revolving Loan Fund) shall take effect on passage;

(2) under Sec. 25 (basin planning), the requirement shall be effective for updated Tactical Basin Plans that commence on or after January 1, 2025; and

(3) in Sec. 26 (expanded polystyrene foam requirements), 10 V.S.A. § 1324 (ANR rulemaking) shall take effect on passage.

(Committee vote: 5-0-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Natural Resources and Energy, with further amendments as follows:

First: In Sec. 3, Department of Environmental Conservation; River Corridor Base Map; infill mapping; education and outreach, by striking out subsection (c) in its entirety

Second: In Sec. 10, Study Committee on State Administration of the National Flood Insurance Program, in subsection (b), by striking out subdivisions (1) and (2) in their entireties and by renumbering the remaining subdivisions in subsection (b) to be numerically correct

and in Sec. 10, by striking out the newly renumbered subdivision (b)(3) in its entirety and inserting in lieu thereof of a new subdivision (b)(3) to read as follows:

(3) two members to represent Vermont municipalities, one member from a municipality with a population of 5,000 or more persons, appointed by the Committee on Committees, and one member from a municipality with a population of less than 5,000 persons, appointed by the Speaker of the House.

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

(d) Assistance. For purposes of scheduling meetings, administrative support, legal assistance, and fiscal assistance, the Study Committee shall have the assistance of the Agency of Natural Resources.

and in Sec. 10, in subdivision (f)(1), after "(1) The" and before "shall call the first meeting" by striking out "Office of Legislative Counsel" and inserting in lieu thereof Secretary of Natural Resources or designee

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

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

Third: In Sec. 11, transition; implementation; appropriations; positions, by striking out subsection (d) in its entirety

Fourth: By striking out Sec. 17, appropriations, in its entirety and inserting in lieu thereof the following:

Sec. 17. [Deleted.]

Fifth: By striking out Sec. 21, Dam Safety Division Positions, in its entirety and inserting in lieu thereof the following:

Sec. 21. [Deleted.]

Sixth: In Sec. 22, Study Committee on Dam Emergency Operations Planning, in subsection (b), by striking out subdivisions (1) and (2) in their entireties and by renumbering the remaining subdivisions in subsection (b) to be numerically correct

and in Sec. 22, by striking out subsection (d) in its entirety and inserting in lieu thereof a new subsection (d) to read as follows:

(d) Assistance. For purposes of scheduling meetings, administrative support, legal assistance, and fiscal assistance, the Study Committee shall have the assistance of the Agency of Natural Resources.

and in Sec. 22, in subdivision (f)(1), after "(1) The" and before "shall call the first meeting" by striking out Office of Legislative Counsel and inserting in lieu thereof Secretary of Natural Resources or designee

and in Sec. 22, by striking out subsection (g) in its entirety and inserting in lieu thereof a new subsection (g) to read as follows:

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

Seventh: In Sec. 24, transition; dams, in subsection (d), after "§ 1110(6)" and before "shall be completed" by striking out "and (7)

Eighth: By striking out Sec. 27, appropriations, in its entirety and inserting in lieu thereof the following:

Sec. 27. [Deleted.]

Ninth: In Sec. 28, Study Committee on Enrollment of Floodplain Management Land in Use Value Appraisal; report, in subsection (b), by striking out subdivisions (1) and (2) in their entireties and by renumbering the remaining subdivisions in subsection (b) to be numerically correct

(Committee vote: 6-0-1)

S. 220.

An act relating to Vermont's public libraries.

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

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

* * * Library Policies; Selection and Retention of Library Materials * * *

Sec. 1. 22 V.S.A. § 67 is amended to read:

§ 67. PUBLIC LIBRARIES; STATEMENT OF POLICY; USE OF FACILITIES AND RESOURCES

* * *

(c) To ensure that Vermont libraries protect and promote the principles of free speech, inquiry, discovery, and public accommodation, it is necessary that the trustees, managers, or directors of free public libraries adopt policies that comply with the First Amendment to the U.S. Constitution and State and federal civil rights and antidiscrimination laws.

Sec. 2. 22 V.S.A. § 69 is added to read:

§ 69. PUBLIC LIBRARIES; SELECTION AND RECONSIDERATION OF LIBRARY MATERIALS

A public library shall adopt a policy for the selection and reconsideration of library materials that complies with the First Amendment to the U.S. Constitution, the Civil Rights Act of 1964, and State laws prohibiting discrimination in places of public accommodation. A public library may adopt as its policy a model policy adopted by the Department of Libraries pursuant to section 606 of this title.

* * * Confidentiality of Library Records; Minors * * *

Sec. 3. 22 V.S.A. § 172 is amended to read:

§ 172. LIBRARY RECORD CONFIDENTIALITY; EXEMPTIONS

* * *

(b) Unless authorized by other provisions of law, the library's officers, employees, and volunteers shall not disclose the records except:

* * *

(4) to custodial parents or guardians of patrons under ~~age 16~~ 12 years of age; or

* * *

* * * Public Safety * * *

Sec. 4. 13 V.S.A. § 1702 is amended to read:

§ 1702. CRIMINAL THREATENING

* * *

(d) A person who violates subsection (a) of this section by making a threat that places any person in reasonable apprehension that death, serious bodily injury, or sexual assault will occur at a public or private school; postsecondary education institution; public library; place of worship; polling place during election activities; the Vermont State House; or any federal, State, or municipal building shall be imprisoned not more than two years or fined not more than $2,000.00, or both.

* * *

(h) As used in this section:

* * *

(12) "Public library" means a public library as defined in 22 V.S.A. § 101.

* * *

* * * Library Governance * * *

Sec. 5. 22 V.S.A. § 105 is amended to read:

§ 105. GENERAL POWERS

(a) The trustees, managers, or directors shall:

(1) elect the officers of the corporation from their number and have the control and management of the affairs, finances, and property of the corporation~~,~~;

(2) adopt bylaws and policies governing the operation of the library;

(3) establish a library budget;

(4) hold regular meetings; and

(5) ensure compliance with the terms of any funding, grants, or bequests.

(b) The Trustees, managers, or directors may:

(1) accept donations and, in their discretion, hold the donations in the form in which they are given for the purposes of science, literature, and art germane to the objects and purposes of the corporation~~. They may,~~; and

(2) in their discretion, receive by loan books, manuscripts, works of art, and other library materials and hold or circulate them under the conditions specified by the owners.

Sec. 6. 22 V.S.A. § 143 is amended to read:

§ 143. TRUSTEES

(a) Unless a municipality ~~which~~ that has established or shall establish a public library votes at its annual meeting to elect a board of trustees, the governing body of the municipality shall appoint the trustees. The appointment or election of the trustees shall continue in effect until changed at an annual meeting of the municipality. When trustees are first chosen, they shall be elected or appointed for staggered terms.

(b) The board shall consist of not less than five trustees who shall have full power to:

(1) manage the public library~~, make~~ and any property that shall come into the hands of the municipality by gift, purchase, devise, or bequest for the use and benefit of the library;

(2) adopt bylaws~~,~~ and policies governing the operation of the library;

(3) elect officers~~, establish a library policy and receive, control and manage property which shall come into the hands of the municipality by gift, purchase, devise or bequest for the use and benefit of the library~~;

(4) establish a library budget;

(5) hold regular meetings; and

(6) ensure compliance with the terms of any funding, grants, or bequests.

(c) The board may appoint a director for the efficient administration and conduct of the library. A library director shall be under the supervision and control of the library board of trustees.

~~(b) When trustees are first chosen, they shall be elected or appointed for staggered terms.~~

* * * Department of Libraries * * *

Sec. 7. 22 V.S.A. § 606 is amended to read:

§ 606. OTHER DUTIES AND FUNCTIONS

The Department, in addition to the functions specified in section 605 of this title:

* * *

(5) ~~May~~ Shall provide a continuing education program for a Certificate in Public Librarianship. The Department shall conduct seminars, workshops, and other programs to increase the professional competence of librarians in the State.

* * *

(8) Shall ~~be the primary access point for State information, and~~ provide advice on State information technology policy.

(9) May develop and adopt model policies for free public libraries concerning displays, meeting room use, patron behavior, internet use, materials reconsideration, and other relevant topics to ensure substantive compliance with the First Amendment to the U.S. Constitution and Vermont laws prohibiting discrimination.

(10) Shall adopt a collection development policy that reflects Vermont's diverse people and history, including diversity of race, ethnicity, sex, gender identity, sexual orientation, disability status, religion, and political beliefs.

(11) May develop best practices and guidelines for public libraries and library service levels.

* * * Effective Date * * *

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee vote: 3-2-0)

Reported favorably by Senator Baruth for the Committee on Appropriations.

The Committee recommends that the bill ought to pass when amended as recommended by the committee on Education.

(Committee vote: 6-0-1)

Amendment to the recommendation of amendment of the Committee on Education to S. 220 to be offered by Senators Gulick, Campion, Hardy and Hashim

Senators Gulick, Campion, Hardy and Hashim move to amend the recommendation of amendment of the Committee on Education by adding a reader assistance heading and one new section to be Sec. 17a to read as follows:

* * * School Library Material Selection * * *

Sec. 17a. 16 V.S.A. § 1624 is added to read:

§ 1624. SCHOOL LIBRARY MATERIAL SELECTION POLICY

(a) Each school board and each approved independent school shall develop, adopt, ensure the enforcement of, and make available in the manner described under subdivision 563(1) of this title a library material selection policy and procedures for the reconsideration of materials. The policy and procedures shall affirm the importance of intellectual freedom and be guided by the First Amendment to the U.S. Constitution, the American Library Association's Freedom to Read Statement, and Vermont's Freedom to Read Statement.

(b) In order to ensure a student's First Amendment rights are protected and all students' identities are affirmed and dignity respected, the policy and procedures required under subsection (a) of this section shall prohibit the removal of school library materials for the following reasons:

(1) partisan approval or disapproval;

(2) the author's race, nationality, gender identity, sexual orientation, political views, or religious views;

(3) school board members' or members of the public's discomfort, personal morality, political views, or religious views;

(4) the author's point of view concerning the problems and issues of our time, whether international, national, or local;

(5) the race, nationality, gender identity, sexual orientation, political views, or religious views of the protagonist or other characters; or

(6) content related to sexual health that addresses physical, mental, emotional, or social dimensions of human sexuality, including puberty, sex, and relationships.

(c) The policy and procedures required under subsection (a) of this section shall ensure that school library staff are responsible for curating and developing collections that provide students with access to a wide array of materials that are relevant to students' research, independent reading interests, and educational needs, as well as ensuring such materials are tailored to the cognitive and emotional levels of the children served by the school.

S. 254.

An act relating to including rechargeable batteries and battery-containing products under the State battery stewardship program.

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. 1, 10 V.S.A. § 7581, definitions, by striking out subdivision (2) in its entirety and inserting in lieu thereof the following new subdivision (2):

(2)(A) "Battery-containing product" means an electronic product that contains primary or rechargeable batteries that are easily removable or is packaged with rechargeable or primary batteries.

(B) A "battery-containing product" does not include an electronic product regulated under an approved plan implemented under chapter 166 of this title.

(C) A "battery-containing product" does not include an electronic product if:

(i) the only batteries contained in or supplied with the battery-containing product are supplied by a producer that has joined a registered battery stewardship organization as the producer for that covered battery; and

(ii) the producer of the covered batteries that are included in a battery-containing product provides a written certification of that membership to both the producer of the battery-containing product containing one or more covered batteries and the battery stewardship organization of which the battery producer is a member.

Second: In Sec. 1, 10 V.S.A. § 7581, in subdivision (16)(A)(ii), after the semicolon, by striking out "and" and inserting in lieu thereof or

(Committee vote: 5-0-0)

Reported favorably by Senator Bray for the Committee on Finance.

The Committee recommends that the bill ought to pass when amended as recommended by the committee on Natural Resources and Energy.

(Committee vote: 7-0-0)

S. 258.

An act relating to the management of fish and wildlife.

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:

* * * Fish and Wildlife Board; Governance * * *

Sec. 1. 10 V.S.A. §§ 4041 and 4042 are amended to read:

§ 4041. DEPARTMENT OF FISH AND WILDLIFE; FISH AND WILDLIFE BOARD; MEMBERS, TERM, CHAIR

(a) There is hereby established a Department of Fish and Wildlife ~~that shall be administered by the Commissioner~~. The Department shall be under the direction and supervision of a Commissioner appointed by the Secretary as provided in 3 V.S.A. § 2851. In addition to the duties and powers provided under this chapter, the Commissioner shall have the powers and duties specified in 3 V.S.A. § 2852 and such additional duties as may be assigned to the Commissioner by the Secretary under 3 V.S.A. § 2853. The Commissioner shall implement the policy and purposes specified in section 4081 of this title where appropriate and to the extent that resources of the Department permit.

(b)(1) There is hereby established a Fish and Wildlife Board. The purpose of the Board shall be to serve in an advisory capacity to the Department of Fish and Wildlife in the establishment of Department rules and any policies therein regarding the management and conservation of wildlife in the State, except for establishment of rules and policies related to wildlife regulated under chapter 123 of this title.

(2) The Board shall consist of ~~14~~ 15 members, one from each county, ~~appointed by the Governor with the advice and consent of the Senate~~ and one at large member. Five members of the Board shall be appointed by the

Commissioner, five members of the Board shall be appointed by the Speaker of the House, and five members of the Board shall be appointed by the Committee on Committees. The members of the Board shall be appointed for a term of six years, or the unexpired portion thereof, and during their terms the 14 members appointed by county shall reside in the county from which they are appointed. In the event a member resigns or no longer resides in the county from which ~~he or she~~ the member was appointed, the ~~Governor~~ authority that appointed the member shall appoint a new member from that county for the unexpired portion of the term. Appointments shall be made in ~~such~~ a manner that either two or three terms shall expire each year. A member ~~serving a full six-year term shall not be eligible for reappointment~~ shall be eligible to serve a maximum of two full six-year terms. The ~~Governor~~ Commissioner shall biennially designate a chair.

(3) In order to be appointed to the Board, a person shall apply in writing to the appointing authority. The appointing authority shall acknowledge, in writing, the receipt of each application.

(4) In considering applicants to the Board, the appointing authority shall give due consideration to:

(A) the need for the Board members to have a history of involvement with and dedication to fish and wildlife, including a knowledge of fish and wildlife biology, ecology, and the ethics of fish and wildlife management;

(B) the need for the Board to have a balanced representation and include members of the public representing an approximately equal number of licensed users and nonlicensed users of wildlife; and

(C) coordinating their appointments to ensure the appropriate composition of the board as required by this subsection (b).

(5) As used in this subsection:

(A) "licensed user of wildlife" means a person who has held a Vermont hunting, fishing, or trapping license in each of the previous five years prior to appointment; and

(B) "nonlicensed user of wildlife" means a person who has not held a Vermont hunting, fishing, or trapping license in any of the previous five years prior to appointment.

(c) Upon appointment, each Board member shall receive training from the Department on wildlife management and hunting ethics, such as the North American Model of Wildlife Conservation; wildlife biology; coexistence with wildlife; the reduction of conflict between humans and wildlife; and the impacts of climate change on fish and wildlife.

(d) Upon the filing of a proposed rule with the Secretary of State pursuant to 3 V.S.A. § 838, the Department shall submit the proposed rule to the Board for its review. After a public hearing and an opportunity for the public to submit written comments, the Board shall consider whether a proposed rule is designed to maintain the best health, population, viewing opportunities, and utilization levels of the regulated species and of other necessary or desirable species that are ecologically related to the regulated species and whether the rules are adequately supported by investigation and research conducted by the Department. If the Board, by majority vote, determines that a proposed rule should be revised, it shall submit a written report to the Department setting forth its recommended revisions, and the reasons therefore, within 60 days following its receipt of a proposed rule. The Board shall include with its report the public comments it received. The Department shall consider fully any recommendations by the Board. If the Board's recommendations are not included in the rule, the Department shall issue a written explanation of why it did not include the Board's recommendations in the rule. The Board's written report and the Department's response thereto shall be included with the materials submitted to the Legislative Committee on Administrative Rules under 3 V.S.A. § 841.

§ 4042. ~~COMMISSIONER; APPOINTMENT~~

~~The Commissioner shall be appointed pursuant to the provisions of 3 V.S.A. § 2851. The Commissioner shall also be Executive Secretary of the Board.~~ [Repealed.]

Sec. 2. 10 V.S.A. § 4081 is amended to read:

§ 4081. POLICY

(a)(1) As provided by Chapter II, § 67 of the Constitution of the State of Vermont, the fish and wildlife of Vermont are held in trust by the State for the benefit of the citizens of Vermont and shall not be reduced to private ownership. The State of Vermont, in its sovereign capacity as a trustee for the citizens of the State, shall have ownership, jurisdiction, and control of all of the fish and wildlife of Vermont.

(2) The Commissioner of Fish and Wildlife shall manage and regulate the fish and wildlife of Vermont in accordance with the requirements of this part ~~and the rules of the Fish and Wildlife Board~~, including the Department of Fish and Wildlife rules on Non-game Management as set forth in Code of Vermont Rules 12-010-028. ~~The protection, propagation control, management, and conservation of fish, wildlife, and fur-bearing animals in this State are in the interest of the public welfare.~~ It is in the public welfare to protect, manage, and conserve the fish and wildlife of the State and the habitats in

which they reside. The State, through the Commissioner of Fish and Wildlife, shall safeguard the fish, ~~and~~ wildlife, and fur-bearing animals of the State for the people of the State, and the State shall fulfill this duty with a constant and continual vigilance.

(b) ~~Notwithstanding the provisions of 3 V.S.A. § 2803, the Fish and Wildlife Board shall be the State agency charged with carrying out the purposes of this subchapter.~~

~~(c) An abundant,~~ A healthy deer herd is ~~a primary goal~~ one of the most important goals of fish and wildlife management. The use of a limited unit open season on antlerless deer shall be implemented only after a scientific game management study by the Department of Fish and Wildlife supports such a season.

~~(d)~~(c) Annually, the Department shall update a scientific management study of the State deer herd. The study shall consider data provided by Department biologists and citizen testimony taken under subsection ~~(f)~~(e) of this section.

~~(e)~~(d) Based on the results of the updated management study and citizen testimony, the ~~Board~~ Department shall decide whether an antlerless deer hunting season is necessary and, if so, how many permits are to be issued. If the ~~Board~~ Department determines that an antlerless season is necessary, it shall adopt a rule creating one and the Department shall then administer an antlerless program.

~~(f)~~(e) Annually, the Department shall hold regional public hearings to receive testimony and data from concerned citizens about their knowledge and concerns about the deer herd. The ~~Board~~ Department shall identify the regions by rule.

~~(g)~~(f) If the ~~Board~~ Department finds that an antlerless season is necessary to maintain the health and size of the herd, the Department shall administer an antlerless deer program. Annually, the ~~Board~~ Department shall determine how many antlerless permits to issue in each wildlife management unit. For a nonrefundable fee of $10.00 for residents and $25.00 for nonresidents, a person may apply for a permit. Each person may submit only one application for a permit. The Department shall allocate the permits in the following manner:

(1) A Vermont landowner, as defined in section 4253 of this title, who owns 25 or more contiguous acres and who applies shall receive a permit for antlerless hunting in the management unit on which the land is located before any are given to people eligible under subdivision (2) of this subsection. If the

land is owned by more than one individual, corporation, or other entity, only one permit shall be issued. Landowners applying for antlerless permits under this subdivision shall not, at the time of application or thereafter during the regular hunting season, post their lands except under the provisions of section 4710 of this title. As used in this section, "post" means any signage that would lead a reasonable person to believe that hunting is restricted on the land. If the number of landowners who apply exceeds the number of permits for that district, the Department shall award all permits in that district to landowners by lottery.

(2) Permits remaining after allocation pursuant to subdivision (1) of this subsection shall be issued by lottery.

(3) Any permits remaining after permits have been allocated pursuant to subdivisions (1) and (2) of this subsection shall be issued by the Department for a $10.00 fee for residents. Ten percent of the remaining permits may be issued to nonresident applicants for a $25.00 fee.

Sec. 3. 10 V.S.A. § 4082 is amended to read:

§ 4082. VERMONT FISH AND WILDLIFE REGULATIONS

(a) The ~~Board~~ Department may adopt rules, under 3 V.S.A. chapter 25, to be known as the "Vermont Fish and Wildlife Regulations" for the management of all wildlife and the regulation of fish and wild game and the taking thereof except as otherwise specifically provided by law. The rules shall be designed to maintain the best health, population, and utilization levels of ~~the regulated species and of other necessary or desirable species that are ecologically related to the regulated species~~ all wildlife. The rules shall be supported by ~~investigation and research conducted by the Department on behalf of the Board~~ the best science available through Department and peer reviewed research.

(b)(1) Except as provided for under subdivision (2) of this subsection, the ~~Board~~ Department annually may adopt rules relating to the management of migratory game birds~~,~~ and shall follow the procedures for rulemaking contained in 3 V.S.A. chapter 25. For each ~~such~~ rule, the ~~Board~~ Department shall conduct a hearing but, when necessary, may schedule the hearing for a day before the terms of the rule are expected to be determined.

(2) Beginning with the 2015 hunting season, the ~~Board~~ Department may set by procedure the daily bag and possession limits of migratory game birds that may be harvested in each Waterfowl Hunting Zone annually without following the procedures for rulemaking contained in 3 V.S.A. chapter 25. The annual daily bag and possession limits of migratory game birds shall be

consistent with federal requirements. Prior to setting the migratory game bird daily bag and possession limits, the ~~Board~~ Department shall provide a period of not less than 30 days of public notice and shall conduct at least two public informational hearings. The final migratory game bird daily bag and possession limits shall be enforceable by the Department under its enforcement authority in part 4 of this title.

(c) The ~~Board~~ Department may set by procedure the annual number of antlerless deer that can be harvested in each Wildlife Management Unit and the annual number of moose that can be harvested in each Wildlife Management Unit without following the procedures for rulemaking contained in 3 V.S.A. chapter 25. The annual numbers of antlerless deer and moose that can be harvested shall be supported by investigation and research conducted by the Department ~~on behalf of the Board~~. Prior to setting the antlerless deer and moose permit numbers, the ~~Board~~ Department shall provide a period of not less than 30 days of public notice and shall conduct at least three public informational hearings. The public informational hearings may be conducted simultaneously with the regional antlerless deer meetings required by 10 V.S.A. App. § 2b. The final annual antlerless deer and moose harvest permit numbers shall be enforceable by the Department under its enforcement authority in part 4 of this title. The final annual antlerless deer and moose harvest permit numbers shall be reported to the House Committee on Environment and Energy and the Senate Committee on Natural Resources and Energy as part of the annual deer report required under section 4084 of this title. 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.

Sec. 4. 10 V.S.A. § 4048(d) is amended to read:

(d) The Commissioner of Fish and Wildlife, according to the provisions of 3 V.S.A. chapter 25 and after consultation with the Fish and Wildlife Board and the Endangered Species Committee, shall adopt a rule establishing a plan for nongame wildlife. The rule may be amended from time to time, and shall be reviewed, after public hearings, at least every five years. The plan shall contain:

(1) strategies to manage, inventory, preserve, protect, perpetuate, and enhance all nongame wildlife in the State, including identification of wildlife species in need of protection and information on their population distributions, habitat requirements, limiting factors, and other pertinent biological and ecological data on nongame wildlife species in need of protection;

(2) estimates of resources available for these strategies; and

(3) plans for research and education in nongame wildlife.

Sec. 5. 10 V.S.A. § 4601 is amended to read:

§ 4601. TAKING FISH; POSSESSION

A person shall not take fish, except in accordance with this part and regulations of the ~~Board~~ Department, or possess a fish taken in violation of this part or regulations of the ~~Board~~ Department.

Sec. 6. 3 V.S.A. § 2803 is amended to read:

§ 2803. ADVISORY CAPACITY

(a) All boards, committees, councils, activities, and departments ~~which~~ that under this chapter are a part of the Agency shall be advisory only, except as hereinafter provided, and the powers and duties of such boards, committees, councils, activities, and departments, including administrative, policy making, rulemaking, and regulatory functions, shall vest in and be exercised by the Secretary of the Agency.

(b) Notwithstanding subsection (a) of this section or any other provision of this chapter, ~~the Fish and Wildlife Board and~~ the Natural Resources Board shall retain and exercise all powers and functions given to ~~them~~ it by law ~~which~~ that are of regulatory or quasi-judicial nature, including the power to adopt, amend, and repeal rules and regulations~~,~~; to conduct hearings~~,~~; to adjudicate controversies~~,~~; and to issue and enforce orders, in the manner and to the extent to which those powers are given to ~~those respective boards~~ the Board by law.

Sec. 7. CONFORMING REVISIONS

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Counsel shall make the following revisions throughout the statutes as needed for consistency with Secs. 1–6 of this act, provided the revisions have no other effect on the meaning of the affected statutes:

(1) replace "Board" with "Department" in 10 V.S.A. §§ 4605, 4701, 4702, 4742a, 4828, 4830, 4861, 4902, and 5001; and

(2) revisions that are substantially similar to those described in subdivision (1) of this section.

Sec. 8. TRANSITION

(a) The Vermont Fish and Wildlife regulations adopted by the Fish and Wildlife Board and in effect as of the effective date of this act shall remain in effect and have the full force and effect of law until such time as they are repealed or amended by the General Assembly by legislative act or by the Department of Fish and Wildlife pursuant to 3 V.S.A. chapter 25.

(b) The members of the Fish and Wildlife Board as of the effective date of this act shall continue to serve as members of the Board until all new members of the Board are appointed under 10 V.S.A. § 4041(b) or 90 days after the effective date of this act, whichever occurs first.

(c) The Commissioner of Fish and Wildlife shall commence rulemaking to develop the nongame wildlife plan required by 10 V.S.A. § 4048(d) not later than July 1, 2024 and shall complete rulemaking not later than September 1, 2025. In so doing, the Commissioner shall work to harmonize provisions of all Fish and Wildlife rules to realize the public interest in the sound management of game and nongame species according to ecological principles supported by the best science available through Department and peer-reviewed research.

Sec. 9. 10 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

Words and phrases used in this part, unless otherwise provided, shall be construed to mean as follows:

* * *

(14) Fur-bearing animals: beaver, otter, marten, mink, raccoon, fisher, fox, skunk, coyote, bobcat, weasel, opossum, lynx, wolf, and muskrat.

* * *

(15) Wild animals or wildlife: all animals, including birds, fish, amphibians, and reptiles, other than domestic animals, domestic fowl, or domestic pets.

* * *

(23) Take and taking: pursuing, shooting, hunting, killing, capturing, trapping, snaring, and netting fish, birds, and quadrupeds and all lesser acts, such as disturbing, harrying, worrying, or wounding or placing, setting, drawing, or using any net or other device commonly used to take fish or wild animals, whether they result in the taking or not; and shall include every attempt to take and every act of assistance to every other person in taking or attempting to take fish or wild animals, provided that when taking is allowed by law, reference is had to taking by lawful means and in a lawful manner.

* * *

(42) "Trapping" means to take or attempt to take fur-bearing animals with traps including the dispatching of lawfully trapped fur-bearing animals.

Sec. 10. 10 V.S.A. § 4866 is added to read:

§ 4866. SETBACKS; TRAPPING

(a) As used in this section:

(1) "Public highway," means any highway, as that term is defined in 24 V.S.A. § 4, including Class 4 roads, shown on the highway maps of the respective towns made by the Agency of Transportation, but shall not include trails.

(2) "Trail" means a path or corridor open to the public, including all areas used for nonmotorized recreational purposes such as hiking, walking, bicycling, cross-country skiing, horseback riding, and other similar activities.

(b) No foothold trap or body-gripping trap shall be set:

(1) on or within 50 feet of a trail or a public highway, including when the trap is set in water or under the ice.

(2) on or within 100 feet of a building, parking lot, visitor center, park, playground, picnic area, shelter, pavilion, school, camp or campground, recreational facility, or any other area where persons may reasonably be expected to recreate, including when the trap is set in water or under the ice.

(c) The requirements of subsection (b) of this section shall not apply to a resident or nonresident owner of land, the owner's spouse, and the owner's minor children when trapping on the owner's land, regardless of whether the land is posted under section 4710 of this title.

Sec. 11. REPEAL; FISH AND WILDLIFE REGULATIONS; TRAPPING

The following subsections of 10 V.S.A. App. § 44 (furbearing species) are repealed:

(1) subsection 3.20 (definition of trapping);

(2) subsection 3.11 (definition of legal trail);

(3) subsection 3.14 (definition of public trail); and

(4) subsection 4.15 (trapping setbacks).

* * * Hunting Coyote * * *

Sec. 12. 10 V.S.A. § 5008 is amended to read:

§ 5008. HUNTING COYOTE ~~WITH AID OF DOGS; PERMIT~~; USE OF BAIT

(a) ~~No person shall pursue coyote with the aid of dogs, either for training or taking purposes, without a permit issued by the Commissioner.~~

~~(1) The Commissioner may deny any permit at the Commissioner's discretion. The Commissioner shall not issue more than 100 permits annually.~~

~~(2) The number of permits that the Commissioner issues to nonresidents in any given year shall not exceed 10 percent of the number of permits issued to residents in the preceding year. The Commissioner shall establish a process and standards for determining which nonresidents are to receive a permit, including who will receive a permit if there are more nonresident applicants than nonresident permits.~~

~~(3) A nonresident may train dogs to pursue coyote only while the training season is in effect in the nonresident's home state and subject to the requirements of this part and rules adopted under this part.~~

~~(b)(1) The Commissioner shall issue permits under this section to a resident for a fee of $50.00.~~

~~(2) The application fee for a nonresident permit issued under this section shall be $10.00, and the fee for a nonresident permit issued under this section shall be $200.00 for a successful applicant~~ No person shall pursue coyote with the aid of dogs, either for the purposes of training a dog or taking a coyote.

(b) A person shall not take coyote by using bait, except as authorized pursuant to a trapping license issued under this part. As used in this subsection, "bait" means any animal, vegetable, fruit, or mineral matter placed with the intention of attracting wildlife.

Sec. 13. REPEAL; HUNTING COYOTE WITH AID OF DOGS; ISSUANCE OF PERMITS

(a) 10 V.S.A § 5009, as enacted under 2021 Acts and Resolves No. 165, Sec. 1 (hunting coyote with aid of dogs), is repealed.

(b) The following subsections of 10 V.S.A. App. § 44(furbearing species) are repealed:

(1) 3.1 (definition of accompany for purpose of pursuing coyote);

(2) 3.6 (definition of control of dogs; taking of coyote);

(3) 3.7 (definition of coyote dog permit);

(4) 3.9 (definition of Department registered dog);

(5) 3.12 (definition of pack of dogs);

(6) 3.15 (definition of relaying packs and dogs);

(7) 3.16 (definition of subpermittee);

(8) 3.17 (definition of taking coyote with the aid of dogs);

(9) 3.19 (definition of training/control collar);

(10) 3.22 (definition of unregistered dog); and

(11) 4.20 (taking coyote with the aid of dogs).

(e) The Commissioner of Fish and Wildlife shall not issue a permit to hunt or take coyote with the aid of dogs after the effective date of this act. If a person submitted an application to hunt or take coyote with the aid of dogs as of the effective date of this act but has not been awarded a permit, the Commissioner of Fish and Wildlife shall not issue a permit and shall refund to the permit applicant any fees submitted as part of the application.

* * * Effective Date * * *

Sec. 14. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-0-1)

Reported favorably by Senator Lyons for the Committee on Appropriations.

The Committee recommends that the bill ought to pass when amended as recommended by the committee on Natural Resources and Energy.

(Committee vote: 4-2-1)

S. 285.

An act relating to law enforcement interrogation policies.

Reported favorably with recommendation of amendment by Senator Vyhovsky 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. LEGISLATIVE INTENT; LAW ENFORCEMENT INTERROGATION POLICIES

It is the intent of the General Assembly to prevent false confessions and wrongful convictions of individuals subject to law enforcement interrogation, to progress towards a total prohibition of the use of deception in all forms of interrogation, and to ultimately improve trust between Vermont's communities and law enforcement. To achieve these objectives, it is the further intent of the General Assembly to create a minimum set of law enforcement interrogation standards that incorporate evidence-based best practices by:

(1) prohibiting law enforcement's use of threats, physical harm, and deception during interrogations of all persons consistent; and

(2) mandating that the Vermont Criminal Justice Council develop, adopt, and enforce a statewide model interrogation policy that applies to all Vermont law enforcement agencies and constables exercising law enforcement authority pursuant to 24 V.S.A. § 1936a.

Sec. 2. VERMONT CRIMINAL JUSTICE COUNCIL; MODEL INTERROGATION POLICY

(a) On or before October 1, 2024, the Law Enforcement Advisory Board, in consultation with the Office of the Attorney General, shall collaborate and create a model interrogation policy that applies to all persons subject to various forms of interrogation, including the following:

(1) custodial interrogations occurring in a place of detention;

(2) custodial interrogations occurring outside a place of detention;

(3) interrogations that are not considered custodial, regardless of location; and

(4) the interrogation of individuals with developmental, intellectual, and psychiatric disabilities; substance use disorder; and low literacy levels.

(b) The model interrogation policy shall prohibit the use of physical harm, threats, and deception during custodial interrogations of all persons.

(1) At a minimum, the model interrogation policy shall define "deception" as the knowing communication of false facts about evidence or unauthorized statements regarding leniency by a law enforcement officer to a subject of custodial interrogation.

(2) The model interrogation policy shall also address other forms of interrogation involving persons under 20 years of age wherein the use of deception is prohibited.

(c) The model interrogation policy shall prohibit any training of law enforcement officers that employs the use of deception, including the REID Technique of Investigative Interviewing and Advanced Interrogation Techniques.

(d)(1) On or before December 1, 2024, the Law Enforcement Advisory Board shall submit the model interrogation policy to the Joint Legislative Justice Oversight Committee and testify before the Committee.

(2) On or before January 1, 2025, the Vermont Criminal Justice Council, in consultation with stakeholders, including the Agency of Human Services,

the Vermont League of Cities and Towns, and the Vermont Human Rights Commission, shall update the Law Enforcement Advisory Board's model interrogation policy to establish one cohesive model policy for law enforcement agencies and constables to adopt, follow, and enforce as part of the agency's or constable's own interrogation policy.

Sec. 3. 20 V.S.A. § 2359 is amended to read:

§ 2359. COUNCIL SERVICES CONTINGENT ON AGENCY COMPLIANCE; GRANT ELIGIBILITY

(a) On and after January 1, 2022, a law enforcement agency shall be prohibited from having its law enforcement applicants or officers trained by the Police Academy or from otherwise using the services of the Council if the agency is not in compliance with the requirements for collecting roadside stop data under section 2366 of this chapter, the requirement to report to the Office of Attorney General death or serious bodily injuries under 18 V.S.A. § 7257a(b), or the requirement to adopt, follow, or enforce any policy required under this chapter.

(b) On and after April 1, 2025, a law enforcement agency shall be prohibited from receiving grants, or other forms of financial assistance, if the agency is not in compliance with the requirement to adopt, follow, or enforce the model interrogation policy established by the Council pursuant to section 2371 of this title.

(c) The Council shall adopt procedures to enforce the requirements of this section, which may allow for waivers for agencies under a plan to obtain compliance with this section.

Sec. 4. 20 V.S.A. § 2371 is added to read:

§ 2371. STATEWIDE POLICY; INTERROGATION METHODS

(a) Definitions. As used in this section:

(1) "Custodial interrogation" has the same meaning as in 13 V.S.A. § 5585.

(2) "Place of detention" has the same meaning as in 13 V.S.A. § 5585.

(b) Model policy contents.

(1) The Vermont Criminal Justice Council shall establish a model interrogation policy that applies to all persons subject to various forms of interrogation, including the following:

(A) custodial interrogations occurring in a place of detention;

(B) custodial interrogations occurring outside a place of detention;

(C) interrogations that are not considered custodial, regardless of location; and

(D) the interrogation of individuals with developmental, intellectual, and psychiatric disabilities; substance use disorder; and low literacy levels.

(2) The model interrogation policy shall prohibit the use of physical harm, threats, and deception during custodial interrogations of all persons.

(A) At a minimum, the model interrogation policy shall define "deception" as the knowing communication of false facts about evidence or unauthorized statements regarding leniency by a law enforcement officer to a subject of custodial interrogation.

(B) The model interrogation policy shall also address other forms of interrogation involving persons under 20 years of age wherein the use of deception is prohibited.

(3) The model interrogation policy shall prohibit any training of law enforcement officers that employs the use of deception, including the Reid Technique of Investigative Interviewing and Advanced Interrogation Techniques.

(c) Policy adoption and updates.

(1) On or before April 1, 2025, each law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title shall adopt, follow, and enforce an interrogation policy that includes each component of the model interrogation policy established by the Council, and each law enforcement officer or constable who exercises law enforcement authority shall comply with the provisions of an agency's or a constable's policy.

(2) On or before October 1, 2025, and every odd-numbered year thereafter, the Vermont Criminal Justice Council, in consultation with others, including the Office of the Attorney General, the Agency of Human Services, and the Human Rights Commission, shall review and, if necessary, update the model interrogation policy.

(d) Compliance. To encourage fair and consistent interrogation methods statewide, the Vermont Criminal Justice Council, in consultation with the Office of the Attorney General, shall review the policies of law enforcement agencies and constables required to adopt a policy pursuant to subsection (c) of this section to ensure that those policies establish each component of the model

policy on or before April 15, 2025. If the Council finds that a policy does not meet each component of the model policy, it shall work with the law enforcement agency or constable to bring the policy into compliance. If, after consultation with its attorney or with the Council, or with both, the law enforcement agency or constable fails to adopt a policy that meets each component of the model policy, that agency or constable shall be deemed to have adopted and shall follow and enforce the model policy established by the Council.

(e) Training. The Council shall incorporate the provisions of this section into the training it provides.

(f) Reporting.

(1) Annually, as part of their training report to the Council, every law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title shall report to the Council whether the agency or constable has adopted an interrogation policy in accordance with subsections (c) and (d) of this section. The Vermont Criminal Justice Council shall determine, as part of the Council's annual certification of training requirements, whether current officers have received training on interrogation methods as required by subsection (e) of this section.

(2) Annually, on or before July 1, the Vermont Criminal Justice Council shall report to the House and Senate Committees on Judiciary regarding which law enforcement agencies and officers have received training on interrogation methods.

Sec. 5. EFFECTIVE DATES

This act shall take effect on July 1, 2024, except that Secs. 3 (council services contingent on agency compliance; grant eligibility) and 4 (statewide policy; interrogation methods) shall take effect on April 1, 2025.

(Committee vote: 3-2-0)

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

S. 98.

An act relating to Green Mountain Care Board authority over prescription drug costs.

Reported favorably with recommendation of amendment by Senator Lyons 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. GREEN MOUNTAIN CARE BOARD; PRESCRIPTION DRUG COST REGULATION PROGRAM; IMPLEMENTATION PLAN

(a) The Green Mountain Care Board, in consultation with its own technical advisory groups and other State agencies, shall explore and create a framework and methodology for implementing a program to regulate the cost of prescription drugs for Vermont consumers and Vermont's health care system. The Board shall consider options for and likely impacts of regulating the cost of prescription drugs, including:

(1) the experiences of states that have developed prescription drug affordability boards;

(2) the Centers for Medicare and Medicaid Services' development and operation of the Medicare Drug Price Negotiation Program;

(3) other promising federal and state strategies for lowering prescription drug costs;

(4) the Board's existing authority to set rates, adopt rules, and establish technical advisory groups;

(5) the likely return on investment of the most promising program options; and

(6) the impact of implementing a program to regulate the costs of prescription drugs on other State agencies and on the private sector.

(b)(1) On or before January 15, 2025, the Board shall provide its preliminary plan for implementing a program to regulate the cost of prescription drugs in Vermont, and any proposals for legislative action needed to implement the program, to the House Committee on Health Care and the Senate Committee on Health and Welfare.

(2) On or before January 15, 2026, the Board shall provide its final plan for implementing a program to regulate the cost of prescription drugs in Vermont, along with proposals for addressing any additional identified legislative needs, to the House Committee on Health Care and the Senate Committee on Health and Welfare.

(c)(1) The following permanent classified positions are created at the Green Mountain Care Board to lead the exploration, development, and implementation of the prescription drug regulation program:

(A) one Director of Prescription Drug Pricing; and

(B) one Policy Analyst Prescription Drug Pricing.

(2) The sum of $245,000.00 is appropriated to the Green Mountain Care Board from the Evidence-Based Education and Advertising Fund in fiscal year 2025 for the positions created in this subsection.

(d)(1) The Green Mountain Care Board shall have legal assistance as needed from the Office of the Attorney General.

(2) The sum of $250,000.00 is appropriated to the Green Mountain Care Board from the Evidence-Based Education and Advertising Fund in fiscal year 2025 to contract with experts on prescription drug-related issues to assist the Board in its work under this section.

Sec. 2. 33 V.S.A. § 2004 is amended to read:

§ 2004. MANUFACTURER FEE

(a) Annually, each pharmaceutical manufacturer or labeler of prescription drugs that are paid for by the Department of Vermont Health Access for individuals participating in Medicaid, Dr. Dynasaur, or VPharm shall pay a fee to the Agency of Human Services. The fee shall be 1.75 percent of the previous calendar year's prescription drug spending by the Department and shall be assessed based on manufacturer labeler codes as used in the Medicaid rebate program.

(b) Fees collected under this section shall fund collection and analysis of information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632 and 4633; analysis of prescription drug data needed by the Office of the Attorney General for enforcement activities; the Vermont Prescription Monitoring System established in 18 V.S.A. chapter 84A; the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2; the Green Mountain Care Board's prescription drug cost regulation initiatives; statewide unused prescription drug disposal initiatives; prevention of prescription drug misuse, abuse, and diversion; the Substance Misuse

Prevention Oversight and Advisory Council established in 18 V.S.A. § 4803; treatment of substance use disorder; exploration of nonpharmacological approaches to pain management; a hospital antimicrobial program for the purpose of reducing hospital-acquired infections; the purchase and distribution of fentanyl testing strips; the purchase and distribution of naloxone to emergency medical services personnel; and any opioid-antagonist education, training, and distribution program operated by the Department of Health or its agents. The fees shall be collected in the Evidence-Based Education and Advertising Fund established in section 2004a of this title.

(c) The Secretary of Human Services or designee shall ~~make~~ adopt rules for the implementation of this section.

(d) The Department shall maintain on its website a list of the manufacturers who have failed to provide timely payment as required under this section.

Sec. 3. 33 V.S.A. § 2004a is amended to read:

§ 2004a. EVIDENCE-BASED EDUCATION AND ADVERTISING FUND

(a) The Evidence-Based Education and Advertising Fund is established in the State Treasury as a special fund to be a source of financing for activities relating to fund collection and analysis of information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632 and 4633; for analysis of prescription drug data needed by the Office of the Attorney General for enforcement activities; for the Vermont Prescription Monitoring System established in 18 V.S.A. chapter 84A; for the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2; for the Green Mountain Care Board's prescription drug cost regulation initiatives; for statewide unused prescription drug disposal initiatives; for the prevention of prescription drug misuse, abuse, and diversion; for the Substance Misuse Prevention Oversight and Advisory Council established in 18 V.S.A. § 4803; for treatment of substance use disorder; for exploration of nonpharmacological approaches to pain management; for a hospital antimicrobial program for the purpose of reducing hospital-acquired infections; for the purchase and distribution of fentanyl testing strips; for the purchase and distribution of naloxone to emergency medical services personnel; and for the support of any opioid-antagonist education, training, and distribution program operated by the Department of Health or its agents. Monies deposited into the Fund shall be used for the purposes described in this section.

* * *

(d) Monies from the Fund to support the Green Mountain Care Board's prescription drug cost regulation initiatives shall not exceed $1,000,000.00 in any one fiscal year.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee vote: 3-2-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare, with further amendment as follows:

In Sec. 3, 33 V.S.A. § 2004a, by striking out subsection (d) in its entirety

(Committee vote: 6-0-1)

S. 114.

An act relating to removal of criminal penalties for possessing, dispensing, or selling psilocybin and establishment of the Psychedelic Therapy Advisory Working Group.

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. PSYCHEDELIC THERAPY ADVISORY WORKING GROUP; STUDY

(a) Creation. There is created the Psychedelic Therapy Advisory Working Group to examine the use of psychedelics to improve physical and mental health and to make findings and recommendations regarding the advisability of the establishment of a State program similar to other jurisdictions to permit health care providers to administer psychedelics in a therapeutic setting and the impact on public health of allowing individuals to legally access psychedelics under State law.

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

(1) a representative of the Larner College of Medicine at the University of Vermont, appointed by the Dean;

(2) a representative of the Brattleboro Retreat, appointed by the President and Chief Executive Officer;

(3) a member of the Vermont Psychological Association, appointed by the President;

(4) a member of the Vermont Psychiatric Association, appointed by the President;

(5) the Executive Director of the Vermont Board of Medical Practice or designee;

(6) the Director of the Vermont Office of Professional Regulation or designee;

(7) the Vermont Commissioner of Health or designee; and

(8) a co-founder of the Psychedelic Society of Vermont.

(c) Powers and duties.

(1) The Working Group shall:

(A) review the latest research and evidence of the public health benefits and risks of clinical psychedelic assisted treatments and of criminalization of psychedelics under State law;

(B) examine the laws and programs of other states that have authorized the use of psychedelics by health care providers in a therapeutic setting and necessary components and resources if Vermont were to pursue such a program;

(C) provide an opportunity for individuals with lived experience to provide testimony in both a public setting and through confidential means, due to stigma and current criminalization of the use of psychedelics; and

(D) provide potential timelines for universal and equitable access to psychedelic assisted treatments.

(2) The Working Group shall seek testimony from Johns Hopkins' Center for Psychedelic and Consciousness Research and Decriminalize Nature, in addition to any other individuals or entities with an expertise in psychedelics.

(d) Assistance. The Working Group shall have the assistance of the Vermont Psychological Association for purposes of scheduling and staffing meetings and developing and submitting the report required by subsection (e) of this section.

(e) Report. On or before November 15, 2024, the Working Group shall submit a written report to the House and Senate Committees on Judiciary, the House Committee on Health Care, the House Committee on Human Services,

and the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Vermont Psychological Association shall call the first meeting of the Working Group to occur on or before July 15, 2023.

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

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

(4) The Working Group shall cease to exist on January 1, 2025.

(g) Compensation and reimbursement. Members of the Working Group shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than eight meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

And that after passage the title of the bill be amended to read:

An act relating to the establishment of the Psychedelic Therapy Advisory Working Group

(Committee vote: 3-2-0)

Reported favorably by Senator Lyons for the Committee on Appropriations.

The Committee recommends that the bill ought to pass when amended as recommended by the committee on Health and Welfare.

(Committee vote: 6-0-1)

S. 120.

An act relating to postsecondary schools and sexual misconduct protections.

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

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. 16 V.S.A. § 184 is added to read:

§ 184. STUDENT ACCESS TO CONFIDENTIAL SEXUAL MISCONDUCT SUPPORT SERVICES; COLLABORATION WITH EXTERNAL PARTNERS

(a) Postsecondary schools shall ensure students have access to confidential sexual misconduct support services covered by victim and crisis worker privilege under applicable law, either on or off campus. Nothing in this subsection shall be construed to prohibit a postsecondary school from also facilitating student access to support services not covered by a victim and crisis worker privilege.

(b) If a postsecondary school is working with an external provider to provide confidential support services on its behalf, pursuant to subsection (a) of this section, and those support services are beyond those the external provider may provide as a matter of course to the general public, the postsecondary school shall enter into, and maintain, an agreement with the external provider. Agreements may address:

(1) assistance in development or delivery of programming and training regarding sexual misconduct involving students;

(2) collaborative marketing to make the campus community aware of the availability of confidential services from the external provider, either on or off campus, such as sexual assault crisis services, domestic violence crisis services, and sexual assault nurse examiner services;

(3) reciprocal education of school and external provider personnel to ensure a mutual understanding of the other's role, responsibilities, and processes for receiving disclosures of sexual misconduct, the provision of support services, and options for resolution;

(4) reporting of data as required by federal law, if applicable, as well as reporting of de-identified aggregate information that will aid the school in identifying and addressing trends of concern; and

(5) use of school-provided space to meet confidentially with members of the campus community.

(c) All agreements executed pursuant to subsection (b) of this section shall be independently negotiated between the postsecondary school and external providers.

Sec. 2. 16 V.S.A. § 185 is added to read:

§ 185. AMNESTY PROTECTIONS

Postsecondary schools shall create and adopt an amnesty policy that prohibits disciplinary action against a student reporting or otherwise participating in a school sexual misconduct resolution process for alleged ancillary policy violations related to the sexual misconduct incident at issue; provided, however, the school may take disciplinary action if it determines that the conduct giving rise to the alleged ancillary policy violation placed or threatened to place the health and safety of another person at risk. This policy shall not be construed to limit a counter-complaint made in good faith or to prohibit action as to a report made in good faith.

Sec. 3. 16 V.S.A. § 186 is added to read:

§ 186. ANNUAL AWARENESS PROGRAMMING AND TRAINING

(a) A postsecondary school shall offer annual trauma-informed, inclusive, and culturally relevant sexual misconduct primary prevention and awareness programming to all students, staff, and faculty of the school. Primary prevention and awareness programming shall address, in a manner appropriate for the audience:

(1) an explanation of consent as it applies to sexual activity and sexual relationships;

(2) the role drugs and alcohol play in an individual's ability to consent;

(3) information about on and off-campus options for reporting of an incident of sexual misconduct, including confidential and anonymous disclosure mechanisms, and the effects of each option;

(4) information on the school's procedures for resolving sexual misconduct complaints and the range of sanctions the school may impose on those found responsible for a violation;

(5) the name and contact information of school officials responsible for coordination of supportive measures and an overview of the types of supportive measures available;

(6) the name, contact information, and services of confidential resources, on and off campus;

(7) strategies for bystander intervention and risk reduction;

(8) how to directly access health services, mental health services, and confidential resources both on and off-campus;

(9) opportunities for ongoing sexual misconduct prevention and awareness training and programming; and

(10) best practices for responding to disclosures of sexual misconduct.

(b) Information on the training topics contained in subsection (a) of this section, including on and off campus supportive measures for reporting parties, shall be available in a centrally located place on the schools' website.

(c) Schools shall endeavor to collaborate with community partners, such as local and statewide law enforcement, local and statewide prosecution offices, health care service providers, confidential service providers, and other relevant stakeholders, regarding the inclusion of appropriate information about the relevant stakeholders' respective roles and offerings in primary prevention and awareness programming.

Sec. 4. REPEAL

2021 Acts and Resolves No. 68, Sec. 7 (Intercollegiate Sexual Harm Prevention Council 2025 repeal) is repealed.

Sec. 5. 16 V.S.A. § 2187 is redesignated and amended to read:

§ ~~2187~~ 183. INTERCOLLEGIATE SEXUAL HARM PREVENTION COUNCIL

(a) Creation. There is created the Intercollegiate Sexual Harm Prevention Council to create a coordinated response to campus sexual harm across institutions of higher learning in Vermont.

* * *

(c) Duties. The Council shall:

* * *

(7) create or promote annual training opportunities addressing prevention and sexual assault response processes open to representatives from all Vermont postsecondary schools.

* * *

Sec. 6. APPROPRIATION

The sum of $22,000.00 is appropriated from the General Fund to the Center for Crime Victim Services in fiscal year 2025 to provide a grant for the purpose of staffing the Intercollegiate Sexual Harm Prevention Council and to provide per diem compensation and reimbursement of expenses for members who are not otherwise compensated by the member's employer for attendance at meetings.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee vote: 5-0-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Education, with further amendment as follows:

By striking out Sec. 6, appropriation, in its entirety and inserting in lieu thereof the following:

Sec. 6. [Deleted.]

(Committee vote: 7-0-0)

S. 159.

An act relating to the County Governance Study Committee.

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:

Sec. 1. COUNTY AND REGIONAL GOVERNANCE STUDY COMMITTEE; REPORT

(a) Creation. There is created the County and Regional Governance Study Committee to address local government capacity challenges, enhance and optimize public safety, regional collaboration and planning, efficient, equitable, and transparent public resource allocation, and effective regional public services for individuals and municipalities.

(b) Membership. The Committee shall be, to the extent possible, composed of members from geographically diverse regions of the State. The Committee shall be composed of the following members:

(1) three current members of the House of Representatives, who shall not all be from the same political party, the first of whom shall be the Chair of the House Committee on Government Operations and Military Affairs, and the second and third of whom shall be appointed by the Speaker of the House; and

(2) three current members of the Senate, who shall not all be from the same political party, the first of whom shall be the Chair of the Senate Committee on Government Operations, and the second and third of whom shall be appointed by the Committee on Committees.

(c) Powers and duties.

(1) The Committee shall study and make recommendations to the General Assembly on how to improve the structure and organization of county and regional government, including:

(A) enhancement and optimization of public safety;

(B) enhancement of regional collaboration and planning;

(C) efficient, equitable, and transparent allocation of public resources;

(D) promotion of effective regional public services for individuals and municipalities;

(E) clarification of the role and oversight of elected county officials and their departments;

(F) reduction of duplicated public services and promotion of opportunities for intermunicipal collaboration;

(G) balance of availability and cost of services across municipalities in each county;

(H) mechanisms of county and regional government structures in other states; and

(I) impact of climate change and resiliency on the maintenance of public infrastructure, delivery of regional government services, and coordination of regional emergency planning.

(2) The Committee may, through the Joint Fiscal Office, contract with one or more consultants to assist with research, preparation of the report, and any other assistance with the Committee's work deemed necessary by the Committee.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Operations, the Office of Legislative Counsel, and the Joint Fiscal Office.

(e) Report. On or before November 1, 2025, the 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) The Chair of the Senate Committee on Government Operations shall call the first meeting of the Committee to occur on or before September 1, 2024.

(2) The Committee shall be co-chaired by the Chair of the House Committee on Government Operations and Military Affairs and the Chair of the Senate Committee on Government Operations.

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

(4) The Committee shall cease to exist on July 1, 2026.

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee serving in the member's capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than 10 meetings. These payments shall be made from monies appropriated to the General Assembly.

(h) Appropriation for consulting. The sum of $50,000.00 is appropriated to the Joint Fiscal Office from the General Fund in fiscal year 2025 to contract with one or more consultants to assist with research, preparation of the report, and any other assistance with the Committee's work deemed necessary by the Committee.

Sec. 2. COUNTY AND REGIONAL GOVERNANCE TECHNICAL ADVICE

(a) On or before September 1, 2024, the Executive Director of the Vermont Bond Bank, shall convene the first meeting of a County and Regional Governance Technical Advisory Group. The Technical Advisory Group shall analyze the subject matter being considered by the County and Regional Governance Study Committee and advise, assist, and provide recommendations to the Study Committee, specifically on the structure and organization of county and regional government. The Vermont Bond Bank shall participate in order to support improvements to local capacity.

(b) The following individuals and entities shall be invited to participate in the meeting or meetings described in this section:

(1) the Department of State's Attorneys and Sheriffs;

(2) the State Court Administrator;

(3) the Vermont Association of County Judges;

(4) the Vermont Association of Planning and Development Agencies;

(5) the Vermont Municipal Clerks' and Treasurers' Association;

(6) the Vermont League of Cities and Towns;

(7) the Vermont Regional Development Corporations;

(8) the Vermont School Boards Association;

(9) the Vermont Town and City Management Association; and

(10) other relevant stakeholders identified by the Technical Advisory Group.

(c) The Study Committee may at any time request advice from the Technical Advisory Group regarding issues relating to the structure and organization of county and regional government, which shall be provided by the Technical Advisory Group.

Sec. 3. FEDERAL DISASTER FUNDING FOR COUNTY AND REGIONAL GOVERNMENTS REPORT

On or before September 15, 2024, the Secretary of Administration, or designee, shall report to the County and Regional Governance Study Committee on federal funding opportunities resulting from the disaster declaration for the major flooding events of 2023 in the State, including the received federal funds, the status of pending applications for funding, and potential avenues for additional funds. The Secretary, or designee, shall provide an analysis of the impact of Vermont's lack of robust county or regional governance on the receipt of federal emergency funding.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read:

An act relating to the County and Regional Governance Study Committee

(Committee vote: 6-0-0)

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 further amendment as follows:

In Sec. 1, County and Regional Governance Study Committee; report, by striking out subsection (h) in its entirety.

(Committee vote: 6-1-0)

S. 167.

An act relating to miscellaneous amendments to education law.

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

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

* * * Public Construction Bids * * *

Sec. 1. 16 V.S.A. § 559 is amended to read:

§ 559. PUBLIC BIDS

* * *

(b) High-cost construction contracts. When a school construction contract exceeds ~~$500,000.00~~ $2,000,000.00:

(1) The State Board shall establish, in consultation with the Commissioner of Buildings and General Services and with other knowledgeable sources, general rules for the prequalification of bidders on such a contract. The Department of Buildings and General Services, upon notice by the Secretary, shall provide to school boards undergoing construction projects suggestions and recommendations on bidders qualified to provide construction services.

(2) At least 60 days prior to the proposed bid opening on any construction contract to be awarded by a school board that exceeds ~~$500,000.00~~ $2,000,000.00, the school board shall publicly advertise for contractors interested in bidding on the project. The advertisement shall indicate that the school board has established prequalification criteria that a contractor must meet and shall invite any interested contractor to apply to the school board for prequalification. All interested contractors shall submit their qualifications to the school board, which shall determine a list of eligible prospective bidders based on the previously established criteria. At least 30 days prior to the proposed bid opening, the school board shall give written notice of the board's determination to each contractor that submitted qualifications. The school board shall consider all bids submitted by prequalified bidders meeting the deadline.

(c) Contract award.

(1) A contract for any such item or service to be obtained pursuant to subsection (a) of this section shall be ~~awarded to one of~~ selected from among the three or fewer lowest responsible bids conforming to specifications, with

consideration being given to quantities involved, time required for delivery, purpose for which required, competency and responsibility of bidder, and ~~his or her~~ the bidder's ability to render satisfactory service. A board shall have the right to reject any or all bids.

(2) A contract for any property, construction, good, or service to be obtained pursuant to subsection (b) of this section shall be awarded to the lowest responsible bid conforming to specifications. However, when considering the base contract amount and without considering cost overruns, if the two lowest responsible bids are within one percent of each other, the board may award the contract to either bidder. A board shall have the right to reject any bid found not to be responsible or conforming to specifications or to reject all bids.

* * *

* * * Postsecondary Schools Chartered in Vermont * * *

Sec. 2. 16 V.S.A. § 176(d) is amended to read:

(d) Exemptions. The following are exempt from the requirements of this section except for the requirements of subdivision (c)(1)(C) of this section:

* * *

(4) Postsecondary schools that are accredited. The following postsecondary institutions are accredited, meet the criteria for exempt status, and are authorized to operate educational programs beyond secondary education, including programs leading to a degree or certificate: Bennington College, Champlain College, ~~College of St. Joseph,~~ Goddard College, ~~Green Mountain College,~~ Landmark College, ~~Marlboro College,~~ Middlebury College, ~~New England Culinary Institute,~~ Norwich University, Saint Michael's College, SIT Graduate Institute, ~~Southern Vermont College,~~ Sterling College, Vermont College of Fine Arts, and Vermont Law and Graduate School. This authorization is provided solely to the extent necessary to ensure institutional compliance with federal financial aid-related regulations, and it does not affect, rescind, or supersede any preexisting authorizations, charters, or other forms of recognition or authorization.

* * *

Sec. 3. 2023 Acts and Resolves No. 29, Sec. 6(c) is amended to read:

(c) Sec. 2 (16 V.S.A. § 1480) shall take effect on ~~July 1, 2024~~ July 1, 2025.

* * * Holocaust Education * * *

Sec. 4. HOLOCAUST EDUCATION; DATA COLLECTION; REPORT

(a) On or before December 1, 2024, the Agency of Education shall request from all supervisory unions a report containing information regarding whether and where Holocaust education is taught in the prekindergarten through grade 12 supervisory union-wide curriculum. The request required under this subsection shall be developed in consultation with the Vermont Holocaust Memorial.

(b) On or before September 1, 2025, Supervisory unions shall report back to the Agency with the information requested pursuant to subsection (a) of this section.

(c) On or before January 1, 2026, the Agency shall submit a written report to the Senate and House Committees on Education with information, organized by supervisory union, regarding the inclusion of Holocaust education in curriculum across the State. Additionally, the report shall include an explanation of how curricula are developed, including an analysis of how Holocaust education fits into the standards for student performance adopted by the State Board of Education pursuant to 16 V.S.A. § 164(9).

(d) On or before January 1, 2026, the Agency shall provide all supervisory unions with Holocaust education resources, which shall be developed in consultation with the Vermont Holocaust Memorial.

* * * Virtual Learning * * *

Sec. 5. 16 V.S.A. § 948 is added to read:

§ 948. VIRTUAL LEARNING

(a) The Agency of Education shall maintain access to and oversight of a virtual learning provider for the purpose of offering virtual learning opportunities to Vermont students.

(b) A student may enroll in virtual learning if:

(1) the student is enrolled in a Vermont public school, including a Vermont career technical center;

(2) virtual learning is determined to be an appropriate learning pathway outlined in the student's personalized learning plan; and

(3) the student's learning experience occurs under the supervision of an appropriately licensed educator and aligns with State expectations and standards, as adopted by the Agency and the State Board of Education, as applicable.

(c) The Agency of Education shall adopt rules pursuant to 3 V.S.A. chapter 25 to implement this section.

(d) A school district shall count a student enrolled in virtual learning in the school district's average daily membership, as defined in section 4001 of this title, if the student meets all of the criteria in subsection (b) of this section.

Sec. 6. 16 V.S.A. § 942(13) is amended to read:

(13) "Virtual learning" means ~~learning in which the teacher and student communicate concurrently through real-time telecommunication. "Virtual learning" also means online learning in which communication between the teacher and student does not occur concurrently and the student works according to his or her own schedule~~ an intentionally designed learning environment for online teaching and learning using online design principles and teachers trained in the delivery of online instruction. This instruction may take place either in a self-paced environment or a real-time environment.

* * * Home Study Program * * *

Sec. 7. 16 V.S.A. § 166b is amended to read:

§ 166b. HOME STUDY PROGRAM

* * *

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

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

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

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

(f) Notice and procedure. Notice of a hearing shall include a brief summary of the material facts and shall be sent to each parent or guardian and each instructor of the student or students involved who are known to the Secretary. The hearing shall occur within 30 days following the day that notice is given or sent. The hearing shall be conducted by an impartial hearing officer appointed by the Secretary from a list approved by the State Board. At the request of the child's parent or guardian, the hearing officer shall conduct the hearing at a location in the vicinity of the home study program.

(g) Order following hearing. After hearing evidence, the hearing officer shall enter an order within 10 working days. The order shall provide that enrollment be continued or that the enrollment be terminated. An order shall take effect immediately. Unless the hearing officer provides for a shorter period, an order terminating enrollment shall extend until the end of the following school year, as defined in this title. If the order is to terminate the enrollment, a copy shall be given to the appropriate superintendent of schools, who shall take appropriate action to ensure that the child is enrolled in a school as required by this title. Following a hearing, the Secretary may petition the hearing officer to reopen the case only if there has been a material change in circumstances.

* * *

* * * Effective Date * * *

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee vote: 5-0-0)

Reported favorably by Senator Baruth for the Committee on Appropriations.

The Committee recommends that the bill ought to pass when amended as recommended by the Committee on Education.

(Committee vote: 7-0-0)

House Proposal of Amendment

S. 18

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

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

Sec. 1. 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 $1,000.00 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) 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.

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

CHAPTER 40. TOBACCO PRODUCTS

§ 1001. DEFINITIONS

As used in this chapter:

(1) "Bidis" or "Beedies" means a product containing tobacco that is wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf (diospyros exculpra), or any other product that is offered to, or purchased by, consumers as bidis or beedies.

(2) "Board" means the Board of Liquor and Lottery.

(3) "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.

(4) "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.

(5) "Cigarette" means:

(A) any roll of tobacco wrapped in paper or any substance not containing tobacco; and

(B) any roll of tobacco wrapped in a substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subdivision (A) of this subdivision (5).

~~(2)~~(6) "Commissioner" means the Commissioner of Liquor and Lottery.

~~(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.~~

~~(4) "Vending machine" means any mechanical, electronic, or other similar device that dispenses tobacco products for money.~~

(7) "E-liquid" means the solution, substance, or other material that contains nicotine and is used in or with a tobacco substitute, and that is heated or otherwise acted upon to produce an aerosol, vapor, or other emission to be inhaled or otherwise absorbed by the user. The term does not include cannabis products as defined in section 831 of this title or products that are regulated by the Cannabis Control Board.

(8) "E-liquid container or other container holding a liquid or gel substance containing nicotine" means a bottle or other container of an e-liquid containing nicotine or a nicotine liquid or other substance 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.

(9) "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.

(10) "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.

(11) "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.

(12) "Licensed wholesale dealer" means a wholesale dealer licensed under 32 V.S.A. chapter 205.

(13) "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, and as to which 1,000 units weigh not more than three pounds.

(14) "Nicotine" means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl)pyridine or C[10]H[14]N[2], including any salt or complex of nicotine, whether naturally or synthetically derived.

(15) "Proper proof of age" means a valid authorized form of identification as defined in section 589 of this title.

(16) "Retail dealer" means a person licensed pursuant to section 1002 of this title.

(17) "Roll-your-own tobacco" means any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

(18) "Snuff" means any finely cut, ground, or powdered tobacco that is not intended to be smoked, has a moisture content of not less than 45 percent, and is not offered in individual single-dose tablets or other discrete single-use units.

~~(5)~~(19) "Tobacco license" means a license issued by the Division of Liquor Control under this chapter permitting the licensee to engage in the retail sale of tobacco products.

~~(6) "Bidis" or "Beedies" means a product containing tobacco that is wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf (diospyros exculpra), or any other product that is offered to, or purchased by, consumers as bidis or beedies.~~

~~(7)~~(20) "Tobacco paraphernalia" means any device used, intended for use, or designed for use in smoking, inhaling, ingesting, or otherwise introducing tobacco products, tobacco substitutes, e-liquids, or a combination of these, into the human body, or for preparing tobacco for smoking, inhaling, ingesting, or otherwise introducing into the human body, including devices for holding tobacco, rolling paper, wraps, cigarette rolling machines, pipes, water pipes, carburetion devices, bongs, ~~and~~ hookahs, and clothing or accessories adapted for use with a tobacco product, a tobacco substitute, an e-liquid, or tobacco paraphernalia.

(21) "Tobacco products" means cigarettes, little cigars, roll-your-own tobacco, snuff, cigars, new smokeless tobacco, and 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)~~(22)(A) "Tobacco substitute" means ~~products~~ any product that is not a tobacco product, as defined in subdivision (21) of this section, and that meets one or both of the following descriptions:

(i) a 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; or

(ii) an oral nicotine product or any other item that is designed to deliver nicotine into the body, including a product or item containing or delivering nicotine that has been extracted from a tobacco plant or leaf.

(B) Cannabis products as defined in section 831 of this title or products that have been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes shall not be considered to be tobacco substitutes.

(23) "Vending machine" means any mechanical, electronic, or other similar device that sells or dispenses tobacco products, tobacco substitutes, e-liquids, tobacco paraphernalia, or a combination of these.

(24) "Wholesale dealer" means a person who imports or causes to be imported into the State any cigarettes, little cigars, roll-your-own tobacco, snuff, new smokeless tobacco, or other tobacco product for sale or who sells or furnishes any of these products to other wholesale dealers or retail dealers for the purpose of resale, but not by small quantity or parcel to consumers thereof.

§ 1002. LICENSE REQUIRED; APPLICATION; FEE; ISSUANCE

(a)(1) Except as provided in subsection (h) of this section, no person shall engage in the retail sale of tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia in 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.

(h) This section shall not apply to a cannabis establishment licensed pursuant to chapter 33 of this title to engage in the retail sale of cannabis products as defined in section 831 of this title but not engaged in the sale of tobacco products or tobacco substitutes.

* * *

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

(a)(1) A person shall not:

(A) sell or provide tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia to any person under 21 years of age; or

(B) knowingly enable the usage of tobacco products, tobacco substitutes, or e-liquids by a person under 21 years of age.

(2)(A) Except as otherwise provided in subdivision (B) of this subdivision (2), a person, including a retail dealer, who violates subdivision (1) of this subsection (a) shall be subject to a civil penalty of not more than $500.00 for the first offense and not more than $2,000.00 for any subsequent offense.

(B) An employee of a retail dealer who violates subdivision (1) of this subsection (a) in the course of employment 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. This penalty shall be in addition to the penalty imposed on the retail dealer pursuant to subdivision (A) of this subdivision (2).

(C) An action under this subsection (a) 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.

(b) All vending machines selling or dispensing tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia, or a combination of these, 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~~ or a person who purchases bidis from any source shall be ~~fined~~ subject to a civil penalty of not more than $250.00 for a first offense and not more than $500.00 for a subsequent offense.

(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~~ "enable the usage of tobacco products, tobacco substitutes, or e-liquids" means creating a direct and immediate opportunity for a person to use tobacco products, tobacco substitutes, or e-liquids, or a combination of these.

§ 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, TOBACCO SUBSTITUTES, E-LIQUIDS, OR TOBACCO PARAPHERNALIA; MISREPRESENTING AGE ~~OR 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:

(A) 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; or

(B) the person is in possession of tobacco products or tobacco paraphernalia in connection with Indigenous cultural tobacco practices.

(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, 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.~~ [Repealed.]

(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,~~ Government Operations 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).~~ [Repealed.]

(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 AND OTHER SUBSTANCES 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 e-liquid containing nicotine or any other liquid or gel substance containing nicotine unless that product is contained in child-resistant packaging; or

(2) any ~~nicotine liquid~~ e-liquid container or other container holding a liquid or gel substance containing nicotine 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 container" means a bottle or other container of a nicotine liquid or other substance 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.~~ [Repealed.]

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

(a) No person shall engage in the retail sale of:

(1) any flavored tobacco substitute;

(2) any flavored e-liquid; or

(3) any menthol-flavored tobacco product.

(b)(1) A person who violates subsection (a) of this section shall be subject to a civil penalty of not more than $200.00 for the first offense and not more than $500.00 for any subsequent offense.

(2) 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.

§ 1014. SALE OF DISCOUNTED TOBACCO PRODUCTS, TOBACCO SUBSTITUTES, E-LIQUIDS, AND TOBACCO PARAPHERNALIA PROHIBITED

(a) As used in this section, "price reduction instrument" means any coupon, voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or any other form, used for commercial purposes to receive an article, product, service, or accommodation without charge or at a discounted price.

(b) No person shall do any of the following:

(1) sell or offer for sale a tobacco product, tobacco substitute, e-liquid, or tobacco paraphernalia to a consumer at a price lower than the price that was in effect at the time the seller purchased the item from the wholesale dealer;

(2) sell or offer for sale a tobacco product, tobacco substitute, e-liquid, or tobacco paraphernalia through any multipackage discount; or

(3) honor or accept a price reduction instrument in any transaction related to the sale of a tobacco product, tobacco substitute, e-liquid, or tobacco paraphernalia to a consumer.

(c) A person who violates subsection (b) of this section shall be subject to a civil penalty of not more than $200.00 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 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:

* * *

(5) Violations of 7 V.S.A. § ~~1007~~ 1003(a), relating to furnishing tobacco products, tobacco substitutes, e-liquids, and tobacco paraphernalia to a person under 21 years of age.

* * *

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

(34) Violations of 7 V.S.A. § 1014, relating to sale of discounted tobacco products, tobacco substitutes, e-liquids, and tobacco paraphernalia.

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 OF TOBACCO PRODUCTS, TOBACCO SUBSTITUTES, AND E-LIQUIDS PROHIBITED ON PUBLIC SCHOOL GROUNDS

No person shall be permitted to use tobacco products ~~or~~, tobacco substitutes, or e-liquids, as those terms are 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. § 4226 is amended to read:

§ 4226. MINORS; TREATMENT; CONSENT

(a)(1) If a minor 12 years of age or older is suspected to ~~be dependent upon~~ have a substance use disorder, including a dependence on regulated drugs as defined in section 4201 of this title, on alcohol, on nicotine, or on tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001, or to have ~~venereal disease, or to be an alcoholic as defined in section 8401 of this title~~ a sexually transmitted infection, and the finding of such ~~dependency, disease, or alcoholism~~ substance use disorder or infection is verified by a licensed ~~physician~~ health care professional, the minor may give:

(A) ~~his or her~~ consent to ~~medical treatment~~ health care services and hospitalization; and

(B) in the case of ~~a drug dependent or alcoholic person~~ an individual who has a substance use disorder, consent to nonmedical inpatient or outpatient treatment at a program approved by the Agency of Human Services to provide treatment for ~~drug dependency or alcoholism~~ substance use disorder if deemed necessary by the examining ~~physician for diagnosis or treatment of such dependency or disease or alcoholism~~ health care professional.

(2) Consent under this section shall not be subject to disaffirmance due to minority of the person consenting. The consent of the parent or legal guardian of a minor consenting under this section shall not be necessary to authorize care as described in this subsection.

(b) The parent, parents, or legal guardian shall be notified by the physician if the condition of a minor child requires immediate hospitalization as the result of drug ~~usage, alcoholism,~~ or alcohol use or for the treatment of a ~~venereal disease~~ sexually transmitted infection.

(c) As used in this section, "health care professional" means an individual licensed as a physician under 26 V.S.A. chapter 23 or 33, an individual licensed as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as a registered nurse or advanced practice registered nurse under 26 V.S.A. chapter 28.

Sec. 7. 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 those terms are defined in 7 V.S.A. § 1001 ~~and substances containing nicotine or that are otherwise intended for use with a tobacco substitute~~.

Sec. 8. 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; 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, or cannabis products as defined in 7 V.S.A. § 831.

* * *

Sec. 9. 18 V.S.A. § 9503 is amended to read:

§ 9503. VERMONT TOBACCO PREVENTION AND TREATMENT

(a) Except as otherwise specifically provided, the tobacco prevention and treatment program shall be administered and coordinated statewide by the Department of Health, pursuant to the provisions of this chapter. The program shall be comprehensive and research-based.

(b) The Department shall establish goals for reducing adult and youth smoking rates, including performance measures for each goal in conjunction with the Substance Misuse Prevention Oversight and Advisory Council established pursuant to section 4803 of this title. The services provided by a quitline approved by the Department of Health shall be offered and made available to any minor, upon ~~his or her~~ the minor's consent, who is a smoker or user of tobacco products, tobacco substitutes, or e-liquids, as those terms are defined in 7 V.S.A. § 1001.

(c) The Department of Liquor and Lottery shall administer the component of the program that relates to enforcement activities.

(d) The Agency of Education shall administer school-based programs.

(e) The Department shall pay all fees and costs of the surveillance and evaluation activities, including the costs associated with hiring a contractor to conduct an independent evaluation of the program.

Sec. 10. 33 V.S.A. § 1900 is amended to read:

§ 1900. DEFINITIONS

As used in this subchapter, unless otherwise indicated:

* * *

(10) "Tobacco" means all of the products listed in the definition of "tobacco products" in 7 V.S.A. § 1001~~(3)~~.

* * *

Sec. 11. HEALTH EQUITY ADVISORY COMMISSION; MENTHOL TOBACCO PRODUCT BAN; REPORT

On or before January 15, 2025, in its annual report due pursuant to 18 V.S.A. § 252(e), the Health Equity Advisory Commission shall recommend to the General Assembly whether the sale of tobacco products containing menthol, including menthol cigarettes, should be banned in Vermont.

Sec. 12. TOBACCO SUBSTITUTES AND E-LIQUIDS; ADVERTISING RESTRICTIONS; REPORT

On or before December 1, 2024, 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 tobacco substitutes, including oral nicotine products, and e-liquids in this State.

Sec. 13. DEPARTMENT OF HEALTH; VERMONT YOUTH RISK BEHAVIOR SURVEY; TOBACCO SALES; REPORT

On or before March 1, 2027, the Department of Health shall report 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. In its report, the Department shall also provide data on retail sales of tobacco products, tobacco substitutes, and e-liquids during calendar years 2024, 2025, and 2026.

Sec. 14. DEPARTMENT OF HEALTH; SCHOOL-BASED USAGE AND CESSATION EFFORTS; DIVERSION TO TOBACCO CESSATION PROGRAM; REPORT

(a) The Department of Health shall collaborate with relevant school and community partners to survey and report on the use of tobacco products, tobacco substitutes, and e-liquids, as well as on nicotine and tobacco cessation efforts, in Vermont's schools.

(b) The Department of Health, in consultation with the Division of Liquor Control and the Court Diversion Program, shall develop one or more options for diversion to a tobacco cessation program as an alternative to the existing civil penalties and fines for a person under 21 years of age who possesses, purchases, or uses false identification to purchase tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia under 7 V.S.A. § 1005.

(c) On or before January 15, 2026, the Department shall report to the House Committees on Human Services, on Education, and on Judiciary and the Senate Committees on Health and Welfare, on Education, and on Judiciary with its findings and recommendations regarding the use of tobacco products, tobacco substitutes, and e-liquids in schools; cessation efforts in schools; and options for one or more diversion programs as set forth in subsections (a) and (b) of this section.

Sec. 14a. INVESTIGATOR POSITION CREATED; APPROPRIATION; REPORT

(a) One new permanent classified position, Investigator, is established in the Department of Liquor and Lottery to enforce, and to investigate potential violations of, Vermont laws relating to direct-to-consumer sales and delivery of alcohol and tobacco products, including 7 V.S.A. §§ 277, 279, 280, and 1010.

(b)(1) The sum of $160,000.00 is appropriated to the Department of Liquor and Lottery from the Tobacco Litigation Settlement Fund in fiscal year 2025 to fund the Investigator position established in subsection (a) of this section.

(2) It is the intent of the General Assembly that the position established in subsection (a) of this section should be funded from the Tobacco Litigation Settlement Fund for fiscal years 2025 and 2026. It is also the intent of the General Assembly that, beginning in fiscal year 2027, the funding for the Investigator position should be built into base funding for the Department of Liquor and Lottery's budget, with the amount of the salary and benefits for the Investigator position offset by an equivalent amount of the revenue generated to the Department or to the Office of the Attorney General, or both, by the Investigator's activities in enforcing and in investigating violations of Vermont law, with the remainder of the revenue deposited into the General Fund.

(c) If the revenue generated by the Investigator's activities becomes insufficient to cover the cost of the position in the future, the Department of Liquor and Lottery shall propose eliminating the position as part of its next budget or budget adjustment presentation to the General Assembly.

(d)(1) On or before March 15, 2025, the Department of Liquor and Lottery shall provide an update to the House Committees on Government Operations and Military Affairs and on Human Services and the Senate Committees on Economic Development, Housing and General Affairs and on Health and Welfare regarding the status of its implementation of the new Investigator position.

(2) Annually on or before December 15, the Department of Liquor and Lottery shall report to the House Committees on Government Operations and Military Affairs and on Human Services and the Senate Committees on Economic Development, Housing and General Affairs and on Health and Welfare on the impact of the Investigator's activities on compliance with Vermont's laws relating to direct-to-consumer sales and delivery of alcohol and tobacco products.

Sec. 15. EFFECTIVE DATES

(a) Secs. 2 (7 V.S.A. chapter 40), 3 (4 V.S.A. § 1102(b); Judicial Bureau jurisdiction), 4 (7 V.S.A. § 661(c); penalties), 5 (16 V.S.A. § 140; use prohibited on school grounds), 7 (18 V.S.A. § 4803(a); Substance Misuse Prevention Oversight and Advisory Council), 8 (32 V.S.A. § 7702; definition for tobacco tax purposes), and 10 (33 V.S.A. § 1900; definition for medical assistance statutes) shall take effect on January 1, 2026.

(b) Secs. 1 (findings), 6 (18 V.S.A. § 4226; minor consent to treatment), 9 (18 V.S.A. § 9503; tobacco prevention and treatment), 11 (Health Equity Advisory Commission; menthol ban; report), 12 (advertising restrictions; report), 13 (Youth Risk Behavior Survey; tobacco sales; report), and 14 (school-based usage and cessation efforts; report) and this section shall take effect on passage.

(c) Sec. 14a (Investigator position created; appropriation; report) shall take effect on July 1, 2024, with the first report under subdivision (d)(2) due on or before December 15, 2025.

ORDERED TO LIE

S. 94.

An act relating to the City of Barre tax increment financing district.

NOTICE OF JOINT ASSEMBLY

March 26, 2024 - 10:30 A.M. - House Chamber - Retention of two Superior Court Judges and one Magistrate.

JFO NOTICE

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3):

JFO #3187: Two (2) limited-service positions to the Public Service Department, Vermont Community Broadband Board: Administrative Services Manager III and Data and Information Project Manager. Positions will carry out work related to the federal Broadband Equity, Access and Deployment (BEAD) program. This program has the potential to bring in additional Broadband investment, provided local applications are successful. Positions are fully funded through 11/30/2027 and are funded by previously approved JFO #3136.

[Received February 26, 2024]

JFO #3188: There are two sources of funds related to this request: $50,000.00 from the Vermont Land Trust and $20,000.00 from the Lintilhac Foundation, all to the Agency of Natural Resources, Department of Forests, Parks and Recreation. All funds will go to support the acquisition of a 19-acre property in Island Pond which will expand the Brighton State Park.

[Received March 4, 2024]

JFO #3189: $10,000,000.00 to the Agency of Human Services, Department of Disabilities, Aging and Independent Living from the U.S. Department of Education. The funds will be used to support the transition of youths with disabilities from high school to adulthood. The grants will support six (6) limited-service positions through 9/30/2028 that will work to support partnerships with all supervisory unions and the agencies focusing on employment opportunities for adults with disabilities.

[Received March 1, 2024]

JFO #3190: $900,000.00 to the Agency of Human Services, Department of Corrections from the U.S. Department of Justice. Funds will enhance the reentry vocational case management of incarcerated individuals who are assessed for moderate and above risk of reoffending. The funds include one (1) limited-service position, Vocational Outreach Project Manager, fully funded through 9/30/2026.

[Received March 1, 2024]

JFO #3191: One (1) limited-service position to the Agency of Human Services, Department of Health to assess and carry out work related to data on maternal mortality and sudden unexpected infant deaths. Position requires quality assurance of data and transfer to federal data tracking systems. Position is funded through 09/29/2024 through previously approved JFO #1891.

[Received March 12, 2024]

JFO #3192: $327,250.00 to the Agency of Human Services, Department of Health from the Centers for Disease Control and Prevention for data collection and public awareness related to Chronic Obstructive Pulmonary Disease. The grant is expected to fund yearly through 9/29/2027. The grant includes one (1) limited-service position, Health Systems Program Administrator, to manage contracts and grants associated with the funding and communications with the CDC. The position is also funded through 9/29/2027.

[Received March 12, 2024]

JFO #3193: Land donation of 18.6 acres of undevelopable wetlands in Newport City, VT from Linda Chamberlin Mosher to the Agency of Natural Resources, Department of Fish and Wildlife. The land abuts the existing South Bay Wildlife Management Area and will expand wildlife and fish habitats and improve public access. The donation value is $51,500.00. Estimated closing costs of $10,000.00 and ongoing maintenance costs are covered by already budgeted federal funds. No state funds will be used for the acquisition.

[Received March 12, 2024]

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 15, 2024**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day. House Committee bills must be voted out of Committee by Friday, March 15, 2024 and introduced the next legislative day.

(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 22, 2024**, 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 (Appropriations "Big Bill", Transportation Spending Bill, Capital Construction Bill, Pay Bill, and Miscellaneous Tax Bill).