

House Calendar

Tuesday, February 27, 2024

56th DAY OF THE ADJOURNED SESSION

House Convenes at 10:00 A.M.

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ACTION CALENDAR

Favorable with Amendment

H. 780

An act relating to judicial nominations and appointments

Rep. Rachelson of Burlington, for the Committee on Judiciary, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 4 V.S.A. § 601 is amended to read:

§ 601. JUDICIAL NOMINATING BOARD CREATED; COMPOSITION

(a) The Judicial Nominating Board is created for the nomination of Supreme Court Justices, Superior judges, magistrates, and the Chair and members of the Public Utility Commission.

(b)(1) The Board shall consist of ~~11~~ 12 members who shall be selected as follows:

~~(1)~~(A) The Governor shall appoint two members who are not attorneys at law.

~~(2)~~(B) The Senate shall elect three of its members, not all of whom shall be members of the same party, and only one of whom may be an attorney at law.

~~(3)~~(C) The House shall elect three of its members, not all of whom shall be members of the same party, and only one of whom may be an attorney at law.

~~(4)~~(D) Attorneys at law admitted to practice before the Supreme Court of Vermont, and residing in the State, shall elect three of their number as members of the Board. The Supreme Court shall regulate the manner of their nomination and election.

(E) The Executive Director of Racial Equity, or designee.

~~(5)~~(2) The members of the Board shall serve for terms of two years. All appointments or elections shall be between January 1 and February 1 of each odd-numbered year, except to fill a vacancy. A House vacancy that occurs when the General Assembly is adjourned shall be filled by the Speaker of the House and a Senate vacancy that occurs when the General Assembly is adjourned shall be filled by the Senate Committee on Committees. Members

shall serve until their successors are elected or appointed. Members shall serve no not more than three consecutive terms in any capacity.

~~(6)~~(3) The members shall elect their own chair, who will serve for a term of two years.

* * *

Sec. 2. 4 V.S.A. § 602 is amended to read:

§ 602. DUTIES; JUSTICES, JUDGES, MAGISTRATES, AND THE CHAIR
OF THE PUBLIC UTILITY COMMISSION

(a)(1) Prior to submitting to the Governor the names of candidates for Justices of the Supreme Court, Superior Court judges, magistrates, and the Chair of the Public Utility Commission, the Judicial Nominating Board shall submit to the Court Administrator a list of all candidates, and ~~he or she~~ the Court Administrator shall disclose to the Board information solely about professional disciplinary action taken or pending concerning any candidate.

(2) From the list of candidates, the Judicial Nominating Board shall select by majority vote, provided that a quorum is present, well-qualified candidates for the position to be filled.

(b)(1) Whenever a vacancy occurs in the office of a Supreme Court Justice, a Superior Court judge, magistrate, or Chair of the Public Utility Commission, or when an incumbent does not declare that ~~he or she~~ the incumbent will be a candidate to succeed ~~himself or herself~~ themselves, the Board shall submit to the Governor the names of as many persons as it deems well qualified to be appointed to the office.

(2)(A) A person may nominate another person to fill a vacancy in the office of a Supreme Court Justice, a Superior Court judge, magistrate, or Chair of the Public Utility Commission by submitting a form developed by the Court Administrator pursuant to subdivision (B) of this subdivision (2).

(B) The Court Administrator shall make available on the Judiciary website a form that permits a person to nominate another person to fill a vacancy in the office of a Supreme Court Justice, a Superior Court judge, magistrate, or Chair of the Public Utility Commission. If a person is nominated pursuant to this subdivision (2), the Court Administrator shall provide the person nominated with information about the application process.

(c)(1) A candidate for judge or Justice shall be a Vermont resident and an experienced lawyer who has practiced law ~~in Vermont~~ for a minimum of ~~ten~~ 10 years, with at least ~~five~~ three years in Vermont immediately preceding ~~his or her~~ the candidate's application to the Board. The Board may make

exceptions to the ~~five-year~~ requirement for ~~absences from practice~~ that the candidate's three years of practice in Vermont be contiguous and immediately preceding the candidate's application for reasons including family, military, academic, or medical leave.

(2) A candidate for magistrate shall be a Vermont resident and an experienced lawyer who has practiced law ~~in Vermont~~ for at least five years, with at least three years in Vermont immediately preceding his or her the candidate's application to the Board. The Board may make exceptions to the requirement that the candidate's three years of practice in Vermont be contiguous and immediately preceding the candidate's application for reasons including family, military, academic, or medical leave.

(3) A candidate for Chair of the Public Utility Commission shall not be required to be an attorney; however, if the candidate is admitted to practice law in Vermont, the Judicial Nominating Board shall submit the candidate's name to the Court Administrator, and ~~he or she~~ the Court Administrator shall disclose to the Board information solely about professional disciplinary action taken or pending concerning the candidate. If a candidate is not admitted to practice law in Vermont, but practices a profession requiring licensure, certification, or other professional regulation by the State, the Judicial Nominating Board shall submit the candidate's name to the State professional regulatory entity and that entity shall disclose to the Board any professional disciplinary action taken or pending concerning the candidate.

(d) A candidate shall possess the following attributes:

(1) Integrity. A candidate shall possess a record and reputation for excellent character and integrity.

(2) Legal knowledge and ability. A candidate shall possess a high degree of knowledge of established legal principles and procedures and have demonstrated a high degree of ability to interpret and apply the law to specific factual situations.

(3) Judicial temperament. A candidate shall possess an appropriate judicial temperament.

(4) Impartiality. A candidate shall exhibit an ability to make judicial determinations in a manner free of bias.

(5) Communication capability. A candidate shall possess demonstrated oral and written capacities, with reasonable accommodations, required by the position.

(6) Financial integrity. A candidate shall possess demonstrated financial probity.

(7) Work ethic. A candidate shall demonstrate diligence.

(8) Administrative capabilities. A candidate shall demonstrate management and organizational skills or experience required by the position.

(9) Courtroom experience. For Superior Court, a candidate shall have sufficient trial or other comparable experience that ensures knowledge of the Vermont Rules of Evidence and courtroom procedure. For the Environmental Division of the Superior Court, a candidate shall have experience in environmental and zoning law.

(10) Other. A candidate shall possess other attributes the Board deems relevant as identified through its rules.

(e) The Board shall consider the candidate's ties to the Vermont legal community and the candidate's familiarity with the Vermont legal system.

(f) The Board shall consider the extent to which a candidate would contribute to a Judicial branch that has diverse backgrounds and a broad range of lived experience.

Sec. 3. 4 V.S.A. § 603 is amended to read:

§ 603. APPOINTMENT OF JUSTICES, JUDGES, MAGISTRATES,
PUBLIC UTILITY COMMISSION CHAIR, AND MEMBERS

(a) Whenever the Governor appoints a Supreme Court Justice, a Superior Judge, a magistrate, the Chair of the Public Utility Commission, or a member of the Public Utility Commission, ~~he or she~~ the Governor shall select from the list of names of ~~qualified~~ well-qualified persons submitted by the Judicial Nominating Board pursuant to law. The names of candidates submitted and not selected shall remain confidential.

(b) Upon request from the Governor, the Judicial Nominating Board shall reopen the search and provide the Governor with an additional list of persons it deems well qualified to be appointed to the office. A request from the Governor for additional names pursuant to this subsection shall not be made more than once.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee Vote: 10-1-0)

Rep. Squirrell of Underhill, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Judiciary.

(Committee Vote: 12-0-0)

H. 847

An act relating to peer support provider and recovery support specialist certification

(Rep. Berbeco of Winooski will speak for the Committee on Health Care.)

Rep. Andrews of Westford, for the Committee on Ways and Means, recommends the bill ought to pass when amended as follows:

First: By striking out Sec. 3, 3 V.S.A. § 125, in its entirety and inserting in lieu thereof a new Sec. 3 and Sec. 3a to read as follows:

Sec. 3. 3 V.S.A. § 125 is amended to read:

§ 125. FEES

* * *

(b) Unless otherwise provided by law, the following fees shall apply to all professions regulated by the Director in consultation with advisor appointees under Title 26:

* * *

(2) Application for licensure or certification, \$115.00, except application for:

* * *

(Q) Peer support providers or recovery support specialists, \$50.00.

* * *

(4) Biennial renewal, \$275.00, except biennial renewal for:

* * *

(V) Peer support provider or recovery support specialist, \$50.00.

* * *

Sec. 3a. 3 V.S.A. § 125 is amended to read:

§ 125. FEES

* * *

(b) Unless otherwise provided by law, the following fees shall apply to all professions regulated by the Director in consultation with advisor appointees under Title 26:

* * *

(2) Application for licensure or certification, \$115.00, except application for:

* * *

(Q) Peer support providers or recovery support specialists, ~~\$50.00~~ \$75.00.

* * *

Second: By striking out Sec. 6, effective dates, in its entirety and inserting in lieu thereof a new Sec. 6 to read as follows:

Sec. 6. EFFECTIVE DATES

This act shall take effect on July 1, 2025, except:

(1) this section and Sec. 5 (rulemaking; peer support providers and recovery support specialists) shall take effect on passage; and

(2) Sec. 3a (fees) shall take effect on July 1, 2027.

(Committee Vote: 12-0-0)

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

(Committee Vote: 12-0-0)

Action Postponed Until February 28, 2024

Favorable with Amendment

H. 629

An act relating to changes to property tax abatement and tax sales

Rep. Demrow of Corinth, for the Committee on Ways and Means, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Municipal Tax Abatement * * *

Sec. 1. 24 V.S.A. § 1535 is amended to read:

§ 1535. ABATEMENT

(a) The board may abate in whole or part taxes, water charges, sewer charges, interest, or collection fees, or any combination of those, other than those arising out of a corrected classification of homestead or nonhomestead property, accruing to the town in the following cases:

- (1) taxes or charges of persons who have died insolvent;
- (2) taxes or charges of persons who have moved from the State;
- (3) taxes or charges of persons who are unable to pay their taxes or charges, interest, and collection fees;
- (4) taxes in which there is manifest error or a mistake of the listers;
- (5) taxes or charges upon real or personal property lost or destroyed during the tax year;
- (6) the exemption amount available under 32 V.S.A. § 3802(11) to persons otherwise eligible for exemption who file a claim on or after May 1 but before October 1 due to the claimant's sickness or disability or other good cause as determined by the board of abatement; but that exemption amount shall be reduced by 20 percent of the total exemption for each month or portion of a month the claim is late filed;
- (7) [Repealed.]
- (8) [Repealed.]
- (9) taxes or charges upon a mobile home moved from the town during the tax year as a result of a change in use of the mobile home park land or parts thereof or closure of the mobile home park in which the mobile home was sited, pursuant to 10 V.S.A. § 6237; or
- (10) de minimis amounts of taxes for purposes of reconciling municipal accounts according to generally accepted accounting practices.

(b) The board's abatement of an amount of tax or charge shall automatically abate any uncollected interest and fees relating to that amount.

(c) The board shall, in any case in which it abates taxes or charges, interest, or collection fees accruing to the town or denies an application for abatement, state in detail in writing the reasons for its decision. The written decision shall provide sufficient explanation to indicate to the parties what was considered and what was decided. The decision shall address the arguments raised by the applicant.

(d)(1) The board may order that any abatement as to an amount or amounts already paid be in the form of a refund or in the form of a credit against the tax or charge for the next ensuing tax year or charge billing cycle and for succeeding tax years or billing cycles if required to use up the amount of the credit.

(2) Whenever a municipality votes to collect interest on overdue taxes pursuant to 32 V.S.A. § 5136, interest in a like amount shall be paid by the municipality to any person for whom an abatement has been ordered.

(3) Interest on taxes or charges paid and subsequently abated shall accrue from the date payment was due or made, whichever is later. However, abatements issued pursuant to subdivision (a)(5) of this section need not include the payment of interest.

(4) When a refund has been ordered, the board shall draw an order on the town treasurer for payment of the refund.

(e)(1) The board may hear a group of similar requests for abatement as a class, provided that:

(A) the requests shall arise from the same cause or event;

(B) the requests relate to the bases for abatement in subdivision (a)(4), (5), or (9) of this section;

(C) the board shall group requests based on property classification;

(D) the board shall provide notice to each taxpayer of the taxpayer's status as a member of the class; and

(E) a taxpayer shall have the right to decline the taxpayer's status as a member of the class and pursue the taxpayer's request as a separate action before the board.

(2) The board shall provide notice to each taxpayer at minimum 21 days before the scheduled hearing for the class. The notice shall include a description of the class and the board's reasons for grouping the requests, an explanation of the taxpayer's status as a member of the class, the procedure for appealing a board decision, the taxpayer's right to decline class membership and pursue a separate action, and any deadlines that the taxpayer must meet in order to participate as a member of the class or pursue a separate action.

(3) A taxpayer shall notify the board of the taxpayer's intent to pursue a separate action, pursuant to subdivision (1)(E) of this subsection, a minimum of seven days before the board's hearing to consider a class request.

(4) A board may preserve and take notice of any evidence supporting the basis for abatement for a class and use that evidence for purposes of a later, separate action pursued by an individual taxpayer.

(5) In instances where a board abates in part taxes, charges, interest, or collection fees for a class, the board shall not render a decision that results in disproportionate rates of abatement for taxpayers within the class.

(f) A municipality shall provide clear notice to a taxpayer of the ability to request tax abatement, and how to request abatement, at the same time as a municipality attempts to collect a municipal fee or interest for delinquent taxes, water charges, sewer charges, or tax collection.

Sec. 2. 24 V.S.A. § 5144 is amended to read:

§ 5144. UNIFORM NOTICE FORM

The notice form required under section 5143 of this chapter, and defined in section 5142 of this chapter, shall be clearly printed on a pink colored sheet of paper; and shall be according to the following form:

* * *

ABATEMENT AND POSSIBLE REDUCTION IN CHARGES—You may be able to receive a reduction of charges, penalties, or interest through municipal abatement. To seek this reduction in charges from the Board of Abatement, contact the municipal clerk by mail or phone:

(Name of Clerk of Board of Abatement)

(Name of Town, City, or Village)

(Address of Office)

(Mailing Address)

or by calling:

(Telephone Number)

* * * Property Tax Credit * * *

Sec. 3. 32 V.S.A. § 6065 is amended to read:

§ 6065. FORMS; TABLES; NOTICES

(a) In administering this chapter, the Commissioner shall provide suitable claim forms with tables of allowable claims, instructions, and worksheets for claiming a homestead property tax credit.

(b) Prior to June 1, the Commissioner shall also prepare and supply to each town in the State notices describing the homestead property tax credit, for inclusion in property tax bills. The notice shall be in simple, plain language and shall explain how to file for a property tax credit, where to find assistance filing for a credit, and any other related information as determined by the Commissioner. The notice shall direct taxpayers to a resource where they can find versions of the notice translated into the five most common non-English languages in the State. A town shall include such notice in each tax bill and notice of delinquent taxes that it mails to taxpayers who own in that town a

residential property that could be a homestead as defined in subdivision 5401(7) of this title, without regard for whether the property was declared a homestead.

(c) Notwithstanding the provisions of subsection (b) of this section, towns that use envelopes or mailers not able to accommodate notices describing the homestead tax credit may distribute such notices in an alternative manner.

* * * Tax Sale of Real Property * * *

Sec. 4. 32 V.S.A. § 5252 is amended to read:

§ 5252. LEVY AND NOTICE OF SALE; SECURING PROPERTY

(a) When the collector of taxes of a town or of a municipality within it has for collection a tax assessed against real estate in the town and the taxpayer is delinquent for a period longer than one year, the collector may extend a warrant on such land. However, no warrant shall be extended until a delinquent taxpayer is given an opportunity to enter a written reasonable repayment plan pursuant to subsection (c) of this section. If a collector receives notice from a mobile home park owner pursuant to 10 V.S.A. § 6248(b), the collector shall, within 15 days after the notice, commence tax sale proceedings to hold a tax sale within 60 days after the notice. If the collector fails to initiate such proceedings, the town may initiate tax sale proceedings only after complying with 10 V.S.A. § 6249(f). If the tax collector extends the warrant, the collector shall:

(1) File in the office of the town clerk for record a true and attested copy of the warrant and so much of the tax bill committed to the collector for collection as relates to the tax against the delinquent taxpayer, a sufficient description of the land so levied upon, and a statement in writing that by virtue of the original tax warrant and tax bill committed to the collector for collection, the collector has levied upon the described land.

(2) Advertise forthwith such land for sale at public auction in the town where it lies three weeks successively in a newspaper circulating in the vicinity, the last publication to be at least 10 days before such sale.

(3) Give the delinquent taxpayer written notice by certified mail requiring a return receipt directed to the last known address of the delinquent of the date and place of such sale at least ~~10~~ 30 days prior thereto if the delinquent is a resident of the town and ~~20~~ 30 days prior thereto if the delinquent is a nonresident of the town. If the notice by certified mail is returned unclaimed, notice shall be provided to the taxpayer by resending the notice by first-class mail or by personal service pursuant to Rule 4 of the Vermont Rules of Civil Procedure, except that if the last known address of the

delinquent taxpayer is in Vermont, the collector shall resend the notice by first-class mail and make one attempt at personal service pursuant to Rule 4 of the Vermont Rules of Civil Procedure. If the last known address of the delinquent taxpayer is in Vermont, and an attempt at personal service fails, the collector shall affix the notice to the exterior door of the property subject to tax sale.

(4) Give to the mortgagee or lien holder of record written notice of such sale at least ~~10~~ 30 days prior thereto if a resident of the town and, if a nonresident, ~~20~~ 30 days' notice to the mortgagee or lien holder of record or ~~his or her~~ the mortgagee's or lien holder's agent or attorney by certified mail requiring a return receipt directed to the last known address of such person. If the notice by certified mail is returned unclaimed, notice shall be provided by resending the notice by first-class mail or by personal service pursuant to Rule 4 of the Vermont Rules of Civil Procedure.

(5) Post a notice of such sale in some public place in the town.

(6) Enclose the following statement, with directions to a resource translating the notice into the five most common non-English languages used in this State, with the notices required under subdivisions (3) and (4) of this subsection and with every delinquent tax notice:

Warning: There are unpaid property taxes at (address of property), which you may own, have a legal interest, or may be contiguous to your property. The property will be sold at public auction on (date set for sale) unless the overdue taxes, fees, and interest in the amount of (dollar amount due) is paid. To make payment or receive further information, contact (name of tax collector) immediately at (office address), (mailing address), (e-mail address), or (telephone number).

(7) The resource for translation of the notice required under subdivision (6) of this subsection shall be made available to all municipalities by the Vermont Department of Taxes.

(b) If the warrant and levy for delinquent taxes has been recorded pursuant to subsection (a) of this section, the municipality in which the real estate lies may secure the property against illegal activity and potential fire hazards after giving the mortgagee or lien holder of record written notice at least 10 days prior to such action.

(c)(1) A municipality shall not initiate a tax sale proceeding until it has offered a delinquent taxpayer a written reasonable repayment plan and the taxpayer has either denied the offer, failed to respond within 30 days, or has failed to make a payment under the plan within the time frame established by

the collector. When establishing a plan under this subsection, the municipality shall consider the following:

(A) the income and income schedule of the taxpayer, if offered by the taxpayer;

(B) the taxpayer’s tax payment history with the municipality;

(C) the amount of tax debt owed to the municipality;

(D) the amount of time tax has been delinquent; and

(E) the taxpayer’s reason for the delinquency.

(2) A collector is only required to offer one payment plan per delinquency, without regard for whether it is agreed to by the delinquent taxpayer.

(3) A collector may void a payment plan and proceed to tax sale if a delinquent taxpayer agrees to a payment plan under this subsection and fails to make a timely payment.

Sec. 5. 32 V.S.A. § 5253 is amended to read:

§ 5253. FORM OF ADVERTISEMENT AND NOTICE OF SALE

The form of advertisement and notice of sale provided for in section 5252 of this title shall be substantially in the following form:

The resident and nonresident owners, lien holders, and mortgagees of lands in the town of _____ in the county of _____ are hereby notified that the taxes assessed by such town for the years _____ (insert years the taxes are unpaid) _____ remain, either in whole or in part, unpaid on the following described _____ lands in such town, to wit,

(insert description of lands)

and so much of such lands will be sold at public auction at _____ a public place in such town, on the _____ day of _____ (month), _____ (year) at _____ o’clock _____ (am/pm), as shall be requisite to discharge such taxes with costs and fees, unless previously paid.

Be advised that the owner or mortgagee, or the owner’s or mortgagee’s representatives or assigns, of lands sold for taxes shall have a right to redemption for a period of one year from the date of sale pursuant to 32 V.S.A. § 5260.

Dated at _____, Vermont, this _____ day of _____ (month), _____ (year).

Collector of Town Taxes

Sec. 6. 32 V.S.A. § 5260 is amended to read:

§ 5260. REDEMPTION

(a) When the owner or mortgagee of lands sold for taxes, ~~his or her~~ the owner's or mortgagee's representatives or assigns, within one year from the day of sale, pays or tenders to the collector who made the sale or in the case of ~~his or her~~ the collector's death or removal from the town where the land lies, to the town clerk of such town, the sum for which the land was sold with interest thereon calculated at a rate of ~~one~~ 0.5 percent per month ~~or fraction thereof~~ from the day of sale to the day of payment, a deed of the land shall not be made to the purchaser, but the money paid or tendered by the owner or mortgagee or ~~his or her~~ the owner's or mortgagee's representatives or assigns to the collector or town clerk shall be paid over to such purchaser on demand. In the event that a municipality purchases contaminated land pursuant to section 5259 of this title, the cost to redeem shall include all costs expended for assessment and remediation, including expenses incurred or authorized by any local, State, or federal government authority.

(b) During the redemption period, the tax collector shall:

(1) Serve the delinquent taxpayer with the written notice required under subsection (c) of this section between 90 and 120 days prior to the end of the redemption period using certified mail requiring a return receipt, directed to the last known address of the delinquent taxpayer. If the notice by certified mail is returned unclaimed, notice shall be provided by resending the notice by first-class mail or by personal service pursuant to Rule 4 of the Vermont Rules of Civil Procedure.

(2) Post the notice in some public place in the municipality between 90 and 120 days prior to the end of redemption period.

(c) The tax collector shall enclose the following statement, with directions to a resource translating the notice into the five most common non-English languages used in this State, with every notice required under this section:

Warning: There are unpaid property taxes at (address of property), which you may own, have a legal interest in, or may be contiguous to your property. The property was sold at public auction on (date). Unless the overdue taxes, fees, and interest are paid by (last day of redemption period), the deed to the

property will transfer to purchaser. To redeem the property and avoid losing your legal interest, you must pay (dollar amount due for redemption). The amount you must pay to redeem the property increases every month due to interest, mailing costs, and other costs. To make payment or receive further information, contact (name of tax collector) immediately at (office address), (mailing address), (e-mail address), and (telephone number).

(d) The resource for translation of the notice required under subsection (c) of this section shall be made available to all municipalities by the Vermont Department of Taxes.

Sec. 7. WORKING GROUP ON VERMONT'S ABATEMENT AND TAX SALE PROCESSES

(a) Creation. There is created the Working Group on Vermont's Abatement and Tax Sale Processes to assess how Vermont may balance fairness for delinquent taxpayers with the needs of municipalities.

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

(1) a representative, appointed by Vermont Legal Aid;

(2) a representative, appointed by the Vermont League of Cities and Towns;

(3) a representative, appointed by the Vermont Banker's Association;

(4) a representative, appointed by the Vermont Housing Finance Agency;

(5) a representative, appointed by the Vermont Municipal Clerk's and Treasurer's Association;

(6) a representative, appointed by the Neighborworks Alliance of Vermont;

(7) a representative, appointed by the Champlain Valley Office of Economic Opportunity Mobile Home Project; and

(8) a representative, appointed by the Vermont Assessors and Listers Association.

(c) Powers and duties. The Working Group shall offer recommendations relating to the following:

(1) establishing a process so that delinquent taxpayers whose properties are transferred via tax collector's deed, or a tax-lien foreclosure sale, can fairly

recoup equity in their property in excess of the tax debt, fees, and interest for which their property is sold;

(2) standardizing and ensuring fairness in the abatement process across Vermont municipalities;

(3) requiring a minimum amount of tax debt before a tax sale can be initiated;

(4) allowing a tax sale to be initiated for blighted or dilapidated real estate that has been abandoned when taxes are delinquent for less than one year; and

(5) whether a 0.5 percent rate of monthly interest paid by delinquent taxpayers for purchasers during the redemption period causes a reduction in municipalities' ability to receive bids on properties at tax sales.

(d) Report. On or before December 15, 2024, the Working Group shall submit a written report to the House Committee on Ways and Means with its findings and any recommendations for legislative action, including proposed legislative language.

(e) Meetings.

(1) The representative appointed by Vermont Legal Aid shall call the first meeting of the Working Group to occur on or before August 1, 2024.

(2) The Working Group shall elect a chair from among its members at the first meeting.

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

(4) The Working Group shall cease to exist on June 30, 2025.

Sec. 8. APPLICATION OF CHANGES MADE BY THIS ACT

(a) The amendments to 32 V.S.A. § 5252 made by Sec. 4 of this act (notice of sale) shall not apply to a property that was subject to a notice of sale prior to effective date of this act.

(b) The amendments to 32 V.S.A. § 5260 made by Sec. 6 of this act (redemption) shall not apply to a property that has been sold at tax sale prior to the effective date of this act, except that, notwithstanding any provision of 1 V.S.A. § 214 to the contrary, the provisions of 32 V.S.A. § 5260(b) and (c) shall apply if, on the effective date of this act, 90 days or more remain until the end of the redemption period.

* * * Effective Date * * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 9-3-0)

Amendment to be offered by Rep. Demrow of Corinth to H. 629

That the report of the Committee on Ways and Means be amended in Sec. 7, Working Group on Vermont's Abatement and Tax Sale Processes, in subsection (d), following "the House Committee on Ways and Means," by inserting "and the Senate Committee on Finance"

NOTICE CALENDAR

Favorable with Amendment

H. 279

An act relating to the Uniform Trust Decanting Act

Rep. Andriano of Orwell, for the Committee on Judiciary, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 14A V.S.A. chapter 14 is added to read:

CHAPTER 14. UNIFORM TRUST DECANTING ACT

§ 1401. SHORT TITLE

This chapter may be cited as the Uniform Trust Decanting Act.

§ 1402. DEFINITIONS

As used in this chapter:

(1) "Appointive property" means the property or property interest subject to a power of appointment.

(2) "Ascertained standard" has the same meaning as in subdivision 103(2) of this title.

(3) "Authorized fiduciary" means:

(A) a trustee or other fiduciary, other than a settlor, that has discretion to distribute or direct a trustee to distribute part or all of the principal of the first trust to one or more current beneficiaries;

(B) a special fiduciary appointed under section 1409 of this title; or

(C) a special-needs fiduciary under section 1413 of this title.

(4) “Beneficiary” has the same meaning as in subdivision 103(3) of this title.

(5) “Charitable interest” means an interest in a trust that:

(A) is held by an identified charitable organization and makes the organization a qualified beneficiary;

(B) benefits only charitable organizations and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary; or

(C) is held solely for charitable purposes and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary.

(6) “Charitable organization” means:

(A) a person, other than an individual, organized and operated exclusively for charitable purposes; or

(B) a government or governmental subdivision, agency, or instrumentality, to the extent it holds funds exclusively for a charitable purpose.

(7) “Charitable purpose” means the relief of poverty, the advancement of education or religion, the promotion of health, a municipal or other governmental purpose, or another purpose the achievement of which is beneficial to the community.

(8) “Court” means the court in this State having jurisdiction in matters relating to trusts.

(9) “Current beneficiary” means a beneficiary that on the date the beneficiary’s qualification is determined is a distributee or permissible distributee of trust income or principal. The term includes the holder of a presently exercisable general power of appointment but does not include a person that is a beneficiary only because the person holds any other power of appointment.

(10) “Decanting power” or “the decanting power” means the power of an authorized fiduciary under this chapter to distribute property of a first trust to one or more second trusts or to modify the terms of the first trust.

(11) “Expanded distributive discretion” means a discretionary power of distribution that is not limited to an ascertainable standard or a reasonably definite standard.

(12) “First trust” means a trust over which an authorized fiduciary may exercise the decanting power.

(13) “First-trust instrument” means the trust instrument for a first trust.

(14) “General power of appointment” means a power of appointment exercisable in favor of a powerholder, the powerholder’s estate, a creditor of the powerholder, or a creditor of the powerholder’s estate.

(15) “Jurisdiction,” with respect to a geographic area, includes a state or country.

(16) “Person” has the same meaning as in section 103 of this title.

(17) “Power of appointment” means a power that enables a powerholder acting in a nonfiduciary capacity to designate a recipient of an ownership interest in or another power of appointment over the appointive property. The term does not include a power of attorney.

(18) “Powerholder” means a person in which a donor creates a power of appointment.

(19) “Presently exercisable power of appointment” means a power of appointment exercisable by the powerholder at the relevant time. The term:

(A) includes a power of appointment exercisable only after the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified time only after:

- (i) the occurrence of the specified event;
- (ii) the satisfaction of the ascertainable standard; or
- (iii) the passage of the specified time; and

(B) does not include a power exercisable only at the powerholder’s death.

(20) “Qualified beneficiary” has the same meaning as in section 103 of this title.

(21) “Reasonably definite standard” means a clearly measurable standard under which a holder of a power of distribution is legally accountable within the meaning of 26 U.S.C. § 674(b)(5)(A) and any applicable regulations.

(22) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(23) “Second trust” means:

(A) a first trust after modification under this chapter; or

(B) a trust to which a distribution of property from a first trust is or may be made under this chapter.

(24) “Second-trust instrument” means the trust instrument for a second trust.

(25) “Settlor” has the same meaning as in section 103 of this title.

(26) “Sign” means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(27) “State” has the same meaning as in subdivision 103(17) of this title.

(28) “Terms of the trust” has the same meaning as in subdivision 103(18) of this title.

(29) “Trust instrument” has the same meaning as in subdivision 103(19) of this title.

§ 1403. SCOPE

(a) Except as otherwise provided in subsections (b) and (c) of this section, this chapter applies to an express trust that is irrevocable or revocable by the settlor only with the consent of the trustee or a person holding an adverse interest.

(b) This chapter does not apply to a trust held solely for charitable purposes.

(c) Subject to section 1415 of this title, a trust instrument may restrict or prohibit exercise of the decanting power.

(d) This chapter does not limit the power of a trustee, powerholder, or other person to distribute or appoint property in further trust or to modify a trust under the trust instrument, law of this State other than this chapter, common law, a court order, or a nonjudicial settlement agreement.

(e) This chapter does not affect the ability of a settlor to provide in a trust instrument for the distribution of the trust property or appointment in further trust of the trust property or for modification of the trust instrument.

§ 1404. FIDUCIARY DUTY

(a) In exercising the decanting power, an authorized fiduciary shall act in accordance with its fiduciary duties, including the duty to act in accordance with the purposes of the first trust.

(b) This chapter does not create or imply a duty to exercise the decanting power or to inform beneficiaries about the applicability of this chapter.

(c) Except as otherwise provided in a first-trust instrument, for purposes of this chapter and section 801 and subsection 802(a) of this title, the terms of the first trust are deemed to include the decanting power.

§ 1405. APPLICATION; GOVERNING LAW

This chapter applies to a trust created before, on, or after the effective date of this act that:

(1) has its principal place of administration in this State, including a trust whose principal place of administration has been changed to this State; or

(2) provides by its trust instrument that it is governed by the law of this State or is governed by the law of this State for the purpose of:

(A) administration, including administration of a trust whose governing law for purposes of administration has been changed to the law of this State;

(B) construction of terms of the trust; or

(C) determining the meaning or effect of terms of the trust.

§ 1406. REASONABLE RELIANCE

A trustee or other person who reasonably relies on the validity of a distribution of part or all of the property of a trust to another trust, or a modification of a trust, under this chapter, law of this State other than this chapter, or the law of another jurisdiction is not liable to any person for any action or failure to act as a result of the reliance.

§ 1407. NOTICE; EXERCISE OF DECANTING POWER

(a) In this section, a notice period begins on the day notice is given under subsection (c) of this section and ends 59 days after the day notice is given.

(b) Except as otherwise provided in this chapter, an authorized fiduciary may exercise the decanting power without the consent of any person and without court approval.

(c) Except as otherwise provided in subsection (f) of this section, an authorized fiduciary shall give notice in a record of the intended exercise of the decanting power not later than 60 days before the exercise to:

- (1) each settlor of the first trust, if living or then in existence;
- (2) each qualified beneficiary of the first trust;
- (3) each holder of a presently exercisable power of appointment over any part or all of the first trust;
- (4) each person who currently has the right to remove or replace the authorized fiduciary;
- (5) each other fiduciary of the first trust;
- (6) each fiduciary of the second trust;
- (7) the Attorney General, if subsection 1414(b) of this title applies; and
- (8) each person acting as a trust director, as defined in section 1302 of this title, of the first trust.

(d) An authorized fiduciary is not required to give notice under subsection (c) of this section to a person that is not known to the fiduciary or is known to the fiduciary but cannot be located by the fiduciary after reasonable diligence.

(e) A notice under subsection (c) of this section shall:

- (1) specify the manner in which the authorized fiduciary intends to exercise the decanting power;
- (2) specify the proposed effective date for exercise of the power;
- (3) include a copy of the first-trust instrument; and
- (4) include a copy of all second-trust instruments.

(f) The decanting power may be exercised before expiration of the notice period under subsection (a) of this section if all persons entitled to receive notice waive the period in a signed record.

(g) The receipt of notice, waiver of the notice period, or expiration of the notice period does not affect the right of a person to file an application under section 1409 of this title asserting that:

(1) an attempted exercise of the decanting power is ineffective because it did not comply with this chapter or was an abuse of discretion or breach of fiduciary duty; or

(2) section 1422 of this title applies to the exercise of the decanting power.

(h) An exercise of the decanting power is not ineffective because of the failure to give notice to one or more persons under subsection (c) of this

section if the authorized fiduciary acted with reasonable care to comply with that subsection.

§ 1408. REPRESENTATION

(a) Notice to a person with authority to represent and bind another person under a first trust instrument or the Vermont Trust Code has the same effect as notice given directly to the person represented.

(b) Consent of or waiver by a person with authority to represent and bind another person under a first-trust instrument or the Vermont Trust Code is binding on the person represented unless the person represented objects to the representation before the consent or waiver otherwise would become effective.

(c) A person with authority to represent and bind another person under a first-trust instrument or the Vermont Trust Code may file an application under section 1409 of this title on behalf of the person represented.

(d) A settlor shall not represent or bind a beneficiary under this chapter unless the settlor represents a minor or unborn child under subdivision 303(6) of this title.

§ 1409. COURT INVOLVEMENT

(a) The court may, upon application of an authorized fiduciary, a person entitled to notice under subsection 1407(c) of this title, a beneficiary, or, with respect to a charitable interest, the Attorney General or another person with standing to enforce the charitable interest:

(1) provide instructions to the authorized fiduciary regarding whether a proposed exercise of the decanting power is permitted under this chapter and consistent with the fiduciary duties of the authorized fiduciary;

(2) appoint a special fiduciary and authorize the special fiduciary to determine whether the decanting power should be exercised under this chapter and to exercise the decanting power;

(3) approve an exercise of the decanting power;

(4) determine that a proposed or attempted exercise of the decanting power is ineffective because:

(A) after applying section 1422 of this title, the proposed or attempted exercise does not or did not comply with this chapter; or

(B) the proposed or attempted exercise would be or was an abuse of the fiduciary's discretion or a breach of fiduciary duty;

(5) determine the extent to which section 1422 of this title applies to a prior exercise of the decanting power;

(6) provide instructions to the trustee regarding the application of section 1422 of this title to a prior exercise of the decanting power; or

(7) order other relief to carry out the purposes of this chapter.

(b) On application of an authorized fiduciary, the court may approve:

(1) an increase in the fiduciary's compensation under section 1416 of this title; or

(2) a modification under section 1418 of this title of a provision granting a person the right to remove or replace the fiduciary.

§ 1410. FORMALITIES

An exercise of the decanting power shall be made in a record signed by an authorized fiduciary. The signed record shall, directly or by reference to the notice required by section 1407 of this title, identify the first trust and the second trust or trusts and state the property of the first trust being distributed to each second trust and the property, if any, that remains in the first trust.

§ 1411. DECANTING POWER UNDER EXPANDED DISTRIBUTIVE

DISCRETION

(a) As used in this section:

(1) "Noncontingent right" means a right that is not subject to the exercise of discretion or the occurrence of a specified event that is not certain to occur. The term does not include a right held by a beneficiary if any person has discretion to distribute property subject to the right to any person other than the beneficiary or the beneficiary's estate.

(2) "Presumptive remainder beneficiary" means a qualified beneficiary other than a current beneficiary.

(3) "Successor beneficiary" means a beneficiary that is not a qualified beneficiary on the date the beneficiary's qualification is determined. The term does not include a person that is a beneficiary only because the person holds a nongeneral power of appointment.

(4) "Vested interest" means:

(A) a right to a mandatory distribution that is a noncontingent right as of the date of the exercise of the decanting power;

(B) a current and noncontingent right, annually or more frequently, to a mandatory distribution of income, a specified dollar amount, or a percentage of value of some or all of the trust property;

(C) a current and noncontingent right, annually or more frequently, to withdraw income, a specified dollar amount, or a percentage of value of some or all of the trust property;

(D) a presently exercisable general power of appointment; or

(E) a right to receive an ascertainable part of the trust property on the trust's termination that is not subject to the exercise of discretion or to the occurrence of a specified event that is not certain to occur.

(b) Subject to subsection (c) of this section and section 1414 of this title, an authorized fiduciary that has expanded distributive discretion over the principal of a first trust for the benefit of one or more current beneficiaries may exercise the decanting power over the principal of the first trust.

(c) Subject to section 1413 of this title, in an exercise of the decanting power under this section, a second trust shall not:

(1) include as a current beneficiary a person who is not a current beneficiary of the first trust, except as otherwise provided in subsection (d) of this section;

(2) include as a presumptive remainder beneficiary or successor beneficiary a person who is not a current beneficiary, presumptive remainder beneficiary, or successor beneficiary of the first trust, except as otherwise provided in subsection (d) of this section; or

(3) reduce or eliminate a vested interest.

(d) Subject to subdivision (c)(3) of this section and section 1414 of this title, in an exercise of the decanting power under this section, a second trust may be a trust created or administered under the law of any jurisdiction and may:

(1) retain a power of appointment granted in the first trust;

(2) omit a power of appointment granted in the first trust, other than a presently exercisable general power of appointment;

(3) create or modify a power of appointment if the powerholder is a current beneficiary of the first trust and the authorized fiduciary has expanded distributive discretion to distribute principal to the beneficiary; and

(4) create or modify a power of appointment if the powerholder is a presumptive remainder beneficiary or successor beneficiary of the first trust, but the exercise of the power may take effect only after the powerholder becomes, or would have become if then living, a current beneficiary.

(e) A power of appointment described in subdivisions (d)(1)–(4) of this section may be general or nongeneral. The class of permissible appointees in favor of which the power may be exercised may be broader than or different from the beneficiaries of the first trust.

(f) If an authorized fiduciary has expanded distributive discretion over part but not all of the principal of a first trust, the fiduciary may exercise the decanting power under this section over that part of the principal over which the authorized fiduciary has expanded distributive discretion.

§ 1412. DECANTING POWER UNDER LIMITED DISTRIBUTIVE

DISCRETION

(a) As used in this section, “limited distributive discretion” means a discretionary power of distribution that is limited to an ascertainable standard or a reasonably definite standard.

(b) An authorized fiduciary who has limited distributive discretion over the principal of the first trust for benefit of one or more current beneficiaries may exercise the decanting power over the principal of the first trust.

(c) Under this section and subject to section 1414 of this title, a second trust may be created or administered under the law of any jurisdiction. Under this section, the second trusts, in the aggregate, shall grant each beneficiary of the first trust beneficial interests that are substantially similar to the beneficial interests of the beneficiary in the first trust.

(d) A power to make a distribution under a second trust for the benefit of a beneficiary who is an individual is substantially similar to a power under the first trust to make a distribution directly to the beneficiary. A distribution is for the benefit of a beneficiary if:

(1) the distribution is applied for the benefit of the beneficiary;

(2) the beneficiary is under a legal disability or the trustee reasonably believes the beneficiary is incapacitated, and the distribution is made as permitted under the Vermont Trust Code; or

(3) the distribution is made as permitted under the terms of the first-trust instrument and the second-trust instrument for the benefit of the beneficiary.

(e) If an authorized fiduciary has limited distributive discretion over part but not all of the principal of a first trust, the fiduciary may exercise the decanting power under this section over that part of the principal over which the authorized fiduciary has limited distributive discretion.

§ 1413. TRUST FOR BENEFICIARY WITH DISABILITY

(a) As used in this section:

(1) “Beneficiary with a disability” means a beneficiary of a first trust who the special-needs fiduciary believes may qualify for governmental benefits based on disability, whether or not the beneficiary currently receives those benefits or is an individual who is subject to a guardianship or a protective arrangement.

(2) “Best interests” of a beneficiary with a disability include, without limitation, consideration of the financial impact to the family of the beneficiary who has a disability.

(3) “Governmental benefits” means financial aid or services from a state, federal, or other public agency.

(4) “Special-needs fiduciary” means, with respect to a trust that has a beneficiary with a disability:

(A) a trustee or other fiduciary, other than a settlor, who has discretion to distribute part or all of the principal of a first trust to one or more current beneficiaries;

(B) if no trustee or fiduciary has discretion under subdivision (A) of this subdivision (4), a trustee or other fiduciary, other than a settlor, who has discretion to distribute part or all of the income of the first trust to one or more current beneficiaries; or

(C) if no trustee or fiduciary has discretion under subdivision (A) or (B) of this subdivision (4), a trustee or other fiduciary, other than a settlor, who is required to distribute part or all of the income or principal of the first trust to one or more current beneficiaries.

(5) “Special-needs trust” means a trust the trustee believes would not be considered a resource for purposes of determining whether a beneficiary with a disability is eligible for governmental benefits.

(b) A special-needs fiduciary may exercise the decanting power under section 1411 of this title over the principal of a first trust as if the fiduciary had authority to distribute principal to a beneficiary with a disability subject to expanded distributive discretion if:

(1) a second trust is a special-needs trust that benefits the beneficiary with a disability; and

(2) the special-needs fiduciary determines that exercise of the decanting power will further the purposes of the first trust.

(c) In an exercise of the decanting power under this section, the following rules shall apply:

(1) Notwithstanding subdivision 1411(c)(2) of this title, the interest in the second trust of a beneficiary with a disability may:

(A) be a pooled trust as defined by Medicaid law for the benefit of the beneficiary with a disability under 42 U.S.C. § 1396p(d)(4)(C); or

(B) contain payback provisions complying with reimbursement requirements of Medicaid law under 42 U.S.C. § 1396p(d)(4)(A).

(2) Subdivision 1411(c)(3) of this title shall not apply to the interests of the beneficiary with a disability.

(3) Except as affected by any change to the interests of the beneficiary with a disability, the second trust, or if there are two or more second trusts, the second trusts in the aggregate, shall grant each other beneficiary of the first trust beneficial interests in the second trusts that are substantially similar to the beneficiary's beneficial interests in the first trust.

§ 1414. PROTECTION OF CHARITABLE INTEREST

(a) As used in this section:

(1) "Determinable charitable interest" means a charitable interest that is a right to a mandatory distribution currently, periodically, on the occurrence of a specified event, or after the passage of a specified time and that is unconditional or will be held solely for charitable purposes.

(2) "Unconditional" means not subject to the occurrence of a specified event that is not certain to occur, other than a requirement in a trust instrument that a charitable organization be in existence or qualify under a particular provision of the U.S. Internal Revenue Code of 1986 on the date of the distribution, if the charitable organization meets the requirement on the date of determination.

(b) If a first trust contains a determinable charitable interest, the Attorney General shall have the rights of a qualified beneficiary and may represent and bind the charitable interest.

(c) If a first trust contains a charitable interest, the second trust or trusts shall not:

(1) diminish the charitable interest;

(2) diminish the interest of an identified charitable organization that holds the charitable interest;

(3) alter any charitable purpose stated in the first-trust instrument; or

(4) alter any condition or restriction related to the charitable interest.

(d) If there are two or more second trusts, the second trusts shall be treated as one trust for purposes of determining whether the exercise of the decanting power diminishes the charitable interest or diminishes the interest of an identified charitable organization for purposes of subsection (c) of this section.

(e) If a first trust contains a determinable charitable interest, the second trust or trusts that include a charitable interest pursuant to subsection (c) of this section shall be administered under the law of this State unless:

(1) the Attorney General, after receiving notice under section 1407 of this title, fails to object in a signed record delivered to the authorized fiduciary within the notice period;

(2) the Attorney General consents in a signed record to the second trust or trusts being administered under the law of another jurisdiction; or

(3) the court approves the exercise of the decanting power.

(f) This chapter shall not limit the powers and duties of the Attorney General under the law of this State other than as provided in this chapter.

§ 1415. TRUST LIMITATION ON DECANTING

(a) An authorized fiduciary shall not exercise the decanting power to the extent the first trust instrument expressly prohibits exercise of:

(1) the decanting power; or

(2) a power granted by State law to the authorized fiduciary to distribute part or all of the principal of the trust to another trust or to modify the trust.

(b) Exercise of the decanting power is subject to any restriction in the first-trust instrument that expressly applies to exercise of:

(1) the decanting power; or

(2) a power granted by State law to an authorized fiduciary to distribute part or all of the principal of the trust to another trust or to modify the trust.

(c) A general prohibition of the amendment or revocation of a first trust, a spendthrift clause, or a clause restraining the voluntary or involuntary transfer of a beneficiary's interest does not preclude exercise of the decanting power.

(d) Subject to subsections (a) and (b) of this section, an authorized fiduciary may exercise the decanting power under this chapter even if the first-trust instrument permits the authorized fiduciary or another person to modify the first-trust instrument or to distribute part or all of the principal of the first trust to another trust.

(e) If a first-trust instrument contains an express prohibition described in subsection (a) of this section or an express restriction described in subsection (b) of this section, the provision shall be included in the second trust instrument.

§ 1416. CHANGE IN COMPENSATION

(a) If a first-trust instrument specifies an authorized fiduciary's compensation, the fiduciary shall not exercise the decanting power to increase the fiduciary's compensation above the specified compensation unless:

(1) all qualified beneficiaries of the second trust consent to the increase in a signed record; or

(2) the increase is approved by the court.

(b) If a first-trust instrument does not specify an authorized fiduciary's compensation, the fiduciary shall not exercise the decanting power to increase the fiduciary's compensation above the compensation permitted by the Vermont Trust Code unless:

(1) all qualified beneficiaries of the second trust consent to the increase in a signed record; or

(2) the increase is approved by the court.

(c) A change in an authorized fiduciary's compensation that is incidental to other changes made by the exercise of the decanting power is not an increase in the fiduciary's compensation for purposes of subsections (a) and (b) of this section.

§ 1417. RELIEF FROM LIABILITY AND INDEMNIFICATION

(a) Except as otherwise provided in this section, a second-trust instrument shall not relieve an authorized fiduciary from liability for breach of trust to a greater extent than the first trust instrument.

(b) A second-trust instrument may provide for indemnification of an authorized fiduciary of the first trust or another person acting in a fiduciary capacity under the first trust for any liability or claim that would have been payable from the first trust if the decanting power had not been exercised.

(c) A second-trust instrument shall not reduce fiduciary liability in the aggregate.

(d) Subject to subsection (c) of this section, a second-trust instrument may divide and reallocate fiduciary powers among fiduciaries, including one or more trustees, distribution advisors, investment advisors, trust protectors, or other persons, and relieve an authorized fiduciary from liability for an act or failure to act of another fiduciary as permitted by the law of this State other than this chapter.

§ 1418. REMOVAL OR REPLACEMENT OF AUTHORIZED FIDUCIARY

An authorized fiduciary shall not exercise the decanting power to modify a provision in a first-trust instrument granting another person power to remove or replace the fiduciary unless:

(1) the person holding the power consents to the modification in a signed record and the modification applies only to the person;

(2) the person holding the power and the qualified beneficiaries of the second trust consent to the modification in a signed record and the modification grants a substantially similar power to another person; or

(3) the court approves the modification and the modification grants a substantially similar power to another person.

§ 1419. TAX-RELATED LIMITATIONS

(a) As used in this section:

(1) “Grantor trust” means a trust as to which a settlor of a first trust is considered the owner under 26 U.S.C. §§ 671–677 or 26 U.S.C. § 679.

(2) “Internal Revenue Code” means the U.S. Internal Revenue Code of 1986.

(3) “Nongrantor trust” means a trust that is not a grantor trust.

(4) “Qualified benefits property” means property subject to the minimum distribution requirements of 26 U.S.C. § 401(a)(9) and any applicable regulations, or subject to any similar requirements that refer to 26 U.S.C. § 401(a)(9) or any applicable regulations.

(b) An exercise of the decanting power is subject to the following limitations:

(1) If a first trust contains property that qualified, or would have qualified but for provisions of this chapter other than this section, for a marital

deduction for purposes of the gift or estate tax under the Internal Revenue Code or a state gift, estate, or inheritance tax, the second trust instrument shall not include or omit any term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying for the deduction, or would have reduced the amount of the deduction, under the same provisions of the Internal Revenue Code or state law under which the transfer qualified.

(2) If the first trust contains property that qualified, or would have qualified but for provisions of this chapter other than this section, for a charitable deduction for purposes of the income, gift, or estate tax under the Internal Revenue Code or a state income, gift, estate, or inheritance tax, the second-trust instrument shall not include or omit any term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying for the deduction, or would have reduced the amount of the deduction, under the same provisions of the Internal Revenue Code or state law under which the transfer qualified.

(3) If the first trust contains property that qualified, or would have qualified but for provisions of this chapter other than this section, for the exclusion from the gift tax described in 26 U.S.C. § 2503(b), the second-trust instrument shall not include or omit a term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying under 26 U.S.C. § 2503(b). If the first trust contains property that qualified, or would have qualified but for provisions of this chapter other than this section, for the exclusion from the gift tax described in 26 U.S.C. § 2503(b) by application of 26 U.S.C. § 2503(c), the second-trust instrument shall not include or omit a term that, if included or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying under 26 U.S.C. § 2503(c).

(4) If the property of the first trust includes shares of stock in an S corporation as defined in 26 U.S.C. § 1361 and the first trust is, or but for provisions of this chapter other than this section would be, a permitted shareholder under any provision of 26 U.S.C. § 1361, an authorized fiduciary may exercise the power with respect to part or all of the S corporation stock only if any second trust receiving the stock is a permitted shareholder under 26 U.S.C. § 1361(c)(2). If the property of the first trust includes shares of stock in an S corporation and the first trust is, or but for provisions of this chapter other than this section would be, a qualified subchapter-S trust within the meaning of 26 U.S.C. § 1361(d), the second-trust instrument shall not include

or omit a term that prevents the second trust from qualifying as a qualified subchapter-S trust.

(5) If the first trust contains property that qualified, or would have qualified but for provisions of this chapter other than this section, for a zero inclusion ratio for purposes of the generation-skipping transfer tax under 26 U.S.C. § 2642(c), the second-trust instrument shall not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented the transfer to the first trust from qualifying for a zero inclusion ratio under 26 U.S.C. § 2642(c).

(6) If the first trust is directly or indirectly the beneficiary of qualified benefits property, the second-trust instrument shall not include or omit any term that, if included in or omitted from the first-trust instrument, would have increased the minimum distributions required with respect to the qualified benefits property under 26 U.S.C. § 401(a)(9) and any applicable regulations, or any similar requirements that refer to 26 U.S.C. § 401(a)(9) or any applicable regulations. If an attempted exercise of the decanting power violates this subsection, the trustee is deemed to have held the qualified benefits property and any reinvested distributions of the property as a separate share from the date of the exercise of the power, and section 1422 of this title shall apply to the separate share.

(7) If the first trust qualifies as a grantor trust because of the application of 26 U.S.C. § 672(f)(2)(A), the second trust shall not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented the first trust from qualifying under 26 U.S.C. § 672(f)(2)(A).

(8) As used in this subdivision, “tax benefit” means a federal or state tax deduction, exemption, exclusion, or other benefit not listed in this section, except for a benefit arising from being a grantor trust. Subject to subdivision (9) of this subsection (b), a second-trust instrument shall not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented qualification for a tax benefit if:

(A) the first-trust instrument expressly indicates an intent to qualify for the benefit or the first-trust instrument is clearly designed to enable the first trust to qualify for the benefit; and

(B) the transfer of property held by the first trust or the first trust qualified or, but for provisions of this chapter other than this section, would have qualified for the tax benefit.

(9) Subject to subdivision (4) of this subsection:

(A) except as otherwise provided in subdivision (7) of this subsection (b), the second trust may be a nongrantor trust, even if the first trust is a grantor trust; and

(B) except as otherwise provided in subdivision (10) of this subsection (b), the second trust may be a grantor trust, even if the first trust is a nongrantor trust.

(10) An authorized fiduciary shall not exercise the decanting power if a settlor objects in a signed record delivered to the fiduciary within the notice period and:

(A) the first trust and a second trust are both grantor trusts, in whole or in part, the first trust grants the settlor or another person the power to cause the first trust to cease to be a grantor trust, and the second trust does not grant an equivalent power to the settlor or other person; or

(B) the first trust is a nongrantor trust and a second trust is a grantor trust, in whole or in part, with respect to the settlor, unless:

(i) the settlor has the power at all times to cause the second trust to cease to be a grantor trust; or

(ii) the first-trust instrument contains a provision granting the settlor or another person a power that would cause the first trust to cease to be a grantor trust and the second-trust instrument contains the same provision.

§ 1420. DURATION OF SECOND TRUST

(a) Subject to subsection (b) of this section, a second trust may have a duration that is the same as or different from the duration of the first trust.

(b) To the extent that property of a second trust is attributable to property of the first trust, the property of the second trust is subject to any rules governing maximum perpetuity, accumulation, or suspension of the power of alienation that apply to property of the first trust.

§ 1421. NEED TO DISTRIBUTE NOT REQUIRED

An authorized fiduciary may exercise the decanting power whether or not under the first trust's discretionary distribution standard the fiduciary would have made or could have been compelled to make a discretionary distribution of principal at the time of the exercise.

§ 1422. SAVINGS PROVISION

(a) If exercise of the decanting power would be effective under this chapter except that the second-trust instrument in part does not comply with this chapter, the exercise of the power is effective and the following rules apply with respect to the principal of the second trust attributable to the exercise of the power:

(1) a provision in the second-trust instrument that is not permitted under this chapter is void to the extent necessary to comply with this chapter; and

(2) a provision required by this chapter to be in the second-trust instrument that is not contained in the instrument is deemed to be included in the instrument to the extent necessary to comply with this chapter.

(b) If a trustee or other fiduciary of a second trust determines that subsection (a) of this section applies to a prior exercise of the decanting power, the fiduciary shall take corrective action consistent with the fiduciary's duties.

§ 1423. TRUST FOR CARE OF ANIMAL

(a) As used in this section:

(1) "Animal trust" means a trust or an interest in a trust created to provide for the care of one or more animals.

(2) "Protector" means a person appointed in an animal trust to enforce the trust on behalf of the animal or, if no such person is appointed in the trust, a person appointed by the court for that purpose.

(b) The decanting power may be exercised over an animal trust that has a protector to the extent the trust could be decanted under this chapter if each animal that benefits from the trust were an individual, if the protector consents in a signed record to the exercise of the power.

(c) A protector for an animal has the rights under this chapter of a qualified beneficiary.

(d) Notwithstanding any other provision of this chapter, if a first trust is an animal trust, in an exercise of the decanting power, the second trust shall provide that trust property may be applied only to its intended purpose for the period the first trust benefitted the animal.

§ 1424. TERMS OF SECOND TRUST

A reference in the Vermont Trust Code to a trust instrument or terms of the trust includes a second-trust instrument and the terms of the second trust.

§ 1425. SETTLOR

(a) For purposes of the law of this State other than this chapter and subject to subsection (b) of this section, a settlor of a first trust is deemed to be the settlor of the second trust with respect to the portion of the principal of the first trust subject to the exercise of the decanting power.

(b) In determining settlor intent with respect to a second trust, the intent of a settlor of the first trust, a settlor of the second trust, and the authorized fiduciary may be considered.

§ 1426. LATER-DISCOVERED PROPERTY

(a) Except as otherwise provided in subsection (c) of this section, if exercise of the decanting power was intended to distribute all the principal of the first trust to one or more second trusts, later discovered property belonging to the first trust and property paid to or acquired by the first trust after the exercise of the power is part of the trust estate of the second trust or trusts.

(b) Except as otherwise provided in subsection (c) of this section, if exercise of the decanting power was intended to distribute less than all the principal of the first trust to one or more second trusts, later-discovered property belonging to the first trust or property paid to or acquired by the first trust after exercise of the power remains part of the trust estate of the first trust.

(c) An authorized fiduciary may provide in an exercise of the decanting power or by the terms of a second trust for disposition of later-discovered property belonging to the first trust or property paid to or acquired by the first trust after exercise of the power.

§ 1427. OBLIGATIONS

A debt, liability, or other obligation enforceable against property of a first trust is enforceable to the same extent against the property when held by the second trust after exercise of the decanting power.

§ 1428. UNIFORMITY OF APPLICATION AND CONSTRUCTION

In applying and construing this Uniform Act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 1429. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq., but does not modify, limit, or supersede subsection 101(c) of that act, 15 U.S.C. § 7001(c).

or authorize electronic delivery of any of the notices described in subsection 103(b) of that act, 15 U.S.C. § 7003(b).

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee Vote: 11-0-0)

H. 614

An act relating to land improvement fraud and timber trespass

Rep. Lipsky of Stowe, for the Committee on Agriculture, Food Resiliency, and Forestry, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 2029 is amended to read:

§ 2029. HOME IMPROVEMENT AND LAND IMPROVEMENT FRAUD

(a) As used in this section, ~~“home:~~

(1) ~~“Home improvement” includes~~ means the fixing, replacing, remodeling, removing, renovation, alteration, conversion, improvement, demolition, or rehabilitation of or addition to any building ~~or land~~, or any portion thereof, including roofs, that is used or designed to be used as a residence or dwelling unit. ~~Home improvement shall include~~

(2)(A) “Land improvement” means:

(i) the construction, replacement, installation, paving, or improvement of driveways, ~~roofs,~~ and sidewalks, and trails, roads, or other landscape features;

(ii) site work, including grading, excavation, landscape irrigation, site utility installation, site preparation, and other construction work that is not part of a building on a parcel;

(iii) the limbing, pruning, and cutting, or removal of trees or shrubbery and other improvements to structures or upon land that is adjacent to a dwelling house; and

(iv) forestry operations, as that term is defined in 10 V.S.A. § 2602, including the construction of trails, roads, and structures associated with forestry operations and the transportation off-site of trees, shrubs, or timber.

(B) “Land improvement” includes activities made in connection with a residence or dwelling or those activities not made in connection with a residence or dwelling.

(b) A person commits the offense of home improvement or land improvement fraud when ~~he or she~~ the person enters into a contract or agreement, written or oral, for ~~\$500.00~~ \$1,000.00 or more, with an owner for home improvement or land improvement, or into several contracts or agreements for \$2,500.00 or more in the aggregate, with more than one owner for home improvement or land improvement, and ~~he or she~~ the person knowingly:

(1)(A) fails to perform the contract or agreement, in whole or in part; and

(B) when the owner requests performance, payment, or a refund of payment made, the person fails to either:

(i) refund the payment; ~~or~~

(ii) make and comply with a definite plan for completion of the work that is agreed to by the owner; or

(iii) make the payment;

(2) misrepresents a material fact relating to the terms of the contract or agreement or to the condition of any portion of the property involved;

(3) uses or employs any unfair or deceptive act or practice in order to induce, encourage, or solicit such person to enter into any contract or agreement or to modify the terms of the original contract or agreement; or

(4) when there is a declared state of emergency, charges for goods or services related to the emergency a price that exceeds two times the average price for the goods or services and the increase is not attributable to the additional costs incurred in connection with providing those goods or services.

(c) Whenever a person is convicted of home improvement or land improvement fraud or of fraudulent acts related to home improvement or land improvement:

(1) the person shall notify the Office of the Attorney General;

(2) the court shall notify the Office of the Attorney General; and

(3) the Office of the Attorney General shall place the person's name on the Home Improvement and Land Improvement Fraud Registry.

(d)(1) A person who violates subsection (b) of this section shall be imprisoned not more than two years or fined not more than \$1,000.00, or both, if the loss to a single consumer is less than \$1,000.00.

(2) A person who is convicted of a second or subsequent violation of subdivision (1) of this subsection shall be imprisoned not more than three years or fined not more than \$5,000.00, or both.

(3) A person who violates subsection (b) of this section shall be imprisoned not more than three years or fined not more than \$5,000.00, or both, if:

(A) the loss to a single consumer is \$1,000.00 or more; or

(B) the loss to more than one consumer is \$2,500.00 or more in the aggregate.

(4) A person who is convicted of a second or subsequent violation of subdivision (3) of this subsection shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(5) A person who violates subsection (c) or (e) of this section shall be imprisoned for not more than two years or fined not more than \$1,000.00, or both.

(e) A person who is sentenced pursuant to subdivision (d)(2), (3), or (4) of this section, or convicted of fraudulent acts related to home improvement or land improvement, may engage in home improvement or land improvement activities for compensation only if:

(1) the work is for a company or individual engaged in home improvement or land improvement activities and the company has not previously committed a violation under this section, the person has no relation to the company personally or in its corporate form, and the person first notifies the company or individual of the conviction and notifies the Office of the Attorney General of the person's current address and telephone number; the name, address, and telephone number of the company or individual for whom the person is going to work; and the date on which the person will start working for the company or individual; or

(2) the person notifies the Office of the Attorney General of the intent to engage in home improvement or land improvement activities, and that the person has filed a surety bond or an irrevocable letter of credit with the Office in an amount of not less than ~~\$50,000.00~~ \$250,000.00, and pays on a regular basis all fees associated with maintaining such bond or letter of credit.

(f) The Office of the Attorney General shall release the letter of credit at such time when:

(1) any claims against the person relating to home improvement or land improvement fraud have been paid;

(2) there are no pending actions or claims against the person for home improvement or land improvement fraud; and

(3) the person has not been engaged in home improvement or land improvement activities for at least six years and has signed an affidavit so attesting.

(g) The Attorney General, a State's Attorney, or a law enforcement officer may, according to the requirements of 18 V.S.A. chapter 84, subchapter 2, seize from a person alleged to have committed home improvement or land improvement fraud under this section property that was used in the commission of the alleged fraud.

(h) A person convicted of home improvement or land improvement fraud is prohibited from applying for or receiving State grants or from contracting, directly or indirectly, with the State or any of its subdivisions for a period of up to three years following the date of the conviction, as determined by the Commissioner of Buildings and General Services.

(i) A person subject to the financial surety requirements of section 3605 of this title for timber trespass shall not engage in land improvement activities unless the person has satisfied the financial surety requirements for timber trespass.

Sec. 2. 13 V.S.A. §§ 3605 and 3605a are added to read:

§ 3605. FINANCIAL SURETY REQUIRED FOR CONTINUED TIMBER;
HARVESTING ACTIVITIES

(a) Under one or more of the following circumstances, a person shall not engage in timber harvesting activities for compensation unless the person satisfies the conditions of subsection (b) of this section:

(1) the person was convicted of a second or subsequent violation of timber trespass under section 3606a of this title and has not paid all required fines or restitution;

(2) the person is subject to two or more civil judgements under section 3606 of this title and has not paid all required damages or restitution;

(3) the person is subject to the financial surety requirements of subsection 2029(e) of this title for land improvement fraud; or

(4) the person was convicted of a combination of one or more violations of timber trespass and one or more occurrence of land improvement fraud and has not paid the required fines, damages, or restitution.

(b) A person subject to prohibition under subsection (a) of this section may engage in timber harvesting activities for compensation if:

(1) the work is for a company or individual engaged in timber harvesting activities and the company or individual has not previously committed a violation under this section, the person has no relation to the company personally or in its corporate form, and the person first notifies the company or individual of the conviction or civil judgment and notifies the Office of the Attorney General of the person's current address and telephone number; the name, address, and telephone number of the company or individual for whom the person is going to work; and the date on which the person will start working for the company or individual; or

(2) the person notifies the Office of the Attorney General of the intent to engage in timber harvesting activities, has filed a surety bond or an irrevocable letter of credit with the Office in an amount of not less than \$250,000.00, and pays on a regular basis all fees associated with maintaining such bond or letter of credit.

(c) The Office of the Attorney General shall release the letter of credit at such time when:

(1) any claims against the person relating to timber harvesting activities or land improvement fraud have been paid;

(2) there are no pending actions or claims against the person from the person's timber harvesting activities or land improvement fraud; and

(3) the person has not been engaged in timber harvesting activities for at least six years and has signed an affidavit so attesting.

§ 3605a. SEIZURE; FORFEITURE; DEBARMENT

(a) The Attorney General, a State's Attorney, or a law enforcement officer may, according to the requirements of 18 V.S.A. chapter 84, subchapter 2, seize from a person alleged to have committed timber trespass under this chapter property that was used in the commission of the alleged trespass.

(b) A person convicted of timber trespass is prohibited from applying for or receiving State grants or from contracting, directly or indirectly, with the State or any of its subdivisions for a period of up to three years following the date of the conviction, as determined by the Commissioner of Buildings and General Services.

(c) When a person is convicted of timber trespass under this chapter, the court shall notify the Office of the Attorney General. The Office of the

Attorney General shall place the person's name on the Home Improvement and Land Improvement Fraud Registry.

(d) The Office of the Attorney General shall include as part of the Home Improvement and Land Improvement Fraud Registry educational information for landowners regarding precautions to take or resources to reference prior to entering a contract for land improvement or timber harvesting.

Sec. 3. 18 V.S.A. § 4241 is amended to read:

§ 4241. SCOPE

(a) The following property shall be subject to this subchapter:

(1) All regulated drugs that have been cultivated, manufactured, distributed, compounded, possessed, sold, prescribed, dispensed, or delivered in violation of subchapter 1 of this chapter.

* * *

(7) Any property seized pursuant to 13 V.S.A. § 364.

(8) Any property seized pursuant to 13 V.S.A. § 2029.

(9) Any property seized pursuant to 13 V.S.A. § 3605a.

(b) This subchapter shall apply to property for which forfeiture is sought in connection with:

(1) a violation under chapter 84, subchapter 1 of this title that carries by law a maximum penalty of ~~ten~~ 10 years' incarceration or greater; ~~or~~

(2) a violation of 13 V.S.A. § 364;

(3) a violation of 13 V.S.A. § 2029; or

(4) a violation of 13 V.S.A. § 3606a or a civil timber trespass action under 13 V.S.A. § 3606.

Sec. 4. 18 V.S.A. § 4243 is amended to read:

§ 4243. JUDICIAL FORFEITURE PROCEDURE

(a) Conviction or agreement required. An asset is subject to forfeiture by judicial determination under section 4241 of this title ~~and~~, 13 V.S.A. § 364, 13 V.S.A. § 2029, or 13 V.S.A. § 3605a if:

(1) a person is convicted of the criminal offense related to the action for forfeiture; ~~or~~

(2) a person enters into an agreement with the prosecutor under which ~~he or she~~ the person is not charged with a criminal offense related to the action for forfeiture; or

(3) a person is subject to a civil action for timber trespass under 13 V.S.A. § 3606.

* * *

(g) Service of petition. A copy of the petition shall be served on all persons named in the petition as provided for in Rule 4 of the Vermont Rules of Civil Procedure. In addition, the State shall cause notice of the petition to be published in a newspaper of general circulation in the State, as ordered by the court. The petition shall state:

(1) the facts upon which the forfeiture is requested, including a description of the property subject to forfeiture, and, when applicable, the type and quantity of regulated drug involved; and

(2) the names of the apparent owner or owners, lienholders who have properly recorded their interests, and any other person appearing to have an interest; and, in the case of a conveyance, the name of the person holding title, the registered owner, and the make, model, and year of the conveyance.

Sec. 5. 18 V.S.A. § 4247 is amended to read:

§ 4247. DISPOSITION OF PROPERTY

(a) Whenever property is forfeited and delivered to the State Treasurer under this subchapter, the State Treasurer shall, not sooner than 90 days after the date the property is delivered, sell the property at a public sale held under 27 V.S.A. chapter 18, subchapter 7.

(b) The proceeds from the sale of forfeited property shall be used first to offset any costs of selling the property and then, after any liens on the property have been paid in full, applied to payment of seizure, storage, and forfeiture expenses, including animal care expenses related to the underlying violation. Remaining proceeds shall be distributed as follows:

(1)(A) ~~45~~ 60 percent shall be distributed among the following for the purposes of providing training on enforcement:

- (i) the Office of the Attorney General;
- (ii) the Department of State's Attorneys and Sheriffs; and
- (iii) State and local law enforcement agencies.

~~(B) The Agency of Administration is authorized to determine the allocations among the groups listed in subdivision (A) of this subdivision (1) and may only reimburse the prosecutor and law enforcement agencies that participated in the enforcement effort resulting in the forfeiture for expenses incurred, including actual expenses for involved personnel. The proceeds shall be held by the Treasurer until the Agency notifies the Treasurer of the allocation determinations, at which time the Treasurer shall forward the allocated amounts to the appropriate agency's operating funds 15 percent shall be made available to victims of home improvement or land improvement fraud or victims of timber trespass.~~

(2) The remaining ~~55~~ 25 percent shall be deposited in the General Fund.

Sec. 6. REPEAL OF SUNSET; ALLOCATIONS OF FORFEITED PROCEEDS

2022 Acts and Resolves No. 141, Sec. 3 (repeal of allocation determination of forfeited proceeds) is repealed.

Sec. 7. 18 V.S.A. § 4248(b) is amended to read:

(b) Those records shall be submitted to the State Treasurer and, when applicable to the property subject to forfeiture, shall be open to inspection by all federal and State departments and agencies charged with enforcement of federal and State drug control laws. Persons making final disposition or destruction of the property under court order shall report, under oath, to the court the exact circumstances of that disposition or destruction and a copy of that report shall be sent to the State Treasurer.

Sec. 8. IMPLEMENTATION; CONDITION OF OPERATION

(a) The requirement under 13 V.S.A. § 3605 that a person convicted of criminal timber trespass or assessed a civil penalty for timber trespass shall file a surety bond or letter of credit with the Office of the Attorney General shall, as a condition of continued or future operation, apply to all persons convicted of a criminal fine under 13 V.S.A. § 3606a or assessed civil liability under 13 V.S.A. § 3606 prior to July 1, 2024 and for which the criminal fine or civil liability remains unpaid as of July 1, 2024.

(b) The Attorney General shall send notice of the requirement for a surety bond or letter of credit under subsection (a) of this section as a condition of continued operation to all persons in the State who, as of the effective date of this act, have failed to pay criminal fines or civil damages assessed for timber trespass under 13 V.S.A. §§ 3606 and 3606a.

Sec. 9. OFFICE OF THE ATTORNEY GENERAL; REPORT ON TIMBER

TRESPASS ENFORCEMENT

(a) On or before January 15, 2025, the Office of the Attorney General shall submit to the House Committees on Agriculture, Food Resiliency, and Forestry and on Judiciary and the Senate Committees on Natural Resources and Energy and on Judiciary a report regarding the current enforcement of timber trespass within the State and potential methods of improving enforcement. The report shall include:

(1) a summary of the current issues pertaining to enforcement of timber trespass statutes;

(2) a summary of mechanisms or alternatives utilized in other states to effectively enforce or prevent timber theft or similar crimes; and

(3) recommendations for programs, policy changes, staffing, and budget estimates to improve enforcement and prevention; ensure consumer protection; and reduce the illegal harvesting, theft, and transporting of timber in the State, including proposed statutory changes to implement the recommendations.

(b) The Office of the Attorney General shall consult with the Department of Forests, Parks and Recreation, the Department of Public Safety, the Professional Logging Contractors of the Northeast, the Vermont Forest Products Association, and other interested parties in the preparation of the report required under this section.

Sec. 10. EFFECTIVE DATES

This section and Sec. 6 (repeal of sunset of allocation of forfeited proceeds) shall take effect on passage. All other sections shall take effect on July 1, 2024.

(Committee Vote: 11-0-0)

Rep. Chapin of East Montpelier, for the Committee on Judiciary, recommends the bill ought to pass when amended as recommended by the Committee on Agriculture, Food Resiliency, and Forestry and when further amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 2029 is amended to read:

§ 2029. HOME IMPROVEMENT AND LAND IMPROVEMENT FRAUD

(a) As used in this section, ~~“home;~~

(1) “Home improvement” includes means the fixing, replacing, remodeling, removing, renovation, alteration, conversion, improvement, demolition, or rehabilitation of or addition to any building or land, or any

portion thereof, including roofs, that is used or designed to be used as a residence or dwelling unit. ~~Home improvement shall include~~

(2)(A) “Land improvement” means:

(i) the construction, replacement, installation, paving, or improvement of driveways, ~~roofs, and~~ sidewalks, ~~and~~ trails, roads, or other landscape features;

(ii) site work, including grading, excavation, landscape irrigation, site utility installation, site preparation, and other construction work that is not part of a building on a parcel;

(iii) the limbing, pruning, ~~and~~ cutting, or removal of trees or shrubbery ~~and other improvements to structures or upon land that is adjacent to a dwelling house; and~~

(iv) forestry operations, as that term is defined in 10 V.S.A. § 2602, including the construction of trails, roads, and structures associated with forestry operations and the transportation off-site of trees, shrubs, or timber.

(B) “Land improvement” includes activities made in connection with a residence or dwelling or those activities not made in connection with a residence or dwelling.

(b) A person commits the offense of home improvement or land improvement fraud when ~~he or she~~ the person enters into a contract or agreement, written or oral, for ~~\$500.00~~ \$1,000.00 or more, with an owner for home improvement or land improvement, or into several contracts or agreements for \$2,500.00 or more in the aggregate, with more than one owner for home improvement or land improvement, and ~~he or she~~ the person knowingly:

(1)(A) fails to perform the contract or agreement, in whole or in part; and

(B) when the owner requests performance, payment, or a refund of payment made, the person fails to either:

(i) refund the payment; ~~or~~

(ii) make and comply with a definite plan for completion of the work that is agreed to by the owner; or

(iii) make the payment;

(2) misrepresents a material fact relating to the terms of the contract or agreement or to the condition of any portion of the property involved;

(3) uses or employs any unfair or deceptive act or practice in order to induce, encourage, or solicit such person to enter into any contract or agreement or to modify the terms of the original contract or agreement; or

(4) when there is a declared state of emergency, charges for goods or services related to the emergency a price that exceeds two times the average price for the goods or services and the increase is not attributable to the additional costs incurred in connection with providing those goods or services.

(c) Whenever a person is convicted of home improvement or land improvement fraud or of fraudulent acts related to home improvement or land improvement:

(1) the person shall notify the Office of the Attorney General;

(2) the court shall notify the Office of the Attorney General; and

(3) the Office of the Attorney General shall place the person's name on the Home Improvement and Land Improvement Fraud Registry.

(d)(1) A person who violates subsection (b) of this section shall be imprisoned not more than two years or fined not more than \$1,000.00, or both, if the loss to a single consumer is less than ~~\$1,000.00~~ \$1,500.00.

(2) A person who is convicted of a second or subsequent violation of ~~subdivision (1) of this subsection~~ (b) of this section shall be imprisoned not more than three years or fined not more than \$5,000.00, or both.

(3) A person who violates subsection (b) of this section shall be imprisoned not more than three years or fined not more than \$5,000.00, or both, if:

(A) the loss to a single consumer is ~~\$1,000.00~~ \$1,500.00 or more; or

(B) the loss to more than one consumer is \$2,500.00 or more in the aggregate.

(4) A person who is convicted of a second or subsequent violation of subdivision ~~(b)(3) of this subsection~~ (b)(3) of this section shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(5) A person who violates subsection (c) or (e) of this section shall be imprisoned for not more than two years or fined not more than \$1,000.00, or both.

(e)(1) A person who is sentenced pursuant to subdivision (d)(2), (3), or (4) of this section, or convicted of fraudulent acts related to home improvement or land improvement, may engage in home improvement or land improvement activities for compensation only if:

~~(1)~~(A) the work is for a company or individual engaged in home improvement or land improvement activities; and the company or individual has not previously committed a violation under this section; the person and the management of the company or the individual are not a family member, a household member, or a current or prior business associate; and the person first notifies the company or individual of the conviction and notifies the Office of the Attorney General of the person's current address and telephone number; the name, address, and telephone number of the company or individual for whom the person is going to work; and the date on which the person will start working for the company or individual; or

~~(2)~~(B) the person notifies the Office of the Attorney General of the intent to engage in home improvement or land improvement activities, and that the person has filed a surety bond or an irrevocable letter of credit with the Office in an amount of not less than \$50,000.00, \$250,000.00 and pays on a regular basis all fees associated with maintaining such bond or letter of credit.

(2) As used in this subsection:

(A) "Business associate" means a person joined together with another person to achieve a common financial objective.

(B) "Family member" means a spouse, child, sibling, parent, next of kin, domestic partner, or legal guardian.

(C) "Household member" means a person who, for any period of time, is living or has lived together, is sharing or has shared occupancy of a dwelling.

(f) The Office of the Attorney General shall release the letter of credit at such time when:

(1) any claims against the person relating to home improvement or land improvement fraud have been paid;

(2) there are no pending actions or claims against the person for home improvement or land improvement fraud; and

(3) the person has not been engaged in home improvement or land improvement activities for at least six years and has signed an affidavit so attesting.

(g) A person convicted of home improvement or land improvement fraud is prohibited from applying for or receiving State grants or from contracting, directly or indirectly, with the State or any of its subdivisions for a period of up to three years following the date of the conviction, as determined by the Commissioner of Buildings and General Services.

(h) A person subject to the financial surety requirements of section 3605 of this title for timber trespass shall not engage in land improvement activities unless the person has satisfied the financial surety requirements for timber trespass.

Sec. 2. 13 V.S.A. § 3605 is added to read:

§ 3605. FINANCIAL SURETY REQUIRED FOR CONTINUED TIMBER
HARVESTING ACTIVITIES

(a) Under one or more of the following circumstances, a person shall not engage in timber harvesting activities for compensation unless the person satisfies the conditions of subsection (b) of this section:

(1) The person was convicted of a second or subsequent violation of timber trespass under section 3606a of this title and has not paid all required fines or restitution.

(2) The person is subject to two or more civil judgements under section 3606 of this title and has not paid all required damages or restitution.

(3) The person is subject to the financial surety requirements of subsection 2029(e) of this title for land improvement fraud.

(4) The person was convicted of a combination of one or more violations of timber trespass and one or more occurrence of land improvement fraud and has not paid the required fines, damages, or restitution.

(b)(1) A person subject to prohibition under subsection (a) of this section may engage in timber harvesting activities for compensation if:

(A) the work is for a company or individual engaged in timber harvesting activities and the company or individual has not previously committed a violation under this section; the person and the management of the company or the individual are not a family member, a household member, or a current or prior business associate; and the person first notifies the company or individual of the conviction or civil judgment and notifies the Office of the Attorney General of the person's current address and telephone number; the name, address, and telephone number of the company or individual for whom the person is going to work; and the date on which the person will start working for the company or individual; or

(B) the person notifies the Office of the Attorney General of the intent to engage in timber harvesting activities, has filed a surety bond or an irrevocable letter of credit with the Office in an amount of not less than \$250,000.00, and pays on a regular basis all fees associated with maintaining such bond or letter of credit.

(2) As used in this subsection:

(A) “Business associate” means a person joined together with another person to achieve a common financial objective.

(B) “Family member” means a spouse, child, sibling, parent, next of kin, domestic partner, or legal guardian of a person.

(C) “Household member” means a person who, for any period of time, is living or has lived together, is sharing or has shared occupancy of a dwelling.

(c) The Office of the Attorney General shall release the letter of credit at such time when:

(1) any claims against the person relating to timber harvesting activities or land improvement fraud have been paid;

(2) there are no pending actions or claims against the person from the person’s timber harvesting activities or land improvement fraud; and

(3) the person has not been engaged in timber harvesting activities for at least six years and has signed an affidavit so attesting.

Sec. 3. IMPLEMENTATION; CONDITION OF OPERATION

(a) The requirement under 13 V.S.A. § 3605 that a person convicted of criminal timber trespass or assessed a civil penalty for timber trespass shall file a surety bond or letter of credit with the Office of the Attorney General shall, as a condition of continued or future operation, apply to all persons convicted of a criminal fine under 13 V.S.A. § 3606a or assessed civil liability under 13 V.S.A. § 3606 prior to July 1, 2024 and for which the criminal fine or civil liability remains unpaid as of July 1, 2024.

(b) The Attorney General shall send notice of the requirement for a surety bond or letter of credit under subsection (a) of this section as a condition of continued operation to all persons in the State who, as of the effective date of this act, have failed to pay criminal fines or civil damages assessed for timber trespass under 13 V.S.A. §§ 3606 and 3606a.

Sec. 4. OFFICE OF THE ATTORNEY GENERAL; REPORT ON TIMBER TRESPASS ENFORCEMENT

(a) On or before January 15, 2025, the Office of the Attorney General shall submit to the House Committees on Agriculture, Food Resiliency, and Forestry and on Judiciary and the Senate Committees on Natural Resources and Energy and on Judiciary a report regarding the current enforcement of timber trespass

within the State and potential methods of improving enforcement. The report shall include:

(1) a summary of the current issues pertaining to enforcement of timber trespass statutes;

(2) a summary of mechanisms or alternatives utilized in other states to effectively enforce or prevent timber theft or similar crimes;

(3) recommendations for programs, policy changes, staffing, and budget estimates to improve enforcement and prevention; ensure consumer protection; and reduce the illegal harvesting, theft, and transporting of timber in the State, including proposed statutory changes to implement the recommendations; and

(4) a recommendation of whether and how property used in the commission of land improvement fraud or timber trespass should be subject to seizure and forfeiture by law enforcement.

(b) The Office of the Attorney General shall consult with the Department of Forests, Parks and Recreation; the Department of Public Safety; the Office of the State Treasurer; the Department of State's Attorneys and Sheriffs; the Professional Logging Contractors of the Northeast; the Vermont Forest Products Association; and other interested parties in the preparation of the report required under this section.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee Vote: 10-1-0)

H. 657

An act relating to the modernization of Vermont's communications taxes and fees

Rep. Sims of Craftsbury, for the Committee on Ways and Means, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * VUSF; Per-Line Contribution Method; Vermont 988 * * *

Sec. 1. 30 V.S.A. § 7501 is amended to read:

§ 7501. PURPOSE; DEFINITIONS

(a) It is the purpose of this chapter to create a financial structure that will allow every Vermont household to obtain basic telecommunications service at an affordable price; and to finance that structure with a ~~proportional~~ charge on

all telecommunications transactions that interact with the public switched network.

(b) As used in this chapter:

* * *

(8) “Telecommunications service” means the transmission of any real-time, interactive electromagnetic communications that passes through the public switched network. The term includes transmission of voice, image, data, and any other information, by means of wire, electric conductor cable, optic fiber, microwave, radio wave, or any combinations of such media, and the leasing of any such service.

(A) Telecommunications service includes:

(i) local telephone service, including any facility or service provided in connection with such local telephone service;

(ii) toll telephone service;

(iii) directory assistance;

(iv) ~~two-way cable television service~~ interconnected VoIP service, as defined in 47 C.F.R. § 9.3, as may be amended; and

(v) ~~mobile telephone or telecommunication service, both analog and digital~~ mobile telecommunications service, as defined in 4 U.S.C. § 124(7).

* * *

Sec. 2. 30 V.S.A. § 7521 is amended to read:

§ 7521. CHARGE IMPOSED; WHOLESAL EXEMPTION

(a) A Universal Service Charge is imposed on all retail telecommunications service provided to a Vermont address. Where the location of a service and the location receiving the bill differ, the location of the service shall be used to determine whether the Charge applies. The Charge is imposed on the person purchasing the service, but shall be collected by the telecommunications service provider. ~~Each~~ As applicable, each telecommunications service provider shall include in its tariffs filed at the Public Utility Commission a description of its billing procedures for the Universal Service Charge.

* * *

(c) In the case of mobile telecommunications service, the Universal Service Charge is imposed when the customer’s place of primary use is in Vermont. ~~The~~ As used in this subsection, the terms “customer,” and “place of primary

use,” and “mobile telecommunications service” have the meanings given in 4 U.S.C. § 124. All provisions of 32 V.S.A. § 9782 shall apply to the imposition of the Universal Service Charge under this section.

(d) ~~[Repealed.]~~ In the case of interconnected VoIP service, the Universal Service Charge is imposed when the customer’s place of primary use is in Vermont. As used in this subsection, the term “place of primary use” means the street address where the customer’s use of interconnected VoIP service primarily occurs or a reasonable proxy as determined by the interconnected VoIP service provider, such as the customer’s registered location for 911 purposes.

* * *

Sec. 3. 30 V.S.A. § 7523 is amended to read:

§ 7523. RATE OF CHARGE

~~(a)(1) Beginning on July 1, 2014, the~~ Except as provided in subsection 7521(e) of this chapter, which pertains to prepaid wireless telecommunications service, and in subdivision (4) of this subsection, the monthly rate of charge shall be two percent of retail telecommunications service \$0.72 for each retail access line in service.

(2) The number of access lines a telecommunications service provider provides a customer shall be deemed equal to the number of inbound or outbound, whichever is greater, two-way communications by any technology that the customer can maintain at the same time as provisioned by the provider’s service.

(3) As used in this section, “access line” means a wire or wireless connection that provides voice telecommunications service to or from any device used by a customer, regardless of technology, that is associated with a 10-digit NPA-NXX number or other unique identifier and with a service location or place of primary use in Vermont and that is capable of accessing the 911 system.

(4) A customer enrolled in the federal Lifeline program or the Vermont Lifeline program, or both, is exempt from the Charge established by this chapter.

~~(b) Beginning on July 1, 2019, the rate of charge established under subsection (a) of this section shall be increased by four-tenths of one percent of retail telecommunications service, and the monies collected from this increase~~ From the monies collected by the Universal Service Charge under this chapter, 17 percent shall be transferred to the Vermont Community Broadband Fund established under section 8083 of this title, and up to \$120,000.00 shall

be used to fund a Rural Broadband Technical Assistance Specialist whose duties shall include providing outreach, technical assistance, and other support services to communications union districts established pursuant to chapter 82 of this title and other units of government, nonprofit organizations, cooperatives, and for-profit businesses for the purpose of expanding broadband service to unserved and underserved locations. Support services also may include providing business model templates for various approaches, including formation of or partnership with a cooperative, a communications union district, a rural economic development infrastructure district, an electric utility, or a new or existing ~~Internet~~ internet service provider as operator of the network.

(c) Universal Service Charges imposed and collected by the fiscal agent under this subchapter shall not be transferred to any other fund or used to support the cost of any activity other than in the manner authorized by this section and section 7511 of this title.

Sec. 4. 30 V.S.A. § 7521(e)(1) is amended to read:

(e)(1) Notwithstanding any other provision of law to the contrary, ~~beginning on January 1, 2020, the a~~ Universal Service Charge of 2.4 percent shall be imposed on all retail sales of prepaid wireless telecommunications service subject to the sales and use tax imposed under 32 V.S.A. chapter 233. The charges shall be collected by sellers or marketplace facilitators collecting sales tax pursuant to 32 V.S.A. § 9713 and remitted to the Department of Taxes in the manner provided under 32 V.S.A. chapter 233. Upon receipt of the charges, the Department of Taxes shall have 30 days to remit the funds to the fiscal agent selected under section 7503 of this chapter. The Commissioner of Taxes shall establish registration and payment procedures applicable to the Universal Service Charge imposed under this subsection consistent with the registration and payment procedures that apply to the sales tax imposed on such services and also consistent with the administrative provisions of 32 V.S.A. chapter 151, including any enforcement or collection action available for taxes owed pursuant to that chapter.

Sec. 5. 30 V.S.A. § 7511 is amended to read:

§ 7511. DISTRIBUTION GENERALLY

(a)(1) As directed by the Commissioner of Public Service, funds collected by the fiscal agent, and interest accruing thereon, shall be distributed as follows:

(A)(1) to pay costs payable to the fiscal agent under its contract with the Commissioner;

~~(B)(2)~~ to support the Vermont telecommunications relay service in the manner provided by section 7512 of this title;

~~(C)(3)~~ to support the Vermont Lifeline program in the manner provided by section 7513 of this title;

~~(D)(4)~~ to support Enhanced 911 services in the manner provided by section 7514 of this title; and

~~(E)(5)~~ to support the Vermont 988 Suicide and Crisis Lifeline centers in the manner provided in section 7513a of this title; and

~~(6)~~ to support the Connectivity Fund established in section 7516 of this title; and

~~(2) for fiscal year 2016 only, any personnel or administrative costs associated with the Connectivity Initiative shall come from the Connectivity Fund, as determined by the Commissioner in consultation with the Connectivity Board.~~

(b) If insufficient funds exist to support all of the purposes contained in subsection (a) of this section, the Commissioner shall allocate the available funds, giving priority in the order listed in subsection (a).

Sec. 6. 30 V.S.A. § 7513a is added to read:

§ 7513a. VERMONT 988 SUICIDE AND CRISIS LIFELINE

The fiscal agent shall make distributions to the Commissioner of Mental Health to fund the operational and capital costs of the Vermont 988 Suicide and Crisis Lifeline centers, within annual limits approved in advance by the General Assembly.

* * * Communications Property; Real Estate; Fair Market Value * * *

Sec. 7. TELEPHONE TAX; REPEAL; TRANSITION

(a) 32 V.S.A. § 8521 (telephone personal property tax) is repealed on July 1, 2025. The final monthly installment payment of the telephone personal property tax under 32 V.S.A. § 8521 levied on the net book value of the taxpayer's personal property as of December 31, 2024 shall be due on or before July 25, 2025.

(b) 32 V.S.A. § 8522 (alternative telephone gross revenues tax) is repealed on January 1, 2026. The final quarterly payment of the alternative tax under 32 V.S.A. § 8522 shall be due on or before January 25, 2026.

(c) Any taxpayer who paid the alternative tax imposed by 32 V.S.A. § 8522 prior to the repeal of the tax on January 1, 2026 shall become subject to the

income tax imposed under 32 V.S.A. chapter 151 beginning with the taxpayer's first income tax year starting on or after January 1, 2025. No alternative tax under 32 V.S.A. § 8522 shall be due for any period included in the taxpayer's income tax filing for tax years starting on or after January 1, 2025.

(d) In fiscal year 2025, the Division of Property Valuation and Review of the Department of Taxes and all communications service providers with taxable communications property in Vermont shall be subject to the inventory and valuation provisions prescribed in 32 V.S.A. § 4452, as applicable.

Sec. 8. 32 V.S.A. § 3803(2) is amended to read:

(2) real and personal estate, except land and buildings, used in ~~carrying on telephone business or in~~ operating a transportation company in this State; and

Sec. 9. 32 V.S.A. § 5401(10) is amended to read:

(10) "Nonhomestead property" means all property except:

* * *

(B) Property that is subject to the tax on railroads imposed by chapter 211, subchapter 2 of this title ~~or the tax on telephone companies imposed by chapter 211, subchapter 6 of this title.~~

* * *

(D) Personal property, machinery, inventory and equipment, ski lifts, and snow-making equipment for a ski area; provided, however, this subdivision (10) shall not exclude from the definition of "nonhomestead property" the following real or personal property:

(i) utility cables and lines, poles, and fixtures ~~(except those taxed under chapter 211, subchapter 6 of this title)~~, provided that utility cables, lines, poles, and fixtures located on homestead property and owned by the person claiming the homestead shall be taxed as homestead property; and

* * *

Sec. 10. 32 V.S.A. § 3602b is added to read:

§ 3602b. COMMUNICATIONS PROPERTY

(a) All communications property shall be set in the grand list as real estate.

(b) Communications property owned by a nonmunicipal communications service provider shall be taxed at appraisal value as defined in section 3481 of this title.

(c) As used in this section, “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, splitters, switching equipment, routers, servers, power equipment, and any other network equipment.

(d)(1) On or before May 1 of each year, the Division of Property Valuation and Review of the Department of Taxes shall provide the listers in each municipality with the valuation of all taxable communications property of any communications service provider situated therein as reported by such provider to the Division.

(2) On or before March 31 of each year, each communications service provider shall submit to the Division a sworn inventory of all its taxable communications property in a form that identifies the valuation of its property in each municipality.

(3) The Division shall prescribe the form of the inventory required under subdivision (2) of this subsection and the officer or officers who shall submit the sworn inventory.

(4) The valuations provided to the listers pursuant to this section shall be used by the listers in determining and fixing the valuations of communications property for the purposes of property taxation.

Sec. 11. 32 V.S.A. § 3618(c)(1) is amended to read:

(1) “Business personal property” means tangible personal property of a depreciable nature used or held for use in any trade, business, professional practice, transaction, activity, or occupation conducted for profit, including all furniture and fixtures, apparatus, tools, implements, books, machines, boats, construction devices, and all personal property used or intended to be used for the production, processing, fabrication, assembling, handling, or transportation of anything of value, or for the production, transmission, control, or disposition of power, energy, heat, light, water, or waste. “Business personal property” does not include inventory, or goods and chattels so affixed to real property as to have become part thereof, and that are therefore not severable or removable without material injury to the real property, nor does it include poles, lines, and fixtures that are taxable under sections 3620 and 3659 of this title, nor does it include communications property taxable under section 3602b of this title.

Sec. 12. 32 V.S.A. § 3659 is amended to read:

§ 3659. MUNICIPAL LANDS

Land and buildings of a municipal corporation, whether acquired by purchase or condemnation and situated outside its territorial limits shall be taxed by the municipality in which such land is situated. Said land shall be set to such municipal corporation in the grand list of the town or city in which such real estate is located at the value fixed in the appraisal next preceding the date of acquisition of such property and taxed on such valuation. The value fixed on such property at each appraisal thereafter shall be the same per acre as the value fixed on similar property in the town or city. Improvements made subsequent to the acquisition of the land shall not be taxed; except that an additional tax not to exceed 75 percent of the appraisal of the land may be levied in lieu of a personal property tax. Electric utility poles, lines, and pole fixtures owned by a municipal utility lying beyond its boundaries shall be taxed at appraisal value as defined in section 3481 of this title. Communications property, as defined in section 3602b of this title, owned by a municipality lying beyond its boundaries shall be taxed at appraisal value as defined in section 3481 of this title.

Sec. 13. FISCAL YEAR 2025; ONE-TIME APPROPRIATION;

VALUATION MODEL

In fiscal year 2025, \$150,000.00 shall be appropriated from the General Fund to the Division of Property Valuation and Review of the Department of Taxes to fund the creation of a property valuation model for communications property.

* * * State Highway ROW; Leases; Licenses; Communications Providers and
Property * * *

Sec. 14. 19 V.S.A. § 26a is amended to read:

§ 26a. DETERMINATION OF RENT TO BE CHARGED FOR LEASING
OR LICENSING STATE-OWNED PROPERTY UNDER THE
AGENCY'S JURISDICTION

(a) Except as otherwise provided by subsection (b) of this section, or as otherwise provided by law, leases or licenses negotiated by the Agency under 5 V.S.A. §§ 204 and 3405 and section 26 and subsection 1703(d) of this title ordinarily shall require the payment of fair market value rent, as determined by the prevailing area market prices for comparable space or property. However, the Agency may lease or license State-owned property under its jurisdiction for less than fair market value when the Agency determines that the proposed

occupancy or use serves a public purpose or that there exist other relevant factors, such as a prior course of dealing between the parties, that justify setting rent at less than fair market value.

~~(b)(1) Unless Notwithstanding any other provision of law to the contrary and unless otherwise required by federal law, beginning on or before October 1, 2024, the Agency shall annually assess, collect, and deposit in the Transportation Fund a reasonable charge ~~or payment~~ with respect to leases or licenses for access to or use of State-owned rights-of-way by ~~providers of broadband or wireless communications facilities or services~~ communications service providers for communications property as defined in 32 V.S.A. § 3602b. The Agency may waive such charge ~~or payment in whole or in part~~ if the provider offers to provide comparable value to the State so as to meet the public good as determined by the Agency and the Department of Public Service. For the purposes of this section, the term “comparable value to the State” shall be construed broadly to further the State’s interest in ubiquitous broadband and wireless service availability at reasonable cost. Any waiver of charges or payments for comparable value to the State granted by the Agency may not exceed five years. Thereafter, the Agency may extend any waiver granted for an additional period not to exceed five years if the Agency makes affirmative written findings demonstrating that the State has received and will continue to receive value that is comparable to the value to the provider of the waiver, or it may revise the terms of the waiver in order to do so.~~

(2) As used in this subsection, “reasonable charge” means:

(A) \$270.00 for each wireless communications facility.

(B) A per-linear-foot fee for digital subscriber line, coaxial cable, and fiber optic line, as follows:

(i) \$0.02 in a county that has a population of fewer than 25,000;

(ii) \$0.07 in a county that has a population of at least 25,000 but fewer than 100,000; and

(iii) \$0.13 in a county that has a population of at least 100,000.

(3) The charge required by this subsection shall not apply to communications property owned by:

(A) a communications union district;

(B) a small communications carrier as defined in 30 V.S.A. § 8082(10);

(C) an internet service provider that qualifies as an “eligible provider” under 30 V.S.A. § 8082(4), provided the lease or license for access

to or use of State-owned rights-of-way is part of a “universal service plan” as defined in 30 V.S.A. § 8082(12), as certified by the Vermont Community Broadband Board; or

(D) a cable television service provider, provided the property is part of a cable television system subject to a certificate of public good issued by the Public Utility Commission under 30 V.S.A. chapter 13.

(4) The Secretary may adjust the fees prescribed in this section to account for inflationary changes as measured by the Consumer Price Index.

(5) The Secretary may propose for approval by the General Assembly standards and procedures for waiving the fees required by this subsection.

(c) Nothing in this section shall authorize the Agency to impose a charge or payment for the use of a highway right-of-way that is not otherwise authorized or required by State or federal law.

~~(d) Nothing in this section shall be construed to impair any contractual rights existing on June 9, 2007.~~ The State shall have no authority under this section to waive any sums due to a railroad. The State shall also not offer any grants or waivers of charges for any new broadband installations in segments of rail corridor where an operating railroad has installed or allowed installation of fiber optic facilities prior to June 9, 2007 unless the State offers equivalent terms and conditions to the owner or owners of existing fiber optic facilities.

(e) Beginning on or before January 1, 2025, and annually thereafter, the holder of a lease or license pursuant to subsection (b) of this section shall provide a detailed inventory of all property in the State right-of-way pursuant to such lease or license. The inventory shall include the regulatory status of the lease or license holder, categorization of all communications property by type and by its location in the right-of-way, and a description of the service or services enabled by such property, as applicable.

(f) Notwithstanding 2 V.S.A. § 20(d), beginning on January 1, 2026 and annually thereafter, the Agency shall submit a written report to the General Assembly itemizing all charges and payments collected under this section, as well as an aggregated statewide inventory of the communications property described in subsection (e) of this section. The statewide inventory shall be shared with the Commissioner of Taxes, the Commissioner of Public Service, and the Secretary of Administration.

Sec. 16. AGENCY OF TRANSPORTATION; POSITIONS;

APPROPRIATION

(a) The following new, classified positions are authorized in the Agency of Transportation:

(1) one temporary full-time position; and

(2) one permanent full-time position.

(b) There is appropriated to the Agency of Transportation from the General fund in fiscal year 2025 the sum of \$250,000.00

* * * Effective Dates * * *

Sec. 17. EFFECTIVE DATES

This act shall take effect on July 1, 2024, except that:

(1) Secs. 1–6 (VUSF contribution method; 988 funding) shall take effect on July 1, 2025;

(2) this section, Sec. 7 (property tax transition) Sec. 13 (PVR appropriation), Sec. 16 (new transportation positions) shall take effect on passage; and

(3) Secs. 8–12 (communications property tax) shall take effect on July 1, 2025 and shall apply to grand lists lodged on or after April 1, 2025.

(Committee Vote: 12-0-0)

H. 694

An act relating to sexual exploitation

Rep. Oliver of Sheldon, for the Committee on Judiciary, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 3257 is amended to read:

§ 3257. SEXUAL EXPLOITATION OF A PERSON UNDER THE

SUPERVISION OF THE DEPARTMENT OF CORRECTIONS

(a) A correctional employee, contractor, or other person providing services to offenders on behalf of the Department of Corrections or pursuant to a court order or in accordance with a condition of parole, probation, supervised community sentence, or furlough shall not engage in a sexual act as defined in section 3251 of this title or sexual conduct as defined in section 2821 of this title with:

(1) a person who the employee, contractor, or other person providing services knows is confined to a correctional facility; or

(2) any offender being supervised by the Department of Corrections while on parole, probation, supervised community sentence, or furlough, where the employee, contractor, or other service provider knows or reasonably should have known that the offender is being supervised by the Department, unless the offender and the employee, contractor, or person providing services were married, parties to a civil union, or engaged in a consensual sexual relationship at the time of sentencing for the offense for which the offender is being supervised by the Department.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both.

Sec. 2. 13 V.S.A. § 3258 is amended to read:

§ 3258. SEXUAL EXPLOITATION OF A MINOR

(a) No person shall engage in a sexual act as defined in section 3251 of this title or sexual conduct as defined in section 2821 of this title with a minor if:

(1) the actor is at least 48 months older than the minor; and

(2) the actor is in a position of power, authority, or supervision over the minor by virtue of the actor's undertaking the responsibility, professionally or voluntarily, to provide for the health or welfare of minors, or guidance, leadership, instruction, or organized recreational activities for minors.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than one year or fined not more than \$2,000.00, or both.

(c) A person who violates subsection (a) of this section and who abuses ~~his or her~~ the person's position of power, authority, or supervision over the minor in order to engage in a sexual act as defined in section 3251 of this title or sexual conduct as defined in section 2821 of this title shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both.

Sec. 3. 13 V.S.A. § 3259 is amended to read:

§ 3259. SEXUAL EXPLOITATION OF A PERSON WHO IS BEING
INVESTIGATED, DETAINED, ARRESTED, OR IS IN THE
CUSTODY OF A LAW ENFORCEMENT OFFICER

(a) No law enforcement officer shall engage in a sexual act as defined in section 3251 of this title or sexual conduct as defined in section 2821 of this title with a person whom the officer is detaining, arresting, or otherwise holding in custody or who the officer knows is being detained, arrested, or otherwise held in custody by another law enforcement officer. For purposes of

this section, “detaining” and “detained” include a traffic stop or questioning pursuant to an investigation of a crime.

(b)(1) No law enforcement officer shall engage in a sexual act as defined in section 3251 of this title or sexual conduct as defined in section 2821 of this title with a person whom the officer:

(A) is investigating pursuant to an open investigation;

(B) knows is being investigated by another law enforcement officer pursuant to an open investigation; or

(C) knows is a victim or confidential informant in any open investigation.

(2) This subsection shall not apply if the law enforcement officer was engaged in a consensual sexual relationship with the person prior to the officer’s knowledge that the person was a suspect, victim, or confidential informant in an open investigation.

(c) A person who violates subsection (a) or (b) of this section shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

S. 18

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

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

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Tobacco use is costly. Vermont spends more than \$400 million annually to treat tobacco-caused illnesses, including more than \$90 million each year in Medicaid expenses. This translates into a tax burden each year of over \$1,000.00 per Vermont household. Smoking-related productivity losses add another \$576 million in additional costs each year.

(2) Youth tobacco use is growing due to e-cigarettes. Seven percent of Vermont high school students smoke, but if e-cigarette use is included,

28 percent of Vermont youths use some form of tobacco product. More than one in four Vermont high school students now uses e-cigarettes. Use more than doubled among this age group, from 12 percent to 26 percent, between 2017 and 2019.

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

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

CHAPTER 40. TOBACCO PRODUCTS

§ 1001. DEFINITIONS

As used in this chapter:

(1) “Bidis” or “Beedies” means a product containing tobacco that is wrapped in temburni leaf (diospyros melanoxyton) or tendu leaf (diospyros exculpra), or any other product that is offered to, or purchased by, consumers as bidis or beedies.

(2) “Board” means the Board of Liquor and Lottery.

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

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

(5) “Cigarette” means:

(A) any roll of tobacco wrapped in paper or any substance not containing tobacco; and

(B) any roll of tobacco wrapped in a substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subdivision (A) of this subdivision (5).

(2)(6) “Commissioner” means the Commissioner of Liquor and Lottery.

(3) “Tobacco products” means cigarettes, little cigars, roll-your-own tobacco, snuff, cigars, new smokeless tobacco, and other tobacco products as defined in 32 V.S.A. § 7702.

(4) “Vending machine” means any mechanical, electronic, or other similar device that dispenses tobacco products for money.

(7) “E-liquid” means the solution, substance, or other material used in or with a tobacco substitute that is heated or otherwise acted upon to produce an aerosol, vapor, or other emission to be inhaled or otherwise absorbed by the user, regardless of whether the solution, substance, or other material contains nicotine. The term does not include cannabis products as defined in section 831 of this title or products that are regulated by the Cannabis Control Board.

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

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

(10) “Flavored tobacco product” means any tobacco product with a characterizing flavor. A tobacco product shall be presumed to be a flavored tobacco product if a licensee, a manufacturer, or a licensee’s or manufacturer’s agent or employee has made a statement or claim directed to consumers or the

public, whether express or implied, that the product has a distinguishable taste or aroma other than the taste or aroma of tobacco.

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

(12) “Licensed wholesale dealer” means a wholesale dealer licensed under 32 V.S.A. chapter 205.

(13) “Little cigars” means any rolls of tobacco wrapped in leaf tobacco or any substance containing tobacco, other than any roll of tobacco that is a cigarette, and as to which 1,000 units weigh not more than three pounds.

(14) “Nicotine” means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl)pyridine or C[10]H[14]N[2], including any salt or complex of nicotine, whether naturally or synthetically derived.

(15) “Proper proof of age” means a valid authorized form of identification as defined in section 589 of this title.

(16) “Retail dealer” means a person licensed pursuant to section 1002 of this title.

(17) “Roll-your-own tobacco” means any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

(18) “Snuff” means any finely cut, ground, or powdered tobacco that is not intended to be smoked, has a moisture content of not less than 45 percent, and is not offered in individual single-dose tablets or other discrete single-use units.

~~(5)~~(19) “Tobacco license” means a license issued by the Division of Liquor Control under this chapter permitting the licensee to engage in the retail sale of tobacco products.

~~(6) “Bidis” or “Beedies” means a product containing tobacco that is wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf (diospyros exculpra), or any other product that is offered to, or purchased by, consumers as bidis or beedies.~~

~~(7)~~(20) “Tobacco paraphernalia” means any device used, intended for use, or designed for use in smoking, inhaling, ingesting, or otherwise introducing tobacco products, tobacco substitutes, e-liquids, or a combination

of these, into the human body, or for preparing tobacco for smoking, inhaling, ingesting, or otherwise introducing into the human body, including devices for holding tobacco, rolling paper, wraps, cigarette rolling machines, pipes, water pipes, carburetion devices, bongs, and hookahs, and clothing or accessories adapted for use with a tobacco product, a tobacco substitute, an e-liquid, or tobacco paraphernalia.

(21) “Tobacco products” means cigarettes, little cigars, roll-your-own tobacco, snuff, cigars, new smokeless tobacco, and any other product manufactured from, derived from, or containing tobacco that is intended for human consumption by smoking, by chewing, or in any other manner.

(8)(22)(A) “Tobacco substitute” means products any product that is not a tobacco product, as defined in subdivision (21) of this section, and that meets one or both of the following descriptions:

(i) a product, including an electronic cigarettes cigarette or other electronic or battery-powered devices device, or any component, part, or accessory thereof, that contain or are contains or is designed to deliver nicotine or other substances into the body through the inhalation or other absorption of aerosol, vapor, or other emission and that have has not been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes; or

(ii) an oral nicotine product or any other item that is designed to deliver nicotine into the body, including a product or item containing or delivering nicotine that has been extracted from a tobacco plant or leaf.

(B) Cannabis products as defined in section 831 of this title or products that have been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes shall not be considered to be tobacco substitutes.

(23) “Vending machine” means any mechanical, electronic, or other similar device that sells or dispenses tobacco products, tobacco substitutes, e-liquids, tobacco paraphernalia, or a combination of these.

(24) “Wholesale dealer” means a person who imports or causes to be imported into the State any cigarettes, little cigars, roll-your-own tobacco, snuff, new smokeless tobacco, or other tobacco product for sale or who sells or furnishes any of these products to other wholesale dealers or retail dealers for the purpose of resale, but not by small quantity or parcel to consumers thereof.

§ 1002. LICENSE REQUIRED; APPLICATION; FEE; ISSUANCE

(a)(1) Except as provided in subsection (h) of this section, no person shall engage in the retail sale of tobacco products, tobacco substitutes, e-liquids, or

tobacco paraphernalia in the person's place of business without a tobacco license obtained from the Division of Liquor Control.

* * *

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

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

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

(h) This section shall not apply to a cannabis establishment licensed pursuant to chapter 33 of this title to engage in the retail sale of cannabis products as defined in section 831 of this title but not engaged in the sale of tobacco products or tobacco substitutes.

* * *

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

(a)(1) A person shall not:

(A) sell or provide tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia to any person under 21 years of age; or

(B) knowingly enable the usage of tobacco products, tobacco substitutes, or e-liquids by a person under 21 years of age.

(2)(A) Except as otherwise provided in subdivision (B) of this subdivision (2), a person, including a retail dealer, who violates subdivision (1) of this subsection (a) shall be subject to a civil penalty of not more than \$500.00 for the first offense and not more than \$2,000.00 for any subsequent offense.

(B) An employee of a retail dealer who violates subdivision (1) of this subsection (a) in the course of employment shall be subject to a civil penalty of not more than \$100.00 for a first offense and not more than \$500.00 for any subsequent offense. This penalty shall be in addition to the penalty imposed on the retail dealer pursuant to subdivision (A) of this subdivision (2).

(C) An action under this subsection (a) shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours after the occurrence of the alleged violation.

(b) All vending machines selling or dispensing tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia, or a combination of these, are prohibited.

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

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

(B) in a locked container.

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

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

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

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

(d) The sale and the purchase of bidis is prohibited. A person who holds a tobacco license who sells bidis as prohibited by this subsection ~~shall be fined not more than \$500.00.~~ A or a person who purchases bidis from any source shall be fined subject to a civil penalty of not more than \$250.00 for a first offense and not more than \$500.00 for a subsequent offense.

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

(f) ~~As used in this section, “little cigars” means any rolls of tobacco wrapped in leaf tobacco or any substance containing tobacco, other than any roll of tobacco that is a cigarette within the meaning of 32 V.S.A. § 7702(1), and as to which 1,000 units weigh not more than three pounds~~ “enable the usage of tobacco products, tobacco substitutes, or e-liquids” means creating a direct and immediate opportunity for a person to use tobacco products, tobacco substitutes, or e-liquids, or a combination of these.

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

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

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

§ 1005. PERSONS UNDER 21 YEARS OF AGE; POSSESSION OR
PURCHASE OF TOBACCO PRODUCTS; MISREPRESENTING
~~AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY,~~
TOBACCO SUBSTITUTES, E-LIQUIDS, OR TOBACCO
PARAPHERNALIA PROHIBITED

(a)(1) A person under 21 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia unless:

(A) the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia to effect a sale in the course of employment; or

(B) the person is in possession of tobacco products or tobacco paraphernalia in connection with Indigenous cultural tobacco practices.

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

(b)(1) A person who possesses tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia in violation of subsection (a) of this section shall be subject to having the tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia immediately confiscated and shall ~~be further subject to a civil penalty of \$25.00~~ complete a tobacco cessation program approved by the Department of Health.

(2) Within 90 days following the date of confiscation, the person shall provide to the Division of Liquor Control a certificate or attestation of completion of the tobacco cessation program. If the person does not submit the certificate or attestation within 90 days, the person shall be subject to a civil penalty of up to \$50.00.

(3) An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.

(c)(1) A person under 21 years of age who misrepresents ~~his or her~~ the person's age by presenting false identification to purchase tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia shall be ~~fined not more than \$50.00 or provide up to 10 hours of community service, or both~~ subject to:

(A) having the tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia immediately confiscated;

(B) having the false identification immediately confiscated; and

(C) completing a tobacco cessation program approved by the Department of Health.

(2) Within 90 days following the date of confiscation, the person shall provide to the Division of Liquor Control a certificate or attestation of completion of the tobacco cessation program. If the person does not submit the certificate or attestation within 90 days, the person shall be subject to a civil penalty of up to \$50.00.

(3) An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.

§ 1006. POSTING OF SIGNS

(a) A person licensed under this chapter shall post in a conspicuous place on the premises identified in the tobacco license a warning sign stating that the sale of tobacco products, tobacco substitutes, e-liquids, and tobacco

paraphernalia to persons under 21 years of age is prohibited. The Board shall prepare the sign and make it available with the license forms issued under this chapter. The sign may include information about the health effects of tobacco and tobacco cessation services. The Board, in consultation with a representative of the licensees when appropriate, is authorized to change the design of the sign as needed to maintain its effectiveness.

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

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

~~(a) A person that sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person under 21 years of age shall be subject to a civil penalty of not more than \$100.00 for the first offense and not more than \$500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours of the occurrence of the alleged violation. [Repealed.]~~

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

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

- | | |
|----------------------|----------------------|
| (A) two violations | two weekdays; |
| (B) three violations | 15-day suspension; |
| (C) four violations | 90-day suspension; |
| (D) five violations | one-year suspension. |

(3) The Division shall report to the House Committee on ~~General~~, ~~Housing~~, Government Operations and Military Affairs, the Senate Committee on Economic Development, Housing and General Affairs, and the ~~Tobacco~~

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

* * *

§ 1009. CONTRABAND AND SEIZURE

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

* * *

§ 1010. INTERNET SALES

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

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

(2) ~~[Repealed.]~~

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

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

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

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

(7) ~~“Snuff” has the same meaning as in 32 V.S.A. § 7702(13).~~
~~[Repealed.]~~

(b) No person shall cause cigarettes, roll-your-own tobacco, little cigars, snuff, tobacco substitutes, ~~substances containing nicotine or otherwise intended for use with a tobacco substitute~~ e-liquids, or tobacco paraphernalia, ordered or purchased by mail or through a computer network, telephonic network, or

other electronic network, to be shipped to anyone other than a licensed wholesale dealer or retail dealer in this State.

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

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

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

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

* * *

§ 1012. LIQUID NICOTINE E-LIQUIDS AND OTHER SUBSTANCES
CONTAINING NICOTINE; PACKAGING

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

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

(2) any ~~nicotine liquid~~ e-liquid container or other container holding a liquid or gel substance containing nicotine unless that container constitutes child-resistant packaging.

(b) ~~As used in this section:~~

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

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

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

(a) No person shall engage in the retail sale of:

- (1) any flavored tobacco substitute;
- (2) any flavored e-liquid; or
- (3) any menthol-flavored tobacco product.

(b)(1) A person who violates subsection (a) of this section shall be subject to a civil penalty of not more than \$200.00 for the first offense and not more than \$500.00 for any subsequent offense.

(2) An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours after the occurrence of the alleged violation.

§ 1014. SALE OF DISCOUNTED TOBACCO PRODUCTS, TOBACCO
SUBSTITUTES, E-LIQUIDS, AND TOBACCO
PARAPHERNALIA PROHIBITED

(a) As used in this section, “price reduction instrument” means any coupon, voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or any other form, used for commercial purposes to receive an article, product, service, or accommodation without charge or at a discounted price.

(b) No person shall do any of the following:

(1) sell or offer for sale a tobacco product, tobacco substitute, e-liquid, or tobacco paraphernalia to a consumer at a price lower than the price that was in effect at the time the seller purchased the item from the wholesale dealer;

(2) sell or offer for sale a tobacco product, tobacco substitute, e-liquid, or tobacco paraphernalia through any multipackage discount; or

(3) honor or accept a price reduction instrument in any transaction related to the sale of a tobacco product, tobacco substitute, e-liquid, or tobacco paraphernalia to a consumer.

(c) A person who violates subsection (b) of this section shall be subject to a civil penalty of not more than \$200.00 for the first offense and not more than \$500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours after the occurrence of the alleged violation.

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

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

* * *

(5) Violations of 7 V.S.A. § 1007 1003(a), relating to furnishing tobacco products, tobacco substitutes, e-liquids, and tobacco paraphernalia to a person under 21 years of age.

* * *

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

(34) Violations of 7 V.S.A. § 1014, relating to sale of discounted tobacco products, tobacco substitutes, e-liquids, and tobacco paraphernalia.

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

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

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

§ 140. ~~TOBACCO~~ USE OF TOBACCO PRODUCTS, TOBACCO
SUBSTITUTES, AND E-LIQUIDS PROHIBITED ON PUBLIC
SCHOOL GROUNDS

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

Sec. 6. 18 V.S.A. § 4226 is amended to read:

§ 4226. MINORS; TREATMENT; CONSENT

(a)(1) If a minor 12 years of age or older is suspected to ~~be dependent upon~~ have a substance use disorder, including a dependence on regulated drugs as defined in section 4201 of this title, on alcohol, on nicotine, or on tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001, or to have venereal disease, or to be an alcoholic as defined in section 8401 of this title a sexually transmitted infection, and the finding of such ~~dependency, disease, or alcoholism~~ substance use disorder or infection is verified by a licensed ~~physician~~ health care professional, the minor may give:

(A) ~~his or her consent to medical treatment~~ health care services and hospitalization; and

(B) ~~in the case of a drug dependent or alcoholic person~~ an individual who has a substance use disorder, consent to nonmedical inpatient or outpatient treatment at a program approved by the Agency of Human Services to provide treatment for ~~drug dependency or alcoholism~~ substance use disorder if deemed necessary by the examining ~~physician for diagnosis or treatment of such dependency or disease or alcoholism~~ health care professional.

(2) Consent under this section shall not be subject to disaffirmance due to minority of the person consenting. The consent of the parent or legal guardian of a minor consenting under this section shall not be necessary to authorize care as described in this subsection.

(b) The parent, parents, or legal guardian shall be notified by the physician if the condition of a minor child requires immediate hospitalization as the result of ~~drug usage, alcoholism, or alcohol use~~ or for the treatment of a venereal disease sexually transmitted infection.

(c) As used in this section, “health care professional” means an individual licensed as a physician under 26 V.S.A. chapter 23 or 33, an individual licensed as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as a registered nurse or advanced practice registered nurse under 26 V.S.A. chapter 28.

Sec. 7. 18 V.S.A. § 4803(a) is amended to read:

(a) Creation. There is created the Substance Misuse Prevention Oversight and Advisory Council within the Department of Health to improve the health outcomes of all Vermonters through a consolidated and holistic approach to substance misuse prevention that addresses all categories of substances. The Council shall provide advice to the Governor and General Assembly for improving prevention policies and programming throughout the State and to

ensure that population prevention measures are at the forefront of all policy determinations. The Advisory Council's prevention initiatives shall encompass all substances at risk of misuse, including:

- (1) alcohol;
- (2) cannabis;
- (3) controlled substances, such as opioids, cocaine, and methamphetamines; and
- (4) tobacco products ~~and~~ tobacco substitutes, and e-liquids, as those terms are defined in 7 V.S.A. § 1001 ~~and substances containing nicotine or that are otherwise intended for use with a tobacco substitute.~~

Sec. 8. 32 V.S.A. § 7702 is amended to read:

§ 7702. DEFINITIONS

As used in this chapter unless the context otherwise requires:

* * *

(15) "Other tobacco products" means any product manufactured from, derived from, or containing tobacco that is intended for human consumption by smoking, by chewing, or in any other manner, ~~including. The term also includes~~ products sold as a tobacco substitute, as defined in 7 V.S.A. § 1001(8), and including any liquids, whether nicotine based or not, or, e-liquids, as defined in 7 V.S.A. § 1001; and delivery devices sold separately for use with a tobacco substitute or e-liquid, but shall not include cigarettes, little cigars, roll-your-own tobacco, snuff, or new smokeless tobacco as defined in this section, or cannabis products as defined in 7 V.S.A. § 831.

* * *

Sec. 9. 18 V.S.A. § 9503 is amended to read:

§ 9503. VERMONT TOBACCO PREVENTION AND TREATMENT

(a) Except as otherwise specifically provided, the tobacco prevention and treatment program shall be administered and coordinated statewide by the Department of Health, pursuant to the provisions of this chapter. The program shall be comprehensive and research-based.

(b) The Department shall establish goals for reducing adult and youth smoking rates, including performance measures for each goal in conjunction with the Substance Misuse Prevention Oversight and Advisory Council established pursuant to section 4803 of this title. The services provided by a quitline approved by the Department of Health shall be offered and made

available to any minor, upon ~~his or her~~ the minor's consent, who is a smoker or user of tobacco products, tobacco substitutes, or e-liquids, as those terms are defined in 7 V.S.A. § 1001.

(c) The Department of Liquor and Lottery shall administer the component of the program that relates to enforcement activities.

(d) The Agency of Education shall administer school-based programs.

(e) The Department shall pay all fees and costs of the surveillance and evaluation activities, including the costs associated with hiring a contractor to conduct an independent evaluation of the program.

Sec. 10. 33 V.S.A. § 1900 is amended to read:

§ 1900. DEFINITIONS

As used in this subchapter, unless otherwise indicated:

* * *

(10) “Tobacco” means all of the products listed in the definition of “tobacco products” in 7 V.S.A. § 1001(3).

* * *

Sec. 11. HEALTH EQUITY ADVISORY COMMISSION; MENTHOL TOBACCO PRODUCT BAN; REPORT

On or before January 15, 2025, in its annual report due pursuant to 18 V.S.A. § 252(e), the Health Equity Advisory Commission shall recommend to the General Assembly whether the sale of tobacco products containing menthol, including menthol cigarettes, should be banned in Vermont.

Sec. 12. TOBACCO SUBSTITUTES AND E-LIQUIDS; ADVERTISING RESTRICTIONS; REPORT

On or before December 1, 2024, the Office of the Attorney General shall report to the House Committees on Commerce and Economic Development and on Human Services and the Senate Committees on Economic Development, Housing and General Affairs and on Health and Welfare regarding whether and to what extent Vermont may legally restrict advertising and regulate the content of labels for tobacco substitutes, including oral nicotine products, and e-liquids in this State.

Sec. 13. DEPARTMENT OF HEALTH; VERMONT YOUTH RISK

BEHAVIOR SURVEY; TOBACCO SALES; REPORT

On or before March 1, 2027, the Department of Health shall report to the House Committee on Human Services and the Senate Committee on Health and Welfare the results of the 2025 Vermont Youth Risk Behavior Survey that relate to youth use of tobacco products, tobacco substitutes, and e-liquids, along with a comparison of the rates of use from previous Vermont Youth Risk Behavior Surveys. In its report, the Department shall also provide data on retail sales of tobacco products, tobacco substitutes, and e-liquids during calendar years 2024, 2025, and 2026.

Sec. 14. DEPARTMENT OF HEALTH; SCHOOL-BASED USAGE AND

CESSATION EFFORTS; REPORT

The Department of Health shall collaborate with relevant school and community partners to survey and report on the use of tobacco products, tobacco substitutes, and e-liquids, as well as on nicotine and tobacco cessation efforts, in Vermont's schools. On or before January 15, 2026, the Department shall report to the House Committees on Human Services and on Education and the Senate Committees on Health and Welfare and on Education with its findings and any recommendations for legislative action.

Sec. 15. EFFECTIVE DATES

(a) Sec. 2 (7 V.S.A. chapter 40) shall take effect on January 1, 2025, except that 7 V.S.A. § 1013(a)(3) (prohibiting retail sale of menthol-flavored tobacco products) shall take effect on July 1, 2025.

(b) Secs. 1 (findings), 6 (18 V.S.A. § 4226; minor consent to treatment), 9 (18 V.S.A. § 9503; tobacco prevention and treatment), 11 (Health Equity Advisory Commission; menthol ban; report), 12 (advertising restrictions; report), 13 (Youth Risk Behavior Survey; tobacco sales; report), and 14 (school-based usage and cessation efforts; report) and this section shall take effect on passage.

(c) Secs. 3 (4 V.S.A. § 1102(b); Judicial Bureau jurisdiction), 4 (7 V.S.A. § 661(c); penalties), 5 (16 V.S.A. § 140; use prohibited on school grounds), 7 (18 V.S.A. § 4803(a); Substance Misuse Prevention Oversight and Advisory Council), 8 (32 V.S.A. § 7702; definition for tobacco tax purposes), and 10 (33 V.S.A. § 1900; definition for medical assistance statutes) shall take effect on January 1, 2025.

(Committee Vote: 10-0-1)

Rep. Ode of Burlington, for the Committee on Ways and Means, recommends that the report of the Committee on Human Services be amended as follows:

First: In Sec. 2, in 7 V.S.A. § 1001, striking out subdivision (7) in its entirety and inserting in lieu thereof a new subdivision (7) to read as follows:

(7) “E-liquid” means the solution, substance, or other material that contains nicotine and is used in or with a tobacco substitute, and that is heated or otherwise acted upon to produce an aerosol, vapor, or other emission to be inhaled or otherwise absorbed by the user. The term does not include cannabis products as defined in section 831 of this title or products that are regulated by the Cannabis Control Board.

Second: In Sec. 2, in 7 V.S.A. § 1001, striking out subdivision (22) in its entirety and inserting in lieu thereof a new subdivision (22) to read as follows:

(8)(22)(A) “Tobacco substitute” means ~~products~~ any product that is not a tobacco product, as defined in subdivision (21) of this section, and that meets one or both of the following descriptions:

(i) a product, including an electronic ~~eigarettes~~ cigarette or other electronic or battery-powered ~~devices~~ device, or any component, part, or accessory thereof, that ~~contain or are~~ contains or is designed to deliver nicotine or other substances into the body through the inhalation or other absorption of aerosol, vapor, or other emission and that ~~have~~ has not been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes; or

(ii) an oral nicotine product or any other item that is designed to deliver nicotine into the body, including a product or item containing or delivering nicotine that has been extracted from a tobacco plant or leaf.

(B) Cannabis products as defined in section 831 of this title or products that have been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes shall not be considered to be tobacco substitutes.

Third: In Sec. 2, by striking out 7 V.S.A. § 1005 in its entirety and inserting in lieu thereof a new 7 V.S.A. § 1005 to read as follows:

§ 1005. ~~PERSONS UNDER 21 YEARS OF AGE; POSSESSION OR PURCHASE OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY, TOBACCO SUBSTITUTES, E-LIQUIDS, OR TOBACCO~~

PARAPHERNALIA PROHIBITED

(a)(1) Prohibited conduct. A person under 21 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia unless:

(A) the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia to effect a sale in the course of employment; or

(B) the person is in possession of tobacco products or tobacco paraphernalia in connection with Indigenous cultural tobacco practices.

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

(b) Offense. A person who possesses tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia in violation of subsection (a) of this section commits a civil violation and shall be subject to having the tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia immediately confiscated and shall be further subject to a civil penalty of \$25.00. An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24 referred to the Court Diversion Program for the purpose of enrollment in a tobacco cessation program approved by the Department of Health. A person who fails to complete the program shall be subject to a civil penalty of \$50.00.

(c) Issuance of notice of violation. A law enforcement officer shall issue a person who violates this section a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide the person's name and address and shall explain procedures under this section, including that:

(1) the person shall contact the Diversion Program in the county where the offense occurred within 15 days;

(2) failure to contact the Diversion Program within 15 days will result in the case being referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty;

(3) no money should be submitted to pay any penalty until after adjudication; and

(4) the person shall notify the Diversion Program if the person's address changes.

(d) Summons and complaint. When a person is issued a notice of violation under this section, the law enforcement officer shall complete a summons and complaint for the offense and send it to the Diversion Program in the county where the offense occurred. The summons and complaint shall not be filed with the Judicial Bureau at that time.

(e) Registration in tobacco cessation program. Within 15 days after receiving a notice of violation, the person shall contact the Diversion Program in the county where the offense occurred and register for a tobacco cessation program approved by the Department of Health. If the person fails to do so, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(f) Notice to report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(1) the person is required to complete the tobacco cessation program;

(2) if the person does not satisfactorily complete the tobacco cessation program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty; and

(3) if the person satisfactorily completes the tobacco cessation program, no penalty shall be imposed.

(g) Diversion Program requirements.

(1) Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in a tobacco cessation program approved by the Department of Health.

(2) When a person has satisfactorily completed the tobacco cessation program, the Diversion Program shall do all of the following:

(A) Void the summons and complaint with no penalty due.

(B) Send copies of the voided summons and complaint to the Judicial Bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the Judicial Bureau under this subdivision, the Diversion Program shall redact all language containing the person's name, address, Social Security number, and any other information that identifies the person.

(3) If a person does not satisfactorily complete the tobacco cessation program or if the person fails to pay the Diversion Program any required program fees, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(4) A person aggrieved by a decision of the Diversion Program or of the tobacco cessation program may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

(e)(h) Confiscation of false identification. A In addition to the procedures set forth in subsections (b)–(g) of this section, a person under 21 years of age who misrepresents his or her the person’s age by presenting false identification to purchase tobacco products, tobacco substitutes, e-liquids, or tobacco paraphernalia shall be fined not more than \$50.00 or provide up to 10 hours of community service, or both have the person’s false identification immediately confiscated.

Fourth: By striking out Sec. 15, effective dates, in its entirety and inserting in lieu thereof a new Sec. 15 to read as follows:

Sec. 15. EFFECTIVE DATES

(a) Secs. 2 (7 V.S.A. chapter 40), 3 (4 V.S.A. § 1102(b); Judicial Bureau jurisdiction), 4 (7 V.S.A. § 661(c); penalties), 5 (16 V.S.A. § 140; use prohibited on school grounds), 7 (18 V.S.A. § 4803(a); Substance Misuse Prevention Oversight and Advisory Council), 8 (32 V.S.A. § 7702; definition for tobacco tax purposes), and 10 (33 V.S.A. § 1900; definition for medical assistance statutes) shall take effect on January 1, 2026.

(b) Secs. 1 (findings), 6 (18 V.S.A. § 4226; minor consent to treatment), 9 (18 V.S.A. § 9503; tobacco prevention and treatment), 11 (Health Equity Advisory Commission; menthol ban; report), 12 (advertising restrictions; report), 13 (Youth Risk Behavior Survey; tobacco sales; report), and 14 (school-based usage and cessation efforts; report) and this section shall take effect on passage.

(Committee Vote: 7-5-0)

Favorable

H. 350

An act relating to the Uniform Directed Trust Act

Rep. Andriano of Orwell, for the Committee on Judiciary, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

CONSENT CALENDAR FOR ACTION

Senate Concurrent Resolution for Adoption Under Joint Rules 16a - 16d

The following concurrent resolution has been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration in that member's chamber before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Senate Secretary's Office or the House Clerk's Office, as applicable. For text of the resolution, see Addendum to Senate Calendar of February 23, 2024.

S.C.R. 10

Senate concurrent resolution honoring Waterville Town Clerk and Treasurer Nancy LaRose for her exemplary municipal public service

For Informational Purposes

NOTICE OF CROSSOVER DATES

The Committee on Joint Rules adopted the following Crossover dates:

(1) All **House/Senate** bills must be reported out of the last committee of reference (including the Committees on Appropriations and on Ways and Means/Finance, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 15, 2024** and filed with the Clerk/Secretary so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by **Friday, March 15, 2024**.

(2) All **House/Senate** bills referred pursuant to House Rule 35(a) or Senate Rule 31 to the Committees on Appropriations and on Ways and Means/Finance must be reported out by the last of those committees on or before **Friday, March 22, 2024** and filed with the Clerk/Secretary so they may be placed on the Calendar for Notice the next legislative day.

Exceptions the foregoing deadlines include the major money bills (the general Appropriations bill (“The Big Bill”), the Transportation Capital bill, the Capital Construction bill, the Pay Act, and the Fee and miscellaneous tax bills).

NOTICE OF JOINT ASSEMBLY

Friday, March 1, 2024 – 10:30 A.M. – House Chamber – Election of a Sergeant at Arms.

The following rules shall apply to the conduct of this election:

First: All nominations for this office will be presented in alphabetical order prior to voting.

Second: There will be only one nominating speech of not more than three (3) minutes and not more than two seconding speeches of not more than one (1) minute each for each nominee.

H.C.R. DRAFTING REQUEST DEADLINE

For a House Concurrent Resolution (H.C.R.) to be available for presentation during the Town Meeting Week break, it must be adopted pursuant to the Consent Calendar published not later than the preceding week (Thurs., Feb. 29 and Fri., March 1, 2024).

It was requested that any Member who wishes to present an H.C.R. during the Town Meeting Week break should submit a drafting request to Michael Chernick, Legislative Counsel, **not later than Friday, February 16, 2024 at 4:30 P.M.** to ensure adequate time for the drafting and Consent Calendar adoption process. That deadline has passed. Any H.C.R. drafting request received after that deadline cannot be guaranteed to be adopted in time for Town Meeting Week presentation.

JOINT FISCAL COMMITTEE NOTICES

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3)(D):

JFO #3186: \$4,525,801.81 to the Agency of Agriculture, Food and Markets from the U.S. Department of Agriculture. The majority of funds to be sub-awards to Vermont's agricultural businesses and organizations to build resilience in the middle of the food supply chain and to support market development for small farms and food businesses. Includes full funding for one (1) limited-service position, Agriculture Development Specialist II and 50% support for one (1) limited-service position, Contracts and Grants Specialist I. The other 50% for the position will come from already approved JFO #2982.

[Received February 8, 2024]

JFO #3185: \$70,000.00 to the Attorney General's Office from the Sears Consumer Protection and Education Fund to improve accessibility and outreach of the Vermont Consumer Assistance Program to underserved populations in Vermont.

[Received January 31, 2024]

JFO #3184: Three (3) limited-service positions to the Agency of Human Services, Department of Health. One (1) Substance Abuse Program Evaluator, funded through 8/31/28; and one (1) Public Health Specialist II, and one (1) Family Service Specialist both funded through 9/29/2024. The positions are fully funded by previously approved JFO requests #3036 and #1891. These positions will support Vermont's Overdose Data to Action program and the Maternal Mortality Review Panel.

[Received January 31, 2024]

JFO #3183: \$182,500.00 to the Agency of Natural Resources, Department of Forests, Parks and Recreation. Funds will be used to complete the purchase of a conservation easement on a 183-acre parcel of land in Townshend, Vermont (Peterson Farm). *[Note: Remainder of the easement (\$82,500) is supported by a State appropriation agreement between the department and the VHCB. Closing costs, including department staff time, is funded by already budgeted federal funds. Ongoing enforcement costs are managed by the department's Lands and Facilities Trust Fund. A \$15,000.00 stewardship contribution to this fund will be made by the landowner at the time of the sale.]*

[Received January 31, 2024]

JFO #3182: \$125,000.00 to Agency of Natural Resources, Department of Environmental Conservation from the New England Interstate Water Pollution Control Commission to expand current monitoring of cyanotoxins in Lake Champlain and Vermont inland lakes.

[Received January 31, 2024]

JFO #3181: \$409,960.00 to the Agency of Commerce and Community Development, Department of Housing and Community Development from the U.S. Department of the Interior/National Park Service. Funds will be used for the preservation, repair, and restoration of the Old Constitution House, located in Windsor, Vermont. The first Constitution of Vermont was adopted on this site, then known as Elijah West's Tavern, on July 8, 1777. *[Note: A State match of \$53,714.00 is accomplished within the agency budget through the reduction of a fraction of an existing position base and existing capital bill funds.]*

[Received January 31, 2024]

JFO #3180: One (1) limited-service position, Administrative Services Director III, to the Agency of Administration, Recovery Office. Position will ensure that flood recovery projects are integrated with existing state and federal programs. Will also ensure compliance and tracking of already awarded grants as well as those anticipated in the wake of the July 2023 flooding event. Position is funded through already approved JFO Request #3165 as well as Acts 74 (2021) and 185 (2022). The position is fully funded through 7/31/2027.

[Received January 31, 2024]

JFO #3179: Two (2) limited-service positions. One (1) to the Department of Mental Health, Project AWARE Lead Coordinator and one (1) to the Agency of Education, Project AWARE Co-Coordinator. The positions will liaison to coordinate and expand the state's efforts to develop sustainable infrastructure for school-based mental health. Both positions are fully funded through 9/29/28 from previous SAMHSA grant award JFO #2934.

[Received January 26, 2024]

JFO #3178: \$456,436.00 to the Agency of Natural Resources, Secretary's Office from the U.S. Environmental Protection Agency. Funds will support (1) limited-service position, Environmental Analyst IV. This position will serve as administrative lead developing the updated Climate Action Plan with the Vermont Climate Council and perform added work required by the EPA grant. Position is funded through 6/30/2027.

[Received January 11, 2024]

JFO #3177: \$2,543,564.00 to the Agency of Natural Resources, Secretary's Office from the U.S. Environmental Protection Agency. Funding is phase one of a two-phase funding opportunity aimed to support Vermont with climate change mitigation planning efforts. A comprehensive climate action plan will be developed, to overlap with and be synonymous to the required update to Vermont's Climate Action Plan in 2025.

[Received January 12, 2024]

JFO #3176: \$250,000.00 to the Agency of Human Services, Department of Mental Health from the National Association of State Mental Health Program Directors. These funds will increase rapid access to behavioral health care by supporting the peer service component of the mental health urgent care clinic being established in Chittenden County. This clinic will offer an alternative to seeking mental health care in emergency departments

[Received January 11, 2024]