

# Senate Calendar

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FRIDAY, FEBRUARY 23, 2024

SENATE CONVENES AT: 3:00 P.M.

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**ACTION CALENDAR**

**UNFINISHED BUSINESS OF WEDNESDAY, FEBRUARY 21, 2024**

**Second Reading**

**Favorable with Recommendation of Amendment**

**S. 199.**

An act relating to mergers and governance of communications union districts.

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

The Committee recommends that the bill be amended by striking out Sec. 4, 30 V.S.A. § 3069, in its entirety and by inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. 30 V.S.A. § 3069 is amended to read:

§ 3069. TREASURER

The treasurer of the district shall be appointed by the board, and shall serve at its pleasure. The treasurer shall not be a member of the governing board. The treasurer shall have the exclusive charge and custody of the funds of the district and shall be the disbursing officer of the district. When authorized by the board, the treasurer may sign, make, or endorse in the name of the district all checks and orders for the payment of money and pay out and disburse the same and receipt therefor. The treasurer shall keep a record of every obligation issued and contract entered into by the district and of every payment thereon. The treasurer shall keep correct books of account of all the business and transactions of the district and such other books and accounts as the board may require. The treasurer shall render a statement of the condition of the finances of the district at each regular meeting of the board and at such other times as shall be required of the treasurer. The treasurer shall prepare the annual financial statement and the budget of the district for distribution, upon approval of the board, to the legislative bodies of district members. The treasurer shall do and perform all of the duties appertaining to the office of treasurer of a body politic and corporate. The treasurer may delegate authority to perform any or all of the duties described in this section, provided such delegation is approved by the board or authorized in the district's bylaws, and further provided the treasurer retains accountability and oversight authority for any such delegations. Upon removal or the treasurer's termination from office

by virtue of removal or resignation, the treasurer shall immediately pay over to the successor all of the funds belonging to the district and at the same time deliver to the successor all official books and papers.

(Committee vote: 6-0-1)

## **NEW BUSINESS**

### **Proposed Amendments to the Vermont Constitution**

#### **PROPOSAL 1**

Offered by: Senators Hardy, Sears, Baruth, Clarkson, Hashim, Lyons, Vyhovsky, Watson and White

Subject: Elections; sheriffs; qualifications

**PENDING ACTION:** Second Reading of the proposed amendment

#### **Text of Proposal 1:**

#### PROPOSAL 1

##### Sec. 1. PURPOSE

This proposal would amend the Constitution of the State of Vermont to allow the General Assembly to establish by law qualifications for individuals to be elected to and hold the office of sheriff. Currently, there are no specific qualifications for being a sheriff in Vermont, including no requirement that a sheriff have or maintain law enforcement officer certification.

Sec. 2. Section 50 of Chapter II of the Vermont Constitution is amended to read:

#### § 50. ELECTION OF ASSISTANT JUDGES, SHERIFFS, AND STATE'S ATTORNEYS

The Assistant Judges shall be elected by the voters of their respective districts as established by law. Their judicial functions shall be established by law. Their term of office shall be four years and shall commence on the first day of February next after their election.

Sheriffs shall be elected by the voters of their respective districts as established by law. Their term of office shall be four years and shall commence on the first day of February next after their election. The General Assembly may establish by law qualifications for the election to and holding of such office.

State's Attorneys shall be elected by the voters of their respective districts as established by law. Their term of office shall be four years and shall commence on the first day of February next after their election.

Sec. 3. EFFECTIVE DATE

The amendment set forth in Sec. 2 shall become a part of the Constitution of the State of Vermont on the first Tuesday after the first Monday of November 2026 when ratified and adopted by the people of this State in accordance with the provisions of 17 V.S.A. chapter 32.

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

The Committee on Government Operations to which was referred proposed amendment to the Constitution of the State of Vermont Proposal 1 entitled "Elections; sheriffs; qualifications" recommends that the proposal be amended by striking out the proposal in its entirety and inserting in lieu thereof the following:

PROPOSAL 1

Sec. 1. PURPOSE

This proposal would amend the Constitution of the State of Vermont to allow the General Assembly to establish by law qualifications for individuals to be elected to and hold certain county offices and to be removed from office for failure to meet or to maintain those qualifications. Further, this proposal would eliminate reference to the office of High Bailiff.

Sec. 2. Section 50 of Chapter II of the Vermont Constitution is amended to read:

§ 50. ELECTION OF ASSISTANT JUDGES, SHERIFFS, AND STATE'S ATTORNEYS

The Assistant Judges shall be elected by the voters of their respective districts as established by law. Their judicial functions shall be established by law. Their term of office shall be four years and shall commence on the first day of February next after their election. The General Assembly may establish by law qualifications for the election to and holding of such office and procedures for removal from such office for failure to meet or to maintain the required qualifications.

Sheriffs shall be elected by the voters of their respective districts as established by law. Their term of office shall be four years and shall commence on the first day of February next after their election. The General Assembly may establish by law qualifications for the election to and holding of such office and procedures for removal from such office for failure to meet or to maintain the required qualifications.

State's Attorneys shall be elected by the voters of their respective districts as established by law. Their term of office shall be four years and shall commence on the first day of February next after their election. The General Assembly may establish by law qualifications for the election to and holding of such office and procedures for removal from such office for failure to meet or to maintain the required qualifications.

Sec. 3. Section 51 of Chapter II of the Vermont Constitution is amended to read:

§ 51. ELECTION OF JUDGES OF PROBATE

Judges of Probate shall be elected by the voters of their respective districts as established by law. The General Assembly may establish by law qualifications for the election to and holding of such office and procedures for removal from such office for failure to meet or to maintain the required qualifications. Their term of office shall be four years and shall commence on the first day of February next after their election.

Sec. 4. Section 43 of Chapter II of the Vermont Constitution is amended to read:

The Governor, Lieutenant-Governor, Treasurer, Secretary of State, Auditor of Accounts, Senators, Town Representatives, Assistant Judges of the County Court, Sheriffs, ~~High Bailiffs~~, State's Attorneys, Judges of Probate and Justices of the Peace, shall be elected biennially on the first Tuesday next after the first Monday of November, beginning in A.D. 1914.

Sec. 5. EFFECTIVE DATE

The amendments set forth in Secs. 2 through 4 shall become a part of the Constitution of the State of Vermont on the first Tuesday after the first Monday of November 2026 when ratified and adopted by the people of this State in accordance with the provisions of 17 V.S.A. chapter 32.

(Committee vote: 5-1-0)

**Reported favorably by Senator Sears for the Committee on Judiciary**

The Committee on Judiciary recommends that the Proposal ought to be adopted when amended as recommended by the Committee on Government Operations.

(Committee vote: 4-1-0)

**NOTICE CALENDAR**

**Second Reading**

**Favorable with Recommendation of Amendment**

**S. 163.**

An act relating to establishing two Superior judge positions.

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

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

**Sec. 1. JUDICIARY; POSITIONS; APPROPRIATION**

(a) The following permanent exempt positions are created in the Judiciary: three full-time Superior judges.

(b) The Superior judge positions created pursuant to subsection (a) of this section:

(1) shall be for a six-year term of office commencing on April 1, 2024, irrespective of the date when the initial appointment is made; and

(2) shall be subject to the judicial retention process under Chapter II, § 34 of the Vermont Constitution.

(c) There is appropriated to the Judiciary from the General Fund in fiscal year 2025 the sum of \$539,246.00 for two of the full-time Superior judge positions created in subsection (a) of this section. The third Superior judge position created in subsection (a) of this section shall be funded by Tobacco Settlement Funds pursuant to a recommendation of the CHINS Reform Workgroup.

**Sec. 2. EFFECTIVE DATE**

This act shall take effect on July 1, 2024.

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

An act relating to establishing three Superior judge positions

(Committee vote: 5-0-0)

**S. 192.**

An act relating to forensic facility admissions criteria and processes.

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

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

\* \* \* Purpose and Legislative Intent \* \* \*

Sec. 1. PURPOSE AND LEGISLATIVE INTENT

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

\* \* \* Human Services Community Safety Panel \* \* \*

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

§ 3098. HUMAN SERVICES COMMUNITY SAFETY PANEL

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

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

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

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

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

(A) the Secretary of Human Services;

(B) the Commissioner of Mental Health;

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

(D) the Commissioner of Corrections.



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

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

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

§ 4821. NOTICE OF HEARING; PROCEDURES

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

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

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

(B) A motion filed pursuant to this subdivision (2) shall specify that the person who is the subject of the proceedings is charged with a crime for which there is no right to bail pursuant to sections 7553 and 7553a of this title, and may include a person adjudicated not guilty by reason of insanity, and that the person presents a significant risk of danger to themselves or the public if not held in a secure setting.

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

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

(1) clinical factors, including:

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

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

(2) risk of harm factors, including:

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

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

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

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

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

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

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

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

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

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

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

(A) a statement setting forth the reasons for the Commissioner's determination that clinically appropriate treatment for the person's condition can be provided safely only in a forensic facility; and

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

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

\* \* \*

Sec. 5. 18 V.S.A. § 7101 is amended to read:

#### § 7101. DEFINITIONS

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

\* \* \*

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

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

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

(B) A forensic facility shall not be used for any purpose other than the purposes permitted by this part or chapter 206 of this title. As used in this subdivision (31), “secure” has the same meaning as in section 7620 of this title.

Sec. 6. 18 V.S.A. § 7620 is amended to read:

§ 7620. APPLICATION FOR CONTINUED TREATMENT

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

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

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

(d) If the Commissioner seeks to have the patient receive the further treatment in a forensic facility or secure residential recovery facility, the application for an order authorizing continuing treatment shall expressly state that such treatment is being sought. The application shall contain, in addition to the statements required by subsection (b) of this section, a statement setting forth the reasons for the Commissioner’s determination that clinically appropriate treatment for the patient’s condition can be provided safely only in a secure residential recovery facility or forensic facility, as appropriate. An application for continued treatment in a forensic facility shall include the recommendation of the Human Services Community Safety Panel pursuant to 13 V.S.A. § 4821.

(e) As used in this chapter:

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

(2) “Secure residential recovery facility” means a residential facility, licensed as a therapeutic community residence as defined in 33 V.S.A. § 7102(11), for an individual who no longer requires acute inpatient care but who does remain in need of treatment within a secure setting for an extended period of time. A secure residential recovery facility shall not be used for any purpose other than the purposes permitted by this section.

Sec. 7. 18 V.S.A. § 7621 is amended to read:

§ 7621. HEARING ON APPLICATION FOR CONTINUED TREATMENT;  
ORDERS

\* \* \*

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

\* \* \*

Sec. 8. 18 V.S.A. § 7624 is amended to read:

§ 7624. APPLICATION FOR INVOLUNTARY MEDICATION

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

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

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

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

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

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

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

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

(6) has been placed under an order of nonhospitalization in a forensic facility; or

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

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

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

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

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

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

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

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

(4) Within 72 hours of the filing of an application for involuntary medication pursuant to subdivision (a)(6)(7) of this section, the court shall determine, based solely upon a review of the psychiatrist's certification and any other filings, whether the requirements of that subdivision have been established. If the court determines that the requirements of subdivision (a)(6)(7) of this section have been established, the court shall consolidate the application for involuntary treatment with the application for involuntary medication and hear both applications within 10 days after the date that the application for involuntary medication is filed. The court shall rule on the application for involuntary treatment before ruling on the application for involuntary medication. Subsection 7615(b) of this title shall apply to applications consolidated pursuant to this subdivision.

\* \* \*

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

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

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

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

~~(b) Such order of commitment shall have the same force and effect as an order issued under 18 V.S.A. § 8843 and persons committed under such an order shall have the same status, and the same rights, including the right to receive care and habilitation, to be examined and discharged, and to apply for and obtain judicial review of their cases, as persons ordered committed under 18 V.S.A. § 8843~~ Commitment procedures for an order initially issued pursuant to subsection (a) of this section and for discharge from an order of commitment or continued commitment shall occur in accordance with 18 V.S.A. §§ 8845-8847.

~~(c) Section 4822 of this title shall apply to persons proposed for discharge under this section; however, judicial proceedings shall be conducted in the Criminal Division of the Superior Court in which the person then resides, unless the person resides out of State in which case the proceedings shall be~~

~~conducted in the original committing court~~ In accordance with 18 V.S.A. § 8845, if the Commissioner seeks to have a person committed pursuant to this section placed in a forensic facility, the Commissioner shall provide a statement setting forth the reasons for the Commissioner's determination that clinically appropriate treatment and programming can be provided safely only in a forensic facility, including the recommendation of the Human Services Community Safety Panel pursuant to section 4821 of this title.

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

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

§ 8839. DEFINITIONS

As used in this subchapter:

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

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

(3) “Forensic facility” has the same meaning as in section 7101 of this title.

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

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

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



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

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

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

(B) ~~who presents a danger of harm to others~~ has inflicted or attempted to inflict serious bodily injury to another or who has committed an act that would constitute sexual conduct with a child as defined in section 2821 of this title or lewd and lascivious conduct with a child as provided in section 2602 of this title; and

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

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

#### § 8840. JURISDICTION AND VENUE

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

#### § 8841. PETITION; PROCEDURES

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

#### § 8842. HEARING

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

#### § 8843. FINDINGS AND ORDER

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

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

~~(c) If the court finds that the respondent is a person in need of custody, care, and habilitation, it shall order the respondent committed to the custody of the Commissioner for placement in a designated program in the least~~

~~restrictive environment consistent with the respondent's need for custody, care, and habilitation for an indefinite or a limited period. [Repealed.]~~

#### § 8844. LEGAL COMPETENCE

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

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

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

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

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

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

~~(b) Procedures for judicial review of persons committed under this subchapter shall be as provided in section 8834 of this title, except that proceedings shall be brought in the Criminal Division of the Superior Court in the unit in which the person resides or, if the person resides out of state, in the unit that issued the original commitment order. The Commissioner or designee shall attend a commitment hearing for custody, care, and habilitation and be available to testify. All persons to whom notice is given may attend the commitment hearing and testify, except that the court may exclude those persons not necessary for the conduct of the hearing.~~

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

~~(d)(1) If at the completion of the hearing and consideration of the record, the court finds at the time of the hearing that the person is still in need of custody, care, and habilitation, commitment shall continue for an indefinite or limited period. If the court finds at the time of the hearing that the person is no longer in need of custody, care, and habilitation, it shall discharge the person from the custody of the Commissioner. An order of discharge may be conditional or absolute and may have immediate or delayed effect. If the court finds by clear and convincing evidence that the person is a person in need of custody, care, and habilitation, the court shall order that the person be committed to the Commissioner and receive appropriate treatment and programming in a designated program that provides the least restrictive environment consistent with the person's need for custody, care, and habilitation for up to one year.~~

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

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

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

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

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

(B) a statement of the current and relevant facts upon which the

person's alleged need for continued custody, care, and habilitation is predicated.

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

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

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

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

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

(c)(1) If at the completion of the hearing and consideration of the record, the court finds by clear and convincing evidence at the time of the hearing that the person is still in need of continued custody, care, and habilitation, it shall issue an order of commitment for up to one year in a designated program in the least restrictive environment consistent with the person's need for continued custody, care, and habilitation. If the court finds at the time of the hearing that the person is no longer in need of continued custody, care, and habilitation, it shall discharge the person from the custody of the Commissioner in accordance with section 8847 of this subchapter. In determining whether a person is a person in need of continued custody, care, and habilitation, the court shall consider the degree to which the person has previously engaged in or complied with the treatment and programming provided by the Commissioner. Nothing in this section shall prohibit the Commissioner from seeking, nor the court from ordering, consecutive commitment orders when the criteria for commitment are otherwise met.

(2) In a petition in which placement at a forensic facility is sought, a court shall first determine whether an order for continued custody, care, and habilitation is appropriate. If the court grants the petition for continued custody, care, and habilitation, it shall then determine whether placement at a forensic facility is appropriate and the least restrictive setting adequate to meet the person's needs. If so determined, the court shall order the person placed in

a forensic facility for a term not exceed the duration of the order for continued custody, care, and habilitation. The committing court shall automatically review any placement at a forensic facility 90 days after commitment to ensure that the placement remains the least restrictive setting adequate to meet the person's needs.

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

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

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

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

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

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

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

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

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

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

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

(B) During the period in which the Commissioner gives notice of the pending administrative discharge pursuant to subdivision (1)(A) of this subsection (c) and the anticipated date of administrative discharge, which shall not be less than 10 days, the State's Attorney or the Office of the Attorney General or the victim, or both, may request a hearing in the Family Division of

the Superior Court on whether the person's pending administrative discharge from placement at a forensic facility is appropriate, which shall be held within 10 days after the request. The pending administrative discharge from placement at the forensic facility shall be stayed until the hearing has concluded and any subsequent orders are issued, but in no event shall a subsequent order be issued more than five days after the hearing.

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

§ 8846 8848. RIGHT TO COUNSEL

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

\* \* \* Competency Examination \* \* \*

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

§ 4814. ORDER FOR EXAMINATION OF COMPETENCY

\* \* \*

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

\* \* \*

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

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

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

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

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

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

\* \* \* Rulemaking \* \* \*

### Sec. 13. RULEMAKING; CONFORMING AMENDMENTS

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

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

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

\* \* \* Effective Dates \* \* \*

### Sec. 14. EFFECTIVE DATES

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

(Committee vote: 5-0-0)



**S. 209.**

An act relating to prohibiting unserialized firearms and unserialized firearms frames and receivers, and to juvenile offenses in the Criminal Division.

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

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

Sec. 1. 13 V.S.A. chapter 85 is amended to read:

CHAPTER 85. WEAPONS

\* \* \*

Subchapter 4. Unserialized Firearms and Firearms Frames and Receivers

§ 4081. SHORT TITLE

This subchapter shall be known as the “Vermont Ghost Guns Act.”

§ 4082. DEFINITIONS

As used in this subchapter:

(1) “Federal firearms licensee” means a federally licensed firearm dealer, federally licensed firearm importer, and federally licensed firearm manufacturer.

(2) “Federally licensed firearm dealer” means a licensed dealer as defined in 18 U.S.C. § 921(a)(11).

(3) “Federally licensed firearm importer” means a licensed importer as defined in 18 U.S.C. § 921(a)(9).

(4) “Federally licensed firearm manufacturer” means a licensed manufacturer as defined in 18 U.S.C. § 921(a)(10).

(5) “Fire control component” means a component necessary for the firearm to initiate, complete, or continue the firing sequence, including any of the following: hammer, bolt, bolt carrier, breechblock, cylinder, trigger mechanism, firing pin, striker, or slide rails.

(6) “Frame or receiver of a firearm” means a part of a firearm that, when the complete firearm is assembled, is visible from the exterior and provides housing or a structure designed to hold or integrate one or more fire control components, even if pins or other attachments are required to connect the fire control components. Any part of a firearm imprinted with a serial

number is presumed to be a frame or receiver of a firearm unless the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives makes an official determination otherwise or there is other reliable evidence to the contrary.

(7) “Three-dimensional printer” means a computer-aided manufacturing device capable of producing a three-dimensional object from a three-dimensional digital model through an additive manufacturing process that involves the layering of two-dimensional cross sections formed of a resin or similar material that are fused together to form a three-dimensional object.

(8) “Unfinished frame or receiver” means any forging, casting, printing, extrusion, machined body, or similar article that has reached a stage in manufacture when it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled, or converted.

(9) “Violent crime” has the same meaning as in section 4017 of this title.

#### § 4083. UNLAWFUL CONDUCT INVOLVING UNSERIALIZED FIREARMS, FRAMES, AND RECEIVERS

(a)(1) A person shall not knowingly possess, transfer, or offer to transfer an unfinished frame or receiver unless the unfinished frame or receiver has been imprinted with a serial number by a federal firearms licensee pursuant to federal law or section 4084 of this title.

(2) This subsection shall not apply to:

(A) a federal firearms licensee acting within the scope of the licensee’s license;

(B) temporary possession or transfer of an unfinished frame or receiver for the purpose of having it imprinted with a serial number pursuant to federal law or section 4084 of this title; or

(C) an unfinished frame or receiver transferred to or possessed by a law enforcement officer for legitimate law enforcement purposes.

(b)(1) A person shall not knowingly possess, transfer, or offer to transfer a firearm or frame or receiver of a firearm that is not imprinted with a serial number by a federal firearms licensee pursuant to federal law or section 4084 of this title.

(2) This subsection shall not apply to:

(A) a federal firearms licensee acting within the scope of the licensee's license;

(B) temporary possession or transfer of a firearm or frame or receiver of a firearm for the purpose of having it imprinted with a serial number pursuant to federal law or section 4084 of this title;

(C) an unserialized frame or receiver transferred to or possessed by a law enforcement officer for legitimate law enforcement purposes;

(D) an antique firearm as defined in subsection 4017(d) of this title;

(E) a firearm that has been rendered permanently inoperable; or

(F) a firearm that was manufactured before 1968.

(c)(1) A person shall not manufacture a firearm or frame or receiver of a firearm, including by a three-dimensional printer, that is not imprinted with a serial number by a federal firearms licensee pursuant to federal law or section 4084 of this title.

(2) This section shall not apply to a federally licensed firearms manufacturer acting within the scope of the manufacturer's license.

(d)(1) A person who violates this section shall be:

(A) for a first offense, imprisoned for not more than one year or fined not more than \$500.00, or both;

(B) for a second offense, imprisoned for not more than two years or fined not more than \$1,000.00, or both; and

(C) for a third or subsequent offense, imprisoned for not more than three years or fined not more than \$2,000.00, or both.

(2) A person who uses an unserialized firearm while committing a violent crime shall be imprisoned for not more than five years or fined not more than \$5,000.00, or both.

#### § 4084. FEDERAL FIREARMS LICENSEES; AUTHORITY TO SERIALIZE FIREARMS, FRAMES, AND RECEIVERS

(a) A federal firearms licensee may imprint a serial number on an unserialized firearm or frame or receiver of a firearm pursuant to this section.

(b)(1) A firearm, frame, or receiver serialized pursuant to this section shall be imprinted with a serial number that begins with the licensee's abbreviated federal firearms license number, which is the first three and last five digits of the license number, and is followed by a hyphen that precedes a unique identification number. The serial number shall not be duplicated on any other

firearm, frame, or receiver serialized by the licensee and shall be imprinted in a manner that complies with the requirements under federal law for affixing serial numbers to firearms, including that the serial number be at the minimum size and depth and not susceptible to being readily obliterated, altered, or removed.

(2) A licensee who serializes a firearm, frame, or receiver pursuant to this section shall make and retain records of the serialization that comply with the requirements under federal law for the sale of a firearm. In addition to any record required by federal law, the record shall include the date, name, age, and residence of any person to whom the item is transferred and the unique serial number imprinted on the firearm, frame, or receiver.

(3) A licensee shall not be deemed a firearms manufacturer solely for serializing a firearm, frame, or receiver pursuant to this section.

(c) Returning a firearm, frame, or receiver to a person after it has been serialized pursuant to federal law or this section constitutes a transfer that requires a background check of the transferee. A federal licensee who serializes a firearm, frame, or receiver pursuant to this section shall conduct a background check on the transferee pursuant to subsection 4019(c) of this title, provided that if the transfer is denied, the licensee shall deliver the firearm, frame, or receiver to a law enforcement agency for disposition. The agency shall provide the licensee with a receipt on agency letterhead for the firearm, frame, or receiver.

(d) A licensee who violates subsection (b) or (c) of this section shall:

(1) for a first offense, be fined not more than \$2,500.00; and

(2) for a second or subsequent offense, be imprisoned for not more than one year or fined not more than \$2,500.00, or both.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on December 31, 2024.

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

An act relating to prohibiting unserialized firearms and unserialized firearms frames and receivers

(Committee vote: 4-1-0)

**S. 213.**

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

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

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

\* \* \* Short Title \* \* \*

Sec. 1. SHORT TITLE

This act may be cited as the “Flood Safety Act.”

\* \* \* Development in River Corridors \* \* \*

Sec. 2. FINDINGS

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

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

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

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

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

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

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

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

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

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

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

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

(b) Beginning on January 1, 2025 and ending on January 1, 2027, the Department of Environmental Conservation shall conduct an education and outreach program to consult with and collect input from municipalities, environmental justice focus populations, the Environmental Justice Advisory Council, businesses, property owners, farmers, and other members of the public regarding how State permitting of development in mapped river corridors will be implemented, including potential restrictions on the use of land within mapped river corridors. The Department shall develop educational materials for the public as part of its charge under this section. The Department shall collect input from the public regarding the permitting of development in mapped river corridors as proposed by this act. On or before January 15, 2027 and until permitting of development in mapped river corridors begins under 10 V.S.A. §754, the Department shall submit to the Senate Committee on Natural Resources and Energy, the House Committee on Environment and Energy, and the Environmental Justice Advisory Council a report that shall include:

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

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

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

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

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

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

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

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

§ 752. DEFINITIONS

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

\* \* \*

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

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

\* \* \*

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

\* \* \*

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

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

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

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

(a) Rulemaking authority.

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

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

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

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

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

\* \* \*

(b) Required rulemaking content. The rules shall:

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) State flood hazard area standards.

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

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

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

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

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

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

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

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

(14) To encourage flood resilient communities.

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

\* \* \*

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

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

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

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

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

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

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

(a) ~~Bylaws; flood and other hazard areas; river corridor protection.~~ Any municipality may adopt freestanding bylaws under this chapter to address

particular hazard areas in conformance with the municipal plan, the State Flood Hazard Area Standards or, for the purpose of adoption of a flood hazard area bylaw, a local hazard mitigation plan approved under 44 C.F.R. § 201.6. Such freestanding bylaws may include the following, which may also be part of zoning or unified development bylaws:

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

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

(A) Purposes.

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

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

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

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

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

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

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

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

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

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

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

(C) Effect on zoning bylaws. Flood hazard or other hazard area bylaws may alter the uses otherwise permitted, prohibited, or conditional in a flood hazard area or other hazard area under a bylaw, as well as the applicability of other provisions of that bylaw. Where a flood hazard bylaw, a hazard area bylaw, or both apply along with any other bylaw, compliance with the flood or other hazard area bylaw shall be prerequisite to the granting of a zoning permit. Where a flood hazard area bylaw or a hazard area bylaw but not a zoning bylaw applies, the flood hazard and other hazard area bylaw shall be administered in the same manner as are zoning bylaws, and a flood hazard area or hazard area permit shall be required for land development covered under the bylaw.

(D) Mandatory provisions.

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

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

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

(ii) The Agency of Natural Resources may delegate to a qualified representative of a municipality with a flood hazard area bylaw or ordinance or to a qualified representative for a regional planning commission the Agency's

authority under this subdivision (a)(2)(D) to review and provide technical comments on a proposed permit for new construction or substantial improvement in a flood hazard area. Comments provided by a representative delegated under this subdivision (a)(2)(D) shall not be binding on a municipality.

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

\* \* \*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) Meetings.

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

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

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

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



(g) Compensation and reimbursement.

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

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

Sec. 11. TRANSITION; IMPLEMENTATION; APPROPRIATIONS;  
POSITIONS

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

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

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

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

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

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

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

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

\* \* \* Wetlands \* \* \*

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

§ 901. WATER RESOURCES MANAGEMENT POLICY

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

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

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

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

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

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

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

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

The Secretary shall revise the Vermont significant wetlands inventory maps to reflect wetland determinations issued under section 914 of this title and rulemaking by the panel under section 915 of this title. (a) On or before January 1, 2026, and not less than annually thereafter, the Agency of Natural Resources shall update the Vermont Significant Wetlands Inventory (VSWI) maps. The annual updates to the VSWI shall include integration of georeferenced shapefiles or similar files for all verified delineations performed within the State and submitted to the Agency of Natural Resources as part of a permit application, as well as a wetlands determination issued under section 914 of this title and rulemaking conducted pursuant to section 915 of this title.

The VSWI layer shall include integration of any additional town specific inventories of otherwise unmapped wetlands performed by consultants on the Agency's Wetland Consultant List if the consultant has presented the map to a municipality or the Agency of Natural Resources.

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

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

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

(a) On or before July 1, 2025, the Secretary of Natural Resources shall amend the Vermont Wetlands Rules pursuant to 3 V.S.A. chapter 25 to clarify that the goal of wetlands regulation and management in the State is the net gain of wetlands to be achieved through protection of existing wetlands and restoration of wetlands that were previously adversely affected. This condition shall not apply to wetland, river, and flood plain restoration projects, including dam removals.

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

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

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

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

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

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

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

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

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

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

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

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

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

#### § 919. WETLANDS PROGRAM REPORTS

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

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

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

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

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

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

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

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

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

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

(a) Notwithstanding any other provision or procedure set forth in this chapter, if the Secretary finds that any person has discharged or is discharging any waste or damaging the ecological functions of wetlands in violation of this chapter or chapter 37 of this title, or that any person has failed to comply with any provisions of any order or permit issued in accordance with this chapter or chapter 37 of this title, the Secretary may bring suit in the Superior Court in any county where the discharge, damage to wetlands, or noncompliance has occurred to enjoin the discharge ~~and to~~ obtain compliance, and mandate

restoration of damaged wetlands. The suit shall be brought by the Attorney General in the name of the State. The court may issue a temporary injunction or order in any such proceedings and may exercise all the plenary powers available to it in addition to the power to:

(1) Enjoin future discharges.

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

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

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

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

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

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

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

#### Sec. 17. APPROPRIATIONS

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

\* \* \* Dam Safety \* \* \*

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

#### CHAPTER 43. DAMS

##### § 1079. PURPOSE

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

§ 1080. DEFINITIONS

As used in this chapter:

(1) “Department” means the Department of Environmental Conservation.

\* \* \*

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

\* \* \*

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

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

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

(ii) was partially breached; and

(iii) has not been properly removed or mitigated.

(C) “Dam” shall does not mean:

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

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

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

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

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

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

(7) “Federal dam” means:

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

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

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

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

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

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

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

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

(c) Transfer of records. ~~Upon transfer of jurisdiction as set forth in subsection (b) of this section and upon written request, the State agency having former jurisdiction over a dam shall transfer copies of all records pertaining to the dam to the agency acquiring jurisdiction~~ Upon transfer of jurisdiction of any dam from the Public Utility Commission to the Department, the Public Utility Commission shall transfer copies of all records pertaining to the subject dam, including record drawings, construction drawings, engineering



investigations and analyses, photographs, inspection reports, design, permitting, and emergency action planning documents and any other files pertaining to the subject dam, to the Department in digital and hardcopy format acceptable to the Department within 30 days following the jurisdictional transfer.

§ 1082. AUTHORIZATION

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

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

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

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

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

§ 1083. APPLICATION

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

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

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

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

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

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

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

§ 1084. DEPARTMENT OF FISH AND WILDLIFE; INVESTIGATION

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

§ 1085. NOTICE OF APPLICATION

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

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

~~(2) For any project subject to its jurisdiction under this chapter, the Public Utility Commission shall hold a hearing on the application. The purpose of the hearing shall be to determine whether the project serves the public good as defined in section 1086 of this title and provides adequately for the public safety. The hearing shall be held in a municipality in the vicinity of the proposed project and may be consolidated with other hearings, including~~

~~hearings under 30 V.S.A. § 248 concerning the same project. Notice shall be given at least 10 days before the hearing to interested persons by posting in the municipal offices of the towns in which the project will be completed and by publishing in a local newspaper.~~

§ 1086. DETERMINATION OF PUBLIC GOOD; CERTIFICATES

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

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

(2) scenic and recreational values;

(3) fish and wildlife;

(4) forests and forest programs;

(5) [Repealed.]

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

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

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

(9) the creation of any public benefits;

(10) attainment of the Vermont water quality standards;

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

(12) municipal grand lists and revenues; and

(13) ~~public safety; and~~

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

(b) If the ~~State agency having jurisdiction~~ Department finds that the project proposed under section 1082 of this title will serve the public good, and, in case of any waters designated by the Secretary as outstanding resource waters,

will preserve or enhance the values and activities sought to be protected by designation, the agency shall issue its order approving the application. The order shall include conditions for attainment of water quality standards, as determined by the Agency of Natural Resources, and such other conditions as the ~~agency having jurisdiction~~ Department considers necessary to protect any element of the public good listed in subsection (a) of this section. Otherwise it shall issue its order disapproving the application.

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

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

#### § 1087. REVIEW OF PLANS AND SPECIFICATIONS

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

#### § 1089. EMPLOYMENT OF ENGINEER

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

#### § 1090. CONSTRUCTION SUPERVISION

The construction, alteration, or other action authorized in section 1086 of this title shall be supervised by an engineer employed by the applicant. Upon completion of the authorized project, the engineer shall ~~certify~~ provide confirmation to the ~~agency having jurisdiction~~ Department that the project has

been completed in ~~conformance~~ general accordance with the approved plans and specifications and dam order conditions.

#### § 1095. UNSAFE DAM; PETITION; HEARING; EMERGENCY

(a) On receipt of a petition signed by ~~no~~ not fewer than ~~ten~~ 10 interested persons or the legislative body of a municipality, the ~~State agency having jurisdiction~~ Department shall, or upon its own motion it may, institute investigations by an engineer as described in section 1087 of this title regarding the safety of any existing nonfederal dam or portion of the dam of any size. The ~~agency~~ Department may fix a time and place for hearing and shall give notice in the manner it directs to all interested persons. The engineer shall present ~~his or her~~ the engineer's findings and recommendations at the hearing. After the hearing, if the Department finds that the nonfederal dam or portion of the dam as maintained or operated is unsafe or is a menace to people or property above or below the dam, it shall issue an order directing reconstruction, repair, removal, breaching, draining, or other action it considers necessary to improve the safety of the dam sufficiently to protect life and property as required by the ~~State agency having jurisdiction~~ Department.

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

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

#### § 1099. APPEALS

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

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

\* \* \*

#### § 1105. INSPECTION OF DAMS

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

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

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

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

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

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

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

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

~~pursuant to section 1095 of this chapter.~~

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

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

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

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

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

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

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

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

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

(E) To be eligible for nonemergency funding, an alternatives analysis of dam repair, rehabilitation, and removal options that considers an evaluation of risk reduction, dam safety and ecological resilience and public benefits

considerations, and costs shall be completed, pursuant to the rule adopted by the Department.

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

(c) The Fund created by this section shall be established and held separate and apart from any other funds or monies of the State and shall be used and administered exclusively for the purposes set forth in this section. The funds shall be invested in the same manner as permitted for investment of funds belonging to the State or held in the Treasury. The Fund shall consist of the following:

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

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

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

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

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

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

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

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

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

(B) a description of each project funded from the Dam Safety Fund,



including dam name, town and waterbody in which the dam is located, hazard classification, dam condition, details of the repair or removal, year of the last and next Department inspection, project cost, loan amount, and repayment terms;

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

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

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

#### § 1107. HAZARD POTENTIAL CLASSIFICATIONS

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

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

\* \* \*

#### § 1110. RULEMAKING

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

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

(2) standards for:

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

(B) operation and maintenance of a dam;

(C) inspection, monitoring, record keeping, and reporting;

(D) repair, breach, or removal of a dam;

(E) application for authorization under section 1082 of this title; and

(F) the development of an emergency action plan for a dam, including guidance on how to develop an emergency action plan, the content of a plan, and when and how an emergency action plan should be updated;

(3) criteria for the hazard potential classification of dams in the State;

(4) a process by which a person owning legal title to a dam or a person owning the land on which the dam is located shall register a dam and record the existence of the dam in the lands records; and

(5) requirements for the person owning legal title to a dam or the person owning the land on which the dam is located to conduct inspections of the dam; and

(6) requirements for access to financing and subsidy from the Dam Safety Revolving Loan Fund, including the requirement that an alternatives analysis be performed by an engineering consultant hired by either the dam owner or the Department.

#### § 1111. ~~NATURAL RESOURCES ATLAS; DAM STATUS~~

~~Annually on or before January 1, the Public Utility Commission shall submit to the Department updated inventory information from the previous calendar year for dams under the jurisdiction of the Public Utility Commission. [Repealed.]~~

Sec. 19. 2018 Acts and Resolves No. 161, Sec. 2, as amended by 2023 Acts and Resolves No. 79, Sec. 1, is further amended to read:

#### Sec. 2. DAM REGISTRATION PROGRAM REPORT

On or before January 1, ~~2025~~ 2026, the Department of Environmental Conservation shall submit a report to the House Committees on ~~Natural Resources, Fish, and Wildlife~~ Environment and Energy and on Ways and Means and the Senate Committees on Natural Resources and Energy and on Finance. The report shall contain:

(1) an evaluation of the dam registration program under 10 V.S.A. chapter 43;

(2) a recommendation on whether to modify the fee structure of the dam registration program;

(3) a summary of the dams registered under the program, organized by amount of water impounded and hazard potential classification; and

(4) an evaluation of any other dam safety concerns related to dam registration.

Sec. 20. 2018 Acts and Resolves No. 161, Sec. 3, as amended by 2023 Acts and Resolves No. 79, Sec. 2, is further amended to read:

Sec. 3. ADOPTION OF RULES

The Secretary of Natural Resources shall adopt the rules required under 10 V.S.A. § 1110 as follows:

(1) the rules required under 10 V.S.A. § 1110(1) (exemptions), § 1110(3) (emergency action plan), § 1110(4) (hazard potential classification), § 1110(5) (dam registration), and § 1110(6) (dam inspection) shall be adopted on or before July 1, 2020; and

(2) the rules required under 10 V.S.A. § 1110(2) (dam design standards) shall be adopted on or before July 1, ~~2024~~ 2025.

Sec. 21. DAM SAFETY DIVISION POSITIONS

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

(1) \$900,000.00 is appropriated from the General Fund for the purposes of funding six new permanent full-time classified positions in the Dam Safety Division of the Department of Environmental Conservation; and

(2) \$2,000,000.00 is appropriated from the General Fund for the purposes of implementation of the Dam Safety Revolving Loan Fund.

Sec. 22. STUDY COMMITTEE ON DAM EMERGENCY OPERATIONS PLANNING

(a) Creation. There is created the Study Committee on Dam Emergency Operations Planning to review and recommend how to improve regional emergency action planning for hazards caused by dam failure, including how to shift responsibility for emergency planning from individual municipalities to regional authorities, how to improve regional implementation of dam emergency response plans, and how to fund dam emergency action planning at the regional level.

(b) Membership. The Study Committee on Dam Emergency Operations Planning shall be composed of the following members:

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

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

(3) one member of the Department of Environmental Conservation Dam Safety Program, who shall be appointed by the Governor;

(4) two members representing regional planning commissions in the State, who shall be appointed by the Committee on Committees;

(5) one member of the Division of Emergency Management, who shall be appointed by the Governor;

(6) two legal owners of a dam, one of whom shall own a dam capable of generating electricity, who shall be appointed by the Speaker upon recommendation of the Dam Safety Program of the Department of Environmental Conservation; and

(7) one or more emergency management director or incident commander from a municipality with experience in developing and carrying out an emergency operation plan.

(c) Powers and duties. The Study Committee on Dam Emergency Operations Planning shall:

(1) identify those dams in the State that are classified as high-hazard dams;

(2) summarize the existing responsibilities of individual municipalities to prepare for and implement existing emergency response plans, including how those responsibilities are funded and whether placing responsibility with individual municipalities is appropriate;

(3) identify the regional planning commissions in which a dam identified under subdivision (1) of this subsection are located;

(4) recommend the content for a regional emergency action plan for each dam identified under subdivision (1) of this subsection, including identifying necessary evacuations, how evacuees will be sheltered and provided care, and the location of emergency management centers for each dam;

(5) recommend who should prepare a regional emergency action plan for each dam identified under subdivision (1) of this subsection, including the basis for the recommendation and the role that regional planning commissions should play in the preparation of the plans;

(6) estimate the cost of the production of regional emergency action plans for dams; and

(7) estimate the cost for regional planning commissions and municipalities to implement an emergency action plan, including a recommended source of the funding.

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

(e) Report. On or before December 15, 2024, the Study Committee shall submit a written report to the General Assembly with its findings and any recommendations for legislative action. Any recommendation for legislative action shall be submitted as draft legislation.

(f) Meetings.

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

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

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

(4) The Study Committee shall cease to exist on March 1, 2025.

(g) Compensation and reimbursement.

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

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

#### Sec. 23. DETERMINATION OF FEDERAL ENERGY REGULATORY COMMISSION (FERC) JURISDICTION

Nonfederal hydroelectric projects without a valid pre-1920 license may be subject to the Federal Energy Regulatory Commission's (FERC) jurisdiction and may require a license from FERC to operate. By July 31, 2025, the Department of Environmental Conservation, in coordination with the Public Utility Commission, shall file petitions for a Declaratory Order from FERC to determine whether projects currently under the Public Utility Commission's jurisdiction fall under FERC's hydroelectric licensing jurisdiction. The Public

Utility Commission shall provide notice to the dam owner when a petition is filed with FERC.

Sec. 24. TRANSITION; DAMS

(a) On or before July 1, 2028, the Department of Environmental Conservation shall assume jurisdiction under 10 V.S.A. chapter 43 of all dams within the jurisdiction of the Public Utility Commission as of July 1, 2024.

(b) On or before January 15, 2026 and annually thereafter until the Department of Environmental Conservation has assumed jurisdiction under 10 V.S.A. chapter 43 over all dams from the Public Utility Commission, the Department of Environmental Conservation shall report to the Senate Committee on Natural Resources and Energy and the House Committee on Environment and Energy regarding progress in preparation for transfer of jurisdiction of the dams from the Public Utility Commission to the Department of Environmental Conservation.

(c) Notwithstanding the effective date of Sec. 18 of this act (transfer of dam safety jurisdiction), the Public Utility Commission shall retain jurisdiction over dams within its control as of July 1, 2024 until the Department of Environmental Conservation assumes the jurisdiction of each dam as required by subsection (a) of this section. While the Public Utility Commission continues to exercise authority under 10 V.S.A. chapter 43, as it existed on June 30, 2024, the Public Utility Commission shall apply the dam design standard rules as adopted by the Department of Environmental Conservation.

(d) The rulemaking required under Sec. 18 (dam safety transfer) of this act under 10 V.S.A. § 1110(6) and (7) shall be completed on or before July 1, 2027.

(e) Funding from the Dam Safety Revolving Fund, as amended by Sec. 18 of this act (dam safety transfer) shall be available for nonemergency use upon the completion of rulemaking required under 10 V.S.A. §1110 (6) and (7).

\* \* \* Basin Planning \* \* \*

Sec. 25. 10 V.S.A. § 1253(d) is amended to read:

(d)(1) Through the process of basin planning, the Secretary shall determine what degree of water quality and classification should be obtained and maintained for those waters not classified by the Board before 1981 following the procedures in sections 1254 and 1258 of this title. Those waters shall be classified in the public interest. The Secretary shall prepare and maintain an overall surface water management plan to assure that the State water quality standards are met in all State waters. The surface water management plan shall include a schedule for updating the basin plans. The Secretary, in

consultation with regional planning commissions and the Natural Resources Conservation Council, shall revise all 15 basin plans and update the basin plans on a five-year rotating basis. On or before January 15 of each year, the Secretary shall report to the House Committees on Agriculture, Food Resiliency, and Forestry and on Natural Resources, Fish, and Wildlife Environment and Energy and to the Senate Committees on Agriculture and on Natural Resources and Energy regarding the progress made and difficulties encountered in revising basin plans. The report shall include a summary of basin planning activities in the previous calendar year, a schedule for the production of basin plans in the subsequent calendar year, and a summary of actions to be taken over the subsequent three years. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(2) In developing a basin plan under this subsection, the Secretary shall:

(A) identify waters that should be reclassified outstanding resource waters or that should have one or more uses reclassified under section 1252 of this title;

(B) identify wetlands that should be reclassified as Class I wetlands;

(C) identify projects or activities within a basin that will result in the protection and enhancement of water quality;

\* \* \*

(J) provide for public notice of a draft basin plan; ~~and~~

(K) provide for the opportunity of public comment on a draft basin plan; ~~and~~

(L) identify opportunities to mitigate impacts of severe precipitation events on communities through implementation of nature-based restoration projects or practices that increase natural flood water attenuation and storage.

\* \* \* Expanded Polystyrene Foam \* \* \*

Sec. 26. 10 V.S.A. chapter 47, subchapter 2B is added to read:

Subchapter 2B. Expanded Polystyrene Foam

§ 1321. DEFINITIONS

As used in this subchapter:

(1) “Buoy” means any float or marker that is attached to a mooring anchor and either is suitable for attachment to a boat through the use of a pennant or other device or facilitates the attachment of the boat to the mooring anchor.

(2) “Dock” means an unenclosed structure secured to land, land under waters, or a mooring or a floating structure that is used for mooring boats or for recreational activities, such as a swimming, fishing, or sunbathing platform. A dock includes a structure that is partially enclosed or has two or more levels.

(3) “Encapsulated” means a protective covering or physical barrier between the polystyrene device and the water.

(4) “Expanded polystyrene foam” means a thermoplastic petrochemical material utilizing the styrene monomer that is processed according to multiple techniques, including fusion of polymer spheres, injection molding, form molding, and extrusion-blow molding.

(5) “Floating structure” means a structure constructed on or in a water of the State that is supported by flotation and is secured in place by a piling or mooring anchor, including boathouses, fueling structures, floating homes, marinas, walkways, or boarding platforms.

(6) “Mooring anchor” means any anchor or weight that is designed to:

(A) rest on the land under water or be buried in the land under water;

(B) be attached to a buoy or floating structure by a chain, rope, or other mechanism; and

(C) be left in position permanently or on a seasonal basis.

§ 1322. INSTALLATION, REPAIR, REMOVAL, AND SALE OF BUOYS, DOCKS, OR FLOATING STRUCTURES

(a) Encapsulation required. Expanded polystyrene foam used for flotation, including buoys, docks, or floating structures, shall be encapsulated by a protective covering or shall be designed to prevent the expanded polystyrene foam from disintegrating into the water.

(b) Prohibition; unencapsulated polystyrene and open-cell (beaded) polystyrene; repair. No person shall use unencapsulated polystyrene or open-cell (beaded) polystyrene for the installation of a new buoy, dock, or floating structure on the waters of the State. Unencapsulated polystyrene materials and open-cell beaded polystyrene shall not be used for the repair of buoys, docks, or floating structures on waters of the State.

(c) Methods of encapsulation.

(1) Encapsulation of a buoy, dock, or floating structure required under subsection (a) of this section shall completely cover or be a physical barrier between the expanded polystyrene foam and the water. Small gaps up to 0.75-



inch-diameter ballast holes are permitted in the physical barrier or covering provided they are 0.1 percent or less of the square footage of the buoy, dock, or floating structure.

(2) All materials and methods of encapsulation shall provide an effective physical barrier between the expanded polystyrene foam and the water for a period not less than 10 years. Any fasteners used to hold encapsulation materials together shall be effectively treated or be of a form resistant to corrosion and decay.

(d) Disposal. Irreparable encapsulated polystyrene, unencapsulated polystyrene, and irreparable encapsulated open-cell (beaded) polystyrene used for flotation, including buoys, docks, or floating structures, shall be properly disposed of in an approved manner.

(e) Sale or distribution. No person shall sell, offer for sale, or otherwise distribute for compensation within the State dock floats, mooring buoys, or anchor or navigation markers made, in whole or in part, from expanded polystyrene foam that is:

(1) not wholly encapsulated or encased within a more durable material;  
or

(2) open-cell (beaded) polystyrene, including materials that are encapsulated and unencapsulated.

#### § 1323. NUISANCE

The use of unencapsulated polystyrene as a flotation device in waters of the State, including in any dock system, float, mooring system, or buoy, is declared a nuisance and public health hazard and may be prosecuted as provided in the Vermont Revised Statutes.

#### § 1324. RULEMAKING

The Secretary may adopt rules to implement the requirements of this subchapter.

#### Sec. 27. APPROPRIATIONS

The amount of \$50,000.00 shall be appropriated from the General Fund to the Department of Environmental Conservation to support education and outreach regarding the requirements and prohibitions for the use of expanded polystyrene foam or open-cell (beaded) polystyrene in waters of the State.

\* \* \* Floodplain Management; Use Value Appraisal Program \* \* \*

Sec. 28. STUDY COMMITTEE ON ENROLMENT OF FLOODPLAIN  
MANAGEMENT LAND IN USE VALUE APPRAISAL; REPORT

(a) Creation. There is created the Study Committee on Enrolling Floodplain Management Land in the Use Value Appraisal Program to determine whether or how to authorize the enrollment of land designated for floodplain management in the Use Value Appraisal (UVA) Program.

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

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

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

(3) the Director of Property Valuation and Review or designee;

(4) the Director of the Rivers Program within the Watershed Management Division at the Department of Environmental Conservation or designee;

(5) the Secretary of Agriculture, Food and Markets or designee;

(6) a member of the Current Use Advisory Board, who shall be appointed by the Speaker of the House; and

(7) a member of a statewide environmental organization, who shall be appointed by the Committee on Committees.

(c) Powers and duties. The Study Committee shall evaluate the following questions:

(1) whether and why real property managed to provide flood mitigation or flood resilience services should or should not be authorized to enroll in the UVA Program; and

(2) if the Study Committee recommends that real property that provides flood mitigation or flood resilience services should be allowed to enroll in the UVA Program, what should be the criteria for enrollment, what should be the use value rate for qualifying enrolled real property, and what should be the timeline for enrollment.

(d) Assistance. The Study Committee shall have the administrative, technical, legal, and fiscal assistance of the Department of Taxes.

(e) Report. On or before January 15, 2025, the Study Committee shall submit a written report to the Senate Committees on Finance and on Natural Resources and Energy and the House Committees on Ways and Means and on Environment and Energy with its findings and any recommendations for legislative action, including proposed legislative language.

(f) Meetings.

(1) The Director of Property Valuation and Review or designee shall call the first meeting of the Study Committee to occur on or before September 1, 2025.

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

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

(4) The Study Committee shall cease to exist on March 1, 2025.

(g) Compensation and reimbursement.

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

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

\* \* \* Effective Dates \* \* \*

#### Sec. 29. EFFECTIVE DATES

(a) This section and Secs. 19 (dam registration report), 20 (dam design standard rules), and 23 (FERC petition) shall take effect on passage.

(b) All other sections shall take effect July 1, 2024, except that:

(1) in Sec. 18, 10 V.S.A. § 1106 (Dam Safety Revolving Loan Fund) shall take effect on passage;

(2) under Sec. 25 (basin planning), the requirement shall be effective for updated Tactical Basin Plans that commence on or after January 1, 2025; and

(3) in Sec. 26 (expanded polystyrene foam requirements), 10 V.S.A. § 1324 (ANR rulemaking) shall take effect on passage.

(Committee vote: 5-0-0)

**S. 278.**

An act relating to contributory negligence in a civil action involving sexual assault.

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

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

Sec. 1. 12 V.S.A. § 1036 is amended to read:

§ 1036. COMPARATIVE NEGLIGENCE

(a) ~~Contributory~~ Comparative negligence shall not bar recovery in an action by any plaintiff, or ~~his or her~~ the plaintiff's legal representative, to recover damages for negligence resulting in death, personal injury, or property damage, if the negligence was not greater than the causal total negligence of the defendant or defendants, but the damage shall be diminished by general verdict in proportion to the amount of negligence attributed to the plaintiff. Where recovery is allowed against more than one defendant, each defendant shall be liable for that proportion of the total dollar amount awarded as damages in the ratio of the amount of ~~his or her~~ the defendant's causal negligence to the amount of causal negligence attributed to all defendants against whom recovery is allowed.

(b) Comparative negligence shall be prohibited as a defense to limit a plaintiff's recovery for damages in an action for a negligence claim relating to a sexual act as defined in 13 V.S.A. § 3251 or sexual conduct as defined in 13 V.S.A. § 2821.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: "An act relating to prohibiting a comparative negligence defense in an action for a negligence claim relating to a sexual act or sexual conduct"

(Committee vote: 5-0-0)

**ORDERED TO LIE**

**S. 94.**

An act relating to the City of Barre tax increment financing district.

## CONCURRENT RESOLUTIONS FOR NOTICE

### Concurrent Resolutions For Notice Under Joint Rule 16

The following joint concurrent resolutions have been introduced for approval by the Senate and House. They will be adopted by the Senate unless a Senator requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration should be communicated to the Secretary's Office.

**(S.C.R. 10** For text of Resolution, see Addendum to Senate Calendar of February 23, 2024)

**(H.C.R. 160 - 163** For text of Resolutions, see Addendum to House Calendar of February 22, 2024)

### NOTICE OF JOINT ASSEMBLY

**Friday, March 1, 2024 - 10:30 A.M. – House Chamber** - Election of a Sergeant at Arms.

Candidates for the position of Sergeant at Arms, must notify the Secretary of State **in writing** of their candidacies not later than Friday, February 23, 2024, by 4:00 P.M., pursuant to the provisions of 2 V.S.A. §12(b). Otherwise their names will not appear on the ballots for these positions.

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.

### JFO NOTICE

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3):

**JFO #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 #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 #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 #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 #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 #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 #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 #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]*

## **FOR INFORMATION ONLY**

### **CROSSOVER DATES**

The Joint Rules Committee established the following crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 15, 2024**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 22, 2024**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

**Note:** The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

**Exceptions to the foregoing deadlines include the major money bills (Appropriations “Big Bill”, Transportation Spending Bill, Capital Construction Bill, Pay Bill, and Miscellaneous Tax Bill).**

### CONSTITUTIONAL AMENDMENTS

The 2023-2024 biennium is the second reading of a proposal of amendment; there is only a second reading this biennium. Third reading is during the 2025-2026 biennium.

Upon being reported by a committee, the proposal is printed in full in the Senate Calendar on the Notice Calendar for five legislative days. Senate Rule 77.

At second reading the proposal of amendment is read in full. Senate Rule 77.

The vote on any constitutional proposal of amendment and any amendment thereto is by yeas and nays. Senate Rules 77 and 80, and Vermont Constitutional §72 (requirement of 2/3 vote of members).

At second reading, the questions is: “Shall the Senate adopt the proposal of amendment to the Constitution of Vermont (as amended) as recommended by the Committee on \_\_\_\_ and request the concurrence of the House?” which requires 20 votes – 2/3 of the Senate. Vermont Constitution §72. Any amendments to the proposal of amendment require a majority. Senate Rule 80.

Amendments recommended by any senator shall be submitted to the committee of reference, in written form, where they shall be acted upon by the committee. Upon adoption or rejection of any amendment by the committee, the amendment and recommendation shall be printed in the calendar at least one legislative day before second reading. Senate Rule 78.