Senate Calendar

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ACTION CALENDAR

UNFINISHED BUSINESS OF TUESDAY, APRIL 23, 2024

Second Reading

Favorable with Proposal of Amendment

H. 534.

An act relating to retail theft.

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

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

Sec. 1. 13 V.S.A. § 2575 is amended to read:

§ 2575. OFFENSE OF RETAIL THEFT

A person commits the offense of retail theft when the person, with intent of depriving a merchant wrongfully of the lawful possession of merchandise, money, or credit:

(1) takes and carries away or causes to be taken and carried away or aids and abets the carrying away of~~,~~ any merchandise from a retail mercantile establishment without paying the retail value of the merchandise; or

* * *

Sec. 2. 13 V.S.A. § 2577 is amended to read:

§ 2577. PENALTY

(a) A person convicted of the offense of retail theft of merchandise having a retail value not in excess of $900.00 shall:

(1) for a first offense, be punished by a fine of not more than $500.00 or imprisonment for not more than ~~six months~~ 30 days, or both;

(2) for a second offense, be punished by a fine of not more than $1,000.00 or imprisonment for not more than six months, or both;

(3) for a third offense, be punished by a fine of not more than $1,500.00 or imprisonment for not more than three years, or both; or

(4) for a fourth or subsequent offense, be punished by a fine of not more than $2,500.00 or imprisonment for not more than 10 years, or both.

(b) A person convicted of the offense of retail theft of merchandise having a retail value in excess of $900.00 shall be punished by a fine of not more than $1,000.00 or imprisonment for not more than 10 years, or both.

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-1-0)

(No House amendments)

UNFINISHED BUSINESS OF FRIDAY, APRIL 26, 2024

House Proposal of Amendment

S. 30.

An act relating to creating a Sister State Program

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. VERMONT SISTER STATE PROGRAM; WORKING GROUP

(a) Creation. There is created the Vermont Sister State Program Working Group for the purpose of determining the administration, oversight, scope, and objectives of a Vermont Sister State Program.

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

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

(2) the Secretary of Education or designee;

(3) the Secretary of Agriculture or designee;

(4) the Chair of the Board of Trustees of the Vermont Arts Council or designee of the Board of the Trustees;

(5) the Chair of the Board of Directors of the Vermont Council on World Affairs or designee of the Board of the Directors; and

(6) the Vermont Adjutant General or designee.

(c) Meetings.

(1) The Secretary of Commerce and Community Development or designee shall call the first meeting of the Working Group to occur on or before September 1, 2024.

(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) In furtherance of its duties, the Working Group is encouraged to solicit input and participation from interested stakeholders, including those with experience in cultural exchange or in international relations, agriculture, trade, education, arts, recreation, or governance.

(d) Powers and duties. The Working Group shall review sister state programs in other jurisdictions and receive testimony from relevant stakeholders in order to make recommendations for legislative action. In conducting its analysis, the Working Group shall consider and make recommendations on the following:

(1) which department in State government is best suited to administer, house, and provide support to the Program;

(2) the makeup of the membership of the Committee overseeing the Program;

(3) sources of funding that will financially support the Program;

(4) specific objectives of the Program that align with the following goals:

(A) that the Program exist to create, administer, and maintain mutually beneficial and long-lasting partnerships between Vermont and other select countries or provinces;

(B) that the Program foster the connection of immigrants and refugee communities in Vermont with their nations of origin;

(C) that the Program promote and foster cultural exchange, tourism, trade, and education between Vermont and Sister States; and

(D) that through the Program, the Committee communicate with and support military personnel, foreign service officers, aid organizations, nongovernmental organizations, Peace Corps volunteers, and any other relevant entities working in Sister States.

(5) the criteria for evaluating proposed and existing Sister State agreements;

(6) the requirements for creating and managing Sister State agreements, including:

(A) the term length for agreements; and

(B) the appropriate number of active agreements at one time; and

(7) any other issue the Working Group deems relevant to the success of the Vermont Sister State Program.

(e) Compensation and reimbursement.

(1) A nonlegislative member 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 10 meetings.

(2) Payments to members of the Working Group authorized under this subsection shall be made from monies appropriated to the General Assembly.

(f) Reporting.

(1) An initial report on the Working Group's progress on the work set forth in this section shall be submitted to the General Assembly on or before February 15, 2025.

(2) A final report shall include the Working Group's findings and recommendations for legislative language based on the requirements set forth in this section. The report shall also include the names of the stakeholders that the Working Group heard from during its work. The report shall be submitted to the General Assembly on or before November 1, 2025.

(g) Expiration. The Working Group shall cease to exist on March 31, 2026.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

Proposal of amendment to House proposal of amendment to S. 30 to be offered by Senators Harrison, Brock, Clarkson, Cummings and Ram Hinsdale

Senators Harrison, Brock, Clarkson, Cummings and Ram Hinsdale move that the Senate concur in the House proposal of amendment with further proposal of amendment by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. VERMONT SISTER STATE PROGRAM; WORKING GROUP

(a) Creation. There is created the Vermont Sister State Program Working Group for the purpose of determining the administration, oversight, scope, and objectives of a Vermont Sister State Program.

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

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

(2) the Secretary of Education or designee;

(3) the Secretary of Agriculture or designee;

(4) the Chair of the Board of Trustees of the Vermont Arts Council or designee of the Board of the Trustees;

(5) the Chair of the Board of Directors of the Vermont Council on World Affairs or designee of the Board of the Directors;

(6) the Vermont Adjutant General or designee; and

(7) three members with experience in educational or cultural exchanges or in international affairs to be appointed as follows:

(A) one member by the Governor;

(B) one member by the Senate Committee on Committees; and

(C) one member by the Speaker of the House.

(c) Meetings.

(1) The Secretary of Commerce and Community Development or designee shall call the first meeting of the Working Group to occur on or before September 1, 2024.

(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) In furtherance of its duties, the Working Group is encouraged to solicit input and participation from interested stakeholders, including those with experience in cultural exchange or in international relations, agriculture, trade, education, arts, recreation, or governance.

(d) Powers and duties. The Working Group shall review sister state programs in other jurisdictions and receive testimony from relevant stakeholders in order to make recommendations for legislative action. In

conducting its analysis, the Working Group shall consider and make recommendations on the following:

(1) which department in State government is best suited to administer, house, and provide support to the Program;

(2) the makeup of the membership of the Committee overseeing the Program;

(3) sources of funding that will financially support the Program;

(4) specific objectives of the Program that align with the following goals:

(A) that the Program exist to create, administer, and maintain mutually beneficial and long-lasting partnerships between Vermont and other select countries or provinces;

(B) that the Program promote peace, human rights, and environmental sustainability;

(C) that the Program foster the connection of immigrants and refugee communities in Vermont with their nations of origin;

(D) that the Program promote and foster cultural exchange, tourism, trade, and education between Vermont and Sister States; and

(E) that through the Program, the Committee communicate with and support military personnel, foreign service officers, aid organizations, nongovernmental organizations, Peace Corps volunteers, and any other relevant entities working in Sister States.

(5) the criteria for evaluating proposed and existing Sister State agreements;

(6) the requirements for creating and managing Sister State agreements, including:

(A) the term length for agreements; and

(B) the appropriate number of active agreements at one time; and

(7) any other issue the Working Group deems relevant to the success of the Vermont Sister State Program.

(e) Compensation and reimbursement.

(1) A nonlegislative member 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 10 meetings. These payments shall be

made from monies appropriated to the Department of Commerce and Community Development.

(2) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Working Group 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.

(f) Reporting.

(1) An initial report on the Working Group's progress on the work set forth in this section shall be submitted to the General Assembly on or before February 15, 2025.

(2) A final report shall include the Working Group's findings and recommendations for legislative language based on the requirements set forth in this section. The report shall also include the names of the stakeholders that the Working Group heard from during its work. The report shall be submitted to the General Assembly on or before November 1, 2025.

(g) Expiration. The Working Group shall cease to exist on March 31, 2026.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

UNFINISHED BUSINESS OF WEDNESDAY, MAY 1, 2024

Second Reading

Favorable with Proposal of Amendment

H. 121.

An act relating to enhancing consumer privacy.

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

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

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

CHAPTER 61A. VERMONT DATA PRIVACY ACT

§ 2415. DEFINITIONS

As used in this chapter:

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

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

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

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

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

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

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

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

(i) iris or retina scans;

(ii) fingerprints;

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

(iv) vein patterns;

(v) voice prints; and

(vi) gait or personally identifying physical movement or patterns.

(B) "Biometric data" does not include:

(i) a digital or physical photograph;

(ii) an audio or video recording; or

(iii) any data generated from a digital or physical photograph, or an audio or video recording, unless such data is generated to identify a specific individual.

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

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

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

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

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

(C) "Consent" does not include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(19) "De-identified data" means data that does not identify and cannot reasonably be used to infer information about, or otherwise be linked to, an identified or identifiable individual, or a device linked to the individual, if the controller that possesses the data:

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

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

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

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

(20) "Educational institution" has the same meaning as "educational agency or institution" in 20 U.S.C. § 1232g (family educational and privacy rights);

(21) "Financial institution":

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

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

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

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

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

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

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

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

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

(26) "Health care facility" has the same meaning as in 18 V.S.A. § 9432.

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

(A) material physical or financial injury to a minor;

(B) emotional distress, as that term is defined in 13 V.S.A. § 1061(2), to a minor;

(C) a highly offensive intrusion on the reasonable privacy expectations of a minor;

(D) the encouragement of excessive or compulsive use of an online service, product, or feature by a minor; or

(E) discrimination against the minor based upon the minor's race, ethnicity, sex, disability, sexual orientation, gender identity, gender expression, or national origin.

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

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

(30) "Independent trust company" has the same meaning as in 8 V.S.A. § 2401.

(31) "Investment adviser" has the same meaning as in 9 V.S.A. § 5102.

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

(33) "Nonpublic personal information" has the same meaning as in 15 U.S.C. § 6809.

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

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

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

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

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

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

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

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

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

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

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

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

(40) "Processor" means a person who processes personal data on behalf of a controller.

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

(42) "Protected health information" has the same meaning as in HIPAA.

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

(44) "Publicly available information" means information that:

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

(B) a controller has a reasonable basis to believe a consumer has lawfully made available to the general public.

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

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

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

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

(49)(A) "Sale of personal data" means the exchange of a consumer's personal data by the controller to a third party for monetary or other valuable consideration.

(B) "Sale of personal data" does not include:

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

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

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

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

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

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

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

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

(50) "Sensitive data" means personal data that:

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

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

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

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

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

(F) is consumer health data;

(G) is personal data collected and analyzed concerning consumer health data or personal data that describes or reveals a past, present, or future mental or physical health condition, treatment, disability, or diagnosis, including pregnancy, to the extent the personal data is not used by the controller to identify a specific consumer's physical or mental health condition or diagnosis;

(H) is biometric or genetic data;

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

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

(K) is precise geolocation data.

(51)(A) "Targeted advertising" means displaying an advertisement to a consumer where the advertisement is selected based on personal data obtained or inferred from that consumer's activities over time and across nonaffiliated internet websites or online applications to predict the consumer's preferences or interests.

(B) "Targeted advertising" does not include:

(i) an advertisement based on activities within a controller's own websites or online applications;

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

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

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

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

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

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

§ 2416. APPLICABILITY

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

(1) controlled or processed the personal data of not fewer than 25,000 consumers, excluding personal data controlled or processed solely for the purpose of completing a payment transaction; or

(2) derived more than 50 percent of the person's gross revenue from the sale of personal data.

(b) Sections 2420 and 2426 of this title, and the provisions of this chapter concerning consumer health data and consumer health data controllers apply to a person that conducts business in this State or a person that produces products or services that are targeted to residents of this State.

§ 2417. EXEMPTIONS

(a) This chapter does not apply to:

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

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

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

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

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

(B) research on human subjects undertaken in accordance with good clinical practice guidelines issued by the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use;

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

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

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

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

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

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

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

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

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

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

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

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

(10) any activity that involves collecting, maintaining, disclosing, selling, communicating, or using information for the purpose of evaluating a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living if done strictly in accordance with the provisions of the Fair Credit Reporting Act, 15 U.S.C. § 1681–1681x, as may be amended, by:

(A) a consumer reporting agency;

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

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

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

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

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

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

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

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

(13) information that originates from, or is intermingled so as to be indistinguishable from, information described in subdivision (12) of this subsection and that a controller or processor collects, processes, uses, or

maintains in the same manner as is required under the law and regulations specified in subdivision (12) of this subsection;

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

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

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

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

(18) a public service company subject to the rules and orders of the Vermont Public Utility Commission regarding data sharing and service quality;

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

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

(21) personal data of health care service volunteers held by nonprofit organizations to facilitate provision of health care services; or

(22) noncommercial activity of:

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

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

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

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

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

§ 2418. CONSUMER PERSONAL DATA RIGHTS

(a) A consumer shall have the right to:

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

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

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

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

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

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

(A) targeted advertising;

(B) the sale of personal data; or

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

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

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

(3) A parent or legal guardian may exercise rights under this section on behalf of the parent's child or on behalf of a child for whom the guardian has legal responsibility. A guardian or conservator may exercise the rights under

this section on behalf of a consumer that is subject to a guardianship, conservatorship, or other protective arrangement.

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

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

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

(1)(A) A controller shall respond to the consumer without undue delay, but not later than 60 days after receipt of the request.

(B) The controller may extend the response period by 45 additional days when reasonably necessary, considering the complexity and number of the consumer's requests, provided the controller informs the consumer of the extension within the initial 60-day response period and of the reason for the extension.

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

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

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

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

(4)(A) If a controller is unable to authenticate a request to exercise any of the rights afforded under subdivisions (a)(1)–(5) of this section using commercially reasonable efforts, the controller shall not be required to comply with a request to initiate an action pursuant to this section and shall provide

notice to the consumer that the controller is unable to authenticate the request to exercise the right or rights until the consumer provides additional information reasonably necessary to authenticate the consumer and the consumer's request to exercise the right or rights.

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

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

(5) A controller that has obtained personal data about a consumer from a source other than the consumer shall be deemed in compliance with a consumer's request to delete the data pursuant to subdivision (a)(4) of this section by:

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

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

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

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

(B) the employment of any dark pattern.

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

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

(2) Be conspicuously available to the consumer.

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

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

§ 2419. DUTIES OF CONTROLLERS

(a) A controller shall:

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

(2) process personal data only:

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

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

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

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

(4) provide an effective mechanism for a consumer to revoke consent to the controller's processing of the consumer's personal data that is at least as easy as the mechanism by which the consumer provided the consumer's consent and, upon revocation of the consent, cease to process the data as soon as practicable, but not later than 60 days after receiving the request.

(b) A controller shall not:

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

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

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

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

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

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

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

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

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

(A) denying goods or services;

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

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

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

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

(2) prohibit a controller from offering a different price, rate, level of quality, or selection of goods or services to a consumer, including an offer for no fee or charge, in connection with a consumer's voluntary participation in a

financial incentive program, such as a bona fide loyalty, rewards, premium features, discount, or club card program.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) provide a clear and conspicuous link to a website where the consumer or an authorized agent may opt out from a controller's processing of the consumer's personal data pursuant to subdivision 2418(a)(6) of this title or, solely if the controller does not have a capacity needed for linking to a webpage, provide another method the consumer can use to opt out; and

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

(A) does not unfairly disadvantage another controller;

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

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

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

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

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

§ 2420. DUTIES OF CONTROLLERS TO MINORS

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

(2) In any action brought pursuant to section 2425 of this title, there is a rebuttable presumption that a controller used reasonable care as required under this section if the controller complied with this section.

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

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

(A) targeted advertising;

(B) the sale of personal data; or

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

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

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

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

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

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

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

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

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

(C) the controller provides to the minor a signal indicating that the controller is collecting the minor's precise geolocation data and makes the

signal available to the minor for the entire duration of the collection of the minor's precise geolocation data.

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

(1) the minor's consent; or

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

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

(1) employ any dark pattern; or

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

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

(1) e-mail; or

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

(A) shared between the sender and the recipient;

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

(C) not posted publicly.

§ 2421. DUTIES OF PROCESSORS

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

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

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

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

(2) adopt administrative, technical, and physical safeguards that are reasonably designed to protect the security and confidentiality of the personal

data the processor processes, taking into account how the processor processes the personal data and the information available to the processor.

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

(1) be valid and binding on both parties;

(2) set forth clear instructions for processing data, the nature and purpose of the processing, the type of data that is subject to processing, and the duration of the processing;

(3) specify the rights and obligations of both parties with respect to the subject matter of the contract;

(4) ensure that each person that processes personal data is subject to a duty of confidentiality with respect to the personal data;

(5) require the processor to delete the personal data or return the personal data to the controller at the controller's direction or at the end of the provision of services, unless a law requires the processor to retain the personal data;

(6) require the processor to make available to the controller, at the controller's request, all information the controller needs to verify that the processor has complied with all obligations the processor has under this chapter;

(7) require the processor to enter into a subcontract with a person the processor engages to assist with processing personal data on the controller's behalf and in the subcontract require the subcontractor to meet the processor's obligations concerning personal data; and

(8)(A) allow the controller, the controller's designee, or a qualified and independent person the processor engages, in accordance with an appropriate and accepted control standard, framework, or procedure, to assess the processor's policies and technical and organizational measures for complying with the processor's obligations under this chapter;

(B) require the processor to cooperate with the assessment; and

(C) at the controller's request, report the results of the assessment to the controller.

(c) This section does not relieve a controller or processor from any liability that accrues under this chapter as a result of the controller's or processor's actions in processing personal data.

(d)(1) For purposes of determining obligations under this chapter, a person is a controller with respect to processing a set of personal data and is subject to an action under section 2425 of this title to punish a violation of this chapter, if the person:

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

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

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

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

§ 2422. DUTIES OF PROCESSORS TO MINORS

(a) A processor shall adhere to the instructions of a controller and shall assist the controller in meeting the controller's obligations under section 2420 of this title, taking into account:

(1) the nature of the processing;

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

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

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

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

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

begins, alone or jointly with others, determining the purposes and means of the processing of personal data, the processor is a controller with respect to the processing and may be subject to an enforcement action under section 2425 of this title.

§ 2423. DE-IDENTIFIED OR PSEUDONYMOUS DATA

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 2424. CONSTRUCTION OF DUTIES OF CONTROLLERS AND PROCESSORS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) effectuate a product recall; or

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

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

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

(d)(1) A controller, processor, or consumer health data controller that discloses personal data to a processor or third-party controller pursuant to this

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

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

(e) This chapter shall not be construed to:

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

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

(B) under 12 V.S.A. § 1615; or

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

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

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

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

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

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

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

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

§ 2425. ENFORCEMENT; ATTORNEY GENERAL'S POWERS

(a) The Attorney General shall have exclusive authority to enforce violations of this chapter.

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

(2) The Attorney General may, in determining whether to grant a controller, processor, or consumer health data controller the opportunity to cure an alleged violation described in subdivision (1) of this subsection, consider:

(A) the number of violations;

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

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

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

(E) the safety of persons or property;

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

(G) the sensitivity of the data.

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

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

(2) the nature of each violation;

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

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

(d) This chapter shall not be construed as providing the basis for, or be subject to, a private right of action for violations of this chapter or any other law.

(e) A violation of the requirements of this chapter shall constitute an unfair and deceptive act in commerce in violation of section 2453 of this title and shall be enforced solely by the Attorney General, provided that a consumer private right of action under subsection 2461(b) of this title shall not apply to the violation.

§ 2426. CONFIDENTIALITY OF CONSUMER HEALTH DATA

Except as provided in subsections 2417(a) and (b) of this title and section 2424 of this title, no person shall:

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

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

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

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

Sec. 2. 3 V.S.A. § 5023 is amended to read:

§ 5023. ARTIFICIAL INTELLIGENCE AND DATA PRIVACY ADVISORY COUNCIL

(a)(1) Advisory Council. There is established the Artificial Intelligence and Data Privacy Advisory Council to:

(A) provide advice and counsel to the Director of the Division of Artificial Intelligence ~~with regard to~~ on the Division's responsibilities to review all aspects of artificial intelligence systems developed, employed, or procured in State government~~.~~;

(B) ~~The Council,~~ in consultation with the Director of the Division, ~~shall also~~ engage in public outreach and education on artificial intelligence;

(C) provide advice and counsel to the Attorney General in carrying out the Attorney General's enforcement responsibilities under the Vermont Data Privacy Act; and

(D) develop policy recommendations for improving data privacy in Vermont, including recommendations for implementing a private right of action and developing education and outreach on the Vermont Data Privacy Act, which shall be provided to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development by January 15, 2025.

(2) The Advisory Council shall have the authority to establish subcommittees to carry out the purposes of subdivision (1)(D) of this subsection.

(b) Members.

(1) Members. The Advisory Council shall be composed of the following members:

(A) the Secretary of Digital Services or designee;

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

(C) the Commissioner of Public Safety or designee;

(D) the Executive Director of the American Civil Liberties Union of Vermont or designee;

(E) one member who is an expert in constitutional and legal rights, appointed by the Chief Justice of the Supreme Court;

(F) one member with experience in the field of ethics and human rights, appointed by the Governor;

(G) one member who is an academic at a postsecondary institute, appointed by the Vermont Academy of Science and Engineering;

(H) the Commissioner of Health or designee;

(I) the Executive Director of Racial Equity or designee; ~~and~~

(J) the Attorney General or designee;

(K) one member representing Vermont small businesses, appointed by the Speaker of the House; and

(L) one member who is an expert in data privacy, appointed by the Committee on Committees.

(2) Chair. Members of the Advisory Council shall elect by majority vote the Chair of the Advisory Council. Members of the Advisory Council shall be appointed on or before August 1, 2022 in order to prepare as they deem necessary for the establishment of the Advisory Council, including the election of the Chair of the Advisory Council, except that the member representing Vermont small businesses and the member who is an expert in data privacy shall be appointed on or before August 1, 2024.

(3) Qualifications. Members shall be drawn from diverse backgrounds and, to the extent possible, have experience with artificial intelligence.

(c) Meetings. The Advisory Council shall meet at the call of the Chair as follows:

(1) on or before January 31, 2024, not more than 12 times; and

(2) on or after February 1, 2024, not more than monthly.

(d) Quorum. A majority of members shall constitute a quorum of the Advisory Council. Once a quorum has been established, the vote of a majority of the members present at the time of the vote shall be an act of the Advisory Council.

(e) Assistance. The Advisory Council shall have the administrative and technical support of the Agency of Digital Services.

(f) Reimbursement. Members of the Advisory Council who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010.

(g) Consultation. ~~The~~ In its advice and counsel to the Director of the Division of Artificial Intelligence, the Advisory Council shall consult with any relevant national bodies on artificial intelligence, including the National Artificial Intelligence Advisory Committee established by the Department of Commerce, and its applicability to Vermont. In its advice and counsel to the Attorney General, the Advisory Council shall consult with enforcement authorities in states with comparable comprehensive data privacy regimes.

(h) Repeal. This section shall be repealed on June 30, 2027.

(i) Limitation. The advice and counsel of the Advisory Council shall not limit the discretionary authority of the Attorney General to enforce the Vermont Data Privacy Act.

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

CHAPTER 62. PROTECTION OF PERSONAL INFORMATION

Subchapter 1. General Provisions

§ 2430. DEFINITIONS

As used in this chapter:

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

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

(i) name;

(ii) address;

(iii) date of birth;

(iv) place of birth;

(v) mother's maiden name;

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

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

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

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

(B) "Brokered personal information" does not include publicly available information ~~to the extent that it is related to a consumer's business or profession~~ as that term is defined in section 2415 of this title.

~~(2)~~(3) "Business" means a controller, a consumer health data controller, a processor, or a commercial entity, including a sole proprietorship, partnership, corporation, association, limited liability company, or other group, however organized and whether or not organized to operate at a profit,

including a financial institution organized, chartered, or holding a license or authorization certificate under the laws of this State, any other state, the United States, or any other country, or the parent, affiliate, or subsidiary of a financial institution, but does not include the State, a State agency, any political subdivision of the State, or a vendor acting solely on behalf of, and at the direction of, the State.

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

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

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

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

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

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

(ii) employee, contractor, or agent of the business;

(iii) investor in the business; or

(iv) donor to the business.

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

(i) developing or maintaining third-party e-commerce or application platforms;

(ii) providing 411 directory assistance or directory information services, including name, address, and telephone number, on behalf of or as a function of a telecommunications carrier;

(iii) providing publicly available information related to a consumer's business or profession; or

(iv) providing publicly available information via real-time or near-real-time alert services for health or safety purposes.

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

(i) a one-time or occasional sale of assets of a business as part of a transfer of control of those assets that is not part of the ordinary conduct of the business; ~~or~~

(ii) a sale or license of data that is merely incidental to the business; or

(iii) the disclosure of brokered personal information that a consumer intentionally made available to the general public via a channel of mass media and did not restrict to a specific audience.

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

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

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

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

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

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

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

~~(6)~~(9) "Data collector" means a person who, for any purpose, whether by automated collection or otherwise, handles, collects, disseminates, or otherwise deals with personally identifiable information, and includes the

State, State agencies, political subdivisions of the State, public and private universities, privately and publicly held corporations, limited liability companies, financial institutions, and retail operators.

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

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

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

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

(i) a Social Security number;

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

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

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

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

(vi) genetic information; and

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

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

(III) a health insurance policy number.

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

(14) "Processor" has the same meaning as in section 2415 of this title.

~~(11)~~(15) "Record" means any material on which written, drawn, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics.

~~(12)~~(16) "Redaction" means the rendering of data so that the data are unreadable or are truncated so that ~~no~~ not more than the last four digits of the identification number are accessible as part of the data.

~~(13)~~(17)(A) "Security breach" means unauthorized acquisition of electronic data, or a reasonable belief of an unauthorized acquisition of electronic data, that compromises the security, confidentiality, or integrity of a consumer's personally identifiable information or login credentials maintained by a data collector.

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

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

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

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

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

(iv) that the information has been made public.

* * *

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

* * *

§ 2436. NOTICE OF DATA BROKER SECURITY BREACH

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

(b) Notice of breach.

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

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

(A)(i) The data broker shall notify the Attorney General of the date of the security breach and the date of discovery of the breach and shall provide a preliminary description of the breach within 14 business days, consistent with the legitimate needs of the law enforcement agency, as provided in subdivisions (3) and (4) of this subsection (b), after the data broker's discovery of the security breach or when the data broker provides notice to consumers pursuant to this section, whichever is sooner.

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

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

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

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

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

(4) The notice to a consumer required in subdivision (1) of this subsection shall be clear and conspicuous. A notice to a consumer of a security breach involving brokered personal information shall include a description of each of the following, if known to the data broker:

(A) the incident in general terms;

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

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

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

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

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

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

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

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

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

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

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

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

(c) Exception.

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

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

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

(e) Enforcement.

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

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

* * *

Subchapter 5. Data Brokers

§ 2446. DATA BROKERS; ANNUAL REGISTRATION

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

(1) register with the Secretary of State;

(2) pay a registration fee of $100.00; and

(3) provide the following information:

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) other penalties imposed by law.

(c) A data broker that omits required information from its registration shall file an amendment to include the omitted information within 30 business days following notification of the omission and is liable to the State for a civil penalty of $1,000.00 per day for each day thereafter.

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

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

(2) if it fails to correct the false information within 30 business days after discovery or notification of the incorrect information, an additional civil penalty of $1,000.00 per day for each day thereafter that it fails to correct the information.

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

* * *

§ 2448. DATA BROKERS; CREDENTIALING

(a) Credentialing.

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

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

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

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

(b) Exemption. Nothing in this section applies to:

(1) brokered personal information that is:

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

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

(2) a public service company subject to the rules and orders of the Vermont Public Utility Commission regarding data sharing and service quality;

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

(4) a nonprofit organization that is established to provide enrollment data reporting services on behalf of postsecondary schools as that term is defined in 16 V.S.A. § 176.

Sec. 4. EFFECTIVE DATES

(a) This section and Sec. 2 (AI and Data Privacy Advisory Council) shall take effect on July 1, 2024.

(b) Sec. 1 (Vermont Data Privacy Act) and Sec. 3 (Protection of Personal Information) shall take effect on July 1, 2025.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 21, 2024, pages 697 - 743)

Reported favorably by Senator Perchlik for the Committee on Appropriations.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Economic Development, Housing and General Affairs.

(Committee vote: 7-0-0)

H. 644.

An act relating to access to records by individuals who were in foster care.

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

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

Sec. 1. 33 V.S.A. § 4921 is amended to read:

§ 4921. DEPARTMENT'S RECORDS OF ABUSE AND NEGLECT

(a) Record maintenance and disclosure generally. The Commissioner shall maintain all records of all investigations, assessments, reviews, and responses initiated under this subchapter. The Department may use and disclose information from such records in the usual course of its business, including to

assess future risk to children, to provide appropriate services to the child or members of the child's family, or for other legal purposes.

(b) Duty to inform parents or guardians. The Commissioner shall promptly inform the parents, if known, or guardian of the child that a report has been accepted as a valid allegation pursuant to subsection 4915(b) of this title and the Department's response to the report. The Department shall inform the parent or guardian of ~~his or her~~ the parent's or guardian's ability to request records pursuant to subsection (c) of this section. This section shall not apply if the parent or guardian is the subject of the investigation.

(c) Disclosure of redacted investigation files. Upon request, the redacted investigation file shall be disclosed to:

(1) the child's parents, foster parent, or guardian, absent good cause shown by the Department, provided that the child's parent, foster parent, or guardian is not the subject of the investigation;

(2) the person alleged to have abused or neglected the child, as provided for in subsection 4916a(d) of this title; and

(3) the attorney representing the child in a child custody proceeding in the Family Division of the Superior Court.

(d) Disclosure of records created by the Department. Upon request, Department records created under this subchapter shall be disclosed to:

(1) the court, parties to the juvenile proceeding, and the child's guardian ad litem if there is a pending juvenile proceeding or if the child is in the custody of the Commissioner;

(2) the Commissioner or person designated by the Commissioner to receive such records;

(3) persons assigned by the Commissioner to conduct investigations;

(4) law enforcement officers engaged in a joint investigation with the Department, an Assistant Attorney General, or a State's Attorney;

(5) other State agencies conducting related inquiries or proceedings; ~~and~~

(6) the Office of the Child, Youth, and Family Advocate for the purpose of carrying out the provisions in chapter 32 of this title; and

(e)(1) Disclosure of relevant Department records or information. Upon request, relevant Department records or information created under this subchapter shall be disclosed to:

(A) a person, agency, or organization, including a multidisciplinary team empaneled under section 4917 of this title, authorized to diagnose, care for, treat, or supervise a child or family who is the subject of a report or record created under this subchapter, or who is responsible for the child's health or welfare;

(B) health and mental health care providers working directly with the child or family who is the subject of the report or record;

(C) educators working directly with the child or family who is the subject of the report or record;

(D) licensed or approved foster caregivers for the child;

(E) mandated reporters as defined by section 4913 of this subchapter, making a report in accordance with the provisions of section 4914 of this subchapter and engaging in an ongoing working relationship with the child or family who is the subject of the report;

(F) a Family Division of the Superior Court involved in any proceeding in which:

(i) custody of a child or parent-child contact is at issue pursuant to 15 V.S.A. chapter 11, subchapter 3A;

(ii) a parent of a child challenges a presumption of parentage under 15C V.S.A. § 402(b)(3); or

(iii) a parent of a child contests an allegation that he or she fostered or supported a bonded and dependent relationship between the child and a person seeking to be adjudicated a de facto parent under 15C V.S.A. § 501(a)(2);

(G) a Probate Division of the Superior Court involved in guardianship proceedings; and

(H) other governmental entities for purposes of child protection.

(2) Determinations of relevancy shall be made by the Department.

(3) In providing records or information under this subsection, the Department may withhold:

(A) information that could compromise the safety of the reporter or the child or family who is the subject of the report; or

(B) specific details that could cause the child to experience significant mental or emotional stress.

(4) In providing records or information under this section, the Department may also provide other records related to its child protection activities for the child.

(5) Any persons or agencies authorized to receive confidential information under this section may share such information with other persons or agencies authorized to receive confidential information under this section for the purposes of providing services and benefits to the children and families those persons or agencies mutually serve.

(f) Disclosure to prevent harm. Upon request, relevant Department information created under this subchapter may be disclosed to a parent with a reasonable concern that an individual who is residing at least part time with the parent requestor's child presents a risk of abuse or neglect to the requestor's child. As it is used in this subsection, "relevant Department information" shall mean information regarding the individual that the Department determines could avert the risk of harm presented by the individual to the requestor's child. If the Department denies the request for information, the requestor may petition the Family Division of the Superior Court, which may, after weighing the privacy concerns of the individuals involved with the parent's right to protect his or her child, order the release of the information.

(g) Disclosure to adults that were subject to foster care placement.

(1) It is the intent of the General Assembly that it be the policy of the State that:

(A) adults who were subject to placement in State foster care, institutions, and other systemic placements have a statutory right to access their own records in order to more fully understand their own personal stories, including their health, education, family, and other histories; access healing in their chosen way; and be recognized and trusted as legitimate custodians of their own information;

(B) the Department make good faith efforts to disclose such records in the broadest form permitted under applicable federal or State law in order to assist with the administration of Vermont's state plan for foster care and establishing eligibility for programs or services; and

(C) any disclosures made by the Department that are prohibited by applicable federal or State law be construed as good faith efforts of the Department to comply with the State's policy and statutory scheme.

(2) Upon request, Department records created under this subchapter shall be disclosed, at no cost, to an individual who meets the following criteria, to the extent permitted by federal or State law:

(A) the individual is the subject of the records requested;

(B) the individual is 18 years of age or older; and

(C) as a minor, the individual was in foster care or subject to any juvenile judicial proceeding under this title.

(3) In providing records or information pursuant to this subsection, the Department may withhold or redact the following:

(A) identifying information about any person, other than the subject, in which there is a substantial likelihood that a person's safety would be compromised if disclosed;

(B) information that creates a substantial likelihood that would compromise an active law enforcement investigation; or

(C) reports or investigatory records about the subject of the record request in which there is a formal allegation that the subject committed an act of abuse or neglect.

~~(g)~~(h) Penalty. Any records or information disclosed under this section and information relating to the contents of those records or reports shall not be disseminated by the receiving persons or agencies to any persons or agencies, other than to those persons or agencies authorized to receive information pursuant to this section. A person who intentionally violates the confidentiality provisions of this section shall be fined not more than $2,000.00.

Sec. 2. 33 V.S.A. § 5117 is amended to read:

§ 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

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

(b)(1) Notwithstanding ~~the foregoing~~ subsection (a) of this section, inspection of ~~such~~ the records and files by or dissemination of ~~such~~ the records and files to the following is not prohibited:

(A) a court having the child before it in any juvenile judicial proceeding;

(B) the officers of public institutions or agencies to whom the child is committed as a delinquent child;

(C) a court in which a person is convicted of a criminal offense for the purpose of imposing sentence upon or supervising the person, or by officials of penal institutions and other penal facilities to which the person is committed, or by a parole board in considering the person's parole or discharge or in exercising supervision over the person;

(D) the parties to the proceeding, court personnel, the State's Attorney or other prosecutor authorized to prosecute criminal or juvenile cases under State law, the child's guardian ad litem, the attorneys for the parties, probation officers, and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the child;

(E) the child who is the subject of the proceeding, the child's parents, guardian, and custodian may inspect ~~such~~ the records and files upon approval of ~~the Family~~ a Superior Court judge;

(F) any other person who has a need to know may be designated by order of the Family Division of the Superior Court;

(G) the Commissioner of Corrections if the information would be helpful in preparing a presentence report, in determining placement, or in developing a treatment plan for a person convicted of a sex offense that requires registration pursuant to 13 V.S.A. chapter 167, subchapter 3;

(H) the Human Services Board and the Commissioner's Registry Review Unit in processes required under chapter 49 of this title;

(I) the Department for Children and Families;

(J) the Office of the Child, Youth, and Family Advocate for the purpose of carrying out the provisions in chapter 32 of this title;

(K) a service provider named in a disposition order adopted by the court, or retained by or contracted with a party to fulfill the objectives of the disposition order, including referrals for treatment and placement;

(L) a court diversion program or youth-appropriate community-based provider to whom the child is referred by the State's Attorney or the court, if the child accepts the referral; ~~and~~

(M) other State agencies, treatment programs, service providers, or those providing direct support to the youth, for the purpose of providing supervision or treatment to the youth; and

(N) an individual who:

(i) is the subject of the records sought by the request;

(ii) is 18 years of age or older; and

(iii) as a minor, was subject to any juvenile judicial proceeding under this title.

(2) Files inspected under this subsection shall be marked: UNLAWFUL DISSEMINATION OF THIS INFORMATION IS A CRIME PUNISHABLE BY A FINE UP TO $2,000.00.

* * *

Sec. 3. DEPARTMENT FOR CHILDREN AND FAMILIES; DISCLOSURE CATEGORIES; RECORDKEEPING; REPORT

On or before November 15, 2025, the Department for Children and Families, in consultation with the Office of the Child, Youth, and Family Advocate and the Vermont State Archives and Records Administration, shall provide a written report to the Senate Committee on Government Operations and the House Committee on Government Operations and Military Affairs on its progress implementing 33 V.S.A. § 4921(g). The report shall include:

(1) the number of requests for records pursuant to 33 V.S.A. § 4921(g);

(2) the approximate or average amount of staff time required to comply with the requests;

(3) systemic issues or barriers facing the Department, if any, in fulfilling the requests;

(4) suggestions for increasing the types of records that are available to youth who have had involvement with the Department; and

(5) any other information the Department deems pertinent for the General Assembly to consider as the State moves toward broader access of Department records to the youth whose lives are affected by Department involvement.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 6-0-0)

(For House amendments, see House Journal of March 19, 2024, page 571)

House Proposal of Amendment

S. 191.

An act relating to New American educational grant opportunities

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:

* * * Vermont Student Assistance Corporation * * *

Sec. 1. 16 V.S.A. § 2846 is amended to read:

§ 2846. ADVANCEMENT GRANTS

(a) The Corporation may establish an advancement grant program for residents pursuing nondegree education and training opportunities who do not meet the definition of student in subdivision 2822(3) of this title~~,~~ and who may not meet the requirements of this subchapter.

(b) Advancement grants may be used at institutions that are not approved postsecondary education institutions.

(c) The Corporation may adopt rules or establish policies, procedures, standards, and forms for advancement grants, including the requirements for applying for and using the grants and the eligibility requirements for the institutions where the grants may be used. Such rules shall be consistent with subsection (d) of this section.

(d) Notwithstanding subsection (a) of this section, applicants shall not be ineligible for the advancement grant solely on account of the applicant's residency status under subdivision 2822(7) of this title if that applicant:

(1) qualifies as a refugee pursuant to 8 U.S.C. § 1101(a)(42) (definition of refugee);

(2) is granted parole to enter the United States pursuant to 8 U.S.C. § 1182(d)(5) (temporary admission of nonimmigrants for urgent humanitarian reasons); or

(3) is issued a special immigrant visa pursuant to the Afghan Allies Protection Act of 2009, Pub. L. No. 111-8 (8 U.S.C. § 1101 note), as amended.

Sec. 2. INCENTIVE GRANT ELIGIBILITY; RESIDENCY

(a) Notwithstanding any provision of law to the contrary, applicants shall not be ineligible for the Vermont incentive grant program under 16 V.S.A. §§ 2841–2844 solely on account of that person's residency status if the applicant:

(1) qualifies as a refugee pursuant to 8 U.S.C. § 1101(a)(42) (definition of refugee);

(2) is granted parole to enter the United States pursuant to 8 U.S.C. § 1182(d)(5) (temporary admission of nonimmigrants for urgent humanitarian reasons); or

(3) is issued a special immigrant visa pursuant to the Afghan Allies Protection Act of 2009, Pub. L. No. 111-8 (8 U.S.C. § 1101 note), as amended.

(b) This section shall be repealed on July 1, 2027.

Sec. 3. 16 V.S.A. § 2828 is added to read:

§ 2828. FINANCIAL AID ELIGIBILITY FOR CERTAIN STUDENTS

(a) Notwithstanding any provision of law to the contrary, a resident who is otherwise eligible for a State-funded financial aid program administered by the Corporation shall not be ineligible solely on the basis of such resident's immigration status under federal law.

(b) The Corporation shall establish procedures and forms that enable residents eligible under subsection (a) of this section to apply for, and participate in, all State-funded student financial aid programs administered by the Corporation for which such residents are eligible to the full extent permitted by federal law. The Corporation may collect such information as is necessary to confirm eligibility for participation in programs administered by the Corporation.

(c) The Corporation may adopt rules pursuant to 3 V.S.A. chapter 25 as necessary to carry out the provisions of this section.

(d) The Corporation shall include information regarding the impact of this section and the number of students who receive financial aid pursuant to this section in its biannual report to the General Assembly pursuant to subsection 2835(c) of this title.

* * * Vermont State Colleges Corporation * * *

Sec. 4. 16 V.S.A. § 2185 is amended to read:

§ 2185. DETERMINATION OF RESIDENCY FOR TUITION PURPOSES

(a) The Board of Trustees shall adopt policies related to residency for tuition purposes, consistent with State and federal requirements. Any policies adopted by the Board shall not discriminate against or exclude a person based solely on the person's immigration status, or lack thereof, if such person would otherwise qualify for and meet requirements for Vermont residency for tuition purposes as set forth by the Board and as permitted under federal law.

(b) Any member of the U.S. Armed Forces on active duty who is transferred to Vermont for duty other than for the purpose of education shall, upon transfer and for the period of active duty served in Vermont, be considered a resident for in-state tuition purposes at the start of the next semester or academic period.

(c) For determination of residency for tuition to the Community College of Vermont, a person who resides in Vermont shall be considered a resident for in-state tuition purposes, beginning at the start of the next semester or academic period after arrival in Vermont, if that person:

(1) qualifies as a refugee pursuant to 8 U.S.C. § 1101(a)(42) (Immigration and Nationality Act definition of refugee);

(2) is granted parole to enter the United States pursuant to 8 U.S.C. § 1182(d)(5) (temporary admission of nonimmigrants for urgent humanitarian reasons); or

(3) is issued a special immigrant visa pursuant to the Afghan Allies Protection Act of 2009, Pub. L. No. 111-8 (8 U.S.C. § 1101 note), as amended.

* * *

(e) Except as otherwise provided by law, or by consent of the individual identified in the record, information collected pursuant to this section that directly or indirectly identifies applicants or students, including grant, loan, scholarship, or outreach programs, is exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

* * * University of Vermont and State Agricultural College * * *

Sec. 5. 16 V.S.A. § 2282a is amended to read:

§ 2282a. DETERMINATION OF RESIDENCY FOR TUITION PURPOSES

(a) Enrollment at an institution for higher learning, or presence within the State for the purposes of attending an institution of higher learning, shall not by itself constitute residence for in-state tuition purposes or for the purpose of eligibility for assistance from the Vermont Student Assistance Corporation. The Board of Trustees shall adopt policies related to residency for tuition purposes, consistent with State and federal requirements. Any policies adopted by the Board of Trustees shall not discriminate against or exclude a person based solely on the person's immigration status, or lack thereof, if such person would otherwise qualify for and meet requirements for Vermont residency for tuition purposes as set forth by the Board and as permitted under federal law.

* * *

(d) Except as otherwise provided by law, or by consent of the individual identified in the record, information collected pursuant to this section that directly or indirectly identifies applicants or students, including grant, loan, scholarship, or outreach programs, is exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

* * * Effective Dates * * *

Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 1 (advancement grants) and 2 (incentive grants) shall take effect on July 1, 2024.

(b) Secs. 3 (financial aid), 4 (Vermont State Colleges Corporation in-state tuition), and 5 (University of Vermont and State Agricultural College in-state tuition) shall take effect on July 1, 2025.

UNFINISHED BUSINESS OF THURSDAY, MAY 2, 2024

Second Reading

Favorable with Proposal of Amendment

H. 707.

An act relating to revising the delivery and governance of the Vermont workforce system.

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

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

Sec. 1. 10 V.S.A. chapter 22A is amended to read:

CHAPTER 22A. WORKFORCE EDUCATION AND TRAINING

* * *

§ 541. OFFICE OF WORKFORCE STRATEGY AND DEVELOPMENT

(a) There is created within the Executive Branch the Office of Workforce Strategy and Development.

(b) The Office of Workforce Strategy and Development shall have the administrative, legal, and technical support of the Department of Labor.

(c) There shall be at least two full-time staff to accomplish the duties of the Office. One of these staff positions shall be the Executive Director of the Office of Workforce Strategy and Development, who shall be an exempt employee and who shall report to and be under the general supervision of the Governor. Another position shall be a staff member, who shall be a classified employee, who shall support the work of the Executive Director, and who shall report to and be under the general supervision of the Executive Director.

(d) The Executive Director of the Office of Workforce Strategy and Development shall:

(1) coordinate the efforts of workforce development in the State;

(2) oversee the affairs of the State Workforce Development Board;

(3) work with State agencies and private partners to:

(A) develop strategies for comprehensive and integrated workforce education and training;

(B) manage the collection of outcome information; and

(C) align workforce efforts with other State strategies; and

(4) perform other workforce development duties as directed by the Governor.

(e) The Governor shall appoint the Executive Director with the advice and consent of the Senate, and the Executive Committee of the State Workforce Development Board may provide a list to the Governor of recommended candidates for Executive Director.

§ 541a. STATE WORKFORCE DEVELOPMENT BOARD; EXECUTIVE COMMITTEE

(a) Board established; duties. Pursuant to the requirements of 29 U.S.C. § 3111, the Governor shall establish the State Workforce Development Board to assist the Governor in the execution of his or her duties under the Workforce Innovation and Opportunity Act of 2014 and to assist the Commissioner of Labor as specified in section 540 of this title.

* * *

(c) Membership. The Board shall consist of the Governor and the following members who are appointed by the Governor and serve at the Governor's pleasure unless otherwise indicated, in conformance with the federal Workforce Innovation and Opportunity Act ~~and who serve at his or her pleasure, unless otherwise indicated~~ (WIOA), and who shall be selected from diverse backgrounds to represent the interests of ethnic and diverse communities and represent diverse regions of the State, including urban, rural, and suburban areas:

(1) ~~the Commissioner of Labor;~~

~~(2) two members~~ one member of the Vermont House of Representatives, who shall serve for the duration of the biennium, appointed by the Speaker of the House;

~~(3)~~(2) ~~two members~~ one member of the Vermont Senate, who shall serve for the duration of the biennium, appointed by the Senate Committee on Committees;

~~(4) the President of the University of Vermont;~~

~~(5) the Chancellor of the Vermont State Colleges;~~

~~(6) the President of the Vermont Student Assistance Corporation;~~

~~(7) a representative of an independent Vermont college or university;~~

~~(8) a director of a regional technical center;~~

~~(9) a principal of a Vermont high school;~~

~~(10) two representatives of labor organizations who have been nominated by a State labor federation;~~

~~(11)~~(3) ~~two~~ four members who are core program representatives ~~of individuals and organizations who have experience with respect to youth activities, as defined in 29 U.S.C. § 3102(71)~~, as follows:

(A) the Commissioner of Labor, or designee, for the Adult, Dislocated Worker, and Youth program and Wagner-Peyser;

(B) the Secretary of Education, or designee, for the Adult Education and Family Literacy Act program;

(C) the Secretary of Human Services, or designee, for the Vocational Rehabilitation program; and

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

~~(12)~~(4) ~~two~~ six workforce representatives ~~of individuals and organizations who have experience in the delivery of workforce investment activities, as defined in 29 U.S.C. § 3102(68)~~, as follows:

(A) two representatives from labor organizations operating in this State who are nominated by a State labor federation;

(B) one representative from a State-registered apprenticeship program; and

(C) three representatives of organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of individuals with barriers to employment, which may include:

(i) organizations that serve veterans;

(ii) organizations that provide or support competitive, integrated employment for individuals with disabilities;

(iii) organizations that support the training or education needs of eligible youth as described in 20 CFR § 681.200, including representatives of organizations that serve out-of-school youth as described in 20 CFR § 681.210; and

(iv) organizations that connect volunteers in national or State service programs to the workforce;

~~(13) the lead State agency officials with responsibility for the programs and activities carried out by one-stop partners, as described in 29 U.S.C. § 3151(b), or if no official has that responsibility, representatives in the State with responsibility relating to these programs and activities;~~

~~(14) the Commissioner of Economic Development;~~

~~(15) the Secretary of Commerce and Community Development;~~

~~(16) the Secretary of Human Services;~~

~~(17) the Secretary of Education;~~

~~(18) two individuals who have experience in, and can speak for, the training needs of underemployed and unemployed Vermonters; and~~

(5) two elected local government officials who represent a city or town within different regions of the State; and

~~(19)~~(6) ~~a number of appointees sufficient to constitute a majority of the Board~~ 13 business representatives who:

(A) are owners, chief executives, or operating officers of businesses, ~~and~~ including nonprofits, or other business executives ~~or employers~~ with optimum policymaking or hiring authority, with at least one member representing a small business as defined by the U.S. Small Business Administration;

(B) represent businesses with employment opportunities that reflect in-demand sectors and employment opportunities in the State; and

(C) are appointed from among individuals nominated by State business organizations and business trade associations.

(d) Operation of Board.

(1) Executive Committee.

(A) Creation. There is created an Executive Committee that shall manage the affairs of the Board.

(B) Members. The members of the Executive Committee shall comprise the following:

(i) the Chair of the Board;

(ii) the Commissioner of Labor or designee;

(iii) the Secretary of Education or designee;

(iv) the Secretary of Human Services or designee;

(v) the Secretary Commerce and Community Development or designee;

(vi) two business representatives, appointed by the Chair of the Board, who serve on the Board; and

(vii) two workforce representatives, appointed by the Chair of the Board, who serve on the Board.

(C) Meetings. The Chair of the Board shall chair the Executive Committee. The Executive Committee shall meet at least once monthly and shall hold additional meetings upon call of the Chair.

(D) Duties. The Executive Committee shall have the following duties and responsibilities:

(i) recommend to the Board changes to the Board's rules or bylaws;

(ii) establish one or more subcommittees as it determines necessary and appropriate to perform its work; and

(iii) other duties as provided in the Board's bylaws.

(2) Member representation and vacancies.

(A) A member of the State Board may send a designee ~~that~~ who meets the requirements of subdivision (B) of this subdivision ~~(1)~~(2) to any State Board meeting, who shall count toward a quorum, and who shall be allowed to vote on behalf of the Board member for whom ~~he or she~~ the individual serves as a designee.

(B) Members of the State Board or their designees who represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority or relevant subject matter expertise within the organizations, agencies, or entities.

(C) ~~The members of the Board shall represent diverse regions of the State, including urban, rural, and suburban areas~~ The Chair of the Board shall provide notice within 30 days after a vacancy on the Board to the relevant appointing authority, which shall appoint a replacement within 90 days after receiving notice.

~~(2)~~(3) Chair. The Governor shall select a chair for the Board from among the business representatives appointed pursuant to subdivision (c)~~(18)~~(6) of this section.

~~(3)~~(4) Meetings. The Board shall meet at least three times annually and shall hold additional meetings upon call of the Chair.

~~(4)~~(5) Committees; work groups; ad hoc committees. The Chair, in consultation with the Commissioner of Labor, may:

(A) assign one or more members or their designees to standing committees, ad hoc committees, or work groups to carry out the work of the Board; and

(B) appoint one or more nonmembers of the Board to a standing committee, ad hoc committee, or work group and determine whether the individual serves as an advisory or voting member, provided that the number of voting nonmembers on a standing committee shall not exceed the number of Board members or their designees.

* * *

§ 541b. WORKFORCE EDUCATION AND TRAINING; DUTIES OF OTHER STATE AGENCIES, DEPARTMENTS, AND PRIVATE PARTNERS

(a) To ensure the State Workforce Development Board, ~~and~~ the Commissioner of Labor, and the Executive Director of the Office of Workforce Strategy and Development are able to fully perform their duties under this chapter, each agency and department within State government, and each person who receives funding from the State, shall comply within a reasonable period of time with a request for data and information made by the Board, ~~or~~ the Commissioner, or the Executive Director in furtherance of their duties under this chapter.

(b) The Agency of Commerce and Community Development shall coordinate its work in adopting a statewide economic development plan with the activities of the Board, ~~and~~ the Commissioner of Labor, and the Executive Director.

Sec. 2. 2022 Acts and Resolves No. 183, Sec. 5a is amended to read:

Sec. 5a. REGIONAL WORKFORCE EXPANSION SYSTEM

* * *

(c) System infrastructure. The Department shall make investments that improve and expand regional capacity to strengthen networks who assist jobseekers, workers, and employers in connecting.

(1) The Department is authorized to create up to four classified, ~~two-~~

~~year~~ limited-service positions, with funding allocated to perform the work described in this section, who shall report to the Workforce Development Division and of whom:

* * *

(e) Interim report. On or before ~~January 15, 2023~~ July 15, 2025, the Department shall provide a narrative update on the progress made in hiring staff, establishing interagency agreements, developing regional information exchange systems, and supporting State-level work to expand the labor force to the House and Senate committees of jurisdiction.

(f) Implementation. The Department of Labor shall begin implementing the Regional Workforce Expansion System on or before ~~July 1, 2022~~ September 1, 2024.

Sec. 3. TASK FORCE TO STUDY DATA MANAGEMENT MODELS

On or before December 15, 2025, the Executive Director of the Office of Workforce Development, in consultation with the Executive Committee of the State Workforce Development Board and the Agency of Digital Services, shall issue a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs regarding the development of a data trust as outlined in model three of the final report of the State Oversight Committee on Workforce Expansion and Development pursuant to 2022 Acts and Resolves No. 183, Sec. 5. The report shall include:

(1) a recommendation on audience, partners, use cases, outcomes, and data required for future workforce, education, and training programs;

(2) a detailed review of the current availability of public and private workforce development and training data, education data, and demographic data, including the integration of data between the State's workforce development and training programs and private programs funded through State funding dollars;

(3) a summary of the progress made in the development of data-sharing relationships with the stewards of identified data sets;

(4) draft legislative language for the creation of a data tool;

(5) the amount of funding necessary to establish and maintain the use of a data tool; and

(6) a summary of other efforts across State government and through the Agency of Digital Services regarding the development of data trusts, along with best practices identified through those efforts.

Sec. 4. WORKFORCE EDUCATION AND TRAINING LEADERSHIP REVIEW; SOCWED REAUTHORIZATION

(a) Committee reauthorization. The Special Oversight Committee on Workforce Expansion and Development (SOCWED) created pursuant to 2022 Acts and Resolves No. 183, Sec. 5 shall review and propose changes to the leadership and duties set forth in 10 V.S.A. § 540 and shall suggest a set of recommended qualifications to the Governor for consideration for the position of Executive Director of the Office of Workforce Strategy and Development.

(b) Membership. The members appointed to the SOCWED pursuant to 2022 Acts and Resolves No. 183, Sec. 5 shall continue as members of the Committee, except that the Commissioner of Labor or designee shall replace the State Director of Workforce Development on the Committee. Vacancies shall be filled by the relevant appointing authority pursuant to 2022 Acts and Resolves No. 183, Sec. 5.

(c) Meetings.

(1) The Commissioner of Labor or designee shall call the first meeting of the Committee to occur on or before June 1, 2024.

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

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

(4) The Committee shall meet not more than eight times.

(d) Powers and duties.

(1) The Committee, in consultation with the Office of Legislative Counsel, shall review 10 V.S.A. § 540 and engage with workforce development stakeholders to:

(A) evaluate the effectiveness of the current language in statute; and

(B) determine, due to changes in the State Workforce Development Board as set forth in this act, how the authorities and responsibilities for the coordination of workforce education and training set forth in 10 V.S.A. § 540 should be modified to ensure there is effective and comprehensive leadership in workforce development, education, and training between the Commissioner of Labor, the Executive Director of the Office of Workforce Strategy and Development, and any other relevant authorities.

(2) The Committee, in consultation with the Executive Committee of the State Workforce Development Board and the Department of Human Resources, shall develop qualifications to recommend to the Governor for

consideration for the position of Executive Director of the Office of Workforce Strategy and Development.

(e) Assistance. For purposes of:

(1) administrative and technical support, the Committee shall have the assistance of the Office of Legislative Operations;

(2) drafting recommended legislation, the Committee shall have the assistance the Office of Legislative Counsel; and

(3) drafting recommended job qualifications, the Committee shall have the assistance the Department of Human Resources.

(f) Requirements.

(1) The Committee shall submit recommended job qualifications pursuant to subdivision (d)(2) of this section to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General on or before October 15, 2024.

(2) The Committee shall submit recommended legislative language pursuant to subdivision (d)(1)(B) of this section to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General on or before November 30, 2024.

(g) Compensation and reimbursement.

(1) 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 eight meetings. Payments to members of the Committee authorized under this subdivision (g)(1) shall be made from monies appropriated to the General Assembly.

(2) A nonlegislative member of the 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. Payments to members of the Committee authorized under this subdivision (g)(2) shall be made from monies appropriated to the Department of Labor.

(h) Expiration. The Committee shall cease to exist on January 15, 2025.

Sec. 5. STATE WORKFORCE DEVELOPMENT BOARD TRANSITION PERIOD

(a) An appointing authority for the State Workforce Development Board pursuant to 10 V.S.A. § 541a(c) shall make all appointments as required to the Board on or before September 1, 2024.

(b) A member of the State Workforce Development Board on June 30, 2024, except for the Governor, and unless appointed or placed on the Board after the passage of this act pursuant to 10 V.S.A. § 541a(c), shall cease being a member of the Board on July 1, 2024.

(c) Notwithstanding subsection (b) of this section, an appointing authority pursuant to 10 V.S.A. § 541a(c) may reappoint the same individual as a member to the Board after passage of this act.

(d) Members of the Board appointed by the Governor shall serve initial staggered terms with eight members serving three-year terms, eight members serving two-year terms, and seven members serving one-year terms.

(e) The Governor shall appoint a chair of the Board pursuant to 10 V.S.A. § 541a(d)(3) on or before August 1, 2024.

(f) The Board shall amend the Board's WIOA Governance Document to align it pursuant to the terms of this act on or before February 1, 2025.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2024, except that Sec. 4 shall take effect on passage.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 22, 2024, pages 800 - 809)

Reported favorably by Senator Perchlik for the Committee on Appropriations.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Economic Development, Housing and General Affairs.

(Committee vote: 7-0-0)

H. 794.

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

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

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

First: In Sec. 1, 20 V.S.A. § 1714, powers and duties of the Board, after subdivision (15), by inserting a subdivision (16) to read as follows:

(16) Establish a nursing home in Vermont to provide services and supports to Vermont veterans who do not reside at the Home, provided that the nursing home shall comply with all applicable State and federal licensing and regulatory requirements.

Second: In Sec. 2, 20 V.S.A. § 1717, in subdivision (b)(2), by striking out the following: "1714(5), (13), (14), and (15)" and inserting in lieu thereof the following: 1714(5), (13), (14), (15), and (16)

(Committee vote: 6-0-0)

(For House amendments, see House Journal of March 20, 2024, page 612)

Reported favorably by Senator Sears for the Committee on Appropriations.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Government Operations.

(Committee vote: 6-0-1)

H. 871.

An act relating to the development of an updated State aid to school construction program.

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

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

* * * State Aid to School Construction * * *

Sec. 1. 16 V.S.A. § 3441 is added to read:

§ 3441. FACILITIES MASTER PLAN GRANT PROGRAM; REPORT

(a) Intent. It is the intent of the General Assembly that the Facilities Master Plan Grant Program established pursuant to this section shall enable supervisory unions and independent career and technical education districts to develop a supervisory union level vision for all school buildings that meets the educational needs and goals of the supervisory union. The goal of a facilities master plan shall be to facilitate an evaluation of the capacity of existing facilities to deliver on identified 21st century educational goals. A facilities master plan shall also enable and require supervisory unions to engage in intentional and robust conversations with the larger community that will hopefully lead to the successful passage of bonds needed to support the renovation or construction needs of the supervisory union. It is the intent of the General Assembly that awards shall be granted in accordance with this section and in a manner that allows a maximum number of supervisory unions and independent career and technical education districts to successfully complete facilities master plans.

(b) Definition. As used in this section, "supervisory union" has the same meaning as in subdivision 11(a)(23) of this title and includes supervisory districts and independent career and technical education districts.

(c) Establishment. There is established the Facilities Master Plan Grant Program to be administered by the Agency of Education, from funds appropriated for this purpose to supervisory unions and independent career and technical education districts to support the development of educational facilities master plans. Grant funds may be used to hire a consultant to assist in the development of the master plan with the goal of developing a final master plan that complies with State construction aid requirements.

(d) Standards for the disbursement of funds. The Agency shall develop standards for the disbursement of grant funds in accordance with the following:

(1) Grants shall be awarded to applicants with the highest facilities needs. The Agency shall develop a prioritization formula based on an applicant's poverty factor and average facilities condition index score. The Agency shall develop or choose a poverty metric to use for the prioritization formula. The Agency may give priority to applications with a regionalization focus that consist of more than one supervisory union or independent career and technical education district that apply as a consortium.

(2) Award amounts shall be commensurate with the gross square footage of buildings located within the applicable supervisory union or career and technical education district.

(3) The Agency shall develop minimum requirements for an educational facilities master plan, which shall include, at a minimum, the following elements:

(A) a description of the educational mission, vision, and goals of the supervisory union;

(B) a description of educational programs and services offered by the supervisory union;

(C) the performance of a space utilization assessment;

(D) the identification of new program needs;

(E) the development of enrollment projections;

(F) the performance of a facilities assessment; and

(G) information regarding the various design options explored to address the supervisory union's identified needs.

(e) Report. Annually on or before December 31, the Agency shall submit to the House and Senate Committees on Education a written report with information on the implementation of the grant program created in this section.

Sec. 2. REPEAL; FACILITIES MASTER PLAN GRANT PROGRAM

16 V.S.A. § 3441 (Facilities Master Plan Grant Program) as added by this act is repealed on June 30, 2029.

Sec. 3. PREQUALIFIED ARCHITECTURE AND ENGINEERING CONSULTANTS

On or before October 15, 2024, the Agency of Education shall coordinate with the Department of Buildings and General Services to develop prequalification criteria for alternative project delivery consultants and architecture and engineering firms specializing in kindergarten through grade 12 school design and construction. The Department shall assist the Agency in distributing requests for qualifications and in reviewing the resulting responses for approval and prequalification. The Department shall maintain the list of prequalified firms and consultants and shall make the list available to school districts and supervisory unions.

Sec. 4. STATE AID FOR SCHOOL CONSTRUCTION WORKING GROUP; REPORT

(a) Creation. There is created the State Aid for School Construction Working Group to study and design a plan for a statewide school construction aid program.

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

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

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

(3) the Secretary of Education, or designee.

(c) Powers and duties.

(1) The Working Group shall study and create a recommended plan for a statewide school construction aid program, including recommendations on implementation. To facilitate its understanding of school construction projects and other school construction state aid programs, the Working Group may travel to conduct site visits at schools or other state programs. In creating its recommendations, the Working Group shall address the following topics, building from the recommendations contained in the report of the School Construction Aid Task Force, created in 2023 Acts and Resolves No. 78, Sec. E.131.1:

(A) Governance. The Working Group shall study other state governance models for school construction aid programs, including inviting testimony from school officials from those states, and make a recommendation for a governance model for Vermont that aligns with the other funding and programmatic recommendations of the Working Group. Governance recommendations shall include recommendations on staffing levels and a stable appropriation for the funding of the recommended governance structure.

(B) Prioritization criteria. The Working Group shall make recommendations on State aid prioritization criteria that will drive funding towards projects that are aligned to the State's educational policies and priorities.

(C) Eligibility criteria. The Working Group shall consider, at a minimum, the following State aid eligibility criteria:

(i) appropriate maintenance and operations budgeting at the supervisory union level;

(ii) a requirement for eligible supervisory unions to have a five-year capital plan;

(iii) a facility condition index maximum level that would preclude eligibility but may qualify a building for a State share percentage bonus to replace the building;

(iv) a requirement for a supervisory union master planning process that would require consideration of the adaptive reuse of schools;

(v) a prohibition on exclusionary zoning regulations that would preclude lesser resourced families from living in the applicable school district; and

(vi) whether costs associated with repurposing a non-school building to use as a school should be included in a State aid to school construction program;

(D) State base share. The Working Group shall make recommendations as to whether to include a State base share and if so, whether it shall be based on student or community poverty factors. The Working Group shall consider factors such as local taxing capacity, student poverty data, environmental justice metrics, and energy burden metrics.

(E) Incentives. The Working Group shall consider the use of incentives or State share bonuses that align with Vermont's educational priorities with the goal of efficient and sustainable use of taxpayer supported school construction aid to improve student learning environments and opportunities. The Working Group shall consider appropriate limits on cumulative incentives and whether incentives shall be bundled for eligibility. Policy areas to consider for incentives include:

(i) school safety and security;

(ii) health;

(iii) educational enhancements;

(iv) overcrowding solutions;

(v) environmental performance:

(vi) newer and fewer buildings;

(vii) historic preservation;

(viii) major renovations to improve PreK–12 systems educational alignment and capacity;

(ix) replacement of facilities with a current facility condition index of 65 percent or higher, in combination with other policy area incentives; and

(x) schools identified with actionable levels of airborne PCBs and other identified environmental hazards in critical education spaces.

(F) Assurance and certification process.

(i) The Working Group shall make recommendations for an assurance and certification process and shall consider, at a minimum, the following:

(I) a district's commitment to adequate funding for ongoing maintenance and operations of any State-funded improvements;

(II) a district's assurance that it will provide adequate training for facilities and custodial staff to properly operate and maintain systems funded through State aid;

(III) a district to complete a full commissioning process as a requirement to receive State funds at the end of the project; and

(IV) a clerk of the works throughout the lifespan of the project.

(ii) The Working Group shall also consider whether the assurance and certification process shall be eligible for State funding support, as well as whether a preferred vendor list for the commissioning process and clerk of the works is advisable.

(G) Environmental hazards and contaminants. The Working Group shall make recommendations that approach environmental hazards and contaminants in a comprehensive manner, incorporating existing programs into the school construction aid program where possible.

(H) Pre-program construction aid. The Working Group shall consider whether and to what extent State aid should be made available to school districts that begin construction projects prior to the establishment or renewal of a State school construction aid program.

(I) Current law. The Working Group shall review State statutes and State Board of Education rules that concern or impact school construction and make recommendations to the General Assembly for any amendments necessary to align with the Working Group's proposed construction aid program.

(J) Efficiencies. The Working Group shall identify areas where economizations or efficiencies might be gained in the creation of the program, including consideration of the following:

(i) a prequalification process for consultants with experience in the planning, renovation, and construction of kindergarten through grade 12 schools; and

(ii) cost containment strategies such as the use of building templates for new construction, alternative project delivery, and consideration of risk transfer.

(K) Fiscal modeling. The Working Group shall align the proposed construction aid program with fiscal modeling produced by the Joint Fiscal Office.

(L) School Construction Planning Guide. The Working Group shall review the Vermont School Construction Planning Guide and make recommendations for any amendments necessary to align with the Working Group's proposed construction aid program.

(M) Population considerations. The Working Group shall consider and make recommendations as to whether, and if so, how, the unique needs of different populations shall be taken into account in developing a statewide school construction aid program, including the following populations:

(i) elementary students;

(ii) high school students;

(iii) supervisory unions with low population density, as defined by 16 V.S.A. § 4010(b)(2); and

(iv) any other population the Working Group deems relevant to its work and recommendations.

(N) Grant opportunities. The Working Group shall consider and make recommendations as to whether, and if so, how State and federal grant opportunities shall impact the Working Group's proposed construction aid program.

(O) Utilization of renewable energy. The Working Group shall make recommendations that approach the utilization of renewable energy in a comprehensive manner, incorporating existing programs and laws into the school construction aid program where possible.

(P) Additional considerations. The Working Group may consider any other topic, factor, or issue that it deems relevant to its work and recommendations.

(2) The Working Group shall consult with the following entities in developing its proposed plan to ensure all applicable areas of Vermont law and federal funding opportunities are taken into consideration:

(A) the Agency of Education;

(B) the Agency of Natural Resources;

(C) the Department of Public Safety, Division of Fire Safety;

(D) the Natural Resources Board;

(E) the Agency of Commerce and Community Development, Division for Historic Preservation;

(F) the U.S. Department of Education;

(G) U.S. Department of Agriculture, Rural Development;

(H) the Vermont School Boards Association;

(I) the Vermont Superintendents Association;

(J) the Vermont Principals' Association;

(K) the Vermont National Education Association;

(L) the Vermont Bond Bank;

(M) the Vermont Legal Aid Disability Law Project;

(N) the Department of Disabilities, Aging, and Independent Living, Deaf, Hard of Hearing, DeafBlind Services;

(O) Vermont's Congressional Delegation; and

(P) any other entity the Working Group deems relevant to its work.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Agency of Education, the Office of Legislative Counsel, the Joint Fiscal Office, and the Office of Legislative Operations.

(e) Proposed legislation. On or before December 15, 2024, the Working Group shall submit its findings and recommendations in the form of proposed legislation to the General Assembly.

(f) Meetings.

(1) The Office of Legislative Counsel shall call the first meeting of the Working Group to occur on or before August 1, 2024.

(2) The Working Group shall select co-chairs from among its members at the first meeting, one a member of the House and the other a member from the Senate.

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

(4) The Working Group shall cease to exist on December 31, 2024.

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Working Group 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.

Sec. 5. APPROPRIATION; STATE AID FOR SCHOOL CONSTRUCTION WORKING GROUP

The sum of $15,000.00 is appropriated from the General Fund to the General Assembly in fiscal year 2025 for the purpose of funding travel by the State Aid for School Construction Working Group pursuant to Sec. 4, subsection (c) of this act and per diem compensation and reimbursement of expenses pursuant to Sec. 4, subsection (g) of this act.

* * * Public Construction Bids * * *

Sec. 6. 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.

* * *

* * * Effective Date * * *

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 28, 2024, page 1040)

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

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Education, with further recommendation of proposals of amendment as follows:

First: In Sec. 4, State Aid for School Construction Working Group; report, in subsection (g), by striking out "10 meetings" and inserting in lieu thereof six meetings unless additional meetings are authorized jointly by the Speaker of the House and the President Pro Tempore, with a maximum of up to 10 meetings

Second: By striking out Sec. 5, appropriation; State Aid for School Construction Working Group, in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. [Deleted.]

(Committee vote: 7-0-0)

UNFINISHED BUSINESS OF FRIDAY, MAY 3, 2024

Third Reading

H. 614.

An act relating to land improvement fraud and timber trespass.

H. 661.

An act relating to child abuse and neglect investigation and substantiation standards and procedures.

H. 847.

An act relating to peer support provider and recovery support specialist certification.

Second Reading

Favorable with Proposal of Amendment

H. 81.

An act relating to fair repair of agricultural equipment.

Reported favorably with recommendation of proposal of amendment by Senator Wrenner for the Committee on Agriculture.

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

Sec. 1. FINDINGS AND PURPOSE

(a) Findings. The General Assembly finds:

(1) The Vermont food, agriculture, and forest sectors are significant components of the State's economy, its rural heritage, and its identity as a State.

(A) According to the Working Lands Enterprise Initiative, about 20 percent of Vermont's land is used for agriculture, while another 78 percent is forested. In surveys conducted by the Initiative, over 97 percent of Vermonters expressed that they value the working landscape.

(B) The 2023 U.S. Food and Agriculture Industries Economic Impact Study found that the food and agriculture industries in Vermont were associated with nearly 104,000 jobs, $5.2 billion in wages, and $19.3 billion in economic output.

(C) The Vermont Sustainable Jobs Fund estimates that Vermont's forest products industry generates an annual economic output of $1.4 billion and supports 10,500 jobs.

(2) Agricultural and forestry activity varies by season, is weather-dependent, and is heavily reliant on having access to increasingly sophisticated agricultural and forestry equipment. Vermont farmers' and foresters' access to safe and reliable equipment is essential to timely planting, cultivating, tilling, and harvesting of produce, protein, grain, timber, and other wood forest products.

(3) The COVID-19 pandemic further highlighted the increased and ongoing need for functional agricultural and forestry equipment as individuals in Vermont increasingly rely on the equipment to guarantee access to food and wood products during periods of supply chain disruption, raw material and commodities shortages, and heightened food insecurity.

(4) Authorized repair providers are important Vermont businesses that play a critical role for farmers and foresters by offering access to diagnosis, maintenance, and repair services for agricultural and forestry equipment.

(5) In general, original equipment manufacturers and authorized repair providers are able to provide independent repair providers and owners with adequate access to necessary parts for agricultural and forestry equipment. However, in order to maintain complex safety and emissions systems, limitations on software-related repairs implemented by original equipment manufacturers have led to frustration for some customers.

(6) Due to workforce, seasonal workload, and geographic constraints, authorized repair providers are not always able to meet the demand for timely diagnosis, maintenance, or repair services to farmers and foresters in this State.

(7) As for many Vermont employers, critical workforce shortages prevent authorized repair providers from operating at full staff capacity, which can contribute to costly delays in performing diagnosis, maintenance, and repair services.

(8) The need for more accessible and affordable repair options is felt more acutely among specific sectors of the population, notably Vermont residents in more rural and remote areas.

(9) Original equipment manufacturer shops and authorized repair providers are sometimes not located close to owners or independent repair providers, which may require owners or independent repair providers to travel long distances for repair or to be without functioning agricultural or forestry equipment for longer periods of time.

(10) Owners may be capable of performing their own diagnosis, maintenance, and repair services for their equipment.

(11) Independent repair providers play a vital role in Vermont's economy. Providing access to information, parts, and diagnostic and repair tools is essential in contributing to a competitive repair market and allowing independent repair shop employees to fix equipment safely.

(12) Extending the useful life and efficient operation of equipment may provide additional benefits for farmers, foresters, and the environment.

(A) Computerized components of modern agricultural and forestry equipment include precious metals that are finite.

(B) Emissions of agricultural and forestry equipment are better regulated and limited by functional software and hardware computer elements, thereby increasing the need for access to timely and effective repairs to ensure optimal functionality that is within the confines of federal regulatory limitations and existing technology needed to preserve intellectual property.

(13) Broader distribution of the information, tools, and parts necessary to repair modern agricultural and forestry equipment may shorten repair times, lengthen the useful lives of the equipment, lower costs for users, and benefit the environment.

(b) Purpose. The purpose of this act is to ensure equitable access to the parts, tools, and documentation that are necessary for independent repair providers and owners to perform timely repair of agricultural and forestry equipment in a safe, secure, reliable, and sustainable manner.

Sec. 2. SHORT TITLE

This act may be cited as the Fair Repair Act.

Sec. 3. 9 V.S.A. chapter 106 is added to read:

CHAPTER 106. AGRICULTURAL AND FORESTRY EQUIPMENT; FAIR REPAIR

§ 4051. DEFINITIONS

As used in this chapter:

(1) "Agricultural equipment" means a device, part of a device, or an attachment to a device used principally off road and designed solely for an agricultural purpose, including a tractor, trailer, or combine; implements for tillage, planting, or cultivation; and other equipment principally associated with livestock or crop production, horticulture, or floriculture.

(2)(A) "Authorized repair provider" means an individual or business that has an arrangement with the original equipment manufacturer under which the original equipment manufacturer grants to the individual or business a license to use a trade name, service mark, or other proprietary identifier for the purposes of offering the services of diagnosis, maintenance, or repair of equipment under the name of the original equipment manufacturer or other arrangement with the original equipment manufacturer to offer such services on behalf of the original equipment manufacturer.

(B) An original equipment manufacturer that offers the services of diagnosis, maintenance, or repair of its own equipment and that does not have an arrangement described in subdivision (A) of this subdivision (2) with an unaffiliated individual or business shall be considered an authorized repair provider with respect to such equipment.

(3) "Documentation" means any manual, diagram, reporting output, service code description, schematic diagram, security code, password, or other guidance or information, whether in an electronic or tangible format, to perform the services of diagnosis, maintenance, or repair of agricultural or forestry equipment.

(4) "Forestry equipment" means nondivisible equipment, implements, accessories, and contrivances used principally off road and designed solely for harvesting timber or for on-site processing of wood forest products necessary to and associated with a logging operation.

(5) "Independent repair provider" means a person operating in this State, either through a physical business location or through a mobile service that offers on-site repairs in the State, that does not have an arrangement described in subdivision (2) of this section with an original equipment manufacturer and that is engaged in the services of diagnosis, maintenance, or repair of agricultural or forestry equipment.

(6) "Memorandum of understanding" means an agreement that is:

(A) related to the right to repair of agricultural or forestry equipment;

(B) not legally binding; and

(C) between the original equipment manufacturer and the American Farm Bureau Federation or similar organization that advocates on behalf of farmers or loggers.

(7) "Original equipment manufacturer" means a person engaged in the business of selling, leasing, or otherwise supplying new agricultural or forestry equipment manufactured by or on behalf of itself to any individual or business.

(8) "Owner" means an individual or business that owns or leases agricultural or forestry equipment used in this State.

(9) "Part" means any replacement part, either new or used, made available by an original equipment manufacturer for purposes of effecting the services of maintenance or repair of agricultural or forestry equipment manufactured by or on behalf of, sold or otherwise supplied by, the original equipment manufacturer.

(10) "Repair" means to maintain, diagnose, or fix agricultural or forestry equipment resulting in the equipment being returned to its original equipment manufacturer specifications. "Repair" does not include the ability to:

(A) modify from original equipment specifications the embedded software or code;

(B) change any equipment or engine settings that negatively affect emissions or safety compliance; or

(C) download or access the source code of any embedded software or code.

(11) "Tools" means any software program, hardware implement, or other apparatus used for diagnosis, maintenance, or repair of agricultural or forestry equipment, including software or other mechanisms required to restore the product to its original manufacturer, including any updates.

(12) "Trade secret" has the same meaning as provided in 18 U.S.C. § 1839.

§ 4052. AVAILABILITY OF PARTS, TOOLS, AND DOCUMENTATION

(a) Duty to make available parts, tools, and documentation.

(1) An original equipment manufacturer shall offer for sale or otherwise make available to an independent repair provider or owner the parts, tools, and documentation for diagnosis or repair.

(2) If agricultural or forestry equipment includes an electronic security lock or other security-related function that must be unlocked, enabled, or disabled to perform diagnosis, maintenance, or repair of the equipment, an original equipment manufacturer may require a secured authorization process in order to prevent access to the source code or infringement of intellectual property in software or hardware owned by the original equipment manufacturer or licensed to the original equipment manufacturer by a third party and subject to terms of use.

(3) An original equipment manufacturer may satisfy its obligation to make parts, tools, and documentation available to an independent repair provider or owner through an authorized repair provider that consents to sell or make available parts, tools, or documentation on behalf of the manufacturer.

(b) Terms; limitations. Under the terms governing the sale or provision of parts, tools, and documentation, an original equipment manufacturer shall not impose on an independent repair provider or owner an additional cost or burden that is not reasonably necessary within the ordinary course of business or is designed to be an impediment on the independent repair provider or owner, including:

(1) a substantial obligation to use, or a restriction on the use of, the parts, tools, or documentation necessary to diagnose, maintain, or repair agricultural or forestry equipment;

(2) a condition that the independent repair provider or owner become an authorized repair provider of the original equipment manufacturer; or

(3) an additional burden or material change that adversely affects the timeliness or method of delivering parts, tools, or documentation.

§ 4053. ATTORNEY GENERAL ENFORCEMENT; NOTICE

(a) A violation of this section shall be deemed a violation of the Consumer Protection Act, 9 V.S.A. chapter 63, provided that no private right of action shall arise from the provisions of this act. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under 9 V.S.A. chapter 63, subchapter 1.

(b) The Attorney General shall be notified in writing by the original equipment manufacturer not later than 30 days after a memorandum of

understanding expires or has been terminated, withdrawn, or canceled by an original equipment manufacturer subject to this chapter.

§ 4054. APPLICATION; LIMITATIONS

(a) This chapter does not require an original equipment manufacturer to divulge a trade secret to an owner or an independent repair provider.

(b) This chapter does not alter the terms of any arrangement described in subdivision 4051(2)(A) of this title in force between an authorized repair provider and an original equipment manufacturer, including the performance or provision of warranty or recall repair work by an authorized repair provider on behalf of an original equipment manufacturer pursuant to such arrangement, except that any provision governing such an arrangement that purports to waive, avoid, restrict, or limit the original equipment manufacturer's obligations to comply with this chapter is void and unenforceable.

(c) This chapter does not alter the terms of a lease of agricultural or forestry equipment between an owner and another person.

(d) An independent repair provider or owner shall not:

(1) modify agricultural or forestry equipment to temporarily deactivate safety notification systems, except as necessary to provide diagnosis, maintenance, or repair services;

(2) access any function of a tool that enables the independent repair provider or owner to change the settings for a piece of agricultural or forestry equipment in a manner that brings the equipment out of compliance with the original manufacturer specifications or any applicable federal, state, or local safety or emissions laws; or

(3) obtain or use parts, tools, or documentation to evade or violate emissions, copyright, trademark, or patent laws or to engage in any other illegal activity.

(e) Original equipment manufacturers and authorized repair providers are not liable for faulty or otherwise improper repairs completed by independent repair providers or owners, including repairs that cause:

(1) damage to agricultural or forestry equipment that occurs during such repairs; and

(2) an inability to use, or the reduced functionality of, agricultural or forestry equipment resulting from the faulty or otherwise improper repair.

(f) In the event that federal law preempts part of the activity regulated by this chapter, this chapter shall be construed to regulate activity that has not been preempted.

(g) This chapter shall not apply to an original equipment manufacturer that has entered into a memorandum of understanding that substantially incorporates the provisions of this chapter. In the event that a memorandum of understanding expires or is terminated, withdrawn, or canceled, the original equipment manufacturer shall be required to comply with all provisions of this chapter no later than 30 days upon such termination, withdrawal, cancellation, or expiration.

Sec. 4. EFFECTIVE DATE

This act shall take effect on January 1, 2026.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of May 4, 2023, pages 1392 - 1402)

H. 745.

An act relating to the Vermont Parentage Act.

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

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

First: By adding a new section to be Sec. 11a to read as follows:

Sec. 11a. 15C V.S.A. § 802(f) is added to read:

(f) A surrogacy agreement that substantially complies with this section and section 801 of this title is enforceable.

Second: By adding five new sections to be Secs. 13a–e to read as follows:

Sec. 13a. 15 V.S.A. § 293 is amended to read:

§ 293. WHEN PARENTS LIVE SEPARATELY

(a) When parents of minor children, or parents and stepparents of minor children, whether said parents are married or unmarried, are living separately, on the complaint of either parent or stepparent or, if it is a party in interest, the Department for Children and Families, the Family Division of the Superior Court may make such decree concerning parental rights and responsibilities and parent-child contact ~~(~~as defined in section 664 of this title~~)~~, and the support of the children, as in cases where either parent deserts or without just

cause fails to support the children. Thereafter on the motion of either of the parents, the stepparent, or the Department for Children and Families, the court may annul, vary, or modify the decrees.

(b) Any legal presumption of parentage as set forth in ~~section 308 of this title~~ 15C V.S.A. § 401 or an unrescinded acknowledgment of parentage signed by the parties and executed in accordance with 15C V.S.A. § 301 shall be sufficient basis for initiating a support action under this section without any further proceedings to establish parentage. ~~If a party raises an objection to the presumption, the court may determine the issue of parentage as part of the support action. If no written objection to the presumption is raised, an order under this section shall constitute a judgment on the issue of parentage.~~

Sec. 13b. REPEAL

15 V.S.A. § 294 (man in the house) is repealed.

Sec. 13c. 15 V.S.A. § 295 is amended to read:

§ 295. ~~SUBSTITUTE HUSBAND AND FATHER~~ SERVICE OF COMPLAINT

When a complaint is made under section ~~292,~~ 293 ~~or 294~~ of this title, a summons shall be issued to the other party directing ~~him to cause his appearance therein to be entered~~ such person to appear not later than 21 days after the date of the service ~~thereof~~ and show cause why ~~the prayer of~~ the complaint should not be granted~~, which~~. The summons and ~~the~~ complaint shall be served on ~~such~~ the party as provided by ~~section 596 or by section 597 of this title~~ Rule 4.0 of the Vermont Rules for Family Proceedings. After the filing of ~~such~~ the complaint, the Superior Court in which the cause is pending, or any Superior judge, may, on application of either party make such order concerning the care and custody of the minor children during the pendency of the complaint, as is deemed expedient and for the benefit of such children.

Sec. 13d. 15 V.S.A. § 780(7) is amended to read:

(7) "Support order" means any judgment, order, or contract for support enforceable in this ~~state~~ State, including~~, but not limited to,~~ orders issued pursuant to:

(A) 15 V.S.A. ~~chapter~~ chapters 5 (relating to desertion and support ~~and parentage), 7 (relating to URESA) or~~ and 11 (relating to annulment and divorce);

(B) 15B V.S.A. chapters 1–19 (relating to Uniform Interstate Family Support Act); and

(C) 15C V.S.A. chapters 1–8 (relating to parentage proceedings).

Sec. 13e. 15C V.S.A. § 808(a) is amended to read:

(a) Not enforceable. A gestational carrier agreement that does not substantially meet the requirements of this chapter is not enforceable.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of February 22, 2024, pages 298 - 309 and February 23, 2024, page 310)

UNFINISHED BUSINESS OF MONDAY, MAY 6, 2024

Third Reading

H. 289.

An act relating to the Renewable Energy Standard.

House Proposals of Amendment

S. 58.

An act relating to public safety

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:

* * * 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:

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

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

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

(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 or subdivision (c)(2) or (3) of this section before attaining 19 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. 1a. 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 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) or subdivision 5201(c)(2) or (3) 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.

(b) If it appears to a Criminal Division of the Superior Court that the defendant had attained 14 years of age but not 18 years of age at the time an offense specified in subsection 5204(a) or subdivision 5201(c)(2) or (3) of this title was alleged to have been committed, that court may 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 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) or subdivision 5201(c)(2) or (3) 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. 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~~.

(b)(1) The State's Attorney of the county where the juvenile petition is pending may move in the Family Division of the Superior Court for an order

transferring jurisdiction under subsection (a) of this section at any time prior to adjudication on the merits. The filing of the motion to transfer jurisdiction shall automatically stay the time for the hearing provided for in section 5225 of this title, which stay shall remain in effect until such time as the Family Division of the Superior Court may deny the motion to transfer jurisdiction.

(2)(A)(i) The Family Division of the Superior Court shall hold a hearing under subsection (c) of this section to determine whether jurisdiction should be transferred to the Criminal Division under subsection (a) of this section if the delinquent act set forth in the petition is:

(I) ~~a felony violation of 18 V.S.A. chapter 84 for selling or trafficking a regulated drug~~ [Repealed.];

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

(III) defacing a firearm's serial number in violation of 13 V.S.A. § 4024; or

(IV) straw purchasing of firearm in violation of 13 V.S.A. § 4025; and

(ii) the child had attained 16 years of age but not 19 years of age at the time the act was alleged to have occurred.

* * *

* * * 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 or subdivision (c)(2) or (3) of this section 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) or subdivision 5201(c)(2) or (3) 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) or subdivision 5201(c)(2) or (3) 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 Agency of Human Services 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 progress toward implementation of the Raise the Age initiative, as measured by qualitative and quantitative data related to the following priorities:

(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) "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. § 4233a is amended to read:

§ 4233a. FENTANYL

(a) Selling or dispensing.

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

(2) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of four milligrams or more of one or more preparations,

compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 10 years or fined not more than $250,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of 20 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 20 years or fined not more than $1,000,000.00, or both.

(4) In lieu of a charge under this subsection, but in addition to any other penalties provided by law, a person knowingly and unlawfully selling or dispensing any regulated drug containing a detectable amount of fentanyl shall be imprisoned not more than five years or fined not more than $250,000.00, or both.

(b) Trafficking. A person knowingly and unlawfully possessing fentanyl in an amount consisting of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl with the intent to sell or dispense the fentanyl shall be imprisoned not more than 30 years or fined not more than $1,000,000.00, or both. There shall be a permissive inference that a person who possesses fentanyl in an amount of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl intends to sell or dispense the fentanyl. The amount of possessed fentanyl under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be not less than 70 milligrams in the aggregate.

(c) Transportation into the State. In addition to any other penalties provided by law, a person knowingly and unlawfully transporting more than 20 milligrams of fentanyl into Vermont with the intent to sell or dispense the fentanyl shall be imprisoned not more than 10 years or fined not more than $100,000.00, or both.

(d) As used in this section, "knowingly" means:

(1) the defendant had actual knowledge that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter; or

(2) the defendant:

(A) subjectively believed that there is a high probability that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter; and

(B) took deliberate actions to avoid learning that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter.

Sec. 15. 18 V.S.A. § 4234 is amended to read:

§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

(a) Possession.

(1)(A) Except as provided by subdivision (B) of this subdivision (1), a person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, shall be imprisoned not more than one year or fined not more than $2,000.00, or both.

(B) A person knowingly and unlawfully possessing 224 milligrams or less of buprenorphine shall not be punished in accordance with subdivision (A) of this subdivision (1).

(2) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, consisting of 100 times a benchmark unlawful dosage or its equivalent shall be imprisoned not more than five years or fined not more than $25,000.00, or both.

(3) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, consisting of 1,000 times a benchmark unlawful dosage or its equivalent shall be imprisoned not more than 10 years or fined not more than $100,000.00, or both.

(4) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, consisting of 10,000 times a benchmark unlawful dosage or its equivalent shall be imprisoned not more than 20 years or fined not more than $500,000.00, or both.

(b) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be imprisoned not more than three years or fined not more than $75,000.00, or both. A person knowingly and unlawfully selling a depressant, stimulant, or narcotic drug, other than fentanyl, cocaine, or heroin, shall be imprisoned not more than five years or fined not more than $25,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 100 times a benchmark unlawful dosage or its equivalent shall be imprisoned not more than 10 years or fined not more than $100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 1,000 times a benchmark unlawful dosage or its equivalent shall be imprisoned not more than 20 years or fined not more than $500,000.00, or both.

(4) As used in this subsection, "knowingly" means:

(A) the defendant had actual knowledge that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter; or

(B) the defendant:

(i) subjectively believed that there is a high probability that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter; and

(ii) took deliberate actions to avoid learning that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter.

(c) Possession of buprenorphine by a person under 21 years of age.

(1) Except as provided in subdivision (2) of this subsection, a person under 21 years of age who knowingly and unlawfully possesses 224 milligrams or less of buprenorphine commits a civil violation and shall be subject to the provisions of section 4230b of this title.

(2) A person under 16 years of age who knowingly and unlawfully possesses 224 milligrams or less of buprenorphine commits a delinquent act and shall be subject to the provisions of section 4230j of this title.

Sec. 16. 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. 17. 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.

(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 findings on the record that the sentence will serve the interests of justice.

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

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

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.

Sec. 19. 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.

* * * Report * * *

Sec. 20. WORKING GROUP ON TRANSFERS OF JUVENILE PROCEEDINGS FROM THE FAMILY DIVISION TO THE CRIMINAL DIVISON

(a) On or before December 15, 2025, a joint report on options for creating an expedited process for transfers of juvenile proceedings from the Family Division of the Superior Court to the Criminal Division of the Superior Court shall be submitted to the House and Senate Committees on Judiciary by a working group composed of the following parties:

(1) the Chief Superior Judge or designee, who shall be chair of the working group;

(2) the Defender General or designee;

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

(4) the Commissioner of the Department for Children and Families or designee.

(b) the report required by this section may be in the form of proposed legislation and shall include recommendations on the following topics:

(1) the changes in law that would be necessary if the Vermont juvenile justice system were restructured so that all cases alleging criminal violations by youths under 19 years of age started in the Family Division of the Superior Court, including alleged violations of 33 V.S.A. §§ 5204(a) and 5201(c)(2) or (3);

(2) whether cases alleging criminal violations by youths under 20 years of age should also begin in the Family Division; and

(3) statutory options for creating an expedited court process for more serious offenses that would permit transfer of proceedings from the Family Division of the Superior Court to the Criminal Division of the Superior Court without requiring the full transfer hearing process of 33 V.S.A. § 5204, including the offenses and offender age ranges that would qualify for the expedited process.

* * * Effective Dates * * *

Sec. 21. EFFECTIVE DATES

(a) Secs. 1–6, 12–20, and this section shall take effect on July 1, 2024.

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

S. 184.

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

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. PURPOSE; AUTOMATED TRAFFIC LAW ENFORCEMENT

The purpose of this act is to improve work crew safety and reduce traffic crashes in limited-access highway work zones by establishing an automated traffic law enforcement (ATLE) pilot program that uses radar and cameras to enforce speeding violations against the registered owner of the violating motor vehicle.

Sec. 1a. 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 10 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 an individual certified by the Vermont Criminal Justice Council as a Level II or Level III law enforcement officer under 20 V.S.A. § 2358 and is a State Police officer, municipal police officer, sheriff, or deputy sheriff; or a constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a.

(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 investigate the benefits of automated law enforcement for speeding violations as a way 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.

(1) 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.

(2) The Agency, in consultation with the Department of Public Safety, may require the vendor to maintain a storage system to store any recorded images or other data collected by the ATLE system. Any storage system shall adhere to the use, retention, and limitation requirements pursuant to this section.

(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, provided that:

(1) the Agency shall document through an appropriate engineering analysis that the location meets highway 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;

(B) a demonstration that the equipment is operating properly before and after daily use;

(C) a verification that the signage and equipment placement meet applicable highway standards; and

(D) 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 for not fewer than three years 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 an independent calibration laboratory. The calibration laboratory shall issue a signed certificate of calibration after the annual calibration check, which shall be retained for not fewer than three years 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;

(G) contain a notice of language access services in accordance with federal and state law; and

(H) 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. A notice of violation issued under this subdivision shall be mailed not more than 30 days after the date of the violation. A notice mailed after 30 days is void.

(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 mailed not more than 90 days after the date of the violation. A notice mailed 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 with prejudice upon showing by the owner, by a preponderance of the evidence, 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 Agency of Transportation, in consultation with the Department of Public Safety, shall establish a review process to ensure that recorded images are used only for the purposes permitted by this section. The Agency of Transportation 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 purpose, including 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) Notwithstanding any applicable law to the contrary, the Agency of Transportation may permit the vendor to coordinate with designated law enforcement agencies to obtain a recorded image from the vendor to determine whether a violation of this section occurred within the prior 12 months.

§ 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 seek 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 Agency of Transportation, in consultation with the Department of Public Safety, shall implement a public outreach campaign not later than April 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)(1) The public outreach campaign shall disseminate information on ATLE systems through the Agency of Transportation's web page and through other mediums such as social media platforms, community posting websites, radio, television, and printed materials.

(2) The information disseminated pursuant to subdivision (1) of this subsection shall be available in languages other than English that are commonly spoken in Vermont and neighboring states whose residents travel to Vermont. The Agency of Transportation shall consult with the Office of Racial Equity and Vermont language services organizations to determine the appropriate languages for translation.

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 10 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 an individual certified by the Vermont Criminal Justice Council as a Level II or Level III law enforcement officer under 20 V.S.A. § 2358 and is a State Police officer, municipal police officer, sheriff, or deputy sheriff; or a constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a.~~ [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 10 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. 1a (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.

S. 186.

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

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. RECOMMENDATION; RECOVERY RESIDENCE CERTIFICATION

(a) The Department of Health, in consultation with State agencies and community partners, shall develop and recommend a certification program for recovery residences operating in the State that choose to obtain certification. The certification program shall incorporate those elements of the existing certification program operated by the Vermont Alliance for Recovery Residences. The recommended certification program shall also:

(1) identify an organization to serve as the certifying body for recovery residences in the State;

(2) propose certification fees for recovery residences;

(3) establish a grievance and review process for complaints pertaining to certified recovery residences;

(4) identify certification levels, which may include distinct staffing or administrative requirements, or both, to enable a recovery residence to provide more intensive or extensive services;

(5) identify eligibility requirements for each level of recovery residence certification, including:

(A) staff and administrative requirements for recovery residences, including staff training and supervision;

(B) compliance with industry best practices that support a safe, healthy, and effective recovery environment; and

(C) data collection requirements related to resident outcomes;

(6) establish the required policies and procedures regarding the provision of services by recovery residences, including policies and procedures related to:

(A) resident rights, including the following minimum standards for residential agreements:

(i) contents of initial resident agreements;

(ii) resident discharge policies;

(iii) length of time a bed shall be held for a resident who temporarily exits a recovery residence; and

(iv) criteria by which a resident can return to the recovery residence in the event of a temporary removal;

(B) resident use of legally prescribed medications; and

(C) promoting quality and positive outcomes for residents;

(7) recommend an appropriate term for a noncertified recovery residence; and

(8) identify minimum reporting requirements about recovery residences by the certifying body, including reports on the temporary and permanent removal of residents, which the certifying body shall aggregate for regular submission to the Department.

(b) In developing the certification program recommendations required pursuant to this section, the Department shall consider:

(1) available funding streams to sustainably maintain and expand recovery residence services throughout the State;

(2) how to address barriers that limit the availability of recovery residences;

(3) recovery residence models used in other states and their applicability to Vermont; and

(4) how to engage noncertified recovery residences in the certification process.

(c) On or before January 15, 2025, the Department shall submit a written report describing its recommended recovery residence certification program and containing corresponding draft legislation to the House Committee on Human Services and to the Senate Committee on Health and Welfare.

(d) As used in this section, "recovery residence" means a shared living residence supporting persons recovering from a substance use disorder that provides tenants with peer support and assistance accessing support services and community resources available to persons recovering from substance use disorders.

Sec. 2. ASSESSMENT; GROWTH AND EVALUATION OF RECOVERY RESIDENCES

(a) The Department of Health shall complete an assessment of certified and noncertified recovery residences in the State, which shall:

(1) create a comprehensive inventory of all recovery residences in Vermont, including assessments of proximity to employment, recovery, and other community resources;

(2) assess the current capacity, knowledge, and ability of recovery residences to inform data collection and improve outcomes for residents;

(3) assess recovery residences' potential for future data collection capacity; and

(4) assess the types of data systems currently in use in Vermont's recovery residences and defining the minimum core components of a data system.

(b) The Department may obtain technical assistance to complete the assessment required pursuant to subsection (a) of this section.

(c) On or before December 15, 2025, the Department shall submit the results of the assessment required pursuant to this section and any recommendations for legislative action to the House Committee on Human Services and to the Senate Committee on Health and Welfare.

(d) As used in this section, "recovery residence" means a shared living residence supporting persons recovering from a substance use disorder that provides tenants with peer support and assistance accessing support services and community resources available to persons recovering from substance use disorders.

Sec. 3. 9 V.S.A. § 4452 is amended to read:

§ 4452. EXCLUSIONS

(a) Unless created to avoid the application of this chapter, this chapter does not apply to any of the following:

* * *

(b)(1) Notwithstanding subsections 4463(b) and 4467(b) and section 4468 of this chapter only, a recovery residence may immediately exit or transfer a resident if all of the following conditions are met:

(A) the recovery residence has developed and adopted a residential agreement:

(i) containing a written exit and transfer policy approved by the Vermont Alliance for Recovery Residences or another certifying organization approved by the Department of Health that:

(I) addresses the length of time that a bed will be held in the event of a temporary removal;

(II) establishes the criteria by which a resident can return to the recovery residence in the event of a temporary removal; and

(III) ensures a resident's possessions will be held not less than 60 days in the event of permanent removal;

(ii) designating alternative housing arrangements for the resident in the event of an exit or transfer, including contingency plans when alternative housing arrangements are not available;

(iii) describing the recovery residence's substance use policy, which shall exempt the use of a resident's valid prescription medication when used as prescribed; and

(iv) indicating that by signing a residential agreement, a resident acknowledges that the recovery residence may cause the resident to be immediately exited or transferred to alternative housing if the resident violates the recovery residence's substance use policy or engages in acts of violence that threaten the health or safety of other residents;

(B) the recovery residence has obtained the resident's written consent to its residential agreement, reaffirmed after seven days;

(C) the resident violated the substance use policy in the residential agreement or engaged in acts of violence that threatened the health or safety of other residents; and

(D) the recovery residence has provided or arranged for a stabilization bed or other alternative temporary housing.

(2) Relapse of a substance use disorder resulting in exiting a recovery residence shall not be deemed a cause of the resident's own homelessness for purposes of obtaining emergency housing.

(3) As used in this subsection, "recovery residence" means a shared living residence supporting persons recovering from a substance use disorder that:

(A) provides tenants with peer support and assistance accessing support services and community resources available to persons recovering from substance use disorders; and

(B) is certified by an organization approved by the Department of Health and that is either a Vermont affiliate of the National Alliance for Recovery Residences or another approved organization.

Sec. 4. REPORT; RECOVERY RESIDENCES' EXIT AND TRANSFER DATA

(a) On or before January 1, 2025 and 2026, a recovery residence shall report to the certifying body for the recovery residence any exit or transfer of a resident by the recovery residence in the previous year and the asserted basis for exiting or transferring the resident.

(b) On or before January 15, 2025 and 2026, the certifying body for a recovery residence shall report to the Department of Health the data received under subsection (a) of this section.

(c) On or before February 1, 2025 and 2026, the Department of Health shall submit the data received under subsection (b) of this section to the House Committees on General and Housing and on Human Services and the Senate Committees on Economic Development, Housing and General Affairs and on Health and Welfare.

(d) The 2025 report shall contain preliminary data from the previous six months and the 2026 report shall contain data from the preceding year.

(e) As used in this section, "recovery residence" means a shared living residence supporting persons recovering from a substance use disorder that:

(1) provides tenants with peer support and assistance accessing support services and community resources available to persons recovering from substance use disorders; and

(2) is certified by an organization approved by the Department of Health and that is either a Vermont affiliate of the National Alliance for Recovery Residences or another approved organization.

Sec. 5. SUNSET; RECOVERY RESIDENCES; RESIDENTIAL AGREEMENT; REPORTING

(a) 9 V.S.A. § 4452(b) is repealed on July 1, 2026.

(b) Sec. 4 (report; recovery residences' exit and transfer data) is repealed on July 1, 2026.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

NEW BUSINESS

Joint Resolution for Second Reading

Favorable

J.R.S. 44.

Joint resolution declaring the increasing number of drug overdose deaths in Vermont to be a public health emergency.

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

(Committee vote: 5-0-0)

NOTICE CALENDAR

Second Reading

Favorable

H. 862.

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

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: 5-0-1)

(No House amendments)

H. 869.

An act relating to approval of the merger of Brandon Fire District No. 1 and Brandon Fire District No. 2.

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

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

(Committee vote: 5-0-1)

(No House amendments)

H. 872.

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

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: 5-0-1)

(No House amendments)

Favorable with Proposal of Amendment

H. 585.

An act relating to amending the pension system for sheriffs and certain deputy sheriffs.

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

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

* * * Pension System for Sheriff and Deputy Sheriffs * * *

Sec. 1. 3 V.S.A. § 455 is amended to read:

§ 455. DEFINITIONS

(a) As used in this subchapter:

* * *

(11) "Member" means any employee included in the membership of the Retirement System under section 457 of this title.

* * *

(F) "Group G member" means:

(i) the following employees who are first employed in the positions listed in this subdivision (F)(i) on or after July 1, 2023, or who are members of the System as of June 30, 2022 and make an irrevocable election to prospectively join Group G on or before June 30, 2023, pursuant to the terms set by the Board: facility employees of the Department of Corrections, ~~as~~ Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community, ~~as~~ employees of a facility for justice-involved youth, ~~or as~~ and employees of the Vermont ~~State~~ Psychiatric Care Hospital ~~employees~~ or ~~as employees of~~ its successor in interest, who provide direct patient care; and

(ii) the following employees who are first employed in the positions listed in this subdivision (F)(ii) or first included in the membership of the System on or after January 1, 2025, or who are members of the System as of December 31, 2024 and make an irrevocable election to join Group G on or before December 31, 2024, pursuant to the terms set by the Board:

(I) all sheriffs; and

(II) deputy sheriffs who:

(aa) are employed by county sheriff's departments that participate in the Vermont Employees' Retirement System;

(bb) have attained Level II or Level III law enforcement officer certification from the Vermont Criminal Justice Council;

(cc) are required to perform law enforcement duties as the primary function of their employment; and

(dd) are not full-time deputy sheriffs compensated by the State of Vermont whose primary function is transports as defined in 24 V.S.A. § 290(b) and eligible for Group C pursuant to 3 V.S.A. § 455(9)(B).

* * *

(13) "Normal retirement date" means:

* * *

(E) with respect to a Group G member:

(i) for facility employees of the Department of Corrections, Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community, employees of a facility for justice-involved youth, or employees of the Vermont ~~State~~ Psychiatric Care Hospital or its predecessor or successor in interest, who provide direct patient care, who were first included in the membership of the System on or before June 30, 2008, who were employed as of June 30, 2022, and who made an irrevocable election to prospectively join Group G on or before July 1, 2023, pursuant to the terms set by the Board, the first day of the calendar month next following the earlier of:

(I) 62 years of age and following completion of five years of creditable service;

(II) completion of 30 years of creditable service; or

(III) 55 years of age and following completion of 20 years of creditable service; ~~or~~

(ii) for facility employees of the Department of Corrections, Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community, as employees of a facility for justice-involved youth, or employees of the Vermont ~~State~~ Psychiatric Care Hospital or its predecessor or successor in interest, who provide direct patient care, who were first included in the membership of the System on or after July 1, 2008, who were employed as of June 30, 2022, and who made an irrevocable election to prospectively join Group G on or before July 1, 2023, pursuant to the terms set by the Board, the first day of the calendar month next following the earlier of:

(I) 65 years of age and following completion of five years of creditable service;

(II) attainment of 87 points reflecting a combination of the age of the member and number of years of service; or

(III) 55 years of age and following completion of 20 years of creditable service; ~~or~~

(iii) for facility employees of the Department of Corrections, Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community, employees of a facility for justice-involved youth, or employees of the Vermont ~~State~~ Psychiatric Care Hospital or its predecessor or successor in interest, who provide direct patient care, who first become a Group G member on or after July 1, 2023, the first day of the calendar month next following the earlier of:

(I) attainment of 55 years of age and following completion of 20 years of creditable service; or

(II) 65 years of age and following completion of five years of creditable service.;

(iv) for all sheriffs and those deputy sheriffs who meet the requirements pursuant to subdivision (11)(F)(ii) of this subsection (a), who were first included in the membership of the System on or before June 30, 2008, who were employed as of December 31, 2024, and who made an irrevocable election to prospectively join Group G on or before January 1, 2025, pursuant to the terms set by the Board, the first day of the calendar month next following the earlier of:

(I) 62 years of age and following completion of five years of creditable service;

(II) completion of 30 years of creditable service; or

(III) 55 years of age and following completion of 20 years of creditable service;

(v) for all sheriffs and those deputy sheriffs who meet the requirements pursuant to subdivision (11)(F)(ii) of this subsection (a), who were first included in the membership of the System on or after July 1, 2008, who were employed as of December 31, 2024, and who made an irrevocable election to prospectively join Group G on or before January 1, 2025, pursuant to the terms set by the Board, the first day of the calendar month next following the earlier of:

(I) 65 years of age and following completion of five years of creditable service;

(II) attainment of 87 points reflecting a combination of the age of the member and number of years of service; or

(III) 55 years of age and following completion of 20 years of creditable service; or

(vi) for all sheriffs and those deputy sheriffs who meet the requirements pursuant to subdivision (11)(F)(ii) of this subsection (a), who first become a Group G member after January 1, 2025, the first day of the calendar month next following the earlier of:

(I) attainment of 55 years of age and following completion of 20 years of creditable service; or

(II) 65 years of age and following completion of five years of creditable service.

* * *

Sec. 2. 3 V.S.A. § 459 is amended to read:

§ 459. NORMAL AND EARLY RETIREMENT

* * *

(b) Normal retirement allowance.

* * *

(6)(A) Upon normal retirement pursuant to subdivisions 455(a)(13)(E)(i) ~~and~~, (iii), (iv), and (vi) of this chapter, a Group G member shall receive a normal retirement allowance equal to two and one-half of a percent of the member's average final compensation times years of membership service in Group G. The maximum retirement allowance shall be 50 percent of average final compensation.

(B) Upon normal retirement pursuant to ~~subdivision~~ subdivisions 455(a)(13)(E)(ii) and (v) of this chapter, a Group G member shall receive a normal retirement allowance equal to two and one-half of a percent of the member's average final compensation times years of membership service in Group G. The maximum retirement allowance shall be 60 percent of average final compensation.

* * *

(d) Early retirement allowance.

* * *

(4)(A) Upon early retirement, a Group G member who was previously a Group F member first included in the membership of the System on or before June 30, 2008, and who elected to transfer into Group G ~~on July 1, 2023~~ pursuant to the terms set by the Board, shall receive an early retirement allowance that shall be equal to the normal retirement allowance reduced by the lesser of (i) one-half of one percent for each month equal to the difference between the 240 months and the member's months of creditable service, or (ii) an amount that shall be the actuarial equivalent of the normal retirement allowance computed under subsection (b) of this section.

(B) Upon early retirement, a Group G member who was previously a Group F member first included in the membership of the System on or after July 1, 2008, and who elected to transfer into Group G ~~on July 1, 2023~~ pursuant to the terms set by the Board, shall receive an early retirement

allowance that shall be equal to the normal retirement allowance reduced by the lesser of (i) five-ninths of one percent for each month equal to the difference between the 240 months and the member's months of creditable service, or (ii) an amount that shall be the actuarial equivalent of the normal retirement allowance computed under subsection (b) of this section.

* * *

Sec. 3. 3 V.S.A. § 489 is amended to read:

§ 489. BENEFITS

Persons who become members of the Vermont State Retirement System under this subchapter and on behalf of whom contributions are paid as provided in this subchapter shall be entitled to benefits under the Vermont State Retirement System as though they were employees of the State of Vermont. These employees shall be considered "Group F members" as defined in subdivision 455(a)(11)(E) of this title, except that:

(1) elected municipal employees shall not be subject to mandatory retirement requirements; and

(2) sheriffs and those deputy sheriffs who meet the requirements pursuant to subdivision 455(a)(11)(F)(ii) of this chapter shall be considered members of Group G.

Sec. 4. ONE-TIME IRREVOCABLE ELECTION FOR SHERIFFS AND CERTAIN DEPUTY SHERIFFS

(a) Subject to the restrictions set forth in subdivision (c)(1) of this section, on or before September 1, 2024, the Department of State's Attorneys and Sheriffs, in consultation with the Department of Human Resources and the Office of the State Treasurer, shall establish a list of positions newly eligible for Group G of the Vermont State Employees' Retirement System, which shall be limited to the following:

(1) all sheriffs; and

(2) deputy sheriffs who:

(A) are employed by county sheriff's departments that participate in the Vermont State Employees' Retirement System;

(B) have a Level II or Level III law enforcement officer certification from the Vermont Criminal Justice Council;

(C) are required to perform law enforcement duties as the primary function of their employment; and

(D) are not full-time deputy sheriffs compensated by the State of Vermont whose primary function is transports as defined in 24 V.S.A. § 290(b) and eligible for Group C pursuant to 3 V.S.A. § 455(9)(B).

(b) In establishing any new deputy sheriff position on and after January 1, 2025, the Department of State's Attorneys and Sheriffs, in consultation with sheriff's departments, shall identify that position as eligible for either Group C membership or Group G membership pursuant to the criteria as set forth in subsection (a) of this section.

(c)(1) A sheriff or deputy sheriff who qualifies for Group G membership pursuant to this act and that has a current Level II or Level III law enforcement officer certification from the Vermont Criminal Justice Council shall have a one-time option to transfer to Group G on or before December 1, 2024. Sheriffs and deputy sheriffs without a current Level II or Level III law enforcement officer certification from the Vermont Criminal Justice Council shall not be eligible to transfer to Group G. For a sheriff or deputy sheriff who qualifies for Group G membership who is first employed on or after December 1, 2024 but before January 1, 2025, election to join Group G under this subsection shall be made as soon as possible but shall be within 30 days from the employee's date of hire.

(2) Election to join the Group G plan under this subsection shall be irrevocable.

(d) The effective date of participation in a new group plan for those employees covered under this section and who elect to transfer to Group G shall be January 1, 2025. All past service accrued through the date of transfer shall be calculated based upon the plan in which it was accrued, with all provisions and penalties, if applicable, applied.

(e) The Department of State's Attorneys and Sheriffs shall notify the Office of the State Treasurer of changes in a deputy sheriff's eligibility for Group G within 30 days of the change in eligibility, pursuant to 3 V.S.A. § 455(11)(F)(ii)(II).

(f) Nothing in this section shall be read to extend postretirement health or other insurance benefits to Group G deputy sheriffs who work for county sheriff's departments.

* * * Sheriff Compensation * * *

Sec. 5. LEGISLATIVE INTENT; SHERIFF COMPENSATION

It is the intent of the General Assembly that a sheriff's compensation shall correlate with the sheriff's level of law enforcement officer certification to

properly reflect a sheriff's capability to perform the various duties required to effectively and efficiently manage a law enforcement agency that is the office of sheriff.

Sec. 6. 32 V.S.A. § 1182 is amended to read:

§ 1182. SHERIFFS

(a) The sheriffs of all counties except Chittenden shall be entitled to receive salaries in the amount of ~~$94,085.00~~ $104,010.00 as of ~~July 3, 2022~~ July 14, 2024 and ~~$97,754.00~~ $109,627.00 as of ~~July 2, 2023~~ July 13, 2025. The Sheriff of Chittenden County shall be entitled to an annual salary in the amount of ~~$99,566.00~~ $110,070.00 as of ~~July 3, 2022~~ July 14, 2024 and ~~$103,449.00~~ $116,014.00 as of ~~July 2, 2023~~ July 13, 2025.

(b) Compensation under subsection (a) of this section shall be reduced by 10 percent for any sheriff who has Level II but not obtained Level III law enforcement officer certification under 20 V.S.A. § 2358.

(c) Compensation under subsection (a) of this section shall be reduced by 20 percent for any sheriff who has Level I not obtained Level II law enforcement officer certification under 20 V.S.A. § 2358.

(d) Compensation under subsection (a) of this section shall be reduced by 30 percent for any sheriff who does not possess a law enforcement officer certification under 20 V.S.A. § 2358.

* * * State's Attorneys' Offices Operations Report * * *

Sec. 7. STATE'S ATTORNEYS' OFFICES OPERATIONS REPORT

On or before January 15, 2025, the Department of State's Attorney and Sheriffs shall report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations with:

(1) an analysis of current funding sources and procedures for compensating State's Attorneys as well as maintaining State's Attorneys' offices' operations, including existing or needed procedures for reducing compensation for State's Attorneys who have their attorney license temporarily suspended or terminated;

(2) an analysis State's Attorneys' duties and the average proportions of time spent on duties requiring an attorney license versus duties not requiring an attorney license; and

(3) recommendations for levels of compensation reduction for State's Attorneys who have their attorney license temporarily suspended or terminated so that the compensation better reflects the individual's capability to perform

the various duties required to effectively and efficiently manage a law office that is the office of State's Attorney.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee vote: 5-1-0)

(For House amendments, see House Journal of March 26, 2024, pages 833 - 840)

H. 612.

An act relating to miscellaneous cannabis amendments.

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

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

First: By striking out Sec. 2, 7 V.S.A. § 861(18), in its entirety and inserting in lieu thereof the following:

Sec. 2. [Deleted.]

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

Sec. 2a. 7 V.S.A. § 864 is amended to read:

§ 864. ADVERTISING

* * *

(b) A cannabis establishment advertisement shall not contain any statement or illustration that:

(1) is deceptive, false, or misleading;

(2) promotes overconsumption;

(3) represents that the use of cannabis has curative effects;

(4) ~~offers a prize, award, or inducement for purchasing cannabis or a cannabis product, except that price discounts are allowed;~~ [Repealed.]

(5) offers free samples of cannabis or cannabis products;

(6) depicts a person under 21 years of age consuming cannabis or cannabis products; or

(7) is designed to be or has the effect of being particularly appealing to persons under 21 years of age.

* * *

Third: In Sec. 4, 7 V.S.A. § 881, in subdivision (a)(5), by striking out subdivision (G) in its entirety and inserting in lieu thereof a new subdivision (G) to read as follows:

(G) requirements for a medical-use endorsement, including rules regarding:

(i) protection of patient privacy and confidential records;

(ii) enhanced training and educational requirements for employees who interact with patients;

(iii) segregation of cannabis products that are otherwise prohibited for sale to nonmedical customers pursuant to subdivisions 868(a)(1) and (b)(1) of this title;

(iv) record-keeping;

(v) delivery;

(vi) access for patients under 21 years of age; and

(vii) health and safety requirements.

Fourth: By adding a new section to be Sec. 7a to read as follows:

Sec. 7a. 7 V.S.A. § 952(e) is added to read:

(e)(1) A person who is 21 years of age or older who applies to be a registered patient shall provide the Board with a Health Care Professional Verification Form as required pursuant to rules adopted by the Board.

(2) A person who is under 21 years of age who applies to be a registered patient shall provide the Board with a Health Care Professional Verification Form from a health care professional who has a treating or consulting relationship of not less than three months' duration with the applicant, in the course of which the health care professional has completed a full assessment of the applicant's medical history and current medical condition, including a personal physical examination. The three-month requirement shall not apply if:

(A) an applicant has been diagnosed with:

(i) a terminal illness;

(ii) cancer; or

(iii) acquired immune deficiency syndrome;

(B) an applicant is currently under hospice care;

(C) an applicant had been diagnosed with a qualifying medical condition by a health care professional in another jurisdiction in which the applicant had been formerly a resident and the patient, now a resident of Vermont, has the diagnosis confirmed by a health care professional in this State or a neighboring state as permitted by subdivision 951(5)(B) of this title, and the new health care professional has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination;

(D) a patient who is already on the Registry changes health care professionals three months or less prior to the renewal of the patient's registration, provided the patient's new health care professional has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination;

(E) an applicant is referred by the patient's health care professional to another health care professional who has completed advanced education and clinical training in specific qualifying medical conditions, and that health care professional conducts a full assessment of the applicant's medical history and current medical condition, including a personal physical examination; or

(F) an applicant's qualifying medical condition is of recent or sudden onset.

Fifth: By adding a new section to be Sec. 11a to read as follows:

Sec. 11a. CANNABIS CONTROL BOARD REPORTING; MEDICAL CANNABIS REGISTRY

(a) The Cannabis Control Board shall work in consultation with the Vermont Department of Health, the Vermont Medical Society, the Green Mountain Patients' Alliance, the Cannabis Retailers Association of Vermont, and other interested parties to assess the efficacy of the Medical Cannabis Program in serving registered and prospective patients. The assessment shall include recommendations regarding:

(1) improvements to the process of evaluating and approving new qualifying conditions;

(2) improvements to how the use of cannabis is communicated to patients and patients' providers; and

(3) appropriate regulations regarding electronic or battery-powered devices that contain or are designed to deliver cannabis into the body through the inhalation of vapor.

(b) The Board shall provide recommendations regarding the Medical Cannabis Registry to the Senate Committee on Health and Welfare and the House Committee on Human Services on or before November 15, 2024.

Sixth: In Sec. 12, 20 V.S.A. § 2730(b), by striking out subdivision (5) in its entirety and inserting in lieu thereof a new subdivision (5) to read as follows:

(5) A building that is used in the outdoor cultivation of cannabis by a person licensed pursuant to 7 V.S.A. chapter 33 in accordance with such chapter and related rules with fewer than the equivalent of 10 full-time employees who are not family members and who do not work more than 26 weeks a year.

Seventh: By adding a new section to be Sec. 15a to read as follows:

Sec. 15a. CANNABIS BUSINESS DEVELOPMENT FUND; CANNABIS SOCIAL EQUITY WORKING GROUP

(a) Creation. There is created the Cannabis Social Equity Working Group for the purpose of making recommendations to the General Assembly regarding a percentage of cannabis excise tax monies that should be appropriated to the Cannabis Business Development Fund for uses as provided pursuant to 7 V.S.A. § 987.

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

(1) a representative of the Vermont Racial Justice Alliance;

(2) a representative of the Green Mountain Patients' Alliance;

(3) the Executive Director of the Cannabis Control Board or designee;

(4) a representative of the Vermont Land Access and Opportunity Board;

(5) the Executive Director of Racial Equity or designee;

(6) the Chair of the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel;

(7) the Chair of the Health Equity Advisory Commission or designee; and

(8) the Secretary of the Agency of Commerce and Community Development or designee.

(c) Assistance. The Working Group shall have the assistance of the Cannabis Control Board for purposes of scheduling and staffing meetings and developing and submitting the recommendations.

(d) Recommendations.

(1) The Working Group shall submit its recommendations to the General Assembly on or before November 15, 2024.

(2) The Working Group shall cease to exist on January 1, 2025.

Eighth: By striking out Secs. 16, 7 V.S.A. § 869, and 17, 24 V.S.A. § 4414a, in their entireties and inserting in lieu thereof the following:

Sec. 16. [Deleted.]

Sec. 17. [Deleted.]

Ninth: By striking out Sec. 18 (effective date) in its entirety and inserting in lieu thereof new Secs. 18-21 to read as follows:

Sec. 18. 7 V.S.A. § 869 is amended to read:

§ 869. CULTIVATION OF CANNABIS; ENVIRONMENTAL AND LAND USE STANDARDS; REGULATION OF CULTIVATION

(a) A cannabis establishment shall not be regulated as "farming" under the Required Agricultural Practices, 6 V.S.A. chapter 215, or other State law, and cannabis produced from cultivation shall not be considered an agricultural product, farm crop, or agricultural crop for the purposes of 32 V.S.A. chapter 124, 32 V.S.A. § 9741, or other relevant State law.

(b) The cultivation, processing, and manufacturing of cannabis regulated under this chapter shall comply with all applicable State, federal, and local environmental, energy, or public health law, unless otherwise provided under this chapter.

(c) A cannabis establishment regulated under this chapter shall be subject to regulation under 24 V.S.A. chapter 117 as authorized by this chapter, unless otherwise provided under this chapter.

* * *

(f) Notwithstanding subsection (a) of this section, a cultivator licensed under this chapter who initiates cultivation of cannabis outdoors on a parcel of land shall:

(1) be regulated in the same manner as "farming" and not as "development" on the tract of land where cultivation occurs for the purposes of permitting under 10 V.S.A. chapter 151;

(2) not be regulated by a municipal bylaw adopted under 24 V.S.A. chapter 117 in the same manner that Required Agricultural Practices are not regulated by a municipal bylaw under 24 V.S.A. § 4413(d)(1)(A);

(3) be eligible to enroll in the Use Value Appraisal Program under 32 V.S.A. chapter 124 for the cultivation of cannabis; and

(4) be exempt under 32 V.S.A. § 9741(3), (25), and (50) from the tax on retail sales imposed under 32 V.S.A. § 9771~~; and~~

~~(5) be entitled to the rebuttable presumption that cultivation does not constitute a nuisance under 12 V.S.A. chapter 195 in the same manner as "agricultural activities" are entitled to the rebuttable presumption, provided that, notwithstanding 12 V.S.A. § 5753(a)(1)(A), the cultivation is complying with subsections (b) and (d) of this section~~.

(g) The cannabis plant canopy of an outdoor cultivator of cannabis licensed under this chapter shall be set back at least 50 feet from a property boundary or edge of a highway.

Sec. 19. APPLICATION OF OUTDOOR CANNABIS CULTIVATION SETBACK; REPEAL

(a) The setback requirement established under 7 V.S.A. § 869(g) shall apply only to new outdoor cannabis cultivation licenses issued after July 1, 2024.

(b) 7 V.S.A. § 869(g) shall be repealed on July 1, 2025.

Sec. 20. CANNABIS CONTROL BOARD REPORT; SITING OF OUTDOOR CANNABIS CULTIVATION

(a) On or before December 15, 2024, the Cannabis Control Board shall submit to the Senate Committees on Government Operations and on Economic Development, Housing and General Affairs and the House Committees on Government Operations and Military Affairs and on Commerce and Economic Development a report regarding the siting and licensing of outdoor cannabis cultivation. The report shall:

(1) summarize the current impact of outdoor cultivation on local municipalities;

(2) summarize the impact of establishing various siting requirements to existing licensed outdoor cultivators;

(3) address whether and how to authorize municipalities to establish local cultivation districts;

(4) address whether and how outdoor cultivation of cannabis should be entitled to the rebuttable presumption that cultivation does not constitute a nuisance under 12 V.S.A. chapter 195; and

(5) recommend whether local cannabis control commissions established pursuant to 7 V.S.A. chapter 33 should be granted additional authority to regulate outdoor cannabis cultivators.

(b) The Cannabis Control Board shall consult with the Vermont League of Cities and Towns, the Cannabis Equity Coalition, the Vermont Medical Society, the Cannabis Retailers Association of Vermont, and other interested stakeholders in developing the report required under subsection (a) of this section.

(c) As part of the report required under subsection (a) of this section, the Cannabis Control Board shall address the impact of modifying the law governing cannabis advertising.

Sec. 21. EFFECTIVE DATES

Sec. 6, 7 V.S.A. § 910, shall take effect on July 1, 2025, and the remainder of the act shall take effect on passage.

(Committee vote: 4-0-1)

(For House amendments, see House Journal of March 26, 2024, pages 818 - 829)

H. 630.

An act relating to boards of cooperative education services.

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

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

* * * Findings and Intent * * *

Sec. 1. FINDINGS; INTENT

(a) Findings. The General Assembly finds that:

(1) Vermont's school districts are small by national and regional standards, which denies them some of the benefits of scale. As of 2021, Vermont was one of approximately nine states that did not have an established system of cooperative educational service agencies.

(2) Some specialized education services are higher in cost or intensity but lower in incidence. Collaborating to ensure quality education is more regionally available to serve students in the least restrictive environment, with a focus of reintegration into the classroom, may make providing such services more efficient and affordable.

(3) Students should be in the least restrictive setting to reach success. Some students require a higher level of care and access to peers that would not be available in an inclusive setting. Some students who are currently placed in substantially separate programs are not able to access their community, peers, or inclusive activities. Vermont is currently sending many of these students to programs that are geographically far away or out of state. Working cooperatively could prevent these students from being transported such long distances. Staying closer to home will also afford these students greater opportunities for afterschool or community-based activities.

(4) Market concentration means single districts cannot always rely on competitive bidding to reduce costs and improve quality. Districts often all have separate contracts for the same service, with the same vendor or vendors, which is an avoidable duplicative cost.

(5) For services that all districts need, such as professional development and specialized settings for students with extraordinary needs, collaboration statewide ensures that the highest quality expertise and programming can be shared at scale in ways that benefit all students and districts.

(6) Collaborative management of some functions would yield the same outcome but at a lower price and with fewer demands on administrative time, such that districts can spend proportionally less of every dollar on noninstructional administrative tasks or duplicative services and capabilities.

(7) Examples of functions that can be challenging or less affordable given the small size of Vermont's districts are:

(A) applying for State, federal, and other grants;

(B) supporting staff and educator development, recruitment, and retention;

(C) supporting transformation of operations or implementation of new State initiatives or quality standards;

(D) providing high-quality, evidence- and science-based professional development in a coherent and consistent way;

(E) providing or ensuring access to regionally available specialized settings for students with unique needs or highly specialized needs in the least restrictive environment, with a focus on reintegration and early intervention;

(F) managing prekindergarten programs to ensure equitable access to high-quality prekindergarten programs;

(G) procurement of services to support education, from food service to transportation, given the lack of enough vendors to ensure competitive bidding;

(H) providing skilled facilities planning and management; and

(I) providing appropriate support and instruction for English learners.

(8) Additionally, community schools also facilitate the coordination of comprehensive programs and services that are carefully selected to meet the unique needs of students and families and build on the assets they bring to their schools and communities. Community schools combine challenging and culturally inclusive learning opportunities with the academic and social supports every student needs to reach their potential.

(9) According to the Learning Policy Institute, "establishing community schools" is one of 10 recommended strategies for restarting and rethinking the role of public education in the wake of the COVID-19 pandemic. Community schools serve as resource hubs that provide a broad range of easily accessed, well-coordinated supports and services that help students and families with increasingly complex needs. These schools, at their core, are about investing in children, through quality teaching; challenging, engaging, and culturally responsive curricula; wrap around supports; safe, just, and equitable school climate; strong ties to family and community; and a clear focus on student achievement and well-being.

(10) Community schools are important centers for building community connection and resilience. When learning extends beyond the walls of the school through active engagement with community partners as with place-based learning, relationships expand and deepen, community strengths are highlighted, and opportunities for building vitality surface through shared learning.

(11) Community schools provide another framework to encourage and support supervisory unions to be creative as they develop learning communities that integrate student supports, expand and enrich learning opportunities, engage families and communities, develop collaborative leadership, and ensure safe, inclusive, and equitable learning environments.

(b) Intent. This act is one of the initial steps in ensuring the opportunity to transform Vermont's educational system. It is the intent of the General Assembly to address the delivery, governance, and financing of Vermont's education system, with the goal of transforming the educational system to ensure high-quality education for all Vermont students, sustainable and transparent use of public resources, and appropriate support and expertise from the Agency of Education.

* * * Boards of Cooperative Education Services * * *

Sec. 2. 16 V.S.A. chapter 10 is added to read:

CHAPTER 10. BOARDS OF COOPERATIVE EDUCATION SERVICES

§ 601. POLICY

It is the policy of the State to allow and encourage supervisory unions to create boards of cooperative education services to provide shared programs and services on a regional and statewide level. Formation of a board of cooperative education services shall be designed to build upon the geographically focused cooperative regions used by Vermont superintendents as of July 1, 2024; maximize the impact of available dollars through collaborative funding; reduce duplication of programs, personnel, and services; and contribute to equalizing educational opportunities for all pupils.

§ 602. DEFINITIONS

As used in this chapter:

(1) "Educator" means any:

(A) individual licensed under chapter 51 of this title, the majority of whose employed time in a public school district, supervisory union, or board of cooperative education services is assigned to furnish to students direct instructional or other educational services, as defined by rule of the Standards Board, or who is otherwise subject to licensing as determined by the Standards Board; or

(B) individual licensed under chapter 51 of this title, the majority of whose employed time in a public school, school district, or supervisory union is assigned to developing and managing school curriculum, evaluating and disciplining personnel, or supervising and managing a public school system or public school program.

(2) "Supervisory union" means an administrative, planning, and educational service unit created by the State Board under section 261 of this title that consists of two or more school districts. This term also means a supervisory district.

§ 603. CREATION OF BOARD OF COOPERATIVE EDUCATION SERVICES; ORGANIZATION; SECRETARY APPROVAL

(a) Establishment of boards of cooperative education services. When the boards of two or more supervisory unions vote to explore the advisability of entering into a written agreement to provide shared programs and services, the interested boards shall meet and discuss the terms of any such agreement. At this meeting or a subsequent meeting, the participating boards may enter into a proposed agreement to form an association of supervisory unions to deliver shared programs and services to complement the educational programs of member supervisory unions in a cost-effective manner. An association formed pursuant to this chapter shall be known as a board of cooperative education services (BOCES) and shall be a body politic and corporate with the powers and duties afforded them under this chapter.

(b) Articles of agreement. Agreements to form a BOCES pursuant to this chapter shall take the form of articles of agreement and shall serve as the operating agreement for a BOCES. Agreements shall include a cost-benefit analysis outlining the projected financial savings or enhanced outcomes, or both, that the parties expect to realize through shared services or programs. No agreement or subsequent amendments shall take effect unless approved by the member supervisory union boards and the Secretary of Education. The Secretary shall approve articles of agreement if the Secretary finds that the formation of the proposed BOCES is in the best interests of the State, the students, and the member supervisory unions and aligns with the policy set forth in section 601 of this title, subject to the limitations of subsection (d) of this section. At a minimum, the articles of agreement shall state:

(1) the names of the participating supervisory unions;

(2) the mission, purpose, and focus of the BOCES;

(3) the programs or services to be offered by the BOCES;

(4) the financial terms and conditions of membership of the BOCES, including any applicable membership fee;

(5) the service fees for member supervisory unions and the service fees for nonmember supervisory unions, as applicable;

(6) the detailed procedure for the preparation and adoption of an annual budget with carryforward provisions;

(7) the method of termination of the BOCES and the withdrawal of member supervisory unions, which shall include the apportionment of assets and liabilities;

(8) the procedure for admitting new members and for amending the articles of agreement;

(9) the powers and duties of the board of directors of the BOCES to operate and manage the association, including:

(A) board meeting attendance requirements;

(B) consequences for failure to attend a board meeting;

(C) a conflict-of-interest policy; and

(D) a policy regarding board member salaries or stipends; and

(10) any other matter not incompatible with law that the member supervisory unions consider necessary to the formation of the BOCES.

(c) Board of directors. A BOCES shall be managed by a board of directors, which shall be composed of one person appointed annually by each member supervisory union board. Appointed persons shall be members of a member supervisory union board or the superintendent or designee of the member supervisory union. Each member of the BOCES board of directors shall be entitled to a vote. No member of the board of directors of a BOCES shall serve as a member of a board of directors or as an officer or employee of any related for-profit or nonprofit organization. The board of directors shall elect a chair from its members and provide for such other officers as it may determine are necessary. The board of directors may also establish subcommittees and create board policies and procedures as it may determine are necessary. The board of directors shall meet not fewer than four times annually. Each member of the board of directors shall provide updates on the activities of the BOCES on a quarterly basis to the member's appointing supervisory union board at an open board meeting.

(d) Number of BOCESs. There shall be not more than seven BOCESs statewide. Supervisory unions shall not be a member of more than one BOCES but may seek services as a nonmember from other BOCESs.

§ 604. POWERS OF BOARDS OF COOPERATIVE EDUCATION SERVICES

(a) In addition to any other powers granted by law, a BOCES shall have the power to provide educational programs, services, facilities, and professional and other staff that, in its discretion, best serve the needs of its members. A BOCES shall follow all applicable State and federal laws in its provision of services, including Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400–1482.

(b) A BOCES may employ an executive director who shall serve under the general direction of the board and who shall be responsible for the care and supervision of the BOCES. The board shall annually evaluate the executive director's performance and effectiveness in implementing the programs, policies, and goals of the BOCES. The executive director shall not serve as a board member, officer, or employee of any related for-profit or nonprofit organization.

(c) A BOCES shall be a body politic and corporate and shall have standing to sue and be sued to the same extent as a school district. A BOCES may enter into contracts for the purchase of supplies, materials and services and for the purchase or leasing of land, buildings, and equipment as considered necessary by the board of directors. Section 559 of this title shall apply to the procurement of services or items with costs that exceed $40,000.00, as well as high-cost construction contracts, as defined by subsection 559(b) of this title.

(d) The board of directors of a BOCES may apply for State, federal, or private grants, for which a BOCES may be otherwise eligible, to obtain funds necessary to carry out the purpose for which the BOCES is established. Nothing in this chapter is intended to create an entitlement to federal funds distributed by the Agency of Education to local education agencies.

§ 605. FINANCING, BUDGETING, AND ACCOUNTING

(a) Education cooperative fund. A BOCES shall establish and manage a fund to be known as an education cooperative fund. All monies contributed by the member school districts and all grants or gifts from the federal government, State government, charitable foundations, private corporations, or any other source shall be deposited into the fund.

(b) Treasurer.

(1) A BOCES shall appoint a treasurer who may be a treasurer of a member school district and who shall be sworn in before entering the duties of the office.

(2) The treasurer may, subject to the direction of the board of directors, receive and disburse all money belonging to the board without further appropriation.

(3) The treasurer shall keep financial records of cash receipts and disbursements and shall make those records available to the board of directors upon request.

(4) The board of directors shall ensure that its blanket bond covers a newly appointed treasurer before the treasurer enters upon the duties of the office. In lieu of a blanket bond, a BOCES may choose to provide suitable

crime insurance coverage. The board of directors may pay reasonable compensation to the treasurer for services rendered and shall evaluate the treasurer's performance annually.

(c) Financial accounting system. A BOCES shall use the uniform chart of accounts and financial reporting requirements used by supervisory unions as its financial accounting system.

(d) Audit. Annually, a BOCES shall cause an independent audit to be made of its financial statements consistent with generally accepted governmental auditing standards and shall discuss and vote to accept the audit report at an open meeting of the board. The board shall transmit a copy of each audit to the boards of its member supervisory unions.

(e) Annual statement. Annually, a BOCES shall prepare financial statements, including:

(1) a statement of net assets; and

(2) a statement of revenues, expenditures, and changes in net assets.

(f) Budget. A board of cooperative education services shall adopt a budget prior to the beginning of the fiscal year for which the budget is adopted.

(g) Loans. A BOCES may, upon approval of its members, negotiate or contract with any person, corporation, association, or company for a loan not to exceed the difference between the anticipated revenues for the current fiscal year for the budget of the BOCES and the amount credited to date to said budget in order to pay current obligations. Such loan shall be liquidated within six months thereafter from monies subsequently credited to said budget. The total principal, interest, and fees to be paid on such loan shall not exceed the total amount of the authorized budget for the same length of time.

§ 606. ANNUAL REPORT; PUBLIC INFORMATION

(a) The board of a BOCES shall prepare an annual report concerning the affairs of the BOCES and have it printed and distributed to the boards of the member supervisory unions. The annual report shall include, at a minimum:

(1) information on the programs and services offered by the BOCES, including information on the cost-effectiveness of such programs and services and progress made towards achieving the objectives and purposes set forth in the articles of agreement; and

(2) audited financial statements and the independent auditor's report.

(b) A BOCES shall maintain an internet website that makes the following information available to the public at no cost:

(1) a list of the members of the board of directors of the BOCES;

(2) copies of approved minutes of open meetings held by the board of the BOCES;

(3) a copy of the articles of agreement and any subsequent amendments; and

(4) a copy of the annual report required under subsection (a) of this section.

§ 607. EMPLOYMENT

(a) A BOCES shall be considered to be a public employer and may employ personnel, including educators, to carry out the purposes and functions of the board. Annually, the board of a BOCES shall conduct an area survey of the salaries of the educators and staff employed by the BOCES's member supervisory unions and school districts.

(b) No person shall be eligible for employment by a BOCES as an educator unless the person is appropriately licensed by the Standards Board for Professional Educators pursuant to chapter 51 of this title.

(c) A person employed by a BOCES as an educator shall be a participant in the Vermont State Teachers' Retirement System pursuant to chapter 55 of this title.

(d) A person who is employed by a BOCES and who is not educator shall be a participant in the Vermont Municipal Employees' Retirement System pursuant to 24 V.S.A. chapter 125.

(e) Educators employed by a BOCES shall be entitled to organize pursuant to chapter 57 of this title.

(f) Employees employed by a BOCES and who are not educators shall be entitled to organize pursuant to 21 V.S.A. chapter 22.

(g) Educators and employees who are employed by a BOCES shall be provided health care benefits pursuant to chapter 61 of this title.

Sec. 3. TRANSITION; REPORT

(a) On or before July 1, 2026, each supervisory union board shall consider and vote on the desirability of establishing a board of cooperative education services pursuant to 16 V.S.A. chapter 10. There shall be not more than seven boards of cooperative education services established statewide. Supervisory union boards that vote to establish a board of cooperative education services shall hold an organizational meeting pursuant to 16 V.S.A. § 603 on or before July 1, 2027.

(b) On or before July 1, 2028, the Secretary of Education shall review the boards of cooperative education services as they exist, or are anticipated to exist, on that date. On or before November 1, 2028, the Secretary shall issue a written report to the General Assembly and the State Board of Education with the following information and recommendations:

(1) the number of boards of cooperative education services in existence on July 1, 2028, including the names of member supervisory unions and services provided;

(2) the number of supervisory unions that are not members of boards of cooperative education services and information on why such supervisory unions have not joined a board of cooperative education services; and

(3) recommendations for expansion of the membership and powers of boards of cooperative education services, including recommendations for whether membership in such boards shall be mandatory.

Sec. 4. BOCES GRANT PROGRAM; APPROPRIATION

(a) There is established the Boards of Cooperative Education Services Start-up Grant Program, to be administered by the Agency of Education, from funds appropriated for this purpose, to award grants to boards of cooperative education services (BOCES) formed pursuant to 16 V.S.A. chapter 10 after July 1, 2024. BOCES shall be eligible for a single $10,000.00 grant after the Secretary of Education approves the applicant's initial articles of agreement pursuant to 16 V.S.A. § 603(b). Grants may be used for start-up costs and may include reimbursement to member supervisory unions for costs incurred during the exploration and formation of the BOCES and articles of agreement.

(b) Notwithstanding any provision of 16 V.S.A. § 4025 to the contrary, the sum of $70,000.00 is appropriated from the Education Fund to the Agency of Education in fiscal year 2025 to fund the Boards of Cooperative Education Services Start-up Grant Program created in subsection (a) of this section. Unexpended appropriations shall carry forward into the subsequent fiscal year and remain available for use for this purpose.

* * * Conforming Revisions * * *

Sec. 5. 16 V.S.A. § 261a is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

* * *

(b) Virtual merger. In order to ~~promote the efficient use of financial and human resources~~ maximize the impact of available funding and resources, and to reduce duplication of educational programs, personnel, and services, ~~and~~

whenever legally permissible, supervisory unions are encouraged to reach agreements with other supervisory unions jointly to provide any service or perform any duty under this section pursuant to section 267 of this title, or to form boards of cooperative education services pursuant to chapter 10 of this title. Agreements between supervisory unions are not subject to the waiver requirement of subdivision (a)(8) of this section. Agreements shall include a cost-benefit analysis outlining the projected financial savings or enhanced outcomes, or both, that the parties expect to realize through shared services or programs.

* * *

Sec. 6. 16 V.S.A. § 1691a is amended to read:

§ 1691a. DEFINITIONS

As used in this chapter:

(1) "Administrator" means an individual licensed under this chapter the majority of whose employed time in a public school, school district, ~~or~~ supervisory union, or board of cooperative education services is assigned to developing and managing school curriculum, evaluating and disciplining personnel, or supervising and managing a public school system or public school program.

* * *

(10) "Teacher" means an individual licensed under this chapter the majority of whose employed time in a public school district ~~or,~~ supervisory union, or board of cooperative education services is assigned to furnish to students direct instructional or other educational services, as defined by rule of the Standards Board, or who is otherwise subject to licensing as determined by the Standards Board.

Sec. 7. 16 V.S.A. § 1931(20) is amended to read:

(20) "Teacher" ~~shall mean~~ means any licensed teacher, principal, supervisor, superintendent, or any professional licensed by the Vermont Standards Board for Professional Educators who is regularly employed, or otherwise contracted if following retirement, for the full normal working time for ~~his or her~~ the teacher's position in a public day school or school district within the State, or in any school or teacher-training institution located within the State, controlled by the State Board of Education, and supported wholly by the State; or in certain public independent schools designated for such purposes by the Board in accordance with section 1935 of this title; or who is regularly employed by a board of cooperative education services created in accordance with chapter 10 of this title. In all cases of doubt, the Board shall

determine whether any person is a teacher as defined in this chapter. It ~~shall~~ does not mean a person who is teaching with an emergency license.

Sec. 8. 24 V.S.A. § 5051(10) is amended to read:

(10) "Employee" means the following persons employed on a regular basis by a school district ~~or~~, by a supervisory union, or by a board of cooperative education services for ~~no~~ not fewer than 1,040 hours in a year and for ~~no~~ not fewer than 30 hours a week for the school year, as defined in 16 V.S.A. § 1071, or for ~~no~~ not fewer than 1,040 hours in a year and for ~~no~~ not fewer than 24 hours a week year-round; provided, however, that if a person who was employed on a regular basis by a school district as either a special education or transportation employee and who was transferred to and is working in a supervisory union or a board of cooperative education services in the same capacity pursuant to 16 V.S.A. § 261a(a)(6) or (8)(E) and if that person is also employed on a regular basis by a school district within the supervisory union, then the person is an "employee" if these criteria are met by the combined hours worked for the supervisory union and school district. The term ~~shall~~ also ~~mean~~ means persons employed on a regular basis by a municipality other than a school district for ~~no~~ not fewer than 1,040 hours in a year and for ~~no~~ not fewer than 24 hours per week, including persons employed in a library at least one-half of whose operating expenses are met by municipal funding:

* * *

Sec. 9. 16 V.S.A. § 1981 is amended to read:

§ 1981. DEFINITIONS

As used in this chapter unless the context requires otherwise:

* * *

(8) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union or board of cooperative education services, the body comprising representatives designated by each school board within the supervisory union or board of cooperative education services and by the supervisory union board or board of cooperative education services to engage in professional negotiations with a teachers' or administrators' organization.

(9) "Teachers' organization negotiations council" or "administrators' organization negotiations council" means the body comprising representatives designated by each teachers' organization or administrators' organization within a supervisory district ~~or~~, supervisory union, or board of cooperative education services to act as its representative for professional negotiations.

Sec. 10. 21 V.S.A. § 1722 is amended to read:

§ 1722. DEFINITIONS

As used in this chapter:

* * *

(18) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union or board of cooperative education services, the body comprising representatives designated by each school board within the supervisory union or board of cooperative education services and by the supervisory union board or board of cooperative education services to engage in collective bargaining with their school employees' negotiations council.

(19) "School employees' negotiations council" means the body comprising representatives designated by each exclusive bargaining agent within a supervisory district ~~or,~~ supervisory union, or board of cooperative education services to engage in collective bargaining with its school board negotiations council.

(20) "Supervisory district" and "supervisory union" ~~shall~~ have the same ~~meaning~~ meanings as in 16 V.S.A. § 11.

(21) "Municipal school employee" means an employee of a supervisory union ~~or,~~ school district, or board of cooperative education services who is not otherwise subject to 16 V.S.A. chapter 57 (labor relations for teachers and administrators) and who is not otherwise excluded pursuant to subdivision (12) of this section.

* * *

Sec. 11. 16 V.S.A. § 2101 is amended to read:

§ 2101. DEFINITIONS

As used in this chapter:

(1) "Participating employee" means a school employee who is eligible for and has elected to receive health benefit coverage through a school employer.

(2) "School employee":

(A) includes the following individuals:

(i) an individual employed by a school employer as a teacher or administrator as defined in section 1981 of this title;

(ii) a municipal school employee as defined in 21 V.S.A. § 1722;

(iii) an individual employed as a supervisor as defined in 21 V.S.A. § 1502;

(iv) a confidential employee as defined in 21 V.S.A. § 1722;

(v) a certified employee of a school employer; and

(vi) any other permanent employee of a school employer not covered by subdivisions (i)-(v) of this subdivision (2); and

(B) notwithstanding subdivision (A) of this subdivision (2), excludes individuals who serve in the role of superintendent.

(3) "School employer" means a supervisory union or school district as those terms are defined in section 11 of this title, or a board of cooperative education services formed pursuant to chapter 10 of this title.

* * * Community Schools * * *

Sec. 12. 2021 Acts and Resolves No. 67, Sec. 3 is amended to read:

Sec. 3. COMMUNITY SCHOOLS; FUNDING

* * *

(c) Funding administration.

(1) Subject to subdivision (2) of this subsection, the Secretary of Education shall determine, using the Agency of Education's equity lens tool, which eligible recipients shall receive funding and the amount of funding, and the Secretary shall provide the funding on or before September 1 ~~of each of 2021, 2022, and 2023 to recipients~~. The Secretary may deny or reduce ~~second- and third-year~~ funding after the initial year of funding if the Secretary finds that the recipient has made insufficient progress towards developing and implementing community school programs. In determining which eligible recipients shall receive funding, the Secretary shall take into account relative need, based on the extent to which community school program services are needed and the extent to which the eligible recipient seeks to offer them.

(2) In determining which eligible recipients shall receive funding and the amount of funding and to advance the principles for Vermont's trauma-informed system of care under 33 V.S.A. § 3401, the Secretary of Education shall collaborate with the Director of Trauma Prevention and Resilience Development and the Vermont Child and Family Trauma Work Group.

(3) The Agency of Education shall inform all eligible recipients of the availability of funding under this act and, for those eligible recipients most in need of this funding, shall educate these eligible recipients on community school programs and their benefits. The Agency of Education shall also advise

all eligible recipients of other sources of funding that may be available to advance the purpose of this act.

(d) Use of funding.

(1) A recipient of funding under this act shall use the funding to:

(A) if a needs and assets assessment has not been conducted within the prior three years that substantially conforms with the requirements in this subdivision, then, in collaboration with the site-based leadership team, conduct a needs and assets assessment that includes:

(i) where available, and where applicable, student demographic, academic achievement, and school climate data, disaggregated by major demographic groups, including race, ethnicity, English language proficiency, students with individualized education plans, and students eligible for free or reduced-price lunch status;

(ii) access to and need for integrated student supports;

(iii) access to and need for expanded and enriched learning time and opportunities;

(iv) school funding information, including federal, State, local, and private education funding and per-pupil spending, based on actual salaries of personnel assigned to the eligible school;

(v) information on the number, qualifications, and stability of school staff, including the number and percentage of fully certified teachers and rates of teacher turnover; and

(vi) active family and community engagement information, including:

(I) family and community needs based on surveys, information from public meetings, or information gathered by other means;

(II) measures of family and community engagement in the eligible schools, including volunteering in schools, attendance at back-to-school nights, and parent-teacher conferences;

(III) efforts to provide culturally and linguistically relevant communication between schools and families; and

(IV) access to and need for family and community engagement activities;

(B) hire a community school coordinator to, in collaboration with the site-based leadership team, develop and implement community school

programs or designate a community school coordinator from existing personnel and, in collaboration with the site-based leadership team, augment work already being performed to develop and implement community school programs; and

(C) if the recipient has not fully implemented positive behavioral integrated supports under 16 V.S.A. § 2902, provide professional development to staff on positive behavioral integrated supports and implement those supports.

(2) A recipient of funding under this act may use the funding to, in collaboration with the site-based leadership team, develop and implement a plan to improve literacy outcomes and objectively assess those outcomes.

(3) If a needs and assets assessment has not been conducted under subdivision (1)(A) of this subsection within the prior three years, the first year of funding shall be used to conduct the needs and assets assessment of the school to determine what is necessary to develop community school programs and an action plan to implement community school programs. During ~~the second and third~~ subsequent years of ~~the~~ funding, the community school coordinator shall, in collaboration with the site-based leadership team, oversee the implementation of community school programs.

(e) Evaluation.

(1) At the end of each year of funding, each recipient shall undergo an evaluation designed by the Agency of Education using its equity lens tool.

(2) On or before each of December 15, ~~2022 and~~ 2024 and 2025, the Agency of Education shall report to the General Assembly and the Governor on the impact of the funding under this act. The report shall be made publicly available on the Agency of Education's website.

(f) Ability to operate as a community school. Any school district or school, regardless of whether it receives funding under this act, may function as a community school as defined in this section.

Sec. 13. COMMUNITY SCHOOLS REPORT

On or before December 15, 2024, the Agency of Education, in consultation with the Department of Mental Health, shall include in its report required pursuant to 2021 Acts and Resolves No. 67, Sec. 3(e)(2) an evaluation of the community schools program created under 2021 Acts and Resolves No. 67 and make recommendations for further legislative action. The report and recommendations shall address, at a minimum, the following questions:

(1) Does the community schools structure support schools in more efficient implementation of the education quality standards contained in 16 V.S.A. § 165?

(2) Does the community schools structure improve access to and efficiency in the provision of mental health services, social support services, and health services?

Sec. 14. COMMUNITY SCHOOLS; APPROPRIATION

(a) Appropriations. Notwithstanding any provision of 16 V.S.A. § 4025 to the contrary, the sum of $1,000,000.00 is appropriated from the Education Fund to the Agency of Education in fiscal year 2025 for the purpose of providing funding to school districts for the community schools program created under 2021 Acts and Resolves No. 67, Sec. 3, as amended by Sec. 12 of this act.

(b) Agency use of funds. The Agency of Education may set aside:

(1) not more than one percent of the funds appropriated under subsection (a) of this section for informational and technical assistance, such as the availability and use of funding for eligible recipients as defined under 2021 Acts and Resolves No. 67, Sec. 3, as amended by Sec. 12 of this act; and

(2) not more than two percent of the funds appropriated under subsection (a) of this section for the evaluations required under 2021 Acts and Resolves No. 67, Sec. 3, as amended by Sec. 12 of this act.

* * * Effective Date * * *

Sec. 15. 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 improving access to high-quality education through community collaboration

(Committee vote: 3-2-0)

(For House amendments, see House Journal of March 26, 2024, pages 840 - 853)

Reported favorably by Senator Baruth for the Committee on Appropriations.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Education.

(Committee vote: 6-0-1)

H. 657.

An act relating to the modernization of Vermont's communications taxes and fees.

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

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

First: By striking out Secs. 7–13, communications property tax, and their accompanying reader assistance in their entireties and inserting in lieu thereof new Secs. 7–8 and an accompanying reader assistance to read as follows:

* * * Communications Property Tax; Study and Report * * *

Sec. 7. COMMUNICATIONS PROPERTY TAX; STUDY AND REPORT

(a) The Commissioner of Taxes shall conduct a study concerning the taxation of communications property. The purpose of the study is to develop a recommendation for an updated tax structure that applies to communications property in a fair, reasonable, and nondiscriminatory manner and that reflects modern developments in communications technology and its uses.

(b) As used in this section, generally, "communications property" means tangible personal property used to enable the real-time, two-way, electromagnetic transmission of information, such as audio, video, and data, that is so fitted and attached as to be part of a local, state, national, or international communications network, as well as facilities that are part of a cable television system as defined in 30 V.S.A. § 501(2). The term includes wires, cables, conduit, pipes, antennas, poles, wireless towers, machinery, distribution hubs, cabinets, splitters, switching equipment, routers, servers, power equipment, and any other network equipment.

(c) In conducting the study required by this section, the Commissioner shall seek input from the Secretary of Transportation, the Secretary of Digital Services, the Commissioner of Public Service, communications property owners, the Vermont League of Cities and Towns, and any other persons deemed appropriate by the Commissioner. In addition, the Commissioner shall review the tax treatment of communications property in other jurisdictions to determine an appropriate model for Vermont.

(d) The Commissioner shall make the following recommendations:

(1) for each category of communications property, whether it should be taxed as real property or as business personal property, taking into

consideration such factors as the use, life-cycle, or location of each category of network equipment;

(2) whether any exemptions should apply to communications property based on ownership, use, location, public benefit, or any other factor deemed appropriate by the Commissioner;

(3) a method for determining and fixing the valuations of communications property;

(4) the rate or rates at which communications property should be taxed;

(5) a process for handling property valuations and appeals that minimizes the burden on listers and local governments;

(6) a process for obtaining the data necessary to properly value and tax communications property from the property owners or from other State databases, or both, and the time and manner of data submissions, taking into consideration other regulatory uses and State databases;

(7) a process for routinely auditing and enforcing the recommended tax structure;

(8) resources needed to implement the recommended tax structure; and

(9) any other recommendations deemed appropriate by the Commissioner and consistent with the purpose of the section.

(e) On or before January 15, 2025, the Commissioner shall submit the findings and recommendations required by this section in a written report to the Senate Committee on Finance and the House Committees on Ways and Means and on Environment and Energy.

Sec. 8. ONE-TIME APPROPRIATION FROM THE PILOT SPECIAL FUND; VALUATION MODEL

Notwithstanding 32 V.S.A. § 3709(a), the sum of $150,000.00 is appropriated from the PILOT Special Fund to the Division of Property Valuation and Review of the Department of Taxes in fiscal year 2025 for the purpose of creating a property valuation model for communications property.

Second: By striking out Sec.13a, 19 V.S.A. § 26a, and its accompanying reader assistance in their entireties and inserting in lieu thereof a new section to be Sec. 9 and an accompanying reader assistance to read as follows:

* * * Public ROW Rent; Study and Report * * *

Sec. 9. COMMUNICATIONS PROPERTY; RIGHT OF WAY RENT; STUDY AND REPORT

(a) The Secretary of Transportation shall conduct a study concerning access to and use of the public right-of-way (ROW) by communications service providers for the purpose of developing a fair, reasonable, and nondiscriminatory fee structure applicable to communications property in the ROW that is commensurate with the public benefit conferred and shall conduct a cost-benefit analysis with respect to implementation of that fee structure in Vermont.

(b)(1) In order to perform a comprehensive cost-benefit analysis as required by subsection (a) of this section, on or before July 1, 2026, the Secretary of Transportation, in consultation with the Vermont Center for Geographic Information (VCGI), shall develop a ROW GIS database indicating the location and ownership of communications property and electric and natural gas infrastructure currently in the ROW.

(2) In a form and manner determined by the Secretary, each communications, electric, and natural gas company that has infrastructure in the ROW shall submit an inventory of its infrastructure in GIS format to the Agency of Transportation for inclusion in the ROW GIS database. The Secretary may require such companies to submit additional information to ensure the database is comprehensive and sufficiently detailed to support various regulatory purposes, including property taxation, emergency management, and broadband mapping.

(3) The Secretary may review and incorporate into its ROW GIS database any relevant data collected and maintained by the Public Safety Communications Task Force, the Department of Public Service, the Department of Taxes, and any other State or municipal entity deemed appropriate by the Secretary.

(4) Data collected pursuant to this subsection shall be exempt from public inspection and copying under the Public Records Act.

(c) In conducting the study required by this section, the Secretary shall seek input from the Commissioner of Taxes, the Commissioner of Public Service, the Public Safety Communications Task Force, communications property owners, the Vermont League of Cities and Towns, and any other persons deemed appropriate by the Secretary. In addition, the Secretary shall review the ROW fee structures used in other jurisdictions to determine an appropriate model for Vermont.

(d) As used in this section:

(1) "Communications property" means tangible personal property used to enable the real-time, two-way, electromagnetic transmission of information, such as audio, video, and data, that is so fitted and attached as to be part of a local, state, national, or international communications network, as well as facilities that are part of a cable television system as defined in 30 V.S.A. § 501(2). The term includes wires, cables, conduit, pipes, antennas, poles, wireless towers, machinery, distribution hubs, cabinets, splitters, switching equipment, routers, servers, power equipment, and any other network equipment in the ROW.

(2) "Public right-of-way" or "ROW" means the area on, below, along, across, or above a public roadway that is part of the State highway or municipal roadway system.

(e) Among other things, the Secretary's findings and recommendations shall reflect the following:

(1) the specific types of communications property in the ROW;

(2) a fee structure that is proportionate to the public benefit conferred from access to or use of the ROW, which may include a tiered system that factors in population density or deployment costs, or both;

(3) whether any fee exemptions or waivers, temporary or permanent, should apply to communications property in the ROW based on ownership, use, location, public benefit, or any other factor deemed appropriate by the Secretary;

(4) standards and procedures applicable to data collection pursuant to this section that are consistent with existing databases maintained by the State, including the State Geographic Information System (GIS) and that are consistent with prior inventories or studies, such as the GIS report submitted to the General Assembly pursuant to 1988 Acts and Resolves No. 200, and any system design recommendations contained therein;

(5) standards and procedures for accessing data collected pursuant to this section by State or municipal entities or by the general public, subject to any confidentiality parameters deemed appropriate by the Secretary;

(6) resources needed to implement the fee structure developed pursuant to this section;

(7) potential uses of the State or municipal share of any revenue collected pursuant to the fee structure; and

(8) any other matters deemed necessary or appropriate by the Secretary.

(f) On or before December 15, 2026, the Secretary shall submit the findings and recommendations required by this section in a written report to the Senate Committees on Finance and on Transportation and the House Committees on Ways and Means, on Environment and Energy, and on Transportation.

Third: By striking out Sec. 14, effective dates, in its entirety and inserting in lieu thereof a new section to be Sec. 10 to read as follows:

Sec. 10. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Sec. 8 (PILOT Fund appropriation) shall take effect on July 1, 2024.

(2) Secs. 1–6 (VUSF contribution method; 988 funding) shall take effect on July 1, 2025.

(Committee vote: 7-0-0)

(For House amendments, see House Journal of March 28, 2024, pages 1026 - 1040)

Reported favorably by Senator Perchlik for the Committee on Appropriations.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Finance.

(Committee vote: 5-0-2)

H. 702.

An act relating to legislative operations and government accountability.

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

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

* * * Purpose and Findings * * *

Sec. 1. PURPOSE

(a) The purpose of this act is to actuate the principle of government accountability by focusing on how evidence is used to inform policy, how our State laws are carried out, and how legislation can best be formed to achieve its intended outcomes. This act strives to systematize government accountability efforts as much as possible with simple, clear, independent,

objective, and fact-based processes rather than rely upon individual legislators or individual committees to be effective.

(b) Government accountability means the principle of demanding that legislation succeeds in achieving its stated policy goals through the provision of means by which to measure whether the policy goals have been met. The metrics for determining whether success has been achieved are as important as the goals themselves.

(c) Government oversight means the mechanisms put into place to ensure that the bodies of government tasked with executing legislative intent are properly doing so. Oversight by the Legislature is the examination of the processes followed and the information produced by government officials executing the law to determine whether those officials are properly and adequately achieving the policy goals established by the General Assembly.

* * * Creation of the Joint Government Oversight and Accountability Committee * * *

Sec. 2. 2 V.S.A. chapter 28 is added to read:

CHAPTER 28. JOINT GOVERNMENT OVERSIGHT AND ACCOUNTABILITY COMMITTEE

§ 971. CREATION OF COMMITTEE

(a) There is created the Joint Government Oversight and Accountability Committee, whose membership shall be appointed each biennial session of the General Assembly. The Committee shall work independently and with other legislative committees to assist with matters related to government oversight and issues of significant public concern.

(b) The Committee shall be composed of eight members: four members of the House of Representatives, not more than two shall be from the same party, appointed by the Speaker of the House; and four members of the Senate, not more than two shall be from the same party, appointed by the Committee on Committees. In addition to two members-at-large appointed from each chamber, one appointment shall be made from each of the House Committee on Government Operations and Military Affairs, the Senate Committee on Government Operations, and the House and Senate Committees on Appropriations.

(c) The Committee shall elect a chair, vice chair, and clerk from among its members and shall adopt rules of procedure. The position of chair shall rotate biennially between the House and the Senate members. The Committee shall keep minutes of its meetings and maintain a file thereof. A quorum shall consist of five members.

(d) The Committee shall meet as necessary for the prompt discharge of its duties.

(e) For attendance at a meeting when the General Assembly is not in session, members of the Committee shall be entitled to compensation for services and reimbursement of expenses as provided under subsection 23(a) of this title.

(f) The professional and clerical services of the Joint Fiscal Office, the Office of Legislative Operations, and the Office of Legislative Counsel shall be available to the Committee.

§ 972. DUTIES AND POWERS

(a) Duties. The Committee shall have duties as described in this section and elsewhere in law.

(1)(A) The Committee shall exercise government oversight by examining and investigating matters of significant public concern relating to State government performance. The Committee shall examine the possible reasons for any failure of government oversight and provide findings and tangible recommendations to standing committees of jurisdiction to prevent future failures.

(B) The Committee will select issues of significant public concern to examine and investigate by a majority of the current Committee members who have not recused themselves from the matter. The Committee shall consider issues of significant public concern referred to the Committee pursuant to a resolution adopted by either chamber of the General Assembly.

(C) As used in this section, an "issue of significant public concern" means any issue that:

(i) affects the State as a whole;

(ii) affects a vulnerable population;

(iii) costs the State more than $100,000,000.00;

(iv) implicates a serious failure of State government oversight or accountability;

(v) arises from previously enacted legislation; or

(vi) constitutes a failure to adequately respond to State or federal audits.

(2) The Committee shall, with coordination from the Legislative Committee on Administrative Rules, evaluate executive entities directed to adopt rules to ensure consistency and accountability in the rulemaking process.

(3) The Committee shall, on an annual basis, issue a report that includes:

(A) which issues of significant public concern the Committee has examined and investigated, including relevant information and data;

(B) the Committee's current objectives for review of issues of significant public concern and which objectives, to date, have and have not been met;

(C) the Committee's objectives for review of issues of significant public concern for the upcoming two years; and

(D) any additional resources required by the Committee to adequately conduct its work.

(b) Powers. The Committee shall have powers as described in this section and elsewhere in law.

(1) The Committee shall have the power to issue subpoenas and administer oaths in connection with the examination and investigation of matters of government oversight and accountability related to issues of significant public concern.

(2) The Commission may take or cause depositions to be taken as needed in any investigation or hearing.

Sec. 3. 3 V.S.A. § 2311 is amended to read:

§ 2311. CHIEF PERFORMANCE OFFICER; ANNUAL STATE OUTCOMES REPORT

* * *

(c) Approving population-level indicators.

(1) Annually, on or before March 1, a standing committee of the General Assembly having jurisdiction over a population-level quality of life outcome set forth in subsection (b) of this section or the Chief Performance Officer may submit to the Joint Government Oversight and Accountability Committee a request that any population-level indicator related to that outcome be revised.

(2) If that request is approved by the Joint Government Oversight and Accountability Committee, the Chief Performance Officer shall revise and

report on the population-level indicator in accordance with that approval and this section.

(d) The report set forth in this section shall not be subject to the limitation on the duration of agency reports set forth in 2 V.S.A. § 20(d).

Sec. 4. 32 V.S.A. § 163 is amended to read:

§ 163. DUTIES OF THE AUDITOR OF ACCOUNTS

In addition to any other duties prescribed by law, the Auditor of Accounts shall:

* * *

(6)(A) Provide the Joint Government Oversight and Accountability Committee with a written summary of all audits completed by the Office of the Auditor of Accounts.

(B) Upon the request of the Joint Government Oversight and Accountability Committee, provide, at the mutual convenience of the Committee and Auditor, a presentation to the Committee of any completed audit.

* * *

* * * Reports * * *

Sec. 5. 2 V.S.A. § 20 is amended to read:

§ 20. LIMITATION ON DISTRIBUTION AND DURATION OF AGENCY REPORTS

(a) Unless otherwise provided by law, whenever it is required by statute, rule, or otherwise that an agency, department, or other entity submit an annual, biennial, or other periodic report to the General Assembly, that requirement shall be met by submission by ~~January~~ November 15 of copies of the report for activities in the preceding fiscal year to the Clerk of the House, the Secretary of the Senate, the Office of Legislative ~~Counsel~~ Operations, chairs of legislative standing committees of jurisdiction, and such individual members of the General Assembly or committees that specifically request a copy of the report. ~~To the extent practicable, reports~~ Reports shall also be ~~placed~~ published on the agency's ~~Internet~~ website. No general distribution or mailing of such reports shall be made to members of the General Assembly.

* * *

(e) If it becomes apparent to any agency, department, or other entity directed by the General Assembly to report on a matter that the agency,

department, or entity will be unable to do so within the required time, the reporting agency, department, or entity shall inform, if applicable, the relevant legislative committee's current chair, the committee assistant, and the Office of Legislative Operations of which report will be late, why, and when it will be delivered.

* * * State-Funded Grants Review * * *

Sec. 6. RECOMMENDATIONS FOR STATE GRANT PROCESS IMPROVEMENTS

(a) Performance review. The Agency of Administration shall review and assess the performance of the State's current grant awarding procedures and provide recommendations on how to improve such procedures in the form of a written report to the General Assembly. In its report, the Agency shall:

(1) provide recommendations on how to:

(A) simplify the grant application and reporting processes;

(B) reduce the reliance on reimbursable grant agreements;

(C) increase the standard indirect rate and apply it consistently statewide;

(D) reduce delays in the execution of grant awards and the issuance of payments on grant agreements; and

(E) reduce work granted to nonprofit and community-based organizations that could otherwise be done by the State;

(2) explain efforts to improve employee training on grant administration across State government; and

(3) detail best practices and models of grant administration from other states.

(b) Consultation. In furtherance of the review set forth in subsection (a), the Agency shall consult with:

(1) relevant State agencies and departments;

(2) nonprofit and community-based organizations identified in consultation with Common Good Vermont that have received a State-funded grant; and

(3) other relevant stakeholders as determined by the Agency.

(c) Reporting. The Agency shall submit a written report to the House Committee on Government Operations and Military Affairs and the Senate

Committee on Government Operations with its analysis conducted pursuant to this section on or before December 15, 2025.

* * * Effective Date * * *

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-1)

(For House amendments, see House Journal of March 22, 2024, pages 794 - 800 and March 26, 2024, page 830)

H. 704.

An act relating to disclosure of compensation in job advertisements.

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

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

Sec. 1. 21 V.S.A. § 495o is added to read:

§ 495o. DISCLOSURE OF COMPENSATION TO PROSPECTIVE EMPLOYEES

(a)(1) An employer shall ensure that any advertisement of a Vermont job opening shall include the compensation or range of compensation for the job opening.

(2) Notwithstanding subdivision (1) of this subsection:

(A) An advertisement for a job opening that is paid on a commission basis, whether in whole or in part, shall disclose that fact and is not required to disclose the compensation or range of compensation pursuant to subdivision (1) of this subsection (a).

(B) An advertisement for a job opening that is paid on a tipped basis shall disclose that fact and the base wage or range of base wages for the job opening.

(b)(1) The provisions of this section and any claim of retaliation under subdivision 495(a)(8) of this subchapter for asserting or exercising any rights provided pursuant to this section shall only be enforced pursuant to the provisions of 21 V.S.A. § 495b(a)(1).

(2) It shall be a violation of this section and subdivision 495(a)(8) of this subchapter for an employer to refuse to interview, hire, promote, or employ a current or prospective employee for asserting or exercising any rights provided pursuant to this section.

(c) As used in this section:

(1) "Advertisement" means written notice, in any format, of a specific job opening that is made available to potential applicants. "Advertisement" does not include:

(A) general announcements that notify potential applicants that employment opportunities may exist with the employer but do not identify any specific job openings; or

(B) verbal announcements of employment opportunities that are made in person or on the radio, television, or other electronic mediums.

(2) "Base wage" means the hourly wage that an employer pays to a tipped employee and does not include any tips received by the employee. Nothing in this section shall be construed to alter an employer's obligations to comply with section 384 of this title.

(3) "Employer" means an employer, as defined pursuant to section 495d of this subchapter, that employs five or more employees.

(4) "Good faith" means honesty in fact.

(5) "Potential applicants" includes both current employees of the employer and members of the general public.

(6)(A) "Range of base wages" means the minimum and maximum base wages for a job opening that the employer expects in good faith to pay for the advertised job at the time the employer creates the advertisement.

(B) Nothing in this section shall be construed to prevent an employer from hiring an employee for more or less than the range of base wages contained in a job advertisement based on circumstances outside of the employer's control, such as an applicant's qualifications or labor market factors.

(7)(A) "Range of compensation" means the minimum and maximum annual salary or hourly wage for a job opening that the employer expects in good faith to pay for the advertised job at the time the employer creates the advertisement.

(B) Nothing in this section shall be construed to prevent an employer from hiring an employee for more or less than the range of compensation

contained in a job advertisement based on circumstances outside of the employer's control, such as an applicant's qualifications or labor market factors.

(8)(A) "Vermont job opening" and "job opening" mean any position of employment that is:

(i) either:

(I) physically located in Vermont; or

(II) a remote position that will predominantly perform work for an office or work location that is physically located in Vermont; and

(ii) a position for which an employer is hiring, including:

(I) positions that are open to internal candidates or external candidates, or both; and

(II) positions into which current employees of the employer can transfer or be promoted.

(B) "Vermont job opening" and "job opening" does not include a position that is physically located outside of Vermont and that performs work that is predominantly for one or more offices or work locations that are physically located outside of Vermont.

Sec. 2. GUIDANCE; OUTREACH

(a) On or before January 1, 2025, the Attorney General's Office shall publish guidance for employers and employees regarding the provisions of 21 V.S.A. § 495o (disclosure of compensation to prospective employees).

(b) The Attorney General's Office shall publish the guidance on its website and shall coordinate with the Vermont Commission on Women and other stakeholders to conduct outreach and education regarding the provisions of 21 V.S.A. § 495o (disclosure of compensation to prospective employees).

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2025.

(Committee vote: 3-1-1)

(For House amendments, see House Journal of March 20, 2024, pages 645 - 646)

H. 875.

An act relating to the State Ethics Commission and the State Code of Ethics.

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

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

* * * Candidate Financial Disclosure Requirements * * *

Sec. 1. 17 V.S.A. § 2414 is amended to read:

§ 2414. CANDIDATES FOR STATE AND LEGISLATIVE OFFICE; DISCLOSURE FORM

(a) Each candidate for State office, county office, State Senator, or State Representative shall file with the officer with whom consent of candidate forms are filed, along with ~~his or her~~ the candidate's consent, a disclosure form ~~prepared~~ created and maintained by the State Ethics Commission that contains the following information in regard to the previous ~~calendar year~~ 12 months:

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

(A) ~~employment,~~ including the candidate's employer or business name and address; and~~,~~

(B) if self-employed, a description of the nature of the self-employment ~~without needing to disclose any individual clients~~, including the names of any clients whose principal business activities are regulated by or that have a contract with any municipal or State office, department, or agency, provided that this information is known to the candidate or the candidate's domestic partner and that the disclosed information is not confidential information; ~~and~~

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

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

(3)(A) ~~Any~~ any company of which the candidate or ~~his or her~~ the candidate's spouse or domestic partner, or the candidate together with ~~his or her~~ the candidate's spouse or domestic partner, owned more than 10 percent~~.~~.; and

(B) the details of any loan made to or by any applicable company in subdivision (A) of this subdivision (3) that is not a commercially reasonable loan made in the ordinary course of business, including any borrower and lender;

(4) any company of which the candidate or the candidate's spouse or domestic partner, or the candidate together with the candidate's spouse or domestic partner, had an ownership or controlling interest in any amount, and in the previous 12 months the company had business before or with any municipal or State office, agency, or department;

(5) ~~Any~~ any lease or contract with the State held or entered into by:

(A) the candidate or ~~his or her~~ the candidate's spouse or domestic partner; or

(B) a company of which the candidate or ~~his or her~~ the candidate's spouse or domestic partner, or the candidate together with ~~his or her~~ the candidate's spouse or domestic partner, owned more than 10 percent;

(6) a generalized description, but not amount, to the best of the candidate's knowledge, of the following investments held by a candidate or the candidate's spouse or domestic partner:

(A) individual stock holdings valued at $25,000.00 or more, which a candidate exercises control over or has the ability to exercise control over, which shall be listed individually;

(B) interests in investment funds valued at $25,000.00 or more that a candidate or the candidate's spouse or domestic partner has the ability to exercise control over, which shall be listed individually;

(C) interests in virtual currencies, as defined in 8 V.S.A. § 2500, valued at $25,000.00 or more, which shall be listed individually;

(D) interests in trusts valued at $25,000.00 or more, which shall be listed individually;

(E) municipal or State bonds issued in the State of Vermont of any value, which shall be listed individually; and

(F) the details of any loan made to the candidate or the candidate's spouse that is not a commercially reasonable loan made in the ordinary course of business; and

(7) the full name of the candidate's spouse or domestic partner.

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

(c) In addition, each candidate for State office shall attach to the disclosure form described in subsection (a) of this section a copy of ~~his or her~~ the candidate's most recent U.S. Individual Income Tax Return Form 1040; provided, however, that the candidate may redact from that form the following information:

(1) the candidate's Social Security number and that of ~~his or her~~ the candidate's spouse, if applicable;

(2) the names of any dependent and the dependent's Social Security number; ~~and~~

(3) the signature of the candidate and that of ~~his or her~~ the candidate's spouse, if applicable;

(4) the candidate's street address; and

(5) any identifying information and signature of a paid preparer.

(d)(1) A senatorial district clerk or representative district clerk who receives a disclosure form under this section shall forward a copy of the disclosure to the Secretary of State within three business days ~~of~~ after receiving it.

(2)(A) The Secretary of State shall post a copy of any disclosure forms and tax returns ~~he or she~~ the Secretary receives under this section on ~~his or her~~ the Secretary's official State website. The forms shall remain posted on the Secretary's website until the date of the filing deadline for petition and consent forms for major party candidates for the statewide primary in the following election cycle.

* * *

(e) As used in this section:

(1) "Commercially reasonable loan made in the ordinary course of business" means a loan made:

(A) in the usual manner on any recognized market;

(B) at the price current in any recognized market at the time of making the loan; or

(C) otherwise in conformity with reasonable commercial practices among lenders typically dealing in the type of loan made.

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

(3) "County office" means the office of assistant judge of the Superior Court, high bailiff, judge of Probate, sheriff, or State's Attorney.

(4) "Domestic partner" means an individual with whom the candidate has an enduring domestic relationship of a spousal nature, ~~as long as~~ provided the candidate and the domestic partner:

* * *

~~(2)~~(5) "Lobbyist" and "lobbying firm" ~~shall~~ have the same meanings as in 2 V.S.A. § 261.

(6) "Investment fund" means a widely held investment fund that is publicly traded or available and has assets that are widely diversified. Investment funds include a mutual fund, regulated investment company, common trust fund maintained by a bank or similar financial institution, pension or deferred compensation plan, and any other pooled investment fund.

(7) "Widely diversified" means a fund that does not have a stated policy of concentrating its investments in any industry, business, or single country other than the United States or bonds of a single state within the United States.

* * * In-Office Financial Disclosure Requirements * * *

Sec. 2. 3 V.S.A. § 1201 is amended to read:

§ 1201. DEFINITIONS

As used in this chapter:

(1) "Candidate" and "candidate's committee" have the same meanings as in 17 V.S.A. § 2901.

(2) "Commission" means the State Ethics Commission established under subchapter 3 of this chapter.

(3) "Commercially reasonable loan made in the ordinary course of business" means a loan made:

(A) in the usual manner on any recognized market;

(B) at the price current in any recognized market at the time of making the loan; or

(C) otherwise in conformity with reasonable commercial practices among lenders typically dealing in the type of loan made.

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

(5) "Conflict of interest" means a direct or indirect interest of a public servant or such an interest, known to the public servant, of a member of the public servant's immediate family, or of a business associate, in the outcome of a particular matter pending before the public servant or the public servant's public body, or that is in conflict with the proper discharge of the public servant's duties. "Conflict of interest" does not include any interest that is not greater than that of other individuals generally affected by the outcome of a matter.

(6) "County officer" means an individual holding the office of high bailiff, sheriff, or State's Attorney.

~~(4)~~(7) "Domestic partner" means an individual in an enduring domestic relationship of a spousal nature with the Executive officer or the public servant, provided the individual and Executive officer or public servant:

(A) have shared a residence for at least six consecutive months;

(B) are at least 18 years of age;

(C) are not married to or considered a domestic partner of another individual;

(D) are not related by blood closer than would bar marriage under State law; and

(E) have agreed between themselves to be responsible for each other's welfare.

~~(5)~~(8) "Executive officer" means:

(A) a State officer; or

(B) a deputy under ~~the Office of the Governor~~ a State officer, including an agency secretary or deputy ~~or~~, and a department commissioner or deputy.

~~(6)~~(9) "Governmental conduct regulated by law" means conduct by an individual in regard to the operation of State government that is restricted or prohibited by law and includes:

(A) bribery pursuant to 13 V.S.A. § 1102;

(B) neglect of duty by public officers pursuant to 13 V.S.A. § 3006 and by members of boards and commissions pursuant to 13 V.S.A. § 3007;

(C) taking illegal fees pursuant to 13 V.S.A. § 3010;

(D) false claims against government pursuant to 13 V.S.A. § 3016;

(E) owning or being financially interested in an entity subject to a department's supervision pursuant to section 204 of this title;

(F) failing to devote time to duties of office pursuant to section 205 of this title;

(G) engaging in retaliatory action due to a State employee's involvement in a protected activity pursuant to chapter 27, subchapter 4A of this title;

(H) a former legislator or former Executive officer serving as a lobbyist pursuant to 2 V.S.A. § 266(b); ~~and~~

(I) a former Executive officer serving as an advocate pursuant to section 267 of this title; and

(J) creating or permitting to persist any unlawful employment practice pursuant to 21 V.S.A. § 495.

~~(7)~~(10) "Immediate family" means an individual's spouse, domestic partner, or civil union partner; child or foster child; sibling; parent; or such relations by marriage or by civil union or domestic partnership; or an individual claimed as a dependent for federal income tax purposes.

(11) "Investment fund" means a widely held investment fund, that is publicly traded or available and has assets that are widely diversified. Investment funds include a mutual fund, regulated investment company, common trust fund maintained by a bank or similar financial institution, pension or deferred compensation plan, and any other pooled investment fund.

~~(8)~~(12) "Lobbyist" and "lobbying firm" have the same meanings as in 2 V.S.A. § 261.

~~(9)~~(13) "Person" means any individual, group, business entity, association, or organization.

~~(10)~~(14) "Political committee" and "political party" have the same meanings as in 17 V.S.A. § 2901.

(15) "Public servant" means an individual elected or appointed to serve as a State officer, an individual elected or appointed to serve as a member of the General Assembly, a State employee, an individual appointed to serve on a State board or commission, or an individual who in any other way is authorized to act or speak on behalf of the State.

~~(11)~~(16) "State officer" means the Governor, Lieutenant Governor, Treasurer, Secretary of State, Auditor of Accounts, or Attorney General.

(17) "Unethical conduct" means any conduct of a public servant in violation of the Code of Ethics, as provided for in this chapter.

(18) "Widely diversified" means a fund that does not have a stated policy of concentrating its investments in any industry, business, or single country other than the United States or bonds of a single state within the United States.

Sec. 2a. REPEAL

24 V.S.A. § 314 (Sheriffs; annual disclosure) is repealed.

Sec. 3. 3 V.S.A. § 1202 is amended to read:

§ 1202. STATE CODE OF ETHICS; APPLICABILITY

(a) Unless excluded under this section, the Code of Ethics applies to all ~~individuals elected or appointed to serve as officers of the State, all individuals elected or appointed to serve as members of the General Assembly, all State employees, all individuals appointed to serve on State boards and commissions, and individuals who in any other way are authorized to act or speak on behalf of the State. This code refers to them all as~~ public servants.

* * *

Sec. 4. 3 V.S.A. § 1203 is amended to read:

§ 1203. CONFLICT OF INTEREST; APPEARANCE OF CONFLICT OF INTEREST

(a) Conflict of interest; appearance of conflict of interest.

(1) In the public servant's official capacity, the public servant shall avoid any conflict of interest or the appearance of a conflict of interest. The appearance of a conflict shall be determined from the perspective of a reasonable individual with knowledge of the relevant facts.

(2) Except as otherwise provided in subsections (b) and (c) of this section, when confronted with a conflict of interest, a public servant shall recuse themselves from the matter and not take further action.

(3) ~~As used in this section, "conflict of interest" means a direct or indirect interest of a public servant or such an interest, known to the public servant, of a member of the public servant's immediate family or household, or of a business associate, in the outcome of a particular matter pending before the public servant or the public servant's public body, or that is in conflict with the proper discharge of the public servant's duties. "Conflict of interest" does not include any interest that is not greater than that of other individuals generally affected by the outcome of a matter.~~ [Repealed.]

* * *

Sec. 5. 3 V.S.A. § 1211 is amended to read:

§ 1211. EXECUTIVE OFFICERS; ANNUAL DISCLOSURE

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

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

(A) ~~employment, including~~ the officer's employer or business name and address; and~~,~~

(B) if self-employed, a description of the nature of the self-employment ~~without needing to disclose any individual clients~~, including the names of any clients whose principal business activities are regulated by or that have a contract with any municipal or State office, department, or agency, provided that this information is known to the candidate or the candidate's domestic partner and that the disclosed information is not confidential information; ~~and~~

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

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

(3)(A) ~~Any~~ any company of which the officer or ~~his or her~~ the officer's spouse or domestic partner, or the officer together with ~~his or her~~ the officer's spouse or domestic partner, owned more than 10 percent~~.~~; and

(B) the details of any loan made to any applicable company in subdivision (A) of this subdivision (3) that is not a commercially reasonable loan made in the ordinary course of business, including any borrower and lender;

(4) any company of which the officer or the officer's spouse or domestic partner, or the officer together with the officer's spouse or domestic partner, had an ownership or controlling interest in any amount, and the company had business before or with any municipal or State office, agency, or department;

(5) ~~Any~~ any lease or contract with the State held or entered into by:

(A) the officer or ~~his or her~~ the officer's spouse or domestic partner; or

(B) a company of which the officer or ~~his or her~~ the officer's spouse or domestic partner, or the officer together with ~~his or her~~ the officer's spouse or domestic partner, owned more than 10 percent~~.~~;

(6) a generalized description, but not amount, to the best of the candidate's knowledge, of the following investments held by a candidate or the candidate's spouse or domestic partner:

(A) individual stock holdings valued at $25,000.00 or more, which a candidate exercises control over or has the ability to exercise control over, which shall be listed individually;

(B) interests in investment funds valued at $25,000.00 or more that a candidate or the candidate's spouse or domestic partner has the ability to exercise control over, which shall be listed individually;

(C) interests in virtual currencies, as defined in 8 V.S.A. § 2500, valued at $25,000 or more, which shall be listed individually;

(D) interests in trusts valued at $25,000.00 or more, which shall be listed individually;

(E) municipal or State bonds issued in the State of Vermont of any value, which shall be listed individually; and

(F) the details of any loan made to the candidate or the candidate's spouse that is not a commercially reasonable loan made in the ordinary course of business; and

(7) the full name of the candidate's spouse or domestic partner.

(b) In addition, if an Executive officer's or county officer's spouse or domestic partner is a lobbyist, the officer shall disclose that fact and provide the name of ~~his or her~~ the officer's spouse or domestic partner and, if applicable, the name of ~~his or her~~ the lobbying firm.

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

(2) Each Executive officer and county officer shall sign ~~his or her~~ the officer's disclosure form in order to certify it in accordance with this subsection.

(d)(1) ~~An~~ Each Executive officer and county officer shall file ~~his or her~~ the officer's disclosure on or before January 15 of each year or, if ~~he or she~~ the officer is appointed after January 15, within 10 days after that appointment.

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

(e) [Repealed.]

* * * Delinquent Disclosures for Candidates for State Office, County Office, State Senator, and State Representative * * *

Sec. 6. 17 V.S.A. § 2415 is added to read:

§ 2415. FAILURE TO FILE; PENALTIES

(a) If any disclosure required of a candidate for State office, county office, State Senator, or State Representative by section 2414 of this title is not filed in the time and manner set forth in sections 2356, 2361, and 2402 of this title, the candidate for State office, county office, State Senator, or State Representative shall be addressed as follows:

(1) The State Ethics Commission, after notification by the Office of the Secretary of State of the names of delinquent filers, shall issue a notice of delinquency to the candidate for State office, county office, State Senator, or State Representative for any disclosure required of a candidate for State office, county office, State Senator, or State Representative by section 2414 of this title that is not filed in the time and manner set forth in sections 2356, 2361, and 2402 of this title.

(2) Following notice of delinquency sent by the State Ethics Commission to the candidate for State office, county office, State Senator, or

State Representative, the candidate shall have five working days from the date of the issuance of the notice to cure the delinquency.

(3) Beginning six working days from the date of notice, the delinquent candidate for State office, county office, State Senator, or State Representative shall pay a $10.00 penalty for each day thereafter that the disclosure remains delinquent; provided, however, that in no event shall the amount of any penalty imposed under this subdivision exceed $1,000.00.

(4) Notwithstanding subdivision (3) of this subsection (a), the State Ethics Commission may reduce or waive any penalty imposed under this section if the candidate for State office, county office, State Senator, or State Representative demonstrates good cause, as determined by the State Ethics Commission and in the sole discretion of the State Ethics Commission.

(b) The Commission shall send a notice of delinquency to the e-mail address provided by the candidate for State office, county office, State Senator, or State Representative in the candidate's consent of candidate form.

(c) The State Ethics Commission may avail itself of remedies available under the Vermont Setoff Debt Collection Act, as set forth in 32 V.S.A. chapter 151, subchapter 12, to collect any unpaid penalty.

(d)(1) A candidate for State office, county office, State Senator, or State Representative who files a disclosure with intent to defraud, falsify, conceal, or cover up by any trick, scheme, or device a material fact, or, with intent to defraud, make any false, fictitious, or fraudulent claim or representation as to a material fact, or, with intent to defraud, make or use any writing or document knowing the same to contain any false, fictitious, or fraudulent claim or entry as to a material fact shall be considered to have made a false claim for the purposes of 13 V.S.A. § 3016.

(2) Pursuant to 3 V.S.A. § 1223 and section 2904a of this title, complaints regarding any candidate for State office, county office, State Senator, or State Representative who fails to properly file a disclosure required under this subchapter may be filed with the State Ethics Commission. The Executive Director of the State Ethics Commission shall refer complaints to the Attorney General or to the State's Attorney of jurisdiction for investigation, as appropriate.

* * * Expansion of State Ethics Commission's Powers * * *

Sec. 7. 3 V.S.A. § 1221(a) is amended to read:

(a) Creation. There is created within the Executive Branch an independent commission named the State Ethics Commission to accept, review, investigate; hold hearings; issue warnings and reprimands; and recommended actions,

make referrals regarding, and track complaints of alleged violations of governmental conduct regulated by law, of the Department of Human Resources Personnel Policy and Procedure Manual, of the State Code of Ethics, and of the State's campaign finance law set forth in 17 V.S.A. chapter 61; to provide ethics training; and to issue guidance and advisory opinions regarding ethical conduct.

Sec. 8. 3 V.S.A. § 1222 is redesignated to read:

§ 1222. COMMISSION MEMBER ~~DUTIES AND~~ PROHIBITED CONDUCT

Sec. 9. 3 V.S.A. § 1223 is amended to read:

§ 1223. PROCEDURE FOR ~~HANDLING~~ ACCEPTING AND REFERRING COMPLAINTS

* * *

(b) Preliminary review by Executive Director. The Executive Director shall conduct a preliminary review of complaints made to the Commission in order to take action as set forth in this subsection and section 1223a of this title, which shall include referring complaints to all relevant entities, including the Commission itself.

* * *

(5) Municipal Code of Ethics. If the complaint alleges a violation of the Municipal Code of Ethics, the Executive Director shall refer the complaint to the designated ethics liaison of the appropriate municipality.

~~(5)~~(6) Closures. The Executive Director shall close any complaint that ~~he or she~~ the Executive Director does not refer as set forth in subdivisions (1)–~~(4)~~(5) of this subsection.

(c) Consultation on unethical conduct. If the Executive Director refers a complaint under subsection (b) of this section, the Executive Director shall signify any likely unethical conduct described in the complaint. Any entity receiving a referred complaint, except those in subdivision (b)(5) of this section, shall consult with the Commission regarding the application of the State Code of Ethics to facts presented in the complaint. The consultation shall be in writing and occur within 60 days after an entity receives a referred complaint and prior to the entity making a determination on the complaint, meaning either closing a complaint without further investigation or issuing findings following an investigation.

(d) Confidentiality. Complaints and related documents in the custody of the Commission shall be exempt from public inspection and copying under the

Public Records Act and kept confidential, except as provided for in section 1231 of this title.

Sec. 10. 3 V.S.A. § 1227 is added to read:

§ 1227. INVESTIGATIONS

(a) Power to investigate. The Commission, through its Executive Director, may investigate public servants for alleged unethical conduct. The Commission may investigate alleged unethical conduct after receiving a complaint pursuant to section 1223 of this title. The Commission may also investigate suspected unethical conduct without receiving any complaint.

(b) Initiation of investigation by Commission vote. The Executive Director shall only initiate an investigation upon an affirmative vote to proceed with the investigation of unethical conduct by a majority of current members of the Commission who have not recused themselves.

(c) Statute of limitations. The Commission shall only initiate an investigation relating to unethical conduct that last occurred within the prior two years.

(d) Outside legal counsel and investigators. The Executive Director may appoint legal counsel, who shall be an attorney admitted to practice in this State, and investigators to assist with investigations, hearings, and issuance of warnings, reprimands, and recommended actions.

(e) Notice. The Executive Director shall notify the complainant and public servant, in writing, of any complaint being investigated.

(f) Complainant participation. A complainant shall have the right to be heard in an investigation resulting from the complaint.

(g) Timeline of investigation. An investigation shall conclude within six months after either the date of the complaint received or, in the event no complaint was received, the date of the investigation's initiation by the Executive Director.

(h) Burden of proof. For a hearing to be warranted subsequent to an investigation, the Executive Director shall find that there is a reasonable basis to believe that the public servant's conduct constitutes an unethical violation.

(i) Determination after investigation.

(1) Upon investigating the alleged unethical conduct, if the Executive Director determines that an evidentiary hearing is warranted, the Executive Director shall notify the Commission. If a majority of current members of the Commission who have not recused themselves vote in concurrence with the

Executive Director's determination that an evidentiary hearing is warranted, the Executive Director shall prepare an investigation report specifying the public servant's alleged unethical conduct, a copy of which shall be served upon the public servant and any complainant, together with the notice of hearing set forth in section 1228 of this title.

(2) Upon investigating the alleged unethical conduct, if the Executive Director determines that an evidentiary hearing is not warranted, the Executive Director shall notify the Commission, the public servant, and any complainant, in writing, of the result of the investigation and the termination of proceedings.

Sec. 11. 3 V.S.A. § 1228 is added to read:

§ 1228. HEARINGS BEFORE THE COMMISSION

(a) Power to hold hearings. The Commission may meet and hold hearings for the purpose of gathering evidence and testimony if found warranted pursuant to section 1227 of this title and to make determinations.

(b) All Commission hearings shall be considered meetings of the Commission as described in subsection 1221(e) of this title, and shall be conducted in accordance with 1 V.S.A. § 310 et seq.

(c) Time of hearing. The Chair of the Commission shall set a time for the hearing as soon as convenient following the Director's determination that an evidentiary hearing is warranted, subject to the discovery needs of the public servant and any complainant as established in any prehearing or discovery conference or in any orders regulating discovery and depositions, or both, but not earlier than 30 days after service of the charge upon the public servant. The public servant or a complainant may file motions to extend the time of the hearing for good cause, which may be granted by the Chair.

(d) Notice of hearing. The Chair shall give the public servant and any complainant reasonable notice of a hearing, which shall include:

(1) A statement of the time, place, and nature of the hearing.

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(3) A reference to the particular sections of the statutes and rules involved.

(4) A short and plain statement of the matters at issue. If the Commission is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application by either the public servant or any complainant, a more definite and detailed statement shall be furnished.

(5) A reference and copy of any rules adopted by the Commission regarding the hearing's procedures, rules of evidence, and other aspects of the hearing.

(e) Rights of public servants and complainants. Opportunity shall be given to the public servant and any complainant to be heard at the hearing, present evidence, respond to evidence, and argue on all issues related to the alleged unethical misconduct.

(f) Executive session. In addition to the provisions of 1 V.S.A. § 313(a), the Commission may enter executive session if the Commission deems it appropriate in order to protect the confidentiality of an individual or any other protected information pertaining to any identifiable person that is otherwise confidential under State or federal law.

Sec. 12. 3 V.S.A. § 1229 is added to read:

§ 1229. WARNINGS; REPRIMANDS; RECOMMENDED ACTIONS; AGREEMENTS

(a) Power to issue warnings, reprimands, and recommended actions. The Commission may issue warnings, reprimands, and recommended actions, not inconsistent with the Vermont Constitution and laws of the State, including facilitated mediation, additional training and education, referrals to counseling and wellness support, or other remedial actions.

(b) Factors in determination.

(1) Circumstances of unethical conduct. In this determining, the Commission shall consider the degree of unethical conduct, the timeline over which the unethical conduct occurred and whether the conduct was repeated, and the privacy, rights, and responsibilities of the parties.

(2) Determination based on evidence. The Commission shall render its determination on the allegation on the basis of the evidence in the record before it, regardless of whether the Commission makes its determination on the investigation report of the Executive Director pursuant to section 1227 of this title alone, on evidence and testimony presented in the hearing pursuant to section 1228 of this title, or on its own findings.

(3) Burden of proof. The Commission shall only issue a warning, reprimand, or recommended action if it finds that, by a preponderance of the evidence, the public servant committed unethical conduct.

(c) Determination after hearing.

(1) If a majority of current members of the Commission who have not recused themselves find that the public servant committed unethical conduct as

specified in the investigation report the Executive Director pursuant to section 1227 of this title alone, the Commission shall then, in writing or stated in the record, issue a warning, reprimand, or recommended action.

(2) If the Commission does not find that the public servant committed unethical conduct, the Commission shall issue a statement that the allegations were not proved.

(3) When a determination or order is approved for issue by the Commission, the decision or order may be signed by the Chair on behalf of the Commission.

(d) Timeline for determination. The Commission shall make its determination within 30 days after concluding the Commission's last hearing under this section and notify the public servant and any complainant of the Committee's determination. This timeline may be extended by the Commission for good cause or pursuant to an agreement made between the Commission and the public servant.

(e) Referral of unethical conduct. Notwithstanding subsection 1223(c) of this title, the Commission shall notify the Attorney General or the State's Attorney of jurisdiction of any alleged violations of governmental conduct regulated by law or the relevant federal agency of any alleged violations of federal law, if discovered in the course of the Commission's investigations.

(f) Power to enter into resolution agreements.

(1) Notwithstanding any provisions of this chapter to the contrary, the Commission may, by a majority vote of its current members who have not recused themselves, enter into a resolution agreement with a public servant who is the subject of a complaint or investigation.

(2) A resolution agreement shall:

(A) include an agreed course of remedial action to be taken by the public servant;

(B) be in writing; and

(C) be executed by both the public servant and Executive Director.

(3) A resolution agreement may be entered into at any point in time before or during Commission proceedings. Any procedural deadlines described in this chapter or rules adopted pursuant to this chapter shall be paused at the time of execution of the resolution agreement. The Executive Director shall verify compliance with the resolution agreement within three months following execution of the agreement, and if the Executive Director is

not satisfied that compliance has been achieved, the Commission may resume its initial proceedings.

(4) The Commission shall create a summary of any resolution agreement. A summary of any resolution agreement shall be a public record subject to public inspection and copying under the Public Records Act. A resolution agreement shall be exempt from public inspection and copying under the Public Records Act and shall be considered confidential.

Sec. 13. 3 V.S.A. § 1230 is added to read:

§ 1230. PROCEDURE; RULEMAKING

(a) Procedure. Unless otherwise controlled by statute or rules adopted by the Commission, the Vermont Rules of Civil Procedure and the Vermont Rules of Evidence shall apply in the Commission's investigations and hearings.

(b) Rulemaking. The Commission shall adopt rules pursuant to 3 V.S.A. chapter 25 regarding procedural and evidentiary aspects of the Commission's investigations and hearings.

(c) Waiver of rules. To prevent unnecessary hardship, delay, or injustice, or for other good cause, a vote of two-thirds of the Commission's members present and voting may waive the application of a rule upon such conditions as the Chair may require, unless precluded by rule or by statute.

(d) Subpoenas and oaths. The Commission, the Executive Director, and the Commission's legal counsel and investigators shall have the power to issue subpoenas and administer oaths in connection with any investigation or hearing, including compelling the provision of materials or the attendance of witnesses at any investigation or hearing. The Commission, the Executive Director, and the Commissioner's legal counsel shall seek voluntary compliance prior to issuing a subpoena, except in cases where there is reasonable suspicion that materials will not be produced in a timely manner. The Commission, the Executive Director, and the Commission's legal counsel and investigators may take or cause depositions to be taken as needed in any investigation or hearing.

Sec. 14. 3 V.S.A. § 1231 is added to read:

§ 1231. RECORDS; CONFIDENTIALITY

(a) Intent. It is the intent of this section both to protect the reputation of public servants from public disclosure of frivolous complaints against them and to fulfill the public's right to know any unethical conduct committed by a public servant that results in issued warnings, reprimands, or recommended actions.

(b) Public records. Except as where otherwise provided in this chapter, public records relating to the Commission's handling of complaints, alleged unethical conduct, investigations, proceedings, and executed resolution agreements are exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except those public records required or permitted to be released under this chapter. Records subject to public inspection and copying under the Public Records Act shall include:

(1) investigation reports relating to alleged unethical conduct determined to warrant a hearing pursuant to section 1227 of this title, but not any undisclosed records gathered or created in the course of an investigation;

(2) at the request of the public servant or the public servant's designated representative, investigation reports relating to alleged unethical conduct determined to not warrant a hearing pursuant to section 1227 of this title, but not any undisclosed records gathered or created in the course of an investigation;

(3) evidence produced in the open and public portions of Commission hearings;

(4) any warnings, reprimands, and recommendations issued by the Commission;

(5) any summaries of executed resolution agreements; and

(6) any records, as determined by the Commission, that support a warning, reprimand, recommendation, or summary of an executed resolution agreement, including consultations created pursuant to subsection 1223(c) of this title and investigation reports in accordance with subdivisions (1) and (2) of this subsection.

(c) Court orders. Nothing in this section shall prohibit the disclosure of any information regarding alleged unethical conduct pursuant to an order from a court of competent jurisdiction, or to a State or federal law enforcement agency in the course of its investigation, provided the agency agrees to maintain the confidentiality of the information as provided in subsection (b) of this section.

* * * State Ethics Commission Membership * * *

Sec. 15. 3 V.S.A. § 1221(b) is amended to read:

(b) Membership.

(1) The Commission shall be composed of the following ~~five~~ seven members:

(A) one member, appointed by the Chief Justice of the Supreme Court;

(B) one member, appointed by the League of Women Voters of Vermont, who shall be a member of the League;

(C) one member, appointed by the Board of Directors of the Vermont Society of Certified Public Accountants, who shall be a member of the Society;

(D) one member, appointed by the Board of Managers of the Vermont Bar Association, who shall be a member of the Association; ~~and~~

(E) one member, appointed by the Board of Directors of the SHRM (Society for Human Resource Management) Vermont State Council, who shall be a member of the Council;

(F) one member, who shall be a former municipal officer, appointed by the Speaker of the House; and

(G) one member, who shall be a former municipal officer, appointed by the Senate Committee on Committees.

* * *

* * * State Ethics Commission Staffing * * *

Sec. 16. 3 V.S.A. § 1221(c) is amended to read:

(c) Executive Director.

(1) The Commission shall be staffed by an Executive Director who shall be appointed by and serve at the pleasure of the Commission ~~and who shall be a part-time exempt State employee~~.

(2) The Executive Director shall maintain the records of the Commission and shall provide administrative support as requested by the Commission, in addition to any other duties required by this chapter.

Sec. 17. [Deleted.]

* * * Citation Correction * * *

Sec. 18. 3 V.S.A. § 1221(e) is amended to read:

(e) Meetings. Meetings of the Commission:

(1) shall be held at least quarterly for the purpose of the Executive Director updating the Commission on ~~his or her~~ the Executive Director's work;

(2) may be called by the Chair and shall be called upon the request of any other two Commission members; and

(3) shall be conducted in accordance with ~~1 V.S.A. § 172~~ 1 V.S.A. § 310 et seq.

* * * Ethics Data Collection * * *

Sec. 19. 3 V.S.A. § 1226 is amended to read:

§ 1226. ETHICS DATA COLLECTION; COMMISSION REPORTS

(a) Annually, on or before November 15, the following entities shall report to the State Ethics Commission aggregate data on ethics complaints not submitted to the Commission, with the complaints separated by topic, and the disposition of those complaints, including any prosecution, enforcement action, or dismissal:

(1) the office of the Attorney General and State's Attorneys' offices, of alleged violations of governmental conduct regulated by law and associated crimes and including campaign finance requirements;

(2) the Department of Human Resources, of complaints alleging conduct that violates the ethical provisions of the Department of Human Resources Personnel Policy and Procedure Manual or of the State Code of Ethics;

(3) the Senate Ethics Panel, of alleged unethical conduct committed by State Senators;

(4) the House Ethics Panel, of alleged unethical conduct committed by State Representatives;

(5) the Judicial Conduct Board, of alleged unethical conduct committed by a judicial officer;

(6) the Professional Responsibility Board, of alleged unethical conduct committed by an attorney employed by the State; and

(7) the Office of the State Court Administrator, of complaints alleging conduct that violates the ethical provisions of the Judicial Branch Personnel Policy or of the State Code of Ethics, including for attorneys employed by the State.

(b) Annually, on or before January 15, the State Ethics Commission shall report to the General Assembly regarding the following issues:

(1) Complaints.

(A) The number and a summary of the complaints made to ~~it~~ the Commission, separating the complaints by topic, and the disposition of those complaints, including any prosecution, enforcement action, or dismissal. This summary of complaints shall not include any personal identifying information.

(B) The number and a summary of the complaints data received by the Commission pursuant to subsection (a) of this section.

* * *

* * * Repeal of Redundant Municipal Ethics Law * * *

Sec. 20. REPEAL

24 V.S.A. § 1984 (conflict of interest prohibition) is repealed.

Sec. 21. 24 V.S.A. § 2291 is amended to read:
§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(20) ~~To establish a conflict-of-interest policy to apply to all elected and appointed officials of the town, city, or incorporated village or ethical conduct policies to apply to all elected and appointed officials and employees of the municipality, or both.~~ [Repealed.]

* * *

* * * Creation of Municipal Code of Ethics * * *

Sec. 22. 24 V.S.A. chapter 60 is added to read:

CHAPTER 60. MUNICIPAL CODE OF ETHICS

§ 1991. DEFINITIONS

As used in this chapter:

(1) "Advisory body" means a public body that does not have supervision, control, or jurisdiction over legislative, quasi-judicial, tax, or budgetary matters.

(2) "Candidate" and "candidate's committee" have the same meanings as in 17 V.S.A. § 2901.

(3) "Commission" means the State Ethics Commission established under 3 V.S.A. chapter 31, subchapter 3.

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

(5) "Conflict of interest" means a direct or indirect interest of a municipal officer or such an interest, known to the officer, of a member of the officer's immediate family or household, or of a business associate, in the outcome of a particular matter pending before the officer or the officer's public body, or that is in conflict with the proper discharge of the officer's duties. "Conflict of interest" does not include any interest that is not greater than that of other individuals generally affected by the outcome of a matter.

(6) "Department head" means any authority in charge of an agency, department, or office of a municipality.

(7) "Designated complaint recipient" means:

(A) a department head or employee specifically designated or assigned to receive a complaint that constitutes protected activity, as set forth in section 1997 of this title;

(B) a board or commission of the State or a municipality;

(C) the Vermont State Auditor;

(D) a State or federal agency that oversees the activities of an agency, department, or office of the State or a municipality;

(E) a law enforcement officer as defined in 20 V.S.A. § 2358;

(F) a federal or State court, grand jury, petit jury, law enforcement agency, or prosecutorial office;

(G) the legislative body of the municipality, the General Assembly or the U.S. Congress; or

(H) an officer or employee of an entity listed in this subdivision (7) when acting within the scope of the officer's or employee's duties.

(8) "Domestic partner" means an individual in an enduring domestic relationship of a spousal nature with the municipal officer, provided the individual and municipal officer:

(A) have shared a residence for at least six consecutive months;

(B) are at least 18 years of age;

(C) are not married to or considered a domestic partner of another individual;

(D) are not related by blood closer than would bar marriage under State law; and

(E) have agreed between themselves to be responsible for each other's welfare.

(9) "Illegal order" means a directive to violate, or to assist in violating, a federal, State, or local law.

(10) "Immediate family" means an individual's spouse, domestic partner, or civil union partner; child or foster child; sibling; parent; or such relations by marriage or by civil union or domestic partnership; or an individual claimed as a dependent for federal income tax purposes.

(11) "Legislative body" means the selectboard in the case of a town, the mayor, alderpersons, and city council members in the case of a city, the president and trustees in the case of an incorporated village, the members of the prudential committee in the case of a fire district, and the supervisor in the case of an unorganized town or gore.

(12) "Municipal officer" or "officer" means:

(A) any member of a legislative body of a municipality;

(B) any member of a quasi-judicial body of a municipality; or

(C) any individual who holds the position of, or exercises the function of, any of the following positions in or on behalf of any municipality:

(i) advisory budget committee member;

(ii) auditor;

(iii) building inspector;

(iv) cemetery commissioner;

(v) chief administrative officer;

(vi) clerk;

(vii) collector of delinquent taxes;

(viii) department heads;

(ix) first constable;

(x) lister or assessor;

(xi) mayor;

(xii) moderator;

(xiii) planning commission member;

(xiv) road commissioner;

(xv) town or city manager;

(xvi) treasurer;

(xvii) village or town trustee;

(xviii) trustee of public funds; or

(xix) water commissioner.

(13) "Municipality" has the same meaning as in 1 V.S.A. § 126 but does not include town school districts or incorporated school districts.

(14) "Protected employee" means an individual employed on a permanent or limited status basis by a municipality.

(15) "Public body" has the same meaning as in 1 V.S.A. § 310.

(16) "Retaliatory action" includes any adverse performance or disciplinary action, including discharge, suspension, reprimand, demotion, denial of promotion, imposition of a performance warning period, or involuntary transfer or reassignment; that is given in retaliation for the protected employee's involvement in a protected activity, as set forth in section 1997 of this title.

§ 1992. CONFLICTS OF INTEREST

(a) Duty to avoid conflicts of interest. In the municipal officer's official capacity, the officer shall avoid any conflict of interest or the appearance of a conflict of interest. The appearance of a conflict shall be determined from the perspective of a reasonable individual with knowledge of the relevant facts.

(b) Recusal.

(1) If a municipal officer is confronted with a conflict of interest or the appearance of one, the officer shall immediately recuse themselves from the matter, except as otherwise provided in subdivisions (2) and (5) of this subsection, and not take further action on the matter or participate in any way or act to influence a decision regarding the matter. After recusal, an officer may still take action on the matter if the officer is a party, as defined by section 1201 of this title, in a contested hearing or litigation and acts only in the officer's capacity as a member of the public. The officer shall make a public statement explaining the officer's recusal.

(2)(A) Notwithstanding subdivision (1) of this subsection (b), an officer may continue to act in a matter involving the officer's conflict of interest or appearance of a conflict of interest if the officer first:

(i) determines there is good cause for the officer to proceed, meaning:

(I) the conflict is amorphous, intangible, or otherwise speculative;

(II) the officer cannot legally or practically delegate the matter; or

(III) the action to be taken by the officer is purely ministerial and does not involve substantive decision-making; and

(ii) the officer submits a written nonrecusal statement to the legislative body of the municipality regarding the nature of the conflict that shall:

(I) include a description of the matter requiring action;

(II) include a description of the nature of the potential conflict or actual conflict of interest;

(III) include an explanation of why good cause exists so that the municipal officer can take action in the matter fairly, objectively, and in the public interest;

(IV) be written in plain language and with sufficient detail so that the matter may be understood by the public; and

(V) be signed by the municipal officer.

(B) Notwithstanding subsection (A) of this subdivision (2), a municipal officer that would benefit from any contract entered into by the municipality and the officer, the officer's immediate family, or an associated business of the officer or the officer's immediate family, and whose official duties include execution of that contract, shall recuse themselves from any decision-making process involved in the awarding of that contract.

(C) Notwithstanding subsection (A) of this subdivision (2), a municipal officer shall not continue to act in a matter involving the officer's conflict of interest or appearance of a conflict of interest if authority granted to another official or public body elsewhere under law is exercised to preclude the municipal officer from continuing to act in the matter.

(3) If an officer's conflict of interest or the appearance of a conflict of interest concerns an official act or actions that take place outside a public

meeting, the officer's nonrecusal statement shall be filed with the clerk of the municipality and be available to the public for the duration of the officer's service plus a minimum of five years.

(4) If an officer's conflict of interest is related to an official municipal act or actions considered at a public meeting, the officer's nonrecusal statement shall be filed as part of the minutes of the meeting of the public body in which the municipal officer serves.

(5) If, at a meeting of a public body, an officer becomes aware of a conflict of interest or the appearance of a conflict of interest for the officer and the officer determines there is good cause to proceed, the officer may proceed with the matter after announcing and fully stating the conflict on the record. The officer shall submit a written nonrecusal statement pursuant to subdivision (2) of this subsection within five business days after the meeting. The meeting minutes shall be subsequently amended to reflect the submitted written nonrecusal statement.

(c) Authority to inquire about conflicts of interest. If a municipal officer is a member of a public body, the other members of that body shall have the authority to inquire of the officer about any possible conflict of interest or any appearance of a conflict of interest and to recommend that the member recuse themselves from the matter.

(d) Confidential information. Nothing in this section shall require a municipal officer to disclose confidential information or information that is otherwise privileged under law.

§ 1993. PROHIBITED CONDUCT

(a) Directing unethical conduct. A municipal officer shall not direct any individual to act in a manner that would:

(1) benefit a municipal officer in a manner related to the officer's conflict of interest;

(2) create a conflict of interest or the appearance of a conflict of interest for the officer or for the directed individual; or

(3) otherwise violate the Municipal Code of Ethics as described in this chapter.

(b) Preferential treatment. A municipal officer shall act impartially and not unduly favor or prejudice any person in the course of conducting official business. An officer shall not give, or represent an ability to give, undue preference or special treatment to any person because of the person's wealth,

position, or status or because of a person's personal relationship with the officer, unless otherwise permitted or required by State or federal law.

(c) Misuse of position. A municipal officer shall not use the officer's official position for the personal or financial gain of the officer, a member of the officer's immediate family or household, or the officer's business associate.

(d) Misuse of information. A municipal officer shall not use nonpublic or confidential information acquired during the course of official business for personal or financial gain of the officer or for the personal or financial gain of a member of the officer's immediate family or household or of an officer's business associate.

(e) Misuse of government resources. A municipal officer shall not make use of a town's, city's, or village's materials, funds, property, personnel, facilities, or equipment, or permit another person to do so, for any purpose other than for official business unless the use is expressly permitted or required by State law; ordinance; or a written agency, departmental, or institutional policy or rule. An officer shall not engage in or direct another person to engage in work other than the performance of official duties during working hours, except as permitted or required by law or a written agency, departmental, or institutional policy or rule.

(f) Gifts.

(1) No person shall offer or give to a municipal officer or candidate, or the officer's or candidate's immediate family, anything of value, including a gift, loan, political contribution, reward, or promise of future employment based on any understanding that the vote, official action, or judgment of the municipal officer or candidate would be, or had been, influenced thereby.

(2) A municipal officer or candidate shall not solicit or accept anything of value, including a gift, loan, political contribution, reward, or promise of future employment based on any understanding that the vote, official action, or judgment of the municipal officer or candidate would be or had been influenced thereby.

(3) Nothing in subdivision (1) or (2) of this subsection shall be construed to apply to any campaign contribution that is lawfully made to a candidate or candidate's committee pursuant to 17 V.S.A. chapter 61 or to permit any activity otherwise prohibited by 13 V.S.A. chapter 21.

(g) Unauthorized commitments. A municipal officer shall not make unauthorized commitments or promises of any kind purporting to bind the municipality unless otherwise permitted by law.

(h) Benefit from contracts. A municipal officer shall not benefit from any contract entered into by the municipality and the officer, the officer's immediate family, or an associated business of the officer or the officer's immediate family, unless:

(1) the benefit is not greater than that of other individuals generally affected by the contract;

(2) the contract is a contract for employment with the municipality;

(3) the contract was awarded through an open and public process of competitive bidding; or

(4) the total value of the contract is less than $2,000.00.

§ 1994. GUIDANCE AND ADVISORY OPINIONS

(a) Guidance.

(1) The Executive Director of the State Ethics Commission may provide guidance only to a municipal officer and only with respect to the officer's duties regarding any provision of this chapter or regarding any other issue related to governmental ethics.

(2) The Executive Director may consult with members of the State Ethics Commission and the municipality in preparing this guidance.

(3) Guidance provided under this subsection shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential unless the receiving entity has publicly disclosed it.

(b) Advisory opinions.

(1) On the written request of any municipal officer, the Executive Director may issue an advisory opinion to that officer that provides general advice or interpretation with respect to the officer's duties regarding any provision of this chapter or regarding any other issue related to governmental ethics.

(2) The Executive Director may consult with members of the Commission and the municipality in preparing these advisory opinions.

(3) The Executive Director may seek comment from persons interested in the subject of an advisory opinion under consideration.

(4) The Executive Director shall post on the Commission's website any advisory opinions that the Executive Director issues. Personally identifiable information is exempt from public inspection and copying under the Public Records Act and shall be kept confidential unless the municipal officer who is

the subject of the advisory opinion authorizes the publication of the personally identifiable information.

§ 1995. ETHICS TRAINING

(a) Initial ethics training. Within 120 days after the election or appointment of a member of a legislative body or a quasi-judicial body, or a chief administrative officer, mayor, town or city manager, that individual shall complete ethics training, as approved by the State Ethics Commission. A municipality shall make a reasonable effort to provide training to all other municipal officers. The officer, the officer's employer, or another individual designated by the municipality shall document the officer's completed ethics training.

(b) Continuing ethics training. Upon completing initial ethics training, a municipal officer shall complete additional ethics training, as determined by the State Ethics Commission, every three years.

(c) Approval of training. Ethics trainings shall at minimum reflect the contents of the Municipal Ethics Code and be approved by the State Ethics Commission. Approval of ethics trainings shall not be unreasonably withheld. Ethics trainings shall be conducted by the State Ethics Commission, the municipality, or a third party approved in advance by the State Ethics Commission. The State Ethics Commission may approve trainings that are in person, online, and synchronous or asynchronous. The State Ethics Commission shall require ethics training to be designed in a manner as to achieve improved competency in the subject matter rather than rely on fixed hours of training as a measure of completed training.

(d) Training provided by the Commission.

(1) The State Ethics Commission shall develop and make available to municipalities ethics training required of municipal officers by subsections (a) and (b) of this section.

(2) The Commission shall develop and make available to municipalities trainings regarding how to investigate and resolve complaints that allege violations of the Municipal Code of Ethics.

(e) State Ethics Commission liaisons. Each municipality, acting through its legislative body, shall designate an employee as its liaison to the State Ethics Commission. If a municipality does not have any employees, the legislative body shall designate one of its members as its liaison to the State Ethics Commission. The municipality shall notify the Commission in writing of any newly designated liaison within 30 days after such change. The Commission shall disseminate information to the designated liaisons and conduct

educational seminars for designated liaisons on a regular basis on a schedule to be determined by the Commission, in consultation with the municipality. The Commission shall report any ethics training conducted by the Commission and completed by an officer to the liaison of that officer's municipality.

§ 1996. DUTIES OF MUNICIPALITIES

Each municipality shall:

(1) Ensure that the following are posted on the town's, city's, or village's website or, if no such website exists, ensure that a copy of each is received by all municipal officers and is made available to the public upon request:

(A) the Municipal Code of Ethics;

(B) procedures for the investigation and enforcement of complaints that allege a municipal officer has violated the Municipal Code of Ethics, as required by section 1997 of this title; and

(C) any supplemental or additional ordinances, rules, and personnel policies regarding ethics adopted by a municipality.

(2) Maintain a record of municipal officers who have received ethics training pursuant to section 1995 of this title.

(3) Designate a municipal officer or body to receive complaints alleging violations of the Municipal Code of Ethics.

(4) Maintain a record of received complaints and the disposition of each complaint made against a municipal officer for the duration of the municipal officer's service plus a minimum of five years.

(5) Upon request of the State Ethics Commission, promptly provide the State Ethics Commission with a summary of complaints received by the municipality and the outcome of each complaint, but excluding any personally identifiable information.

§ 1997. ENFORCEMENT AND REMEDIES

Each municipality shall adopt, by ordinance, rule, or personnel policy, procedures for the investigation of complaints that allege a municipal officer has violated the Municipal Code of Ethics and the enforcement in instances of substantiated complaints, including methods of enforcement and available remedies.

§ 1998. WHISTLEBLOWER PROTECTION

(a) Protected activity.

(1) An agency, department, appointing authority, official, or employee of a municipality shall not engage in retaliatory action against a protected employee because the protected employee refuses to comply with an illegal order or engages in any of the following:

(A) providing to a designated complaint recipient a good faith report or good faith testimony that alleges an entity of a municipality, employee or official of a municipality, or a person providing services to a municipality under contract has engaged in a violation of law or in waste, fraud, abuse of authority, or a threat to the health of employees, the public, or persons under the care of a municipality; or

(B) assisting or participating in a proceeding to enforce the provisions of this section.

(2) No agency, department, appointing authority, official, or employee of a municipality shall attempt to restrict or interfere with, in any manner, a protected employee's ability to engage in any of the protected activity described in subdivision (1) of this subsection.

(3) No agency, department, appointing authority, or manager of a municipality shall require any protected employee to discuss or disclose the employee's testimony, or intended testimony, prior to the employee's appearance to testify before the General Assembly if the employee is not testifying on behalf of an entity of the municipality.

(4) No protected employee may divulge information that is confidential under State or federal law. An act by which a protected employee divulges such information shall not be considered protected activity under this subsection.

(5) In order to establish a claim of retaliation based upon the refusal to follow an illegal order, a protected employee shall assert at the time of the refusal the employee's good faith and reasonable belief that the order is illegal.

(b) Communications with legislative bodies of municipalities and the General Assembly.

(1) No entity of a municipality may prohibit a protected employee from engaging in discussion with a member of a legislative body or the General Assembly or from testifying before a committee of a municipality or a committee of the General Assembly; provided, however, that a protected employee may not divulge confidential information, and an employee shall be clear that the employee is not speaking on behalf of an entity of a municipality.

(2) No protected employee shall be subject to discipline, discharge, discrimination, or other adverse employment action as a result of the employee

providing information to a member of a legislative body, a legislator, or a committee of a municipality or a committee of the General Assembly; provided, however, that the protected employee does not divulge confidential information and that the employee is clear that the employee is not speaking on behalf of any entity of the municipality. The protections set forth in this section shall not apply to statements that constitute hate speech or threats of violence against a person.

(3) In the event that an appearance before a committee of a municipality or committee of the General Assembly will cause a protected employee to miss work, the employee shall request to be absent from work and shall provide as much notice as is reasonably possible. The request shall be granted unless there is good cause to deny the request. If a request is denied, the decision and reasons for the denial shall be in writing and shall be provided to the protected employee in advance of the scheduled appearance. The protections set forth in this subsection (b) are subject to the efficient operation of municipal government, which shall prevail in any instance of conflict.

(c) Enforcement and preemption.

(1) Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of a protected employee under other federal, State, or local law, or under any collective bargaining agreement or employment contract, except the limitation on multiple actions as set forth in this subsection.

(2) A protected employee who files a claim of retaliation for protected activity with the Vermont Labor Relations Board or through binding arbitration under a grievance procedure or similar process available to the employee may not bring such a claim in Superior Court.

(3) A protected employee who files a claim under this section in Superior Court may not bring a claim of retaliation for protected activity under a grievance procedure or similar process available to the employee.

(d) Remedies. A protected employee who brings a claim in Superior Court may be awarded the following remedies:

(1) reinstatement of the employee to the same position, seniority, and work location held prior to the retaliatory action;

(2) back pay, lost wages, benefits, and other remuneration;

(3) in the event of a showing of a willful, intentional, and egregious violation of this section, an amount up to the amount of back pay in addition to the actual back pay;

(4) other compensatory damages;

(5) interest on back pay;

(6) appropriate injunctive relief; and

(7) reasonable costs and attorney's fees.

(e) Posting. Every agency, department, and office of a municipality shall post and display notices of protected employee protection under this section in a prominent and accessible location in the workplace.

(f) Limitations of actions. An action alleging a violation of this section brought under a grievance procedure or similar process shall be brought within the period allowed by that process or procedure. An action brought in Superior Court shall be brought within 180 days following the date of the alleged retaliatory action.

§ 1999. MUNICIPAL CHARTERS; SUPPLEMENTAL ETHICS POLICIES

(a) To the extent any provisions of this chapter conflict with the provisions of any municipal charter listed in Title 24 Appendix, the provisions of this chapter shall prevail.

(b) A municipality may adopt additional ordinances, rules, and personnel policies regarding ethics, provided that these are not in conflict with the provisions of this chapter.

* * * Initial Ethics Training for In-Office Municipal Officers * * *

Sec. 23. INITIAL ETHICS TRAINING FOR IN-OFFICE MUNICIPAL OFFICERS

On or before September 30, 2025, all municipal officers shall complete ethics training, which may be in person or online, as approved by the State Ethics Commission, unless they have otherwise completed ethics training pursuant to 24 V.S.A § 1995 (ethics training). The State Ethics Commission shall require ethics training to be designed in a manner as to achieve improved competency in the subject matter rather than rely on fixed hours of training as a measure of completed training. The officer, the officer's employer, or another individual designated by the municipality shall document the officer's completed ethics training.

* * * Effective Dates * * *

Sec. 24. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 13 (adding 3 V.S.A. § 1230) shall take effect on July 1, 2025, Secs. 7 (amending 3 V.S.A. § 1221(a)), 8 (amending 3 V.S.A. § 1222), 9 (amending 3 V.S.A. § 1223), 10 (adding 3 V.S.A. § 1227), 11 (adding 3 V.S.A. § 1228), 12 (adding 3 V.S.A. § 1229), and 14 (adding 3 V.S.A. § 1231) shall take effect on September 1, 2025, and Sec. 1 (amending 17 V.S.A. § 2414) shall take effect on January 1, 2026.

(Committee vote: 5-1-0)

(For House amendments, see House Journal of March 29, 2024, pages 1050 - 1054)

H. 887.

An act relating to homestead property tax yields, nonhomestead rates, and policy changes to education finance and taxation.

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

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

* * * Commission on the Future of Public Education * * *

Sec. 1. THE COMMISSION ON THE FUTURE OF PUBLIC EDUCATION; REPORTS

(a) Creation. There is hereby created the Commission on the Future of Public Education in Vermont. The right to education is fundamental for the success of Vermont's children in a rapidly changing society and global marketplace as well as for the State's own economic and social prosperity. The Commission shall study the provision of education in Vermont and make recommendations for a statewide vision for Vermont's public education system to ensure that all students are afforded substantially equal educational opportunities in an efficient, sustainable, and stable education system. The Commission shall also make recommendations for the strategic policy changes necessary to make Vermont's educational vision a reality for all Vermont students.

(b) Membership. The Commission shall be composed of the following members and, to the extent possible, the members shall represent the State's geographic, gender, racial, and ethnic diversity:

(1) the Secretary of Education or designee;

(2) the Chair of the State Board of Education or designee;

(3) the Tax Commissioner or designee;

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

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

(6) two representatives from the Vermont School Boards Association (VSBA), appointed by the VSBA Executive Director;

(7) two representatives from the Vermont Principals' Association (VPA), selected by the VPA Executive Director;

(8) three superintendents, appointed by the Executive Director of the Vermont Superintendents Association, two of whom shall be appointed as follows:

(A) one superintendent of a supervisory union that operates a career and technical education center; and

(B) one superintendent of a supervisory union composed of at least three separate school districts;

(9) two representatives from the Vermont National Education Association (VTNEA), appointed by the VTNEA Executive Director;

(10) one representative from the Vermont Association of School Business Officials (VASBO) with experience in school construction projects, appointed by the President of VASBO;

(11) the Chair of the Census-Based Funding Advisory Group, created under 2018 Acts and Resolves No. 173 or designee;

(12) the Executive Director of the Vermont Rural Education Collaborative or designee; and

(13) one representative from the Vermont Independent Schools Association (VISA), appointed by the President of VISA.

(c) Steering group. On or before July 1, 2024, the Speaker of the House shall appoint two members of the Commission, the Committee on Committees shall appoint one member of the Commission, and the Governor shall appoint

two members of the Commission, to serve as members of a steering group. No appointing authority shall appoint two members affiliated with the same organization. The steering group shall provide leadership to the Commission and shall work with a consultant to analyze the issues, challenges, and opportunities facing Vermont's public education system, as well as create a formal action plan to drive change and innovation in the public education system. The steering group may form one or more subcommittees of the Commission to address key topics in greater depth.

(d) Collaboration and information review.

(1) The Commission shall seek input from and collaborate with key stakeholders, as directed by the steering group. At a minimum, the Commission shall consult with:

(A) the Department of Mental Health;

(B) the Department of Labor;

(C) the President of the University of Vermont or designee;

(D) the Chancellor of the Vermont State Colleges Corporation or designee;

(E) a representative from the Prekindergarten Education Implementation Committee;

(F) the Office of Racial Equity;

(G) a representative with expertise in the Community Schools model in Vermont; and

(H) the Vermont Youth Council.

(2) The Commission shall also review and take into consideration existing educational laws and policy, including legislative reports the Commission deems relevant to its work and, at a minimum, 2015 Acts and Resolves No. 46, 2018 Acts and Resolves No. 173, 2022 Acts and Resolves No. 127, and 2023 Acts and Resolves No. 76.

(e) Duties of the Commission. The Commission shall study Vermont's public education system and make recommendations to ensure all students are afforded quality educational opportunities in an efficient, sustainable, and equitable education system that will enable students to achieve the highest academic outcomes. The result of the Commission's work shall be a recommendation for a statewide vision for Vermont's public education system, with recommendations for the policy changes necessary to make Vermont's

educational vision a reality. In creating and making its recommendations, the Commission shall engage in the following:

(1) Public engagement. The Commission shall conduct not fewer than 10 public meetings to inform the work required under this section. At least half of the public meetings shall be held in a different geographic region of the State. The Commission shall publish a draft of its final recommendations on or before October 1, 2025, solicit public feedback, and incorporate such feedback into its final recommendations. When submitting its final recommendations to the General Assembly, the Commission shall include all public feedback received as an addendum to its final report. The public feedback process shall include:

(A) a minimum 30-day public comment period, during which time the Commission shall accept written comments from the public and stakeholders; and

(B) a public outreach plan that maximizes public engagement and includes notice of the availability of language assistance services when requested.

(2) Policy considerations. In developing its recommendations, the Commission shall consider and prioritize the following topics:

(A) Governance, resources, and administration. The Commission shall study and make recommendations regarding education governance at the State level, including the role of the Agency of Education in the provision of services and support for the education system. Recommendations under this subdivision (A) shall include, at a minimum, the following:

(i) whether changes need to be made to the structure of the Agency of Education, including whether it better serves the recommended education vision of the State as an agency or a department;

(ii) what are the staffing needs of the Agency of Education;

(iii) whether changes need to be made to the composition, role, and function of the State Board of Education to better serve the recommended education vision of the State;

(iv) what roles, functions, or decisions should be a function of local control and what roles, functions, or decisions should be a function of control at the State level; and

(v) the effective integration of career and technical education in the recommended education vision of the State.

(B) Physical size and footprint of the system. The Commission shall study and make recommendations regarding how the unique geographical and socioeconomic needs of different communities should factor into the provision of education in Vermont, taking into account and building upon the recommendations of the State Aid to School Construction Working Group. Recommendations under this subdivision (B) shall include, at a minimum, the following:

(i) an analysis of the current number and location of school buildings, school districts, and supervisory unions and whether additional consolidation is needed to achieve Vermont's vision for education, provided that if there is a recommendation for any amount of consolidation, the recommendation shall include a recommended implementation plan;

(ii) an analysis of the capacity and ability to staff all public schools with a qualified workforce, driven by data on class-size recommendations;

(iii) an analysis of the current town tuition program and whether, and if so, what, changes are necessary to meet Vermont's vision for education, including the legal and financial impact of funding independent schools and other private institutions, including consideration of the following:

(I) the role designation, under 16 V.S.A. § 827, should play in the delivery of public education; and

(II) the financial impact to the Education Fund of public dollars being used in schools located outside Vermont; and

(iv) an analysis of the current use of private therapeutic schools in the provision of special education services and whether, and if so, what, changes are necessary to meet Vermont's special education needs, including the legal and financial impact of funding private therapeutic schools.

(C) The role of public schools. The Commission shall study and make recommendations regarding the role public schools should play in both the provision of education and the social and emotional well-being of students. Recommendations under this subdivision (C) shall include, at a minimum, the following:

(i) how public education in Vermont should be delivered;

(ii) whether Vermont's vision for public education shall include the provision of wraparound supports and collocation of services; and

(iii) what the consequences are for the Commission's recommendations regarding the role of public schools and other service

providers, including what the role of public schools means for staffing, funding, and any other affected system, with the goal of most efficiently utilizing State funds and services and maximizing federal funding.

(D) Education fund. The Commission shall explore the efficacy and potential equity gains of changes to the education funding system, including weighted educational opportunity payments as a method to fund public education. The Commission's recommendations shall be intended to result in an education funding system designed to afford substantially equal access to a quality basic education for all Vermont students in accordance with *State v. Brigham*, 166 Vt. 246 (1997). Recommendations under this subdivision (D) shall include, at a minimum, the following:

(i) allowable uses for the Education Fund that shall ensure sustainable and equitable use of State funds;

(ii) the method for setting tax rates to sustain allowable uses of the Education Fund; and

(iii) implementation details for any recommended changes to the education funding system.

(E) Additional considerations. The Commission may consider any other topic, factor, or issue that it deems relevant to its work and recommendations.

(f) Reports and proposed legislation. The Commission shall prepare and submit to the General Assembly the following:

(1) a formal, written work plan, which shall include a communication plan to maximize public engagement, on or before September 15, 2024;

(2) a written report containing its preliminary findings and recommendations, including short-term cost containment considerations for the 2025 legislative session, on or before December 15, 2024;

(3) a written report containing its final findings and recommendations for a statewide vision for Vermont's public education system and the policy changes necessary to make that educational vision a reality on or before December 1, 2025; and

(4) proposed legislative language to advance any recommendations for the education funding system.

(g) Assistance. The Agency of Education shall contract with an independent consultant to provide technical and legal assistance to the Commission for the work required under this section. For the purposes of scheduling meetings and providing administrative assistance, the Commission

shall have the assistance of the Agency of Education. The Agency shall also provide the educational and financial data necessary to facilitate the work of the Commission. School boards shall comply with requests from the Agency to assist in data collections.

(h) Meetings.

(1) The Secretary of Education shall call the first meeting of the Commission to occur on or before July 15, 2024.

(2) The Speaker of the House and the President Pro Tempore shall jointly select a Commission chair.

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

(4) Meetings shall be conducted in accordance with Vermont's Open Meeting Law pursuant to 1 V.S.A. chapter 5, subchapter 2.

(5) The Commission shall cease to exist on December 31, 2025.

(i) Compensation and reimbursement. Members of the Commission shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than 30 meetings, including subcommittee meetings. These payments shall be made from monies appropriated to the Agency of Education.

Sec. 1a. 2023 Acts and Resolves No. 78, Sec. B.1100 is amended to read:

Sec. B.1100 MISCELLANEOUS FISCAL YEAR 2024 ONE-TIME APPROPRIATIONS

* * *

(r) $200,000.00 General Fund in fiscal year 2024 to the Agency of Education for the work of the School Construction Task Force and the Commission on the Future of Public Education.

* * *

Sec. 2. PROPERTY DOLLAR EQUIVALENT YIELD, INCOME DOLLAR EQUIVALENT YIELD, AND NONHOMESTEAD PROPERTY TAX RATE FOR FISCAL YEAR 2025

For fiscal year 2025 only:

(1) Pursuant to 32 V.S.A. § 5402b(b), the property dollar equivalent yield shall be $10,005.00.

(2) Pursuant to 32 V.S.A. § 5402b(b), the income dollar equivalent yield shall be $10,226.00.

(3) Notwithstanding 32 V.S.A. § 5402(a)(1) and any other provision of law to the contrary, the nonhomestead property tax rate shall be $1.375 per $100.00 of equalized education property value.

Sec. 3. 32 V.S.A. § 9701(7) is amended to read:

(7) "Tangible personal property" means personal property that may be seen, weighed, measured, felt, touched, or in any other manner perceived by the senses. "Tangible personal property" includes electricity, water, gas, steam, and prewritten computer software regardless of the method in which the prewritten computer software is paid for, delivered, or accessed.

Sec. 4. REPEAL

2015 Acts and Resolves No. 51, Sec. G.8 (prewritten software accessed remotely) is repealed.

Sec. 5. 32 V.S.A. chapter 225, subchapter 4 is added to read:

Subchapter 4. Short-term Rental Impact Surcharge

§ 9301. IMPOSITION; SHORT-TERM RENTAL IMPACT SURCHARGE

(a) An operator shall collect a surcharge of three percent of the rent of each occupancy that is a short-term rental. As used in this subchapter, "short-term rental" means a furnished house, condominium, or other dwelling room or self-contained dwelling unit rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year. As used in this subchapter, "short-term rental" does not mean an occupancy in a lodging establishment licensed under 18 V.S.A. chapter 85.

(b) The surcharge shall be in addition to any tax assessed under section 9241 of this chapter. The surcharge assessed under this section shall be paid, collected, remitted, and enforced under this chapter in the same manner as the rooms tax assessed under section 9241 of this title.

Sec. 6. 16 V.S.A. § 4025 is amended to read:

§ 4025. EDUCATION FUND

(a) The Education Fund is established to comprise the following:

(1) all revenue paid to the State from the statewide education tax on nonhomestead and homestead property under 32 V.S.A. chapter 135;

(2) [Repealed.]

(3) revenues from State lotteries under 31 V.S.A. chapter 14 and from any multijurisdictional lottery game authorized under that chapter;

(4) 25 percent of the revenues from the meals and rooms taxes imposed under 32 V.S.A. chapter 225;

(5) one-third of the revenues raised from the purchase and use tax imposed by 32 V.S.A. chapter 219, notwithstanding 19 V.S.A. § 11(1);

(6) revenues raised from the sales and use tax imposed by 32 V.S.A. chapter 233; ~~and~~

(7) Medicaid reimbursement funds pursuant to subsection 2959a(f) of this title;

(8) land use change tax revenue deposited pursuant to 32 V.S.A. § 3757(d);

(9) uniform capacity tax revenue deposited pursuant to 32 V.S.A. § 8701(b)(3);

(10) wind-powered electric generating facilities tax deposited pursuant to 32 V.S.A. § 5402c; and

(11) revenues from the short-term rental surcharge under 32 V.S.A. § 9301.

* * *

Sec. 7. RESERVE FUND ACCOUNT STANDARDS; DISTRICT QUALITY STANDARDS; RULEMAKING

On or before January 1, 2025, the Agency of Education shall initiate rulemaking pursuant to 3 V.S.A. chapter 25 to update the District Quality Standards rules contained in Agency of Education, District Quality Standards (CVR 23-020), to include recommended reserve fund account standards. Prior to initiating rulemaking, the Agency shall consult with local school officials.

Sec. 8. AGENCY OF EDUCATION; EDUCATION FINANCE DATA ANALYST POSITION

(a) One new permanent classified position, to be an education finance data analyst, is established in the Agency of Education in fiscal year 2025 to receive and analyze education finance data to support the field, Secretary, and General Assembly in their respective roles within the education finance system.

(b) It is the intent of the General Assembly that the position created in subsection (a) of this section shall enable the Agency to provide a wider range

of accessible and transparent data related to school budgets and education spending, including analysis of trends, to school districts, the General Assembly, and the public at large. It is also the intent of the General Assembly that this position shall enable the Agency to provide robust support to legislative committees and maintain education finance data calculators and models used within the education finance system.

(c) To the extent that funds are available, there is appropriated to the Agency of Education $125,000.00 from the General Fund in fiscal year 2025 to fund the education finance data analyst position established in subsection (a) of this section.

* * * Fiscal Year 2026 * * *

Sec. 9. 16 V.S.A. § 563 is amended to read:

§ 563. POWERS OF SCHOOL BOARDS; FORM OF VOTE

The school board of a school district, in addition to other duties and authority specifically assigned by law:

* * *

(11)(A) Shall prepare and distribute annually a proposed budget for the next school year according to such major categories as may from time to time be prescribed by the Secretary.

* * *

(D) The board shall present the budget to the voters by means of a ballot in the following form:

"Article #1 (School Budget):

Shall the voters of the school district approve the school board to expend $ _____, which is the amount the school board has determined to be necessary for the ensuing fiscal year? ~~It is estimated that this proposed budget, if approved, will result in education spending of $_____ per equalized pupil. This projected spending per equalized pupil is _____ % higher/lower than spending for the current year.~~

The _____ District estimates that this proposed budget, if approved, will result in per pupil education spending of $_____, which is _____% higher/lower than per pupil education spending for the current year."

* * *

Sec. 10. REPEAL

2022 Acts and Resolves No. 127, Sec. 8(c) (suspension of ballot language requirement) is repealed.

Sec. 11. 32 V.S.A. § 5414 is added to read:

§ 5414. CREATION; EDUCATION FUND ADVISORY COMMITTEE

(a) Creation. There is created the Education Fund Advisory Committee to monitor Vermont's education financing system, conduct analyses, and perform the duties under subsection (c) of this section.

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

(1) the Commissioner of Taxes or designee;

(2) the Secretary of Education or designee;

(3) the Chair of the State Board of Education or designee;

(4) two members of the public with expertise in education financing, who shall be appointed by the Speaker of the House;

(5) two members of the public with expertise in education financing, who shall be appointed by the Committee on Committees;

(6) one member of the public with expertise in education financing, who shall be appointed by the Governor;

(7) the President of the Vermont Association of School Business Officials or designee;

(8) one representative from the Vermont School Boards Association (VSBA) with expertise in education financing, selected by the Executive Director of VSBA;

(9) one representative from the Vermont Superintendents Association (VSA) with expertise in education financing, selected by the Executive Director of VSA; and

(10) one representative from the Vermont National Education Association (VTNEA) with expertise in education financing, selected by the Executive Director of VTNEA.

(c) Powers and duties.

(1) Annually, on or before December 15, the Committee shall make recommendations to the General Assembly regarding:

(A) updating the weighting factors using the weighting model and methodology used to arrive at the weights enacted under 2022 Acts and Resolves No. 127, which may include recalibration, recalculation, adding or eliminating weights, or any combination of these actions, as necessary;

(B) changes to, or the addition of new or elimination of existing, categorical aid, as necessary;

(C) changes to income levels eligible for a property tax credit under section 6066 of this title;

(D) means to adjust the revenue sources for the Education Fund;

(E) means to improve equity, transparency, and efficiency in education funding statewide;

(F) the amount of the Education Fund stabilization reserve;

(G) school district use of reserve fund accounts; and

(H) any other topic, factor, or issue the Committee deems relevant to its work and recommendations.

(2) The Committee shall review and recommend updated weights, categorical aid, and changes to the excess spending threshold to the General Assembly not less than every three years, which may include a recommendation not to make changes where appropriate. In reviewing and recommending updated weights, the Committee shall use the weighting model and methodology used to arrive at the weights enacted under 2022 Acts and Resolves No. 127.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Department of Taxes and the Agency of Education.

(e) Meetings.

(1) The Commissioner of Taxes shall call the first meeting of the Committee to occur on or before July 15, 2025.

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

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

(f) Compensation and reimbursement. Members of the Committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under section 1010 of this title for up to four meetings per year.

Sec. 12. REPEAL; EDUCATION FUND ADVISORY COMMITTEE

32 V.S.A. § 5414 (Education Fund Advisory Committee) as added by this act is repealed on July 1, 2034.

* * * Common Level of Appraisal; Statewide Adjustments * * *

Sec. 13. STATE OUTREACH; STATEWIDE ADJUSTMENTS

On or before September 1, 2024, the Secretary of Education, in consultation with the Commissioner of Taxes, shall conduct outreach to inform school districts, public education stakeholders, and the general public of the use of statewide adjustments under this act. The outreach shall include an explanation of how statewide adjustments are used to calculate tax rates and how using the statewide adjustment differs from the previous method for calculating tax rates.

Sec. 13a. 32 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

As used in this chapter:

* * *

(13)(A) "Education property tax spending adjustment" means the greater of one or a fraction in which:

(i) the numerator is the district's per pupil education spending plus excess spending for the school year, and

(ii) the denominator is the property dollar equivalent yield for the school year, as defined in subdivision (15) of this section, multiplied by the statewide adjustment.

(B) "Education income tax spending adjustment" means the greater of one or a fraction in which the numerator is the district's per pupil education spending plus excess spending for the school year, and the denominator is the income dollar equivalent yield for the school year, as defined in subdivision (16) of this section.

* * *

(15) "Property dollar equivalent yield" means the amount of per pupil education spending that would result ~~if the~~ in a district having a homestead tax rate ~~were~~ of $1.00 per $100.00 of equalized education property value ~~and the statutory reserves under 16 V.S.A. § 4026 and section 5402b of this title were maintained~~.

(16) "Income dollar equivalent yield" means the amount of per pupil education spending that would result ~~if the~~ in a district having an income

percentage in subdivision 6066(a)(2) of this title ~~were~~ of 2.0 percent ~~and the statutory reserves under 16 V.S.A. § 4026 and section 5402b of this title were maintained~~.

(17) "Statewide adjustment" means the ratio of the aggregate education property tax grand list of all municipalities to the aggregate value of the equalized education property tax grand list of all municipalities.

Sec. 14. 32 V.S.A. § 5402 is amended to read:

§ 5402. EDUCATION PROPERTY TAX LIABILITY

(a) A statewide education tax is imposed on all nonhomestead and homestead property at the following rates:

(1) The tax rate for nonhomestead property shall be $1.59 per $100.00 divided by the statewide adjustment.

(2) The tax rate for homestead property shall be $1.00 multiplied by the education property tax spending adjustment for the municipality per $100.00 of equalized education property value as most recently determined under section 5405 of this title. The homestead property tax rate for each municipality that is a member of a union or unified union school district shall be calculated as required under subsection (e) of this section.

(b) The statewide education tax shall be calculated as follows:

(1) The Commissioner of Taxes shall determine for each municipality the education tax rates under subsection (a) of this section divided by the number resulting from dividing the municipality's most recent common level of appraisal by the statewide adjustment. The legislative body in each municipality shall then bill each property taxpayer at the homestead or nonhomestead rate determined by the Commissioner under this subdivision, multiplied by the education property tax grand list value of the property, properly classified as homestead or nonhomestead property and without regard to any other tax classification of the property. Statewide education property tax bills shall show the tax due and the calculation of the rate determined under subsection (a) of this section, divided by the number resulting from dividing the municipality's most recent common level of appraisal by the statewide adjustment, multiplied by the current grand list value of the property to be taxed. Statewide education property tax bills shall also include language provided by the Commissioner pursuant to subsection 5405(g) of this title.

(2) Taxes assessed under this section shall be assessed and collected in the same manner as taxes assessed under chapter 133 of this title with no tax classification other than as homestead or nonhomestead property; provided, however, that the tax levied under this chapter shall be billed to each taxpayer

by the municipality in a manner that clearly indicates the tax is separate from any other tax assessed and collected under chapter 133, including an itemization of the separate taxes due. The bill may be on a single sheet of paper with the statewide education tax and other taxes presented separately and side by side.

(3) If a district has not voted a budget by June 30, an interim homestead education tax shall be imposed at the base rate determined under subdivision (a)(2) of this section, divided by the number resulting from dividing the municipality's most recent common level of appraisal by the statewide adjustment, but without regard to any spending adjustment under subdivision 5401(13) of this title. Within 30 days after a budget is adopted and the deadline for reconsideration has passed, the Commissioner shall determine the municipality's homestead tax rate as required under subdivision (1) of this subsection.

* * *

Sec. 15. 32 V.S.A. § 5402b is amended to read:

§ 5402b. STATEWIDE EDUCATION TAX YIELDS; RECOMMENDATION OF THE COMMISSIONER

(a) Annually, ~~no~~ not later than December 1, the Commissioner of Taxes, after consultation with the Secretary of Education, the Secretary of Administration, and the Joint Fiscal Office, shall calculate and recommend a property dollar equivalent yield, an income dollar equivalent yield, and a nonhomestead property tax rate for the following fiscal year. In making these calculations, the Commissioner shall assume:

(1) the homestead base tax rate in subdivision 5402(a)(2) of this title is $1.00 per $100.00 of equalized education property value;

(2) the applicable percentage in subdivision 6066(a)(2) of this title is 2.0;

(3) the statutory reserves under 16 V.S.A. § 4026 and this section were maintained at five percent; ~~and~~

(4) the percentage change in the average education tax bill applied to nonhomestead property and the percentage change in the average education tax bill of homestead property and the percentage change in the average education tax bill for taxpayers who claim a credit under subsection 6066(a) of this title are equal;

(5) the equalized education grand list is multiplied by the statewide adjustment in calculating the property dollar equivalent yield; and

(6) the nonhomestead rate is divided by the statewide adjustment.

(b) For each fiscal year, the property dollar equivalent yield and the income dollar equivalent yield shall be the same as in the prior fiscal year, unless set otherwise by the General Assembly.

(c) Annually, on or before December 1, the Joint Fiscal Office shall prepare and publish an official, annotated copy of the Education Fund Outlook. The Emergency Board shall review the Outlook at its meetings. As used in this section, "Education Fund Outlook" means the projected revenues and expenses associated with the Education Fund for the following fiscal year, including projections of different categories of educational expenses and costs.

(d) Along with the recommendations made under this section, the Commissioner shall include the range of per pupil spending between all districts in the State for the previous year.

* * * Act 84 Amendments * * *

Sec. 16. 2024 Acts and Resolves No. 84, Sec. 3(c) is amended to read:

(c) Notwithstanding 16 V.S.A. chapter 133, 32 V.S.A. chapter 135, or any other provision of law to the contrary, a school district shall receive a decrease to its homestead property tax rate in fiscal year 2025 equal to $0.01 for every relative percent decrease calculated under subsection (b) of this section divided by the statewide adjustment, rounded to the nearest whole cent. The tax rate decrease shall phase out in the following manner:

(1) A district shall receive a decrease to its homestead property tax rate in fiscal year 2026 equal to 80 percent of the rate decrease it received under subsection (b) of this section.

(2) A district shall receive a decrease to its homestead property tax rate in fiscal year 2027 equal to 60 percent of the rate decrease it received under subsection (b) of this section.

(3) A district shall receive a decrease to its homestead property tax rate in fiscal year 2028 equal to 40 percent of the rate decrease it received under subsection (b) of this section.

(4) A district shall receive a decrease to its homestead property tax rate in fiscal year 2029 equal to 20 percent of the rate decrease it received under subsection (b) of this section.

Sec. 17. 2024 Acts and Resolves No. 84, Sec. 3(g) is added to read:

(g)(1) In the event that a district with an equalized homestead property tax rate that was decreased by this section merges with another district or districts,

the combined district shall receive the greatest decrease under the section available to any of the merged districts.

(2) In the event that a district withdraws from a district with an equalized homestead property tax rate that was decreased by this section, the withdrawing district shall not receive any decrease under this section and the remaining district shall continue to have the same decrease in its equalized homestead property tax rate. If a district is instead dissolved, there shall be no decreased equalized homestead property tax rate for the resulting districts.

* * * Excess Education Spending * * *

Sec. 18. 32 V.S.A. § 5401(12) is amended to read:

(12) "Excess spending" means:

(A) The ~~per-equalized-pupil~~ per pupil spending amount of the district's education spending, as defined in 16 V.S.A. § 4001(6), plus any amount required to be added from a capital construction reserve fund under 24 V.S.A. § 2804(b).

(B) In excess of ~~121~~ 116 percent of the statewide average district per pupil education spending ~~per equalized pupil~~ increased by inflation, as determined by the Secretary of Education on or before November 15 of each year based on the passed budgets to date. As used in this subdivision, "increased by inflation" means increasing the statewide average district per pupil education spending ~~per equalized pupil~~ for fiscal year ~~2015~~ 2025 by the most recent New England Economic Project cumulative price index, as of November 15, for state and local government purchases of goods and services, from fiscal year ~~2015~~ 2025 through the fiscal year for which the amount is being determined.

Sec. 19. REPEAL

2022 Acts and Resolves No. 127, Sec. 8(a) (suspension of laws) is repealed.

Sec. 20. 16 V.S.A. § 4001(6)(B) is amended to read:

(B) For all bonds approved by voters prior to July 1, 2024, voter-approved bond payments toward principal and interest shall not be included in "education spending" for purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12)~~, "education spending" shall not include:~~

~~(i) Spending during the budget year for:~~

~~(I) approved school capital construction for a project that received preliminary approval under section 3448 of this title, including interest paid on the debt, provided the district shall not be reimbursed or~~

~~otherwise receive State construction aid for the approved school capital construction; or~~

~~(II) spending on eligible school capital project costs pursuant to the State Board of Education's Rule 6134 for a project that received preliminary approval under section 3448 of this title.~~

~~(ii) For a project that received final approval for State construction aid under chapter 123 of this title:~~

~~(I) spending for approved school capital construction during the budget year that represents the district's share of the project, including interest paid on the debt; or~~

~~(II) payment during the budget year of interest on funds borrowed under subdivision 563(21) of this title in anticipation of receiving State aid for the project.~~

~~(iii) Spending that is approved school capital construction spending or deposited into a reserve fund under 24 V.S.A. § 2804 to pay future approved school capital construction costs, including that portion of tuition paid to an independent school designated as the public high school of the school district pursuant to section 827 of this title for capital construction costs by the independent school that has received approval from the State Board of Education, using the processes for preliminary approval of public school construction costs pursuant to subdivision 3448(a)(2) of this title.~~

~~(iv) Spending attributable to the cost of planning the merger of a small school, which for purposes of this subdivision means a school with an average grade size of 20 or fewer students, with one or more other schools.~~

~~(v) Spending attributable to the district's share of special education spending that is not reimbursed as an extraordinary reimbursement under section 2962 of this title for any student in the fiscal year occurring two years prior.~~

~~(vi) A budget deficit in a district that pays tuition to a public school or an approved independent school, or both, for all of its resident students in any year in which the deficit is solely attributable to tuition paid for one or more new students who moved into the district after the budget for the year creating the deficit was passed.~~

~~(vii) For a district that pays tuition for all of its resident students and into which additional students move after the end of the census period defined in subdivision (1)(A) of this section, the number of students that exceeds the district's most recent average daily membership and for whom the~~

~~district will pay tuition in the subsequent year multiplied by the district's average rate of tuition paid in that year.~~

~~(viii) Tuition paid by a district that does not operate a school and pays tuition for all resident students in kindergarten through grade 12, except in a district in which the electorate has authorized payment of an amount higher than the statutory rate pursuant to subsection 823(b) or 824(c) of this title.~~

~~(ix) The assessment paid by the employer of teachers who become members of the State Teachers' Retirement System of Vermont on or after July 1, 2015, pursuant to section 1944d of this title.~~

~~(x) School district costs associated with dual enrollment and early college programs.~~

~~(xi) Costs incurred by a school district or supervisory union when sampling drinking water outlets, implementing lead remediation, or retesting drinking water outlets as required under 18 V.S.A. chapter 24A~~.

* * * Property Tax Credit Claims * * *

Sec. 21. PROPERTY TAX CREDIT; ASSET DECLARATION; REPORT

On or before December 15, 2024, the Commissioner shall recommend administrative and policy improvements for property tax credit claims, including the use of an asset declaration. The report shall be submitted to the House Committee on Ways and Means and the Senate Committee on Finance.

* * * Act 127 Conforming Amendments * * *

Sec. 22. 16 V.S.A. § 4016 is amended to read:

§ 4016. REIMBURSEMENT FOR TRANSPORTATION EXPENDITURES

(a) A school district or supervisory union that incurs allowable transportation expenditures shall receive a transportation reimbursement grant each year. The grant shall be equal to 50 percent of allowable transportation expenditures; provided, however, that in any year the total amount of grants under this subsection shall not exceed the total amount of adjusted base year transportation grant expenditures. The total amount of base year transportation grant expenditures shall be $10,000,000.00 for fiscal year 1997, increased each year thereafter by the annual price index for state and local government purchases of goods and services. If in any year the total amount of the grants under this subsection exceed the adjusted base year transportation grant expenditures, the amount of each grant awarded shall be reduced proportionately. Transportation grants paid under this section shall be paid

from the Education Fund and shall be added to ~~adjusted~~ education spending payment receipts paid under section 4011 of this title.

* * *

(c) A district or supervisory union may apply and the Secretary may pay for extraordinary transportation expenditures incurred due to geographic or other conditions such as the need to transport students out of the school district to attend another school because the district does not maintain a public school. The State Board shall define extraordinary transportation expenditures by rule. The total amount of base year extraordinary transportation grant expenditures shall be $250,000.00 for fiscal year 1997, increased each year thereafter by the annual price index for state and local government purchases of goods and services. Extraordinary transportation expenditures shall not be paid out of the funds appropriated under subsection (b) of this section for other transportation expenditures. Grants paid under this section shall be paid from the Education Fund and shall be added to ~~adjusted~~ education spending payment receipts paid under section 4011 of this title.

Sec. 23. 16 V.S.A. § 4026 is amended to read:

§ 4026. EDUCATION FUND BUDGET STABILIZATION RESERVE; CREATION AND PURPOSE

(a) It is the purpose of this section to reduce the effects of annual variations in State revenues upon the Education Fund budget of the State by reserving certain surpluses in Education Fund revenues that may accrue for the purpose of offsetting deficits.

* * *

(e) The enactment of this chapter and other provisions of the Equal Educational Opportunity Act of which it is a part have been premised upon estimates of balances of revenues to be raised and expenditures to be made under the act for such purposes as ~~adjusted~~ education spending payments, categorical State support grants, provisions for property tax income sensitivity, payments in lieu of taxes, current use value appraisals, tax stabilization agreements, the stabilization reserve established by this section, and for other purposes. If the stabilization reserve established under this section should in any fiscal year be less than 5.0 percent of the prior fiscal year's appropriations from the Education Fund, as defined in subsection (b) of this section, the Joint Fiscal Committee shall review the information provided pursuant to 32 V.S.A. § 5402b and provide the General Assembly its recommendations for change necessary to restore the stabilization reserve to the statutory level provided in subsection (b) of this section.

Sec. 24. 16 V.S.A. § 4028 is amended to read:

§ 4028. FUND PAYMENTS TO SCHOOL DISTRICTS

(a) On or before September 10, December 10, and April 30 of each school year, one-third of the ~~adjusted~~ education spending payment under section 4011 of this title shall become due to school districts, except that districts that have not adopted a budget by 30 days before the date of payment under this subsection shall receive one-quarter of the base education amount and upon adoption of a budget shall receive additional amounts due under this subsection.

* * *

* * * Effective Dates * * *

Sec. 25. EFFECTIVE DATES

(a) This section and the following sections shall take effect on passage:

(1) Sec. 1 (Commission on the Future of Public Education);

(2) Sec. 2 (property tax rates and yields);

(3) Sec. 13 (State outreach; statewide adjustments); and

(4) Sec. 17 (Act 84 application to district mergers, withdrawals, and dissolutions).

(b) Secs. 13a–16 (CLA effect on tax rates and statewide adjustment) and 19 (repeal of excess spending suspension) shall take effect July 1, 2025.

(c) Sec. 9 (16 V.S.A. § 563; powers of school boards; form of vote) shall take effect July 1, 2024, provided, however, that 16 V.S.A. § 563(11)(D) shall not apply to ballots used for fiscal year 2025 budgets.

(d) Sec. 5 (32 V.S.A. chapter 225, subchapter 4) shall take effect August 1, 2024.

(e) All other sections shall take effect on July 1, 2024.

(Committee vote: 5-0-1)

(For House amendments, see House Journal of April 23, 2024, page 1278-1306)

Reported favorably by Senator Baruth for the Committee on Appropriations.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Finance.

(Committee vote: 5-1-1)

House Proposals of Amendment

S. 98.

An act relating to Green Mountain Care Board authority over prescription drug costs.

The House proposes to the Senate to amend the bill as follows:

First: In Sec. 1, Green Mountain Care Board; prescription drug cost regulation program; implementation plan, in subsection (a), by striking out subdivisions (5) and (6) in their entireties and inserting in lieu thereof the following:

(5) the likely return on investment of the most promising program options;

(6) the potential impacts on Vermonters' access to medications; and

(7) the impact of implementing a program to regulate the costs of prescription drugs on other State agencies and on the private sector.

Second: By striking out Sec. 4, effective date, in its entirety and inserting in lieu thereof the following:

Sec. 4. 18 V.S.A. chapter 220 is amended to read:

CHAPTER 220. GREEN MOUNTAIN CARE BOARD

* * *

§ 9374. BOARD MEMBERSHIP; AUTHORITY

* * *

(b)(1) The ~~initial~~ term of each member of the Board, including the Chair, shall be ~~seven years, and the term of the Chair shall be~~ six years ~~thereafter~~.

(2) ~~The term of each member other than the Chair shall be six years, except that of the members first appointed, one each shall serve a term of three years, four years, five years, and six years~~ Any appointment to fill a vacancy shall be for the unexpired portion of the term vacated.

(3) ~~Subject to the nomination and appointment process, a~~ A member may serve more than one term. A member may be reappointed to additional terms subject to the requirements of section 9391 of this title.

* * *

§ 9390. GREEN MOUNTAIN CARE BOARD NOMINATING COMMITTEE CREATED; COMPOSITION

* * *

(f) ~~The Board is authorized to use the staff and services of appropriate State agencies and departments as necessary to conduct investigations of applicants~~ The Committee shall have the administrative, technical, and legal assistance of the Department of Human Resources.

§ 9391. NOMINATION AND APPOINTMENT PROCESS

(a) ~~Whenever~~ Candidate selection process.

(1) Unless a vacancy is filled by reappointment by the Governor pursuant to subsection (c) of this section, not later than 90 days prior to a known vacancy ~~occurs~~ occurring on the Green Mountain Care Board~~, or when an incumbent does not declare that he or she will be a candidate to succeed himself or herself~~, the Green Mountain Care Board Nominating Committee shall commence its nomination application process. The Committee shall select for consideration ~~by the Committee~~, by majority vote~~,~~ and provided that a quorum is present, from the applications for membership on the Green Mountain Care Board as many candidates as it deems qualified for the position or positions to be filled. The Committee shall base its determinations on the qualifications set forth in section 9392 of this ~~section~~ title.

(2) A Board member who is resigning from the Board prior to the expiration of the member's term shall notify the Committee Chair, the Governor, and the Department of Human Resources of the member's anticipated resignation date. Once notified, the Committee Chair shall commence the nomination application process as soon as is practicable in light of the anticipated resignation date.

(b) Nomination list. The Committee shall submit to the Governor the names of the ~~persons~~ individuals it deems qualified to be appointed to fill the position or positions and the name of any incumbent member who was not reappointed pursuant to subsection (c) of this section and who ~~declares~~ notifies the Committee Chair, the Governor, and the Department of Human Resources that ~~he or she~~ the incumbent wishes to be ~~a candidate to succeed himself or herself~~ nominated. An incumbent shall not be required to submit an application for nomination and appointment to the Committee under subsection (a) of this section, but the Committee may request that the incumbent update relevant information as necessary.

(c) Reappointment; notification.

(1) Not later than 120 days prior to the end of a Board member's term, the member shall notify the Governor that the member either is seeking to be

reappointed by the Governor for another term or that the member does not wish to be reappointed.

(2) If a Board member who is seeking reappointment is not reappointed by the Governor on or before 30 days after notifying the Governor, the member's term shall end on the expiration date of the member's current term, unless the member is nominated as provided in subsection (b) of this section and subsequently appointed, or as otherwise provided by law.

(3) A Board member's reappointment shall be subject to the consent of the Senate.

(d) ~~The~~ Appointment; Senate consent. Unless the Governor reappointed a Board member pursuant to subsection (c) of this section, the Governor shall make an appointment to the Green Mountain Care Board from the list of qualified candidates submitted pursuant to subsection (b) of this section not later than 45 days after receipt of the candidate list. The appointment shall be subject to the consent of the Senate. The names of candidates submitted and not selected shall remain confidential.

~~(d)~~(e) Confidentiality. All proceedings of the Committee, including the names of candidates considered by the Committee and information about any candidate submitted by any source, shall be confidential.

Sec. 5. EFFECTIVE DATES

(a) Sec. 4 (18 V.S.A. chapter 220; Green Mountain Care Board nomination and appointment process) and this section shall take effect on passage. Notwithstanding any provision of 18 V.S.A. chapter 220, as amended by this act, to the contrary, the Green Mountain Care Board Nominating Committee, in consultation with the Green Mountain Care Board, the Department of Human Resources, and the Governor, may establish alternative timing requirements for applications, appointments, and reappointments to the Board for Board vacancies anticipated to occur or otherwise occurring on or before December 31, 2024 if the timelines established in 18 V.S.A. chapter 220, as amended by this act, would be impractical or impossible to meet.

(b) The remaining sections shall take effect on July 1, 2024.

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

An act relating to Green Mountain Care Board authority over prescription drug costs and the Green Mountain Care Board nomination and appointment process

S. 213.

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

The House proposes to the Senate to amend the bill as follows:

First: In Sec. 3, Department of Environmental Conservation; River Corridor Base Map; infill mapping; education and outreach, in subsection (a), after "On or before January 1, 2026, the Department of Environmental Conservation" and before "shall amend" by inserting ", in consultation with the Agency of Commerce and Community Development and the regional planning commissions,"

Second: By adding a new section to be Sec. 6a to read as follows:

Sec. 6a. 24 V.S.A. § 2291(25) is amended to read:

(25) To regulate by means of an ordinance or bylaw development in a flood hazard area~~, river corridor protection area,~~ or other hazard area consistent with the requirements of section 4424 of this title and the National Flood Insurance Program. Such an ordinance or bylaw may regulate accessory dwelling units in flood hazard ~~and fluvial erosion~~ areas. However, such an ordinance or bylaw shall not require the filing of an application or the issuance of a permit or other approval by the municipality for a planting project considered to have a permit by operation of subsection 4424(c) of this title.

Third: By adding two new sections to be Secs. 8a and 8b to read as follows:

Sec. 8a. 24 V.S.A. § 4413(a)(2) is amended to read:

(2) Except for State-owned and -operated institutions and facilities, a municipality may regulate each of the land uses listed in subdivision (1) of this subsection for compliance with the National Flood Insurance Program and for compliance with a municipal ordinance or bylaw regulating development in a flood hazard area ~~or river corridor~~, consistent with the requirements of subdivision 2291(25) and section 4424 of this title. These regulations shall not have the effect of interfering with the intended functional use.

Sec. 8b. 24 V.S.A. § 4414(1)(G) is amended to read:

(G) ~~River corridors and buffers~~ Buffers. In accordance with section 4424 of this title, a municipality may adopt bylaws to protect ~~river corridors and~~ buffers, as ~~those terms are~~ that term is defined in 10 V.S.A. §§ 1422 ~~and 1427~~, in order to protect public safety; prevent and control water pollution; prevent and control stormwater runoff; preserve and protect wetlands and waterways; maintain and protect natural channel, streambank, and floodplain

stability; minimize ~~fluvial erosion and~~ damage to property and transportation infrastructure; preserve and protect the habitat of terrestrial and aquatic wildlife; promote open space and aesthetics; and achieve other municipal, regional, or State conservation and development objectives for ~~river corridors and~~ buffers. ~~River corridor and buffer~~ Buffer bylaws may regulate the design and location of development; control the location of buildings; require the provision and maintenance or reestablishment of vegetation, including no net loss of vegetation; require screening of development or use from waters; reserve existing public access to public waters; and impose other requirements authorized by this chapter.

Fourth: In Sec. 15, 10 V.S.A. §§ 918 and 919, in section 918, in subdivision (c)(1), by striking out the last sentence in its entirety.

Fifth: By adding a new section to be Sec. 15a to read as follows:

Sec. 15a. WETLANDS RULEMAKING; ALLOWED USES

As part of the next amendments to the Vermont Wetlands Rules as required under Sec. 15 of this act or otherwise proposed, the Commissioner of Environmental Conservation shall review whether to authorize the following activities as allowed uses within a wetland:

(1) relocation of utility lines and poles adjacent to roadsides; and

(2) temporary access to wetlands, river, and flood restoration projects that are currently allowed uses under the Rules, provided that the Commissioner shall allow temporary access to wetlands as an allowed use for wetlands, river, and flood restoration projects conducted or initiated prior to January 1, 2025.

Sixth: By adding a new section to be Sec. 15b to read as follows:

Sec. 15b. 10 V.S.A. § 1266a is amended to read:

§ 1266a. DISCHARGES OF PHOSPHORUS

(a) No person directly discharging into the drainage basins of Lake Champlain or Lake Memphremagog shall discharge any waste that contains a phosphorus concentration in excess of 0.80 milligrams per liter on a monthly average basis~~.~~ with the following exceptions:

(1) ~~Discharges~~ discharges of less than 200,000 gallons per day, permitted on or before July 1, 1991~~, shall not be subject to the requirements of this subsection.~~;

(2) ~~Discharges~~ discharges from a municipally owned aerated lagoon type secondary sewage treatment plant in the Lake Memphremagog drainage

basin, permitted on or before July 1, 1991 ~~shall not be subject to the requirements of this subsection~~ unless the plant is modified to use a technology other than aerated lagoons; and

(3) discharges of less than 35,000 gallons per day from a municipally owned secondary sewage treatment plant using recirculating sand filters in the Lake Champlain drainage basin, permitted on or before July 1, 2001 unless the plant is modified to use a technology other than recirculating sand filters.

(b) Notwithstanding any provision of subsection (a) of this section to the contrary, the Secretary shall establish effluent phosphorus wasteload allocations or concentration limits within any drainage basin in Vermont, as needed to achieve wasteload allocations in a total maximum daily load document approved by the U.S. Environmental Protection Agency, or as needed to attain compliance with water quality standards adopted by the Secretary pursuant to chapter 47 of this title.

(c) [Repealed.]

Seventh: In Sec. 24, transition; dams, by adding a new subsection to be subsection (f) to read as follows:

(f) On or before January 15, 2025, the Agency of Natural Resources shall complete its analysis of the capital and ongoing operations and maintenance costs of the Green River Dam, as authorized in 2022 Acts and Resolves No. 83, Sec. 46, and shall submit the results of the analysis to the House Committees on Environment and Energy and on Appropriations and the Senate Committees on Natural Resources and Energy and on Appropriations.

Eighth: By striking out Sec. 28 (floodplain management; use value appraisal), and its reader assistance and by inserting a new Sec. 28 and its reader assistance to read as follows:

* * * Report on Waiver of Permit Fees * * *

Sec. 28. REPORT ON WAIVER OF PERMIT FEES

(a)(1) The Secretary of Natural Resources shall produce a report on whether and how to establish criteria for waiving, reducing, or mitigating Agency of Natural Resources' permit fees for persons of low income or other criteria.

(2) The Chair of the Natural Resources Board shall produce a report on whether and how to establish criteria for waiving, reducing, or mitigating Act 250 permit fees for persons of low income or other criteria.

(b) The reports required under subsection (a) of this section shall include:

(1) a recommendation of whether the State should establish criteria or a methodology for waiving, reducing, or mitigating permit fees for persons of low income or other criteria; and

(2) if a report recommends waiver, reduction, or mitigation under subdivision (1) of this section, what the criteria for waiver, reduction, or mitigation should be and whether the fees should be reduced or entirely waived.

(c) On or before December 15, 2024, the Secretary of Natural Resources and the Chair of the Natural Resources Board shall submit to the House Committees on Ways and Means and on Environment and Energy and the Senate Committees on Finance and on Natural Resources and Energy the reports required under subsection (a) of this section.

Ninth: By striking out Sec. 29, effective dates, and its reader assistance heading in their entireties and inserting in lieu thereof a new Sec. 29 and reader assistance heading to read as follows:

* * * 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) Secs. 6a, 7, 8, 8a, and 9 (conforming amendments to municipal river corridor planning) shall take effect on January 1, 2028, except that in Sec. 9, 24 V.S.A. § 4424(a)(2)(B)(i) (municipal compliance with the State Flood Hazard Area Standards) shall take effect on January 1, 2026;

(2) in Sec. 18, 10 V.S.A. § 1106 (Dam Safety Revolving Loan Fund) shall take effect on passage;

(3) under Sec. 25 (basin planning), the requirement shall be effective for updated tactical basin plans that commence on or after January 1, 2025; and

(4) in Sec. 26 (expanded polystyrene foam requirements), 10 V.S.A. § 1324 (ANR rulemaking) shall take effect on passage.

S. 301.

An act relating to miscellaneous agricultural subjects.

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:

* * * Agricultural Water Quality * * *

Sec. 1. 6 V.S.A. § 4831 is amended to read:

§ 4831. VERMONT SEEDING AND FILTER STRIP PROGRAM

(a) The Secretary of Agriculture, Food and Markets is authorized to develop a Vermont Critical Source Area Seeding and Filter Strip Program in addition to the federal Conservation Reserve Enhancement Program in order to compensate farmers for establishing and maintaining harvestable perennial vegetative grassed waterways and filter strips on agricultural cropland perpendicular and adjacent to the surface waters of the State, including ditches. Eligible acreage ~~would include~~ includes annually tilled cropland or a portion of cropland currently cropped as hay ~~that will not be rotated into an annual crop for a 10-year period of time~~. Acreage that is currently managed as hay shall have a prior history of rotation as corn or other annual commodity crop.

(b) Incentive payments from the Agency of Agriculture, Food and Markets shall be made at the outset of a ~~10-year~~ grant agreement to establish or maintain the acreage as harvestable grassed waterway or filter strip.

(c) The Secretary of Agriculture, Food and Markets may establish by procedure financial and technical criteria for the implementation and operation of the Vermont Critical Source Area Seeding and Filter Strip Program.

(d) Land enrolled in the Vermont agricultural buffer program shall be considered to be in "active use" as that term is defined in 32 V.S.A. § 3752(15).

* * * Agricultural Warehouses * * *

Sec. 2. 6 V.S.A. chapter 67 is amended to read:

CHAPTER 67. PUBLIC WAREHOUSES THAT STORE FARM PRODUCTS

§ 891. LICENSE

Excepting frozen food locker plants, any person, as defined in 9A V.S.A. §§ 1-201 and 7-102, who stores ~~milk, cream, butter, cheese, eggs, meat, poultry, and fruit~~ eggs, as that term is defined in chapter 27 of this title, or produce, as that term is defined in section 851 of this title, for hire in quantities of 1,000 pounds or more ~~of any commodity~~ shall first be licensed by the Secretary of Agriculture, Food and Markets. Each separate place of business shall be licensed.

§ 892. REQUIREMENTS

Before licensing ~~such places~~ a place of business under this chapter, the Secretary of Agriculture, Food and Markets shall ~~satisfy himself or herself~~ be satisfied as to the condition of the building, sanitation, refrigeration, and the general safety of the stored goods under the rules and requirements that ~~he or she~~ the Secretary may deem proper.

§ 893. APPLICATION FORMS; FEE

The Secretary of Agriculture, Food and Markets shall furnish necessary application forms. The annual license date shall be ~~April 1~~ January 1. The annual license fee shall be $125.00.

Sec. 3. 6 V.S.A. § 2672(5) is amended to read:

(5) "Milk handler" or "handler" is a person, firm, unincorporated association, or corporation engaged in the business of buying, selling, assembling, packaging, storing, or processing milk or other dairy products for sale within the State of Vermont or outside the State. "Milk handler" or "handler" does not mean a milk producer.

Sec. 4. 6 V.S.A. § 2721 is amended to read:

§ 2721. HANDLERS' LICENSES

(a) The Secretary may classify and issue licenses to milk handlers to carry on dairy product handling businesses, including the purchase, distribution, storage, or sale of milk or milk products, processing or manufacturing of milk or milk products, including the pasteurization of frozen dessert mixes, transport of milk and milk products, bargaining and collecting for the sale of milk and milk products, and dealing in or brokering milk or milk products.

(b) A milk handler shall not transact business in the State unless the milk handler secures and holds a handler's license from the Secretary. The license shall terminate September 1 each year and shall be procured by August 15 of each year. The Secretary shall furnish all forms for applications, licenses, and bonds. At the time the application is delivered to the Secretary, the milk handler shall pay a license application fee of $50.00 for an initial application and a license fee based on the following table. For a renewal application, only the fee in the table applies. Out-of-state firms shall use the company's highest total pounds of milk or dairy products bought, sold, packaged, assembled, transported, stored, or processed per production day.

Pounds of milk or dairy products bought, sold, packaged, assembled, transported, stored, or processed per production day:	License handling fee

500 pounds or less	$ 60.00
Over 500 but less than 10,000 pounds	$ 200.00
10,000 to 50,000 pounds	$ 350.00
Over 50,000 but less than 100,000 pounds	$ 750.00
100,000 to 500,000 pounds	$1,000.00
Over 500,000 pounds	$1,500.00
Processor fee per pasteurizer	$ 75.00

(c) Notwithstanding subsection (b) of this section, the license handling fees only for the transportation of bulk milk shall be capped at $750.00 per year, and the license handling fees for milk producers who exclusively transport their own bulk milk shall be capped at $25.00 per year.

Sec. 5. 6 V.S.A. § 3302(36) is amended to read:

(36) "Public ~~warehouseman~~ warehouse operator" means any person who acts as a temporary custodian of meat, meat food product, or poultry product stored in that person's warehouse for a fee.

Sec. 6. 6 V.S.A. § 3306 is amended to read:

§ 3306. LICENSING

(a) No person shall engage in intrastate commerce in the business of buying, selling, preparing, processing, packing, storing, transporting, or otherwise handling meat, meat food products, or poultry products, unless that person holds a valid license issued under this chapter. Categories of licensure shall include commercial slaughterers; custom slaughterers; commercial processors; custom processors; wholesale distributors; retail vendors; meat and poultry product brokers; renderers; public warehouse operators; animal food manufacturers; handlers of dead, dying, disabled, or diseased animals; and any other category that the Secretary may by rule establish.

* * *

(d) The annual fee for a license for a retail vendor is $15.00 for vendors without meat processing operations, $50.00 for vendors with meat processing space of less than 300 square feet or meat display space of less than 20 linear feet, and $100.00 for vendors with 300 or more square feet of meat processing space or 20 or more linear feet of meat display space. Fees collected under this section shall be deposited in a special fund managed pursuant to 32 V.S.A. chapter 7, subchapter 5 and shall be available to the Agency to offset the cost of administering chapter 204 of this title. For all other plants, establishments,

and related businesses listed under subsection (a) of this section, ~~except for a public warehouse licensed under chapter 67 of this title,~~ the annual license fee shall be $150.00.

* * *

* * * Livestock Dealers * * *

Sec. 7. 6 V.S.A. § 761 is amended to read:

§ 761. DEFINITIONS

As used in this chapter:

(1) "Camelids" has the same meaning as in section 1151 of this title.

(2) "Domestic deer" has the same meaning as in section 1151 of this title.

(3) "Equines" has the same meaning as in section 1151 of this title.

(4) "Livestock" means cattle, ~~horses~~ equines, sheep, swine, goats, camelids, ~~fallow deer, red deer, reindeer, and~~ domestic deer, American bison, and any other domestic animal that the Secretary deems livestock for the purposes of this chapter.

~~(2)~~(5) "Livestock dealer" means a person who, on the person's own account or for commission, goes from place to place buying, selling, or transporting livestock either directly or through online or other remote transaction, or who operates a livestock auction or sales ring, provided that "livestock dealer" shall not mean:

(A) a federal agency, including any department, division, or authority within the agency;

(B) a nonprofit association approved by the Secretary; or

(C) a person who engages in "farming," as that term is defined in 10 V.S.A. § 6001(22), and who raises, feeds, or manages livestock as part of a farming operation when that person is buying, selling, or transporting livestock for the person's farm.

~~(3)~~(6) "Packer" means a ~~livestock dealer~~ person who is solely involved in the purchase of livestock for purpose of slaughter at ~~his or her~~ the person's own slaughter facility.

~~(4)~~(7) "Person" means any individual, partnership, unincorporated association, or corporation.

~~(5)~~(8) "Transporter" means a ~~livestock dealer who limits his or her activity to transporting~~ person who transports livestock for remuneration and

who does not buy or sell livestock. A transporter ~~cannot buy or sell livestock and~~ is not required to be bonded.

Sec. 8. 6 V.S.A. § 762(a) is amended to read:

(a) A person shall not carry on the business of a livestock dealer, packer, or transporter without first obtaining a license from the Secretary of Agriculture, Food and Markets. Before the issuance of ~~a~~ each applicable license, a person shall file an application on Agency-provided forms with the Secretary ~~an application for a license on forms provided by the Agency~~. Each application shall be accompanied by a fee of $175.00 for livestock dealers and packers and $100.00 for livestock transporters.

* * * Contagious Diseases and Animal Movement * * *

Sec. 9. 6 V.S.A. § 1151 is amended to read:

§ 1151. DEFINITIONS

As used in this part:

(1) "Accredited veterinarian" means a veterinarian approved by the U.S. Department of Agriculture and the State Veterinarian to perform functions specified by cooperative state-federal disease control programs.

(2) "Animal" or "domestic animal" means cattle, sheep, goats, equines, domestic deer, American bison, swine, poultry, ~~pheasant, Chukar partridge, Coturnix quail,~~ psittacine birds, domestic ferrets, camelids, ratites (ostriches, rheas, and emus), ~~and~~ water buffalo, and any other animals that the Secretary deems a domestic animal for the purposes of this chapter. ~~The term shall include cultured fish propagated by commercial fish farms.~~ Before determining that an unlisted species is a "domestic animal," the Secretary shall consult with the Secretary of Natural Resources.

* * *

(7) ~~"Deer"~~ "Domestic deer" means any member of the family cervidae except for white-tailed deer and moose.

(8) "Domestic fowl" or "poultry" means all domesticated birds of all ages that ~~may be used~~ are edible as human food, or that produce eggs that ~~may be used~~ are edible as human food, excluding ~~those birds protected~~ wildlife as defined by 10 V.S.A. ~~part 4~~ § 4001.

(9) ~~"Equine animal" means~~ "Equines" mean any member of the family equidae, including horses, ponies, mules, asses, and zebras.

(10) ~~"Fallow deer" means domesticated deer of the genus Dama, species dama.~~

~~(11) "Red deer" means domesticated deer of the family cervidae, subfamily cervidae, genus Cervus, species elaphus.~~

~~(12)~~ "Reactor" means an animal that tests positive to any official test required under this chapter.

~~(13)~~(11) "Reportable disease" means any disease included in the National List of Reportable Animal Diseases and any disease required by the Secretary by rule to be reportable.

~~(14)~~(12) "Secretary" means the Secretary of Agriculture, Food and Markets or designee.

Sec. 10. 6 V.S.A. § 1153 is amended to read:

§ 1153. RULES

(a) The Secretary shall adopt rules necessary for the discovery, control, and eradication of contagious diseases and for the slaughter, disposal, quarantine, vaccination, and transportation of animals found to be diseased or exposed to a contagious disease. The Secretary may also adopt rules requiring the disinfection and sanitation of real estate, buildings, vehicles, containers, and equipment that have been associated with diseased livestock.

(b) The Secretary shall adopt rules establishing fencing and transportation requirements for domestic deer.

(c) The Secretary shall adopt rules necessary for the inventory, registration, tracking, and testing of domestic deer.

Sec. 11. 6 V.S.A. § 1165 is amended to read:

§ 1165. TESTING OF CAPTIVE DEER

(a) Definitions. As used in this section:

(1) "Captive deer operation" means a place where domestic deer are privately or publicly maintained, in an artificial manner, or held for economic or other purposes within a perimeter fence or confined space.

(2) "Chronic wasting disease" or "CWD" means a transmissible spongiform encephalopathy.

(b) Testing. A person operating a captive deer operation under the jurisdiction of the Secretary of Agriculture, Food and Markets shall inform the Secretary when a captive deer in ~~his or her~~ the person's control dies or is sent to slaughter. The person operating the captive deer operation shall make the carcass of a deceased or slaughtered animal available to the Secretary for testing for CWD.

(c) Cost. The cost of CWD testing required under this section shall be assessed to the person operating the captive deer operation from which the tested captive deer originated.

* * * Pesticides; Mosquito Control; Rodenticides * * *

Sec. 12. 6 V.S.A. § 1083 is amended to read:

§ 1083. DUTIES OF SECRETARY OF AGRICULTURE, FOOD AND MARKETS; AUTHORITY OF LANDOWNERS TO USE MOSQUITO CONTROLS

(a) The Secretary of Agriculture, Food and Markets ~~shall~~ may personally or through the Secretary's duly authorized agents:

(1) Survey swamps or other sections within the State suspected of being mosquito or other biting arthropod breeding areas.

(2) Map each section so surveyed, indicate all mosquito or other biting arthropod breeding places and determine methods best adapted for mosquito or other biting arthropod abatement in the areas by drainage, ~~oiling~~ habitat modification, or other means.

(3) Investigate the mosquito or other biting arthropod life history and habits and determine the species present within the areas, and make any other studies ~~he or she~~ the Secretary deems necessary to provide useful information in mosquito or other biting arthropod abatement.

(4) Make the results of the Secretary's surveys, investigations, and studies available to the Department of Health~~,~~ or relevant selectboard members, or mayors ~~of towns or cities, as the case may be, in which work was done;~~ and shall do so also upon request, shall make those results available to any organizations~~, public or private~~, or individuals interested in mosquito or other biting arthropod ~~control~~ surveillance work.

(5) Issue or deny permits to any person for the use of larvicides or pupacides for mosquito control in the waters of the State pursuant to procedures adopted under 3 V.S.A. chapter 25. Such procedures shall include provisions regarding an opportunity for public review and comment on permit applications. Persons applying for a permit shall apply on a form provided by the Agency. ~~The Secretary shall seek the advice of the Agricultural Innovation Board when designating acceptable control products and methods for their use and when adopting or amending procedures for implementing this subsection.~~ Before issuing a permit under this subsection, the Secretary shall find, after consultation with the Secretary of the Agency of Natural Resources, that there is acceptable risk to the nontarget environment and that there is negligible risk to public health.

(6) Notwithstanding the provisions of subdivision (5) of this subsection, when the Commissioner of Health has determined that available information suggests that an imminent risk to public health exists as a result of a potential outbreak of West Nile Virus or other serious illness for which mosquitoes are vectors, the Secretary of Agriculture, Food and Markets may issue permits for the use of larvicides or pupacides for mosquito control without prior public notice or comment.

(b) Notwithstanding any provisions of law to the contrary, a landowner may use ~~biological larvicides or pupacides on his or her own land~~ a properly registered mosquito control pesticide for mosquito control on the landowner's land without obtaining a permit, provided that the ~~biological larvicide or pupacide is designated~~ Secretary designates it as an acceptable control product for this purpose ~~by the Secretary~~ and the landowner complies with all requirements on the label of the product.

Sec. 13. 6 V.S.A. § 1084 is amended to read:

§ 1084. ~~ENGINEERS OR TECHNICIANS~~ EMPLOYEES; EQUIPMENT; ENTRY ON LANDS

The Secretary may employ one or more trained ~~mosquito control engineers or technicians~~ persons to carry out provisions of section 1083 of this title and procure such equipment as is necessary. The Secretary ~~and his or her~~ or duly authorized agents of the Secretary may enter upon any lands in the State making the aforementioned surveys, investigations, and studies.

Sec. 14. 6 V.S.A. § 1085 is amended to read:

§ 1085. MOSQUITO CONTROL GRANT PROGRAM

(a) A Mosquito Control District formed pursuant to 24 V.S.A. chapter 121 may apply, in a manner prescribed by the Secretary, in writing to the Secretary of Agriculture, Food and Markets for a State assistance grant for mosquito control activities.

(b) After submission of an application under subsection (a) of this section, the Secretary of Agriculture, Food and Markets may award a grant of 75 percent or less of the project costs for the purchase and application of larvicide and the costs associated with required larval survey activities within a Mosquito Control District. The Mosquito Control District may provide 25 percent of the project costs through in-kind larvicide services or the purchase of capital equipment used for larval management activities. At the Secretary's discretion, costs associated with capital equipment that may be required for larval ~~control~~ management programs within a Mosquito Control

District may be eligible for grant awards up to 75 percent of the total equipment costs.

* * *

(e) Larvicide application funded in part under this section shall occur only after the Secretary of Agriculture, Food and Markets approves treatment as warranted within a Mosquito Control District. The approval of the Secretary shall be based upon a biological assessment of mosquito larvae and pupae populations by a ~~technician~~ person trained and approved by the Agency of Agriculture, Food and Markets.

* * *

Sec. 15. 6 V.S.A. § 911 is amended to read:

§ 911. DEFINITIONS

As used in this chapter:

* * *

(4) "Secretary" means the Secretary of Agriculture, Food and Markets.

(5) "Economic poison" means:

(A) any substance produced, distributed, or used for preventing, destroying, or repelling any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living humans or other animals, that the Secretary shall declare to be a pest; or

(B) any substance produced, distributed, or used as a plant regulator, defoliant, or desiccant.

* * *

(18) "Rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animal that the Secretary shall declare to be a pest.

* * *

(29) "Second-generation anticoagulant rodenticide" means any rodenticide containing any one of the following active ingredients: brodifacoum, bromadiolone, difenacoum, or difethialone.

Sec. 16. 6 V.S.A. § 918(g) is added to read:

(g) The Secretary shall register as a restricted use pesticide any second-generation anticoagulant rodenticide that is distributed, sold, sold into, or offered for sale within the State or delivered for transportation or transported

in intrastate commerce or between points within this State through any point outside this State.

* * * Vermont Agricultural Credit Program * * *

Sec. 17. 10 V.S.A. § 374a is amended to read:

§ 374a. CREATION OF THE VERMONT AGRICULTURAL CREDIT PROGRAM

(a) There is created the Vermont Agricultural Credit Program, which will provide an alternative source of sound and constructive credit to farmers and forest products businesses who are not having their credit needs fully met by conventional agricultural credit sources at reasonable rates and terms; or, in the alternative, the granting of the loan shall serve as a substantial inducement for the establishment or expansion of an eligible project within the State. The Program is intended to meet, either in whole or in part, the credit needs of eligible agricultural facilities and farm operations in fulfillment of one or more of the purposes listed in this subsection by making direct loans and participating in loans made by other agricultural credit providers:

(1) to encourage diversification, cooperative farming, and the development of innovative ~~farming~~ techniques for farming and forest products businesses;

* * *

Sec. 18. 10 V.S.A. § 374b is amended to read:

§ 374b. DEFINITIONS

As used in this chapter:

(1) "Agricultural facility" means land and rights in land, buildings, structures, machinery, and equipment that is used for, or will be used for producing, processing, preparing, packaging, storing, distributing, marketing, or transporting agricultural or forest products that have been ~~primarily~~ at least partially produced in this State, and working capital reasonably required to operate an agricultural facility.

* * *

(4) "Farm ownership loan" means a loan to acquire or enlarge a farm or agricultural facility, to make capital improvements including construction, purchase, and improvement of farm and agricultural facility buildings, farm worker housing, or farmer housing that can be made fixtures to the real estate, to promote soil and water conservation and protection or provide housing, and

to refinance indebtedness incurred for farm ownership or operating loan purposes, or both.

* * *

(8) "Farm operation" ~~shall mean~~ means the cultivation of land or other uses of land for the production of food, fiber, horticultural, silvicultural, orchard, maple syrup, Christmas trees, forest products, or forest crops; the raising, boarding, and training of equines, and the raising of livestock; or any combination of the foregoing activities. "Farm operation" also means the storage, preparation, retail sale, and transportation of agricultural or forest commodities accessory to the cultivation or use of such land. "Farm operation" also ~~shall mean~~ means the operation of an agritourism business on a farm subject to regulation under the Required Agricultural Practices. "Farm operation" also means a business that provides specialty services to farmers, such as foresters, farriers, hoof trimmers, or large animal veterinarians operating or proposing to operate mobile units.

(9) "Forest products business" means ~~a Vermont~~ an enterprise that is ~~primarily~~ engaged in managing, harvesting, trucking, processing, manufacturing, crafting, or distributing forest products at least partially derived from Vermont forests.

* * *

(15) ~~"Resident" means a person who is or will be domiciled in this State as evidenced by an intent to maintain a principal dwelling place in the State indefinitely and to return there if temporarily absent, coupled with an act or acts consistent with that intent, including the filing of a Vermont income tax return within 18 months of the application for a loan under this chapter. In the case of a limited liability company, partnership, corporation, or other business entity, resident means a business entity formed under the laws of Vermont, the majority of which is owned and operated by Vermont residents who are natural persons.~~ [Repealed.]

Sec. 19. 10 V.S.A. § 374h is amended to read:

§ 374h. LOAN ELIGIBILITY STANDARDS

A farmer, forest products business, or a limited liability company, partnership, corporation, or other business entity ~~the majority~~ with a minimum 20 percent ownership of which is vested in one or more farmers, forest products businesses, or a nonprofit corporation, shall be eligible to apply for a farm ownership or operating loan that shall be intended to expand the agricultural economy or forest economy of the State, provided the applicant is:

(1) ~~a resident of this State and will help to expand the agricultural economy of the State;~~

~~(2)~~ an owner, prospective purchaser, or lessee of agricultural land in the State or of depreciable machinery, equipment, or livestock to be used in the State;

~~(3)~~(2) a person of sufficient education, training, or experience in the operation and management of an agricultural facility or farm operation or forest products business of the type for which the applicant requests the loan;

~~(4)~~(3) an operator or proposed operator of an agricultural facility, farm operation, or forest products business for whom the loan reduces investment costs to an extent that offers the applicant a reasonable chance to succeed in the operation and management of an agricultural facility or farm operation;

~~(5)~~(4) a creditworthy person under such standards as the corporation may establish;

~~(6)~~(5) able to provide and maintain adequate security for the loan by a mortgage on real property or a security agreement and perfected financing statement on personal property;

~~(7)~~(6) able to demonstrate that the applicant is responsible and able to manage responsibilities as owner or operator of the farm operation, agricultural facility, or forest products business;

~~(8)~~(7) able to demonstrate that the applicant has made adequate provision for insurance protection of the mortgaged or secured property while the loan is outstanding;

~~(9)~~(8) a person who possesses the legal capacity to incur loan obligations;

~~(10)~~(9) in compliance with such other reasonable eligibility standards as the corporation may establish;

~~(11)~~(10) able to demonstrate that the project plans comply with all regulations of the municipality where it is to be located and of the State of Vermont;

~~(12)~~(11) able to demonstrate that the making of the loan will be of public use and benefit;

~~(13)~~(12) able to demonstrate that the proposed loan will be adequately secured by a mortgage on real property or by a security agreement on personal property; and

~~(14)~~(13) there will be sufficient projected cash flow to service a reasonable level of debt, including the loan or loans, being considered by the corporation.

* * * Sale of Dogs and Cats by Pet Shops * * *

Sec. 20. 20 V.S.A. chapter 194, subchapter 4 is added to read:

Subchapter 4. Prohibiting Sale by Pet Shop

§ 3931. SALE OF DOGS, CATS, AND WOLF-HYBRIDS BY PET SHOP; PROHIBITED

(a) Except as provided in subsection (b) of this section, a pet shop shall not offer a dog, cat, or wolf-hybrid for sale.

(b) The prohibition under subsection (a) of this section shall not apply to a pet shop that lawfully offered animals for sale prior to July 1, 2024, provided that the pet shop complies with all of the following:

(1) the pet shop maintains a valid license under section 3906 of this title;

(2) the pet shop remains in the same ownership as existed on July 1, 2024; and

(3) the pet shop keeps for sale or offers for sale in any calendar year no greater a number of dogs, cats, or wolf-hybrids than it kept for sale or offered for sale in calendar year 2023.

(c) In order to qualify for the exception under subsection (b) of this section, a pet shop shall provide to the Secretary of Agriculture, Food and Markets, in a form and manner prescribed by the Department, documentation of the ownership of the pet shop on July 1, 2024 as well as the number of animals offered for sale in 2023 and annually thereafter.

(d) Notwithstanding the prohibition on the sale of dogs, cats, and wolf hybrids under subsection (a) of this section, a pet shop may provide space to an animal shelter or a rescue organization offering dogs, cats, or wolf-hybrids to the public for adoption for an adoption fee, provided that the pet shop:

(1) does not have any ownership interest in the dogs, cats, or wolf-hybrids offered for adoption; and

(2) does not receive any fee for providing space or for the adoption of any of the dogs, cats, or wolf-hybrids.

(e) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than $1,000.00 and shall be subject to the suspension

or revocation of the person's pet shop license. Each instance of a person offering an animal for sale in violation of this section constitutes a separate violation.

* * * Effective Date * * *

Sec. 21. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

Proposal of amendment to House proposal of amendment to S. 301 to be offered by Senators Collamore, Campion, Starr, Westman and Wrenner

Senators Collamore, Campion, Starr, Westman and Wrenner move that the Senate concur in the House proposal of amendment with further proposal of amendment by striking out Sec. 21, effective date, and its reader assistance heading in their entireties and inserting in lieu thereof two new sections to be Secs. 21 and 22 and their reader assistance headings to read as follows:

* * * Sale of Bear Parts * * *

Sec. 21. 10 V.S.A. § 4783 is amended to read:

§ 4783. PURCHASE AND SALE OF BIG GAME

(a) A person shall not buy or sell big game or the meat of big game within the State except during the open season and for 20 days thereafter, provided that a person shall not sell the paws or internal organs of a black bear separate from the animal as a whole unless authorized under subsection (b) as a taxidermy product.

(b) Notwithstanding subsection (a) of this section, a person may buy or sell at any time:

(1) the head, hide, and hoofs of deer or moose legally taken; or

(2) the head~~,~~ or hide~~, paws, and internal organs~~ of a black bear, legally taken, provided that taxidermy products that include the paws shall not be prohibited.

(c) Neither anadromous Atlantic salmon taken in the Connecticut River Basin nor wild turkey shall be bought or sold at any time. The meat of big game animals shall not be bought or sold for the purpose of being transported out of the State.

* * * Effective Date * * *

Sec. 22. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

ORDERED TO LIE

S. 94.

An act relating to the City of Barre tax increment financing district.

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore,* for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

Julie Hulburd of Colchester - Member, Cannabis Control Board - Sen. Vyhovsky for the Committee on Government Operations. (4/10/2024)

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 #3199: $1,000,000.00 from the U.S. Department of Energy through Vermont Energy Efficiency Coop to the Vermont Military Department. Funds will be used for facility upgrades in the Westminster and Berlin Armories to help study the effects of thermal energy storage on heating and cooling loads in electrified facilities.

The grant requires a 20% state match of $250,000.00 which will be funded through an appropriation of existing capital funds.

[Received April 18, 2024]

JFO #3200: $1,105,839.00 to the Department of Public Safety, VT Emergency Management from the Federal Emergency Management Agency. Funds for the repair and replacement of facilities affected during the severe storm and flooding event in Addison County from August 3-5, 2023.

[Received April 29, 2024]

JFO #3201: $1,594,420.00 to the Vermont Public Service Department from the U.S. Department of Energy. The funds are for the creation of the Municipal Energy Resilience Revolving Fund (MERF) designated by the Vermont Legislature in Act 172 of 2022 to support state and local energy efficiency projects.

[Received April 29, 2024]

JFO #3202: $3,296,092.00 to the Vermont Agency of Human Services, Department of Children and Families from the Federal Emergency Management Agency. Funds to provide services for families impacted by the July 2023 flood event.

[Received April 29, 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).