

Senate Calendar

FRIDAY, MAY 04, 2018

SENATE CONVENES AT: 11:30 A.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

CONSIDERATION POSTPONED UNTIL MAY 4, 2018

Second Reading

Favorable with Proposal of Amendment

H. 614 An act relating to the sale and use of fireworks..... 2895

Pending Question: Shall the Senate propose to the House to amend the bill as *firstly* recommended by the Committee on Economic Development, Housing and General Affairs?

(For text of report of the Committee on Economic Development, Housing and General Affairs, see Senate Journal of May 3, 2018, page 950)

H. 911 An act relating to changes in Vermont's personal income tax and education financing system..... 2895

Pending Question: Shall the Senate propose to the House to amend the bill as recommended by the Committee on Finance?

(For text of report of the Committee on Finance, see Senate Journal of May 3, 2018, page 933)

UNFINISHED BUSINESS OF MAY 1, 2018

House Proposal of Amendment to Senate Proposal of Amendment

H. 143 An act relating to automobile insurance requirements and transportation network companies..... 2895

UNFINISHED BUSINESS OF MAY 2, 2018

Third Reading

H. 132 An act relating to limiting landowner liability for posting the dangers of swimming holes..... 2906

UNFINISHED BUSINESS OF MAY 3, 2018

House Proposal of Amendment to Senate Proposal of Amendment

H. 608 An act relating to creating an Older Vermonters Act working group.....2906

NEW BUSINESS

Third Reading

H. 660 An act relating to establishing the Commission on Sentencing Disparities and Criminal Code Reclassification.....2909

H. 736 An act relating to lead poisoning prevention..... 2909

H. 899 An act relating to fees for records filed in town offices and a town fee report and request.....2909

H. 912 An act relating to the health care regulatory duties of the Green Mountain Care Board..... 2909

H. 913 An act relating to boards and commissions.....2909

H. 925 An act relating to approval of amendments to the charter of the City of Barre.....2909

H. 926 An act relating to approval of amendments to the charter of the Town of Colchester.....2909

Second Reading

Favorable

H. 927 An act relating to approval of amendments to the charter of the City of Montpelier
Government Operations Report - Sen. Collamore 2910

Favorable with Proposal of Amendment

H. 571 An act relating to creating the Department of Liquor and Lottery and the Board of Liquor and Lottery
Econ. Dev. Housing and General Affairs Report - Sen. Clarkson 2910
Appropriations Report - Sen. Ashe 2912

H. 636 An act relating to miscellaneous fish and wildlife subjects
Natural Resources and Energy Report - Sen. Rodgers 2913
Finance Report - Sen. Lyons 2922

H. 675 An act relating to conditions of release prior to trial
Judiciary Report - Sen. Benning 2923
Education Report - Sen. Baruth 2926
Appropriations Report - Sen. Sears 2927

H. 897 An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support	
Education Report - Sen. Baruth	2928
Finance Report - Sen. Champion	2961
Appropriations Report - Sen. Starr	2961

House Proposals of Amendment

S. 111 An act relating to privatization contracts.....	2961
S. 192 An act relating to transferring the professional regulation of law enforcement officers from the Vermont Criminal Justice Training Council to the Office of Professional Regulation.....	2962
S. 269 An act relating to blockchain, cryptocurrency, and financial technology.....	2968
S. 281 An act relating to the mitigation of systemic racism.....	2976

House Proposals of Amendment to Senate Proposals of Amendment

H. 593 An act relating to miscellaneous consumer protection provisions.....	2981
H. 676 An act relating to miscellaneous energy subjects.....	2990
H. 806 An act relating to the Southeast State Correctional Facility	2991

NOTICE CALENDAR

Second Reading

Favorable

H. 916 An act relating to increasing the moral obligation authority of the Vermont Economic Development Authority	
Econ. Dev., Housing and General Affairs Report - Sen. Clarkson	2992
Appropriations Report - Sen. Sears	2992

Favorable with Proposal of Amendment

H. 410 An act relating to adding products to Vermont’s energy efficiency standards for appliances and equipment	
Natural Resources and Energy Report - Sen. Bray	2992
H. 663 An act relating to municipal land use regulation of accessory on-farm businesses	
Agriculture Report - Sen. Collamore	3013
Natural Resources and Energy Report - Sen. Bray	3013

H. 707 An act relating to the prevention of sexual harassment	
Econ. Dev., Housing and General Affairs Report - Sen. Balint	3014
Appropriations Report - Sen. Nitka	3023
Amendment - Sens. Balint, et al	3023
H. 728 An act relating to bail reform	
Judiciary Report - Sen. Sears	3023
H. 731 An act relating to miscellaneous workers' compensation and occupational safety amendments	
Econ. Dev., Housing and General Affairs Report - Sen. Sirotkin	3031
Finance Report - Sen. Sirotkin	3036
H. 764 An act relating to data brokers and consumer protection	
Econ. Dev., Housing and General Affairs Report - Sen. Sirotkin	3037
Finance Report - Sen. Sirotkin	3058
H. 777 An act relating to the Clean Water State Revolving Loan Fund	
Institutions Report - Sen. Rodgers	3058
Finance Report - Sen. Lyons	3058
Appropriations Report - Sen. Nitka	3058
H. 907 An act relating to improving rental housing safety	
Econ. Dev., Housing and General Affairs Report - Sen. Sirotkin	3059
Appropriations Report - Sen. Nitka	3064
H. 917 An act relating to the Transportation Program and miscellaneous changes to transportation-related law	
Transportation Report - Sen Mazza.....	3065
Finance Report - Sen. MacDonald.....	3100
Appropriations Report - Sen. Kitchel.....	3102

CONCURRENT RESOLUTIONS FOR ACTION

S.C.R. 23 (For text of Resolution, see Addendum to Senate Calendar for May 3, 2018).....	3104
H.C.R. 361 - 387 (For text of Resolutions, see Addendum to House Calendar for May 3, 2018).....	3104

ORDERS OF THE DAY

ACTION CALENDAR
CONSIDERATION POSTPONED UNTIL MAY 4, 2018

Second Reading
Favorable with Proposal of Amendment

H. 614.

An act relating to the sale and use of fireworks.

PENDING QUESTION: Shall the Senate propose to the House to amend the bill as *firstly* recommended by the Committee on Economic Development, Housing and General Affairs?

(For text of report of the Committee on Economic Development, Housing and General Affairs, see Senate Journal of May 3, 2018, page 950)

H. 911.

An act relating to changes in Vermont's personal income tax and education financing system.

PENDING QUESTION: Shall the Senate propose to the House to amend the bill as recommended by the Committee on Finance?

(For text of report of the Committee on Finance, see Senate Journal of May 3, 2018, page 933)

UNFINISHED BUSINESS OF TUESDAY, MAY 1, 2018

House Proposal of Amendment to Senate Proposal of Amendment

H. 143

An act relating to automobile insurance requirements and transportation network companies

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

By striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that this act is a step toward uniform regulation of all vehicle for hire companies and vehicle for hire drivers in Vermont.

Sec. 2. 23 V.S.A. chapter 10 is added to read:

CHAPTER 10. TRANSPORTATION NETWORK COMPANIES

§ 750. DEFINITIONS; INSURANCE REQUIREMENTS

(a) Definitions. As used in this chapter:

(1) “Digital network” or “network” means any online-enabled application, software, website, or system offered or used by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

(2) “Personal vehicle” means a vehicle that is:

(A) used by a driver to provide a prearranged ride;

(B) owned, leased, or otherwise authorized for use by the driver; and

(C) not a taxicab, limousine, or other for-hire vehicle.

(3) “Prearranged ride” or “ride” means the transportation provided by a driver to a transportation network company rider, beginning when a driver accepts the rider’s request for a ride through a digital network controlled by a company; continuing while the driver transports the rider; and ending when the last rider departs from the vehicle. The term does not include:

(A) shared-expense carpool or vanpool arrangements;

(B) use of a taxicab, limousine, or other for-hire vehicle;

(C) use of a public or private regional transportation company that operates along a fixed route; or

(D) a ride furnished through a broker using a publicly funded network to connect riders to drivers through the Elders and Persons with Disabilities Program, Medicaid Non-Emergency Medical Transportation Program, or other similar governmental transportation program.

(4) “Transportation network company” or “company” means a person that uses a digital network to connect riders to drivers who provide prearranged rides.

(5) “Transportation network company driver” or “driver” means an individual who:

(A) receives connections to potential riders and related services from a transportation network company in exchange for payment of a fee to the company; and

(B) uses a personal vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company in exchange for compensation or payment of a fee.

(6) “Transportation network company rider” or “rider” means an individual who uses a company’s digital network to connect with a driver who provides rides in his or her personal vehicle between points chosen by the rider.

(b) Company’s financial responsibility.

(1) Beginning on July 1, 2018, a driver, or company on the driver’s behalf, shall maintain primary automobile insurance that recognizes that the driver is a company driver or otherwise uses a vehicle to transport passengers for compensation and covers the driver while the driver is logged on to the company’s digital network or while the driver is engaged in a prearranged ride.

(2)(A) The following automobile insurance requirements shall apply while a participating driver is logged on to the transportation network company’s digital network and is available to receive transportation requests but is not engaged in a prearranged ride:

(i) primary automobile liability insurance in the amount of at least \$50,000.00 for death and bodily injury per person, \$100,000.00 for death and bodily injury per incident, and \$25,000.00 for property damage; and

(ii) any other State-mandated coverage under section 941 of this title.

(B) The coverage requirements of this subdivision (2) may be satisfied by any of the following:

(i) automobile insurance maintained by the driver;

(ii) automobile insurance maintained by the company; or

(iii) any combination of subdivisions (i) and (ii) of this subdivision (2)(B).

(3)(A) The following automobile insurance requirements shall apply while a driver is engaged in a prearranged ride:

(i) primary automobile liability insurance that provides at least \$1,000,000.00 for death, bodily injury, and property damage; and

(ii) uninsured and underinsured motorist coverage that provides at least \$1,000,000.00 for death, bodily injury, and property damage.

(B) The coverage requirements of this subdivision (3) may be satisfied by any of the following:

(i) automobile insurance maintained by the driver;

(ii) automobile insurance maintained by the company; or

(iii) any combination of subdivisions (i) and (ii) of this subdivision (3)(B).

(4) If insurance maintained by a driver under subdivision (2) or (3) of this subsection has lapsed or does not provide the required coverage, insurance maintained by the company shall provide such coverage beginning with the first dollar of a claim and shall have the duty to defend such claim.

(5) Coverage under an automobile insurance policy maintained by the company shall not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(6) Insurance required by this subsection may be placed with an insurer licensed under chapter 101 (insurance companies generally) or 138 (surplus lines insurance) of this title.

(7) Insurance satisfying the requirements of this subsection shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under section 800 of this title.

(8) A driver shall carry proof of coverage satisfying this section at all times during use of a vehicle in connection with a company's digital network. In the event of an accident or traffic violation, a driver shall provide this insurance coverage information to the directly interested parties, automobile insurers, and law enforcement, upon request. Upon such request, a driver shall also disclose whether he or she was logged on to the network or was on a prearranged ride at the time of an accident or traffic violation.

(9) A person who fails to maintain primary automobile insurance as required in subdivisions (2) and (3) of this subsection (b) shall be assessed a civil penalty consistent with subsection 800(b) of this title, and such violation shall be a traffic violation within the meaning of chapter 24 of this title. A person who fails to carry proof of insurance as required under subdivision (8) of this subsection (b) shall be subject to a civil penalty consistent with subsection 800(d) of this title. Notwithstanding any provision of law to the contrary, a person who operates a vehicle without financial responsibility as required by this subsection (b) is subject to administrative action as set forth in chapter 11 of this title.

(c) Disclosures. A transportation network company shall disclose in writing to its drivers the following before they are allowed to accept a request for a prearranged ride on the company's digital network:

(1) the insurance coverage, including the types of coverage and the limits for each coverage, that the company provides while the driver uses a personal vehicle in connection with the company's network; and

(2) that the driver's own automobile insurance policy, depending on its terms, might not provide any coverage while the driver is logged on to the

company's network and available to receive transportation requests or engaged in a prearranged ride.

(d)(1) Automobile insurers. Notwithstanding any other provision of law to the contrary, insurers that write automobile insurance in Vermont may exclude any and all coverage afforded under a policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a driver is logged on to a transportation network company's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage in an automobile insurance policy, including:

- (A) liability coverage for bodily injury and property damage;
- (B) personal injury protection coverage;
- (C) uninsured and underinsured motorist coverage;
- (D) medical payments coverage;
- (E) comprehensive physical damage coverage; and
- (F) collision physical damage coverage.

(2) Nothing in this subsection implies or requires that a personal automobile insurance policy provide coverage while the driver is logged on to a company's digital network, while the driver is engaged in a prearranged ride, or while the driver otherwise uses a vehicle to transport passengers for compensation.

(3) Nothing in this section shall be construed to require an insurer to use any particular policy language or reference to this section in order to exclude any and all coverage for any loss or injury that occurs while a driver is logged on to a company's digital network or while a driver provides a prearranged ride.

(4) Nothing in this subsection is deemed to preclude an insurer from providing primary or excess coverage for the driver's vehicle, if it chooses to do so by contract or endorsement.

(5) Insurers that exclude the coverage described under subsection (b) of this section shall have no duty to defend or indemnify any claim expressly excluded thereunder.

(6) Nothing in this section is deemed to invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use in Vermont prior to the enactment of this section, that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public.

(7) An insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of subsection (b) of this section at the time of loss.

(8) In a claims coverage investigation, transportation network companies shall immediately provide, upon request by directly involved parties or any insurer of the transportation network company driver, if applicable, the precise times that a transportation network company driver logged on and off the transportation network company's digital network in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident. Insurers providing coverage under subsection (b) of this section shall disclose, upon request by any other insurer involved in the particular claim, the applicable charges, exclusions, and limits provided under any automobile insurance maintained in order to satisfy the requirements of subsection (b) of this section.

§ 751. DRIVER REQUIREMENTS; BACKGROUND CHECKS

(a) A company shall not allow an individual to act as a driver on the company's network without requiring the individual to submit to the company an application that includes:

(1) the individual's name, address, and date of birth;

(2) a copy of the individual's driver's license;

(3) a copy of the registration for the personal vehicle that the individual will use to provide prearranged rides; and

(4) proof of financial responsibility for the personal vehicle described in subdivision (3) of this subsection of a type and in the amounts required by the company.

(b)(1) A company shall not allow an individual to act as a driver on the company's network unless, with respect to the driver, the company:

(A) contracts with an accredited entity to conduct a local, State, and national background check of the individual, including the multistate-multijurisdiction criminal records locator or other similar national database, the U.S. Department of Justice national sex offender public website, and the Vermont sex offender public website;

(B) confirms that the individual is at least 18 years of age and, if the individual is 18 years of age, he or she has at least one year of driving experience or has been issued a commercial driver license; and

(C) confirms that the individual possesses proof of registration, automobile liability insurance, and proof of inspection if required by the state of vehicle registration for the vehicle to be used to provide prearranged rides.

(2) The background checks required by this subsection shall be conducted annually by the company.

(3) With respect to a person who is a driver as of the effective date of this act, the requirements of subdivision (1)(A) of this subsection (b) shall be deemed satisfied if the background check is completed within 30 days of the effective date of this act or if a background check that satisfies the requirements of subdivision (1)(A) of this subsection (b) was conducted by the company on or after July 1, 2017. This subdivision shall not be construed to exempt drivers from undergoing an annual background check as required under subdivision (2) of this subsection (b).

(c) A company shall not allow an individual to act as a driver on the company's network if the company knows or should know that the individual:

(1) has been convicted within the last seven years of:

(A) a listed crime as defined in 13 V.S.A. § 5301(7);

(B) a felony level violation of 18 V.S.A. chapter 84 for selling, dispensing, or trafficking a regulated drug;

(C) a violation of section 1201 (operating a vehicle while under the influence of alcohol or drugs) of this title;

(D) a felony violation of 13 V.S.A. chapter 47 (frauds) or 57 (larceny and embezzlement); or

(E) a comparable offense in another jurisdiction;

(2) has been convicted within the last three years of:

(A) more than three moving violations as defined in subdivision 4(44) of this title;

(B) grossly negligent operation of a motor vehicle in violation of section 1091 of this title or operating with a suspended or revoked license in violation of section 674 of this title; or

(C) a comparable offense in another jurisdiction;

(3) has been subject to a civil suspension within the last seven years under section 1205 (operating a vehicle while under the influence of alcohol or drugs) of this title; or

(4) is listed on the U.S. Department of Justice national sex offender public website or the Vermont sex offender public website or has been

convicted of homicide, manslaughter, kidnapping, or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

(d) A company shall establish and enforce a zero tolerance policy for drug and alcohol use by drivers during any period when a driver is engaged in, or is logged into the company's network but is not engaged in, a prearranged ride. The policy shall include provisions for investigations of alleged policy violations and the suspension of drivers under investigation.

(e) A company shall require that a personal vehicle used to provide prearranged rides complies with all applicable laws and regulations concerning vehicle equipment.

§ 752. RECORDS; INSPECTION

(a) The Commissioner of Motor Vehicles or designee, not more frequently than once per year, shall visually inspect a random sample of up to 25 drivers' records per company demonstrating compliance with the requirements of this chapter. The records inspected pursuant to this section shall pertain to drivers operating in Vermont. A company shall have an ongoing duty to make such records available for inspection under this section during reasonable business hours and in a manner approved by the Commissioner.

(b) The Commissioner or designee may visually inspect additional random samples of drivers' records if there is a reasonable basis to suspect that a company is not in compliance with this chapter. The records inspected pursuant to this section shall pertain to drivers operating in Vermont.

(c) If the Commissioner receives notice of a complaint against a company or a driver, the company shall cooperate in investigating the complaint, including producing any necessary records.

(d) Any records, data, or information disclosed to the Commissioner by a company, including the names, addresses, and any other personally identifiable information regarding drivers, are exempt from inspection and copying under the Public Records Act and shall not be released.

§ 753. ENFORCEMENT; ADMINISTRATIVE PENALTIES

(a) The Commissioner of Motor Vehicles may impose an administrative penalty pursuant to this section if a company violates a provision of this chapter.

(b) A violation may be subject to an administrative penalty of not more than \$500.00. Each violation is a separate and distinct offense and, in the case of a continuing violation, each day's continuance may be deemed a separate and distinct offense.

(c) The company shall be given notice and opportunity for a hearing for alleged violations under this section. Service of the notice shall be sufficient if sent by first class mail to the applicable address on file with the Secretary of State. The notice shall include the following:

- (1) a factual description of the alleged violation;
- (2) a reference to the particular statute allegedly violated;
- (3) the amount of the proposed administrative penalty; and

(4) a warning that the company will be deemed to have waived its right to a hearing and that the penalty will be imposed if no hearing is requested within 15 days from the date of the notice.

(d) A company that receives notice under subsection (c) of this section shall be deemed to have waived the right to a hearing unless, within 15 days from the date of the notice, the company requests a hearing in writing. If the company waives the right to a hearing, the Commissioner shall issue a final order finding the company in default and imposing the penalty.

(e) The provisions of sections 105, 106, and 107 of this title shall apply to hearings conducted under this section.

(f) The Commissioner may collect an unpaid administrative penalty by filing a civil action in Superior Court or through any other means available to State agencies.

(g) The remedies authorized by this section shall be in addition to any other civil or criminal remedies provided by law for violation of this chapter.

§ 754. PREEMPTION; SAVINGS CLAUSE

(a) Municipal ordinances, resolutions, or bylaws regulating transportation network companies are preempted to the extent they are inconsistent with the provisions of this chapter.

(b) Subsection (a) of this section shall not apply to a municipal ordinance, resolution, or bylaw regulating transportation network companies adopted by a municipality with a population of more than 35,000 residents based on the 2010 census and in effect on July 1, 2017. This subsection shall be repealed on July 1, 2020.

Sec. 3. STUDY; STATEWIDE REGULATION OF VEHICLES FOR HIRE

(a) The Commissioner of Financial Regulation, in consultation with the Commissioner of Motor Vehicles, the Director of the Office of Professional Regulation, and representatives from other State agencies and departments, as the Commissioner deems necessary, and with input from the Vermont League of Cities and Towns and industry and consumer stakeholders, including

representatives of transportation network companies (TNCs) and non-TNC companies and career drivers, shall conduct a study of whether and to what extent vehicles for hire, vehicle for hire drivers, and vehicle for hire companies should be regulated by the State, and how State regulations would affect relevant municipal regulations. Among other things, the Commissioner shall consider:

(1) issues related to public safety, necessity, and convenience;

(2) regulatory models adopted in other state and local jurisdictions, including in both urban and rural municipalities in Vermont, applicable to transportation network companies and other vehicle for hire companies;

(3) matters related to passenger safety, including driver background checks, periodic vehicle safety inspections, and signage;

(4) matters related to insurance coverage, including minimum liability coverage, disclosure requirements, and claims procedures, generally, and with consideration of other, similarly situated jurisdictions, other commercial automobile policy requirements, enhanced personal liability coverage for drivers, and the costs and benefits of requiring Med Pay coverage;

(5) matters related to fares, including the provision of fare estimates to riders, restrictions on “surge pricing,” and payment methods;

(6) matters such as the licensing or permitting of companies and drivers; nondiscrimination street hails; the protection of driver and rider information; taxes or fees and, if applicable, recommended amounts; the employment status of drivers; and increased access for people with disabilities;

(7) the extent to which all vehicles for hire, vehicle for hire drivers, and vehicle for hire companies should be treated similarly with respect to statewide regulation; and

(8) any other matter deemed relevant by the Commissioner and the Director.

(b) For purposes of this section, a “vehicle for hire” is a passenger vehicle transporting passengers for compensation of any kind. Vehicles for hire include taxicabs, transportation network company vehicles, limousines, jitneys, car services, contract vehicles, shuttle vans, and other such vehicles transporting passengers for compensation of any kind except:

(1) those which an employer uses to transport employees;

(2) those which are used primarily to transport elderly, special needs and handicapped persons for whom special transportation programs are designed and funded by State, federal, or local authority otherwise exempted pursuant to 23 V.S.A. § 4(15);

(3) buses, trolleys, trains, or similar mass transit vehicles;

(4) courtesy vehicles for which the passenger pays no direct charge, such as hotel or car dealer shuttle vans.

(c) On or before December 15, 2018, the Commissioner shall submit a progress report outlining his or her findings and recommendations to the Chairs of the Senate Committees on Transportation, on Judiciary, and on Finance and the House Committees on Transportation, on Judiciary, and on Commerce and Economic Development.

(d) On or before January 15, 2019, the Commissioner shall submit a final report of his or her findings and recommendations to the Senate Committees on Transportation, on Judiciary, and on Finance and the House Committees on Transportation, on Judiciary, and on Commerce and Economic Development.

Sec. 4. TNC INSURANCE REQUIREMENTS; STUDY

(a) The Commissioner of Financial Regulation shall conduct a study regarding the statutory minimum levels of financial responsibility applicable to transportation network companies (TNC) in Vermont, in particular, the minimums required under 23 V.S.A. § 750(b)(2)(A)(i) (the so-called “gap period”). The purpose of the study is to ensure these requirements correlate with potential liability exposure so that persons are made whole in the event of an automobile accident involving a transportation network company driver.

(b) Consistent with the purpose of this section, and in a form and manner prescribed by the Commissioner, each TNC company doing business in Vermont shall submit claims data elements necessary to inform the Commissioner’s determination with respect to the appropriateness of the statutory minimum levels of financial responsibility. Any data disclosed to the Commissioner by a company pursuant to this section are exempt from inspection and copying under the Public Records Act and shall not be released.

(c) On or before January 15, 2019, the Commissioner shall report his or her aggregated findings and recommendations to the House Committees on Commerce and Economic Development and on Judiciary and the Senate Committees on Judiciary and on Finance.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

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

An act relating to transportation network companies.

UNFINISHED BUSINESS OF WEDNESDAY, MAY 2, 2018

Third Reading

H. 132.

An act relating to limiting landowner liability for posting the dangers of swimming holes.

UNFINISHED BUSINESS OF THURSDAY, MAY 3, 2018

House Proposal of Amendment to Senate Proposal of Amendment

H. 608

An act relating to creating an Older Vermonters Act working group

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

By striking out Sec. 3, Older Vermonters Act working group; report, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. OLDER VERMONTERS ACT WORKING GROUP; REPORT

(a) Creation. There is created an Older Vermonters Act working group for the purpose of developing recommendations for an Older Vermonters Act that aligns with the federal Older Americans Act, the Vermont State Plan on Aging, and the Choices for Care program.

(b) Membership. The working group shall be composed of the following 18 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) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(4) the Director of Health Promotion and Disease Prevention at the Department of Health or designee;

(5) the Commissioner of Labor or designee;

(6) the Attorney General or designee;

(7) the Executive Director of the Vermont Association of Area Agencies on Aging or designee;

(8) the State Long-Term Care Ombudsman;

(9) the Director of Vermont Associates for Training and Development or designee;

(10) a representative of the Vermont Association of Adult Day Services, appointed by the Association;

(11) a representative of home health agencies, appointed jointly by the VNAs of Vermont and Bayada Home Health Care;

(12) a representative of long-term care facilities, appointed by the Vermont Health Care Association;

(13) the Director of the Center on Aging at the University of Vermont or designee;

(14) a representative of the Vermont Association of Senior Centers and Meal Providers, appointed by the Association;

(15) two older Vermonters from different regions of the State, appointed by the Advisory Board established by 33 V.S.A. § 505; and

(16) two family caregivers of older Vermonters, one of whom is a family member of an older Vermonter and one of whom is an informal provider of in-home and community care, appointed by the Advisory Board established by 33 V.S.A. § 505.

(c) Powers and duties. The working group, in consultation with elder care mental health clinicians, the Vermont Chamber of Commerce, the Community of Vermont Elders, the Alzheimer's Association, Support and Services at Home (SASH), AARP Vermont, the Elder Law Project at Vermont Legal Aid, the Vermont Public Transportation Association, and other interested stakeholders, shall develop recommendations on the following:

(1) the authority and responsibilities of the Vermont Department of Disabilities, Aging, and Independent Living as a State Unit on Aging;

(2) the authority and responsibilities of the Vermont Department of Disabilities, Aging, and Independent Living with respect to the management, approval, and oversight of services provided to eligible older Vermonters through the Choices for Care program;

(3) the roles and responsibilities of the Area Agencies on Aging as the designated regional planning organizations serving older Vermonters and family caregivers;

(4) the roles and responsibilities of the network of providers of services to older Vermonters and family caregivers;

(5) a description of a comprehensive and coordinated system of services and supports for older Vermonters and family caregivers as envisioned by the Older Americans Act and the Choices for Care program, including supportive services, nutrition services, health promotion and disease prevention services, family caregiver services, employment services, and protective services;

(6) a description of how such a system would be coordinated across State agencies, provider networks, and geographic regions;

(7) how to ensure that such a system would target those in greatest economic and social need;

(8) ways to encourage and educate older Vermonters to continue in the workforce and to become or remain involved in their communities through participation in volunteer activities and opportunities for civic engagement; and

(9) ways to educate employers about the value of the older Vermonters talent cohort and the benefits of maintaining a multigenerational workforce, as well as identification of models that may be replicated across sectors and industries.

(d) Assistance. The working group shall have the administrative, technical, and legal assistance of the Department of Disabilities, Aging, and Independent Living.

(e) Report. On or before December 1, 2019, the working group shall submit its recommendations to the House Committee on Human Services and the Senate Committee on Health and Welfare.

(f) Meetings.

(1) The Commissioner of Disabilities, Aging, and Independent Living or designee shall chair the working group and shall call the first meeting of the working group, which shall occur on or before September 15, 2018.

(2) The working group shall meet as often as reasonably necessary to develop its recommendations, but not less frequently than once every two months.

(3) The working group shall cease to exist upon submitting its report to the General Assembly on or before December 1, 2019.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the working group serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for a total of not more than eight meetings.

(2) Other members of the working group who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance at meetings of the working group shall be entitled to reimbursement of expenses pursuant to 32 V.S.A. § 1010.

(3) Payments to members of the working group authorized under subdivision (2) of this subsection shall be made from monies appropriated to the Department of Disabilities, Aging, and Independent Living.

NEW BUSINESS

Third Reading

H. 660.

An act relating to establishing the Commission on Sentencing Disparities and Criminal Code Reclassification.

H. 736.

An act relating to lead poisoning prevention.

H. 899.

An act relating to fees for records filed in town offices and a town fee report and request.

H. 912.

An act relating to the health care regulatory duties of the Green Mountain Care Board.

H. 913.

An act relating to boards and commissions.

H. 925.

An act relating to approval of amendments to the charter of the City of Barre.

H. 926.

An act relating to approval of amendments to the charter of the Town of Colchester.

Second Reading

Favorable

H. 927.

An act relating to approval of amendments to the charter of the City of Montpelier.

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

(Committee vote: 5-0-0)

(For House amendments, see House Journal of April 19, 2018, page 1095)

Favorable with Proposal of Amendment

H. 571.

An act relating to creating the Department of Liquor and Lottery and the Board of Liquor and Lottery.

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

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

First: In Sec. 63, 7 V.S.A. § 278, by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) A manufacturer or rectifier of vinous beverages that is licensed in ~~state~~ the State or ~~out-of-state~~ outside the State and holds valid state and federal permits and operates a winery in the United States may apply for a retail shipping license by filing with the ~~Department~~ Division of Liquor Control an application in a form required by the Commissioner accompanied by a copy of its in-state or out-of-state license and the fee provided in section 204 of this title.

Second: In Sec. 90, 31 V.S.A. § 654a, redesignated § 652, in subdivision (2)(C), after the words "A procedure adopted pursuant to this section shall" by inserting the following: have the force of law and

Third: In Sec. 94, 31 V.S.A. § 658, redesignated § 656, in subsection (b), in the second sentence before the second occurrence of the phrase "percent of gross receipts," by striking out the number "1" and inserting in lieu thereof the following: ± one

Fourth: After Sec. 111, by inserting new Secs. 112, 113, and 114 to read:

Sec. 112. 7 V.S.A. § 660 is amended to read:

§ 660. ADVERTISING

(a) ~~A person shall not display on~~ Any outside billboards or signs ~~erected on the highway any that contain an advertisement of any kind~~ relating to alcoholic beverages, or indicate where alcoholic beverages may be procured shall comply with the requirements of 10 V.S.A. chapter 21. A person who violates any provision of this section shall be fined not more than \$100.00 nor less than \$10.00, for each offense, and a conviction for a violation shall be cause for revoking the person's license issued under this title.

* * *

Sec. 113. 13 V.S.A. § 2143 is amended to read:

§ 2143. NONPROFIT ORGANIZATIONS

(a)(1) ~~Notwithstanding the provisions of this chapter, a:~~

(A) A nonprofit organization, as defined in 31 V.S.A. § 1201(5), may organize and execute, and an individual may participate in lotteries, raffles, or other games of chance for the purpose of raising funds to be used in charitable, religious, educational, and civic undertakings or used by fraternal organizations to provide direct support to charitable, religious, educational, or civic undertakings with which they are affiliated.

(B) A nonprofit organization, as defined in 31 V.S.A. § 1201(5), may organize and execute, and a member of that organization may participate in, lotteries, raffles, or other games of chance in which all of the proceeds are awarded as prizes to the members who participated. An individual who is not a member of the nonprofit organization shall not be allowed to participate in a lottery, raffle, or other game of chance organized under this subdivision (B).

(2) Except as provided in subsection (d) of this section, gambling machines and other mechanical devices described in section 2135 of this title shall not be utilized used under authority of this section.

* * *

(d) Casino events shall be limited as follows:

* * *

(4) As used in this subsection, "casino event" means an event held during any 24-hour period at which any game of chance is a card tournament or casino table games, such as baccarat, blackjack, craps, poker, or roulette, or both are conducted except those. Games of chance prohibited by subdivision 2135(a)(1) or (2) of this title- shall not be permitted at a "casino event." A "casino event" shall not include a fair, bazaar, field days, agricultural

exposition, or similar event that ~~utilizes~~ uses a wheel of fortune, chuck-a-luck, or other ~~such~~ games commonly conducted at such events, or break-open tickets, bingo, a lottery, or a raffle. “Card tournament” means an event during which participants, as individual players or members of a team, pay a fixed entry fee to play a series of card games, with the tournament winners determined based on the cumulative results of the games and the winners’ prizes determined as a portion of the proceeds from the entry fees.

(e) Games of chance shall be limited as follows:

(1) All Except as otherwise provided pursuant to subdivision (a)(1)(B) of this section, all proceeds raised by a game of chance shall be used exclusively for charitable, religious, educational, and civic undertakings after deducting:

* * *

Sec. 114. EDUCATION AND OUTREACH

On or before November 15, 2018, the Attorney General shall update the gambling page on the Attorney General’s website to include the amendments to 13 V.S.A. § 2143 made pursuant to this act.

And by renumbering the remaining section to be numerically correct.

(Committee vote: 4-0-1)

(For House amendments, see House Journal for February 20, 2018, pages 416-417 and February 21, 2018, page 419)

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

The Committee recommends that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendment thereto:

In the *Fourth* proposal of amendment by adding a new Sec. 115 to read as follows:

Sec. 115. LOTTERY AGENT SALES PRACTICES; INTEGRITY; REVIEW; REPORT

(a) The Commissioner of Liquor and Lottery shall conduct a review of:

(1) lottery prize winners by agency location to determine whether a disproportionate number of winning tickets sold by each lottery agent was purchased by the owner or of an employee of the agent, or by an immediate family member of the owner or of an employee of the agent; and

(2) the sales, fraud prevention, and security practices of each lottery agent to determine whether those practices are sufficient to preserve the integrity of the Lottery and to avoid the occurrence or appearance of illegitimate winnings by the owner or an employee of the agent, or by an immediate family member of the owner or of an employee of the agent.

(b) On or before October 1, 2018, the Commissioner shall submit a written report on the findings of the review conducted pursuant to subsection (a) of this section to the Joint Fiscal Committee.

(Committee vote: 6-0-1)

H. 636.

An act relating to miscellaneous fish and wildlife subjects.

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

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

* * * Information Collection * * *

Sec. 1. 10 V.S.A. § 4132 is amended to read:

§ 4132. GENERAL DUTIES OF COMMISSIONER

(a) The Commissioner shall have charge of the enforcement of the provisions of this part.

* * *

(f) The Commissioner may collect data, conduct scientific research, and contract with qualified consultants for the purposes of managing fish and wildlife in the State and achieving the requirements and policies of this part. The Commissioner may designate as confidential any records produced or acquired by Department staff or contractors in the conduct of a study of or research related to fish, wildlife, wild plants, or the habitat of fish, wildlife, or wild plants, if release of the records would present a threat of harm to a species or the habitat of a species. Records designated as confidential under this subsection shall be exempt from inspection and copying under the Public Records Act. Records of Department staff or contractors that are not designated as confidential under this subsection shall be available for inspection and copying under the Public Records Act.

* * * Acquisition of Property; Grants * * *

Sec. 2. 10 V.S.A. § 4144(a) is amended to read:

(a) ~~The secretary~~ Secretary with approval of the Governor may acquire for the use of the ~~State~~ Department of Fish and Wildlife by gift, purchase, or lease ~~in the name of the State, any and all rights and interests in~~ lands, ponds, or streams, and hunting and fishing rights and privileges in any lands or waters in the State, ~~with~~ and the necessary rights of ingress or egress to and from such lands and waters. The Secretary's authority to acquire property interests under this section shall include all of the interests that may be acquired under subsection 6303(a) of this title.

Sec. 3. 10 V.S.A. § 4147 is amended to read:

§ 4147. FISH AND WILDLIFE LANDS

(a) Notwithstanding the provisions of 29 V.S.A. § 166, the Secretary with the approval of the Governor, ~~may convey, exchange, sell, or lease lands under the Secretary's jurisdiction of the Department of Fish and Wildlife for one or more of the following purposes:~~

(1) resolving trespass issues and implementing boundary line adjustments and right-of-way and deed corrections, provided that the transfers are advantageous to the State;

(2) implementing the acquisition of new lands for conservation and public recreation when, in his or her judgment, it is advantageous to the State ~~to do so in the highest orderly development of such lands and management of game thereon.~~

(b) ~~Provided, however, such~~ The lease, sale, or exchange of lands under this section shall not include oil and gas leases and shall not be contrary to the terms of any contract which ~~that~~ has been entered into by the State.

* * *

* * * Licensing; Lottery Applications * * *

Sec. 4. 10 V.S.A. § 4254(e) is amended to read:

(e) The Commissioner shall establish:

(1) license agencies, for the sale and distribution of licenses or lottery applications for licenses, including any town clerk who desires to sell licenses or process lottery applications for licenses;

(2) the number, type, and location of license agencies, other than town clerk agencies;

(3) the qualifications of all agencies and agents except town clerks;

(4) controls for the inventory, safeguarding, issue, and recall of all licensing materials;

(5) the times and methods for reporting the sale and issuance of all licenses;

(6) procedures for accounting for and return of all monies and negotiable documents due the Department from agencies in accordance with the provisions of this title and Title 32 of the Vermont Statutes Annotated;

(7) procedures for the audit of all license programs and license agency transactions and the proper retention and inspection of all accounting and inventory records related to the sale or issuance of licenses;

(8) procedures for the suspension of any license agent or agency, including a town clerk agent, for noncompliance with the provisions of this title, any written agreement between the agent and the Department, or any licensing rule established by the Department;

(9) that for each license or lottery application, \$1.50 of the fee is a filing fee that may be retained by the agent, except for the super sport license for which \$5.00 of the fee is a filing fee that may be retained by the agent; and

(10) that for licenses, lottery applications, and tags issued where the Department does not receive any part of the fee, \$1.50 may be charged as a filing fee and retained by the agent.

* * * Migratory Waterfowl Stamp Program * * *

Sec. 5. 10 V.S.A. § 4277 is amended to read:

§ 4277. MIGRATORY WATERFOWL STAMP PROGRAM

(a) Definitions. As used in this section:

(1) “Migratory waterfowl” means all waterfowl species in the family anatidae₂ including wild ducks, geese, brant, and swans.

(2) “Stamp” means the State migratory waterfowl hunting stamp furnished by the Department of Fish and Wildlife as provided for in this section and the federal migratory waterfowl stamp furnished by the U.S. Department of the Interior.

(b) Waterfowl stamp required. No person 16 years of age or older shall attempt to take or take any migratory waterfowl in this State without first obtaining a State and federal migratory waterfowl stamp for the current year in addition to a regular hunting license as provided by section 4251 of this title. A stamp shall not be transferable. The State stamp year shall run from January 1 to December 31.

(c) Waterfowl stamp design, production₂ and distribution. The Commissioner of Fish and Wildlife shall be responsible for the design, production, procurement, distribution, and sale of ~~all stamps~~ the State stamp

and all marketable stamp ~~byproducts~~ by-products such as posters, artwork, calendars, and other items.

(d) Fee. ~~Stamps~~ State stamps shall be sold at the direction of the Commissioner for a fee of \$7.50. The issuing agent may retain a fee of \$1.00 for each stamp and shall remit \$6.50 of each fee to the Department of Fish and Wildlife. The Commissioner shall establish a uniform sale price for all categories of ~~byproducts~~ by-products.

(e) Disposition of waterfowl receipts. All State waterfowl stamp receipts and all receipts from the sale of State stamp ~~byproducts~~ by-products shall be deposited in the Fish and Wildlife Fund. All State stamp and ~~byproducts~~ by-products receipts shall be expended through the appropriation process for waterfowl acquisition and improvement projects.

(f) Advisory ~~committee~~ Committee. There is hereby created a the Migratory Waterfowl Advisory Committee which shall consist of five persons and up to three alternates appointed by and serving at the pleasure of the Commissioner of Fish and Wildlife. The Commissioner shall designate a the Chair. The Committee shall be consulted with and may make recommendations to the Commissioner in regard to all projects and activities supported with the funds derived from the implementation of this section. The Commissioner shall make an annual financial and progress report to the Committee with regard to all activities authorized by this section.

* * * Forfeiture * * *

Sec. 6. 10 V.S.A. § 4505 is amended to read:

§ 4505. HEARING; FORFEITURE

The game warden or other officer shall retain possession of firearms, jacks, lights, motor vehicles, and devices taken until final disposition of the charge against the owner, possessor, or person using the same in violation of the provisions of section 4745, 4781, 4783, 4784, 4705(a), 4280, 4747, or 4606 of this title, in accordance with the provisions of section 4503 of this title. When the owner, possessor, or person using firearms, jacks, lights, motor vehicles, and devices in violation of the section is convicted of the offense, the court where the conviction is had shall cause the owner, if known, and possessor, and all persons having the custody of or exercising any control over the firearms, jacks, lights, motor vehicles, and devices seized, either as principal, clerk, servant, or agent and the respondent to appear and show cause, if any they have, why a forfeiture or condemnation order should not issue. The hearings may be held as a collateral proceeding to the trial of the respondent in the discretion of the court.

* * * Enforcement; Violations * * *

Sec. 7. 10 V.S.A. § 4551 is amended to read:

§ 4551. FISH AND WILDLIFE VIOLATION DEFINED

A violation of any provision of this part, other than a violation for which a term of imprisonment may be imposed, or a minor violation as defined in section 4572 of this title, ~~or a violation of a rule adopted under this part~~ shall be ~~known~~ as a fish and wildlife violation.

Sec. 8. 10 V.S.A. § 4705 is amended to read:

§ 4705. SHOOTING FROM MOTOR VEHICLES OR AIRCRAFT;
SHOOTING FROM OR ACROSS HIGHWAY; PERMIT

(a) A person shall not take, or attempt to take, a wild animal by shooting from a motor vehicle, motorboat, airplane, snowmobile, or other ~~motor propelled~~ motor-propelled craft or any vehicle drawn by a ~~motor propelled~~ motor-propelled vehicle except as permitted under subsection (e) of this section.

(b) A person shall not carry or possess while in or on a vehicle propelled by mechanical power or drawn by a vehicle propelled by mechanical power within the ~~right-of-way~~ right-of-way of a public highway a rifle or shotgun containing a loaded cartridge or shell in the chamber, mechanism, or in a magazine, or clip within a rifle or shotgun, or a muzzle-loading rifle or muzzle-loading shotgun that has been charged with powder and projectile and the ignition system of which has been enabled by having an affixed or attached percussion cap, primer, battery, or priming powder, except as permitted under subsections (d) and (e) of this section. A person who possesses a rifle, crossbow, or shotgun, including a muzzle-loading rifle or muzzle-loading shotgun, in or on a vehicle propelled by mechanical power, or drawn by a vehicle propelled by mechanical power within a ~~right-of-way~~ right-of-way of a public highway shall upon demand of an enforcement officer exhibit the firearm for examination to determine compliance with this section.

(c) A person while on or within 25 feet of the traveled portion of a public highway, except a public highway designated Class 4 on a town highway map, shall not take or attempt to take any wild animal by shooting a firearm, a muzzle loader, a bow and arrow, or a crossbow. A person while on or within the traveled portion of a public highway designated Class 4 on a town highway map shall not take or attempt to take any wild animal by shooting a firearm, a muzzle loader, a bow and arrow, or a crossbow. A person shall not shoot a firearm, a muzzle loader, a bow and arrow, or a crossbow over or across the traveled portion of a public highway, except for a person shooting over or across the traveled portion of a public highway from a sport shooting range, as that term is defined in section 5227 of this title, provided that:

- (1) the sport shooting range was established before January 1, 2014; and
- (2) the operators of the sport shooting range post signage warning users of the public highway of the potential danger from the sport shooting range.

(d) This section shall not restrict the possession or use of a loaded firearm by an enforcement officer in performance of his or her duty.

* * *

Sec. 9. 10 V.S.A. § 4709 is amended to read:

§ 4709. TRANSPORT, IMPORTATION, POSSESSION, AND STOCKING OF WILD ANIMALS; POSSESSION OF WILD BOAR

(a) A person shall not bring into ~~the State~~, transport into, transport within, transport through, or possess in the State any live wild bird or animal of any kind, ~~unless, upon application in writing therefor, the person obtains~~ without authorization from the Commissioner ~~a permit to do so~~ or his or her designee. The importation permit may be granted under such regulations therefor as the ~~Board~~ Commissioner shall prescribe and only after the Commissioner has made such investigation and inspection of the birds or animals as she or he may deem necessary. The Department may dispose of unlawfully possessed or imported wildlife as it may judge best, and the State may collect treble damages from the violator of this subsection for all expenses incurred.

(b) No person shall bring into the State from another country, state, or province wildlife illegally taken, transported, or possessed contrary to the laws governing the country, state, or province from which the wildlife originated.

(c) No person shall place a Vermont-issued tag on wildlife taken outside the State. No person shall report big game in Vermont when the wildlife is taken outside the State.

(d) Nothing in this section shall prohibit the Commissioner or duly authorized agents of the Department of Fish and Wildlife from bringing into the State for the purpose of planting, introducing, or stocking, or from planting, introducing, or stocking in the State, any wild bird or animal.

~~(e)~~(e) Applicants shall pay a permit fee of \$100.00.

~~(d)~~(f)(1) The Commissioner shall not issue a permit under this section for the importation or possession of the following live species, a hybrid or genetic variant of the following species, offspring of the following species, or offspring or a hybrid of a genetically engineered variant of the following species: wild boar, wild hog, wild swine, feral pig, feral hog, feral swine, old world swine, razorback, Eurasian wild boar, or Russian wild boar (*Sus scrofa* Linnaeus).

(2) This subsection shall not apply to the domestic pig (*Sus domesticus*) involved in domestic hog production and shall not restrict or limit the authority of the Secretary of Agriculture, Food and Markets to regulate the importation or possession of the domestic pig as livestock or as a domestic animal under Title 6 of the Vermont Statutes Annotated.

* * * Trapping * * *

Sec. 10. 10 V.S.A. § 4254c is added to read:

§ 4254c. NOTICE OF TRAPPING; DOG OR CAT

A person who incidentally traps a dog or cat shall notify a fish and wildlife warden or the Department within 24 hours after discovery of the trapped dog or cat. The Department shall maintain records of all reports of incidentally trapped dogs or cats submitted under this section, and the reports shall include the disposition of each incidentally trapped dog or cat.

Sec. 11. 10 V.S.A. § 4828 is amended to read:

§ 4828. TAKING OF RABBIT OR FUR-BEARING ANIMALS BY LANDOWNER; SELECTBOARD; CERTIFICATE; PENALTY

(a)(1) The provisions of law or ~~regulations~~ rules of the Board relating to the taking of rabbits or fur-bearing animals shall not apply to:

(A) an owner, the owner's employee, tenant, or caretaker of property protecting the property from damage by rabbits or fur-bearing animals; or

(B) ~~to~~ a member of the selectboard of a town protecting public highways or bridges from such damage or submersion with the permission of the owner of lands affected.

(2) A person who for compensation sets a trap for rabbits or fur-bearing animals on the property of another in defense of that property shall possess a valid trapping license.

(3)(A) ~~However, if~~ If required by rule of the ~~board~~ Board, an owner; ~~the owner's employee, tenant, or caretaker; or the members;~~ a member of the selectboard; or a person who sets a trap for compensation who ~~desire~~ desires to possess during the closed season the skins of any fur-bearing animals taken in defense of property, highways, or bridges shall notify the Commissioner or the Commissioner's representative within 84 hours after taking ~~such~~ the animal, and shall hold ~~such~~ the pelts for inspection by such authorized representatives.

(b) Before disposing of ~~such~~ pelts taken under this section, if required by rule of the Board, the property owner; ~~the owner's employee, tenant, or caretaker; or;~~ a member of the selectboard; or a person who sets a trap for

compensation shall secure from the Commissioner or a designee a certificate describing the pelts, and showing that the pelts were legally taken during a closed season and in defense of property, highways, or bridges. In the event of storage, sale, or transfer, ~~such~~ the certificates shall accompany the pelts ~~described therein~~.

Sec. 12. 10 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

Words and phrases used in this part, unless otherwise provided, shall be construed to mean as follows:

* * *

(9) Game: game birds or game quadrupeds, or both.

(10) Game birds: quail, partridge, woodcock, pheasant, plover of any kind, Wilson snipe, other shore birds, rail, coot, gallinule, wild ducks, wild geese, and wild turkey.

* * *

(13) Rabbit: to include wild hare.

(14) Fur-bearing animals: beaver, otter, marten, mink, raccoon, fisher, fox, skunk, coyote, bobcat, weasel, opossum, lynx, wolf, and muskrat.

(15) Wild animals or wildlife: all animals, including birds, fish, amphibians, and reptiles, other than domestic animals, domestic fowl, or domestic pets.

* * *

(23) Take and taking: pursuing, shooting, hunting, killing, capturing, trapping, snaring, and netting fish, birds, and quadrupeds and all lesser acts, such as disturbing, harrying ~~or~~, worrying, or wounding or placing, setting, drawing, or using any net or other device commonly used to take fish or wild animals, whether they result in the taking or not; and shall include every attempt to take and every act of assistance to every other person in taking or attempting to take fish or wild animals, provided that when taking is allowed by law, reference is had to taking by lawful means and in a lawful manner.

* * *

(27) Commissioner: Commissioner of Fish and Wildlife.

* * *

(31) Big game: deer, bear, moose, wild turkey, caribou, elk, and anadromous Atlantic salmon taken in the Connecticut River Basin.

* * *

(40) Domestic pet: domesticated dogs, domesticated cats, domesticated ferrets, psittacine birds, or any domesticated animal.

Sec. 13. FISH AND WILDLIFE BOARD RULES; TRAPPING

On or before January 1, 2019, the Fish and Wildlife Board shall adopt by rule those requirements of Fish and Wildlife Board Rule 44 regarding the trapping of fur-bearing animals that shall apply to persons trapping for compensation under 10 V.S.A. § 4828.

* * * Coyote Hunting * * *

Sec. 14. 10 V.S.A. § 4716 is added to read:

§ 4716. COYOTE-HUNTING COMPETITIONS; PROHIBITION

(a) As used in this section, “coyote-hunting competition” means a contest in which people compete in the capturing or taking of coyotes for a prize.

(b) A person shall not hold or conduct a coyote-hunting competition in the State.

(c) A person shall not participate in a coyote-hunting competition in the State.

(d) A person who violates this section shall be fined not more than \$1,000.00 nor less than \$400.00 for a first offense. Upon a second and all subsequent convictions or any conviction while under license suspension related to the requirements of part 4 of this title, a person who violates this section shall be fined not more than \$4,000.00 nor less than \$2,000.00.

Sec. 15. 10 V.S.A. § 4502(b) is amended to read:

(b) A person violating provisions of this part shall receive points for convictions in accordance with the following schedule (all sections are in this title of the Vermont Statutes Annotated):

* * *

(2) Ten points shall be assessed for:

* * *

(TT) § 4716. Participating in a coyote-hunting competition.

(3) Twenty points shall be assessed for:

* * *

(CC) § 4716. Holding or conducting a coyote-hunting competition.

* * * Fish and Wildlife Violations; Criminal or Civil * * *

Sec. 16. DEPARTMENT OF FISH AND WILDLIFE; REVIEW OF
CRIMINAL OR CIVIL NATURE OF VIOLATIONS

The Department of Fish and Wildlife shall conduct a review of the potential criminal and civil charges for all fish and wildlife violations. On or before January 15, 2019, the Department shall submit to the House Committees on Natural Resources, Fish, and Wildlife and on Judiciary and the Senate Committees on Natural Resources and Energy and on Judiciary a report recommending changes to the criminal and civil charges for fish and wildlife violations. The report shall summarize the process the Department used to review the charges for fish and wildlife violations and shall explain the basis for the Department's recommendations. Prior to preparing the report required by this section, the Department shall consult with interested stakeholders, the Judiciary, State's Attorneys, criminal defense lawyers, and fish and game groups.

* * * Effective Dates * * *

Sec. 17. EFFECTIVE DATES

(a) Secs. 10 (incidental trapping), 12 (definitions), 13 (trapping rules amendment), and 14–15 (coyote-hunting competition prohibition; points) shall take effect on January 1, 2019.

(b) Sec. 11 (trapping for compensation) shall take effect on January 1, 2020.

(c) This section and all other sections shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 21, 2018, pages 422-433 and February 22, 2018, pages 440-441)

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

The Committee recommends that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendment thereto:

By striking out Sec. 17 (effective dates) and its reader assistance in its entirety and inserting in lieu thereof a new Sec. 17 to read as follows:

* * * Effective Dates * * *

Sec. 17. EFFECTIVE DATES

(a) This section and Sec. 4 (licensing; lottery applications) shall take effect on passage.

(b) Secs. 10 (incidental trapping), 12 (definitions), 13 (trapping rules amendment), and 14–15 (coyote-hunting competition prohibition; points) shall take effect on January 1, 2019.

(c) Sec. 11 (trapping for compensation) shall take effect on January 1, 2020.

(d) All other sections shall take effect on July 1, 2018.

(Committee vote: 7-0-0)

H. 675.

An act relating to conditions of release prior to trial.

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

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

Sec. 1. 13 V.S.A. § 1702 is amended to read:

§ 1702. CRIMINAL THREATENING

(a) A person shall not by words or conduct knowingly:

(1) threaten another person; and

(2) as a result of the threat, place ~~the~~ any other person in reasonable apprehension of death or serious bodily injury to themselves or any other person.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(c) A person who violates subsection (a) of this section with the intent to prevent another person from reporting to the Department for Children and Families the suspected abuse or neglect of a child shall be imprisoned not more than two years or fined not more than \$1,000.00, or both.

(d)(1) A person shall not by words or conduct knowingly:

(A) threaten to use a firearm or an explosive device to harm another person in a school building, on school property, or in an institution of higher education; and

(B) as a result of the threat, place any other person in reasonable apprehension of death or serious bodily injury to themselves or any other person.

(2) A person who violates this subsection shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

~~(d)~~(e) As used in this section:

(1) “Serious bodily injury” shall have the same meaning as in section 1021 of this title.

(2) “Threat” and “threaten” shall not include constitutionally protected activity.

(3) “Firearm” shall have the same meaning as in section 4016 of this title.

(4) “School property” shall have the same meaning as in section 4004 of this title.

~~(e)~~(f) Any person charged under subsection (a) or (c) of this section who is under 18 years of age shall be adjudicated as a juvenile delinquent.

~~(f)~~(g) It shall be an affirmative defense to a charge under this section that the person did not have the ability to carry out the threat. The burden shall be on the defendant to prove the affirmative defense by a preponderance of the evidence.

Sec. 2. 13 V.S.A. § 4004 is amended to read:

§ 4004. POSSESSION OF DANGEROUS OR DEADLY WEAPON IN A
SCHOOL BUS OR SCHOOL BUILDING OR ON SCHOOL
PROPERTY

(a) No person shall knowingly possess a firearm or a dangerous or deadly weapon while within a school building or on a school bus. A person who violates this section shall, for the first offense, be imprisoned not more than one year or fined not more than \$1,000.00, or both, and for a second or subsequent offense shall be imprisoned not more than three years or fined not more than \$5,000.00, or both.

(b) No person shall knowingly possess a firearm or a dangerous or deadly weapon on any school property with the intent to injure another person. A person who violates this section shall, for the first offense, be imprisoned not more than two years or fined not more than \$1,000.00, or both, and for a second or subsequent offense shall be imprisoned not more than three years or fined not more than \$5,000.00, or both.

(c) This section shall not apply to:

(1) A law enforcement officer ~~while engaged in law enforcement duties.~~

(2) Possession and use of firearms or dangerous or deadly weapons if the board of school directors, or the superintendent or principal if delegated authority to do so by the board, authorizes possession or use for specific occasions or for instructional or other specific purposes.

(d) As used in this section:

(1) "School property" means any property owned by a school, including motor vehicles.

(2) "Owned by the school" means owned, leased, controlled or subcontracted by the school.

* * *

Sec. 3. 16 V.S.A. § 1167 is amended to read:

§ 1167. SCHOOL RESOURCE OFFICER; MEMORANDUM OF UNDERSTANDING

(a) Neither the State Board nor the Agency shall regulate the use of restraint and seclusion on school property by a school resource officer certified pursuant to 20 V.S.A. § 2358.

(b) ~~School boards~~ Prior to utilization of a school resource officer in a school, the school board and relevant law enforcement agencies ~~are encouraged to~~ agency shall enter into memoranda of understanding relating to:

(1) the possession and use of weapons and devices by a school resource officer on school property; and

(2) the nature and scope of assistance that a school resource officer will provide to the school system.

Sec. 4. RESTORATIVE JUSTICE PRINCIPLES FOR RESPONDING TO SCHOOL DISCIPLINE PROBLEMS

On or before July 1, 2019, the Agency of Education shall issue a report to all public school boards and boards of approved independent schools that set out restorative justice principles for responding to school discipline problems. On or before July 1, 2020, each public school board and each board of an approved independent school shall adopt a policy on the use of restorative justice principles for responding to school discipline problems, which shall be in effect for the 2020-2021 school year. The restorative justice principles contained in the Agency report and the schools' policies shall be designed to:

(1) decrease the use of exclusionary discipline;

(2) ensure that disciplinary measures are applied fairly and do not target students based on race, ethnicity, gender, family income level, sexual orientation, immigration status, or disability status; and

(3) provide students with the opportunity to make academic progress while suspended or expelled.

Sec. 5. EFFECTIVE DATES

Sec. 3 shall take effect July 1, 2018 and the remaining sections shall take effect on passage.

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

An act relating to school safety.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 1, 2018, page 494 and March 2, 2018, page 570)

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

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

First: By striking out Sec. 2 in its entirety and inserting in lieu thereof:

[Deleted.]

Second: By striking out Sec. 4 in its entirety and inserting in lieu thereof the following:

Sec. 4. RESTORATIVE JUSTICE PRINCIPLES FOR RESPONDING TO SCHOOL DISCIPLINE PROBLEMS

On or before July 1, 2019, the Agency of Education shall issue guidance to all public school boards and boards of approved independent schools that sets out restorative justice principles for responding to school discipline problems. Each public school board and each board of an approved independent school shall consider this guidance and whether to adopt a policy on the use of restorative justice principles for responding to school discipline problems. The restorative justice principles contained in the Agency guidance shall be designed to:

(1) decrease the use of exclusionary discipline;

(2) ensure that disciplinary measures are applied fairly and do not target students based on race, ethnicity, gender, family income level, sexual orientation, immigration status, or disability status; and

(3) provide students with the opportunity to make academic progress while suspended or expelled.

Third: By adding a new section, to be Sec. 5, to read:

Sec. 5. IMPLEMENTATION OF RESTORATIVE JUSTICE PRINCIPLES;
GRANT PROGRAM

(a) The Agency of Education shall establish a grant program to assist public and approved independent schools with the adoption and implementation of restorative justice principles for responding to school discipline problems. The Agency shall determine the eligibility criteria for receiving a grant and determining the grant amount, and shall monitor the use of grant monies.

(b) On or before December 1, 2018, 2019, and 2020, the Secretary of Education shall submit a written report to the House Committees on Education and Judiciary and the Senate Committees on Education and on Judiciary describing the eligibility criteria for receiving a grant and for determining the grant amount, identifying the grant recipients and the amounts they received in grant monies, and the use of grant monies by the recipients.

(c) The sum of \$250,000.00 is appropriated to the Agency of Education from the General Fund for fiscal year 2019 for the Agency to administer the grant program in accordance with this section.

And by renumbering the remaining section to be numerically correct.

(Committee vote: 6-0-0)

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

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Education with the following amendment thereto:

By striking out Sec. 5 in its entirety and by renumbering the remaining section to be numerically correct.

(Committee vote: 6-0-1)

H. 897.

An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support.

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

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

* * * Findings * * *

Sec. 1. FINDINGS

(a) In 2016 Acts and Resolves No. 148, the General Assembly directed the Agency of Education to contract with a consulting firm to review current practices and recommend best practices for the delivery of special education services in school districts. The Agency of Education contracted with the District Management Group, which issued in November 2017 its report entitled “Expanding and Strengthening Best-Practice Supports for Students who Struggle” (Delivery of Services Report).

(b) In Act 148, the General Assembly also directed the Agency of Education to contract for a study of special education funding and practice and to recommend a funding model for Vermont designed to provide incentives for desirable practices and stimulate innovation in the delivery of services. The General Assembly required that the study consider a census-based model of funding. The Agency of Education contracted with the University of Vermont and State Agricultural College, and the report of its Department of Education and Social Services entitled “Study of Vermont State Funding for Special Education” was issued in December 2017 (Funding Report).

(c) The Delivery of Services Report made the following five recommendations on best practices for the delivery of special education services:

(1) ensure core instruction meets most needs of most students;

(2) provide additional instructional time outside core subjects to students who struggle, rather than providing interventions instead of core instruction;

(3) ensure students who struggle receive all instruction from highly skilled teachers;

(4) create or strengthen a systems-wide approach to supporting positive student behaviors based on expert support; and

(5) provide specialized instruction from skilled and trained experts to students with more intensive needs.

(d) The Funding Report noted, based on feedback from various stakeholders, including educators, school leaders, State officials, parents, and others, that Vermont's existing reimbursement model of funding special education has a number of limitations in that it:

(1) is administratively costly for the State and localities;

(2) is misaligned with policy priorities, particularly with regard to the delivery of a multitiered system of supports and positive behavioral interventions and supports;

(3) creates misplaced incentives for student identification, categorization, and placement;

(4) discourages cost containment; and

(5) is unpredictable and lacks transparency.

(e) The Funding Report assessed various funding models that support students who require additional support, including a census-based funding model. A census-based model would award funding to supervisory unions based on the number of students within the supervisory union and could be used by the supervisory union to support the delivery of services to all students. The Funding Report noted that the advantages of a census-based model are that it is simple and transparent, allows flexibility in how the funding is used by supervisory unions, is aligned with the policy priorities of serving students who require additional support across the general and special education service-delivery systems, and is predictable.

* * * Goals * * *

Sec. 2. GOALS

(a) By enacting this legislation, the General Assembly intends to enhance the effectiveness, availability, and equity of services provided to all students who require additional support in Vermont's school districts.

(b)(1) To support the enhanced delivery of these services, the State funding model for special education shall change for all supervisory unions in fiscal year 2021, for school year 2020-2021, from a reimbursement model to a census-based model, which will provide more flexibility in how the funding can be used, is aligned with the State's policy priorities of serving students who require additional support across the general and special education service-delivery systems, and will simplify administration.

(2) The General Assembly recognizes that a student on an individualized education program, is entitled, under federal law, to a free and appropriate public education in the least restrictive environment in accordance with that program. The changes to State funding for special education and the delivery of special education services as envisioned under this act are intended to facilitate the exercise of this entitlement.

(c) The General Assembly recognizes that it might be appropriate and equitable to provide a higher amount of census-based funding to supervisory unions that have relatively higher costs in supporting students who require additional support, but the General Assembly does not have sufficient information on which to base this determination. Therefore, this act directs the Agency of Education to make a recommendation to the General Assembly on whether the amount of the census grant should be increased for supervisory unions that have relatively higher costs in supporting students who require additional support, and if so, the criteria for qualification for the adjustment and the manner in which the adjustment should be applied. The General Assembly intends to reconsider this matter after receiving this recommendation and before the census-based model is implemented.

Sec. 3. 16 V.S.A. § 2901 is amended to read:

§ 2901. SUCCESS FOR ALL STUDENTS IN THE GENERAL
EDUCATION ENVIRONMENT

(a) It is the policy of the State that each Each local school district shall develop and maintain, in consultation with parents, a comprehensive system of education that ~~will~~ is designed to result, to the extent appropriate, in all students succeeding in the general education environment. A comprehensive system of education includes a full range of services and accommodations that are needed by students in the district. These services could include a separate alternative program if the district finds that some of its students could be better served in an environment outside the classroom, or if the district finds that separate placement is the best way to provide services to a student who is ~~disrupting the class or~~ having difficulty learning in a traditional school setting for educational, emotional, or personal reasons and thereby impairing the ability of the classroom teacher to provide ~~quality~~ high-quality services to that student or to other students. This chapter does not replace or expand entitlements created by federal law, nor is it the intent of this chapter to create a higher standard for maintaining a student in the general classroom than the standard created in the following federal laws: 20 U.S.C. § ~~1401 et seq.~~ chapter 33, Individuals with Disabilities Education Act; 29 U.S.C. § 794, Section 504 of the Rehabilitation Act of 1973; and 42 U.S.C. § ~~12101 et seq.~~ chapter 126, Americans with Disabilities Act.

(b) [Repealed.]

(c) No individual entitlement or private right of action is created by this section.

Sec. 4. 16 V.S.A. § 2902 is amended to read:

§ 2902. TIERED SYSTEM OF SUPPORTS AND EDUCATIONAL SUPPORT TEAM

(a) Within each school district's comprehensive system of educational services, each public school shall develop and maintain a tiered system of academic and behavioral supports for the purpose of providing all students with the opportunity to succeed or to be challenged in the general education environment. For each school it maintains, a school district board shall assign responsibility for developing and maintaining the tiered system of supports either to the superintendent pursuant to a contract entered into under section 267 of this title or to the school principal. The school shall provide all students a full and fair opportunity to access the system of supports and achieve educational success. The tiered system of supports shall, at a minimum, include an educational support team, instructional and behavioral interventions, and accommodations that are available as needed for any student who requires support beyond what can be provided in the general education classroom, and may include intensive, individualized interventions for any student requiring a higher level of support.

(b) The tiered system of supports shall:

(1) be aligned as appropriate with the general education curriculum;

(2) be designed to enhance the ability of the general education system to meet the needs of all students;

(3) be designed to provide necessary supports promptly, regardless of an individual student's eligibility for categorical programs;

(4) seek to identify and respond to students in need of support for ~~at-risk behaviors~~ emotional or behavioral challenges and to students in need of specialized, individualized behavior supports; ~~and~~

(5) provide all students with a continuum of evidence-based ~~and research-based behavior~~ positive behavioral practices that teach and encourage prosocial skills and behaviors schoolwide promote social and emotional learning, including trauma-sensitive programming, that are both school-wide and focused on specific students or groups of students;

(6) promote collaboration with families, community supports, and the system of health and human services; and

(7) provide professional development, as needed, to support all staff in full implementation of the multi-tiered system of support.

(c) The educational support team for each public school in the district shall be composed of staff from a variety of teaching and support positions and shall:

(1) Determine which enrolled students require additional assistance to be successful in school or to complete secondary school based on indicators set forth in guidelines developed by the Secretary, such as academic progress, attendance, behavior, or poverty. The educational support team shall pay particular attention to students during times of academic or personal transition.

(2) Identify the classroom accommodations, remedial services, and other supports ~~that have been~~ to be provided to the identified student.

(3) Assist teachers to plan for and provide services and accommodations to students in need of classroom supports or enrichment activities.

(4) Develop an individualized strategy, in collaboration with the student's parents or legal guardian whenever possible, to assist the identified student to succeed in school and to complete his or her secondary education.

(5) Maintain a written record of its actions.

~~(6) Report no less than annually to the Secretary, in a form the Secretary prescribes, on the ways in which the educational support system has addressed the needs of students who require additional assistance in order to succeed in school or to complete secondary school and on the additional financial costs of complying with this subsection (c).~~

(d) No individual entitlement or private right of action is created by this section.

(e) The Secretary shall establish guidelines for teachers and administrators in following federal laws relating to provision of services for children with disabilities and the implementation of this section. The Secretary shall develop and provide to supervisory unions information to share with parents of children suspected of having a disability that describes the differences between the tiered system of academic and behavioral supports required under this section, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, including how and when school staff and parents of children having a suspected disability may request interventions and services under those entitlements.

(f) It is the intent of the General Assembly that a gifted and talented student shall be able to take advantage of services that an educational support

team can provide. It is not the intent of the General Assembly that funding under chapter 101 of this title shall be available for a gifted and talented student unless the student has been otherwise determined to be a student for whom funding under that chapter is available.

(g) The tiered system of academic and behavioral supports required under this section shall not be used by a school district to deny a timely initial comprehensive special education evaluation for children suspected of having a disability. The Agency of Education shall adopt policies and procedures to ensure that a school district's evaluation of a child suspected of having a disability is not denied because of implementation of the tiered system of academic and behavioral supports. The policies and procedures shall include:

(1) the definition of what level of progress is sufficient for a child to stop receiving instructional services and supports through the tiered system of academic and behavioral supports;

(2) guidance on how long children are to be served in each tier; and

(3) guidance on how a child's progress is to be measured.

* * * Census-based Funding Model; Amendment of Special
Education Laws * * *

Sec. 5. 16 V.S.A. chapter 101 is amended to read:

CHAPTER 101. SPECIAL EDUCATION

Subchapter 1. General Provisions

§ 2941. POLICY AND PURPOSE

It is the policy of the State to ensure equal educational opportunities for all children in Vermont. This means that children with disabilities are entitled to receive a free appropriate public education. ~~It is further the policy of the State to pay 60 percent of the statewide costs expended by public education for children with disabilities.~~ The purpose of this chapter is to enable the Agency to ensure the provision of the special educational facilities and instruction education services and supports in accordance with individualized education programs necessary to meet the needs of children with disabilities.

§ 2942. DEFINITIONS

As used in this chapter

* * *

(8) A "student who requires additional support" means a student who:

(A) is on an individualized education program;

(B) is on a section 504 plan under the Rehabilitation Act of 1973, 29 U.S.C. § 794;

(C) is not on an individualized education program or section 504 plan but whose ability to learn is negatively impacted by a disability or by social, emotional, or behavioral needs, or whose ability to learn is negatively impacted because the student is otherwise at risk;

(D) is an English language learner; or

(E) reads below grade level.

* * *

Subchapter 2. Aid for Special Education and Support Services

§ 2961. ~~STANDARD MAINSTREAM BLOCK GRANTS~~ CENSUS GRANT

~~(a) Each supervisory union shall be eligible to receive a standard mainstream block grant each school year. The mainstream block grant shall be equal to the supervisory union's mainstream salary standard multiplied by 60 percent.~~

~~(b) The supervisory union shall expend all such assistance for special education services or for remedial or compensatory services in accordance with its service plan as required under section 2964 of this title. It shall likewise expend, from local funds, an amount not less than 40 percent of its mainstream salary standard for special education.~~

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

~~(1) "Mainstream salary standard" means:~~

~~(A) the supervisory union's full-time equivalent staffing for special education for the preceding year multiplied by the average special education teacher salary in the State for the preceding year; plus~~

~~(B) an amount equal to the average special education administrator salary in the State for the preceding year, plus, for any supervisory union with member districts which have in the aggregate more than 1,500 average daily membership, a fraction of an additional full-time equivalent salary for a special education administrator, the numerator of which is the aggregate average daily membership of the supervisory union's member districts minus 1,500, and the denominator of which is the aggregate average daily membership of member districts in the largest supervisory union in the State minus 1,500.~~

~~(2) "Full-time equivalent staffing" means 9.75 special education teaching positions per 1,000 average daily membership.~~

~~(d) If in any fiscal year, a supervisory union in which a school is maintained does not expend an amount equal to its mainstream salary standard on special education expenditures, the supervisory union may expend the~~

~~balance, including the matching funds, to provide support and remedial services pursuant to section 2902 or 2903 of this title. A supervisory union choosing to expend funds in this way shall submit a report describing the services provided and their costs with the final financial report submitted under section 2968 of this title.~~

As used in this section:

(1) “Average daily membership” shall have the same meaning as in subdivision 4001(1) of this title, except it shall exclude State-placed students.

(2) “Average daily membership of a supervisory union” means the aggregate average daily membership of the school districts that are members of the supervisory union or, for a supervisory district, the average daily membership of the supervisory district.

(3) “Long-term membership” of a supervisory union in any school year means the average of the supervisory union’s average daily membership over three school years.

(4) “Uniform base amount” means an amount determined by:

(A) dividing an amount:

(i) equal to the average State appropriation for fiscal years 2018, 2019, and 2020 for special education under 16 V.S.A. §§ 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances); and

(ii) increased by the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis; by

(B) the statewide average daily membership for prekindergarten through grade 12 for the 2019–2020 school year.

(b) The State commits to satisfying its special education maintenance of fiscal support requirement under 34 C.F.R. § 300.163(a).

(c) Each supervisory union shall receive a census grant each fiscal year to support the provision of special education services to students on an individualized education program. Supervisory unions shall use this funding and other available sources of funding to provide special education services to students in accordance with their individualized education programs as mandated under federal law. A supervisory union may use census grant funds to support the delivery of the supervisory union’s comprehensive system of educational services under sections 2901 and 2902 of this title, but shall not use census grant funds in a manner that abrogates its responsibility to provide

special education services to students in accordance with their individualized education programs as mandated under federal law.

(d)(1)(A) For fiscal year 2021, the amount of the census grant for a supervisory union shall be:

(i) the average amount it received for fiscal years 2017, 2018, and 2019 from the State for special education under sections 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances) of this title; increased by

(ii) the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis.

(B) The amount determined under subdivision (A) of this subdivision (1) shall be divided by the supervisory union's long-term membership, to determine the base amount of the census grant, which is the amount of the census grant calculated on a per student basis.

(2) For fiscal year 2025 and subsequent fiscal years, the amount of the census grant for a supervisory union shall be the uniform base amount multiplied by the supervisory union's long-term membership.

(3) For fiscal years 2022, 2023, and 2024, the amount of the census grant for a supervisory union shall be determined by multiplying the supervisory union's long-term membership by a base amount established under this subdivision. The base amounts for each supervisory union for fiscal years 2022, 2023, and 2024 shall move gradually the supervisory union's fiscal year 2021 base amount to the fiscal year 2025 uniform base amount by pro rating the change between the supervisory union's fiscal year 2021 base amount and the fiscal year 2025 uniform base amount over this three-fiscal-year period.

§ 2962. EXTRAORDINARY SERVICES SPECIAL EDUCATION REIMBURSEMENT

(a) Except as otherwise provided in this subchapter, extraordinary services reimbursement shall be payable, based on where the related cost is incurred, to a town school district, city school district, union school district, unified union school district, incorporated school district, the member school districts of an interstate school district, and unorganized town or gore or to a supervisory union.

(b) The amount of extraordinary services reimbursement provided to each district or supervisory union shall be equal to 95 percent of its extraordinary special education expenditures.

~~(c) As used in this subchapter, “extraordinary special education expenditures” means a school district’s or supervisory union’s allowable expenditures that for any one child exceed \$60,000.00 for a fiscal year. In this subsection, child means a student with disabilities who is three years of age or older in the current school year. The State Board shall define allowable expenditures that shall include any expenditures required under federal law, and any costs of mediation conducted by a mediator who is approved by the Secretary.~~

(1) As used in this section, “child” means a student with disabilities who is three years of age or older in the current school year.

(2) As used in this subchapter, “extraordinary expenditures” means a supervisory union’s allowable special education expenditures that for any one child in a fiscal year exceed \$60,000.00, increased annually by the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis.

(3) The State Board of Education shall define allowable special education expenditures that shall include any expenditures required under federal law in order to implement fully individual education programs under the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, and any costs of mediation conducted by a mediator who is approved by the Secretary.

(b) If a supervisory union has extraordinary expenditures, it shall be eligible for extraordinary special education reimbursement (extraordinary reimbursement) as provided in this section.

(c) A supervisory union that has extraordinary expenditures in a fiscal year for any one child shall be eligible for extraordinary reimbursement equal to:

(1) an amount equal to its special education expenditures in that fiscal year for that child that exceed the extraordinary expenditures threshold amount under subdivision (a)(2) of this section (excess expenditures) multiplied by 95 percent; plus

(2) an amount equal to the lesser of:

(A) the amount of its excess expenditures; or

(B)(i) the extraordinary expenditures threshold amount under subdivision (a)(2) of this section; minus

(ii) the base amount of the census grant received by the supervisory union under subsection 2961(d) of this title for that fiscal year; multiplied by

(iii) 60 percent.

(d) The State Board of Education shall establish by rule the administrative process for supervisory unions to submit claims for extraordinary reimbursement under this section and for the review and payment of those claims.

(e) Under section 2973 of this title, a supervisory union, in its role as the local education agency, may place a student with an individualized education plan under the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, with certain approved independent schools that accept public tuition. If the approved independent school is entitled to special education cost reimbursement under that section, it may bill the supervisory union for excess special education costs incurred by the independent school in providing special education services to that student beyond those covered by general tuition. If those costs for that student exceed the extraordinary expenditures' threshold as defined in subdivision (a)(2) of this section, the supervisory union shall be entitled to extraordinary reimbursement under this section for that student as if it incurred those costs directly.

§ 2963. SPECIAL EDUCATION EXPENDITURES REIMBURSEMENT

~~(a) Based on where the related cost is incurred, each town school district, city school district, union school district, unified union school district, incorporated school district, the member school districts of an interstate school district, and unorganized town or gore or supervisory union shall receive a special education expenditures reimbursement grant each school year.~~

~~(b) The amount of a school district's or supervisory union's special education expenditures reimbursement shall be equal to the total of its special education expenditures multiplied by the reimbursement rate for that year.~~

~~(c) As used in this subchapter:~~

~~(1) Special education expenditures are allowable expenditures for special education, as defined by rule of the State Board, less the following:~~

~~(A) revenue from federal aid for special education;~~

~~(B) mainstream service costs, as defined in subdivision 2961(c)(1) of this title;~~

~~(C) extraordinary special education expenditures, as defined in section 2962 of this title;~~

~~(D) any transportation expenses already reimbursed;~~

~~(E) special education costs for a student eligible for aid under section 2963a of this title; and~~

~~(F) other State funds used for special education costs as defined by the State Board by rule.~~

~~(2) The State Board shall define allowable expenditures under this subsection. Allowable expenditures shall include any expenditures required under federal law.~~

~~(3) “Special education expenditures reimbursement rate” means a percentage of special education expenditures that is calculated to achieve the 60 percent share required by subsection 2967(b) of this title. [Repealed.]~~

~~§ 2963a. EXCEPTIONAL CIRCUMSTANCES~~

~~(a) In lieu of reimbursement under section 2963 of this title, the Secretary shall reimburse a school district or supervisory union for 80 percent of the costs not eligible for reimbursement under section 2962 of this title for each student causing the school district or supervisory union to be eligible for extraordinary services reimbursement pursuant to that section. However, in order for a school district or supervisory union to be eligible for reimbursement under this section, the total costs of the school district or supervisory union eligible for extraordinary services reimbursement must equal or exceed 15 percent of the total costs eligible for State assistance under sections 2961, 2962, and 2963 of this title.~~

~~(b) An eligible school district or supervisory union may apply to the Secretary to receive reimbursement under this section. The Secretary shall award reimbursement to a school district or supervisory union under this section if the Secretary makes a determination that the school district or supervisory union considered all the cost-effective and appropriate available alternatives for placement and programs for students before incurring these costs. A decision of the Secretary shall be final. [Repealed.]~~

~~§ 2964. SERVICE PLAN~~

~~(a) As a condition of receiving assistance under this subchapter, a supervisory union shall file a service plan with the Secretary annually on or before October 15. The service plan shall contain the anticipated special education expenditures for the following school year for the supervisory union and its member districts. The plan shall be in a form prescribed by the Secretary and shall include information on services planned and anticipated expenditures.~~

~~(b) If a supervisory union fails to file a service plan by October 15, the Secretary may withhold any funds due the supervisory union and its member districts under this title until a service plan is filed and accepted by the Secretary as properly completed. [Repealed.]~~

* * *

§ 2967. AID PROJECTION; STATE SHARE

(a) On or before December 15, the Secretary shall publish an estimate, by supervisory union and its member districts to the extent they anticipate reimbursable, of its anticipated special education expenditures under this chapter, of the amount of State assistance necessary to fully fund sections 2961 through 2963 of this title in for the ensuing school year.

(b) The total expenditures made by the State in any fiscal year pursuant to this chapter shall be 60 percent of the statewide total special education expenditures of funds that are not derived from federal sources. Special As used in this section, special education expenditures shall include:

(1) costs eligible for grants and reimbursements under sections 2961 through 2963a and 2962 of this title;

(2) costs for services for persons who are visually impaired; and

(3) costs for persons who are deaf and or hard of hearing;

~~(3)~~(4) costs for the interdisciplinary team program;

~~(4)~~ costs for regional specialists in multiple disabilities;

(5) funds expended for training and programs to meet the needs of students with emotional or behavioral ~~problems~~ challenges under subsection 2969(c) of this title; and

(6) funds expended for training under subsection 2969(d) of this title.

§ 2968. REPORTS

~~(a) On or before November 15, March 15, and August 1 of each school year, each supervisory union and its member districts to the extent they incur reimbursable expenditures under this chapter shall file a financial report with the Secretary in a form prescribed by the Secretary. The report shall describe total expenditures for special education actually incurred during the preceding period, and shall describe revenues derived from different funding sources, including federal assistance, State assistance under this chapter, and local effort.~~

~~(b) If a supervisory union or its member districts that have incurred reimbursable expenditures under this chapter fail to file a complete report by August 1, until the properly completed August 1 report is filed and accepted by the Secretary, the Secretary may withhold any funds due the supervisory union or school district under this title and shall subtract \$100.00 per business day from funds due to the supervisory union or school district under this title for that fiscal year. The Secretary may waive the \$100.00 penalty required under this subsection upon appeal by the supervisory union or school district.~~

~~The Secretary shall establish procedures for administration of this subsection.~~

~~(c) The Secretary shall review and monitor the reports received pursuant to subsection (a) of this section as well as the service plans received pursuant to section 2964 of this title, and shall assist supervisory unions and school districts to complete and submit these documents in a timely and accurate fashion.~~

~~(d) Special education receipts and expenditures shall be included within the audits required of a supervisory union and its member districts that have incurred reimbursable expenditures under this chapter pursuant to section 323 of this title. [Repealed.]~~

§ 2969. PAYMENTS

~~(a)(1) On or before August 15, December 15, and April 15 of each fiscal year, the State Treasurer shall withdraw from the Education Fund, based on a warrant issued by the Commissioner of Finance and Management, and shall forward to each supervisory union and its member districts to the extent they anticipate reimbursable expenditures under this chapter, the amount of State assistance estimated in accordance with State Board rules to be necessary to fund sections 2961 through 2963a of this title in the current fiscal period. The State Board shall by rule ensure that the amount of such assistance shall be adjusted to compensate for any overpayments or underpayments determined, after review and acceptance of the reports submitted under section 2968 of this title, to have been made in previous periods. Notwithstanding this subsection, failure to submit the reports within the timelines established by subsection 2968(a) of this title shall result in the withholding of any payments until the report is filed one-third of the census grant due to the supervisory union under section 2961 of this title for that fiscal year.~~

~~(2) On or before November 15, January 15, April 15, and August 1 of each school year, each supervisory union, to the extent it incurs extraordinary expenditures under section 2962 of this title, shall file a financial report with the Secretary in a form prescribed by the Secretary. The report shall describe total extraordinary expenditures actually incurred during the reporting period.~~

~~(3) On or before December 15, February 15, May 15, and September 15 of each school year, based on a warrant issued by the Commissioner of Finance and Management, the State Treasurer shall withdraw from the Education Fund and shall forward to each supervisory union the amount of extraordinary reimbursement incurred by the supervisory union under section 2962 of this title that is unreimbursed and determined by the Agency of Education to be payable to the supervisory union.~~

~~(b) [Repealed.]~~

(c) For the purpose of meeting the needs of students with emotional or behavioral ~~problems~~ challenges, each fiscal year the Secretary shall use for training, program development, and building school and regional capacity, up to one percent of the State funds appropriated under this subchapter.

(d) For the training of teachers, administrators, and other personnel in the identification and evaluation of, and provision of ~~education~~ educational services to children who require educational supports, each fiscal year the Secretary shall use up to 0.75 percent of the State funds appropriated under this subchapter. In order to set priorities for the use of these funds, the Secretary shall identify effective practices and areas of critical need. The Secretary may expend up to five percent of these funds for statewide training and shall distribute the remaining funds to school districts or supervisory unions.

(e) School districts and supervisory unions that apply for funds under this section must submit a plan for training that will result in lasting changes in their school systems and give assurances that at least 50 percent of the costs of training, including in-kind costs, will be assumed by the applicant. The Secretary shall establish written procedures and criteria for the award of such funds. In addition, the Secretary may identify schools most in need of training assistance and may pay for 100 percent of the assistance to the supervisory union or school district for these schools to fund the provision of training assistance for these schools.

* * *

§ 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

(a) Annually, the Secretary shall report to the State Board regarding:

(1) ~~special education expenditures by supervisory unions~~ the total amount of census grants made to supervisory unions under section 2961 of this title;

(2) ~~the rate of growth or decrease in special education costs, including the identity of high- and low-spending supervisory unions~~ the total amount of extraordinary special education reimbursement made to supervisory unions under section 2962 of this title;

(3) results for special education students;

(4) the availability of special education staff;

(5) the consistency of special education program implementation statewide;

(6) ~~the status of the education support systems~~ tiered systems of supports in supervisory unions; and

(7) a statewide summary of the special education student count, including:

(A) the percentage of the total average daily membership represented by special education students statewide and by supervisory union;

(B) the percentage of special education students by disability category; and

(C) the percentage of special education students served by public schools within the supervisory union, by day placement, and by residential placement.

~~(b) The Secretary's report shall include the following data for both high- and low-spending supervisory unions:~~

~~(1) each supervisory union's special education staff-to-child count ratios as compared to the State average, including a breakdown of ratios by staffing categories;~~

~~(2) each supervisory union's percentage of students in day programs and residential placements as compared to the State average of students in those placements and information about the categories of disabilities for the students in such placements;~~

~~(3) whether the supervisory union was in compliance with section 2901 of this title;~~

~~(4) any unusual community characteristics in each supervisory union relevant to special education placements;~~

~~(5) a review of high- and low-spending supervisory unions' special education student count patterns over time;~~

~~(6) a review of the supervisory union's compliance with federal and State requirements to provide a free, appropriate public education to eligible students; and~~

~~(7) any other factors affecting its spending.~~

~~(c) The Secretary shall review low-spending supervisory unions to determine the reasons for their spending patterns and whether those supervisory unions used cost-effective strategies appropriate to replicate in other supervisory unions.~~

~~(d) For the purposes of this section, a "high-spending supervisory union" is a supervisory union that, in the previous school year, spent at least 20 percent more than the statewide average of special education eligible costs per average daily membership. Also for the purposes of this section, a "low-spending supervisory union" is a supervisory union that, in the previous school year,~~

~~spent no more than 80 percent of the statewide average of special education eligible costs per average daily membership.~~

~~(e) The Secretary and Agency staff shall assist the high-spending supervisory unions, that have been identified in subsection (a) of this section and have not presented an explanation for their spending that is satisfactory to the Secretary, to identify reasonable alternatives and to develop a remediation plan. Development of the remediation plan shall include an on-site review. The supervisory union shall have two years to make progress on the remediation plan. At the conclusion of the two years or earlier, the supervisory union shall report its progress on the remediation plan.~~

~~(f) Within 30 days of receipt of the supervisory union's report of progress, the Secretary shall notify the supervisory union that its progress is either satisfactory or not satisfactory.~~

~~(1) If the supervisory union fails to make satisfactory progress, the Secretary shall notify the supervisory union that, in the ensuing school year, the Secretary shall withhold 10 percent of the supervisory union's special education expenditures reimbursement pending satisfactory compliance with the plan.~~

~~(2) If the supervisory union fails to make satisfactory progress after the first year of withholding, 10 percent shall be withheld in each subsequent year pending satisfactory compliance with the plan; provided, however, before funds are withheld in any year under this subdivision (f)(2), the supervisory union shall explain to the State Board either the reasons the supervisory union believes it made satisfactory progress on the remediation plan or the reasons it failed to do so. The State Board's decision whether to withhold funds under this subdivision shall be final.~~

~~(3) If the supervisory union makes satisfactory progress under any subdivision of this subsection, the Secretary shall release to the supervisory union any special education expenditures reimbursement withheld for the prior fiscal year only.~~

~~(g) Within 10 days after receiving the Secretary's notice under subdivision (f)(1) of this section, the supervisory union may challenge the Secretary's decision by filing a written objection to the State Board outlining the reasons the supervisory union believes it made satisfactory progress on the remediation plan. The Secretary may file a written response within 10 days after the supervisory union's objection is filed. The State Board may give the supervisory union and the Secretary an opportunity to be heard. The State Board's decision shall be final. The State shall withhold no portion of the supervisory union's reimbursement before the State Board issues its decision under this subsection.~~

~~(h) Nothing in this section shall prevent a supervisory union from seeking and receiving the technical assistance of Agency staff to reduce its special education spending.~~

§ 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL ASSISTANCE

The Secretary may use up to two percent of the funds appropriated for allowable special education expenditures, as that term is defined in ~~subsection 2967(b) of this title~~ State Board of Education rules, to directly assist supervisory unions with special education expenditures of an unusual or unexpected nature. ~~These funds shall not be used for exceptional circumstances that are funded under section 2963a of this title.~~ The Secretary's decision regarding a supervisory union's eligibility for and amount of assistance shall be final.

* * * Technical and Conforming Changes * * *

Sec. 6. 16 V.S.A. § 826 is amended to read:

§ 826. NOTICE OF TUITION RATES; SPECIAL EDUCATION CHARGES

* * *

(c) Excess special education costs incurred by a ~~district~~ supervisory union in providing special education services to a student beyond those covered by tuition may be charged to the student's supervisory union for the district of residence. However, only actual costs or actual proportionate costs attributable to the student may be charged.

* * *

Sec. 7. 16 V.S.A. § 2958 is amended to read:

§ 2958. RESIDENTIAL PLACEMENT REVIEW TEAM; RESIDENTIAL PLACEMENTS

(a) A ~~school district~~ supervisory union shall notify the parents and the Secretary when it believes residential placement is a possible option for inclusion in a child's individualized education program.

* * *

Sec. 8. 16 V.S.A. § 4002 is amended to read:

§ 4002. PAYMENT; ALLOCATION

(a) State and federal funds appropriated for services delivered by the supervisory union and payable through the Agency shall be paid to the order of the supervisory union and administered in accordance with the plan adopted under subdivision 261a(4) of this title. Funding for special education services

under section 2969 of this title shall be paid to the ~~districts~~ and supervisory unions in accordance with that section.

(b) The Secretary shall notify the superintendent or chief executive officer of each supervisory union in writing of federal or State funds disbursed to member school districts.

* * * Census-based Funding Advisory Group * * *

Sec. 9. CENSUS-BASED FUNDING ADVISORY GROUP

(a) Creation. There is created the Census-based Funding Advisory Group to consider and make recommendations on the implementation of a census-based model of funding for students who require additional support.

(b) Membership. The Advisory Group shall be composed of the following 12 members:

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

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

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

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

(5) the Executive Director of the Vermont Independent Schools Association or designee;

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

(7) the Secretary of Education or designee;

(8) one member selected by the Vermont-National Education Association who is a special education teacher;

(9) one member selected by the Vermont Association of School Business Officials;

(10) one member selected by the Vermont Legal Aid Disability Law Project;

(11) one member who is either a family member, guardian, or education surrogate of a student requiring special education services or a person who has received special education services directly, selected by the Vermont Coalition for Disability Rights; and

(12) the Commissioner of the Vermont Department of Mental Health or designee.

(c) Powers and duties. The Advisory Group shall:

(1) advise the State Board of Education on the development of proposed rules to implement this act prior to the submission of the proposed rules to the Interagency Committee on Administrative Rules;

(2) advise the Agency of Education and supervisory unions on the implementation of this act; and

(3) recommend to the General Assembly any statutory changes it determines are necessary or advisable to meet the goals of this act, including any statutory changes necessary to align special education funding for approved independent schools with the census grant funding model for public schools as envisioned in the amendments to 16 V.S.A. chapter 101 in Sec. 5 of this act.

(d) Assistance. The Advisory Group shall have the administrative, technical, and legal assistance of the Agency of Education.

(e) Meetings.

(1) The Secretary of Education shall call the first meeting of the Advisory Group to occur on or before September 30, 2018.

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

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

(4) The Advisory Group shall cease to exist on June 30, 2022.

(f) Reports. On or before January 15, 2019, the Advisory Group shall submit a written report to the House and Senate Committees on Education and the State Board of Education with its findings and recommendations on the development of proposed rules to implement this act and any recommendations for legislation. On or before January 15 of 2020, 2021, and 2022, the Advisory Group shall submit a supplemental written report to the House and Senate Committees on Education and the State Board of Education with a status of implementation under this act and any recommendations for legislation.

(g) Reimbursement. Members of the Advisory Group who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than eight meetings per year.

(h) Appropriation. The sum of \$3,900.00 is appropriated for fiscal year 2018 from the General Fund to the Agency of Education to provide funding for per diem compensation and reimbursement under subsection (g) of this section. The Agency shall include in its budget request to the General Assembly for each of fiscal years 2020, 2021, and 2022 the amount of \$3,900.00 to provide funding for per diem compensation and reimbursement under subsection (g) of this section.

* * * Census Grant Supplemental Adjustment;
Pupil Weighting Factors; Report * * *

Sec. 10. REPEAL

2017 Acts and Resolves No. 49, Sec. 35 (education weighting report) is repealed.

Sec. 11. CENSUS GRANT SUPPLEMENTAL ADJUSTMENT; PUPIL
WEIGHTING FACTORS; REPORT

(a) The Agency of Education, in consultation with the Secretary of Human Services, the Vermont Superintendents Association, the Vermont School Boards Association, and the Vermont-National Education Association, shall consider and make recommendations on the following:

(1) Whether the census grant, as defined in the amendment to 16 V.S.A. § 2961 in Sec. 5 of this act, should be increased for supervisory unions that have, in any year, relatively higher costs in supporting students who require additional support, and if so, the criteria for qualification for the adjustment and the manner in which the adjustment should be applied. In making this recommendation, the Agency of Education shall consider the report entitled "Study of Vermont State Funding for Special Education" issued in December 2017 by the University of Vermont Department of Education and Social Services.

(2) Methods, other than the use of per pupil weighting factors, that would further the quality and equity of educational outcomes for students.

(3) The criteria used for determining weighted long-term membership of a school district under 16 V.S.A. § 4010, including each of the following:

(A) The current weighting factors and any supporting evidence or basis in the historical record for these factors.

(B) The relationship between each of the current weighting factors and the quality and equity of educational outcomes for students.

(C) Whether any of the weighting factors, including the weighting factors for students from economically deprived backgrounds and for students for whom English is not the primary language, should be modified, and if so,

how the weighting factors should be modified and whether the modification would further the quality and equity of educational outcomes for students.

(D) Whether to add any weighting factors, including a school district population density factor and a factor for students who attend regional career technical education centers, and if so, why the weighting factor should be added and whether the weighting factor would further the quality and equity of educational outcomes for students. In considering whether to recommend the addition of a school district population density factor, the Agency of Education shall consider the practices of other states, information from the National Conference of State Legislatures, and research conducted by higher education institutions working on identifying rural or urban education financing factors.

(b) On or before November 1, 2019, the Agency of Education shall submit a written report to the House and Senate Committees on Education, the House Committee on Ways and Means, and the Senate Committee on Finance with its findings and any recommendations.

(c) The Agency of Education shall have the technical assistance of the Joint Fiscal Office and the Office of Legislative Council.

(d) Notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the sum of \$250,000.00 is appropriated for fiscal year 2018 from the Education Fund to the Agency of Education to provide funding for the purposes set forth in this section. The Agency of Education shall contract with a contractor with expertise in Vermont's education funding system to assist the Agency in producing the study required by this section. Any application of funds for the purpose of administrative overhead shall be capped at ten percent of the total sum allocated pursuant to this subsection.

* * * Training and Technical Assistance on the Delivery of Special
Education Services * * *

Sec. 12. TRAINING AND TECHNICAL ASSISTANCE ON THE DELIVERY OF SPECIAL EDUCATION SERVICES

(a) The Agency of Education shall, for the 2018–2019, 2019–2020, and 2020–2021 school years, assist supervisory unions to expand and improve their delivery of services to students who require additional supports in accordance with the report entitled “Expanding and Strengthening Best-Practice Supports for Students who Struggle” delivered to the Agency of Education in November 2017 from the District Management Group. This assistance shall include the training of teachers and staff and technical assistance with the goal of embedding the following best practices for the delivery of special education services:

(1) ensuring core instruction meets most needs of most students;

(2) providing additional instructional time outside core subjects to students who require additional support, rather than providing interventions instead of core instruction;

(3) ensuring students who require additional support receive all instruction from highly skilled teachers;

(4) creating or strengthening a systems-wide approach to supporting positive student behaviors based on expert support; and

(5) providing specialized instruction from skilled and trained experts to students with more intensive needs.

(b) The sum of \$200,000.00 is appropriated from federal funds that are available under the Individuals with Disabilities Education Act for fiscal year 2019 to the Agency of Education, which the Agency shall administer in accordance with this section. The Agency shall include in its budget request to the General Assembly for each of fiscal years 2020 and 2021 the amount of \$200,000.00 from federal funds that are available under the Individuals with Disabilities Education Act for administration in accordance with this section.

(c) The Agency of Education shall present to the General Assembly on or before December 15 in 2019, 2020, and 2021 a report describing what changes supervisory unions have made to expand and improve their delivery of services to students who require additional supports and describing the associated delivery challenges. The Agency shall share each report with all supervisory unions.

* * * Agency of Education; Staffing * * *

Sec. 13. AGENCY OF EDUCATION; STAFFING

The following positions are created in the Agency of Education: one full-time, exempt legal counsel specializing in special education law and two full-time, classified positions specializing in effective instruction for students who require additional support. There is appropriated to the Agency of Education from the General Fund for fiscal year 2019 the amount of \$325,000.00 for salaries, benefits, and operating expenses.

* * * Extraordinary Services Reimbursement * * *

Sec. 14. 16 V.S.A. § 2962 is amended to read:

§ 2962. EXTRAORDINARY SERVICES REIMBURSEMENT

(a) Except as otherwise provided in this subchapter, extraordinary services reimbursement shall be payable, based on where the related cost is incurred, to a town school district, city school district, union school district, unified union school district, incorporated school district, the member school districts of an interstate school district, ~~and~~ an unorganized town or gore or to a supervisory union.

(b) The amount of extraordinary services reimbursement provided to each district or supervisory union shall be equal to ~~90~~ 95 percent of its extraordinary special education expenditures.

(c) As used in this subchapter, “extraordinary special education expenditures” means a school district’s or supervisory union’s allowable expenditures that for any one child exceed ~~\$50,000.00~~ \$60,000.00 for a fiscal year. In this subsection, child means a student with disabilities who is three years of age or older in the current school year. The State Board shall define allowable expenditures that shall include any expenditures required under federal law, and any costs of mediation conducted by a mediator who is approved by the Secretary.

Sec. 15. 16 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

As used in this chapter:

* * *

(6) “Education spending” means the amount of the school district budget, any assessment for a joint contract school, career technical center payments made on behalf of the district under subsection 1561(b) of this title, and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) that is paid for by the school district, but excluding any portion of the school budget paid for from any other sources such as endowments, parental ~~fund raising~~ fundraising, federal funds, nongovernmental grants, or other State funds such as special education funds paid under chapter 101 of this title.

(A) [Repealed.]

(B) For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12), “education spending” shall not include:

* * *

(v) Spending attributable to the district’s share of special education spending in excess of \$50,000.00 that is not reimbursed as an extraordinary reimbursement under section 2962 of this title for any ~~one~~ student in the fiscal year occurring two years prior.

* * *

* * * Rulemaking * * *

Sec. 16. RULEMAKING

The Agency of Education shall recommend to the State Board proposed rules that are necessary to implement this act and, on or before November 1,

2019, the State Board of Education shall adopt rules that are necessary to implement this act. The State Board and the Agency of Education shall consult with the Census-based Funding Advisory Group established under Sec. 9 of this act in developing the State Board rules. The State Board rules shall include rules that establish processes for reporting, monitoring, and evaluation designed to ensure:

(1) the achievement of the goal under this act of enhancing the effectiveness, availability, and equity of services provided to all students who require additional support in Vermont's school districts; and

(2) that supervisory unions are complying with the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33.

* * * Transition * * *

Sec. 17. TRANSITION

(a) Notwithstanding the requirement under 16 V.S.A. § 2964 for a supervisory union to submit a service plan to the Secretary of Education, a supervisory union shall not be required to submit a service plan for fiscal year 2021.

(b) On or before November 1, 2019, a supervisory union shall submit to the Secretary such information as required by the Secretary to estimate the supervisory union's projected fiscal year 2021 extraordinary special education reimbursement under Sec. 5 of this act.

(c) The Agency of Education shall assist supervisory unions as they transition to the census-based funding model in satisfying their maintenance of effort requirements under federal law.

Sec. 18. TRANSITION FOR ALLOWABLE SPECIAL EDUCATION COSTS

(a) Allowable special education costs shall include salaries and benefits of licensed special education teachers, including vocational special needs teachers and instructional aides for the time they carry out special education responsibilities.

(1) The allowable cost that a local education agency may claim includes a school period or service block during which the staff member identified in this subsection is providing special education services to a group of eight or fewer students, and not less than 25 percent of the students are receiving the special education services, in accordance with their individualized education programs.

(2) In addition to the time for carrying out special education responsibilities, a local education agency may claim up to 20 percent of special

education staff members' time, if that staff spends the additional time performing consultation to assist with the development of and providing instructional services required by:

(A) a plan pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; or

(B) a plan for students who require additional assistance in order to succeed in the general education environment.

(b) This section is repealed on July 1, 2020.

* * * Approved Independent Schools * * *

Sec. 19. FINDINGS AND GOALS

(a) The General Assembly created the Approved Independent Schools Study Committee in 2017 Acts and Resolves No. 49 to consider and make recommendations on the criteria to be used by the State Board of Education for designation of an "approved" independent school. The Committee was specifically charged to consider and make recommendations on:

(1) the school's enrollment policy and any limitation on a student's ability to enroll;

(2) how the school should be required to deliver special education services and which categories of these services; and

(3) the scope and nature of financial information and special education information that should be required to be reported by the school to the State Board or Agency of Education.

(b) The General Assembly in Act 49 directed the State Board of Education to suspend further development of the amendments to its rules for approval of independent schools pending receipt of the report of the Committee.

(c) The Committee issued its report in December 2017, noting that, while it was unable to reach consensus on specific legislative language, it did agree unanimously that Vermont students with disabilities should be free to attend the schools that they, their parents, and their local education agency deem appropriate to them.

(d) This act completes that work and provides the direction necessary for the State Board of Education to develop further the amendments to its rules for approval of independent schools.

Sec. 20. 16 V.S.A. § 166 is amended to read:

§ 166. APPROVED AND RECOGNIZED INDEPENDENT SCHOOLS

* * *

(b) Approved independent schools.

(1) On application, the State Board shall approve an independent school that offers elementary or secondary education if it finds, after opportunity for hearing, that the school provides a minimum course of study pursuant to section 906 of this title and that it substantially complies with all statutory requirements for approved independent schools and the Board's rules for approved independent schools. An independent school that intends to accept public tuition shall be approved by the State Board only on the condition that the school agrees, notwithstanding any provision of law to the contrary, to enroll any student who requires special education services and who is placed in or referred to the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education plan team or by the local education agency; provided, however, that this requirement shall not apply to an independent school that limits enrollment to students who are on an individualized education plan or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to a written agreement between the local education agency and the school.

(2) Except as provided in subdivision (6) of this subsection, the Board's rules must at minimum require that the school ~~has~~ have the resources required to meet its stated objectives, including financial capacity, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities and special services that are in accordance with any State or federal law or regulation.

(3) Approval may be granted without State Board evaluation in the case of any school accredited by a private, State, or regional agency recognized by the State Board for accrediting purposes, provided that the State Board shall determine that the school complies with all student enrollment provisions required by law.

* * *

(5) The State Board may ~~revoke or~~ suspend, or impose conditions upon the approval of an approved independent school, after having provided an opportunity for a hearing, for substantial failure to comply with the minimum course of study, for failure to demonstrate that the school has the resources required to meet its stated objectives, for failure to comply with statutory requirements or the Board's rules for approved independent schools, or for failure to report under subdivision (4) of this subsection (b). Upon that revocation or suspension, students required to attend school who are enrolled in that school shall become truant unless they enroll in a public school, an approved or recognized independent school, or a home study program.

* * *

(8)(A) If an approved independent school experiences any of the following financial reporting events during the period of its approved status, the school shall notify the Secretary of Education within five days after its knowledge of the event unless the failure is de minimis:

(i) the school's failure to file its federal or State tax returns when due, after permissible extension periods have been taken into account;

(ii) the school's failure to meet its payroll obligations as they are due or to pay federal or State payroll tax obligations as they are due;

(iii) the school's failure to maintain required retirement contributions;

(iv) the school's use of designated funds for nondesignated purposes;

(v) the school's inability to fully comply with the financial terms of its secured installment debt obligations over a period of two consecutive months, including the school's failure to make interest or principal payments as they are due or to maintain any required financial ratios;

(vi) the withdrawal or conditioning of the school's accreditation on financial grounds by a private, State, or regional agency recognized by the State Board for accrediting purposes; or

(vii) the school's insolvency, as defined in 9 V.S.A. § 2286(a).

(B)(i) If the State Board reasonably believes that an approved independent school lacks financial capacity to meet its stated objectives during the period of its approved status, then the State Board shall notify the school in writing of the reasons for this belief and permit the school a reasonable opportunity to respond.

(ii) If the State Board, after having provided the school a reasonable opportunity to respond, does not find that the school has satisfactorily responded or demonstrated its financial capacity, the State Board may establish a review team, that, with the consent of the school, includes a member of the Council of Independent Schools, to:

(I) conduct a school visit to assess the school's financial capacity;

(II) obtain from the school such financial documentation as the review team requires to perform its assessment; and

(III) submit a report of its findings and recommendations to the State Board.

(iii) If the State Board concludes that an approved independent school lacks financial capacity to meet its stated objectives during the period of its approved status, the State Board may take any action that is authorized by this section.

(iv) In considering whether an independent school lacks financial capacity to meet its stated objectives during the period of its approved status and what actions the State Board should take if it makes this finding, the State Board may consult with, and draw on the analytical resources of, the Vermont Department of Financial Regulation.

(C) Information provided by an independent school under this subsection that is not already in the public domain is exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

* * *

Sec. 21. 16 V.S.A. § 2973 is amended to read:

§ 2973. ~~INDEPENDENT SCHOOL TUITION RATES~~ SCHOOLS

(a)(1) Notwithstanding any provision of law to the contrary, an approved independent school that accepts public tuition shall enroll any student with an individualized education plan who requires special education services and who is placed in the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education plan team or by the local education agency (LEA); provided, however, that this requirement shall not apply to an independent school that limits enrollment to students who are on an individualized education plan or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to a written agreement between the LEA and the school.

(2) In placing a student with an independent school under subdivision (1) of this subsection, the student's individualized education plan team and the LEA shall comply with all applicable federal and State requirements.

(3) An approved independent school is not required to demonstrate that it has the resources to serve every category of special education as defined under State Board of Education rules in order to be approved or retain its approval to receive public funding for general tuition.

(4) The terms "special education services," "LEA," and "individualized education plan" or "IEP" as used in this section shall have the same meanings as defined by State Board rules.

(b)(1) The Secretary of Education shall establish minimum standards of services for students receiving special education services in independent schools in Vermont; shall set, after consultation with independent schools in Vermont, the maximum rates to be paid by the Agency and school districts for tuition, room, and board based on the level of services; and may advise independent schools as to the need for certain special education services in Vermont.

(2)(A) The Secretary of Education shall set, after consultation with independent schools in Vermont, and based on the level of services provided by the schools, the maximum rates to be paid by the Agency and supervisory unions or school districts for tuition, room, and board for residential placement of students who require special education services. The amount charged by an independent school for tuition shall reflect the school's actual or anticipated costs of providing special education services to the student and shall not exceed the maximum rates set by the Secretary, provided that the Secretary may permit charges in excess of these maximum rates where the Secretary deems warranted.

(B)(i) An approved independent school that enrolls a student under subdivision (a)(1) of this section on a nonresidential basis may bill the responsible LEA for excess special education costs incurred by the independent school in providing special education services beyond those covered by general tuition. Reimbursement of these excess special education costs shall be based on the direct-costs rates approved by the Secretary for services actually provided to the student consistent with the Agency of Education Technical Manual for special education cost accounting. The Agency of Education shall publish specific elements that must be included as part of an independent school's invoice for excess special education costs, and these elements shall be included in the written agreement required under subdivision (c)(2) of this section.

(ii) In establishing the direct cost rates for reimbursement under this subdivision (B), the Secretary shall apply the principle of treating an approved independent school and a public school with parity in the amount of federal, State, and local contributions to cover the costs of providing special education services.

(C)(i) The Secretary shall set, after consultation with independent schools in Vermont, the maximum tuition rates to be paid by the Agency and supervisory unions or school districts to independent schools that limit enrollment to students who are on an IEP or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to a written agreement between the LEA and the school. The maximum tuition rates shall be based on the level of services provided by the school.

(ii) The tuition rates established by the Secretary under this subdivision (C) shall be no more than the costs that are reasonably related to the level of services provided by the school and shall be set forth on a form prescribed for that purpose by the Secretary of Education. The Secretary shall determine the relationship between costs and the level of services by using generally accepted accounting principles, such as those set forth in the Handbook (II) for Financial Accounting of Vermont School Systems.

(iii) After the Secretary approves a tuition rate for an independent school under this subdivision (C), the school shall not exceed that tuition rate until such time as a new tuition rate is approved by the Secretary.

(3) An approved independent school shall provide such documentation to the Secretary as the Secretary deems necessary in order to ensure that amounts payable under this subsection to the school are reasonable in relation to the special education services provided by the school. The Secretary may withhold, or direct an LEA to withhold, payment under this subsection pending the Secretary's receipt of required documentation under this subsection, or may withhold, or direct an LEA to withhold, an amount determined by the Secretary as not reasonable in relation to the special education services provided by the school.

(c)(1) In order to be approved as an independent school eligible to receive State funding under subdivision (a)(1) of this section, the school shall demonstrate the ability to serve students with disabilities by:

(A) demonstrating an understanding of special education requirements, including the:

(i) provision of a free and appropriate public education in accordance with federal and State law;

(ii) provision of education in the least restrictive environment in accordance with federal and State law;

(iii) characteristics and educational needs associated with any of the categories of disability or suspected disability under federal and State law; and

(iv) procedural safeguards and parental rights, including discipline procedures, specified in federal and State law;

(B) committing to implementing the IEP of an enrolled student with special education needs, providing the required services, and appropriately documenting the services and the student's progress;

(C) subject to subsection (d) of this section, employing or contracting with staff who have the required licensure to provide special education services;

(D) agreeing to communicate with the responsible LEA concerning:

(i) the development of, and any changes to, the IEP;

(ii) services provided under the IEP and recommendations for a change in the services provided;

(iii) the student's progress;

(iv) the maintenance of the student's enrollment in the independent school; and

(v) the identification of students with suspected disabilities; and

(E) committing to participate in dispute resolution as provided under federal and State law.

(2) An approved independent school that enrolls a student requiring special education services who is placed under subdivision (a)(1) of this section:

(A) shall enter into a written agreement with the LEA:

(i) committing to the requirements under subdivision (1) of this subsection (c); and

(ii) if the LEA provides staff or resources to the approved independent school on an interim basis under subsection (d) of this section, setting forth the terms of that arrangement with assistance from the Agency of Education on the development of those terms and on the implementation of the arrangement; and

(B) subject to subsection (d) of this section, shall ensure that qualified school personnel attend evaluation and planning meetings and IEP meetings for the student.

(d) If an approved independent school enrolls a student under subdivision (a)(1) of this section but does not have the staff or State Board certification to provide special education services in the specific disability category that the student requires, then:

(1) The LEA, in consultation with the approved independent school and the Agency of Education, shall determine what special education services and supports the school is able to provide to the student.

(2) The LEA shall, on an interim basis and at its cost, provide such additional staff and other resources to the approved independent school as are

necessary to support the student until such time as the approved independent school is able to directly provide these services and has the appropriate State Board certification; provided, however, that the school shall have all required staff and resources and the appropriate State Board certification within nine academic months after the date of the student's initial enrollment.

(3) If the school does not have all required staff and resources and the appropriate State Board certification within nine academic months after the date of the student's initial enrollment as required under subdivision (2) of this subsection (d), then, in the event that the State Board determines that the school has failed to make good faith and reasonable efforts to secure the required staff, resources, and certification, the State Board may take any action that is authorized by section 166 of this title.

~~(b)~~(e) Neither a school ~~districts~~ district nor any State agency shall pay rates for tuition, room, and board, for students receiving special education in independent schools outside Vermont that are in excess of allowable costs approved by the authorized body in the state in which the independent school is located, except in exceptional circumstances or for a child who needs exceptional services, as approved by the Secretary.

~~(e)~~(f) The State Board is authorized to enter into interstate compacts with other states to regulate rates for tuition, room, and board for students receiving special education in independent schools.

* * * Effective Dates * * *

Sec. 22. EFFECTIVE DATES

(a) The following sections shall take effect on July 1, 2020:

- (1) Sec. 5 (amendment to 16 V.S.A. chapter 101); and
- (2) Sec. 17 (transition).

(b) The following sections shall take effect on July 1, 2019:

- (1) Sec. 14 (extraordinary services reimbursement);
- (2) Sec. 15 (amendment to 16 V.S.A. § 4001); and
- (3) Secs. 19-21 (approved independent schools).

(c) This section and the remaining sections shall take effect on passage.

(Committee vote: 5-1-0)

(For House amendments, see House Journal for March 21, 2018, pages 774-779 and March 22, 2018, page 812)

Reported without recommendation by Senator Campion for the Committee on Finance.

(Committee vote: 6-0-1)

Reported favorably by Senator Starr for the Committee on Appropriations.

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

(Committee vote: 6-0-1)

House Proposals of Amendment

S. 111

An act relating to privatization contracts.

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

Sec. 1. 3 V.S.A. § 343 is amended to read:

§ 343. PRIVATIZATION CONTRACTS; PROCEDURE

(a) ~~No~~ An agency ~~may~~ shall not enter into a privatization contract, unless all of the following are satisfied:

* * *

(b)(1) A privatization contract shall contain specific performance measures regarding quantity, quality, and results and guarantees regarding the services performed.

(2) The agency shall provide information in the State's Workforce Report on the contractor's compliance with the specific performance measures set out in the contract.

(3) The agency may not renew the contract if the contractor fails to comply with the specific performance measures set out in the contract as required by subdivision (1) of this subsection.

(c)(1) Before an agency may renew a privatization contract for the first time, the Auditor of Accounts shall review the privatization contract analyzing whether it is achieving:

(A) the 10 percent cost-savings requirement set forth in subdivision (a)(2) of this section;

(B) the performance measures incorporated into the contract as required under subdivision (b)(1) of this section.

(2) If the Auditor of Accounts finds that a privatization contract has not achieved the cost savings required under subdivision (a)(2) of this section or complied with performance measures required under subdivision (b)(1) of this section, the Auditor of Accounts shall file a report with the agency and the House and Senate Committees on Government Operations, and the agency shall review whether to renew the privatization contract or perform the work with State employees.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

S. 192

An act relating to transferring the professional regulation of law enforcement officers from the Vermont Criminal Justice Training Council to the Office of Professional Regulation.

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

Sec. 1. 20 V.S.A. § 2405 is amended to read:

§ 2405. COUNCIL HEARING AND SANCTION PROCEDURE

(a) Generally. Except as otherwise provided in this subchapter, ~~the Council~~ all proceedings under this subchapter shall ~~conduct its proceedings~~ be conducted in accordance with the Vermont Administrative Procedure Act. This includes the ability to summarily suspend the certification of a law enforcement officer in accordance with 3 V.S.A. § 814(c).

(b) Prosecutor.

(1) An Assistant Attorney General assigned by the Office of the Attorney General shall be responsible for prosecuting unprofessional conduct cases under this subchapter.

(2) The burden of proof shall be on the State to show by a preponderance of the evidence that a law enforcement officer has engaged in unprofessional conduct.

(c) Hearing officer.

(1) The Council shall appoint a hearing officer, who shall be an attorney admitted to practice law in this State, to conduct any unprofessional conduct hearing under this subchapter. The Council shall choose the hearing officer from a list of hearing officers provided by the Office of Professional Regulation.

(2) The hearing officer may administer oaths and exercise powers properly incidental to the conduct of the hearing.

(3) Any hearing officer sitting in an unprofessional conduct case shall do so impartially and without any ex parte knowledge of the case in controversy.

(4)(A) The hearing officer shall issue findings of fact and conclusions of law regarding the prosecutor's charges of unprofessional conduct.

(B) For the purposes of subdivision 2406(b)(1)(B) of this subchapter, the hearing officer shall determine at the hearing and shall include in his or her findings of fact whether there is a pending labor proceeding related to any unprofessional conduct that the hearing officer concludes a law enforcement officer committed.

(5)(A) The hearing officer shall report the findings of fact and conclusions of law to the Council within 30 days after the conclusion of the hearing, unless the Council grants an extension. The provisions of 3 V.S.A. § 811 regarding proposals for decision shall not apply to the hearing officer's report.

(B) The hearing officer's findings and conclusions shall be binding on the Council; provided, however, that the Council may request that the hearing officer make clarifications or additional findings.

(d) Council.

(1) The Council shall hold a sanction hearing based on the hearing officer's findings of fact and conclusions of law. Unless the Council grants an extension, the Council shall hold its sanction hearing within 30 days after the date the hearing officer reports his or her findings of fact and conclusions of law to the Council or within 30 days after the date the hearing officer makes clarifications or additional findings under subdivision (c)(5)(B) of this section, whichever occurs later.

(2) Unless the Council grants an extension, the Council shall issue its sanction order within 10 days after its sanction hearing.

Sec. 2. 20 V.S.A. § 2406 is amended to read:

§ 2406. PERMITTED COUNCIL SANCTIONS

(a) Generally. The Council may impose any of the following sanctions on a law enforcement officer's certification upon its finding a hearing officer's conclusion that a law enforcement officer committed unprofessional conduct:

- (1) written warning;

(2) suspension, but to run concurrently with the length and time of any suspension imposed by a law enforcement agency with an effective internal affairs program, which shall amount to suspension for time already served if an officer has already served a suspension imposed by his or her agency with such a program;

(3) revocation, with the option of recertification at the discretion of the Council; or

(4) permanent revocation.

(b) Intended revocation; temporary voluntary surrender.

(1)(A) If, after ~~an evidentiary~~ a sanction hearing, the Council intends to revoke a law enforcement officer's certification due to ~~its finding a hearing officer's conclusion~~ that the officer committed unprofessional conduct, the Council shall issue ~~a decision~~ an order to that effect.

(B) Within 10 business days ~~from~~ after the date of that ~~decision order~~, such an officer may voluntarily surrender his or her certification if the hearing officer determined under subdivision 2405(c)(4)(B) of this subchapter that there is a pending labor proceeding related to the Council's unprofessional conduct ~~findings the hearing officer concluded the law enforcement officer committed~~.

(C) A voluntary surrender of an officer's certification shall remain in effect until the labor proceeding and all appeals are finally adjudicated or until the officer requests a final sanction hearing, whichever occurs first, and thereafter until the Council's final sanction hearing on the matter. At that hearing, the Council may modify its ~~findings and decision~~ sanction order on the basis of additional evidence set forth in the labor proceeding decision, but shall not be bound by any outcome of the labor proceeding.

(2) If an officer fails to voluntarily surrender his or her certification in accordance with subdivision (1) of this subsection, the Council's original ~~findings and decision~~ sanction order shall take effect.

Sec. 3. 20 V.S.A. § 2410 is amended to read:

§ 2410. COUNCIL ADVISORY COMMITTEE

(a) Creation. There is created the Council Advisory Committee to provide advice to the Council regarding its duties under this subchapter.

(1) The Committee shall specifically:

(A) advise and assist the Council in developing procedures to ensure that allegations of unprofessional conduct by law enforcement officers are investigated fully and fairly, and to ensure that appropriate action is taken in regard to those allegations; and

(B) recommend to the Council any appropriate sanctions to impose on a law enforcement officer's certification upon a hearing officer's concluding that the law enforcement officer committed unprofessional conduct.

(2) The Committee shall be advisory only and shall not have any decision-making authority.

(b) Membership. The Committee shall be composed of five individuals appointed by the Governor. The Governor may solicit recommendations for appointments from the Chair of the Council.

(1) Four of these members shall be public members who during incumbency shall not serve and shall have never served as a law enforcement officer or corrections officer and shall not have an immediate family member who is serving or has ever served as either of those officers.

(2) One of these members shall be a retired law enforcement officer.

(c) Assistance. The Executive Director of the Council or designee shall attend Committee meetings as a resource for the Committee.

(d) Reimbursement. Members of the Committee ~~who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance~~ shall be entitled to per diem compensation and reimbursement of expenses ~~pursuant to~~ as permitted under 32 V.S.A. § 1010 for not more than ~~five~~ eight meetings per year. Such payments shall be derived from the budget of the Council.

Sec. 4. 2017 Acts and Resolves No. 56, Sec. 2 is amended to read:

Sec. 2. TRANSITIONAL PROVISIONS TO IMPLEMENT THIS ACT

(a) Effective internal affairs programs.

(1) Law enforcement agencies. On or before ~~July 1, 2018~~ January 1, 2019, each law enforcement agency shall adopt an effective internal affairs program in accordance with 20 V.S.A. § 2402(a) in Sec. 1 of this act.

(2) Vermont Criminal Justice Training Council. On or before ~~April 1, 2018~~ July 1, 2018, the Vermont Criminal Justice Training Council shall adopt an effective internal affairs program model policy in accordance with 20 V.S.A. § 2402(b) in Sec. 1 of this act.

(b) Alleged law enforcement officer unprofessional conduct. The provisions of 20 V.S.A. chapter 151, subchapter 2 (unprofessional conduct) in Sec. 1 of this act shall apply to law enforcement officer conduct alleged to have been committed on and after the effective date of that subchapter.

(c) Duty to disclose. The requirement for a former law enforcement agency to disclose the reason that a law enforcement officer is no longer employed by the agency as set forth in 20 V.S.A. § 2362a in Sec. 1 of this act shall not apply if there is a binding nondisclosure agreement prohibiting that disclosure that was executed prior to the effective date of that section.

(d) Council rules. The Vermont Criminal Justice Training Council may adopt rules in accordance with 20 V.S.A. § 2411 (Council rules) in Sec. 1 of this act, prior to the effective date of that section.

(e) Council Advisory Committee. The Governor shall make appointments to the Council Advisory Committee set forth in 20 V.S.A. § 2410 in Sec. 1 of this act prior to the effective date of that section.

(f) Annual report of Executive Director. Annually, on or before January 15, beginning in the year ~~2019~~ 2020 and ending in the year ~~2022~~ 2023, the Executive Director of the Vermont Criminal Justice Training Council shall report to the ~~General Assembly~~ House and Senate Committees on Government Operations regarding the Executive Director's analysis of the implementation of this act and any recommendations he or she may have for further legislative action.

(g) Council, OPR; joint report. On or before October 1, 2017, the Executive Director of the Vermont Criminal Justice Training Council and the Director of the Office of Professional Regulation (Office) shall consult with law enforcement stakeholders and report to the Senate and House Committees on Government Operations on a proposal for the Office to perform duties related to the professional regulation of law enforcement officers.

Sec. 5. 2017 Acts and Resolves No. 56, Sec. 6 is amended to read:

Sec. 6. EFFECTIVE DATES

This act shall take effect on ~~July 1, 2018~~ January 1, 2019, except:

(1) this section and Sec. 2 (transitional provisions to implement this act) shall take effect on passage; and

(2) the following shall take effect on July 1, 2017:

(A) in Sec. 1, 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council):

(i) § 2351 (creation and purpose of Council);

(ii) § 2351a (definitions);

(iii) § 2352 (Council membership);

(iv) § 2354 (Council meetings);

(v) § 2355 (Council powers and duties), except that subsection (a) shall take effect on ~~July 1, 2018~~ January 1, 2019;

(vi) § 2358 (minimum training standards; definitions); and

(vii) § 2362a (potential hiring agency; duty to contact former agency);

(B) Sec. 3, 20 V.S.A. § 1812 (definitions); and

(C) Sec. 4, 20 V.S.A. § 1922 (creation of State Police Advisory Commission; members; duties).

Sec. 6. 13 V.S.A. § 3251 is amended to read:

§ 3251. DEFINITIONS

As used in this chapter:

* * *

(9) “Law enforcement officer” means a person certified as a law enforcement officer under the provisions of 20 V.S.A. chapter 151.

Sec. 7. 13 V.S.A. § 3259 is added to read:

§ 3259. SEXUAL EXPLOITATION OF A PERSON IN THE CUSTODY OF A LAW ENFORCEMENT OFFICER

(a) No law enforcement officer shall engage in a sexual act with a person whom the officer is detaining, arresting, or otherwise holding in custody or who the officer knows is being detained, arrested, or otherwise held in custody by another officer.

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

Sec. 8. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 1, 20 V.S.A. § 2405 (Council hearing and sanction procedure); 2, 20 V.S.A. § 2406 (permitted Council sanctions); and 3, 20 V.S.A. § 2410 (Council Advisory Committee) shall take effect on January 1, 2019.

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

An act relating to the Vermont Criminal Justice Training Council’s professional regulation of law enforcement officers.

S. 269

An act relating to blockchain, cryptocurrency, and financial technology.

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

* * * Definition of Blockchain Technology * * *

Sec. 1. 12 V.S.A. § 1913 is amended to read:

§ 1913. BLOCKCHAIN ENABLING

(a) As used in this section, ~~“blockchain technology”~~ :

(1) “Blockchain” means a mathematically cryptographically secured, chronological, and decentralized consensus ledger or consensus database, whether maintained via Internet interaction, peer-to-peer network, or otherwise other interaction.

(2) “Blockchain technology” means computer software or hardware or collections of computer software or hardware, or both, that utilize or enable a blockchain.

* * *

* * * Personal Information Protection Companies * * *

Sec. 2. 8 V.S.A. chapter 78 is added to read:

CHAPTER 78. PERSONAL INFORMATION PROTECTION
COMPANIES

§ 2451. DEFINITIONS

As used in this section:

(1) “Personal information” means data capable of being associated with a particular natural person, including gender identification, birth information, marital status, citizenship and nationality, biometric records, government identification designations, and personal, educational, and financial histories.

(2) “Personal information protection company” means a business that is organized for the primary purpose of providing personal information protection services to individual consumers.

(3) “Personal information protection services” means:

(A) receiving, holding, and managing the disclosure or use of personal information concerning an individual consumer;

(B) pursuant to a written agreement that specifies the types of personal information to be held, and the scope of services to be provided, on behalf of the consumer; and

(C) in the best interest, and for the protection and benefit, of the consumer.

§ 2452. PERSONAL INFORMATION AS THE SUBJECT OF A FIDUCIARY RELATIONSHIP

A personal information protection company that accepts personal information pursuant to a written agreement to provide personal information protection services has a fiduciary responsibility to the consumer when providing personal protection services.

§ 2453. QUALIFIED PERSONAL INFORMATION PROTECTION COMPANY

(a) A personal information protection company shall qualify to conduct its business under the terms of this chapter and applicable rules adopted by the Department of Financial Regulation.

(b) A person shall not engage in business as a personal information protection company in this State without first obtaining a certificate of authority from the Department.

(c) A personal information protection company shall:

(1) be organized or authorized to do business under the laws of this State;

(2) maintain a place of business in this State;

(3) appoint a registered agent to accept service of process and to otherwise act on its behalf in this State, provided that whenever the registered agent cannot with reasonable diligence be found at the Vermont registered office of the company, the Secretary of State shall be an agent of the company upon whom any process, notice, or demand may be served;

(4) annually hold at least one meeting of its governing body in this State, at which meeting one or more members of the body are physically present; and

(5) develop, implement, and maintain a comprehensive information security program that contains administrative, technical, and physical safeguards sufficient to protect personal information, and which may include the use of blockchain technology, as defined in 12 V.S.A. § 1913, in some or all of its business activities.

§ 2454. NAME; OFFICE

A personal information protection company shall file with the Department of Financial Regulation the name it proposes to use in connection with its business, which the Department shall not approve if it determines that the

name may be misleading, likely to confuse the public, or deceptively similar to any other business name in use in this State.

§ 2455. CONDUCT OF BUSINESS

(a) A personal information protection company may:

(1) operate through remote interaction with the individuals entrusting personal information to the company, and there shall be no requirement of Vermont residency or other contact for any such individual to establish such a relationship with the company; and

(2) subject to applicable fiduciary duties, the terms of any agreement with the individual involved, and any applicable statutory or regulatory provision:

(A) provide elements of personal information to third parties with which the individual seeks to have a transaction, a service relationship, or other particular purpose interaction;

(B) provide certification or validation concerning personal information;

(C) receive compensation for acting in these capacities.

(b) An authorization to provide personal information may be either particular or general, provided it meets the terms of any agreement with the individual involved and any rules adopted by the Department of Financial Regulation.

§ 2456. FEES; AUTHORITY OF DEPARTMENT

(a)(1) The Department of Financial Regulation shall assess the following fees for a personal information protection company:

(A) an initial registration fee of \$1,000.00, which includes a licensing fee of \$500.00 and an investigation fee of \$500.00;

(B) an annual renewal fee of \$500.00;

(C) a change in address fee of \$100.00.

(2) The Department shall have the authority to bill a personal information protection company for examination time at its standard rate.

(b) In addition to other powers conferred by this chapter, the Department shall have the authority to review records, conduct examinations, and require annual audits of a personal information protection company.

§ 2457. REPORTS; RULES

(a) The Department of Financial Regulation may prescribe by rule the timing and manner of reports by a personal information protection company to the Department.

(b) The Department may adopt rules to govern other aspects of the business of a personal information protection company, including its protection and safeguarding of personal information and its interaction with third parties with respect to personal information it holds.

Sec. 3. INSURANCE; BANKING; DFR STUDY; REPORT

(a) The Department of Financial Regulation shall review the potential application of blockchain technology to the provision of insurance and banking and consider areas for potential adoption and any necessary regulatory changes in Vermont.

(b) On or before January 15, 2019, the Department shall submit a report of its findings and recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

Sec. 4. BLOCKCHAIN AND FINANCIAL TECHNOLOGY PROMOTION

The Agency of Commerce and Community Development shall incorporate into one or more of its economic development marketing and business support programs, events, and activities the following topics:

(1) opportunities to promote blockchain technology and financial technology-related economic development in the private sector, including in the areas of banking, insurance, retail and service businesses, and cryptocurrency;

(2) legal and regulatory mechanisms that enable and promote the adoption of blockchain technology and financial technology in this State; and

(3) educational and workforce training opportunities in blockchain technology, financial technology, and related areas.

* * * Enabling Provisions for FinTech and Blockchain Approaches * * *

Sec. 5. 11 V.S.A. chapter 25, subchapter 12 is added to read:

Subchapter 12. Blockchain-Based Limited Liability Companies

§ 4171. DEFINITIONS

As used in this section:

(1) “Blockchain technology” has the same meaning as in 12 V.S.A. § 1913.

(2) “Participant” means:

(A) each person that has a partial or complete copy of the decentralized consensus ledger or database utilized by the blockchain technology, or otherwise participates in the validation processes of such ledger or database;

(B) each person in control of any digital asset native to the blockchain technology; and

(C) each person that makes a material contribution to the protocols.

(3) “Protocols” means the designated regulatory model of the software that governs the rules, operations, and communication between nodes on the network utilized by the participants.

(4) “Virtual currency” means a digital representation of value that:

(A) is used as a medium of exchange, unit of account, or store of value; and

(B) is not legal tender, whether or not denominated in legal tender.

§ 4172. ELECTION

A limited liability company organized pursuant to this title for the purpose of operating a business that utilizes blockchain technology for a material portion of its business activities may elect to be a blockchain-based limited liability company (BLLC) by:

(1) specifying in its articles of organization that it elects to be a BLLC; and

(2) meeting the requirements in subdivision 4173(2) and subsection 4174(a) of this title.

§ 4173. AUTHORITY; REQUIREMENTS

Notwithstanding any provision of this chapter to the contrary:

(1) A BLLC may provide for its governance, in whole or in part, through blockchain technology.

(2) The operating agreement for a BLLC shall:

(A) provide a summary description of the mission or purpose of the BLLC;

(B) specify whether the decentralized consensus ledger or database utilized or enabled by the BLLC will be fully decentralized or partially decentralized and whether such ledger or database will be fully or partially public or private, including the extent of participants’ access to information and read and write permissions with respect to protocols;

(C) adopt voting procedures, which may include smart contracts carried out on the blockchain technology, to address:

(i) proposals from managers, members, or other groups of participants in the BBLLC for upgrades or modifications to software systems or protocols, or both;

(ii) other proposed changes to the BBLLC operating agreement; or

(iii) any other matter of governance or activities within the purpose of the BBLLC;

(D) adopt protocols to respond to system security breaches or other unauthorized actions that affect the integrity of the blockchain technology utilized by the BBLLC;

(E) provide how a person becomes a member of the BBLLC with an interest, which may be denominated in the form of units, shares of capital stock, or other forms of ownership or profit interests; and

(F) specify the rights and obligations of each group of participants within the BBLLC, including which participants shall be entitled to the rights and obligations of members and managers.

§ 4174. MULTIPLE ROLES OF MEMBERS AND MANAGERS

(a) A member or manager of a BBLLC may interact with the BBLLC in multiple roles, including as a member, manager, developer, node, miner, or other participant in the BBLLC, or as a trader and holder of the currency in its own account and for the account of others, provided such member or manager complies with any applicable fiduciary duties.

(b) The activities of a member or manager who interacts with the BBLLC through multiple roles are not deemed to take place in this State solely because the BBLLC is organized in this State.

§ 4175. CONSENSUS FORMATION ALGORITHMS AND GOVERNANCE PROCESSES

In its governance, a BBLLC may:

(1) adopt any reasonable algorithmic means for accomplishing the consensus process for validating records, as well as requirements, processes, and procedures for conducting operations, or making organizational decisions on the blockchain technology used by the BBLLC; and

(2) in accordance with any procedure specified pursuant to section 4173 of this title, modify the consensus process, requirements, processes, and procedures, or substitute a new consensus process, requirements, processes, or procedures that comply with the requirements of law and the governance provisions of the BBLLC.

§ 4176. SCOPE OF SUBCHAPTER; OTHER LAW

Except as expressly provided otherwise, this subchapter does not exempt a BLLLC from any other judicial, statutory, or regulatory provision of Vermont law or federal law, including State and federal securities laws. Except to the extent inconsistent with the provisions of this subchapter, the provisions of the Vermont Limited Liability Company Act govern.

Sec. 6. REPEAL

32 V.S.A. § 5811(26) (digital business entity) is repealed.

Sec. 7. 32 V.S.A. chapter 151, subchapter 3 is amended to read:

Subchapter 3. Taxation of Corporations

* * *

§ 5832. TAX ON INCOME OF CORPORATIONS

* * *

(2)(A) \$75.00 for small farm corporations. “Small farm corporation” means any corporation organized for the purpose of farming, which during the taxable year is owned solely by active participants in that farm business and receives less than \$100,000.00 gross receipts from that farm operation, exclusive of any income from forest crops; or

~~(B) An amount determined in accordance with section 5832a of this title for a corporation which qualifies as and has elected to be taxed as a digital business entity for the taxable year; or [Repealed.]~~

(C) For C corporations with gross receipts from \$0-\$2,000,000.00, the greater of the amount determined under subdivision (1) of this section or \$300.00; or

(D) For C corporations with gross receipts from \$2,000,001.00-\$5,000,000.00, the greater of the amount determined under subdivision (1) of this section or \$500.00; or

(E) For C corporations with gross receipts greater than \$5,000,000.00, the greater of the amount determined under subdivision (1) of this section or \$750.00.

~~§ 5832a. DIGITAL BUSINESS ENTITY FRANCHISE TAX~~

~~(a) There is imposed upon every business entity which qualifies as and has elected to be taxed as a digital business entity an annual franchise tax equal to:~~

~~(1) the greater of 0.02 percent of the current value of the tangible and intangible assets of the company or \$250.00, but in no case more than \$500,000.00; or~~

~~(2) where the authorized capital stock does not exceed 5,000 shares, \$250.00; where the authorized capital stock exceeds 5,000 shares but is not more than 10,000 shares, \$500.00; and the further sum of \$250.00 on each 10,000 shares or part thereof.~~

~~(b) In no case shall the tax on any corporation for a full taxable year, whether computed under subdivision (a)(1) or (2) of this section, be more than \$500,000.00 or less than \$250.00.~~

~~(c) In the case of a corporation that has not been in existence during the whole year, the amount of tax due, at the foregoing rates and as provided, shall be prorated for the portion of the year during which the corporation was in existence.~~

~~(d) In the case of a corporation changing during the taxable year the amount of its authorized capital stock, the total annual franchise tax payable at the foregoing rates shall be arrived at by adding together the franchise taxes calculated pursuant to subdivision (a)(2) of this section as prorated for the several periods of the year during which each distinct authorized amount of capital stock was in effect.~~

~~(e) For the purpose of computing the taxes imposed by this section, the authorized capital stock of a corporation shall be considered to be the total number of shares that the corporation is authorized to issue without regard to whether the number of shares that may be outstanding at any one time is limited to a lesser number.~~

~~(f) The franchise tax under this section shall be reported and paid in the same manner as the tax under subdivision 5832(2)(B) of this title; provided, however, that an electing corporation shall also provide the Commissioner with a copy of its federal tax return. [Repealed.]~~

~~* * *~~

~~§ 5838. DIGITAL BUSINESS ENTITY ELECTION~~

~~A corporation shall not be subject to the tax imposed by section 5832 of this title if the corporation qualifies as and elects to be taxed as a digital business entity for the taxable year. [Repealed.]~~

~~* * * Blockchain Technology in Public Records * * *~~

~~Sec. 8. PUBLIC RECORDS~~

~~On or before January 15, 2019, the Vermont State Archives and Records Administration, in collaboration with the Vermont League of Cities and Towns, the Vermont Municipal Clerks' and Treasurers' Association, and the Agency of Digital Services, shall:~~

(1) evaluate blockchain technology for the systematic and efficient management of public records in accordance with 1 V.S.A. § 317a and 3 V.S.A. § 117;

(2) recommend legislation, including uniform laws, necessary to support the possible use of blockchain technology for the recording of land records pursuant to 24 V.S.A. § 1154 and for other public records; and

(3) submit its findings and recommendations to the House Committee on Commerce and Economic Development; the Senate Committee on Economic Development, Housing and General Affairs; and the House and Senate Committees on Government Operations.

* * * Effective Date * * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

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

An act relating to blockchain business development.

S. 281

An act relating to the mitigation of systemic racism.

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

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly to promote racial justice reform throughout the State by mitigating systemic racism in all systems of State government and creating a culture of inclusiveness.

Sec. 2. 3 V.S.A. § 2102 is amended to read:

§ 2102. POWERS AND DUTIES

(a) The Governor's Cabinet shall adopt and implement a program of continuing coordination and improvement of the activities carried on at all levels of State and local government.

(b) The Cabinet shall work collaboratively with the Executive Director of Racial Equity and may provide the Director with access to all relevant records and information as permitted by law.

Sec. 3. 3 V.S.A. chapter 68 is added to read:

CHAPTER 68. EXECUTIVE DIRECTOR OF RACIAL EQUITY

§ 5001. POSITION

(a) There is created within the Executive Branch the position of Executive Director of Racial Equity to identify and work to eradicate systemic racism within State government.

(b) The Executive Director of Racial Equity shall have the powers and duties enumerated within section 2102 of this title and shall work collaboratively with and act as a liaison between the Governor's Workforce Equity and Diversity Council, the Vermont Human Rights Commission, and the Governor's Cabinet.

§ 5002. RACIAL EQUITY ADVISORY PANEL

(a) The Racial Equity Advisory Panel is established. The Panel shall be organized and have the duties and responsibilities as provided in this section. The Panel shall have administrative, legal, and technical support of the Agency of Administration.

(b)(1) The Panel shall consist of five members, as follows:

(A) one member appointed by the Senate Committee on Committees who shall not be a current legislator;

(B) one member appointed by the Speaker of the House who shall not be a current legislator;

(C) one member appointed by the Chief Justice of the Supreme Court who shall not be a current legislator;

(D) one member appointed by the Governor who shall not be a current legislator; and

(E) one member appointed by the Human Rights Commission who shall not be a current legislator.

(2) Members shall be drawn from diverse backgrounds to represent the interests of communities of color throughout the State, have experience working to implement racial justice reform and, to the extent possible, represent geographically diverse areas of the State.

(3) The term of each member shall be three years, except that of the members first appointed, one each shall serve a term of one year, to be appointed by the Human Rights Commission; two years, to be appointed by the Governor; three years, to be appointed by the Speaker of the House; four years, to be appointed by the Senate Committee on Committees; and five years, to be appointed by the Chief Justice of the Supreme Court, so that the term of one regular member expires in each ensuing year. As terms of currently serving members expire, appointments of successors shall be in accord with the provisions of this subsection. Appointments of members to fill vacancies or expired terms shall be made by the authority that made the initial

appointment to the vacated or expired term. Members shall serve until their successors are elected or appointed. Members shall serve not more than three consecutive terms in any capacity.

(4) Members of the Panel shall elect by majority vote the Chair of the Panel, who shall serve for a term of three years after the implementation period. Members of the Panel shall be appointed on or before September 1, 2018 in order to prepare as they deem necessary for the establishment of the Panel, including the election of the Chair of the Panel. Terms of members shall officially begin on January 1, 2019.

(c) The Panel shall have the following duties and responsibilities:

(1) work with the Executive Director of Racial Equity to implement the reforms identified as necessary in the comprehensive organizational review as required by subsection 5003(a) of this title; and

(2) advise the Director to ensure ongoing compliance with the purpose of this chapter, and advise the Governor on strategies for remediating systemic racial disparities in statewide systems of government.

(d) Each member of the Panel shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

§ 5003. DUTIES OF EXECUTIVE DIRECTOR OF RACIAL EQUITY

(a) The Executive Director of Racial Equity shall work with the agencies and departments to implement a program of continuing coordination and improvement of activities in State government in order to combat systemic racial disparities and measure progress toward fair and impartial governance, including:

(1) oversee a comprehensive organizational review to identify systemic racism in each of the three branches of State government and inventory systems in place that engender racial disparities;

(2) create a strategy for implementing a centralized platform for race-based data collection and manage the aggregation, correlation, and public dissemination of the data; and

(3) develop a model fairness and diversity policy and review and make recommendations regarding the fairness and diversity policies held by all State government systems.

(b) Pursuant to section 2102 of this title, work collaboratively with State agencies and departments to gather relevant existing data and records necessary to carry out the purpose of this chapter and to develop best practices for remediating systemic racial disparities throughout State government.

(c) The Director shall work with the agencies and departments and with the Chief Performance Officer to develop performance targets and performance measures for the General Assembly, the Judiciary, and the agencies and departments to evaluate respective results in improving systems. These performance measures shall be included in the agency's or department's quarterly reports to the Director, and the Director shall include each agency's or department's performance targets and performance measures in his or her annual reports to the General Assembly.

(d) The Director shall, in consultation with the Department of Human Resources and the agencies and departments, develop and conduct trainings for agencies and departments regarding the nature and scope of systemic racism and the institutionalized nature of race-based bias. Nothing in this subsection shall be construed to discharge the existing duty of the Department of Human Resources to conduct trainings.

(e) On or before January 15, 2020, and annually thereafter, report to the House and Senate Committees on Government Operations demonstrating the State's progress in identifying and remediating systemic racial bias within State government.

§ 5004. INFORMATION; DISCLOSURE AND CONFIDENTIALITY

(a) Confidentiality of records. Except as provided in subsection (b) of this section, the records of the Racial Equity Director and the Racial Equity Advisory Panel shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

(b) Exceptions.

(1) The Director and Panel members may make records available to each other, the Governor, and the Governor's Cabinet as necessary to fulfill their duties as set forth in this chapter. They may also make records pertaining to any alleged violations of antidiscrimination statutes available to any State or federal law enforcement agency authorized to enforce such statutes. The Director or Panel may refuse to disclose records or information the release of which may be prohibited under State or federal law absent court order.

(2) Any records or information described in subdivision (1) of this subsection made available to a party or entity pursuant to a confidentiality agreement or court order requiring confidentiality shall be kept confidential in accordance with the agreement or order, unless disclosure is otherwise authorized by law or court order.

§ 5005. NOMINATION AND APPOINTMENT PROCESS

(a) The Racial Equity Advisory Panel shall select for consideration by the Panel, by majority vote, provided that a quorum is present, from the

applications for the position of Executive Director of Racial Equity as many candidates as it deems qualified for the position.

(b) The Panel shall submit to the Governor the names of the three candidates it deems most qualified to be appointed to fill the position.

(c) The Governor shall make the appointment to the Executive Director position from the list of qualified candidates submitted pursuant to subsection (b) of this section. The names of candidates submitted and not selected shall remain confidential.

Sec. 4. AUTHORIZATION FOR EXECUTIVE DIRECTOR OF RACIAL EQUITY POSITION

One new permanent, exempt position of Executive Director of Racial Equity is created within the Agency of Administration.

Sec. 5. FISCAL YEAR 2019 APPROPRIATION

There is appropriated to the Agency of Administration from the General Fund for fiscal year 2019 the amount of \$75,000.00 for the Racial Equity Advisory Panel and the position of Executive Director of Racial Equity.

Sec. 6. SECRETARY OF ADMINISTRATION; RACIAL EQUITY ADVISORY PANEL; EXECUTIVE DIRECTOR OF RACIAL EQUITY; REPORT

(a) On or before September 1, 2018, the Racial Equity Advisory Panel shall be appointed.

(b) On or before November 1, 2018, the Racial Equity Advisory Panel shall, in consultation with the Secretary of Administration and the Department of Human Resources, have developed and posted a job description for the Executive Director of Racial Equity.

(c) On or before January 1, 2019, the Racial Equity Advisory Panel shall submit to the Governor the names of the three candidates for the Executive Director of Racial Equity position.

(d) On or before February 1, 2019, the Governor shall appoint the Executive Director of Racial Equity.

(e) On or before May 1, 2019, the Executive Director of Racial Equity shall update the House and Senate Committees on Government Operations regarding how best to complete a comprehensive organizational review to identify systemic racism pursuant to 3 V.S.A. § 5003, and potential private and public sources of funding to achieve the review.

Sec. 7. REPEAL

On June 30, 2023:

(1) Sec. 3 of this act (creating the Executive Director of Racial Equity and Racial Equity Advisory Panel in 3 V.S.A. chapter 68) is repealed and the Officer position and Panel shall cease to exist; and

(2) Sec. 4 of this act (authorization for the Executive Director of Racial Equity position) is repealed.

Sec. 8. 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 racial equity in State government.

House Proposals of Amendment to Senate Proposals of Amendment

H. 593

An act relating to miscellaneous consumer protection provisions

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

First: In Sec. 2, in subsection (a), by striking out “January” in both instances and inserting in lieu thereof July

Second: By striking out Secs. 6a and 7 in their entireties and inserting in lieu thereof Secs. 7–15 to read:

Sec. 7. ONE-STOP FREEZE NOTIFICATION

(a) The Attorney General, in consultation with industry stakeholders, shall consider one or more methods to ease the burden on consumers when placing or lifting a credit security freeze, including the right to place a freeze with a single nationwide credit reporting agency and require that agency to initiate a freeze with other agencies.

(b) On or before January 15, 2019, the Attorney General shall report his or her findings and recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

Sec. 8. 9 V.S.A. § 41a is amended to read:

§ 41a. LEGAL RATES

(a) Except as specifically provided by law, the rate of interest or the sum allowed for forbearance or use of money shall be 12 percent per annum computed by the actuarial method.

(b) The rate of interest or the sum allowed:

* * *

(10) Interest on a judgment against a debtor in default on credit card debt incurred for personal, family, or household purposes shall accrue at the rate of 12 percent per annum using simple interest, unless a court suspends or reduces the accrual of interest pursuant to 12 V.S.A. § 2903a.

* * *

Sec. 9. 12 V.S.A. chapter 113 is amended to read:

CHAPTER 113. ~~JUDGMENT LIEN~~ JUDGMENTS AND JUDGMENT LIENS

* * *

§ 2903. DURATION AND EFFECTIVENESS

* * *

(c) Interest Unless a court suspends or reduces the accrual of interest pursuant to section 2903a of this title, interest on a judgment lien shall accrue at the rate of 12 percent per annum using simple interest.

(d) If a judgment lien is not satisfied within 30 days of recording, it may be foreclosed and redeemed as provided in this title and ~~V.R.C.P. Rule 80.1~~ of the Vermont Rules of Civil Procedure. Unless the court finds that as of the date of foreclosure the amount of the outstanding debt exceeds the value of the real property being foreclosed, section 4531 of this title shall apply to foreclosure of a judgment lien.

§ 2903a. ACCRUAL OF POSTJUDGMENT INTEREST ON CREDIT CARD DEBT; SUSPENSION; REDUCTION; REINSTATEMENT

(a) Upon or after entering a judgment against a debtor in default on credit card debt incurred for personal, family, or household purposes, a court may suspend or reduce the accrual of interest on the judgment if it finds:

(1) the judgment debtor's income and assets are exempt from collection; or

(2) based on his or her current income, assets, and expenses, the judgment debtor does not have more financial resources available than what is reasonably necessary to support the debtor and his or her dependents.

(b) To request suspension or reduction of interest on a judgment, the debtor shall submit to the court a motion to suspend or reduce interest that includes:

(1) a completed financial disclosure, on a form adopted by the Vermont Judiciary; and

(2) any additional documentation the court prescribes.

(c) If the court approves the request, it:

(1) shall provide in its order that the suspension or reduction of interest is based on the judgment debtor's current income, assets, and expenses; and

(2) may require the judgment debtor periodically to provide the judgment creditor with an updated financial disclosure form.

(d) The court may revise its order upon a motion by the judgment creditor or judgment debtor to reinstate, reduce further, or suspend the accrual of interest based on a substantial change in the judgment debtor's income, assets, or expenses.

* * *

Sec. 10. 9 V.S.A. chapter 63, subchapter 9 is added to read:

Subchapter 9. Debt Collectors and Debt Collection

§ 2491. DEFINITIONS

As used in this subchapter:

(1) "Credit card debtor" means a consumer who is in default on credit card debt incurred for personal, family, or household purposes.

(2) "Debt collector" means a person who engages, or directly or indirectly aids, in collecting a credit card debt incurred for personal, family, or household purposes, and includes a debt buyer.

§ 2491a. ENFORCEMENT

A person who violates a provision of this subchapter commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

§ 2491b. CREDIT CARD DEBT COLLECTION; NOTICES TO CONSUMER

(a) Notice prior to initiating action. Prior to initiating an action to obtain a judgment against a credit card debtor, a debt collector shall deliver to the credit card debtor:

(1) a claim of exemption form adopted by the Vermont Judiciary; and

(2) a written notice that contains:

(A) the amount of the debt;

(B) the name of the person to whom the debt is owed;

(C) the name of the original creditor, the last four digits of the account, and the alleged date of the last payment if any;

(D) a statement that, if the credit card debtor indicates in writing that his or her current income and assets are exempt from collection, the debt collector will review the information in deciding whether and how to proceed in collecting the debt.

(b) Time for delivering notice prior to initiating action. A debt collector shall deliver the notice required in subsection (a) of this section not more than 90 days and not less than 30 days before initiating an action to obtain a judgment against a credit card debtor.

(c) Notice by assignee prior to filing a motion to collect on a judgment against credit card debtor. Prior to filing a motion to collect on a judgment against a credit card debtor, an assignee of the judgment shall deliver to the judgment debtor:

- (1) a copy of the judgment against the credit card debtor;
- (2) the date and parties to each assignment of the judgment;
- (3) a claim of exemption form adopted by the Vermont Judiciary; and

(4) a written statement that, if the credit card debtor indicates in writing that his or her current income and assets are exempt from collection, the assignee will review the information in deciding whether and how to proceed in collecting on the judgment.

(d) Time for delivering notice by assignee prior to filing a motion to collect on a judgment against credit card debtor. The assignee of a judgment shall deliver the notice required in subsection (c) of this section not more than 90 days and not less than 30 days before filing a motion to collect on the judgment.

§ 2491c. DEBT COLLECTION AFTER STATUTE OF LIMITATIONS EXPIRED; LIMITATIONS

(a)(1) A debt collector shall not initiate a civil action to collect a debt from a credit card debtor when the debt collector knows or reasonably should know that the statute of limitations provided in 12 V.S.A. § 511 has expired.

(2) Notwithstanding any other provision of law, when the limitations period provided in 12 V.S.A. § 511 expires, any subsequent payment toward, written or oral affirmation of, or other activity on the debt does not revive or extend the limitations period.

(b) After the statute of limitations provided in 12 V.S.A. § 511 has expired, a debt collector may only communicate with a credit card debtor concerning the debt after providing written or verbal notice that the credit card debtor has the right to request that the debt collector cease all communications with the credit card debtor concerning the debt and providing one of the following disclosures:

(1) If the debt is not past the date for obsolescence set forth in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681c(a):

“The law limits how long you can be sued on a debt. Because of the age of your debt, we cannot sue you for it. However, if you do not pay the debt, [creditor or debt collector name] may [continue to] report it to the credit reporting agencies as unpaid for as long as the law permits this reporting.”

(2) If the debt is past the date for obsolescence set forth in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681c(a):

“The law limits how long you can be sued on a debt. Because of the age of your debt, [creditor or debt collector name] cannot sue you for it and will not report it to any credit reporting agency.”

Sec. 11. 12 V.S.A. § 2732 is amended to read:

§ 2732. GOODS, EFFECTS, AND CREDITS HELD BY THIRD PERSON

On request of the judgment creditor, the clerk of the court granting judgment shall issue ~~to the officer holding the execution~~ a summons as trustee to a third person having in his or her hands goods, effects, or credits, other than earnings, of the debtor that have not previously been attached on trustee process in connection with the action. The summons shall be in such form as the Supreme Court may by rule provide for a summons to a trustee in connection with the commencement of an action and shall state the date and amount of the judgment. The summons shall be served by the officer upon the trustee in like manner and with the same effect as mesne process. A copy of the summons shall be served upon the judgment debtor with the officer's endorsement thereon of the date of service upon the trustee. After service of the summons, proceedings shall be had as provided by law and by rule promulgated by the Supreme Court for trustee process in connection with the commencement of an action.

Sec. 12. 12 V.S.A. § 3170 is amended to read:

§ 3170. EXEMPTIONS; ISSUANCE OF ORDER

(a) No order approving the issuance of trustee process against earnings shall be entered against a judgment debtor who was, within the two-month period preceding the hearing provided in section 3169 of this title, a recipient of assistance from the Vermont Department for Children and Families or the Department of Vermont Health Access. The judgment debtor must establish this exemption at the time of hearing.

(b) The earnings of a judgment debtor shall be exempt as follows:

(1) 75 percent of the debtor's weekly disposable earnings, or 30 times the federal minimum hourly wage, whichever is greater; or

(2) if the judgment debt arose from a consumer credit transaction, as that term is defined by 15 U.S.C. § 1602 and implementing regulations of the Federal Reserve Board, 85 percent of the debtor's weekly disposable earnings, or 40 times the federal minimum hourly wage, whichever is greater; or

(3) if the court finds that the weekly expenses reasonably incurred by the debtor for his or her maintenance and that of dependents exceed the amounts exempted by subdivisions (1) and (2) of this subsection, such greater amount of earnings as the court shall order.

* * *

Sec. 13. 12 V.S.A. § 3173 is added to read:

§ 3173. TRUSTEE PROCESS AGAINST JUDGMENT DEBTOR'S BANK ACCOUNTS; PROCEDURE

(a)(1) A judgment creditor may, pursuant to this section, obtain trustee process against a judgment debtor's accounts or funds in the possession of a bank or other financial institution to enforce a money judgment in a civil action.

(2) Notwithstanding section 2732 of this title or any other provision of law, a judgment debtor's accounts or funds in the possession of a bank or other financial institution shall not be attached, be subject to trustee process, or be subject to execution by a judgment creditor unless the requirements of this section are satisfied.

(3) Nothing in this section shall prohibit a financial institution from exercising a contractual right of setoff against a judgment debtor's deposit accounts with the financial institution.

(b)(1) A judgment creditor may file an ex parte motion for trustee process against a judgment debtor's accounts or funds in the possession of a bank or other financial institution describing in detail the grounds for the motion, the amount alleged to be unpaid, including estimated costs anticipated to be expended for court fees and service on parties in connection with the trustee process procedure.

(2) The judgment creditor shall prepare a summons and a disclosure for the trustee, and a claim of exemption for the judgment debtor, on forms provided by the court.

(c)(1) Upon receipt of a motion for trustee process filed under this section when a judgment is final and has not been satisfied, the Superior clerk is authorized to issue one or more summonses to any trustee financial institution specified by the judgment creditor that possesses accounts or funds belonging to the judgment debtor.

(2) If the judgment creditor requests issuance of more than one summons, the judgment creditor shall specify, and the clerk shall include in the summons, which financial institution shall not freeze the amounts exempted by subdivision 2740(15) of this title.

(3) The clerk shall issue a notice of hearing concurrently with the summons and shall set the matter for hearing not sooner than 30 days after issuing the notice and summons.

(4) A summons issued pursuant to this subsection shall contain instructions to the trustee financial institution directing it not to freeze any funds of the judgment debtor that, based on deposit or other information kept by the trustee financial institution, are protected under 31 C.F.R. part 212 or exempt under subdivision 2740(15) of this title.

(d)(1) The judgment creditor shall serve on the trustee financial institution and the judgment debtor pursuant to Rule 4 of the Vermont Rules of Civil Procedure, unless the judgment debtor files an appearance pursuant to Rule 5 of the Vermont Rules of Civil Procedure after the motion for trustee process is filed:

(A) the motion for trustee process;

(B) the summons and notice of hearing issued by the clerk pursuant to subdivisions (c)(1) and (3) of this section;

(C) a claim of exemptions form approved by the Court Administrator that permits the judgment debtor to identify any of the debtor's funds in the possession of the trustee financial institution that may be exempt from execution under section 2740 of this title; and

(D) a disclosure form for the trustee.

(2) If the judgment creditor does not provide proof of service on the judgment debtor by the time of the hearing and the judgment debtor does not appear at the hearing, the court shall issue an order denying the motion for trustee process and directing the trustee financial institution to release all of the judgment debtor's held funds to the judgment debtor, unless the hearing is continued for good cause.

(e) Upon receipt of a summons served pursuant to subsection (d) of this section, a trustee financial institution, based on the instructions contained in the summons and deposit or other information kept by the institution:

(1) shall not freeze any funds in its possession belonging to the judgment debtor that are protected under 31 C.F.R. part 212 or that are exempt under subdivision 2740(15) of this title;

(2) shall freeze any funds up to the amount owed as provided in the

summons to the trustee that are not protected under 31 C.F.R. part 212 and that are not exempt under subdivision 2740(15) of this title; and

(3) shall return the disclosure form to the court and to the parties within 10 days.

(f)(1) A judgment debtor may request an expedited hearing to determine a claim of exemption.

(2) The judgment debtor shall:

(A) submit the request in writing; and

(B) send a copy of the request to the court, to the judgment creditor, and to the trustee financial institution.

(3) The court shall give notice to the parties and hold the hearing within three business days after the judgment debtor makes the request.

(4) If the judgment debtor requests an expedited hearing, he or she is deemed to have entered an appearance and waived any further service.

(g) At the hearing on the motion for trustee process or motion for expedited hearing, the court shall consider the disclosure form from the trustee and the testimony and affidavits offered by any party, provided that an affiant is available to testify in person or by telephone. The court shall issue an order granting or denying the motion for trustee process, which shall:

(1) state the amount of the judgment unpaid, including costs incurred since filing the motion;

(2) state the rate of postjudgment interest due under 9 V.S.A. § 41a(b)(10);

(3) identify any funds of the judgment debtor in the possession of the trustee financial institution that are exempt from execution under section 2740 of this title and order release of those funds to the judgment debtor;

(4) review any proposed settlement between the judgment creditor and the judgment debtor and make a finding as to whether any waiver of exemptions was knowing; and

(5) identify the amount of funds in the possession of the trustee financial institution that shall be released to the judgment creditor.

(h) A trustee financial institution shall not be subject to criminal or civil liability for any actions taken in reliance upon the provisions of this section.

Sec. 14. IMPLEMENTATION; REPORT

(a) On or before January 15, 2020, the Attorney General, in consultation with the Judicial Branch, representatives of creditors and debtors, and national nonprofit organizations representing the receivables industry, shall submit to the House and Senate Committees on Judiciary, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development, Housing and General Affairs a report that addresses:

(1) the implementation, outcomes, and effectiveness of Secs. 8–13 of this act;

(2) whether to expand the applicability of the provisions of Secs. 8–13 of this act beyond credit card debt; and

(3) any recommendations for further legislative action related to Secs. 8–13 of this act.

(b) On or before January 15, 2019, the Attorney General, in consultation with the Judicial Branch and representatives of creditors and debtors, shall submit to the House and Senate Committees on Judiciary, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development, Housing and General Affairs a report that addresses the potential costs and benefits of requiring a court to acquire and review a debtor’s credit report when considering a request to reduce or suspend the accrual of postjudgment interest, who should be responsible for producing the credit report, and how to ensure consumer privacy if a credit report is used for those purposes in a court action.

* * * Effective Dates * * *

Sec. 15. EFFECTIVE DATES

(a) This section shall take effect on passage.

(b) Sec. 6 (credit information for personal insurance) shall take effect on passage and apply to personal insurance policies that either are written to be effective or are renewed on or after nine months after the date of passage.

(c) Secs. 1–2 (automatic renewal provisions) shall take effect on July 1, 2019.

(d) Secs. 4–5 (credit protection for vulnerable persons) shall take effect on January 1, 2019.

(e) Secs. 3 (retainage for construction materials) and 7 (one-stop notification study) shall take effect on July 1, 2018.

(f) Secs. 8–14 (credit card and debt collections) shall take effect on October 1, 2018.

H. 676

An act relating to miscellaneous energy subjects

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

By inserting a new Sec. 3 to read:

Sec. 3. 6 V.S.A. chapter 217 is added to read:

CHAPTER 217. POLLINATOR-FRIENDLY SOLAR GENERATION STANDARD

§ 5101. DEFINITIONS

As used in this chapter:

- (1) “Agency” means the Agency of Agriculture, Food and Markets.
- (2) “Invasive species” means any species of vegetation that:
 - (A) is designated as a noxious weed on the Agency’s Noxious Weed Rule under chapter 84 of this title;
 - (B) is listed on the Vermont Invasive Exotic Plant Committee Watch List;
 - (C) has been quarantined by the Agency as invasive; or
 - (D) has been determined to be invasive by the Agency of Natural Resources.
- (3) “Native” refers to perennial vegetation that is native to Vermont. Native perennial vegetation does not include invasive species.
- (4) “Naturalized” refers to perennial vegetation that is not native to Vermont, but is now considered to be well established and part of Vermont flora. Naturalized perennial vegetation does not include invasive species.
- (5) “Owner” means a public or private entity that has a controlling interest in the solar site.
- (6) “Perennial vegetation” means wildflowers, forbs, shrubs, sedges, rushes, and grasses that serve as habitat, forage, and migratory way stations for pollinators.
- (7) “Pollinator” means bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes wild and managed insects.
- (8) “Solar site” means a ground-mounted solar system for generating electricity and the area surrounding that system under the control of the owner.

(9) “Vegetation management plan” means a written document that includes short- and long-term site management practices that will provide and maintain native and naturalized perennial vegetation.

§ 5102. BENEFICIAL HABITAT STANDARD

(a) This section establishes a standard for owners that intend to claim that, through the voluntary planting and management of vegetation, a solar site provides greater benefits to pollinators and shrub-dependent birds than are provided by solar sites not so managed.

(b) In order for the solar site to meet the beneficial habitat standard and for the owner of a solar site to claim that the solar site is beneficial to those species or is pollinator-friendly, all the following shall apply:

(1) The owner adheres to guidance set forth by the Pollinator-Friendly Scorecard (Scorecard) published by the University of Vermont (UVM) Extension.

(2) The owner shall make the solar site’s completed Scorecard available to the public and provide a copy of the completed Scorecard to the UVM Extension.

(3) If the site has a vegetation management plan:

(A) The plan shall maximize the use of native and naturalized perennial vegetation for foraging habitat beneficial to pollinators consistent with the solar site’s Scorecard.

(B) The owner shall make the vegetation management plan available to the public and provide a copy of the plan to the UVM Extension.

(4) When establishing perennial vegetation and beneficial foraging habitat, the solar site shall use native and naturalized plant species and seed mixes whenever practicable.

(c) Nothing in this chapter affects any findings that must be made in order to issue a State permit or other approval for a solar site or the duty to comply with any conditions in such a permit or approval.

And by renumbering the remaining section to be numerically correct.

H. 806

An act relating to the Southeast State Correctional Facility

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

In Sec. 1, Southeast State Correctional Facility; Report, in subsection (b), by striking out the following: “, if any,”

NOTICE CALENDAR

Second Reading

Favorable

H. 916.

An act relating to increasing the moral obligation authority of the Vermont Economic Development Authority.

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

(Committee vote: 4-0-1)

(No House amendments)

Reported favorably by Senator Sears for the Committee on Appropriations.

(Committee vote: 4-0-3)

Favorable with Proposal of Amendment

H. 410.

An act relating to adding products to Vermont's energy efficiency standards for appliances and equipment.

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

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

* * * Appliance Efficiency * * *

Sec. 1. PURPOSE

(a) In 9 V.S.A. § 2792, the General Assembly found that efficiency standards for products sold or installed in the State provide benefits to consumers and businesses, including saving money on utility bills, saving energy and thereby reducing the environmental impacts of energy consumption, reducing or delaying the need for new power plants and upgrades to the electric transmission and distribution system, and allowing the energy cost savings to be spent on other goods and services within the State's economy.

(b) The purpose of this act is to obtain the benefits found in 9 V.S.A. § 2792 for the following products to which the State's efficiency standards under 9 V.S.A. chapter 74 do not currently apply: air compressors,

commercial dishwashers, commercial fryers, commercial hot-food holding cabinets, commercial steam cookers, computers and computer monitors, faucets, high color rendering index fluorescent lamps, portable air conditioners, portable electric spas, residential ventilating fans, showerheads, spray sprinkler bodies, uninterruptible power supplies, urinals, and water coolers.

Sec. 2. 9 V.S.A. § 2793 is amended to read:

§ 2793. DEFINITIONS

As used in this chapter:

* * *

(16) With respect to air compressors, the following definitions apply:

(A) “Air compressor” means a compressor that is designed to compress air that has an inlet open to the atmosphere or other source of air and that consists of the bare compressor, also known as the compression element; one or more drivers; mechanical equipment to drive the compression element; and any ancillary equipment.

(B) “Compressor” means a machine or apparatus that converts different types of energy into the potential energy of gas pressure for displacement and compression of gaseous media to any higher-pressure values above atmospheric pressure and has a pressure ratio at full-load operating pressure greater than 1.3.

(17) “Commercial dishwasher” means a machine designed to clean and sanitize plates, pots, pans, glasses, cups, bowls, utensils, and trays by applying sprays of detergent solution, with or without blasting media granules, and a sanitizing rinse. The phrase “commercial dishwasher” does not include dishwashers intended for consumer use as defined in 10 C.F.R. § 430.2.

(18) “Commercial fryer” means an appliance, including a cooking vessel, in which oil is placed to such a depth that the cooking food is supported by displacement of the cooking fluid rather than by the bottom of the vessel. Heat is delivered to the cooking fluid by means of an immersed electric element of band-wrapped vessel or by heat transfer from gas burners either through the walls of the fryer or through tubes passing through the cooking fluid.

(19) “Commercial hot-food holding cabinet” means a heated, fully enclosed compartment with one or more solid or transparent doors designed to maintain the temperature of hot food that has been cooked using a separate appliance. The phrase “commercial hot-food holding cabinet” does not include heated glass merchandizing cabinets, drawer warmers, or cook-and-hold appliances.

(20) “Commercial steam cooker” means a device with one or more food-steaming compartments in which the energy in the steam is transferred to the food by direct contact. A commercial steam cooker may also be known as a compartment steamer.

(21) “ENERGY STAR Program” means the federal program initiated by the U.S. Environmental Protection Agency pursuant to 42 U.S.C. § 7403(g) that includes certification of energy-saving products, buildings, and tools, and includes other resources for saving energy.

(22) With respect to faucets and showerheads, the following definitions apply:

(A) “Faucet” means a lavatory faucet, kitchen faucet, metering faucet, public lavatory faucet, or replacement aerator for a lavatory, public lavatory, or kitchen faucet. As used in this subdivision (24)(A):

(i) “Metering faucet” means a fitting that, when turned on, will gradually shut itself off over a period of several seconds.

(ii) “Public lavatory faucet” means a fitting intended to be installed in nonresidential bathrooms that are exposed to walk-in traffic.

(iii) “Replacement aerator” means an aerator sold as a replacement, separate from the faucet to which it is intended to be attached.

(B) “Showerhead” means an accessory to a supply fitting for spraying water onto a bather, typically from an overhead position. The term includes a body spray and handheld shower. As used in this subdivision (22)(B):

(i) “Body spray” means a shower device for spraying water onto a bather other than from the overhead position.

(ii) “Handheld shower” means a showerhead that can be held or fixed in place for the purpose of spraying water onto a bather and that is connected to a flexible hose.

(23) “High color rendering index (CRI) fluorescent lamp” means a fluorescent lamp with a color rendering index of 87 or greater that is not a compact fluorescent lamp.

(24) “Luminaire” means a complete lighting unit consisting of a fluorescent lamp or lamps, together with parts designed to distribute the light, to position and protect such lamps, and to connect such lamps to the power supply through the ballast.

(25) With respect to portable air conditioners, the following definitions apply:

(A) “Portable air conditioner” means a portable encased assembly, other than a packaged terminal air conditioner, room air conditioner, or dehumidifier, that includes a source of refrigeration; delivers cooled, conditioned air to an enclosed space; and is powered by single-phase electric current. The assembly may include additional means for air circulation and heating and may be a single-duct or a dual-duct portable air conditioner.

(B) “Single-duct portable air conditioner” means a portable air conditioner that draws all of the condenser inlet air from the conditioned space without the means of a duct and discharges the condenser outlet air outside the conditioned space through a single duct attached to an adjustable window bracket.

(C) “Dual-duct portable air conditioner” means a portable air conditioner that draws some or all of the condenser inlet air from outside the conditioned space through a duct attached to an adjustable window bracket, may draw additional condenser inlet air from the conditioned space, and discharges the condenser outlet air outside the conditioned space by means of a separate duct attached to an adjustable window bracket.

(26) “Portable electric spa” means a factory-built electric spa or hot tub, which may or may not include any combination of integral controls, water heating, or water circulating equipment.

(27) “Residential ventilating fan” means a ceiling, wall-mounted, or remotely mounted in-line fan designed to be used in a bathroom or utility room whose purpose is to move air from inside the building to the outdoors.

(28) With respect to spray sprinkler bodies, the following definitions apply:

(A) “Pressure regulator” means a device that maintains constant operating pressure immediately downstream from the device, given higher pressure upstream.

(B) “Spray sprinkler body” means the exterior case or shell of a sprinkler incorporating a means of connection to the piping system designed to convey water to a nozzle or orifice.

(29) “T12 fluorescent lamp” means a tubular fluorescent lamp to which one of the following applies:

(A) The lamp has a nominal rating of 34 watts, is 48 inches in length and one and one-half inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-1006-1). Such a lamp is often referred to as an “F34T12 lamp” or an “F40T12/ES lamp.”

(B) The lamp has a nominal rating of 40 watts, is 48 inches in length and one and one-half inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-1010-1). Such a lamp is often referred to as an “F40T12 lamp.”

(C) The lamp has a nominal rating of 60 watts, is 96 inches in length and one and one-half inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-3006-1). Such a lamp is often referred to as an “F96T12/ES lamp.”

(D) The lamp has a nominal rating of 75 watts, is 96 inches in length and one and one-half inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-3007-1). Such a lamp is often referred to as an “F96T12 lamp.”

(E) The lamp has a nominal rating of 95 watts, is 96 inches in length and one and one-half inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-1017-1). Such a lamp is often referred to as an “F96T12HO/ES lamp.”

(F) The lamp has a nominal rating of 110 watts, is 96 inches in length and one and one-half inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-1019-1). Such a lamp is often referred to as an “F96T12HO lamp.”

(30) “Uninterruptible power supply” means a battery charger consisting of a combination of convertors, switches, and energy storage devices, such as batteries, constituting a power system that maintains continuity of load power in case of input power failure.

(31) With respect to urinals, the following definitions apply:

(A) “Plumbing fixture” means an exchangeable device that connects to a plumbing system to deliver and drain away water and waste.

(B) “Trough-type urinal” means a urinal designed for simultaneous use by two or more persons.

(C) “Urinal” means a plumbing fixture that receives only liquid body waste and conveys the waste through a trap into a drainage system.

(32) With respect to water coolers, the following definitions apply:

(A) “Cold-only unit” means a water cooler that dispenses cold water only.

(B) “Cook and cold unit” means a water cooler that dispenses both cold and room-temperature water.

(C) “Hot and cold unit” means a water cooler that dispenses both hot and cold water. A hot and cold unit also may dispense room-temperature water.

(D) “On demand” means that a water cooler heats water as it is requested, which typically takes a few minutes to deliver.

(E) “Storage-type” means that a water cooler stores thermally conditioned water in a tank and the conditioned water is available instantaneously. Storage-type water coolers include point-of-use, dry storage compartment, and bottled water coolers.

(F) “Water cooler” means a freestanding device that consumes energy to cool or heat potable water, or both.

Sec. 3. 9 V.S.A. § 2794 is amended to read:

§ 2794. SCOPE

(a) The provisions of this chapter apply to the following types of new products sold, offered for sale, or installed in the State:

- (1) Medium voltage dry-type distribution transformers.
- (2) Metal halide lamp fixtures.
- (3) Residential furnaces and residential boilers.
- (4) Single-voltage external AC to DC power supplies.
- (5) State-regulated incandescent reflector lamps.
- (6) General service lamps.
- (7) Air compressors.
- (8) Commercial dishwashers.
- (9) Commercial fryers.
- (10) Commercial hot-food holding cabinets.
- (11) Commercial steam cookers.
- (12) Computers and computer monitors.
- (13) Faucets.
- (14) High CRI fluorescent lamps.
- (15) Portable air conditioners.
- (16) Portable electric spas.
- (17) Residential ventilating fans.

(18) Showerheads.

(19) Spray sprinkler bodies.

(20) Uninterruptible power supplies.

(21) Urinals.

(22) Water coolers.

(23) Each other product for which the Commissioner is required to adopt an efficiency or water conservation standard by rule pursuant to section 2795 of this title.

~~(8)~~(24) Any other product that may be designated by the Commissioner in accordance with section 2797 of this title.

(b) The provisions of this chapter do not apply to:

(1) New products manufactured in the State and sold outside the State and the equipment used in manufacturing those products.

(2) New products manufactured outside the State and sold at wholesale inside the State for final retail sale and installation outside the State.

(3) Products installed in mobile manufactured homes at the time of construction.

(4) Products designed expressly for installation and use in recreational vehicles.

Sec. 4. 9 V.S.A. § 2795 is amended to read:

§ 2795. EFFICIENCY AND WATER CONSERVATION STANDARDS

(a) The Commissioner shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 establishing minimum efficiency standards for the types of new products set forth in section 2794 of this title. The rules shall provide for the following minimum efficiency standards for products sold or installed in this State:

* * *

(4)(A) Single-voltage external AC to DC power supplies shall meet the energy efficiency requirements of the following table:

* * *

(C) For purposes of this subdivision (4), the efficiency of single-voltage external AC to DC power supplies shall be measured in accordance with the test methodology specified by the ~~U.S. Environmental Protection Agency's Energy Star~~ ENERGY STAR Program, "Test Method for Calculating the Energy Efficiency of Single-Voltage External AC-DC and AC-AC Power Supplies (August 11, 2004)."

* * *

(6) In the rules, the Commissioner shall adopt minimum efficiency and water conservation standards for each product that is subject to a standard under 10 C.F.R. §§ 430 and 431 as those provisions existed on January 19, 2017. The minimum standard and the testing protocol for each product shall be the same as adopted in those sections of the Code of Federal Regulations, except that for faucets, showerheads, and urinals, the minimum standard and testing protocol shall be as otherwise set forth in this section.

(7) In the rules, the Commissioner shall adopt a minimum efficacy standard for general service lamps of 45 lumens per watt, when tested in accordance with 10 C.F.R. § 430.23(gg) as that provision existed on January 19, 2017.

(8) In this subdivision (8), “final rule” means the document setting forth a final action by the U.S. Department of Energy (DOE) with respect to a final rule for “Energy Conservation Standards for Air Compressors,” docket no. EERE-2013-BT-STD-0040, approved by DOE on December 5, 2016. Air compressors that meet the 12 criteria to be codified under 10 C.F.R. § 431.345(a) and set forth on pages 350 to 351 of the final rule shall meet the requirements contained in Table 1 on page 352 of the final rule using the instructions to be codified under 10 C.F.R. § 431.345(b) and set forth on page 353 of the final rule. Compliance with these requirements shall be measured in accordance with 10 C.F.R. Part 431, Subpart T, Appendix A, entitled “Uniform Test Method for Certain Air Compressors,” as in effect on July 3, 2017.

(9) Commercial dishwashers included in the scope of the “ENERGY STAR Program Requirements Product Specification for Commercial Dishwashers,” Version 2.0, shall meet the qualification criteria of that specification.

(10) Commercial fryers included in the scope of the “ENERGY STAR Program Requirements Product Specification for Commercial Fryers,” Version 2.0, shall meet the qualification criteria of that specification.

(11) Commercial hot-food holding cabinets shall have a maximum idle energy rate of 40 watts per cubic foot of interior volume, as determined by the “idle energy rate-dry test” in ASTM F2140-11, “Standard Test Method for Performance of Hot-Food Holding Cabinets,” ASTM International (2011). Interior volume shall be measured as prescribed in the “ENERGY STAR Program Requirements Product Specification for Commercial Hot-Food Holding Cabinets,” Version 2.0.

(12) Commercial steam cookers shall meet the requirements of the “ENERGY STAR Program Requirements Product Specification for Commercial Steam Cookers,” Version 1.2.

(13) Computers and computer monitors shall meet the requirements of 20 California Code of Regulations (C.C.R.) § 1605.3(v) and compliance with these requirements shall be measured in accordance with test methods prescribed in 20 C.C.R. § 1604(v).

(A) For the purposes of this subdivision (13), terms used in the referenced portions of the C.C.R. shall be as defined in 20 C.C.R. § 1602.

(B) The rules shall define “computer” and “computer monitor” to have the same meaning as set forth in 20 C.C.R. § 1602(v).

(C) The referenced portions of the C.C.R. shall be those adopted on or before the effective date of this section. However, the Commissioner shall have authority to amend the rules so that the definitions of “computer” and “computer monitor” and the minimum efficiency standards for computers and computer monitors conform to subsequently adopted modifications to the referenced sections of the C.C.R.

(14) Faucets, except for metering faucets, and showerheads shall meet the standards set forth in this subdivision (14) when tested in accordance with 10 C.F.R. Part 430, Subpart B, Appendix S, entitled “Uniform Test Method for Measuring the Water Consumption of Faucets and Showerheads,” as in effect on January 3, 2017.

(A) Lavatory faucets and replacement aerators shall not exceed a maximum flow rate of 1.5 gallons per minute (gpm) at 60 pounds per square inch (psi).

(B) Residential kitchen faucets and replacement aerators shall not exceed a maximum flow rate of 1.8 gpm at 60 psi, with optional temporary flow of 2.2 gpm, provided they default to a maximum flow rate of 1.8 gpm at 60 psi after each use.

(C) Public lavatory faucets and replacement aerators shall not exceed a maximum flow rate of 0.5 gpm at 60 psi.

(D) Showerheads shall not exceed a maximum flow rate of 2.0 gpm at 80 psi.

(15) High CRI fluorescent lamps shall meet the minimum efficacy requirements contained in 10 C.F.R. § 430.32(n)(4) as that subdivision existed on January 3, 2017. Compliance with requirements shall be measured in accordance with 10 C.F.R. Part 430, Subpart B, Appendix R, entitled “Uniform Test Method for Measuring Average Lamp Efficacy (LE), Color

Rendering Index (CRI), and Correlated Color Temperature (CCT) of Electric Lamps,” as that appendix existed on January 3, 2017.

(16) Urinals, other than trough-type urinals and urinals designed and marketed exclusively for use at prisons or mental health facilities, shall have a maximum flush volume of 0.5 gallons per flush when tested in accordance with 10 C.F.R. Part 430, Subpart B, Appendix T, entitled “Uniform Test Method for Measuring the Water Consumption of Water Closets and Urinals,” as in effect on January 3, 2017 and shall pass the waste extraction test for water closets set forth in Sec. 7.10 of the American Society of Mechanical Engineers (ASME) standard A112.19.2-2013/CSA B.45.1, as that standard exists on the effective date of this section.

(17) Portable air conditioners shall have a Combined Energy Efficiency Ratio (CEER), that is greater than or equal to: $1.04 \times [\text{SACC}/(3.7177 \times \text{SACC}^{0.6384})]$.

(A) In this subdivision (17), “SACC” means seasonally adjusted cooling capacity expressed in British thermal units per hour.

(B) The CEER shall be measured in accordance with 10 C.F.R. Part 430, Subpart B, Appendix CC, entitled “Uniform Test Method for Measuring the Energy Consumption of Portable Air Conditioners,” as in effect on January 3, 2017.

(18) Portable electric spas shall meet the requirements of the American National Standard for Portable Electric Spa Energy Efficiency, ANSI/APSP/ICC-14 2014, as that standard exists on the effective date of this section.

(19) Residential ventilating fans shall meet the qualification criteria of the “ENERGY STAR Program Requirements Product Specification for Residential Ventilating Fans,” Version 3.2.

(20) Spray sprinkler bodies shall include an integral pressure regulator and shall meet the water efficiency and performance criteria and other requirements of the Environmental Protection Agency’s “WaterSense Specification for Spray Sprinkler Bodies,” Version 1.0. However, this subdivision (20) shall not apply to spray sprinkler bodies that are specifically excluded from the scope of that specification.

(21) In this subdivision (21), “final rule” means the document setting forth a final action by DOE with respect to a final rule for “Energy Conservation Standards for Uninterruptible Power Supplies,” docket no. EERE-2016-BT-STD-0022, approved by DOE on December 28, 2016. Uninterruptible power supplies that use a National Electrical Manufacturer Association (NEMA) 1-15P or 5-15P input plug and have an alternating

current (AC) output shall have an average load-adjusted efficiency that meets or exceed the values shown to be codified under 10 C.F.R. § 430.32(z)(3) and set forth on pages 193–194 of the final rule. Compliance with these requirements shall be measured in accordance with 10 C.F.R. Part 430, Subpart B, Appendix Y, entitled “Uniform Test Method for Measuring the Energy Consumption of Battery Chargers,” as in effect on January 11, 2017.

(22) Water coolers included in the scope of the “ENERGY STAR Program Requirements Product Specification for Water Coolers,” Version 2.0, shall have “on mode with no water draw” energy consumption less than or equal to the following values, measured in accordance with the test requirements of that specification:

(A) 0.16 kilowatt-hours (kWh) per day for cold-only units and cook and cold units;

(B) 0.87 kWh per day for storage type hot and cold units; and

(C) 0.18 kWh per day for on-demand hot and cold units.

(b) When a minimum efficiency standard as described in subsection (a) of this section sets forth requirements that change over time, the rules shall provide for compliance with the changed requirements as they come into effect.

(c) When a subdivision within subdivisions (a)(8) through (a)(22) of this section requires compliance with an efficiency standard or testing protocol contained in a document issued by an agency of the United States, another state, or a nationally or internationally recognized organization, the rules of the Commissioner may incorporate the specified standard or protocol by reference pursuant to 3 V.S.A. § 838 rather than setting forth its language.

(d) With respect to computers and computer monitors subject to subdivision (a)(13) of this section, the Commissioner shall have authority to adopt official interpretations of the applicable efficiency standards published by the staff of the California Energy Commission (CEC). The rules shall state the process for such adoption and the manner in which the Commissioner will make the adopted interpretations publicly available.

Sec. 5. 9 V.S.A. § 2796 is amended to read:

§ 2796. IMPLEMENTATION

* * *

~~(d) One year after the date upon which the sale or offering for sale of certain products becomes subject to the requirements of subsection (a) or (b) of this section, no new products may be installed for compensation in the State unless the efficiency of a new product meets or exceeds the efficiency~~

standards set forth in the rules adopted pursuant to section 2795 of this title.

(1) On or after July 1, 2019, no new luminaire that is designed and marketed to operate with T12 fluorescent lamps may be sold or offered for sale in the State. This prohibition shall not apply to a luminaire that the seller purchased on or before June 30, 2019.

(2) On or after July 1, 2020, no new air compressor, commercial dishwasher, commercial fryer, commercial hot-food holding cabinet, commercial steam cooker, computer or computer monitor, high CRI fluorescent lamp, portable electric spa, residential ventilating fan, spray sprinkler body, uninterruptible power supply, or water cooler may be sold or offered for sale, lease, or rent in the State unless the efficiency of the new product meets or exceeds the efficiency standards set forth in the rules adopted pursuant to section 2795 of this title.

(3) On or after July 1, 2021, no new faucet, showerhead, or urinal may be sold or offered for sale, lease, or rent in the State unless the efficiency of the new product meets or exceeds the efficiency standards set forth in the rules adopted pursuant to section 2795 of this title.

(4) This subdivision governs the date after which no new portable air conditioner may be sold or offered for sale, lease, or rent in the State unless the efficiency of the new product meets or exceeds the efficiency standards set forth in the rules adopted pursuant to section 2795 of this title (the compliance date).

(A) The compliance date shall be on or after February 1, 2022, unless subdivision (B) of this subdivision (3) applies.

(B) If, prior to January 1, 2019, the U.S. Department of Energy (DOE) has published a final rule in the Federal Register establishing efficiency standards for portable air conditioners and the rule has not been repealed, voided, or retracted, the compliance date shall be on or after the date as of which portable air conditioners are required to comply with the DOE rule.

(5) The prohibitions set forth in subdivisions (2) through (4) of this subsection shall not apply to a product that the seller or lessor purchased:

(A) in the case of a product listed in subdivision (2) of this subsection, on or before June 30, 2020;

(B) in the case of a faucet, showerhead, or urinal, on or before June 30, 2021; and

(C) in the case of a portable air conditioner, before the first date on which compliance is required under subdivision (4).

* * *

(f)(1) When federal preemption under 42 U.S.C. § 6297 applies to a standard adopted pursuant to this chapter for a product, the standard shall become enforceable on the occurrence of the earliest of the following:

(A) The federal energy or water conservation standard for the product under 42 U.S.C. chapter 77 is withdrawn, repealed, or otherwise voided. However, this subdivision (A) shall not apply to any federal energy or water conservation standard set aside by a court of competent jurisdiction upon the petition of a person who will be adversely affected, as provided in 42 U.S.C. § 6306(b).

(B) A waiver of federal preemption is issued pursuant to 42 U.S.C. § 6297.

(2) The federal standard for general service lamps shall be considered to be withdrawn, repealed, or otherwise voided within the meaning of this subsection if it does not come into effect on January 20, 2020 pursuant to the actions published at 82 Fed. Reg. 7276 and 7333 (January 19, 2017).

(3) When a standard adopted pursuant to this chapter becomes enforceable under this subsection, a person shall not sell or offer for sale in the State a new product subject to the standard unless the efficiency or water conservation of the new product meets or exceeds the requirements set forth in the standard.

Sec. 6. RULEMAKING

On or before May 1, 2019, the Commissioner of Public Service shall file with the Secretary of State proposed rules to implement Secs. 2 through 4 of this act.

Sec. 7. 26 V.S.A. § 2173 is amended to read:

§ 2173. RULES ADOPTED BY THE BOARD

(a) ~~The plumber's examining board~~ Plumber's Examining Board may, pursuant to the ~~provisions of 3 V.S.A. chapter 25 (Administrative Procedure Act)~~ Administrative Procedure Act, make and revise such plumbing rules as necessary for protection of the public health, except that no rule of the ~~board~~ Board may require the installation or maintenance of a water heater at a minimum temperature. To the extent that a rule of the ~~board~~ Board conflicts with this subsection, that rule shall be invalid and unenforceable. The rules shall be in effect in every city, village, and town having a public water system or public sewerage system and apply to all premises connected to the systems and all public buildings containing plumbing or water treatment and heating specialties whether they are connected to a public water or sewerage system. ~~The local board of health and the commissioner of public safety~~ Commissioner of Public Safety shall each have authority to enforce these rules. The rules

shall be limited to minimum performance standards reasonably necessary for the protection of the public against accepted health hazards and shall be consistent with any minimum efficiency standards for plumbing fixtures adopted under 9 V.S.A. chapter 74. The board Board may, if it finds it practicable to do so, adopt the provisions of a nationally recognized plumbing code and as needed shall adopt a Vermont-specific amendment to the adopted code to ensure that it is consistent with any minimum efficiency standards for plumbing fixtures adopted under 9 V.S.A. chapter 74.

* * *

* * * Energy Planning * * *

Sec. 8. 30 V.S.A. § 202b is amended to read:

§ 202b. STATE COMPREHENSIVE ENERGY PLAN

(a) The Department of Public Service, in conjunction with other State agencies designated by the Governor, shall prepare a State Comprehensive Energy Plan covering at least a 20-year period. The Plan shall seek to implement the State energy policy set forth in section 202a of this title and shall be consistent with the relevant goals of 24 V.S.A. § 4302. The Plan shall include:

(1) a comprehensive analysis and projections regarding the use, cost, supply, and environmental effects of all forms of energy resources used within Vermont;

(2) recommendations for State implementation actions, regulation, legislation, and other public and private action to carry out the Comprehensive Energy Plan, including recommendations for State agency energy plans under 3 V.S.A. § 2291 and transportation planning under Title 19; and

(3) recommendations for regional and municipal energy planning and standards for issuing a determination of energy compliance pursuant to 24 V.S.A. § 4352.

* * *

(e) The Commissioner of Public Service (Commissioner) shall file an annual report on progress in meeting the goals of the Plan. The report shall address each of the following sectors of energy consumption in the State: electricity, nonelectric fuels for thermal purposes, and transportation. In preparing the report, the Commissioner shall consult with the Secretaries of Administration, of Agriculture, Food and Markets, of Natural Resources, and of Transportation and the Commissioner of Buildings and General Services.

(1) The Commissioner shall file the report on or before January 15 of each year, commencing in 2019. The provisions of 2 V.S.A. § 20(d) shall not apply to this report.

(2) The Commissioner shall file the report with the House Committees on Energy and Technology and on Natural Resources, Fish, and Wildlife and with the Senate Committees on Finance and on Natural Resources and Energy.

(3) For each sector, the report shall provide:

(A) In millions of British thermal units (MMBTUs) for the most recent calendar year for which data are available, the total amount of energy consumed, the amount of renewable energy consumed, and the percentage of renewable energy consumed. For the electricity sector, the report shall also state the amounts in megawatt hours (MWH) and the Vermont and New England summer and winter peak electric demand, including the hour and day of peak demand.

(B) Projections of the energy reductions and shift to renewable energy expected to occur under existing policies, technologies, and markets. The most recent available data shall be used to inform these projections and shall be provided as a supplement to the data described in subdivision (A) of this subdivision (3).

(C) Recommendations of policies to further the renewable energy goals set forth in statute and the Plan, along with an evaluation of the relative cost-effectiveness of different policy approaches.

(4) The report shall include a supplemental analysis setting forth how progress toward the goals of the Plan is supported by complementary work in avoiding or reducing energy consumption through efficiency and demand reduction. In this subdivision (4), “demand reduction” includes dispatchable measures, such as controlling appliances that consume energy, and nondispatchable measures, such as weatherization.

(5) The report shall include recommendations on methods to enhance the process for planning, tracking, and reporting progress toward meeting statutory energy goals and the goals of the Plan. Such recommendations may include the consolidation of one or more periodic reports filed by the Department or other State agencies relating to renewable energy, with proposals for amending the statutes relevant to those reports.

(6) The report shall include a summary of the following information for each sector:

(A) major changes in relevant markets, technologies, and costs;

(B) average Vermont prices compared to the other New England states, based on the most recent available data; and

(C) significant Vermont and federal incentive programs that are relevant to one or more of the sectors.

Sec. 9. 30 V.S.A. § 218c is amended to read:

§ 218c. LEAST-COST INTEGRATED PLANNING

* * *

(b) Each regulated electric or gas company shall prepare and implement a least-cost integrated plan for the provision of energy services to its Vermont customers. At least every third year on a schedule directed by the Public Utility Commission, each such company shall submit a proposed plan to the Department of Public Service and the Public Utility Commission. The Commission, after notice and opportunity for hearing, may approve a company's least-cost integrated plan if it determines that the company's plan complies with the requirements of subdivision (a)(1) of this section and of sections 8004 and 8005 of this title and is consistent with the goals of the Comprehensive Energy Plan issued under section 202b of this title.

* * *

Sec. 10. 19 V.S.A. § 10b is amended to read:

§ 10b. STATEMENT OF POLICY; GENERAL

(a) The Agency shall be the responsible agency of the State for the development of transportation policy. It shall develop a mission statement to reflect:

(1) that State transportation policy shall be to encompass, coordinate, and integrate all modes of transportation and to consider "complete streets" principles, which are principles of safety and accommodation of all transportation system users, regardless of age, ability, or modal preference; and

(2) the need for transportation projects that will improve the State's economic infrastructure, as well as the use of resources in efficient, coordinated, integrated, cost-effective, and environmentally sound ways, and that will be consistent with the recommendations of the Comprehensive Energy Plan (CEP) issued under 30 V.S.A. § 202b.

(b) The Agency shall coordinate planning and education efforts with those of the Vermont Climate Change Oversight Committee and those of local and regional planning entities:

(1) to ~~assure~~ ensure that the transportation system as a whole is integrated, that access to the transportation system as a whole is integrated, and that statewide, local, and regional conservation and efficiency opportunities and practices are integrated; and

(2) to support ~~employer~~ employer-led or local or regional government-led conservation, efficiency, rideshare, and bicycle programs and other innovative transportation advances, especially employer-based incentives.

(c) In developing the State's annual Transportation Program, the Agency shall, consistent with the planning goals listed in 24 V.S.A. § 4302 as amended by 1988 Acts and Resolves No. 200 and with appropriate consideration to local, regional, and State agency plans:

(1) Develop or incorporate designs that provide integrated, safe, and efficient transportation and that are consistent with the recommendations of the CEP.

* * *

Sec. 11. 19 V.S.A. § 10i is amended to read:

§ 10i. TRANSPORTATION PLANNING PROCESS

(a) Long-range systems plan. The ~~agency~~ Agency shall establish and implement a planning process through the adoption of a long-range multi-modal systems plan integrating all modes of transportation. The long-range multi-modal systems plan shall be based upon ~~agency~~ Agency transportation policy developed under section 10b of this title, other policies approved by the legislature, ~~agency~~ General Assembly, Agency goals, mission, and objectives, and demographic and travel forecasts, design standards, performance criteria, and funding availability. The long-range systems plan shall be developed with participation of the public, and local, and regional governmental entities, and pursuant to the planning goals and processes set forth in 1988 Acts and Resolves No. 200 of the Acts of the 1987 Adj. Sess. (1988). The plan shall be consistent with the Comprehensive Energy Plan (CEP) issued under 30 V.S.A. § 202b.

* * *

(c) ~~Transportation program~~ Program. The ~~transportation program~~ Transportation Program shall be developed in a fiscally responsible manner to accomplish the following objectives:

(1) ~~Managing~~ managing, maintaining, and improving the state's State's existing transportation infrastructure to provide capacity, safety, and flexibility in the most cost-effective and efficient manner;

(2) ~~Developing~~ developing an integrated transportation system that provides Vermonters with transportation choices;

(3) ~~Strengthening~~ strengthening the economy, protecting the quality of the natural environment, and improving Vermonters' quality of life; and

(4) achieving the recommendations of the CEP.

* * *

Sec. 12. 3 V.S.A. § 2291 is amended to read:

§ 2291. STATE AGENCY ENERGY PLAN

* * *

(c) The Secretary of Administration with the cooperation of the Commissioners of Public Service and of Buildings and General Services shall develop and oversee the implementation of a State Agency Energy Plan for State government. The Plan shall be adopted by June 30, 2005, modified as necessary, and readopted by the Secretary on or before January 15, 2010 and each sixth year subsequent to 2010. The Plan shall be consistent with the Comprehensive Energy Plan (CEP) issued under 30 V.S.A. § 202b. The Plan shall accomplish the following objectives and requirements:

* * *

Sec. 13. REPORTS; ELECTRIC GENERATION CONSTRAINTS

(a) This section requires two written submissions on matters relating to electric generation, one from the Public Utility Commission (PUC or Commission) and one from the Department of Public Service (DPS or Department). Each submission shall be made on or before January 15, 2019 to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy.

(b) The Commission has pending before it several contested cases raising issues pertaining to electric generation and the area of the Sheffield-Highgate Export Interface (SHEI) and a noncontested case proceeding related to the Standard Offer Program under 30 V.S.A. § 8005a in which the Commission may examine issues related to ensuring that standard offer projects are proposed in areas that do not result in additional costs to the electric transmission or distribution system or that provide the greatest benefit to the system. The Commission's written submission under this section shall include all of the following:

(1) For each of those contested cases, a summary of its findings and conclusions on the merits of the issue or issues in the case related to the SHEI area. This subdivision (1) does not require the Commission to provide a summary for a contested case in which it has not issued a final order on the merits.

(2) For the proceeding related to the Standard Offer Program, a summary of its decisions to date of the submission on issues related to siting standard offer projects in areas that do not result in additional costs to the electric transmission or distribution system or that provide the greatest benefit to the system.

(3) As attachments, a copy of each decision summarized.

(c) The Department shall submit a written report to assist the General Assembly, renewable energy developers, and electric utilities to plan for the deployment of renewable electric generation in a manner that is consistent with the goals, requirements, and programs related to renewable energy set forth or established in 30 V.S.A. chapter 89, the statutory goals for greenhouse gas reduction at 10 V.S.A. § 578, and the goals and recommendations of the 2016 Comprehensive Energy Plan.

(1) On each of the following, the report shall include analysis and recommendations that are consistent with those goals, requirements, and programs:

(A) How to manage demands on the State's electric transmission and distribution system that relate to or affect the deployment of renewable electric generation. The Department shall identify and review areas of the State, such as the SHEI area, in which generation that is interconnected to the electric transmission and distribution system faces constraints due to system capacity and conditions, including the relationship of interconnected generation to existing load;

(B) How to encourage the deployment of all types of renewable electric generation while minimizing curtailment of such generation.

(C) How to facilitate meeting the distributed renewable generation and energy transformation requirements of the Renewable Energy Standard at 30 V.S.A. §§ 8004–8005 in light of constraints identified under subdivision (A) of this subdivision (1).

(D) The role of energy storage in the deployment of renewable electric generation.

(E) Recommended methods to guide where renewable electric generation should be located in the State;

(F) Recommended methods to guide the location in the State of end users that consume significant amounts of electric energy.

(G) Other relevant issues as determined by the Department.

(2) Prior to submitting this report, the Department shall provide an opportunity for written submission of relevant comments and information by the public and shall conduct one or more meetings at which the public may provide comments and information. The Department shall provide prior notice of the opportunity to submit comments and information and of each meeting to each Vermont electric transmission and distribution utility, Renewable Energy Vermont, each holder of a certificate of public good for an electric generation facility within the SHEI area with a capacity greater than 500 kilowatts, each entity appointed to deliver energy efficiency programs and

measures under 30 V.S.A. § 209(d), and any other person who requests such notice or whom the Department may determine to notify.

(3) With respect to the recommendations in the report, the Department shall identify those recommendations that require passage of enabling legislation and those recommendations that may be carried out under existing law. The report shall propose a timetable for implementation of the recommendations that may be carried out under existing law.

Sec. 14. RENEWABLE ENERGY STANDARD (RES) RULEMAKING

2015 Acts and Resolves No. 56, Sec. 8(d) is amended to read:

(d) On or before July 1, ~~2018~~ 2019, the ~~Board~~ Public Utility Commission shall commence rulemaking to implement Secs. 2, 3, and 7 of this act. The ~~Board~~ Commission shall finally adopt these rules within eight months of commencing rulemaking, unless this period is extended by the Legislative Committee on Administrative Rules under 3 V.S.A. § 843.

* * * Authority to Reserve Parking Spaces for Plug-in
Electric Vehicles * * *

Sec. 15. 23 V.S.A. § 1104 is amended to read:

§ 1104. STOPPING PROHIBITED

(a) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of an enforcement officer or official traffic-control device, no person may:

* * *

(3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or a passenger:

(A) within 50 feet of the nearest rail of a railroad crossing;

(B) at any place where official signs prohibit parking;

(C) at any place where official signs restrict parking to specific sizes or types of vehicles or impose other restrictions and the vehicle violates the restrictions.

* * *

Sec. 16. 23 V.S.A. § 1106 is amended to read:

§ 1106. LIMITATIONS ON USE OF STATE HIGHWAY FACILITIES

(a) As used in this section, “State highway facility” means a State highway rest area, picnic ground, parking area, or park-and-ride facility.

(b) No person shall enter or remain on any State highway facility for the purpose of overnight camping unless the particular facility has been designated for that purpose by the Traffic Committee.

(c)(1) On the basis of an engineering and traffic investigation or findings as to adverse effects on the quiet enjoyment and property values of people living adjacent to a State highway facility, the Traffic Committee may designate the size and types of vehicles allowed to park in a State highway facility or in particular areas of a State highway facility.

(2) In addition, the Secretary may prescribe special restrictions related to parking of plug-in electric vehicles in designated areas of a State highway facility.

(d) Notice of the prohibitions or restrictions under this section shall be posted at the affected facilities by regulatory signs conforming to the Manual on Uniform Traffic Control Devices.

Sec. 17. 23 V.S.A. § 1008a is amended to read:

§ 1008a. REGULATION OF MOTOR VEHICLES AT STATE AIRPORTS

(a)(1) The Secretary may adopt rules governing the operation, use, and parking of motor vehicles on the grounds of State airports, including the access roads.

(2) In addition, the Secretary may prescribe special restrictions related to parking of plug-in electric vehicles in designated areas on such grounds.

(b) Signs indicating the ~~special regulations~~ rules or restrictions shall be conspicuously posted in and near all areas affected.

* * * Effective Dates * * *

Sec. 18. EFFECTIVE DATES

(a) This section and Secs. 13 (reports; electric generation constraints) and 14 (RES rulemaking) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2018.

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

An act relating to appliance efficiency, energy planning, and electric vehicle parking.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for January 31, 2018, pages 213-224)

H. 663.

An act relating to municipal land use regulation of accessory on-farm businesses.

Reported favorably with recommendation of proposal of amendment by Senator Collamore for the Committee on Agriculture.

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

In Sec. 2, 24 V.S.A. § 4412, subdivision (11)(A)(i) (definition of accessory on-farm business), by striking out subdivision (II) and inserting in lieu thereof a new subdivision (II) to read:

(II) Educational, recreational, or social events that feature agricultural practices or qualifying products, or both. Such events may include tours of the farm, farm stays, tastings and meals featuring qualifying products, and classes or exhibits in the preparation, processing, or harvesting of qualifying products. As used in this subdivision (II), “farm stay” means a paid, overnight guest accommodation on a farm for the purpose of participating in educational, recreational, or social activities on the farm that feature agricultural practices or qualifying products, or both. A farm stay includes the option for guests to participate in such activities.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 8, 2018, page 334)

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

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

First: In Sec. 1 (purpose), after “General Assembly adopts” by inserting Sec. 2 of

Second: Following Sec. 2, 24 V.S.A. § 4412, by inserting a new Sec. 3 to read:

Sec. 3. 6 V.S.A. § 1113 is added to read:

§ 1113. ACCESSORY ON-FARM BUSINESSES; PESTICIDES; POSTING

When an agricultural pesticide is applied on a farm in an area in which an accessory on-farm business operates or conducts activity, the accessory on-farm business shall post the same warning signs that would be posted for agricultural workers under the rules of the U.S. Environmental Protection

Agency adopted pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. chapter 6, subchapter II (environmental pest control). The manner and duration of posting shall be the same as under those rules. As used in this section:

(1) "Accessory on-farm business" and "farm" shall have the same meaning as in 24 V.S.A. § 4412(11).

(2) "Agricultural pesticide" means any pesticide labeled for use in or on a farm, forest, nursery, or greenhouse.

And by renumbering the remaining section to be numerically correct.

(Committee vote: 5-0-0)

H. 707.

An act relating to the prevention of sexual harassment.

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

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

Sec. 1. 21 V.S.A. § 495h is amended to read:

§ 495h. SEXUAL HARASSMENT

(a)(1) All employers, employment agencies, and labor organizations have an obligation to ensure a workplace free of sexual harassment.

(2) All persons who engage a person to perform work or services have an obligation to ensure a working relationship with that person that is free from sexual harassment.

* * *

~~(c)(1) Employers shall provide individual copies of their written policies to current employees no later than November 1, 1993, and to new employees upon their being hired. Employers who have provided individual written notice to all employees within the 12 months prior to October 1, 1993, shall be exempt from having to provide an additional notice during the 1993 calendar year.~~

(2) If an employer makes changes to its policy against sexual harassment, it shall provide to all employees a written copy of the updated policy.

* * *

(f)(1) Employers and labor organizations are encouraged to conduct an education and training program within one year after September 30, 1993 for all current employees and members, and for all new employees and members thereafter within one year of commencement of employment, that includes at a minimum all the information outlined in this section within one year after commencement of employment.

(2) Employers and labor organizations are encouraged to conduct an annual education and training program for all employees and members that includes at a minimum all the information outlined in this section.

(3) Employers are encouraged to conduct additional training for current supervisory and managerial employees and members within one year of September 30, 1993, and for new supervisory and managerial employees and members within one year of after commencement of employment or membership, which should include at a minimum the information outlined in subsection (b) of this section and, the specific responsibilities of supervisory and managerial employees, and the methods actions that these employees must take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints.

(4) Employers, labor organizations, and appropriate State agencies are encouraged to cooperate in making this training available.

(g)(1) An employer shall not require any employee or prospective employee, as a condition of employment, to sign an agreement or waiver that does either of the following:

(A) prohibits, prevents, or otherwise restricts the employee or prospective employee from opposing, disclosing, reporting, or participating in an investigation of sexual harassment; or

(B) except as otherwise permitted by State or federal law, purports to waive a substantive or procedural right or remedy available to the employee with respect to a claim of sexual harassment.

(2) Any provision of an agreement that violates subdivision (1) of this subsection shall be void and unenforceable.

(h)(1) An agreement to settle a claim of sexual harassment shall not prohibit, prevent, or otherwise restrict the employee from working for the employer or any parent company, subsidiary, division, or affiliate of the employer.

(2) An agreement to settle a sexual harassment claim shall expressly state that:

(A) it does not prohibit, prevent, or otherwise restrict the individual who made the claim from doing any of the following:

(i) lodging a complaint of sexual harassment committed by any person with the Attorney General, a State's Attorney, the Human Rights Commission, the Equal Employment Opportunity Commission, or any other State or federal agency;

(ii) testifying, assisting, or participating in any manner with an investigation related to a claim of sexual harassment conducted by the Attorney General, a State's Attorney, the Human Rights Commission, the Equal Employment Opportunity Commission, or any other State or federal agency;

(iii) complying with a valid request for discovery in relation to civil litigation or testifying in a hearing or trial related to a claim of sexual harassment that is conducted by a court, pursuant to an arbitration agreement, or before another appropriate tribunal; or

(iv) exercising any right the individual may have pursuant to State or federal labor relations laws to engage in concerted activities with other employees for the purposes of collective bargaining or mutual aid and protection; and

(B) it does not waive any rights or claims that may arise after the date the settlement agreement is executed.

(3) Any provision of an agreement to settle a sexual harassment claim that violates subdivision (1) or (2) of this subsection shall be void and unenforceable with respect to the individual who made the claim.

(4) Nothing in subdivision (2) of this subsection shall be construed to prevent an agreement to settle a sexual harassment claim from waiving or releasing the claimant's right to seek or obtain any remedies relating to sexual harassment of the claimant by another party to the agreement that occurred before the date on which the agreement is executed.

(i)(1)(A)(i) For the purpose of assessing compliance with the provisions of this section, the Attorney General or designee, or, if the employer is the State, the Human Rights Commission or designee, may, with 48 hours' notice, at reasonable times and without unduly disrupting business operations enter and inspect any place of business or employment, question any person who is authorized by the employer to receive or investigate complaints of sexual harassment, and examine an employer's records, policies, procedures, and training materials related to the prevention of sexual harassment and the requirements of this section.

(ii) An employer may agree to waive or shorten the 48-hour notice period.

(iii) As used in this subsection (i), the term “records” includes de-identified data regarding the number of complaints of sexual harassment received and the resolution of each complaint.

(B) The employer shall at reasonable times and without unduly disrupting business operations make any persons who are authorized by the employer to receive or investigate complaints of sexual harassment and any records, policies, procedures, and training materials related to the prevention of sexual harassment and the requirements of this section available to the Attorney General or designee or, if the employer is the State, the Human Rights Commission or designee.

(2) Following an inspection and examination pursuant to subdivision (1) of this subsection (i), the Attorney General or the Human Rights Commission shall notify the employer of the results of the inspection and examination, including any issues or deficiencies identified, provide resources regarding practices and procedures for the prevention of sexual harassment that the employer may wish to adopt or utilize, and identify any technical assistance that the Attorney General or the Human Rights Commission may be able to provide to help the employer address any identified issues or deficiencies. If the Attorney General or the Human Rights Commission determines that it is necessary to ensure the employer’s workplace is free from sexual harassment, the employer may be required, for a period of up to three years, to provide an annual education and training program that satisfies the provisions of subsection (f) of this section to all employees or to conduct an annual, anonymous working-climate survey, or both.

(3)(A) The Attorney General shall keep records, materials, and information related to or obtained through an inspection carried out pursuant to this subsection (i) confidential as provided pursuant to 9 V.S.A. § 2460(a)(4).

(B) The Human Rights Commission shall keep records, materials, and information related to or obtained through an inspection carried out pursuant to this subsection (i) confidential as provided pursuant to 9 V.S.A. § 4555.

(j) The Attorney General shall adopt rules as necessary to implement the provisions of this section.

Sec. 2. 21 V.S.A. § 495b is amended to read:

§ 495b. PENALTIES AND ENFORCEMENT

(a)(1) The Attorney General or a State’s Attorney may enforce the provisions of this subchapter by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil

investigations in accordance with the procedures established in 9 V.S.A. §§ 2458-2461 as though an unlawful employment practice were an unfair act in commerce. Any employer, employment agency, or labor organization complained against shall have the same rights and remedies as specified therein. The Superior Courts are authorized to impose the same civil penalties and investigation costs and to order other relief to the State of Vermont or an aggrieved employee for violations of this subchapter as they are authorized to impose or order under the provisions of 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the Superior Courts may order restitution of wages or other benefits on behalf of an employee and may order reinstatement and other appropriate relief on behalf of an employee.

(2) Any charge or formal complaint filed by the Attorney General or a State's Attorney against a person for unlawful discrimination or sexual harassment in violation of the provisions of this chapter shall include a statement setting forth the prohibition against retaliation pursuant to subdivision 495(a)(8) of this title.

* * *

Sec. 3. 9 V.S.A. § 4552 is amended to read:

§ 4552. DUTIES; JURISDICTION

* * *

(b)(1) The Commission shall have jurisdiction to investigate and enforce complaints of unlawful discrimination in violation of chapter 139 of this title, discrimination in public accommodations and rental and sale of real estate. The Commission shall also have jurisdiction when the party complained against is a State agency in matters for which the Attorney General would otherwise have jurisdiction under subsection (c) of this section.

(2) In any case relating to unlawful discrimination or sexual harassment in violation of 21 V.S.A. § 495 et seq. that the Commission has jurisdiction over pursuant to this subsection, it shall include a statement setting forth the prohibition against retaliation pursuant to 21 V.S.A. § 495(a)(8) with any formal complaint that is sent to a respondent.

(c) All complaints of unlawful discrimination in violation of 21 V.S.A. §§ 495 et seq. and 710, the Fair Employment Practices Act and the provisions for workers' compensation discrimination, respectively, and of 21 V.S.A. § 471 et seq. shall be referred to the Attorney General's office, for investigation and enforcement.

Sec. 4. ATTORNEY GENERAL; HUMAN RIGHTS COMMISSION;
ENHANCED REPORTING OF DISCRIMINATION AND SEXUAL
HARASSMENT

(a) On or before December 15, 2018, the Attorney General and the Human Rights Commission shall develop and implement enhanced mechanisms for employees and members of the public to submit complaints of discrimination and sexual harassment in employment or in the course of a working relationship.

(b) The methods shall include, at a minimum, an easy-to-use portal on the Attorney General's or Human Rights Commission's website and a telephone hotline. Each method shall provide a clear statement that information submitted may be referred to the Office of the Attorney General, a State's Attorney, the Vermont Human Rights Commission, the Equal Employment Opportunity Commission, or another State or federal agency that has jurisdiction over the complaint.

Sec. 5. PUBLIC EDUCATION AND OUTREACH; VERMONT
COMMISSION ON WOMEN

(a) On or before December 15, 2018, the Vermont Commission on Women, in consultation with the Attorney General and the Human Rights Commission, shall develop a public education and outreach program that is designed to make Vermont employees, employers, businesses, and members of the public aware of:

(1) methods for reporting employment and work-related discrimination and sexual harassment;

(2) where to find information regarding:

(A) the laws related to employment and work-related discrimination and sexual harassment; and

(B) best practices for preventing employment and work-related discrimination and sexual harassment; and

(3) methods for preventing and addressing sexual harassment in the workplace.

(b) The sum of \$125,000.00 is appropriated to the Vermont Commission on Women for the purpose of creating and implementing the public education and outreach program.

(c) The program may include:

(1) public service announcements;

(2) print and electronic advertisements;

(3) web-based and electronic training materials;

(4) printed informational and training materials;

(5) model educational programs and curricula; and

(6) in-person seminars and workshops.

Sec. 6. REPORT REGARDING ENHANCED REPORTING MECHANISMS

On or before January 15, 2020, the Attorney General, in consultation with the Human Rights Commission and the Vermont Commission on Women, shall submit to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs a report regarding the implementation of the enhanced reporting mechanisms for instances of employment and work-related discrimination and sexual harassment. The report shall include:

(1) a detailed description of how any existing reporting mechanisms were enhanced and any new reporting mechanisms that were implemented;

(2) a summary of changes, if any, in the annual number of complaints of employment and work-related discrimination and sexual harassment received and the number of complaints resulting in an investigation, settlement, or State court action during calendar years 2018 and 2019 in comparison to calendar years 2016 and 2017;

(3) the number of employees and other persons that reported employment or work-related discrimination or sexual harassment to their employer, supervisor, or the person for whom they were working prior to making a complaint in comparison to the number that did not, and the reasons that employees and other persons gave for not reporting the discrimination or sexual harassment to their employer, supervisor, or the person for whom they were working prior to making a complaint; and

(4) any suggestion for legislative action to enhance further the reporting mechanisms or to reduce the amount of employment and work-related discrimination and sexual harassment.

Sec. 7. 21 V.S.A. § 495n is added to read:

§ 495n. SEXUAL HARASSMENT COMPLAINTS; NOTICE TO
ATTORNEY GENERAL AND HUMAN RIGHTS COMMISSION

(a) A person that files a claim of sexual harassment pursuant to section 495b of this subchapter in which neither the Attorney General nor the Human Rights Commission is a party shall provide notice of the action to the Attorney General and the Human Rights Commission within 14 days after filing the complaint. The notice may be submitted electronically and shall include a copy of the filed complaint.

(b)(1) Upon receiving notice of a complaint in which the State is a party, the Human Rights Commission may elect to:

(A) intervene in the action to seek remedies pursuant to section 495b of this subchapter; or

(B) without becoming a party to the action, file a statement with the court addressing questions of law related to the provisions of this subchapter.

(2) Upon receiving notice of a complaint in which the State is not a party, the Attorney General may elect to:

(A) intervene in the action to seek remedies pursuant to section 495b of this subchapter; or

(B) without becoming a party to the action, file a statement with the court addressing questions of law related to the provisions of this subchapter.

Sec. 8. COMMISSIONER OF LABOR; POSTER

On or before September 15, 2018, the Commissioner of Labor shall update the model policy and model poster created pursuant to 21 V.S.A. § 495h(d) to reflect the provisions of this act.

Sec. 9. 3 V.S.A. § 348 is added to read:

§ 348. PREVENTION OF SEXUAL HARASSMENT; TRAINING

The Secretary of Administration shall include in the terms and conditions of all contracts for services a requirement that the contractor shall:

(1) conduct an annual education and training program for all employees performing services pursuant to the contract that addresses, at a minimum, all of the information outlined in 21 V.S.A. § 495h;

(2) conduct an additional education and training program for all supervisory and managerial employees who are performing services pursuant to the contract or supervising or managing employees performing services pursuant to the contract that includes, at a minimum, the information outlined in 21 V.S.A. § 495h, the specific responsibilities of the supervisory and managerial employees with respect to the prevention of sexual harassment, and the actions that the employees must take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints; and

(3) provide to the Secretary of Administration annual written certification of compliance with the sexual harassment prevention training requirements of this section.

Sec. 10. PRIOR HARASSMENT CLAIMS; IDENTIFICATION; RELEASE FROM NONDISCLOSURE AGREEMENT; REPORT

(a) On or before January 15, 2019, the Office of Legislative Council shall submit a written report to the Senate Committee on Economic Development,

Housing and General Affairs and the House Committee on General, Housing, and Military Affairs that examines mechanisms to:

(1) provide the Attorney General and the Human Rights Commission with notice of agreements to settle sexual harassment claims that contain a provision that prohibits or restricts the individual who made the claim from disclosing information related to the claim of sexual harassment; and

(2) render provisions of agreements to settle sexual harassment claims that prohibit or restrict the individual who made the claim from disclosing information related to the claim of sexual harassment void and unenforceable if, in relation to a separate claim, the alleged harasser is later adjudicated by a court or tribunal of competent jurisdiction to have engaged in sexual harassment or retaliation in relation to a claim of sexual harassment.

(b) In particular, the report shall:

(1) identify potential mechanism to accomplish the potential changes described in subdivisions (a)(1) and (2) of this section;

(2) review and examine laws and pending legislation in other states that are related to subdivisions (a)(1) and (2) of this section;

(3) identify and examine potential legal issues, advantages, disadvantages, and obstacles to the mechanisms identified; and

(4) identify and examine any alternative mechanisms that would accomplish substantially similar policy outcomes to the potential changes described in subdivisions (a)(1) and (2) of this section.

(c) The Office of Legislative Council shall consult with the Attorney General's Office and the Human Rights Commission when preparing this report.

(d) As used in this section, "information related to the claim of sexual harassment" does not include the specific terms of the related settlement agreement or the amount of any monetary settlement.

Sec. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 13, 2018, pages 610-617)

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

The Committee recommends that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendments thereto:

First: In Sec. 5, public education and outreach, in subsection (b), after the words “Vermont Commission on Women” by inserting the following: from the General Fund in fiscal year 2018 to carry forward to fiscal year 2019

Second: By striking out Sec. 11, effective date, in its entirety and inserting in lieu thereof a new Sec. 11 to read as follows:

Sec. 11. EFFECTIVE DATES

(a) This section and, in Sec. 5, subsection (b) shall take effect on passage. The remaining provisions of Sec. 5 shall take effect on July 1, 2018.

(b) The remaining sections of this act shall take effect on July 1, 2018.

(Committee vote: 5-1-1)

Proposal of amendment to H. 707 to be offered by Senators Balint, Baruth, Clarkson, Sirotkin and Soucy

Senators Balint, Baruth, Clarkson, Sirotkin and Soucy move that the report of the Committee on Economic Development, Housing and General Affairs be amended by striking out Sec. 9, 3 V.S.A. § 348, in its entirety and inserting in lieu thereof:

Sec. 9. [Deleted.]

H. 728.

An act relating to bail reform.

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

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

Sec. 1. 13 V.S.A. § 7551 is amended to read:

§ 7551. IMPOSITION OF BAIL, SECURED APPEARANCE BONDS, AND APPEARANCE BONDS;~~GENERALLY~~

(a) Bonds; generally. A bond given by a person charged with a criminal offense or by a witness in a criminal prosecution under section 6605 of this title, conditioned for the appearance of the person or witness before the court

in cases where the offense is punishable by fine or imprisonment, and in appealed cases, shall be taken to the Criminal Division of the Superior Court where the prosecution is pending, and shall remain binding upon parties until discharged by the court or until sentencing. The person or witness shall appear at all required court proceedings.

(b) Limitation on imposition of bail, secured appearance bonds, and appearance bonds.

(1) No bond may be imposed Except as provided in subdivision (2) of this subsection, no bail, secured appearance bond, or appearance bond may be imposed:

(A) at the initial appearance of a person charged with a misdemeanor if the person was cited for the offense in accordance with Rule 3 of the Vermont Rules of Criminal Procedure; or

(B) at the initial appearance or upon the temporary release pursuant to Rule 5(b) of the Vermont Rules of Criminal Procedure of a person charged with a violation of a misdemeanor offense that is eligible for expungement pursuant to subdivision 7601(4)(A) of this title.

(2) In the event the court finds that imposing bail is necessary to mitigate the risk of flight from prosecution for a person charged with a violation of a misdemeanor offense that is eligible for expungement pursuant to subdivision 7601(4)(A) of this title, the court may impose bail in a maximum amount of \$200.00.

(3) This subsection shall not be construed to restrict the court's ability to impose conditions on such persons to reasonably ensure his or her appearance at future proceedings mitigate the risk of flight from prosecution or to reasonably protect the public in accordance with section 7554 of this title.

Sec. 2. Rule 3(k) of the Vermont Rules of Criminal Procedure is amended to read:

(k) Temporary Release. A Either a law enforcement officer arresting a person or the prosecuting attorney shall contact a judicial officer for determination of temporary release pursuant to Rule 5(b) of these rules without unnecessary delay. The law enforcement officer or prosecuting attorney shall provide the judicial officer with the information and affidavit or sworn statement required by Rule 4(a) of these rules.

Sec. 3. 13 V.S.A. § 7554 is amended to read:

§ 7554. RELEASE PRIOR TO TRIAL

(a) Release; conditions of release. Any person charged with an offense, other than a person held without bail under section 7553 or 7553a of this title,

shall at his or her appearance before a judicial officer be ordered released pending trial in accordance with this section.

(1) The defendant shall be ordered released on personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judicial officer unless the judicial officer determines that such a release will not reasonably ~~ensure the appearance of the person~~ mitigate the risk of flight from prosecution as required. In determining whether the defendant presents a risk of ~~nonappearance~~ flight from prosecution, the judicial officer shall consider, in addition to any other factors, the seriousness of the offense charged and the number of offenses with which the person is charged. If the officer determines that such a release will not reasonably ~~ensure the appearance of the defendant as required~~ the defendant presents a risk of flight from prosecution, the officer shall, either in lieu of or in addition to the methods of release in this section, impose the least restrictive of the following conditions or the least restrictive combination of the following conditions that will reasonably ~~ensure the appearance~~ mitigate the risk of flight of the defendant as required:

(A) Place the defendant in the custody of a designated person or organization agreeing to supervise him or her if the defendant is charged with an offense that is not a nonviolent misdemeanor or nonviolent felony as defined in 28 V.S.A. § 301.

(B) Place restrictions on the travel, ~~or association, or place of abode~~ of the defendant during the period of release.

(C) Require the defendant to participate in an alcohol or drug treatment program. The judicial officer shall take into consideration the defendant's ability to comply with an order of treatment and the availability of treatment resources.

(D) ~~Require~~ Upon consideration of the defendant's financial means, require the execution of a secured appearance bond in a specified amount and the deposit with the clerk of the ~~Court~~ court, in cash or other security as directed, of a sum not to exceed 10 percent of the amount of the bond, such deposit to be returned upon the appearance of the defendant as required.

(E) ~~Require~~ Upon consideration of the defendant's financial means, require the execution of a surety bond with sufficient solvent sureties, or the deposit of cash in lieu thereof.

(F) Impose any other condition found reasonably necessary to ~~ensure appearance~~ mitigate the risk of flight as required, including a condition requiring that the defendant return to custody after specified hours.

(G) Place the defendant in a program of community-based electronic

monitoring in accordance with section 7554d of this title.

(2) If the judicial officer determines that conditions of release imposed to ~~ensure appearance~~ mitigate the risk of flight will not reasonably protect the public, the judicial officer may impose in addition the least restrictive of the following conditions or the least restrictive combination of the following conditions that will reasonably ensure protection of the public:

(A) Place the defendant in the custody of a designated person or organization agreeing to supervise him or her if the defendant is charged with an offense that is not a nonviolent misdemeanor or nonviolent felony as defined in 28 V.S.A. § 301.

(B) Place restrictions on the travel, association, or place of abode of the defendant during the period of release.

(C) Require the defendant to participate in an alcohol or drug treatment program. The judicial officer shall take into consideration the defendant's ability to comply with an order of treatment and the availability of treatment resources.

(D) Impose any other condition found reasonably necessary to protect the public, except that a physically restrictive condition may only be imposed in extraordinary circumstances.

(E) ~~If the defendant is a State, county, or municipal officer charged with violating section 2537 of this title, the court may suspend~~ Suspend the officer's duties in whole or in part, if the defendant is a State, county, or municipal officer charged with violating section 2537 of this title and the court finds that it is necessary to protect the public.

(F) Place the defendant in a program of community-based electronic monitoring in accordance with section 7554d of this title.

(3) A judicial officer may order that a defendant not harass or contact or cause to be harassed or contacted a victim or potential witness. This order shall take effect immediately, regardless of whether the defendant is incarcerated or released.

(b) Judicial considerations in imposing conditions of release. In determining which conditions of release to impose ~~under subsection:~~

(1) In subdivision (a)(1) of this section, the judicial officer, on the basis of available information, shall take into account the nature and circumstances of the offense charged; the weight of the evidence against the accused; the accused's employment; financial resources, including the accused's ability to post bail; the accused's character and mental condition; the accused's length of residence in the community; and the accused's record of appearance at court

proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

(2) In subdivision (a)(2) of this section, the judicial officer ~~shall~~, on the basis of available information, shall take into account the nature and circumstances of the offense charged, the weight of the evidence against the accused, the accused's family ties, employment, ~~financial resources~~, character and mental condition, ~~the~~ length of residence in the community, record of convictions, and record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings. Recent history of actual violence or threats of violence may be considered by the judicial officer as bearing on the character and mental condition of the accused.

(c) Order. A judicial officer authorizing the release of a person under this section shall issue an appropriate order containing a statement of the conditions imposed, if any; ~~shall~~ inform such person of the penalties applicable to violations of the conditions of release; ~~and shall advise him or her that a warrant for his or her arrest will be issued immediately upon any such violation.~~

(d) Review of conditions.

(1) A person for whom conditions of release are imposed and who is detained as a result of his or her inability to meet the conditions of release or who is ordered released on a condition that he or she return to custody after specified hours, or the State, following a material change in circumstances, shall, within 48 hours of following application, be entitled to have the conditions reviewed by a judge in the court having original jurisdiction over the offense charged. A ~~person~~ party applying for review shall be given the opportunity for a hearing. Unless the conditions of release are amended as requested, the judge shall set forth in writing or orally on the record a reasonable basis for continuing the conditions imposed. In the event that a judge in the court having original jurisdiction over the offense charged is not available, any Superior judge may review such conditions.

(2) A person for whom conditions of release are imposed shall, within five working days of following application, be entitled to have the conditions reviewed by a judge in the court having original jurisdiction over the offense charged. A person applying for review shall be given the opportunity for a hearing. Unless the conditions of release are amended as requested, the judge shall set forth in writing or orally on the record a reasonable basis for continuing the conditions imposed. In the event that a judge in the court having original jurisdiction over the offense charged is not available, any Superior judge may review such conditions.

(e) Amendment of order. A judicial officer ordering the release of a person

on any condition specified in this section may at any time amend the order to impose additional or different conditions of release; provided that the provisions of subsection (d) of this section shall apply.

(f) Definition. The term “judicial officer” as used in this section and section 7556 of this title shall mean a clerk of a Superior Court or a Superior Court judge.

(g) Admissibility of evidence. Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

(h) Forfeiture. Nothing contained in this section shall be construed to prevent the disposition of any case or class of cases by forfeiture of collateral security ~~where~~ if such disposition is authorized by the court.

(i) Forms. The Court Administrator shall establish forms for appearance bonds, secured appearance bonds, surety bonds, and for use in the posting of bail. Each form shall include the following information:

(1) The bond or bail may be forfeited in the event that the defendant or witness fails to appear at any required court proceeding.

(2) The surety or person posting bond or bail has the right to be released from the obligations under the bond or bail agreement upon written application to the judicial officer and detention of the defendant or witness.

(3) The bond will continue through sentencing in the event that bail is continued after final adjudication.

(j) Juveniles. Any juvenile between 14 and 16 years of age who is charged with a listed crime as defined in subdivision 5301(7) of this title shall appear before a judicial officer and be ordered released pending trial in accordance with this section within 24 hours ~~of~~ following the juvenile’s arrest.

Sec. 4. 13 V.S.A. § 7575 is amended to read:

§ 7575. REVOCATION OF THE RIGHT TO BAIL

The right to bail may be revoked entirely if the judicial officer finds that the accused has:

(1) intimidated or harassed a victim, potential witness, juror, or judicial officer in violation of a condition of release; or

(2) repeatedly violated conditions of release in a manner that impedes the prosecution of the accused; or

(3) violated a condition or conditions of release ~~which~~ that constitute a threat to the integrity of the judicial system; or

(4) without just cause, failed to appear at a specified time and place ordered by a judicial officer; or

(5) in violation of a condition of release, been charged with a felony or a crime against a person or an offense like similar to the underlying charge, for which, after hearing, probable cause is found.

Sec. 5. 13 V.S.A. § 7576 is amended to read:

§ 7576. DEFINITIONS

As used in this chapter:

* * *

(9) “Flight from prosecution” means any action or behavior undertaken by a person charged with a criminal offense to avoid court proceedings.

Sec. 6. INCARCERATION RATES OF PEOPLE OF COLOR; STUDY COMMITTEE; REPORT

(a) Study Committee. The Commissioner of the Department of Corrections, the Commissioner of the Department of Public Safety, the Attorney General, the Executive Director of the Department of State’s Attorneys and Sheriffs, and the Director of the Vermont State Police shall meet during the 2018 legislative interim to examine data regarding people of color who are incarcerated in Vermont. To the extent possible, the Committee shall also review data regarding people of color incarcerated in Maine and New Hampshire.

(b) On or before October 15, 2018, the committee shall report to the Joint Legislative Justice Oversight Committee on:

(1) data regarding all nonwhite offenders in the custody of the Department of Corrections, including:

(A) demographic information about the offender, including race and ethnicity and all known places of residence;

(B) the crime or crimes for which the offender is serving a sentence or being detained; and

(C) the length of the sentence being served by the offender or the length of his or her detainment;

(2) sentence length comparison data between white and nonwhite offenders who committed the same offense; and

(3) comparison data among Vermont, Maine, and New Hampshire regarding sentence lengths and incarceration rates of people of color.

Sec. 7. 13 V.S.A. § 7554b is amended to read:

§ 7554b. HOME DETENTION PROGRAM

(a) Definition. As used in this section, “home detention” means a program of confinement and supervision that restricts a defendant to a preapproved residence continuously, except for authorized absences, and is enforced by appropriate means of surveillance and electronic monitoring by the Department of Corrections. The court may authorize scheduled absences such as for work, school, or treatment. Any changes in the schedule shall be solely at the discretion of the Department of Corrections. A defendant who is on home detention shall remain in the custody of the Commissioner of Corrections with conditions set by the court.

(b) Procedure. At the request of the court, the Department of Corrections, or the defendant, the status of a defendant who is detained pretrial in a correctional facility for ~~lack of inability to pay bail after bail has been set by the court~~ may be reviewed by the court to determine whether the defendant is appropriate for home detention. The review shall be scheduled upon the court’s receipt of a report from the Department determining that the proposed residence is suitable for the use of electronic monitoring. A defendant held without bail pursuant to section 7553 or 7553a of this title shall not be eligible for release to the Home Detention Program on or after June 1, 2018. At arraignment or after a hearing, the court may order that the defendant be released to the Home Detention Program, ~~providing~~ provided that the court finds placing the defendant on home detention will reasonably assure his or her appearance in court when required and the proposed residence is appropriate for home detention. In making such a determination, the court shall consider:

- (1) the nature of the offense with which the defendant is charged;
- (2) the defendant’s prior convictions, history of violence, medical and mental health needs, history of supervision, and risk of flight; and
- (3) any risk or undue burden to other persons who reside at the proposed residence or risk to third parties or to public safety that may result from such placement.

* * *

Sec. 8. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE;
HOME DETENTION PROGRAM REVIEW

During the 2018 legislative interim, the Joint Legislative Justice Oversight Committee shall evaluate the Home Detention Program established under 13 V.S.A. § 7554b and recommend how to improve and expand the Program and what entity should manage the Program. Any resulting legislative recommendations shall be introduced as a bill in the 2019 legislative session.

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 2, 2018, pages 562-567)

H. 731.

An act relating to miscellaneous workers' compensation and occupational safety amendments.

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

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

* * * Workers' Compensation; Protection Against Retaliation * * *

Sec. 1. 21 V.S.A. § 710 is amended to read:

§ 710. UNLAWFUL DISCRIMINATION

(a) No person, firm, or corporation shall refuse to employ any applicant for employment because ~~such~~ the applicant asserted a claim for workers' compensation benefits under this chapter or under the law of any state or of the United States. Nothing in this section shall require a person to employ an applicant who does not meet the qualifications of the position sought.

(b) No person shall discharge or discriminate against an employee from employment because ~~such~~ the employee asserted or attempted to assert a claim for benefits under this chapter or under the law of any state or of the United States.

(c) The Department shall not include in any publication or public report the name or contact information of any individual who has alleged that an employer has made a false statement or misclassified any employees, unless it is required by law or necessary to enable enforcement of this chapter.

(d) An employer shall not retaliate or take any other negative action against an individual because the employer knows or suspects that the individual has filed a complaint ~~with the Department or other authority~~, or reported a violation of this chapter, or has testified, assisted, or cooperated in any manner with the Department or other appropriate governmental agency or department in an investigation of misclassification, discrimination, or other violation of this chapter.

(e) The Attorney General or a State's Attorney may enforce the provisions of this section by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458-2461 as though ~~discrimination under~~ a violation of this section were an unfair act in commerce.

(f) The provisions against retaliation in subdivision 495(a)(8) of this title and the penalty and enforcement provisions of section 495b of this title shall apply to this ~~subchapter~~ section.

* * * Workers' Compensation Administration Fund * * *

Sec. 2. WORKERS' COMPENSATION RATE OF CONTRIBUTION

For fiscal year 2019, after consideration of the formula in 21 V.S.A. § 711(b) and historical rate trends, the General Assembly has established that the rate of contribution for the direct calendar year premium for workers' compensation insurance shall remain at the rate of 1.4 percent. The contribution rate for self-insured workers' compensation losses and workers' compensation losses of corporations approved under 21 V.S.A. chapter 9 shall remain at one percent.

Sec. 3. POTENTIAL DELEGATION OF RATE SETTING AUTHORITY; REPORT

On or before January 15, 2019, the Commissioner of Labor shall submit a written report to the House Committees on Commerce and Economic Development and on Ways and Means and the Senate Committees on Economic Development, Housing and General Affairs and on Finance regarding the potential for delegating the authority to set the Workers' Compensation Administration Fund rate of contribution for the direct calendar year premium for workers' compensation insurance to the Commissioner of Labor. In particular, the report shall:

(1) describe how the Department calculates the rate of contribution that it annually proposes to the General Assembly pursuant to 21 V.S.A. § 711(b);

(2) identify any advantages and disadvantages of the General Assembly's delegating to the Commissioner of Labor authority to establish annually the rate of contribution for the direct calendar year premium for workers' compensation insurance; and

(3) identify any legislative, regulatory, and administrative changes that would need to be made in order to delegate to the Commissioner the authority to establish annually the rate of contribution for the direct calendar year premium for workers' compensation insurance.

* * * Discontinuance of Workers' Compensation Benefits * * *

Sec. 4. 2014 Acts and Resolves No. 199, Sec. 54a is amended to read:

Sec. 54a. REPEAL

21 V.S.A. § 643a shall be repealed on July 1, ~~2018~~ 2023.

Sec. 5. 2014 Acts and Resolves No. 199, Sec. 69 is amended to read:

Sec. 69. EFFECTIVE DATES

* * *

(b) Sec. 54b (reinstatement of current law governing discontinuance of workers' compensation insurance benefits) shall take effect on July 1, ~~2018~~ 2023.

* * *

* * * Vermont Occupational Safety and Health Act * * *

Sec. 6. 21 V.S.A. § 225 is amended to read:

§ 225. CITATIONS

(a)(1) If, upon inspection or investigation, the Commissioner or the Director, or the agent of either of them, finds that an employer has violated a requirement of the VOSHA Code, the Commissioner shall with reasonable promptness issue a citation to the employer and serve it on the employer by certified mail or in the same manner as a summons to the Superior Court. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provisions of the statute, standard, rule, or order alleged to have been violated, as well as the penalty, if any, proposed to be assessed pursuant to section 210 of this title. In addition, the citation shall fix a reasonable time for the abatement of the violation.

(2) By rule, the Commissioner shall ~~prescribe~~ adopt procedures for issuance of a notice in lieu of a citation with respect to ~~de minimus~~ de minimis violations ~~which~~ that have no direct or immediate relationship to safety or health, and for hearing interested parties before a civil penalty is assessed.

(b) Each citation issued under this section, or a copy or copies ~~thereof~~ of the citation, shall be prominently posted, as prescribed in rules ~~promulgated~~ adopted by the Commissioner, at or near each place a violation referred to in the citation occurred or existed.

* * *

Sec. 7. 21 V.S.A. § 226 is amended to read:

§ 226. ENFORCEMENT

~~(a)(1) After issuing a citation under section 225 of this title, the Commissioner shall notify the employer by certified mail or by service by an agent, of the penalty, if any, proposed to be assessed under section 210 of this title. The An employer shall have, within 20 days after personal service or receipt of the notice within which to a citation issued under section 225 of this title, notify the Commissioner that he or she wishes to appeal the citation or proposed assessment of penalty, and if no notice is filed by.~~

(2) If an employer does not notify the Commissioner as provided in this subsection and an employee does not file a notice under subsection (c) of this section, the citation and assessment penalty, as proposed, shall be deemed a final order of the Review Board and not subject to review by any court or agency.

~~(b)(1)(A) If the Commissioner on inspection or investigation finds that an employer has failed to correct a violation for which a citation has been issued within the period permitted for its correction (which period shall not begin to run until the entry of a final order by the Review Board in the case of any review proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties, or on the day the citation and assessment becomes final under subsection (a) of this section), the Commissioner shall notify the employer by certified mail of such the failure and of the penalty proposed to be assessed under section 210 of this title by reason of such the failure.~~

(B) The period to correct a violation shall begin to run:

(i) when a final order is entered by the Review Board in relation to review proceedings under this section that are initiated by an employer in good faith and not solely for delay or avoidance of penalties; or

(ii) on the day the citation and penalty become final under subsection (a) of this section.

(2) The employer shall have 20 days after the receipt of the notice within which to notify the Commissioner that he or she wishes to appeal the Commissioner's notification citation or the proposed assessment of penalty. If within 20 days from the receipt of the notification issued by the Commissioner, the employer fails to notify the Commissioner that he or she intends to appeal the notification or proposed assessment of penalty, the notification citation and assessment, as proposed, shall be deemed a final order of the Review Board and not subject to review by any court or agency.

(c) If an employer notifies the Commissioner that he or she intends to contest a citation issued under section 225 of this title or notification issued under subsection (a) or (b) of this section, or if, within 20 days of after the

issuance of a citation issued under section 225 of this title, any employee or representative of employees files a notice with the Commissioner alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the Commissioner shall immediately advise the Review Board of such the notification and the Review Board shall afford an opportunity for a hearing. Unless ~~the~~ a notice is timely filed, the proposed penalty and, in appropriate cases, the ~~notification of the Commissioner citation~~ shall be deemed a final order of the Review Board not subject to review by any court or agency.

(d) After hearing an appeal, the Review Board shall ~~thereafter~~ issue an order based on findings of fact ~~affirming, modifying, or vacating~~ that affirms, modifies, or vacates the Commissioner's citation or proposed penalty, or both, or directing provides other appropriate relief, ~~and the~~. The order shall become final 30 days after its issuance unless judicial review is timely taken under section 227 of this title. The rules of procedure ~~prescribed~~ adopted by the Review Board shall provide affected employees or their representatives with an opportunity to participate as parties in ~~hearings~~ a hearing under this subsection.

* * * Report on Debarment * * *

Sec. 8. DEBARMENT; OFFICE OF LEGISLATIVE COUNCIL; REPORT

(a) On or before January 15, 2019, the Office of Legislative Council shall submit to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development a written report on the use of debarment in relation to the laws against employee misclassification. In particular, the report shall:

(1) summarize Vermont's laws, rules, and procedures related to debarment, including the violations that can trigger a debarment proceeding;

(2) describe the use of Vermont's debarment procedures and why they have not been used more frequently to date;

(3) identify any obstacles that prevent or hinder the use of Vermont's debarment procedures;

(4) summarize the actions taken by the Agencies of Administration and of Transportation and the Departments of Labor, of Financial Regulation, and of Buildings and General Services to utilize debarment to ensure that the State is not contracting with employers that misclassify employees in violation of Vermont law;

(5) identify other states that utilize debarment as a means of enforcing the laws against employee misclassification and summarize the manner and frequency of debarment proceedings in those states;

(6) summarize specific characteristics of other states' laws, rules, and procedures related to debarment that have been identified as either enhancing or limiting their effectiveness in enforcing those states' laws against employee misclassification; and

(7) summarize any legislative, regulatory, or administrative changes that are identified by the Agency of Administration, Agency of Transportation, Department of Labor, Department of Financial Regulation, or Department of Buildings and General Services as necessary to make debarment a more effective tool for reducing the occurrence of and enforcing the laws against employee misclassification.

(b) In preparing the report, the Office of Legislative Council shall consult with the Agencies of Administration and of Transportation and the Departments of Labor, of Financial Regulation, and of Buildings and General Services.

(c) The Secretaries of Administration and of Transportation and the Commissioners of Labor, of Financial Regulation, and of Buildings and General Services shall, upon request, promptly provide the Office of Legislative Council with any pertinent information related to debarment procedures and the use of debarment as a means of enforcing Vermont's laws against employee misclassification.

* * * Effective Dates * * *

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 4, 5, 6, and 7 shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 28, 2018, pages 471-475)

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

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

(Committee vote: 7-0-0)

H. 764.

An act relating to data brokers and consumer protection.

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

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

Sec. 1. FINDINGS AND INTENT

(a) The General Assembly finds the following:

(1) Providing consumers with more information about data brokers, their data collection practices, and the right to opt out.

(A) While many different types of business collect data about consumers, a “data broker” is in the business of aggregating and selling data about consumers with whom the business does not have a direct relationship.

(B) A data broker collects many hundreds or thousands of data points about consumers from multiple sources, including: Internet browsing history; online purchases; public records; location data; loyalty programs; and subscription information. The data broker then scrubs the data to ensure accuracy; analyzes the data to assess content; and packages the data for sale to a third party.

(C) Data brokers provide information that is critical to services offered in the modern economy, including: targeted marketing and sales; credit reporting; background checks; government information; risk mitigation and fraud detection; people search; decisions by banks, insurers, or others whether to provide services; ancestry research; and voter targeting and strategy by political campaigns.

(D) While data brokers offer many benefits, there are also risks associated with the widespread aggregation and sale of data about consumers, including risks related to consumers’ ability to know and control information held and sold about them and risks arising from the unauthorized or harmful acquisition and use of consumer information.

(E) There are important differences between “data brokers” and businesses with whom consumers have a direct relationship.

(i) Consumers who have a direct relationship with traditional and e-commerce businesses may have some level of knowledge about and control over the collection of data by those business, including: the choice to use the

business's products or services; the ability to review and consider data collection policies; the ability to opt out of certain data collection practices; the ability to identify and contact customer representatives; the ability to pursue contractual remedies through litigation; and the knowledge necessary to complain to law enforcement.

(ii) By contrast, consumers may not be aware that data brokers exist, who the companies are, or what information they collect, and may not be aware of available recourse.

(F) The State of Vermont has the legal authority and duty to exercise its traditional "Police Powers" to ensure the public health, safety, and welfare, which includes both the right to regulate businesses that operate in the State and engage in activities that affect Vermont consumers as well as the right to require disclosure of information to protect consumers from harm.

(G) To provide consumers with necessary information about data brokers, Vermont should adopt a narrowly tailored definition of "data broker" and require data brokers to register annually with the Secretary of State and provide information about their data collection activities, opt out policies, purchaser credentialing practices, and security breaches.

(2) Ensuring that data brokers have adequate security standards.

(A) News headlines in the past several years demonstrate that large and sophisticated businesses, governments, and other public and private institutions are constantly subject to cyberattacks, which have compromised sensitive personal information of literally billions of consumers worldwide.

(B) While neither government nor industry can prevent every security breach, the State of Vermont has the authority and the duty to enact legislation to protect its consumers where possible.

(C) One approach to protecting consumer data has been to require government agencies and certain regulated businesses to adopt an "information security program" that has "appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records" and "to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm." Federal Privacy Act; 5 U.S.C. § 552a.

(D) The requirement to adopt such an information security program currently applies to "financial institutions" subject to the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq; to certain entities regulated by the Vermont Department of Financial Regulation pursuant to rules adopted by the Department; to persons who maintain or transmit health information regulated by the Health Insurance Portability and Accountability Act; and to various types of businesses under laws in at least 13 other states.

(E) Vermont can better protect its consumers from data broker security breaches and related harm by requiring data brokers to adopt an information security program with appropriate administrative, technical, and physical safeguards to protect sensitive personal information.

(3) Prohibiting the acquisition of personal information through fraudulent means or with the intent to commit wrongful acts.

(A) One of the dangers of the broad availability of sensitive personal information is that it can be used with malicious intent to commit wrongful acts, such as stalking, harassment, fraud, discrimination, and identity theft.

(B) While various criminal and civil statutes prohibit these wrongful acts, there is currently no prohibition on acquiring data for the purpose of committing such acts.

(C) Vermont should create new causes of action to prohibit the acquisition of personal information through fraudulent means, or for the purpose of committing a wrongful act, to enable authorities and consumers to take action.

(4) Removing financial barriers to protect consumer credit information.

(A) In one of several major security breaches that have occurred in recent years, the names, Social Security numbers, birth dates, addresses, driver's license numbers, and credit card numbers of over 145 million Americans were exposed, including over 247,000 Vermonters.

(B) In response to concerns about data security, identity theft, and consumer protection, the Vermont Attorney General and the Department of Financial Regulation have outlined steps a consumer should take to protect his or her identity and credit information. One important step a consumer can take is to place a security freeze on his or her credit file with each of the national credit reporting agencies.

(C) Under State law, when a consumer places a security freeze, a credit reporting agency issues a unique personal identification number or password to the consumer. The consumer must provide the PIN or password, and his or her express consent, to allow a potential creditor to access his or her credit information.

(D) Except in cases of identity theft, current Vermont law allows a credit reporting agency to charge a fee of up to \$10.00 to place a security freeze, and up to \$5.00 to lift temporarily or remove a security freeze.

(E) Vermont should exercise its authority to prohibit these fees to eliminate any financial barrier to placing or removing a security freeze.

(b) Intent.

(1) Providing consumers with more information about data brokers, their data collection practices, and the right to opt out. It is the intent of the General Assembly to provide Vermonters with access to more information about the data brokers that collect consumer data and their collection practices by:

(A) adopting a narrowly tailored definition of “data broker” that:

(i) includes only those businesses that aggregate and sell the personal information of consumers with whom they do not have a direct relationship; and

(ii) excludes businesses that collect information from their own customers, employees, users, or donors, including: banks and other financial institutions; utilities; insurers; retailers and grocers; restaurants and hospitality businesses; social media websites and mobile “apps”; search websites; and businesses that provide services for consumer-facing businesses and maintain a direct relationship with those consumers, such as website, “app,” and e-commerce platforms; and

(B) requiring a data broker to register annually with the Secretary of State and make certain disclosures in order to provide consumers, policy makers, and regulators with relevant information.

(2) Ensuring that data brokers have adequate security standards. It is the intent of the General Assembly to protect against potential cyber threats by requiring data brokers to adopt an information security program with appropriate technical, physical, and administrative safeguards.

(3) Prohibiting the acquisition of personal information with the intent to commit wrongful acts. It is the intent of the General Assembly to protect Vermonters from potential harm by creating new causes of action that prohibit the acquisition or use of personal information for the purpose of stalking, harassment, fraud, identity theft, or discrimination.

(4) Removing financial barriers to protect consumer credit information. It is the intent of the General Assembly to remove any financial barrier for Vermonters who wish to place a security freeze on their credit report by prohibiting credit reporting agencies from charging a fee to place or remove a freeze.

Sec. 2. 9 V.S.A. chapter 62 is amended to read:

CHAPTER 62. PROTECTION OF PERSONAL INFORMATION

Subchapter 1. General Provisions

§ 2430. DEFINITIONS

~~The following definitions shall apply throughout this chapter unless otherwise required~~ As used in this chapter:

(1) “Biometric record” means an individual’s psychological, biological, or behavioral characteristics that can be used, singly or in combination with each other or with other identifying data, to establish individual identity, including:

(A) imagery of the iris, retina, fingerprint, face, hand, palm, or vein patterns, and voice recordings, from which an identifier template, such as a face print or a minutiae template or voiceprint, can be extracted;

(B) keystroke patterns or rhythms;

(C) gait patterns or rhythms; and

(D) sleep health or exercise data that contain identifying information.

(2)(A) “Brokered personal information” means:

(i) one or more of the following computerized data elements about a consumer:

(I) name;

(II) address;

(III) a personal identifier, including a Social Security number, other government-issued identification number, or biometric record;

(IV) an indirect identifier, including date of birth, place of birth, or mother’s maiden name; or

(V) other information that, alone or in combination, is linked or linkable to the consumer that would allow a reasonable person to identify the consumer with reasonable certainty; and

(ii) the computerized data element or elements are:

(I) categorized by characteristic for dissemination to third parties; or

(II) combined with nonpublic information.

(B) “Brokered personal information” does not include publicly available information that is solely related to a consumer’s business or profession.

(3) “Business” means a commercial entity, including a sole proprietorship, partnership, corporation, association, limited liability company, or other group, however organized and whether or not organized to operate at a profit, including a financial institution organized, chartered, or holding a

license or authorization certificate under the laws of this State, any other state, the United States, or any other country, or the parent, affiliate, or subsidiary of a financial institution, but in no case shall it does not include the State, a State agency, or any political subdivision of the State, or a vendor acting solely on behalf of, and at the direction of, the State.

~~(2)~~(4) “Consumer” means an individual residing in this State.

(5)(A) “Data broker” means:

(i) A business that:

(I) provides people search services; or

(II) collects and sells or licenses to one or more third parties the brokered personal information of a consumer with whom the business does not have a direct relationship.

(ii) “Data broker” includes each affiliated business that is under common ownership or control if one business collects brokered personal information and provides it to another to sell or license.

(B) “Data broker” does not include:

(i) a business that solely develops or maintains third-party e-commerce or application platforms; or

(ii) a business that solely provides publicly available information via real-time or near-real-time alert services for health or safety purposes.

(C) For purposes of subdivision (3)(A)(ii) of this subsection, examples of a direct relationship with a business include if the consumer is a past or present:

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

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

(iii) investor in the business; or

(iv) donor to the business.

(D) For purposes of subdivision (3)(A)(ii) of this subsection, a business does not sell or license brokered personal information within the meaning of the definition of “data broker” if the sale or license is merely incidental to one of its lines of business.

(6)(A) “Data broker security breach” means an unauthorized acquisition or a reasonable belief of an unauthorized acquisition of more than one element of brokered personal information maintained by a data broker when the brokered personal information is not encrypted, redacted, or protected by

another method that renders the information unreadable or unusable by an unauthorized person.

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

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

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

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

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

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

~~(3)(7) “Data collector” may include the State, State agencies, political subdivisions of the State, public and private universities, privately and publicly held corporations, limited liability companies, financial institutions, retail operators, and any other entity that, means a person who, for any purpose, whether by automated collection or otherwise, handles, collects, disseminates, or otherwise deals with nonpublic personal information personally identifiable information, and includes the State, State agencies, political subdivisions of the State, public and private universities, privately and publicly held corporations, limited liability companies, financial institutions, and retail operators.~~

~~(4)(8) “Encryption” means use of an algorithmic process to transform data into a form in which the data is rendered unreadable or unusable without use of a confidential process or key.~~

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

(10)(A) “People search services” means an Internet-based service in which an individual can pay a fee to search for a specific consumer, and which provides information about the consumer such as the consumer’s address, age, maiden name, alias, name or addresses of relatives, financial records, criminal records, background reports, or property details, where the consumer whose data is provided does not have a direct relationship with the business.

(B) “People search services” does not include a service that solely provides publicly available information related to a consumer’s business or profession.

~~(5)~~(11)(A) “Personally identifiable information” means an individual’s a consumer’s first name or first initial and last name in combination with any one or more of the following digital data elements, when either the name or the data elements are not encrypted or redacted or protected by another method that renders them unreadable or unusable by unauthorized persons:

(i) Social Security number;

(ii) motor vehicle operator’s license number or nondriver identification card number;

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

(iv) account passwords or personal identification numbers or other access codes for a financial account.

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

~~(6)~~(12) “Records Record” means any material on which written, drawn, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics.

~~(7)~~(13) “Redaction” means the rendering of data so that it is the data are unreadable or is are truncated so that no more than the last four digits of the identification number are accessible as part of the data.

~~(8)~~(14)(A) “Security breach” means unauthorized acquisition of, electronic data or a reasonable belief of an unauthorized acquisition of, electronic data that compromises the security, confidentiality, or integrity of a consumer’s personally identifiable information maintained by the a data collector.

(B) “Security breach” does not include good faith but unauthorized acquisition of personally identifiable information by an employee or agent of

the data collector for a legitimate purpose of the data collector, provided that the personally identifiable information is not used for a purpose unrelated to the data collector's business or subject to further unauthorized disclosure.

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

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

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

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

(iv) that the information has been made public.

§ 2433. ACQUISITION OF BROKERED PERSONAL INFORMATION;
PROHIBITIONS

(a) Prohibited acquisition and use.

(1) A person shall not acquire brokered personal information through fraudulent means.

(2) A person shall not acquire or use brokered personal information for the purpose of:

(A) stalking or harassing another person;

(B) committing a fraud, including identity theft, financial fraud, or e-mail fraud; or

(C) engaging in unlawful discrimination, including employment discrimination and housing discrimination.

(b) For purposes of this section, brokered personal information includes information acquired from people search services.

(c) Enforcement.

(1) A person who violates a provision of this section commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(2) The Attorney General has the same authority to adopt rules to implement the provisions of this section and to conduct civil investigations, enter into assurances of discontinuance, bring civil actions, and take other

enforcement actions as provided under chapter 63, subchapter 1 of this title.

* * *

Subchapter 5. Data Brokers

§ 2446. ANNUAL REGISTRATION

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

- (1) register with the Secretary of State;
- (2) pay a registration fee of \$100.00; and
- (3) provide the following information:

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

(B) the nature and type of sources used to compile data;

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

(i) the method for requesting an opt out;

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

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

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

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

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

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

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

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

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

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

(3) other penalties imposed by law.

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

§ 2447. DATA BROKER DUTY TO PROTECT INFORMATION;
STANDARDS; TECHNICAL REQUIREMENTS

(a) Duty to protect personally identifiable information.

(1) A data broker shall develop, implement, and maintain a comprehensive information security program that is written in one or more readily accessible parts and contains administrative, technical, and physical safeguards that are appropriate to:

(A) the size, scope, and type of business of the data broker obligated to safeguard the personally identifiable information under such comprehensive information security program;

(B) the amount of resources available to the data broker;

(C) the amount of stored data; and

(D) the need for security and confidentiality of personally identifiable information.

(2) A data broker subject to this subsection shall adopt safeguards in the comprehensive security program that are consistent with the safeguards for protection of personally identifiable information and information of a similar character set forth in other State rules or federal regulations applicable to the data broker.

(b) Information security program; minimum features. A comprehensive information security program shall at minimum have the following features:

(1) designation of one or more employees to maintain the program;

(2) identification and assessment of reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of any electronic, paper, or other records containing personally identifiable information, and a process for evaluating and improving, where necessary, the effectiveness of the

current safeguards for limiting such risks, including:

(A) ongoing employee training, including training for temporary and contract employees;

(B) employee compliance with policies and procedures; and

(C) means for detecting and preventing security system failures;

(3) security policies for employees relating to the storage, access, and transportation of records containing personally identifiable information outside business premises;

(4) disciplinary measures for violations of the comprehensive information security program rules;

(5) measures that prevent terminated employees from accessing records containing personally identifiable information;

(6) supervision of service providers, by:

(A) taking reasonable steps to select and retain third-party service providers that are capable of maintaining appropriate security measures to protect personally identifiable information consistent with applicable law; and

(B) requiring third-party service providers by contract to implement and maintain appropriate security measures for personally identifiable information;

(7) reasonable restrictions upon physical access to records containing personally identifiable information and storage of the records and data in locked facilities, storage areas, or containers;

(8)(A) regular monitoring to ensure that the comprehensive information security program is operating in a manner reasonably calculated to prevent unauthorized access to or unauthorized use of personally identifiable information; and

(B) upgrading information safeguards as necessary to limit risks;

(9) regular review of the scope of the security measures:

(A) at least annually; or

(B) whenever there is a material change in business practices that may reasonably implicate the security or integrity of records containing personally identifiable information; and

(10)(A) documentation of responsive actions taken in connection with any incident involving a breach of security; and

(B) mandatory post-incident review of events and actions taken, if any, to make changes in business practices relating to protection of personally identifiable information.

(c) Information security program; computer system security requirements. A comprehensive information security program required by this section shall at minimum, and to the extent technically feasible, have the following elements:

(1) secure user authentication protocols, as follows:

(A) an authentication protocol that has the following features:

(i) control of user IDs and other identifiers;

(ii) a reasonably secure method of assigning and selecting passwords or use of unique identifier technologies, such as biometrics or token devices;

(iii) control of data security passwords to ensure that such passwords are kept in a location and format that do not compromise the security of the data they protect;

(iv) restricting access to only active users and active user accounts; and

(v) blocking access to user identification after multiple unsuccessful attempts to gain access; or

(B) an authentication protocol that provides a higher level of security than the features specified in subdivision (A) of this subdivision (c)(1).

(2) secure access control measures that:

(A) restrict access to records and files containing personally identifiable information to those who need such information to perform their job duties; and

(B) assign to each person with computer access unique identifications plus passwords, which are not vendor-supplied default passwords, that are reasonably designed to maintain the integrity of the security of the access controls or a protocol that provides a higher degree of security;

(3) encryption of all transmitted records and files containing personally identifiable information that will travel across public networks and encryption of all data containing personally identifiable information to be transmitted wirelessly or a protocol that provides a higher degree of security;

(4) reasonable monitoring of systems for unauthorized use of or access to personally identifiable information;

(5) encryption of all personally identifiable information stored on laptops or other portable devices or a protocol that provides a higher degree of security;

(6) for files containing personally identifiable information on a system that is connected to the Internet, reasonably up-to-date firewall protection and operating system security patches that are reasonably designed to maintain the integrity of the personally identifiable information or a protocol that provides a higher degree of security;

(7) reasonably up-to-date versions of system security agent software that must include malware protection and reasonably up-to-date patches and virus definitions, or a version of such software that can still be supported with up-to-date patches and virus definitions and is set to receive the most current security updates on a regular basis or a protocol that provides a higher degree of security; and

(8) education and training of employees on the proper use of the computer security system and the importance of personally identifiable information security.

(d) Enforcement.

(1) A person who violates a provision of this section commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(2) The Attorney General has the same authority to adopt rules to implement the provisions of this chapter and to conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under chapter 63, subchapter 1 of this title.

Sec. 3. 9 V.S.A. § 2480b is amended to read:

§ 2480b. DISCLOSURES TO CONSUMERS

(a) A credit reporting agency shall, upon request and proper identification of any consumer, clearly and accurately disclose to the consumer all information available to users at the time of the request pertaining to the consumer, including:

(1) any credit score or predictor relating to the consumer, in a form and manner that complies with such comments or guidelines as may be issued by the Federal Trade Commission;

(2) the names of users requesting information pertaining to the consumer during the prior 12-month period and the date of each request; and

(3) a clear and concise explanation of the information.

(b) As frequently as new telephone directories are published, the credit

reporting agency shall cause to be listed its name and number in each telephone directory published to serve communities of this State. In accordance with rules adopted by the Attorney General, the credit reporting agency shall make provision for consumers to request by telephone the information required to be disclosed pursuant to subsection (a) of this section at no cost to the consumer.

(c) Any time a credit reporting agency is required to make a written disclosure to consumers pursuant to 15 U.S.C. § 1681g, it shall disclose, in at least 12 point type, and in bold type as indicated, the following notice:

“NOTICE TO VERMONT CONSUMERS

(1) Under Vermont law, you are allowed to receive one free copy of your credit report every 12 months from each credit reporting agency. If you would like to obtain your free credit report from [INSERT NAME OF COMPANY], you should contact us by [[writing to the following address: [INSERT ADDRESS FOR OBTAINING FREE CREDIT REPORT]] or [calling the following number: [INSERT TELEPHONE NUMBER FOR OBTAINING FREE CREDIT REPORT]],₂ or both].

(2) Under Vermont law, no one may access your credit report without your permission except under the following limited circumstances:

(A) in response to a court order;

(B) for direct mail offers of credit;

(C) if you have given ongoing permission and you have an existing relationship with the person requesting a copy of your credit report;

(D) where the request for a credit report is related to an education loan made, guaranteed, or serviced by the Vermont Student Assistance Corporation;

(E) where the request for a credit report is by the Office of Child Support Services when investigating a child support case;

(F) where the request for a credit report is related to a credit transaction entered into prior to January 1, 1993; ~~and~~ or

(G) where the request for a credit report is by the Vermont State Tax Department of Taxes and is used for the purpose of collecting or investigating delinquent taxes.

(3) If you believe a law regulating consumer credit reporting has been violated, you may file a complaint with the Vermont Attorney General's Consumer Assistance Program, 104 Morrill Hall, University of Vermont, Burlington, Vermont 05405.

Vermont Consumers Have the Right to Obtain a Security Freeze

You have a right to place a “security freeze” on your credit report pursuant to 9 V.S.A. § 2480h at no charge ~~if you are a victim of identity theft. All other Vermont consumers will pay a fee to the credit reporting agency of up to \$10.00 to place the freeze on their credit report.~~ The security freeze will prohibit a credit reporting agency from releasing any information in your credit report without your express authorization. A security freeze must be requested in writing by certified mail.

The security freeze is designed to help prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that using a security freeze to take control over who gains access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding new loans, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular phone, utilities, digital signature, ~~internet~~ Internet credit card transaction, or other services, including an extension of credit at point of sale.

When you place a security freeze on your credit report, within ten business days you will be provided a personal identification number ~~or~~, password, or other equally or more secure method of authentication to use if you choose to remove the freeze on your credit report or authorize the release of your credit report for a specific party, parties, or period of time after the freeze is in place. To provide that authorization, you must contact the credit reporting agency and provide all of the following:

- (1) The unique personal identification number ~~or~~, password, or other method of authentication provided by the credit reporting agency.
- (2) Proper identification to verify your identity.
- (3) The proper information regarding the third party or parties who are to receive the credit report or the period of time for which the report shall be available to users of the credit report.

A credit reporting agency may not charge a fee ~~of up to \$5.00 to a consumer who is not a victim of identity theft~~ to remove the freeze on your credit report or authorize the release of your credit report for a specific party, parties, or period of time after the freeze is in place. ~~For a victim of identity theft, there is no charge when the victim submits a copy of a police report, investigative report, or complaint filed with a law enforcement agency about unlawful use of the victim’s personal information by another person.~~

A credit reporting agency that receives a request from a consumer to lift temporarily a freeze on a credit report shall comply with the request no later

than three business days after receiving the request.

A security freeze will not apply to “preauthorized approvals of credit.” If you want to stop receiving preauthorized approvals of credit, you should call [INSERT PHONE NUMBERS] [ALSO INSERT ALL OTHER CONTACT INFORMATION FOR PRESCREENED OFFER ~~OPT OUT~~ OPT-OUT.]

A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity with which you have an existing account that requests information in your credit report for the purposes of reviewing or collecting the account, provided you have previously given your consent to this use of your credit reports. Reviewing the account includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

You have a right to bring a civil action against someone who violates your rights under the credit reporting laws. The action can be brought against a credit reporting agency or a user of your credit report.”

(d) The information required to be disclosed by this section shall be disclosed in writing. The information required to be disclosed pursuant to subsection (c) of this section shall be disclosed on one side of a separate document, with text no smaller than that prescribed by the Federal Trade Commission for the notice required under 15 U.S.C. § ~~1681q~~ § 1681g. The information required to be disclosed pursuant to subsection (c) of this section may accurately reflect changes in numerical items that change over time (such as the ~~phone~~ telephone number or address of Vermont State agencies), and remain in compliance.

(e) The Attorney General may revise this required notice by rule as appropriate from time to time so long as no new substantive rights are created therein.

Sec. 4. 9 V.S.A. § 2480h is amended to read:

§ 2480h. SECURITY FREEZE BY CREDIT REPORTING AGENCY; TIME IN EFFECT

(a)(1) ~~Any~~ A Vermont consumer may place a security freeze on his or her credit report. A credit reporting agency shall not charge a fee to ~~victims of identity theft but may charge a fee of up to \$10.00 to all other~~ Vermont consumers for placing ~~and \$5.00 for~~ or removing, removing for a specific party or parties, or removing for a specific period of time after the freeze is in place, a security freeze on a credit report.

(2) A consumer ~~who has been the victim of identity theft~~ may place a security freeze on his or her credit report by making a request in writing by certified mail to a credit reporting agency ~~with a valid copy of a police report,~~

~~investigative report, or complaint the consumer has filed with a law enforcement agency about unlawful use of his or her personal information by another person. All other Vermont consumers may place a security freeze on his or her credit report by making a request in writing by certified mail to a credit reporting agency.~~

~~(3) A security freeze shall prohibit, subject to the exceptions in subsection (l) of this section, the credit reporting agency from releasing the consumer's credit report or any information from it without the express authorization of the consumer. When a security freeze is in place, information from a consumer's credit report shall not be released to a third party without prior express authorization from the consumer.~~

~~(4) This subsection does not prevent a credit reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's credit report.~~

~~(b) A credit reporting agency shall place a security freeze on a consumer's credit report ~~no~~ not later than five business days after receiving a written request from the consumer.~~

~~(c) The credit reporting agency shall send a written confirmation of the security freeze to the consumer within 10 business days and shall provide the consumer with a unique personal identification number or password, other than the customer's Social Security number, or another method of authentication that is equally or more secure than a PIN or password, to be used by the consumer when providing authorization for the release of his or her credit for a specific party, parties, or period of time.~~

~~(d) If the consumer wishes to allow his or her credit report to be accessed for a specific party, parties, or period of time while a freeze is in place, he or she shall contact the credit reporting agency, request that the freeze be temporarily lifted, and provide the following:~~

~~(1) ~~Proper~~ proper identification;~~

~~(2) ~~The~~ the unique personal identification number ~~or~~ password, ~~or other method of authentication~~ provided by the credit reporting agency pursuant to subsection (c) of this section; and~~

~~(3) ~~The~~ the proper information regarding the third party, parties, or time period for which the report shall be available to users of the credit report.~~

~~(e) A credit reporting agency may develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request from a consumer to lift temporarily ~~lift~~ a freeze on a credit report pursuant to subsection (d) of this section in an expedited manner.~~

(f) A credit reporting agency that receives a request from a consumer to lift temporarily a freeze on a credit report pursuant to subsection (d) of this section shall comply with the request ~~no~~ not later than three business days after receiving the request.

(g) A credit reporting agency shall remove or lift temporarily ~~lift~~ a freeze placed on a consumer's credit report only in the following cases:

(1) Upon consumer request, pursuant to subsection (d) or (j) of this section.

(2) If the consumer's credit report was frozen due to a material misrepresentation of fact by the consumer. If a credit reporting agency intends to remove a freeze upon a consumer's credit report pursuant to this subdivision, the credit reporting agency shall notify the consumer in writing prior to removing the freeze on the consumer's credit report.

(h) If a third party requests access to a credit report on which a security freeze is in effect and this request is in connection with an application for credit or any other use and the consumer does not allow his or her credit report to be accessed for that specific party or period of time, the third party may treat the application as incomplete.

(i) If a consumer requests a security freeze pursuant to this section, the credit reporting agency shall disclose to the consumer the process of placing and lifting temporarily ~~lifting~~ a security freeze and the process for allowing access to information from the consumer's credit report for a specific party, parties, or period of time while the security freeze is in place.

(j) A security freeze shall remain in place until the consumer requests that the security freeze be removed. A credit reporting agency shall remove a security freeze within three business days of receiving a request for removal from the consumer who provides both of the following:

(1) ~~Proper~~ proper identification; and

(2) ~~The~~ the unique personal identification number, ~~or~~ password, ~~or other~~ method of authentication provided by the credit reporting agency pursuant to subsection (c) of this section.

(k) A credit reporting agency shall require proper identification of the person making a request to place or remove a security freeze.

(l) The provisions of this section, including the security freeze, do not apply to the use of a consumer report by the following:

(1) A person, or the person's subsidiary, affiliate, agent, or assignee with which the consumer has or, prior to assignment, had an account, contract, or debtor-creditor relationship for the purposes of reviewing the account or

collecting the financial obligation owing for the account, contract, or debt, or extending credit to a consumer with a prior or existing account, contract, or debtor-creditor relationship, subject to the requirements of section 2480e of this title. For purposes of this subdivision, “reviewing the account” includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

(2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under subsection (d) of this section for purposes of facilitating the extension of credit or other permissible use.

(3) Any person acting pursuant to a court order, warrant, or subpoena.

(4) The Office of Child Support when investigating a child support case pursuant to Title IV-D of the Social Security Act (42 U.S.C. et seq.) and 33 V.S.A. § 4102.

(5) The Economic Services Division of the Department for Children and Families or the Department of Vermont Health Access or its agents or assignee acting to investigate welfare or Medicaid fraud.

(6) The Department of Taxes, municipal taxing authorities, or the Department of Motor Vehicles, or any of their agents or assignees, acting to investigate or collect delinquent taxes or assessments, including interest and penalties, unpaid court orders, or acting to fulfill any of their other statutory or charter responsibilities.

(7) A person’s use of credit information for the purposes of prescreening as provided by the federal Fair Credit Reporting Act.

(8) Any person for the sole purpose of providing a credit file monitoring subscription service to which the consumer has subscribed.

(9) A credit reporting agency for the sole purpose of providing a consumer with a copy of his or her credit report upon the consumer’s request.

(10) Any property and casualty insurance company for use in setting or adjusting a rate or underwriting for property and casualty insurance purposes.

Sec. 5. REPORTS

(a) On or before March 1, 2019, the Attorney General and Secretary of State shall submit a preliminary report concerning the implementation of this act to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

(b) On or before January 15, 2020, the Attorney General and Secretary of State shall update its preliminary report and provide additional information

concerning the implementation of this act to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

(c) On or before January 15, 2019, the Attorney General shall:

(1) review and consider additional legislative and regulatory approaches to protecting the data security and privacy of Vermont consumers, including:

(A) whether to create or designate a Chief Privacy Officer and if so, the appropriate duties for, and the resources necessary to support, that position; and

(B) whether to expand the scope of regulation to businesses with direct relationships to consumers; and

(2) report its findings and recommendations to the House Committees on Commerce and Economic Development and on Energy and Technology and to the Senate Committee on Economic Development, Housing and General Affairs.

Sec. 6. ONE-STOP FREEZE NOTIFICATION

(a) The Attorney General, in consultation with industry stakeholders, shall consider one or more methods to ease the burden on consumers when placing or lifting a credit security freeze, including the right to place a freeze with a single nationwide credit reporting agency and require that agency to initiate a freeze with other agencies.

(b) On or before January 15, 2019, the Attorney General shall report his or her findings and recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

Sec. 7. EFFECTIVE DATES

(a) This section, Secs. 1 (findings and intent), 3–4 (eliminating fees for placing or removing a credit freeze), and 5–6 (reports) shall take effect on passage.

(b) Sec. 2 (data brokers) shall take effect on January 1, 2019.

(Committee vote: 4-1-0)

(No House amendments)

Reported favorably by Senator Sirotkin for the Committee on Finance.

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

(Committee vote: 7-0-0)

H. 777.

An act relating to the Clean Water State Revolving Loan Fund.

Reported favorably with recommendation of proposal of amendment by Senator Rodgers for the Committee on Institutions.

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

First: In Sec. 1, Declaration of Policy, in the last sentence, after “promote” by striking out “public-private partnerships and expenditures by private entities for”

Second: In Sec.5, 24 V.S.A. § 4755(a), by striking out subdivision (C) and inserting in lieu thereof the following:

(C) without voter approval for a natural resources project under the sponsorship program, as defined in 24 V.S.A. § 4752, provided that:

(i) the amount of the debt incurred does not exceed an amount to be forgiven or cancelled upon the completion of the project; and

(ii) the municipality obtains voter approval for the paired water pollution abatement and control facilities project under the sponsorship program, pursuant to the requirements set forth in 24 V.S.A. chapter 53.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 20, 2018, pages 722-733)

Reported favorably by Senator Lyons for the Committee on Finance.

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

(Committee vote: 6-0-1)

Reported favorably by Senator Nitka for the Committee on Appropriations.

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

(Committee vote: 6-0-1)

H. 907.

An act relating to improving rental housing safety.

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

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

Sec. 1. 3 V.S.A. § 2477 is added to read:

§ 2477. RENTAL HOUSING ADVISORY BOARD

(a)(1) The Department of Housing and Community Development shall create the Rental Housing Advisory Board consisting of 11 members, each of whom shall be a resident of Vermont and shall be appointed by the Commissioner of the Department, as follows:

(A) three members representing landlords, one of whom is a for-profit landlord and one of whom represents a nonprofit housing provider;

(B) three members representing tenants;

(C) three members representing municipalities; and

(D) two members of the public.

(2) A member shall serve a term of three years.

(3) The Board shall annually elect a chair from among its members.

(4) A majority of the Board shall constitute a quorum for transacting business.

(5) The Board shall take action by a majority vote of the members present and voting.

(b) The Board shall be staffed by the Department, which, along with the Departments of Health and of Public Safety, shall provide support to the Board as required.

(c) The Board shall have the following powers and duties:

(1) to act as an advisory group to the Governor, General Assembly, and appropriate State agencies on issues related to rental housing statutes, policies, and regulations;

(2) to report regularly to the Vermont Housing Council on its deliberations and recommendations;

(3) to work with appropriate State agencies on developing adequate data on the location and condition of Vermont's rental housing stock;

(4) to provide guidance to the State on the implementation of programs, policies, and regulations better to support decent, safe, and sanitary housing, including recommendations for incentives and programs to assist landlords with building repairs;

(5) to provide information to community partners, municipalities, landlords, and tenants, including educational materials on applicable rental housing statutes, regulations, and ordinances; and

(6) in preparation for a natural disaster, to collect information regarding available resources, disaster-related information, and community needs, and, in the event of a natural disaster, work with government authorities in charge of disaster response and communication.

Sec. 2. TASKS OF RENTAL HOUSING ADVISORY BOARD

(a) On or before January 15, 2019, the Rental Housing Advisory Board created in 3 V.S.A. § 2477 shall submit to the General Assembly potential legislation or policy changes to better support decent, safe, and sanitary rental housing that address the following issues:

(1) recommendations for one State agency to be responsible for overseeing all aspects of rental housing code enforcement; and

(2) whether to retain or modify the current system of rental housing code enforcement, including current statutory provisions for issuance of health orders for violations of a rental housing health code.

(b) In formulating the potential legislation or policy changes identified pursuant to subsection (a) of this section, the Board shall consider the following proposals:

(1) professionalize or otherwise improve the current system of town health officers;

(2) regionalize rental housing code enforcement;

(3) create a public-private system of rental housing code inspections and enforcement;

(4) allow self-certification by property owners of compliance with applicable rental housing codes;

(5) require inspection reports to utilize a hazard index rating system similar to that used by the Department of Public Safety's Division of Fire Safety to standardize timelines for repair and amounts of fines;

(6) require landlords and tenants, as applicable, to submit an action plan for correcting violations within the time limit for correction;

(7) enable a landlord or tenant to appeal an inspection report to address habitability issues;

(8) make inspection reports available to the public online; and

(9) enable a local health officer to file a report of violation in the land records as a lien on the property if a landlord does not comply with the inspection report.

(c) Not later than September 1, 2018 and November 15, 2018, the Board shall report on its progress on formulating the potential legislation or policy changes identified pursuant to subsection (a) of this section to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on General, Housing, and Military Affairs.

Sec. 3. IMPROVING EFFECTIVENESS OF LOCAL HEALTH OFFICERS; REPORT

(a) The Department of Health, shall provide the Rental Housing Advisory Board with information on the current system for local health officers and the enforcement of Vermont rental housing and habitability statutes and regulations, as well as any recommendation it has for how the system could be improved or substantially modified, including recommendations for regional approaches to housing code enforcement.

(b) The Department shall develop a system for keeping data about the type and number of complaints concerning violations of the rental safety codes.

(c) The Department shall assign a person to be in charge of providing assistance to local health officers in their duties and make the name and contact information of that person available on request.

Sec. 4. 18 V.S.A. § 602a is amended to read:

§ 602a. DUTIES OF LOCAL HEALTH OFFICERS

(a) A local health officer, within his or her jurisdiction, shall:

(1) upon request of a landlord or tenant, or upon receipt of information regarding a condition that may be a public health hazard, conduct an investigation;

* * *

Sec. 5. 18 V.S.A. § 603 is added to read:

§ 603. RENTAL HOUSING SAFETY; INSPECTION REPORTS

(a)(1) When conducting an investigation of rental housing, a local health

officer shall issue a written inspection report on the rental property using the protocols for implementing the Rental Housing Health Code of the Department or the municipality, in the case of a municipality that has established a code enforcement office.

(2)(A) A written inspection report shall:

(i) contain findings of fact that serve as the basis of one or more violations;

(ii) specify the requirements and timelines necessary to correct a violation;

(iii) provide notice that the landlord is prohibited from renting the affected unit to a new tenant until the violation is corrected; and

(iv) provide notice in plain language that, consistent with the access provisions in 9 V.S.A. § 4660, the tenant must allow the landlord and agents of the landlord access to the rental unit to make repairs as ordered by the health officer.

(B) For purposes of subdivision (2)(A)(iv) of this subsection, the notice concerning access may read: "Notice - The landlord of this property may enter the unit either with the tenant's consent, which shall not be unreasonably withheld, or between 9:00 a.m. and 9:00 p.m. on not less than 48 hours' notice. If the health officer has identified an imminent danger, the landlord shall have access immediately."

(3) A local health officer shall provide a copy of the inspection report to the landlord and any tenants affected by a violation by delivering the report electronically, in person, by first class mail, or by leaving a copy at each unit affected by the deficiency.

(4) If an entire property is affected by a violation, the local health officer shall post a copy of the inspection report in a common area of the property and include a prominent notice that the report shall not be removed until authorized by the local health officer.

(b) A local health officer may impose a fine of not more than \$100.00 per day for each violation that is not corrected by the date provided in the written inspection report, or when a unit is re-rented to a new tenant prior to the correction of a violation.

(c) If a local health officer fails to conduct an investigation pursuant to section 602a of this title or fails to issue an inspection report pursuant to this section, a landlord or tenant may request that the Department, at its discretion, conduct an investigation or contact the local board of health to take action.

Sec. 6. 32 V.S.A. § 6069 is amended to read:

§ 6069. LANDLORD CERTIFICATE

* * *

(f) Annually, on or before October 31, the Department shall prepare and make available to a member of the public upon request a database in the form of a sortable spreadsheet that contains the following information for each rental unit for which the Department received a certificate pursuant to this section:

- (1) name of owner or landlord;
- (2) mailing address of landlord;
- (3) location of rental unit;
- (4) type of rental unit;
- (5) number of units in building; and
- (6) School Property Account Number.

Sec. 7. ACCELERATED WEATHERIZATION PROGRAM; HOUSING IMPROVEMENT PROGRAM; STATE TREASURER; FUNDING

(a) The General Assembly finds that, in addition to the weatherization efforts provided under the Home Weatherization Assistance Program established in 33 V.S.A. chapter 25, an increased pace of weatherization would result in both environmental and economic benefits to the State. Accelerated weatherization efforts will:

- (1) decrease the emission of greenhouse gases; and
- (2) increase job opportunities in the field of weatherization.

(b) The General Assembly further finds that the State of Vermont has one of the oldest housing stocks in the United States, with many owned and rented homes in need of basic health and safety repairs and having high levels of lead paint and mold. Increased housing improvement initiatives will:

- (1) enable Vermonters to live in safer, healthier housing; and
- (2) reduce health care costs by reducing the incidence of respiratory illnesses, allergies, and other health problems.

(c) In fiscal years 2019 and 2020, the State Treasurer is authorized to invest up to \$5,000,000.00 of funds from the credit facility established in 10 V.S.A. § 10 for an accelerated weatherization and housing improvement program, provided that:

- (1) for owner-occupied homes, the funds shall be used to support weatherization efforts and housing improvement efforts for homeowners with

a family income that is not more than 120 percent of the area or statewide median family income, whichever is higher, as reported by the U.S. Department of Housing and Urban Development for the most recent year for which data are available; and

(2) for multi-family rental homes, the funds shall be used in conjunction with other State programs, and that not less than 50 percent of the tenant households residing in properties to be rehabilitated shall have an annual household income that is not more than 80 percent of the area or statewide median family income, whichever is higher, as reported by the U.S. Department of Housing and Urban Development for the most recent year for which data are available.

Sec. 8. EFFECTIVE DATES

(a) This section and Sec. 1 (advisory board) shall take effect on passage.

(b) Sec. 6 (rental housing database) shall take effect on July 1, 2019.

(c) The remaining sections shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

(No House amendments)

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

The Committee recommends that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendments thereto:

By striking out Sec. 7, accelerated weatherization program; housing improvement program; State Treasurer; funding, and inserting in lieu thereof the following:

Sec. 7. ACCELERATED WEATHERIZATION PROGRAM; HOUSING IMPROVEMENT PROGRAM; STATE TREASURER; FUNDING

(a) The General Assembly finds that, in addition to the weatherization efforts provided under the Home Weatherization Assistance Program established in 33 V.S.A. chapter 25, an increased pace of weatherization and housing improvements would result in both environmental and economic benefits to the State. Accelerated weatherization efforts and housing improvements will:

(1) decrease the emission of greenhouse gases;

(2) increase job opportunities in the field of weatherization;

(3) enable Vermonters to live in safer, healthier housing; and

(4) reduce health care costs by reducing the incidence of respiratory illnesses, allergies, and other health problems.

(c) In fiscal years 2019 and 2020, the State Treasurer is authorized to invest up to \$5,000,000.00 of funds from the credit facility established in 10 V.S.A. § 10 for an accelerated weatherization and housing improvement program, provided that:

(1) for owner-occupied homes, the funds shall be used to support weatherization efforts and housing improvement efforts for homeowners with a family income that is not more than 120 percent of the area or statewide median family income, whichever is higher, as reported by the U.S. Department of Housing and Urban Development for the most recent year for which data are available;

(2) for multi-family rental homes, the funds shall be used in conjunction with other State programs, and that not less than 50 percent of the tenant households residing in properties to be rehabilitated shall have an annual household income that is not more than 80 percent of the area or statewide median family income, whichever is higher, as reported by the U.S. Department of Housing and Urban Development for the most recent year for which data are available; and

(3) weatherization efforts are included in the improvements to any housing unit funded from the credit facility.

(Committee vote: 4-0-3)

H. 917.

An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

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

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

* * * Transportation Program Adopted as Amended; Definitions * * *

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

(a) The Agency of Transportation's proposed fiscal year 2019 Transportation Program appended to the Agency of Transportation's proposed fiscal year 2019 budget, as amended by this act, is adopted to the extent federal, State, and local funds are available.

(b) As used in this act, unless otherwise indicated:

(1) “Agency” means the Agency of Transportation.

(2) “Secretary” means the Secretary of Transportation.

(3) The table heading “As Proposed” means the Transportation Program referenced in subsection (a) of this section; the table heading “As Amended” means the amendments as made by this act; the table heading “Change” means the difference obtained by subtracting the “As Proposed” figure from the “As Amended” figure; and the terms “change” or “changes” in the text refer to the project- and program-specific amendments, the aggregate sum of which equals the net “Change” in the applicable table heading.

(4) “TIB funds” means monies deposited in the Transportation Infrastructure Bond Fund in accordance with 19 V.S.A. § 11f.

* * * Federal Infrastructure Funding * * *

Sec. 2. FEDERAL INFRASTRUCTURE FUNDING

(a) Subsection (b) of this section shall expire on February 1, 2019.

(b)(1) If a federal infrastructure bill or other federal legislation that provides for infrastructure funding is enacted that provides Vermont with additional federal funding for transportation-related projects, to the extent that federal monies allocated to the State of Vermont are subject to a requirement that the monies be obligated or under contract by the State within a specified time period, the Secretary is authorized to exceed spending authority in the fiscal year 2018 and 2019 Transportation Programs and to obligate and expend the federal monies:

(A) on eligible projects in the fiscal year 2018 or 2019 Transportation Program; and

(B) on additional town highway projects or activities that meet federal eligibility and readiness criteria.

(2) Nothing in this subsection shall be construed to authorize the Secretary to obligate or expend State Transportation or TIB funds above amounts authorized in the fiscal year 2018 or 2019 Transportation Program.

(c) The Agency shall promptly report the obligation or expenditure of monies under the authority of this section to the House and Senate Committees on Transportation and to the Joint Fiscal Office while the General Assembly is in session, and to the Joint Fiscal Office, the Joint Fiscal Committee, and the Joint Transportation Oversight Committee when the General Assembly is not in session.

* * * Infrastructure for Rebuilding America Grant * * *

Sec. 3. INFRASTRUCTURE FOR REBUILDING AMERICA GRANT

(a)(1) According to the Agency, in 2018, the U.S. Department of Transportation (USDOT) may solicit applications for grants under the Infrastructure for Rebuilding America (INFRA) Program.

(2) If USDOT does solicit INFRA grant applications in 2018, the Agency may submit an application for an INFRA grant for bridge and culvert projects on Interstate 89 with a total cost of up to \$105,000,000.00, which amount includes a State match of up to \$21,000,000.00. If it submits a grant application, the Agency shall identify Transportation Infrastructure Bonds as a possible source of State matching dollars and, promptly upon its submission to the USDOT, the Agency shall send an electronic copy of the grant application to the Joint Fiscal Office, which shall then transmit it to the Joint Fiscal Committee and to the chairs of the House and Senate Committees on Transportation.

(b) If the Agency is awarded an INFRA grant as described in subsection (a) of this section and the grant requires that work under the grant begin during fiscal year 2019, the Agency shall include in its fiscal year 2019 budget adjustment proposal any adjustments to fiscal year 2019 appropriations and to the approved fiscal year 2019 Transportation Program that may be required to comply with the terms of the grant.

* * * Program Development; Traffic & Safety Operations * * *

Sec. 4. PROGRAM DEVELOPMENT—TRAFFIC & SAFETY OPERATIONS

The following project is added to the candidate list of the Program Development—Traffic & Safety Program within the fiscal year 2019 Transportation Program: South Burlington STP SGNL () I-89 Exit 14 signal upgrades.

* * * Program Development; Bike & Pedestrian Facilities * * *

Sec. 5. PROGRAM DEVELOPMENT—BIKE & PEDESTRIAN FACILITIES

Spending authority on the Statewide—New Awards activity within the fiscal year 2019 Program Development—Bike & Pedestrian Facilities Program is amended as follows:

<u>FY19</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0
ROW	0	0	0
Const	600,000	900,000	300,000
Total	600,000	900,000	300,000

<u>Sources of funds</u>			
State	300,000	450,000	150,000
Local	300,000	450,000	150,000
Federal	0	0	0
Total	600,000	900,000	300,000

* * * Aviation Program * * *

Sec. 6. AVIATION PROGRAM

For fiscal year 2019:

(1) The sources of funds for the AV-FY18-001 (local match of FAA projects; Burlington Airport) project within the Aviation Program are amended to read:

<u>FY19</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
<u>Sources of funds</u>			
State	750,000	600,000	-150,000
Local	500,000	650,000	150,000
Federal	11,250,000	11,250,000	0
Total	12,500,000	12,500,000	0

(2) Spending authority of transportation funds in the Aviation Program is reduced by \$150,000.00.

* * * Town Highway Bridge Program * * *

Sec. 7. TOWN HIGHWAY BRIDGE PROGRAM

The following project is added to the candidate list of the Town Highway Bridge Program within the fiscal year 2019 Transportation Program: Salisbury – Cornwall BO 1445(), scoping for replacement of BR8 over the Otter Creek.

* * * Maintenance Program and District Leveling * * *

Sec. 8. MAINTENANCE PROGRAM AND DISTRICT LEVELING;
SPENDING AUTHORITY

(a) As used in this section, “TDI” refers to Champlain VT, LLC d/b/a TDI New England and “TDI Agreement” refers to the lease option agreement entered into between TDI and the State on July 17, 2015.

(b) Authorized spending in fiscal year 2019 for the Statewide District Leveling activity in the Program Development—Paving Program is reduced by \$2,400,000.00 in transportation funds and increased by \$2,400,00.00 in federal funds.

(c) Authorized spending in fiscal year 2019 for operating expenses in the Maintenance Program is reduced by \$1,600,000.00 in transportation funds.

(d) If TDI makes a payment to the State in fiscal year 2018 or 2019 pursuant to the TDI Agreement or pursuant to a renegotiation of the TDI Agreement, the Secretary shall allocate the amount of the payment received to the Statewide District Leveling activity or to the Maintenance Program, or to both, and authorized spending of transportation funds in fiscal year 2019 for the Statewide District Leveling activity and for the Maintenance Program is increased in accordance with the allocation made.

(e) If TDI makes no payment to the State in fiscal year 2018 or 2019 pursuant to the TDI Agreement or a renegotiation thereof or if a payment made by TDI is insufficient to restore the reduction in spending authority made in subsections (b) and (c) of this section, the Secretary shall allocate any unreserved surplus in the Transportation Fund as of the end of fiscal year 2018 to the Statewide District Leveling activity or to the Maintenance Program, or to both, and authorized spending of transportation funds in fiscal year 2019 for the Statewide District Leveling activity and for the Maintenance Program is increased in accordance with the allocation made.

(f)(1) Subject to subdivision (2) of this subsection, and notwithstanding 32 V.S.A. § 706, if the contingent allocations directed in subsections (d) and (e) of this section do not occur or are insufficient to restore the reduction in spending authority made in subsections (b) and (c) of this section, the Secretary of Administration, after consulting with the Secretary of Transportation, is authorized to transfer balances of fiscal year 2019 Transportation Fund appropriations within the Agency to the extent required to restore the reduction in spending authority made in subsections (b) and (c) of this section, and authorized spending of transportation funds in fiscal year 2019 for the Statewide District Leveling activity and for the Maintenance Program is increased in accordance with the balances transferred.

(2) An appropriation may be transferred pursuant to subdivision (1) of this subsection only if the monies are not needed for a project:

(A) because the project has been delayed due to permitting, right-of-way, or other unforeseen issues; or

(B) because of cost savings generated by the project.

(3) In making any appropriation transfer authorized under this section, the Secretary of Administration shall avoid, to the extent possible, any reductions in appropriations to the town programs described in 19 V.S.A. § 306. Any reductions to these town programs shall not affect the timing of reimbursements to towns for projects or delay any projects or grants and shall be replaced in the affected appropriations in fiscal year 2020.

* * * Contingent Addition to State Highway System * * *

Sec. 9. CONTINGENT ADDITION OF VERMONT ROUTE 119 IN THE TOWN OF BRATTLEBORO TO THE STATE HIGHWAY SYSTEM

(a) If the condition specified in subsection (b) of this section is satisfied, pursuant to 19 V.S.A. § 15(a), upon substantial completion of construction of the Brattleboro-Hinsdale, NH bridge replacement project (BF A004(152)), the following highway segment in the Town of Brattleboro shall be added to the State highway system: the entirety of the new Vermont Route 119 in the Town of Brattleboro, extending from its intersection with Vernon Street (TH#4) to the westerly low watermark of the Connecticut River.

(b) The addition to the State highway system specified in subsection (a) of this section shall occur only if the Town of Brattleboro enters into a maintenance agreement with the Agency.

* * * Abandoned Aircraft * * *

Sec. 10. 5 V.S.A. chapter 9 is amended to read:

CHAPTER 9. GENERAL PROVISIONS; ABANDONED AIRCRAFT

Subchapter 1. Aeronautics; Authority and Duties; Penalties

* * *

Subchapter 2. Abandoned Aircraft

§ 221. DEFINITIONS

As used in this subchapter:

(1) "Airport manager" means the owner of an airport in this State or an agent authorized to act on behalf of an airport owner.

(2) "Storage operator" means a person who stores an aircraft or aircraft component at the request of an airport manager.

§ 222. ABANDONED AIRCRAFT; AUTHORITY TO TAKE CUSTODY, REMOVE, AND STORE; NOTICE OF INTENT; LIMITATION ON LIABILITY

(a) Subject to subsection (b) of this section, an airport manager who discovers an aircraft or aircraft component apparently abandoned, or an aircraft without a currently effective federal registration certificate, on the property of the airport has authority to:

(1) take custody of the aircraft or component;

(2) arrange for the aircraft or component to be secured and stored at its current location or to be removed and stored elsewhere.

(b)(1) As used in this subsection, a “notice of intent” shall include:

(A) a statement of the airport manager’s intent to exercise authority under subsection (a) of this section and of the owner’s responsibility for reasonable charges under this subchapter;

(B) the make and the factory or identification number of the aircraft or aircraft component;

(C) the current location of the aircraft or aircraft component and the planned location for its storage; and

(D) the aircraft registration number, if any.

(2) At least 60 days prior to exercising the authority granted in subsection (a) of this section, the airport manager shall:

(A) Attempt to provide a notice of intent to the owner and to the lienholder, if any, of the aircraft or aircraft component. If the address of the last place of residence of the owner or lienholder of the aircraft or aircraft component is ascertainable through the exercise of reasonable diligence, including inquiry of the Federal Aviation Administration’s aircraft registry, the airport manager shall send the notice of intent by certified mail to the address or addresses; otherwise, the airport manager shall be deemed to have fulfilled the requirement of this subdivision (b)(2)(A) if the manager posts the notice of intent on the aircraft or aircraft component.

(B) Send a written notice of intent to the Secretary.

(c) The Secretary shall place on file notices of intent received under subdivision (b)(2)(B) of this section and, upon request, make the notices available for public inspection and copying.

(d) Except in the case of intentionally inflicted damages, an airport manager who takes custody of an aircraft or aircraft component or an airport manager or storage operator who arranges for the removal or storage of an aircraft or aircraft component under this subchapter shall not be liable to the owner or lienholder for any damages to the aircraft or aircraft component incurred while it was in the manager’s custody or during its removal or storage.

§ 223. LIEN; RIGHT TO CONTEST COSTS

(a) If the notice requirements of subsection 222(b) of this title are fulfilled, all reasonable storage, removal, and other costs necessarily incurred thereafter by an airport manager or a storage operator in carrying out the provisions of this subchapter shall be a lien on the aircraft or aircraft component held by the person who incurred the costs.

(b) In exercising rights under section 224 or 226 of this title, the owner or lienholder may contest the reasonableness and necessity of the costs by bringing an action before the Transportation Board.

§ 224. RIGHT OF OWNER TO RECLAIM

The owner or lienholder of an aircraft or aircraft component stored under this subchapter may reclaim the aircraft or aircraft component prior to any sale by paying the outstanding costs described in section 223 of this title.

§ 225. SALE AUTHORIZED; NOTICE OF PROPOSED SALE

(a) If the owner or lienholder has not reclaimed the aircraft or aircraft component after the aircraft manager fulfills the notice requirements of subsection 222(b) of this title, and if the airport manager fulfills the notice requirements of subsection (b) of this section, the airport manager may sell the aircraft or aircraft component in a commercially reasonable manner as described in 9A V.S.A. § 9-610 (disposition of collateral after default).

(b)(1) The notice of proposed sale required in this subsection shall include:

(A) the make and the factory or identification number of the aircraft or aircraft component;

(B) the aircraft registration number, if any;

(C) contact information for the person from whom the owner or lienholder may reclaim the aircraft or aircraft component pursuant to section 224 of this title; and

(D) the date and location of the proposed sale.

(2) At least 14 days before a sale under this section, the airport manager shall:

(A) if the value of the aircraft or aircraft component exceeds \$1,000.00, publish the notice of proposed sale in a media outlet of general circulation in the municipality; and

(B) if the address of the last place of residence of the owner or the lienholder, if any, of the aircraft or aircraft component is ascertainable through the exercise of reasonable diligence, including inquiry of the Federal Aviation Administration's aircraft registry, send the notice of proposed sale by certified mail to the address or addresses; otherwise, the airport manager shall be deemed to have fulfilled the requirement of this subdivision (b)(2)(B) if the manager posts the notice on the aircraft or aircraft component.

§ 226. APPLICATION OF PROCEEDS

The airport manager shall pay the balance of the proceeds of the sale, if any, after payment of liens and the reasonable expenses incident to the sale, to the owner or lienholder of the aircraft or aircraft component, if claimed at any time within one year from the date of the sale. If the owner or lienholder does not claim the balance within one year, the airport manager shall retain the proceeds.

* * * Abandoned Vessels * * *

Sec. 11. 10 V.S.A. chapter 48A is added to read:

CHAPTER 48A. ABANDONED VESSELS

§ 1420. VESSELS; ABANDONMENT PROHIBITED; REMOVAL AND DISPOSITION OF ABANDONED VESSELS

(a) Definitions. In this chapter, unless the context clearly requires otherwise:

(1) “Abandon” means, with respect to a vessel, any of the following:

(A) to leave unattended on public waters or on immediately adjacent land for more than 30 days without the express consent of the Secretary or, if on immediately adjacent land, of the person in control of the land;

(B) to leave partially or fully submerged in public waters for more than 30 days without the express consent of the Secretary;

(C) to leave partially or fully submerged in public waters a petroleum-powered vessel for more than 48 hours without the express consent of the Secretary; or

(D) to leave unattended on public waters or on immediately adjacent land for any period if the vessel poses an imminent threat to navigation or to public health or safety.

(2) “Commissioner” means the Commissioner of Motor Vehicles or designee.

(3) “Law enforcement officer” means an individual described in 23 V.S.A. § 3302 who is certified by the Vermont Criminal Justice Training Council as a level II or level III law enforcement officer under 20 V.S.A. § 2358.

(4)(A) “Public waters” means:

(i) the portions of Lake Champlain, Lake Memphremagog, and the Connecticut River that are within the territorial limits of Vermont;

(ii) boatable tributaries of Lake Champlain and Lake Memphremagog upstream to the first barrier to navigation, and impoundments

and boatable tributaries of those impoundments of the Connecticut River upstream to the first barrier to navigation, within the territorial limits of Vermont; and

(iii) all natural inland lakes, ponds, and rivers within Vermont, and other waters within the territorial limits of Vermont including the Vermont portion of boundary waters, that are boatable under the laws of this State.

(B) "Public waters" does not include waters in private ponds and private preserves as set forth in chapter 119 of this title.

(5) "Secretary" means the Secretary of Natural Resources or designee.

(6) "Storage operator" means:

(A) the Secretary, if storing an abandoned vessel after causing its removal pursuant to this section; or

(B) a person who stores a vessel removed pursuant to this section at the request of the Secretary, or a subsequent transferee thereof.

(7) "Vessel" means:

(A) a motorboat; or

(B) a sailboat, or other boat, that is 16 or more feet in length.

(b) Relationship with other laws. The authority conferred to the Secretary and the penalties established in this section are in addition to authority granted or penalties established elsewhere in law, and nothing in this section shall be construed to modify any authority or the application of penalties under any other provision of law, including under chapter 47, 159, 201, or 211 of this title.

(c) Abandonment of vessels prohibited.

(1) Civil violation. A person shall not abandon a vessel on public waters or immediately adjacent land. A person who violates this subdivision shall be subject to civil enforcement under chapters 201 and 211 of this title and, in any such enforcement action, the Secretary may obtain an order to recover costs specified in subdivision (d)(1) of this section incurred by the Agency of Natural Resources.

(2) Criminal violation. A person shall not knowingly abandon a petroleum-powered vessel or knowingly abandon a vessel that poses an imminent threat to navigation or to public health or safety. A person who violates this subdivision shall be subject to a fine of up to \$10,000.00.

(d)(1) Removal of abandoned vessel. Upon request from a law enforcement officer or at his or her own initiative, the Secretary shall promptly

cause the removal and safe storage of a vessel that is abandoned as described in subdivision (a)(1) of this section, unless the vessel is to be removed by a federal agency. If removal is requested by a law enforcement officer, the Secretary shall make reasonable efforts to determine if the vessel qualifies as abandoned. In addition, the Secretary shall have the authority to take actions as may be necessary to eliminate risks to public health or safety caused by the condition of the vessel.

(2) Responsibility for costs; lien.

(A) The owner of a vessel removed under the authority of this section shall be responsible for reasonable:

(i) removal costs;

(ii) cleanup and disposal costs;

(iii) storage costs incurred after the storage operator sends the Department of Motor Vehicles a notice of removal consistent with subdivision (e)(1) of this section; and

(iv) costs of enforcing this section borne by the Secretary.

(B) Costs for which an owner is responsible under subdivision (d)(2)(A) of this section shall be a lien on the vessel held by the person who incurred the costs. Nothing in this subdivision (d)(2)(B) shall be construed to modify any rights or authority to recover such costs that may exist under any other provision of law.

(3) Limitation on liability. Except in the case of intentionally inflicted damages, the Secretary shall not be liable to the owner or lienholder of an abandoned vessel for any damages to the vessel incurred during its removal or storage, or as a result of actions taken to eliminate risks to public health or safety caused by the condition of the vessel, in accordance with this section.

(e)(1) Notice of removal and place of storage. Within three business days of the date of removal of an abandoned vessel, the storage operator shall send notice to the Commissioner of:

(A) the federal, state, or foreign registration number, and the hull identification number, of the vessel, if any;

(B) a description of the vessel, including its color, size, and, if available, its manufacturer's trade name and manufacturer's series name;

(C) the date of removal and the location from where the vessel was removed;

(D) the name and contact information of an individual at the Agency of Natural Resources who can provide information about the vessel's removal

and how to reclaim it; and

(E) the periodic storage charges that will apply, if any.

(2) Listing of removed vessel. The Commissioner shall post and maintain on the website of the Department of Motor Vehicles a listing of vessels removed under the authority of this section with the information received under subdivision (1) of this subsection.

(f) Disposition following removal.

(1) As used in this subdivision:

(A) A “notice of intent” shall include the information described in subdivision (e)(1) of this section and an indication of the storage operator’s intent to take ownership or otherwise dispose of an abandoned vessel.

(B) The term “address” shall mean the plural “addresses” if more than one address is ascertained.

(2) Within 30 days after the date of removal of the abandoned vessel, a storage operator shall:

(A) Cause a notice of intent to be published in the environmental notice bulletin under 3 V.S.A. § 2826.

(B) Make reasonable efforts to ascertain the address of the owner and any lienholder and, if the address is ascertained, send the notice of intent to the address by certified mail, return receipt requested. Reasonable efforts shall include inquiring of the person in control of the waters or land from which the abandoned vessel was removed, the clerk of the municipality in which the waters or land is located, the State Police, the Office of the Secretary of State, and the Department of Motor Vehicles as to the identity and address of the owner and any lienholder.

(3) Ownership of the vessel shall pass to the storage operator free of all claims of any prior owner or lienholder if the owner or lienholder has not reclaimed the vessel and paid all costs authorized under subdivision (d)(2) of this section within 60 days after the later of:

(A) publication in the environmental notice bulletin under 3 V.S.A. § 2826; or

(B) if the address of the owner or lienholder is ascertained, the date the notice of intent is mailed.

(4) If ownership passes to the storage operator under this subsection, the storage operator may sell, transfer, or otherwise dispose of the vessel. However, if the vessel is subject to titling under 23 V.S.A. chapter 36, the storage operator shall apply to the Commissioner for a title or salvage title as

may be appropriate, and the Commissioner shall issue an appropriate title or salvage title, at no charge, if the storage operator offers sufficient proof that ownership of the vessel lawfully passed to the storage operator under this section.

(g) Owner and lienholder rights. An owner or lienholder of an abandoned vessel removed from public waters or immediately adjacent land under this section may contest the removal, transfer of title, or other disposition of a vessel under this section, and the necessity or reasonableness of any costs described in subdivision (d)(2) of this section, by petitioning the Secretary. The contested case provisions of 3 V.S.A. chapter 25 shall govern any matter brought under this subsection. A person aggrieved by a final decision of the Secretary may appeal the decision to the Civil Division of the Superior Court. Nothing in this subsection shall be construed to interfere with the right of an owner or lienholder to contest these issues in any enforcement action brought by the Secretary.

Sec. 12. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

* * *

(27) 10 V.S.A. chapter 123, relating to threatened and endangered species; ~~and~~

(28) 30 V.S.A. § 255, relating to regional coordination to reduce greenhouse gases; ~~and~~

(29) 10 V.S.A. § 1420, relating to abandoned vessels.

* * *

* * * Railroads; Vegetation Control * * *

Sec. 13. 5 V.S.A. § 3672 is amended to read:

§ 3672. ~~SELECTBOARD MEMBERS' DUTIES; RECOVERY~~

~~In case of failure so to do in a town through which such road passes, the selectboard members shall send notice thereof by mail to the principal office of such person or corporation. In case such failure continues for ten days after notice, the selectboard members shall forthwith cause the thistles and weeds to be destroyed at the expense of the town. Such town shall thereupon be entitled to recover from such person or corporation its actual cost for destroying the~~

~~thistles and weeds. In the event such person or corporation fails to pay to the town such cost for 60 days from the time the selectboard members sent notice thereof by mail to the principal office of such person or corporation, such town shall be entitled to recover such cost including a reasonable fee paid to an attorney for the recovery in an action on this statute. [Repealed.]~~

Sec. 14. 5 V.S.A. § 3673 is amended to read as follows:

§ 3673. CUTTING OF TREES VEGETATION CONTROL

~~A person or corporation operating a railroad in this State shall cause all trees, shrubs, and bushes to be destroyed at reasonable times within the surveyed boundaries of their lands, for a distance of 80 rods in each direction from all public grade crossings. A railroad shall take reasonable measures to control vegetation that is both on railroad property and on or immediately adjacent to the roadbed, so that the vegetation does not obstruct a highway user's view of traffic control devices at a grade crossing or of a train approaching the crossing.~~

Sec. 15. 5 V.S.A. § 3674 is amended to read:

§ 3674. SELECTBOARD MEMBERS' DUTIES; LIABILITY FOR DAMAGES ENFORCEMENT

~~When such person or corporation neglects or refuses to destroy the trees, shrubs, and bushes, as required by section 3673 of this title, after 60 days' notice in writing, given by the selectboard members of the town in which such trees, shrubs, and bushes are located, the selectboard members shall immediately cause them to be destroyed at the expense of the town. The town shall thereafter be entitled to recover from such person or corporation its actual cost for the destruction. In the event such person or corporation fails to pay to the town such cost for 60 days from the time the selectboard members sent notice thereof by mail to the principal office of such person or corporation, such town shall be entitled to recover such cost including a reasonable fee. If a railroad fails to control vegetation as required by section 3671 or 3673 of this title within 30 days after written notice is given by the selectboard of the town in which the vegetation is located or by the Agency in the case of violations involving a State highway grade crossing, the Transportation Board, upon application by the town or the Agency and after notice and hearing, may order the railroad to perform the work. Any such order shall specify a date by which the work must be completed. If the railroad fails to comply with the Board's order, the Board may impose a civil penalty of \$100.00 against the railroad for each day that the railroad fails to comply with the Board's order.~~

* * * Penalties for Furnishing Alcoholic Beverages to Minors * * *

Sec. 16. 7 V.S.A. § 658 is amended to read:

§ 658. SALE OR FURNISHING TO MINORS; ENABLING
CONSUMPTION BY MINORS; MINORS CAUSING DEATH OR
SERIOUS BODILY INJURY

* * *

(d)(1) A person who violates subsection (a) of this section, where the person under 21 years of age, while operating a motor vehicle, snowmobile, vessel, or all-terrain vehicle on a public highway, public land, or public waters, or in a place where a Vermont Association of Snow Travelers (VAST) trail maintenance assessment or a Vermont ATV Sportsman's Association (VASA) Trail Access Decal is required, causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(2) As used in this subsection:

(A) "All-terrain vehicle" shall have the same meaning as set forth in 23 V.S.A. § 3501.

(B) "Public land" means all land in Vermont that is either owned or controlled by a local, State, or federal governmental body.

(C) "Public waters" shall have the same meaning as in 10 V.S.A. § 1422.

(D) "Snowmobile" shall have the same meaning as set forth in 23 V.S.A. § 3201.

(E) "Vessel" shall have the same meaning as set forth in 23 V.S.A. § 3302.

* * * President Calvin Coolidge State Historic Site;

Supplemental Guide Signs * * *

Sec. 17. 10 V.S.A. § 494 is amended to read:

§ 494. EXEMPT SIGNS

The following signs are exempt from the requirements of this chapter except as indicated in section 495 of this title:

* * *

(6)(A) Official traffic control signs, including signs on limited access highways, consistent with the ~~manual on uniform traffic control devices~~, Manual on Uniform Traffic Control Devices (MUTCD) adopted under 23 V.S.A. § 1025, directing people to:

(i) other towns;

- (ii) international airports;
- (iii) postsecondary educational institutions;
- (iv) cultural and recreational destination areas;
- (v) nonprofit ~~diploma-granting~~ diploma-granting educational institutions for people with disabilities; and
- (vi) ~~official traffic control signs, including signs on limited access highways, consistent with the manual on uniform traffic control devices, adopted under 23 V.S.A. § 1025, directing people to official State visitor information centers.~~

(B) After having considered the six priority categories in ~~this subdivision (A) of this subdivision (6)~~, the Travel Information Council may approve installation of a sign for any of the following provided the location is open a minimum of 120 days each year and is located within 15 miles of an interstate highway exit:

- ~~(A)~~(i) ~~Nonprofit~~ nonprofit museums;
- ~~(B)~~(ii) ~~Cultural~~ cultural and recreational attractions owned by the State or federal government;
- ~~(C)~~(iii) ~~Officially~~ officially designated scenic byways;
- ~~(D)~~(iv) ~~Park~~ park and ride or multimodal centers; and
- ~~(E)~~(v) ~~Fairgrounds~~ fairgrounds or exposition sites;

~~provided the designations in subdivisions (A) through (E) of this subdivision (6) are open a minimum of 120 days each year and are located within 15 miles of an interstate highway exit.~~

(C) Notwithstanding the limitations of this subdivision (6), supplemental guide signs consistent with the MUTCD for the President Calvin Coolidge State Historic Site may be installed at the following highway interchanges:

- (i) Interstate 91, Exit 9 (Windsor); and
- (ii) Interstate 89, Exit 1 (Quechee).

(D) Signs erected under this subdivision (6) ~~of this section~~ shall not exceed a maximum allowable size of 80 square feet.

* * *

* * * Central Garage * * *

Sec. 18. 19 V.S.A. § 13 is amended to read:

§ 13. CENTRAL GARAGE FUND

(a) There is created a ~~central garage fund~~ the Central Garage Fund which shall be used:

(1) to furnish equipment on a rental basis to the districts and other sections of the ~~agency~~ Agency for use ~~in~~ construction, maintenance, and operation of highways or other transportation activities; and

(2) to provide a general equipment repair and major overhaul service as well as to furnish necessary supplies for the operation of the equipment.

(b) To maintain a safe, reliable equipment fleet, new or replacement highway maintenance equipment shall be acquired using ~~central garage funds~~ Central Garage Fund monies. The ~~agency~~ Agency is authorized to acquire replacement pieces for existing highway equipment, or new, additional equipment equivalent to equipment already owned; however, the ~~agency~~ Agency shall not increase the total number of permanently assigned or authorized motorized or self-propelled vehicles without legislative approval by the General Assembly.

~~(c)(1) There shall be established and maintained within the central garage fund a separate transportation equipment replacement account for the purposes stated in subsection (b) of this section. In fiscal year 2008, \$1,120,000.00, and thereafter an amount equal to two-thirds of one percent of the prior year transportation fund appropriation, but not less than \$1,120,000.00, shall be transferred prior to August 1 from the transportation fund to the central garage fund and allocated to the transportation equipment replacement account, and beginning in fiscal year 2001, and thereafter, an amount not less than the sum of equipment depreciation expense and net equipment sales from the prior fiscal year, shall be allocated prior to August 1 from within the central garage fund to the transportation equipment replacement account. All expenditures from this account shall be appropriated by the general assembly and used exclusively for the purchase of equipment as authorized in subsection (b) of this section. For the purpose specified in subsection (b) of this section, the following amount shall be transferred from the Transportation Fund to the Central Garage Fund:~~

~~(A) in fiscal year 2019, \$1,318,442.00; and~~

~~(B) in subsequent fiscal years, at a minimum, the amount specified in subdivision (A) of this subdivision (1) as adjusted annually by increasing the previous fiscal year's amount by the percentage increase in the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) during the previous State fiscal year.~~

(2) Each fiscal year, the sum of the following shall be appropriated from the Central Garage Fund exclusively for the purpose specified in subsection (b) of this section:

(A) the amount transferred pursuant to subdivision (1) of this subsection;

(B) the amount of the equipment depreciation expense from the prior fiscal year; and

(C) the amount of the net equipment sales from the prior fiscal year.

(d) In each fiscal year, net income of the ~~fund~~ Fund earned during that fiscal year shall be retained in the ~~fund~~ Fund.

(e) ~~The fiscal year of the central garage for~~ For the purposes of computing net worth and net income, the fiscal year shall be the year ending June 30.

(f) ~~For purposes of~~ As used in this section, “equipment” means registered motor vehicles and highway maintenance equipment assigned to the central garage Central Garage.

(g) [Repealed.]

* * * Town Highway Aid * * *

Sec. 19. 19 V.S.A. § 306 is amended to read:

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

(a) General State aid to town highways.

(1) An annual appropriation to class 1, 2, and 3 town highways shall be made. This appropriation shall increase or decrease over the previous fiscal year’s appropriation by the same percentage as any increase or decrease in the following, whichever is less:

(A) the ~~Transportation~~ year-over-year increase in the Agency’s total appropriations in the previous fiscal year funded by Transportation Fund revenues, excluding the ~~town highway appropriations~~ appropriation for town highways under this subsection for that year; or

(B) the year-over-year increase in the State’s total appropriations in the previous fiscal year of General Fund, Education Fund, and State Health Care Resources Fund monies.

(2) If the year-over-year change in appropriations specified in either subdivision (1)(A) or (B) of this subsection is negative, then the appropriation to town highways under this subsection shall be equal to the previous fiscal year’s appropriation.

(3) The funds appropriated shall be distributed to towns as follows:

~~(1)~~(A) Six percent of the State's annual town highway appropriation shall be apportioned to class 1 town highways. The apportionment for each town shall be that town's percentage of class 1 town highways of the total class 1 town highway mileage in the State.

~~(2)~~(B) Forty-four percent of the State's annual town highway appropriation shall be apportioned to class 2 town highways. The apportionment for each town shall be that town's percentage of class 2 town highways of the total class 2 town highway mileage in the State.

~~(3)~~(C) Fifty percent of the State's annual town highway appropriation shall be apportioned to class 3 town highways. The apportionment for each town shall be that town's percentage of class 3 town highways of the total class 3 town highway mileage in the State.

~~(4)~~(D) Monies apportioned under subdivisions (1), (2), and (3) of this subsection shall be distributed to each town in quarterly payments beginning July 15 in each year.

~~(5)~~(E) Each town shall use the monies apportioned to it solely for town highway construction, improvement, and maintenance purposes or as the nonfederal share for public transit assistance. These funds may also be used for the establishment and maintenance of bicycle routes. The members of the selectboard shall be personally liable to the State, in a civil action brought by the Attorney General, for making any unauthorized expenditures from money apportioned to the town under this section.

* * *

* * * Transportation Public-Private Partnerships * * *

Sec. 20. 19 V.S.A. chapter 26 is amended to read:

CHAPTER 26. DESIGN-BUILD CONTRACTS AND PUBLIC-PRIVATE PARTNERSHIPS

Subchapter 1. Design-build Contracts

* * *

Subchapter 2. Public-Private Partnership Pilot

§ 2611. PILOT ESTABLISHED; INTENT

(a)(1) The General Assembly hereby establishes a pilot program to authorize the Agency, for a time-limited period, to receive solicited and unsolicited proposals and to enter into P3 agreements if certain conditions are met.

(2) Nothing in this subchapter is intended to modify any obligations or rights under any other law.

(b) Before the authority conferred under this subchapter terminates, the General Assembly intends to:

(1) review whether and how the Agency has exercised the authority and whether the P3 agreements it has entered into have served the public interest; and

(2) determine whether the authority should terminate, be extended, or be amended.

(c) If the Agency's authority under this subchapter terminates, the General Assembly intends that:

(1) the Agency not have authority to pursue any proposal that has not resulted in a P3 agreement prior to termination of the Agency's authority; and

(2) any P3 agreement lawfully entered into prior to termination of the Agency's authority shall continue in effect after termination of the authority.

§ 2612. DEFINITIONS

As used in this subchapter:

(1) "Facility" means transportation infrastructure that is, or if developed, would be, within the jurisdiction of the Agency or eligible for federal-aid funding managed through the Agency.

(2) "Project" means the capital development of a facility.

(3) "Proposal" means a conditional offer of a private entity that, after review, negotiation, and documentation, and after legislative approval if required under this subchapter, may lead to a P3 agreement as provided in this subchapter.

(4) "Public-private partnership" or "P3" means an alternative project delivery mechanism that may be used by the Agency to permit private sector participation in a project, including in its financing, development, operation, management, ownership, leasing, or maintenance.

(5) "P3 agreement" means a contract or other agreement between the Agency and a private entity to undertake a project as a public-private partnership and that sets forth rights and obligations of the Agency and the private entity in that partnership.

§ 2613. AUTHORITY

(a) The Agency is authorized to receive unsolicited proposals or to solicit proposals to undertake a project as a public-private partnership. The Agency

shall develop, and have authority to amend, criteria to review and evaluate such proposals to determine if they are in the public interest and shall review and evaluate all proposals received in accordance with these criteria. In addition to other criteria that the Agency may develop, at minimum, the criteria shall require consideration of:

(1) the benefits of the proposal to the State transportation system and the potential impact to other projects currently prioritized in the most recently adopted Transportation Program;

(2) the extent to which a proposal would reduce the investment of State funds required to advance the project that the proposal addresses; and

(3) the extent to which a proposal would enable the State to receive additional federal funding that would not otherwise be available.

(b) If the Agency determines that a proposal is in the public interest:

(1) The Agency is authorized to enter into a P3 agreement with respect to the proposal without legislative approval if:

(A) the project has been approved in the most recently adopted Transportation Program; and

(B) total estimated State funding over the lifetime of the project will be less than \$2,000,000.00.

(2) For the following projects, the Agency is authorized to enter into a P3 agreement with respect to the proposal only if the Agency receives specific legislative approval to enter into the P3 agreement:

(A) a project that has not been approved in the most recently adopted Transportation Program; or

(B) a project for which total estimated State funding over the lifetime of the project will be \$2,000,000.00 or more.

§ 2614. LEGISLATIVE APPROVAL

If the Secretary determines that a proposal that requires legislative approval under section 2613 of this title is in the public interest and should be pursued, the Secretary shall submit to the General Assembly:

(1) a description of the proposal, including:

(A) a summary of the project scope and timeline;

(B) the rights and obligations of the State and private entity partner or partners, including the level of involvement of all partners in any ongoing operations, maintenance, and ownership of a facility;

(C) the nature and amount of State funding of the project and of any ongoing State financial responsibility for ongoing maintenance or operation costs; and

(D) its effect on any project in the most recent approved Transportation Program;

(2) a statement detailing how the proposal meets the Agency's criteria developed under this subchapter; and

(3) proposed legislation to confer authority to the Agency to enter into a P3 agreement with respect to the proposal.

§ 2615. REPORT

(a) Annually, on or before January 15, the Agency shall report to the House and Senate Committees on Transportation:

(1) for each P3 agreement entered into following legislative approval required under this subchapter, for as long as the agreement is in effect, a description of the current status of the project and of any substantive change to the P3 agreement since the prior year's report; and

(2) for each P3 agreement entered into since the prior year's report pursuant to section 2613 of this title that did not require legislative approval, a description of the P3 agreement and of the project.

(b) Notwithstanding 2 V.S.A. § 20(d), the annual report required under this section shall continue to be required unless the General Assembly takes specific action to repeal the report requirement.

* * * Sunset of Transportation Public-Private Partnership Authority * * *

Sec. 21. REPEAL OF TRANSPORTATION P3 AUTHORITY

19 V.S.A. §§ 2613 (Agency of Transportation's P3 authority) and 2614 (legislative approval of P3 proposals) shall be repealed on July 1, 2023.

* * * Gasoline Assessments; Calculations; Data Retention * * *

Sec. 22. 23 V.S.A. § 3106(a)(2) is amended to read:

(2) For the purposes of subdivision (1)(B) of this subsection, ~~the~~:

(A) The tax-adjusted retail price applicable for a quarter shall be the average of the retail price for regular gasoline collected and determined to three decimal places and published by the Department of Public Service for each of the three months of the preceding quarter after all federal and State taxes and assessments, and the petroleum distributor licensing fee established by 10 V.S.A. § 1942, applicable in each month have been subtracted from that month's retail price. Calculations of the tax-adjusted retail price applicable for

a quarter shall be permanently maintained on the website of the Department of Public Service.

(B) In calculating assessment amounts under subdivisions (a)(1)(B)(i)(II) and (a)(1)(B)(ii)(II) of this section, the Department of Motor Vehicles shall calculate the amounts to four decimal places. The Department of Motor Vehicles shall permanently retain the records of its calculations, any corrections thereto, and the data that are the basis for the calculations.

* * * Green Mountain Transit Authority; Name Update * * *

Sec. 23. 24 V.S.A. § 5084 is amended to read:

§ 5084. PUBLIC TRANSIT ADVISORY COUNCIL

(a) The Public Transit Advisory Council shall be created by the Secretary of Transportation under 19 V.S.A. § 7(f)(5), to consist of the following members:

* * *

(3) a representative of the ~~Chittenden County Transportation~~ Green Mountain Transit Authority;

* * *

Sec. 24. 24 App. V.S.A. chapter 801 is amended to read:

CHAPTER 801. ~~CHITTENDEN COUNTY TRANSPORTATION~~ GREEN MOUNTAIN TRANSIT AUTHORITY

§ 1. CREATION OF AUTHORITY

There is hereby created a transit authority to be known as the “~~Chittenden County Transportation~~ Green Mountain Transit Authority.”

* * *

§ 3. MEMBERSHIP IN THE AUTHORITY

Membership in the Authority shall consist of those municipalities which elect to join the Authority by majority vote of its voters present and voting on the question at an annual or special meeting duly warned for the purpose prior to July 1, 2010. Beginning on July 1, 2010, a municipality may hold an annual meeting or a special meeting for the purpose of determining through election by a majority vote of its voters present and voting on the question only if the municipality is specifically authorized to join the Authority either under section 12 of this chapter or by resolution duly passed by the ~~Chittenden County Transportation~~ Green Mountain Transit Authority Board of Commissioners. The initial meeting of a municipality called to determine whether or not to join the Authority shall be warned in the manner provided by

law, except that for such meeting only, any warning need not be posted for a period in excess of 20 days, any other provision of law or municipal charter to the contrary notwithstanding. Membership may be terminated only in the manner provided in section 8 of this chapter.

* * *

§ 11. ASSESSMENTS OF NEW MEMBERS OUTSIDE CHITTENDEN COUNTY

Municipalities outside Chittenden County that vote to join the ~~Chittenden County Transportation~~ Green Mountain Transit Authority on or after July 1, 2010 shall negotiate with the Board of Commissioners of the ~~Chittenden County Transportation~~ Green Mountain Transit Authority on the amount of the levy to be assessed upon the municipality and terms of payment of that assessment; and the municipality may not join prior to agreement with the Authority on terms of the levy and payment. Upon the addition of one municipality to the membership of the ~~Chittenden County Transportation~~ Green Mountain Transit Authority from outside Chittenden County, the Authority shall immediately begin work on the formula for assessment that will be approved in accordance with this chapter.

§ 12. MUNICIPALITIES AUTHORIZED TO VOTE FOR MEMBERSHIP IN THE ~~CHITTENDEN COUNTY TRANSPORTATION~~ GREEN MOUNTAIN TRANSIT AUTHORITY

The following municipalities are authorized to hold an election for the purpose of determining membership in the ~~Chittenden County Transportation~~ Green Mountain Transit Authority: Barre City, Berlin, Colchester, Hinesburg, Montpelier, Morristown, Richmond, St. Albans City, Stowe, and Waterbury.

§ 13. OTHER REPRESENTATION

If Washington, Lamoille, Franklin, or Grand Isle County does not have a municipal member from its county on the Board of Commissioners of the ~~Chittenden County Transportation~~ Green Mountain Transit Authority, the regional planning commission serving the ~~County~~ county may appoint a Board member to the ~~Chittenden County Transportation~~ Green Mountain Transit Authority from a member of its regional planning commission or regional planning commission staff to represent its interests on the ~~Chittenden County Transportation~~ Green Mountain Transit Authority Board.

* * * Electric Vehicles; Public Service * * *

Sec. 25. PUBLIC UTILITY COMMISSION; INVESTIGATION; ELECTRIC VEHICLE CHARGING

(a) After notice and opportunity for hearing, the Public Utility Commission (PUC or Commission) shall complete an investigation and issue a final order on or before July 1, 2019 concerning the charging of plug-in electric vehicles (EV).

(b) As used in this section, “electric distribution utility” means a company that delivers electric energy to retail customers over a pole-and-wire network.

(c) The Commission’s final order shall include:

(1) its findings, determinations, or recommendations on each of the following issues related to the role of electric distribution utilities:

(A) removal or mitigation, as appropriate, of barriers to EV charging, including strategies, such as time-of-use rates, to reduce operating costs for current and future EV users without shifting costs to ratepayers who do not own or operate EVs;

(B) strategies for managing the impact of EVs on and services provided by EVs to the electric transmission and distribution system;

(C) electric system benefits and costs of EV charging, electric utility planning for EV charging, and rate design for EV charging; and

(D) the appropriate role of electric distribution utilities with respect to the deployment and operation of EV charging stations;

(2) its findings or recommendations, or both, on each of the following issues related to EV charging stations owned or operated by persons other than electric distribution utilities:

(A) the recommended scope of the jurisdiction of the Commission, the Department of Public Service, and other State agencies over such stations;

(B) the appropriate oversight of the rates and prices charged by such stations, including the transparency to the consumer of those rates and prices; and

(C) the recommended billing and complaint procedures for such charging stations; and

(3) its findings or recommendations, or both, on each of the following issues:

(A) jointly with the Secretary of Transportation, recommended options to address how EV users pay toward the cost of maintaining the State’s transportation infrastructure;

(B) the accuracy of electric metering and submetering technology for charging EVs;

(C) strategies to encourage EV usage at a pace necessary to achieve the goals of the State's Comprehensive Energy Plan and its greenhouse gas reduction goals, without shifting costs to electric ratepayers who do not own or operate EVs; and

(D) any other issues the Commission considers relevant to ensuring a fair, cost-effective, and accessible EV charging infrastructure that will be sufficient to meet increased deployment of EVs.

(d) During the course of the investigation and in its final order, the Commission shall identify recommendations on the issues identified in subsection (c) of this section that may require enabling legislation.

(e) The Commission shall submit copies of its final order to the House and Senate Committees on Transportation, the House Committee on Energy and Technology, and the Senate Committees on Finance and on Natural Resources and Energy.

* * * All-terrain Vehicles; Enforcement * * *

Sec. 26. 23 V.S.A. § 3507 is amended to read:

§ 3507. ENFORCEMENT; PENALTIES AND REVOCATION OF REGISTRATION

* * *

(c) Law enforcement officers may conduct safety inspections on all-terrain vehicles stopped for other all-terrain vehicle law violations on the VASA Trail System. Safety inspections may also be conducted in a designated area by law enforcement officials. A designated area shall be warned solely by blue lights either on a stationary all-terrain vehicle parked on a trail or on a cruiser parked at a roadside trail crossing.

* * * All-terrain Vehicles; Operation Along Highways * * *

Sec. 27. 23 V.S.A. § 3506 is amended to read:

§ 3506. OPERATION

(a) A person ~~may~~ shall only operate or permit an all-terrain vehicle owned by him or her or under his or her control to be operated in accordance with this chapter.

(b) An all-terrain vehicle ~~may~~ shall not be operated:

(1) Along a public highway ~~unless it~~ except if one or more of the following applies:

(A) the highway is not being maintained during the snow season or unless;

(B) the highway has been opened to all-terrain vehicle travel by the selectboard or trustees or local governing body and is so posted by the municipality ~~except an~~;

(C) the all-terrain vehicle is being used for agricultural purposes may be and is operated not closer than three feet from the traveled portion of any highway for the purpose of traveling within the confines of the farm; or

(D) the all-terrain vehicle is being used by an employee or agent of an electric transmission or distribution company subject to the jurisdiction of the Public Utility Commission under 30 V.S.A. § 203 for utility purposes, including safely accessing utility corridors, provided that the all-terrain vehicle shall be operated along the edge of the roadway and shall yield to other vehicles.

* * *

* * * All-terrain Vehicles; Allocation of Fees and Penalties * * *

Sec. 28. 23 V.S.A. § 3513 is amended to read:

§ 3513. LIABILITY INSURANCE; AUTHORITY TO CONTRACT FOR
LAW ENFORCEMENT SERVICES

(a) The amount of ~~85~~ 90 percent of the fees and penalties collected under this ~~subchapter~~ chapter, except interest, is ~~hereby~~ allocated to the Agency of Natural Resources for use by the Vermont ATV Sportsman's Association (VASA) for development and maintenance of a Statewide ATV Trail Program, for trail liability insurance, and to contract for law enforcement services with any constable, sheriff's department, municipal police department, the Department of Public Safety, and the Department of Fish and Wildlife for purposes of trail compliance pursuant to this chapter. The Departments of Public Safety and of Fish and Wildlife are authorized to contract with VASA to provide these law enforcement services. ~~The Agency of Natural Resources may retain for its use up to \$7,000.00 during each fiscal year to be used for administration of the State grant that supports this program.~~

(b) ~~The Office of the~~ Secretary of Administration shall assist VASA with the procurement of trail liability and other related insurance.

* * *

Sec. 29. 23 V.S.A. § 3513(a) is amended to read:

(a) The amount of ~~90~~ 85 percent of the fees and penalties collected under this chapter, except interest, is allocated to the Agency of Natural Resources for use by the Vermont ATV Sportsman's Association (VASA) for development and maintenance of a Statewide ATV Trail Program, for trail liability insurance, and to contract for law enforcement services with any

constable, sheriff's department, municipal police department, the Department of Public Safety, and the Department of Fish and Wildlife for purposes of trail compliance pursuant to this chapter. The Departments of Public Safety and of Fish and Wildlife are authorized to contract with VASA to provide these law enforcement services.

* * * Default Weight Limits on Town Highways * * *

Sec. 30. 23 V.S.A. § 1392 is amended to read:

§ 1392. GROSS WEIGHT LIMITS ON HIGHWAYS

Except as provided in section 1400 of this title, a person or corporation shall not operate or cause to be operated a motor vehicle in excess of the total weight, including vehicle, object, or contrivance and load, of:

(1) 16,000 pounds upon any bridge with a wood floor, wood subfloor, or wood stringers on a class 3 or 4 town highway or 20,000 pounds on a bridge with wood floor, wood subfloor, or wood stringers on a class 1 or 2 town highway unless otherwise posted by the selectboard of such town.

(2) 24,000 pounds, upon a class 2, 3, or 4 town highway or bridge with other than wood floor, in any town, or incorporated village, ~~or city~~.

* * *

Sec. 31. 23 V.S.A. § 1393 is amended to read:

§ 1393. ~~WEIGHT LIMITS IN INCORPORATED VILLAGES AND CITIES;~~
ADOPTION BY TOWNS OR INCORPORATED VILLAGES OF
STATE LIMITS; LIMITS ON CLASS 1 TOWN HIGHWAYS

(a)(1) ~~On all highways in an incorporated village or a city, the legal load shall be as prescribed for the State Highway System in section 1392 of this title, unless otherwise restricted and posted by the local authorities, as provided in this subchapter.~~

(2) ~~With the approval of the Secretary of Transportation, the selectboard legislative body of a town or incorporated village may designate any highway in the town under its jurisdiction to carry the same legal load as specified in section 1392 of this title for the State highways Highway System. When a certain highway has been so approved by the Secretary and the legislative body as to the legal load limit, then the Secretary shall have the highway posted for the legal load limit.~~

(3) ~~Notwithstanding the provisions of this chapter, Except as provided in subdivision 1392(1) of this title, State highway Highway System weight limits as specified in section 1392 of this title shall apply to class 1 town highways.~~

* * *

* * * Signs Indicating Weight Limits * * *

Sec. 32. 23 V.S.A. § 1394 is amended to read:

§ 1394. DESIGNATION OF CLASS 1 TOWN HIGHWAYS; SIGNS
INDICATING LEGAL LOAD OFF STATE HIGHWAYS OR
CLASS 1 TOWN HIGHWAYS

(a) The class 1 town highways connecting the State highways through cities, villages, or ~~municipalities~~ towns shall be designated by the State Transportation Board and marked by the ~~State~~ Secretary of Transportation.

(b) The State Secretary of Transportation shall have signs erected on each ~~road which~~ town highway that leads off the State Highway System stating the legal load of the town highway leading from, ~~if the legal load of the town highway differs from the legal load on~~ the State Highway System.

(c) If the legal load limit of a class 2, 3, or 4 town highway leading off a class 1 town highway differs from the legal load limit on the class 1 town highway, the Secretary of Transportation shall furnish a sign to the municipality where the class 1 town highway is located, as needed to indicate the legal load for each town highway leading from the class 1 town highway that has a different legal load. The Secretary shall furnish the sign, and any replacement sign as may be needed, at no cost to the municipality. The municipality shall be responsible for erecting each sign furnished to it under this subsection on each town highway leading off a class 1 town highway that has a legal load limit that differs from the limit on the class 1 town highway.

* * * Aircraft Fuel Tax * * *

Sec. 33. 23 V.S.A. chapter 28 is amended to read:

CHAPTER 28. GASOLINE TAX

Subchapter 1. General Gasoline Tax

§ 3101. DEFINITIONS; SCOPE

(a) As used in this chapter:

(1) The term “distributor” as used in this subchapter shall mean a person, firm, or corporation who imports or causes to be imported gasoline or other motor fuel for use, distribution, or sale within the State, or any person, firm, or corporation who produces, refines, manufactures, or compounds gasoline or other motor fuel within the State for use, distribution, or sale. When a person receives motor fuel in circumstances ~~which~~ that preclude the collection of the tax from the distributor by reason of the provisions of the Constitution and laws of the United States, and thereafter sells or uses the

motor fuel in the State in a manner and under circumstances as may subject the sale to the taxing power of the State, the person shall be considered a distributor and shall make the same reports, pay the same taxes, and be subject to all provisions of this subchapter relating to distributors of motor fuel.

(2) "Dealer" means any person who sells or delivers motor fuel into the fuel supply tanks of motor vehicles or aircraft owned or operated by others.

(3) "Motor vehicle" means any self-propelled vehicle using motor fuel on the public highways and registered or required to be registered for operation on these highways.

(b) As used in this subchapter:

(1) ~~gasoline~~ "Gasoline or other motor fuel" or "motor fuel" includes aviation gasoline and shall not include the following:

(A) kerosene;

(B) clear or undyed diesel "fuel" as defined in section 3002 of this title;

(C) "railroad fuel" as defined in section 3002 of this title;

(D) aircraft jet fuel; or

(E) natural gas in any form.

(c) Except for "railroad fuel" taxed under section 3003 of this title, the taxation or exemption from taxation of dyed diesel fuel is not addressed under this title.

~~(4) "Motor vehicle" means any self-propelled vehicle using motor fuel on the public highways and registered or required to be registered for operation on these highways.~~

* * *

§ 3105. RECORDS OF SALES AND IMPORTATIONS

(a)(1) A distributor shall keep a record of all sales of motor fuel, ~~which that~~ that shall include the number of gallons sold, the date of sale, and also the number of gallons used by the distributor. With every consignment of motor fuel to a purchaser within the State, each distributor shall also deliver a written statement containing the date and the number of gallons delivered and the names of the purchaser and the seller. The distributor shall also keep a record of all importations of motor fuel, ~~which that~~ that shall include the number of gallons imported and the date of importation.

(2) With respect to any sale, use, consignment, or importation of aviation gasoline, a distributor shall separately record the same information

required under subdivision (1) of this subsection.

(3) The records and statements shall be preserved by distributors and purchasers, respectively, for a period of three years, and shall be offered for inspection upon verbal or written demand of the Commissioner or his or her agent.

* * *

(d) A dealer shall keep a record of all purchases of motor fuel ~~which~~ that shall include the date of purchase, number of gallons, ~~and~~ the identity of the seller, and, if applicable, shall separately record this information with respect to the purchase of aviation gasoline. The records and statements shall be preserved for a period of three years. The record shall include daily motor fuel meter readings.

§ 3106. IMPOSITION, RATE, AND PAYMENT OF TAX

(a)(1) Except for sales of motor fuels between distributors licensed in this State, which sales shall be exempt from the taxes and assessments authorized under this section, unless exempt under the laws of the United States at the time of filing the report required by section 3108 of this title, each distributor shall pay to the Commissioner:

* * *

(4) The distributor shall also pay to the Commissioner the tax and assessments specified in this subsection upon each gallon of motor fuel used within the State by him or her.

(5) Monies collected on the sales and use of aviation gasoline pursuant to this subsection shall be used exclusively for aviation purposes consistent with 49 U.S.C. § 47133 and Federal Aviation Administration regulations and policies.

* * *

(d) Since many nonresidents and residents drive to outdoor areas of Vermont in order to view our natural resources, to hunt and fish, and to use our natural resources for other healthful recreational purposes, it is the policy of this State that a portion of the gasoline tax shall be dedicated for the purpose of conserving and maintaining our natural resources. Therefore, beginning in fiscal year 1998, three-eighths of one cent of the tax collected under subsection (a) of this section, except for the tax collected on aviation gasoline, shall be transferred 76 percent to the Fish and Wildlife Fund and 24 percent to the Department of Forests, Parks and Recreation for natural resource management. Of the funds deposited in the Fish and Wildlife Fund, the interest earned by deposited funds and all funds remaining at the end of the fiscal year shall remain in the Fish and Wildlife Fund.

* * *

§ 3108. RETURNS

For the purpose of determining the amount of the tax levied and assessed, by the 25th day of each calendar month, each distributor shall send to the Commissioner upon a form prepared and furnished by him or her a statement or return under oath or affirmation, showing:

(1) both the number of gallons of motor fuel sold and the number of gallons of motor fuel used by the distributor during the preceding calendar month. ~~The report shall contain;~~

(2) separately, both the number of gallons of aviation gasoline sold and the number of gallons of aviation gasoline used by the distributor during the preceding calendar month; and

(3) any further information ~~which~~ that the Commissioner prescribes.

* * *

Sec. 34. 23 V.S.A. § 1220a(b) is amended to read:

(b) The DUI Enforcement Special Fund shall consist of:

* * *

(3) beginning May 1, 2013 and thereafter, \$0.0038 per gallon of the revenues raised by the motor fuel tax on gasoline imposed by chapter 28 of this title, except for the revenues raised by the tax on aviation gasoline; and

(4) any additional funds transferred or appropriated by the General Assembly.

Sec. 35. 5 V.S.A. § 211 is amended to read:

§ 211. APPROPRIATION FROM ~~GASOLINE TAXES ON AIRCRAFT~~
FUEL

Funds appropriated from the proceeds of ~~the any tax on gasoline used in aircraft and capital development projects for aeronautical purposes are to aircraft fuel, including jet fuel and aviation gasoline, shall be expended under the direction of the Agency exclusively for aviation purposes consistent with 49 U.S.C. § 47133 and Federal Aviation Administration regulations and policies, including to provide;~~

(1) navigational aids to airmen ~~or;~~

(2) marking, lighting, removal, or elimination of obstructions or hazards to flight; ~~and to provide~~

(3) for the improvement of landing areas or facilities that are permanently established for the public use of aircraft ~~or in any other way that will promote aviation in the State.~~

Sec. 36. 24 V.S.A. § 138 is amended to read:

§ 138. LOCAL OPTION TAXES

* * *

(c) Any tax imposed under the authority of this section shall be collected and administered by the Department of Taxes, in accordance with State law governing such State tax or taxes; provided, however, that a sales tax imposed under this section shall be collected on each sale that is subject to the Vermont sales tax using a destination basis for taxation. A Except with respect to taxes collected on the sale of aviation jet fuel, a per-return fee of \$5.96 shall be assessed to compensate the Department for the costs of administration and collection, 70 percent of which shall be borne by the municipality, and 30 percent of which shall be borne by the State to be paid from the PILOT Special Fund. The fee shall be subject to the provisions of 32 V.S.A. § 605.

(d)(1) Of Except as provided in subsection (c) and subdivision (2) of this section with respect to taxes collected on the sale of aviation jet fuel, of the taxes collected under this section, 70 percent of the taxes shall be paid on a quarterly basis to the municipality in which they were collected, after reduction for the costs of administration and collection under subsection (c) of this section. Revenues received by a municipality may be expended for municipal services only, and not for education expenditures. Any remaining revenue shall be deposited into the PILOT Special Fund established by 32 V.S.A. § 3709.

(2)(A) Of the taxes collected under this section on the sale of aviation jet fuel, on a quarterly basis, 70 percent of the taxes shall be paid to the municipality in which they were collected, and 30 percent shall be deposited in the Transportation Fund.

(B) All revenues referenced in subdivision (A) of this subdivision (2) shall be used exclusively for aviation purposes consistent with 49 U.S.C. § 47133 and Federal Aviation Administration regulations and policies.

Sec. 37. 19 V.S.A. § 11 is amended to read:

§ 11. TRANSPORTATION FUND

The Transportation Fund shall comprise the following:

* * *

(4) monies received from the sales and use tax on aviation jet fuel and on natural gas used to propel a motor vehicle under 32 V.S.A. chapter 233, and from the portion of a local option tax on the sale of aviation jet fuel specified in 24 V.S.A. § 138;

* * *

* * * Petroleum Cleanup Fund; Releases of Aircraft Fuel * * *

Sec. 38. 10 V.S.A. § 1941 is amended to read:

§ 1941. PETROLEUM CLEANUP FUND

* * *

(b) The Secretary may authorize disbursements from the Fund for the purpose of the cleanup and restoration of contaminated soil and groundwater caused by releases of petroleum, including aviation gasoline, from underground storage tanks and aboveground storage tanks, including air emissions for remedial actions, and for compensation of third parties for injury and damage caused by a release. This Fund shall be used for no other governmental purposes, nor shall any portion of the Fund ever be available to borrow from by any branch of government; it being the intent of the General Assembly that this Fund and its increments shall remain intact and inviolate for the purposes set out in this chapter. Disbursements under this section may be made only for uninsured costs incurred after January 1, 1987 and for which a claim is made prior to July 1, 2019 and judged to be in conformance with prevailing industry rates. This includes:

* * *

Sec. 39. 5 V.S.A. § 693 is amended to read:

§ 693. CONDITIONS

A municipality receiving grants from the State of Vermont shall meet such conditions as the Secretary:

(1) may establish with respect to maintenance and continued use of the subject airport site for aeronautical purposes; and

(2) shall establish in order to require the municipality to assist the State in identifying vendors that distribute, sell, or use aircraft jet fuel in the State in connection with the airport.

* * * Passing Motor Vehicles and Vulnerable Users * * *

Sec. 40. 23 V.S.A. § 1033 is amended to read:

§ 1033. PASSING MOTOR VEHICLES AND VULNERABLE USERS

(a) Passing motor vehicles generally. Motor vehicles proceeding in the same direction may be overtaken and passed only as follows:

(1) The driver of a motor vehicle overtaking another motor vehicle proceeding in the same direction may pass to its left at a safe distance, and when so doing shall exercise due care, shall not pass to the left of the center of the highway except as authorized in section 1035 of this title, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken motor vehicle shall give way to the right in favor of the overtaking motor vehicle and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

(b) Passing Approaching or passing vulnerable users. The operator of a motor vehicle approaching or passing a vulnerable user as defined in subdivision 4(81) of this title shall exercise due care, which includes reducing speed and increasing clearance to a recommended distance of at least four feet, to pass the vulnerable user safely, and shall cross the center of the highway only as provided in section 1035 of this title. A person who violates this subsection shall be subject to a civil penalty of not less than \$200.00.

(c) Approaching or passing certain stationary vehicles. The operator of a motor vehicle approaching or passing a stationary sanitation, maintenance, utility, or delivery vehicle with flashing lights shall exercise due care, which includes reducing speed and increasing clearance to a recommended distance of at least four feet, to pass the vehicle safely, and shall cross the center of the highway only as provided in section 1035 of this title. A person who violates this subsection shall be subject to a civil penalty of not less than \$200.00.

* * * Effective Dates * * *

Sec. 41. EFFECTIVE DATES

(a) This section and Secs. 2 (federal infrastructure funding), 16 (penalties for furnishing alcoholic beverages to minors), 20 (transportation public-private partnerships), 23–24 (Green Mountain Transit Authority name update), and 25 (PUC investigation; electric vehicle charging) shall take effect on passage.

(b) Secs. 30–32 (town highway weight limits; signs) and 33–37 (aircraft fuel taxes) shall take effect on January 1, 2019.

(c) Sec. 29, 23 V.S.A. § 3513(a) (sunset of change to ATV fee and penalty allocation) shall take effect on July 1, 2023.

(d) All other sections shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 20, 2018, page 744 and March 21, 2018, page 783)

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

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

First: By striking out Sec. 25 in its entirety and inserting in lieu thereof a new Sec. 25 to read:

Sec. 25. PUBLIC UTILITY COMMISSION; REPORT;
ELECTRIC VEHICLE CHARGING

(a) After providing public notice and an opportunity for submission of written information and conducting one or more workshops, the Public Utility Commission (PUC or Commission) shall complete an evaluation and submit a written report on or before July 1, 2019 concerning the charging of plug-in electric vehicles (EV).

(b) As used in this section, “electric distribution utility” means a company that delivers electric energy to retail customers over a pole-and-wire network.

(c) The Commission shall provide direct notice of the opportunity and workshops described in subsection (a) of this section to the Agencies of Natural Resources and of Transportation, the Department of Public Service, each electric distribution utility, each efficiency entity appointed pursuant to 30 V.S.A. § 209(d) to deliver services to electric customers, and such other persons as the Commission may consider appropriate.

(d) The Commission’s report shall include:

(1) its analysis and recommendations on each of the following issues related to the role of electric distribution utilities:

(A) removal or mitigation, as appropriate, of barriers to EV charging, including strategies, such as time-of-use rates, to reduce operating costs for current and future EV users without shifting costs to ratepayers who do not own or operate EVs;

(B) strategies for managing the impact of EVs on and services provided by EVs to the electric transmission and distribution system;

(C) electric system benefits and costs of EV charging, electric utility planning for EV charging, and rate design for EV charging; and

(D) the appropriate role of electric distribution utilities with respect to the deployment and operation of EV charging stations;

(2) its analysis and recommendations on each of the following issues related to EV charging stations owned or operated by persons other than electric distribution utilities:

(A) how and on what terms, including quantity, pricing, and time of day, such charging stations will obtain electric energy to sell to EVs;

(B) what safety standards should apply to the charging of EVs;

(C) the recommended scope of the jurisdiction of the Commission, the Department of Public Service, and other State agencies over such stations;

(D) whether such stations will be free to set the rates or prices at which they provide electric energy to EVs, and any other issues relevant to the appropriate oversight of the rates and prices charged by such stations, including the transparency to the consumer of those rates and prices; and

(E) the recommended billing and complaint procedures for such charging stations; and

(3) its analysis and recommendations on each of the following issues:

(A) jointly with the Secretary of Transportation, recommended options to address how EV users pay toward the cost of maintaining the State's transportation infrastructure, including consideration of methods to assess the impact of EVs on that infrastructure and how to calculate a charge based on that impact, the potential assessment of a charge to EVs as a rate per kilowatt hour delivered to an EV; varying such a charge by size and type of EV; and phasing in such a charge;

(B) the accuracy of electric metering and submetering technology for charging EVs;

(C) strategies to encourage EV usage at a pace necessary to achieve the goals of the State's Comprehensive Energy Plan and its greenhouse gas reduction goals, without shifting costs to electric ratepayers who do not own or operate EVs; and

(D) any other issues the Commission considers relevant to ensuring a fair, cost-effective, and accessible EV charging infrastructure that will be sufficient to meet increased deployment of EVs.

(e) During the course of the evaluation and in its report, the Commission shall identify recommendations on the issues identified in subsection (c) of this section that may require enabling legislation.

(f) The Commission shall submit copies of its report to the House and Senate Committees on Transportation, the House Committee on Energy and Technology, and the Senate Committees on Finance and on Natural Resources and Energy.

Second: In Sec. 33, 23 V.S.A. chapter 28, in section 3105, in subsection (d), in the third sentence, by striking out the words “The record shall include” and inserting in lieu thereof the following: “The Except for purchases of aviation gasoline, the record shall include”

(Committee vote: 6-0-1)

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

The Committee recommends that the bill be amended as recommended by the Committees on Transportation and Finance with the following amendments thereto:

First: By adding two new sections to be numbered Secs. 41 and 42 to read as follows:

* * * Motor Vehicle Inspections * * *

Sec. 41. 23 V.S.A. § 1222 is amended to read:

§ 1222. INSPECTION OF REGISTERED VEHICLES

(a) Except for school buses, which shall be inspected as prescribed in section 1282 of this title, and motor buses as defined in subdivision 4(17) of this title, which shall be inspected twice during the calendar year at six-month intervals, all motor vehicles registered in this State shall be inspected once each year. Any motor vehicle, trailer, or semi-trailer not currently inspected in this State shall be inspected within 15 days ~~from~~ following the date of its registration in the State of Vermont.

(b)(1) The inspections shall be made at garages or qualified service stations, designated by the Commissioner as inspection stations, for the purpose of determining whether those motor vehicles are properly equipped and maintained in good mechanical condition; provided, however, the scope of the safety inspection of a motor vehicle other than a school bus or a commercial motor vehicle shall be limited to parts or systems that are relevant to the vehicle’s safe operation, and such vehicles shall not fail the safety portion of the inspection unless the condition of the part or system poses or may pose a danger to the operator or to other highway users.

(2) The charges for such inspections made by garages or qualified service stations designated to conduct periodic inspections shall be subject to the approval of the Commissioner. If a fee is charged for inspection, it shall be based upon the hourly rate charged by each official inspection station or it may be a flat rate fee and, in either instance, the fee shall be prominently posted and displayed beside the official inspection station certificate. In addition, the official inspection station may disclose the State inspection certificate charge

on the repair order as a separate item and collect the charge from the consumer.

* * *

Sec. 42. RULEMAKING; TRANSITION

(a)(1) As soon as practicable after the effective date of this section, and not later than May 1, 2018, the Commissioner of Motor Vehicles (Commissioner) shall file with the Secretary of State a proposed amended rule governing motor vehicle inspections (C.V.R. 14-050-022) that:

(A) is consistent with the permissible scope of safety inspections under the amendments to 23 V.S.A. § 1222 in Sec. 41 of this act; and

(B) clarifies ambiguous language in the rule.

(2) The amended rule described in subdivision (1) of this subsection shall be adopted so as to take effect no later than July 1, 2019.

(3) As soon as practicable after the effective date of this section, the Commissioner shall update the content of inspections conducted through the Automated Vehicle Inspection Program to exclude any requirement of C.V.R. 14-050-022 that is inconsistent with the permissible scope of safety inspections under the amendments to 23 V.S.A. § 1222 in Sec. 41 of this act, with the result that no vehicle will fail inspection as a result of any such inconsistent requirement.

(b) In the proposed rule amendments, the Commissioner may direct inspection stations to identify advisory, recommended repairs that are not required for the vehicle to pass inspection.

(c) Except as provided in subdivision (a)(2) and subsection (d) of this section, nothing in this section or Sec. 41 of this act is intended to affect the emissions-related requirements of the rule governing motor vehicle inspections.

(d) Notwithstanding 10 V.S.A. § 567 and C.V.R. 14-050-022, the Commissioner may establish criteria to allow vehicles that would otherwise fail inspection as a result of the emissions component of the inspection to pass inspection and receive an inspection sticker, provided that the vehicle satisfies all inspection requirements that are relevant to the vehicle's safe operation. The authority conferred in this subsection shall expire on January 15, 2019.

(e) As soon as practicable after the effective date of this section, the Commissioner of Motor Vehicles, in consultation with the Commissioner of Environmental Conservation, shall develop a program of waivers related to the emissions component of the State's inspection program that is consistent with the requirements of the Clean Air Act and its implementing regulations.

(f) On November 30, 2018, the Commissioners of Motor Vehicles and of Environmental Conservation shall send a written update to the Joint Transportation Oversight Committee that includes:

(1) a copy of any criteria developed under the authority granted in subsection (d) of this section;

(2) if the authority granted in subsection (d) of this section is exercised:

(A) whether the authority is still being exercised; and

(B) the number of conditional passes issued since the effective date of this section;

(3) a summary of the status of efforts to amend the Department's rule as required under subsection (a) of this section, and an estimate of the likely effective date of the amended rule if not yet adopted; and

(4) a summary of the status of the requirement to develop a program of waivers related to the emissions component of the State's inspection program and any efforts to educate consumers and inspection stations about issues related to emissions inspections, including: the availability of any such waivers; manufacturer warranties available for emissions components for certain vehicle models and model years; and vehicle readiness for emissions testing.

And by renumbering the remaining section to be numerically correct.

Second: In Sec. 43, EFFECTIVE DATES, by adding a new subsection (d) to read as follows:

(d) Secs. 41–42 (motor vehicle inspections) shall take effect on passage, except that notwithstanding 1 V.S.A. § 214, in Sec. 42, subsection (d) shall take effect retroactively on January 1, 2017.

And by relettering the remaining subsection to be alphabetically correct

(Committee vote: 4-0-3)

CONCURRENT RESOLUTIONS FOR ACTION

S.C.R. 23 (For text of Resolution, see Addendum to Senate Calendar for May 3, 2018)

H.C.R. 361 - 387 (For text of Resolutions, see Addendum to House Calendar for May 3, 2018)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

Alicia Sacerio Humbert of Northfield – Family Division Magistrate – By Senator Benning for the Committee on Judiciary. (5/3/18)

Megan J. Shafritz of South Burlington – Superior Judge – By Senator Nitka for the Committee on Judiciary. (5/3/18)

Andrew Hathaway of Waterbury – Member, Children and Family Council for Prevention Programs – By Senator Cummings for the Committee on Health and Welfare. (4/19/18)