

House Calendar

Thursday, February 27, 2020

52nd DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 P.M.

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ACTION CALENDAR

Third Reading

H. 254

An act relating to adequate shelter for livestock

H. 555

An act relating to rulemaking on food concessions, lotteries, raffles, or games of chance on lands and buildings within the jurisdiction of the Department of Buildings and General Services

S. 54

An act relating to the regulation of cannabis

Amendment to be offered by Rep. Browning of Arlington to S. 54

Rep. Browning of Arlington moves to amend the House proposal of amendment in Sec. 7, in 7 V.S.A. § 881, by striking out subdivision (a)(1)(B) in its entirety and inserting in lieu thereof a new subdivision (B) to read:

(B) qualifications for licensure that are directly and demonstrably related to the operation of a cannabis establishment, including:

(i) a requirement to submit an operating plan, which shall include the following information concerning each applicant:

(I) the type of business organization;

(II) for each person that has any amount of ownership interest in the applicant:

(aa) the identity of the person;

(bb) the character and value of the person's ownership interest in the applicant; and

(cc) the character and value of the person's ownership interest in any affiliate of the applicant;

(III) the identity of the principals of the applicant and any affiliate of the applicant; and

(IV) the sources, amount, and nature of the applicant's capital, assets, and financing; the identity of its financiers; the identity of the owners and principals of its financiers; and the identity of the owners and principals of

any affiliates of its financiers;

(ii) a requirement to file an amendment to its operating plan in the event of a significant change in organization, operation, or financing; and

(iii) the requirement for a fingerprint-based criminal history record check and regulatory record check pursuant to section 883 of this title;

Amendment to be offered by Rep. Savage of Swanton to S. 54

Representative Savage of Swanton moves that House proposal of amendment be amended as follows

Sec. 18n, 6 V.S.A. § 567 by striking out subsection (c) in its entirety.

Amendment to be offered by Rep. Donahue of Northfield to S. 54

Representative Donahue of Northfield moves that the House proposal of amendment be amended as follows:

First: In Sec. 2, 7 V.S.A. chapter 31, in subsection 845(b) by striking “advertising review fees.”

Second: In Sec. 5, by striking subdivision (a) (2)(C) in its entirety

Third: In Sec. 7, 7 V.S.A. chapter 33, by striking out subdivisions 861(1) and (2) in their entirety and by renumbering the remaining subdivisions to be numerically correct.

Fourth: In Sec. 7, 7 V.S.A. chapter 33, by striking out section 864 in its entirety and inserting in lieu thereof the following:

§ 864. ADVERTISING; PROHIBITION

(a) Purpose. Although the intent of this chapter is to create under State law a legal market for the sale of cannabis that is safer than the existing illegal market for the sale of cannabis, the purpose of this section is to ban the advertising of the sale of cannabis in order to address the multiple public health and safety concerns that legalization alone does not sufficiently address or mitigate, including:

(1) limiting exposure of children to cannabis advertising;

(2) preventing expansion of the cannabis market to new users, whether children or adult, who may be influenced by advertising;

(3) preventing an increase in the number of persons who because of State legalization do not understand that the sale, cultivation, and use of cannabis remains illegal under federal law; and

(4) preventing an increase in the market and amount of cannabis sold in

the State.

(b) Prohibition on advertising. To achieve the purposes of subsection (a) of this section, a licensed cannabis establishment is prohibited from advertising.

(c) For purposes of this section, advertising shall not include:

(1) any label affixed to any cannabis or cannabis product, or any individual covering, carton, or other wrapper of that container that constitutes a part of the labeling under provisions of these standards;

(2) any editorial or other reading material, such as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any cannabis establishment, and that is not written by or at the direction of the licensee;

(3) any educational, instructional, or otherwise noncommercial material that is not intended to induce sales and that does not propose an economic transaction, but that merely provides information to the public in an unbiased manner; or

(4) a sign attached to the premises of a cannabis establishment that merely identifies the location of the cannabis establishment.

Fifth: In Sec. 7, 7 V.S.A. chapter 33, by striking out subsection 866(b) in its entirety and by relettering the remaining subsections to be alphabetically correct.

Sixth: In Sec. 7, 7 V.S.A. chapter 33, by striking out subdivision 881(a)(1)(H) in its entirety and by relettering the remaining subdivisions to be alphabetically correct.

Committee Bill for Second Reading

H. 933

An act relating to technical corrections to municipal charters.

(Rep. Kitzmiller of Montpelier will speak for the Committee on Government Operations.)

H. 934

An act relating to renter rebate reform.

(Rep. Donovan of Burlington will speak for the Committee on Ways and Means.)

Favorable with Amendment

H. 580

An act relating to establishing a classification system for criminal offenses

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

Sec. 1. 13 V.S.A. chapter 2 is added to read:

CHAPTER 2. CLASSIFICATION OF CRIMINAL OFFENSES

§ 51. CLASSIFICATION OF OFFENSES

(a) All felonies shall be classified as follows: Class A, Class B, Class C, Class D, and Class E.

(b) All misdemeanors shall be classified as follows: Class A, Class B, Class C, Class D, and Class E.

(c) Except as otherwise provided by law, for all offenses the court may impose a sentence of imprisonment or a fine, or both.

§ 52. SENTENCES OF IMPRISONMENT

(a) The maximum term of imprisonment for a felony shall be as follows:

- (1) Class A: life imprisonment.
- (2) Class B: imprisonment for 20 years.
- (3) Class C: imprisonment for 10 years.
- (4) Class D: imprisonment for five years.
- (5) Class E: imprisonment for three years.

(b) The maximum term of imprisonment for a misdemeanor shall be as follows:

- (1) Class A: imprisonment for two years.
- (2) Class B: imprisonment for one year.
- (3) Class C: imprisonment for six months.
- (4) Class D: imprisonment for 30 days.
- (5) Class E: no term of imprisonment.

(c) The minimum term of imprisonment for a felony or a misdemeanor shall be as provided by law.

(d) Any statutory or mandatory minimum or maximum term of imprisonment for a felony or a misdemeanor shall be as provided by law.

§ 53. FINES

(a) Unless otherwise provided by law, the maximum fine for a felony shall be as follows:

(1) Class A: \$500,000.00.

(2) Class B: \$250,000.00.

(3) Class C: \$50,000.00.

(4) Class D: \$25,000.00.

(5) Class E: \$15,000.00.

(b) Unless otherwise provided by law, the maximum fine for a misdemeanor shall be as follows:

(1) Class A: \$10,000.00.

(2) Class B: \$5,000.00.

(3) Class C: \$2,500.00.

(4) Class D: \$500.00.

(5) Class E: \$250.00.

§ 54. TRANSITIONAL PROVISIONS

Unless otherwise provided by law, criminal offenses shall be classified according to each offense's statutory maximum penalty. Criminal offenses shall be classified as follows:

(1) Felonies.

(A) All felonies punishable by a maximum term of life imprisonment shall be Class A felonies.

(B) All felonies punishable by a maximum term of 20 years or more but less than life shall be Class B felonies.

(C) All felonies punishable by a maximum term of 10 years or more but less than 20 years shall be Class C felonies.

(D) All felonies punishable by a maximum term of five years or more but less than ten years shall be Class D felonies.

(E) All felonies punishable by a maximum term of less than five years shall be Class E felonies.

(2) Misdemeanors.

(A) All misdemeanors punishable by a maximum term of imprisonment of two years shall be Class A misdemeanors.

(B) All misdemeanors punishable by a maximum term of imprisonment of one year or more but less than two years shall be Class B misdemeanors.

(C) All misdemeanors punishable by a maximum term of imprisonment of six months or more but less than one year shall be Class C misdemeanors.

(D) All misdemeanors punishable by a maximum term of imprisonment of 30 days or more but less than six months shall be Class D misdemeanors.

(E) All misdemeanors punishable by a fine and no term of imprisonment or a maximum term of imprisonment of less than 30 days shall be Class E misdemeanors.

§ 55. CLASSIFICATION OF PROPERTY OFFENSES

All criminal property offenses to which this section applies shall be classified as follows:

(1) If the value of the property that is at issue in the offense is less than \$100.00, the offense shall be a Class D misdemeanor.

(2) If the value of the property that is at issue in the offense is less than \$1,000.00 and equal to or greater than \$100.00, the offense shall be a Class C misdemeanor.

(3) If the value of the property that is at issue in the offense is less than \$3,000.00 and equal to or greater than \$1,000.00, the offense shall be a Class A misdemeanor.

(4) If the value of the property that is at issue in the offense is less than \$100,000.00 and equal to or greater than \$3,000.00, the offense shall be a Class E felony.

(5) If the value of the property that is at issue in the offense is equal to or greater than \$100,000.00, the offense shall be a Class D felony.

Sec. 2. 13 V.S.A. § 9 is amended to read:

§ 9. ATTEMPTS

(a) A person who attempts to commit an offense and does an act toward the commission thereof, but by reason of being interrupted or prevented fails in

the execution of the same, shall be punished as herein provided unless other express provision is made by law for the punishment of the attempt. If the offense attempted to be committed is murder, aggravated murder, kidnapping, arson causing death, human trafficking, aggravated human trafficking, aggravated sexual assault, or sexual assault, a person shall be punished as the offense attempted to be committed is by law punishable.

(b) If the offense attempted to be committed is a felony other than those set forth in subsection (a) of this section, a person shall be punished by the less severe of the following punishments:

(1) ~~imprisonment for not more than 10 years or fined not more than \$10,000.00, or both~~ as a Class C felony; or

(2) as the offense attempted to be committed is by law punishable.

(c) If the offense attempted to be committed is a misdemeanor, a person shall be ~~imprisoned or fined, or both, in an amount not to exceed one half the maximum penalty for which~~ subject to the punishment applicable to the misdemeanor that is one class level lower than the offense so attempted to be committed is by law punishable.

Sec. 3. 9 V.S.A. § 4043 is amended to read:

§ 4043. FRAUDULENT USE

(a) A person shall not with intent to defraud, obtain, or attempt to obtain money, property, services, or any other thing of value, by the use of a credit card which he or she knows, or reasonably shall have known, to have been stolen, forged, revoked, cancelled, unauthorized, or invalid for use by him or her for such purpose.

(b) A person who violates this section shall be sentenced pursuant to 13 V.S.A. §§ 52, 53, and 55.

Sec. 4. 9 V.S.A. § 4044 is amended to read:

§ 4044. ~~PENALTY~~

~~(a) A person who violates section 4043 of this title shall be fined not more than \$500.00 or be imprisoned not more than six months, or both, if the aggregate value of the money, property, services, or other things of value so obtained is \$50.00 or less.~~

~~(b) A person who violates section 4043 of this title shall be fined not more than \$1,000.00 or be imprisoned not more than one year, or both, if the aggregate value of the money, property, services, or other things of value so obtained exceeds \$50.00. [Repealed.]~~

Sec. 5. 13 V.S.A. § 1801 is amended to read:

§ 1801. FORGERY AND COUNTERFEITING OF PAPERS,
DOCUMENTS, ETC.

A person who wittingly, falsely, and deceitfully makes, alters, forges, or counterfeits, or wittingly, falsely, or deceitfully causes to be made, altered, forged, or counterfeited, or procures, aids, or counsels the making, altering, forging, or counterfeiting, of a writ, process, public record, or any certificate, return, or attestation of a clerk of a court, public register, notary public, justice, or other public officer, in relation to a matter wherein such certificate, return, or attestation may be received as legal proof, or a charter, deed, or any evidence or muniment of title to property, will, terminal care document, testament, bond, or writing obligatory, letter of attorney, policy of insurance, bill of lading, bill of exchange, promissory note, or an order drawn on a person or corporation, or on a State, county, or town or school district treasurer, for money or other property, or an acquittance or discharge for money or other property, or an acceptance of a bill of exchange, or indorsement or assignment of a bill of exchange or promissory note, for the payment of money, or any accountable receipt for money, goods, or other property, or certificate of stock, with intent to injure, or defraud a person, shall be ~~imprisoned not more than 10 years and fined not more than \$1,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 6. 13 V.S.A. § 1802 is amended to read:

§ 1802. UTTERING FORGED OR COUNTERFEITED INSTRUMENT

A person who utters and publishes as true a forged, altered, or counterfeited record, deed, instrument, or other writing mentioned in section 1801 of this title, knowing the same to be false, altered, forged, or counterfeited, with intent to injure or defraud a person, shall be ~~imprisoned not more than 10 years and fined not more than \$1,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 7. 13 V.S.A. § 1804 is amended to read:

§ 1804. COUNTERFEITING PAPER MONEY

A person who falsely makes, alters, forges, or counterfeits, or procures to be made, altered, forged, or counterfeited, or aids or assists in making, altering, forging, or counterfeiting, a note, or imitation of, or purporting to be a note issued by the United States, used as currency, or a bank bill or promissory note, or imitation of, or purporting to be a bank bill or promissory note, issued by a banking company incorporated by the Congress of the United States or by the legislature of a state of the United States or of another country,

with intent to injure or defraud a person; and a person who utters, passes, or gives in payment, or offers to pass or give in payment, or procures to be offered, passed, or given in payment, or has in his or her possession with intent to offer, pass, or give in payment, such altered, forged, counterfeited, or imitated note, bank bill, or promissory note, knowing the same to be altered, forged, counterfeited, or imitated, shall be ~~imprisoned not more than 14 years and fined not more than \$1,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 8. 13 V.S.A. § 1816 is amended to read:

§ 1816. POSSESSION OR USE OF CREDIT CARD SKIMMING DEVICES
AND RE-ENCODERS

(a) A person who knowingly, wittingly, and with the intent to defraud possesses a scanning device, or who knowingly, wittingly, and with intent to defraud uses a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the computer chip or magnetic strip of a payment card without the permission of the authorized user of the payment card ~~shall be imprisoned not more than 10 years or fined not more than \$10,000.00, or both~~ commits a Class C felony.

(b) A person who knowingly, wittingly, and with the intent to defraud possesses a re-encoder, or who knowingly, wittingly, and with the intent to defraud uses a re-encoder to place encoded information on the computer chip or magnetic strip or stripe of a payment card or any electronic medium that allows an authorized transaction to occur without the permission of the authorized user of the payment card from which the information is being re-encoded ~~shall be imprisoned not more than 10 years or fined not more than \$10,000.00, or both~~ commits a Class C felony.

* * *

Sec. 9. 13 V.S.A. § 2001 is amended to read:

§ 2001. FALSE PERSONATION

A person who falsely personates or represents another, and in such assumed character receives money or other property intended to be delivered to the party so personated, with intent to convert the same to the person's own use, shall be ~~imprisoned not more than 10 years or fined not more than \$2,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 10. 13 V.S.A. § 2002 is amended to read:

§ 2002. FALSE PRETENSES OR TOKENS

A person who designedly by false pretenses or by privy or false token and with intent to defraud, obtains from another person money or other property, or a release or discharge of a debt or obligation, or the signature of a person to a written instrument, the false making whereof would be punishable as forgery, shall be ~~imprisoned not more than 10 years or fined not more than \$2,000.00, or both, if the money or property so obtained exceeds \$900.00 in value. A person who violates this section shall be imprisoned for not more than one year or fined not more than \$1,000.00, or both, if the money or property obtained in violation of this section is valued at \$900.00 or less~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 11. 13 V.S.A. § 2029 is amended to read:

§ 2029. HOME IMPROVEMENT FRAUD

* * *

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

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

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

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

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

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

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

* * *

Sec. 12. 13 V.S.A. § 2030 is amended to read:

§ 2030. IDENTITY THEFT

* * *

(f) A person who violates this section shall be imprisoned for not more than three years or fined not more than \$5,000.00, or both commits a Class E felony. A person who is convicted of a second or subsequent violation of this section involving a separate scheme shall be imprisoned for not more than 10 years or fined not more than \$10,000.00, or both commits a Class C felony.

Sec. 13. 13 V.S.A. § 2031 is amended to read:

* * *

(c) Penalties. A person who violates subsection (b) of this section shall:

(1) if the benefit wrongfully obtained or the loss suffered by any person as a result of the violation has a value of less than \$900.00, be imprisoned for not more than six months or fined not more than \$5,000.00, or both; or

(2) if the benefit wrongfully obtained or the loss suffered by any person as a result of the violation has a value of more than \$900.00, be imprisoned for not more than five years or fined not more than \$10,000.00, or both; or

(3) for a second or subsequent offense, regardless of the value of the benefit wrongfully obtained, be imprisoned not more than five years or fined not more than \$20,000.00, or both be sentenced pursuant to sections 52, 53, and 55 of this title.

* * *

Sec. 14. 13 V.S.A. § 2501 is amended to read:

§ 2501. GRAND AND PETIT LARCENY

A person who steals from the actual or constructive possession of another, other than from his or her person, money, goods, chattels, bank notes, bonds, promissory notes, bills of exchange or other bills, orders, or certificates, or a book of accounts for or concerning money, or goods due or to become due or to be delivered, or a deed or writing containing a conveyance of land, or any other valuable contract in force, or a receipt, release or defeasance, writ, process, or public record, shall be imprisoned not more than 10 years or fined not more than \$5,000.00, or both, if the money or other property stolen exceeds \$900.00 in value sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 15. 13 V.S.A. § 2502 is amended to read:

§ 2502. PETIT LARCENY

For offenses mentioned in section 2501 of this title where the money or

~~other property stolen does not exceed \$900.00 in value, the court may sentence the person convicted to imprisonment for not more than one year or to pay a fine of not more than \$1,000.00, or both. [Repealed.]~~

Sec. 16. 13 V.S.A. § 2503 is amended to read:

§ 2503. LARCENY FROM THE PERSON

A person who steals or attempts to steal from the person and custody of another, property, the subject of larceny, shall be imprisoned not more than 10 years or fined not more than \$500.00, or both commits a Class C felony.

Sec. 17. 13 V.S.A. § 2531 is amended to read:

§ 2531. EMBEZZLEMENT GENERALLY

(a) An officer, agent, bailee for hire, clerk, or servant of a banking association or an incorporated company, or a clerk, agent, bailee for hire, officer, or servant of a private person, partnership, trades union, joint stock company, unincorporated association, fraternal or benevolent association, except apprentices and other persons under the age of 16 years of age, who embezzles or fraudulently converts to his or her own use, or takes or secretes with intent to embezzle or fraudulently convert to his or her own use, money or other property that comes into his or her possession or is under his or her care by virtue of such employment, notwithstanding he or she may have an interest in such money or property, shall be guilty of embezzlement and sentenced pursuant to sections 52, 53, and 55 of this title.

~~(b) If the money or property embezzled does not exceed \$100.00 in value, the person shall be imprisoned not more than one year or fined not more than \$1,000.00, or both. If the money or property embezzled exceeds \$100.00 in value, the person shall be imprisoned not more than 10 years or fined not more than \$10,000.00, or both.~~

Sec. 18. 13 V.S.A. § 2532 is amended to read:

§ 2532. OFFICER OR SERVANT OF INCORPORATED BANK

A cashier or other officer, agent, or servant of an incorporated bank who embezzles or fraudulently converts to his or her own use bullion, money, notes, bills, obligations, or securities or other effects or property belonging to and in the possession of such bank or belonging to any person and deposited therein, shall be guilty of larceny and shall be imprisoned not more than 10 years or fined not more than \$1,000.00, or both sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 19. 13 V.S.A. § 2533 is amended to read:

§ 2533. RECEIVER OR TRUSTEE

A receiver or trustee appointed by the court in any litigation in this State, who embezzles or fraudulently converts to his or her own use any money or other property in his or her hands as such receiver or trustee, shall be guilty of larceny and shall be ~~imprisoned not more than 10 years or fined not more than \$1,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 20. 13 V.S.A. § 2537 is amended to read:

§ 2537. PERSON HOLDING PROPERTY IN OFFICIAL CAPACITY OR
BELONGING TO THE STATE OR A MUNICIPALITY

A State, county, town, or municipal officer or other person who in his or her official capacity receives, collects, controls, or holds money, obligations, securities, or other property, who embezzles or fraudulently converts to his or her own use any of such money, obligations, securities, or other property, or a person who embezzles or fraudulently converts to his or her own use money or other property belonging to the State or to a county or municipality, or a municipal corporation, or a special purpose district, shall be guilty of larceny and shall be ~~imprisoned not more than 10 years or fined not more than \$1,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 21. 13 V.S.A. § 2561 is amended to read:

§ 2561. PENALTY FOR RECEIVING STOLEN PROPERTY; VENUE

(a) A person who is a dealer in property who buys, receives, sells, possesses unless with the intent to restore to the owner, or aids in the concealment of property, knowing or believing the property to be stolen, shall be ~~punished the same as for the stealing of such property~~ sentenced pursuant to sections 52, 53, and 55 of this title.

(b) A person who buys, receives, sells, possesses unless with the intent to restore to the owner, or aids in the concealment of stolen property, knowing the same to be stolen, shall be ~~punished the same as for the stealing of such property~~ sentenced pursuant to sections 52, 53, and 55 of this title.

* * *

Sec. 22. 13 V.S.A. § 2575a is added to read:

§ 2575a. ORGANIZED RETAIL THEFT

(a) A person commits the offense of organized retail theft when he or she commits the offense of retail theft pursuant to section 2575 of this title and acts in concert with one or more persons on one or more occasions within a period of 180 days.

(b) A person who violates subsection (a) of this section shall be sentenced pursuant to sections 52, 53, and 55 of this title. The aggregate retail value of the merchandise obtained shall be used to determine the classification of the offense under section 55 of this title.

Sec. 23. 13 V.S.A. § 2577 is amended to read:

§ 2577. PENALTY

~~(a) A person convicted of the offense of retail theft of merchandise having a retail value not in excess of \$900.00 shall be punished by a fine of not more than \$500.00 or imprisonment for not more than six months, or both.~~

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

~~(c) Notwithstanding the provisions of subsections (a) and (b) of this section, a person convicted of retail theft pursuant to:~~

~~(1) Subdivision 2575(4) of this title shall be imprisoned not more than two years or fined not more than \$1,000.00, or both.~~

~~(2) Subdivision 2575(5), (6), or (7) of this title shall be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both shall be sentenced pursuant to sections 52, 53, and 55 of this title.~~

Sec. 24. 13 V.S.A. § 2582 is amended to read:

§ 2582. THEFT OF SERVICES

(a) A person who purposely obtains services that he or she knows are available only for compensation, by deception or threat, or by false token or other means to avoid payment for the service shall ~~if the services exceed \$900.00 in value be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both. Otherwise, a person who violates a provision of this subsection shall be imprisoned for not more than one year or fined not more than \$1,000.00, or both~~ be sentenced pursuant to sections 52, 53, and 55 of this title. Where compensation for service is ordinarily paid immediately upon the rendering of such service, as in the case of hotels, restaurants, and transportation, refusal to pay or absconding without payment or offer to pay gives rise to a rebuttable presumption that the service was obtained by deception as to intention to pay.

(b) A person who, having control over the disposition of services of others, to which he or she is not entitled, knowingly diverts such services to the person's own benefit or to the benefit of another not entitled thereto shall ~~if the services exceed \$900.00 in value be imprisoned for not more than 10 years or~~

~~fined not more than \$5,000.00, or both. Otherwise a person who violates a provision of this subsection shall be imprisoned for not more than one year or fined not more than \$1,000.00, or both~~ be sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 25. 13 V.S.A. § 2591 is amended to read:

§ 2591. THEFT OF RENTED PROPERTY

(a) A person who converts to his or her own use any personal property, other than a motor vehicle leased or rented pursuant to a written agreement that has been entrusted to the person under an agreement in writing that provides for the delivery of that personal property to a particular person or place or at a particular time, abandons it, or refuses or neglects to deliver it to the person or place and at the time specified in the written agreement, or who destroys, secretes, appropriates, converts, sells, or attempts to sell all or any part of it, or who removes or permits or causes it to be removed from this State, without the consent of its owner, shall be:

~~(1) if the value of the property involved is \$900.00 or less, imprisoned not more than six months or fined not more than \$500.00, or both; for a first offense, sentenced pursuant to sections 52, 53, and 55 of this title, provided that the sentence shall not exceed the penalty for a Class C misdemeanor; or~~

~~(2) if the property involved exceeds \$900.00 in value:~~

~~(A) imprisoned for not more than two years or fined not more than \$1,000.00, or both; or~~

~~(B) imprisoned for not more than five years or fined not more than \$5,000.00 if the person has been previously convicted of a violation of this subdivision (a)(2) of this section for a second or subsequent offense, sentenced pursuant to sections 52, 53, and 55 of this title, provided that the sentence shall not exceed the penalty for a Class D felony.~~

* * *

Sec. 26. 13 V.S.A. § 2592 is amended to read:

§ 2592. FAILURE TO RETURN A RENTED OR LEASED MOTOR
VEHICLE

* * *

~~(b) A person who violates this section shall be imprisoned for not more than three years or fined not more than \$3,000.00, or both~~ commits a Class E felony. If the person has been previously convicted of a violation of this section, the person ~~shall be imprisoned not more than five years or fined not~~

~~more than \$5,000.00, or both~~ commits a Class D felony.

Sec. 27. 13 V.S.A. § 3016 is amended to read:

§ 3016. FALSE CLAIM

* * *

~~(b) A person who violates this section shall, if the prohibited act results in no loss to a governmental entity or benefit to the person or results in a loss to a governmental entity or benefit to the person of less than \$500.00 in value, be imprisoned not more than two years or fined not more than \$5,000.00, or both. A person who violates this section shall, if the prohibited act results in a loss to any governmental entity or a benefit to the person of \$500.00 or more in value, whether by a single act or by a common scheme or course of conduct involving one or more transactions, be imprisoned not more than five years or fined not more than \$10,000.00, or both~~ be sentenced pursuant to sections 52, 53, and 55 of this title.

* * *

Sec. 28. 13 V.S.A. § 3606a is amended to read:

§ 3606a. TRESPASS; CRIMINAL PENALTY

(a) No person shall knowingly or recklessly:

(1) cut down, fell, destroy, remove, injure, damage, or carry away any timber or forest product placed or growing for any use or purpose whatsoever, or timber or forest product lying or growing belonging to another person, without permission from the owner of the timber or forest product; or

(2) deface the mark of a log, forest product, or other valuable timber in a river or other place.

(b) Any person who violates subsection (a) of this section shall:

(1) ~~for a first offense, be imprisoned not more than one year or fined not more than \$20,000.00, or both~~ commits a Class B misdemeanor; or

(2) ~~for a second or subsequent offense, be imprisoned not more than two years or fined not more than \$50,000.00, or both~~ commits a Class A misdemeanor.

Sec. 29. 13 V.S.A. § 3701 is amended to read:

§ 3701. UNLAWFUL MISCHIEF

(a) A person who, with intent to damage property, and having no right to do so or any reasonable ground to believe that he or she has such a right, does any damage to any property ~~which is valued in an amount exceeding \$1,000.00~~

~~shall be imprisoned for not more than five years or fined not more than \$5,000.00, or both shall be sentenced pursuant to sections 52, 53, and 55 of this title.~~

~~(b) A person who, with intent to damage property, and having no right to do so or any reasonable ground to believe that he or she has such a right, does any damage to any property which is valued in an amount exceeding \$250.00 shall be imprisoned for not more than one year or fined not more than \$1,000.00, or both.~~

~~(c) A person who, having no right to do so or any reasonable ground to believe that he or she has such a right, intentionally does any damage to property of any value not exceeding \$250.00 shall be imprisoned for not more than six months or fined not more than \$500.00, or both.~~

~~(d) A person who, with intent to damage property, and having no right to do so or any reasonable ground to believe that he or she has such a right, does any damage to any property by means of an explosive shall be imprisoned for not more than five years or fined not more than \$5,000.00, or both commits a Class D felony.~~

~~(e)(c) For the purposes of As used in this section “property” means real or personal property.~~

~~(f)(d) A person who suffers damages as a result of a violation of this section may recover those damages together with reasonable attorney’s fees in a civil action under this section.~~

Sec. 30. 13 V.S.A. § 3705 is amended to read:

§ 3705. UNLAWFUL TRESPASS

(a)(1) A person ~~shall be imprisoned for not more than three months or fined not more than \$500.00, or both,~~ commits a Class D misdemeanor if, without legal authority or the consent of the person in lawful possession, he or she enters or remains on any land or in any place as to which notice against trespass is given by:

(A) actual communication by the person in lawful possession or his or her agent or by a law enforcement officer acting on behalf of such person or his or her agent;

(B) signs or placards so designed and situated as to give reasonable notice; or

(C) in the case of abandoned property:

(i) signs or placards, posted by the owner, the owner’s agent, or a

law enforcement officer, and so designed and situated as to give reasonable notice; or

(ii) actual communication by a law enforcement officer.

* * *

(c) A person who enters a building other than a residence, whose access is normally locked, whether or not the access is actually locked, or a residence in violation of an order of any court of competent jurisdiction in this State ~~shall be imprisoned for not more than one year or fined not more than \$500.00, or both~~ commits a Class B misdemeanor.

(d) A person who enters a dwelling house, whether or not a person is actually present, knowing that he or she is not licensed or privileged to do so ~~shall be imprisoned for not more than three years or fined not more than \$2,000.00, or both~~ commits a Class E felony.

* * *

Sec. 31. 13 V.S.A. § 3732 is amended to read:

§ 3732. UNAUTHORIZED REMOVAL OF BOOKS FROM LIBRARY

A person who removes from a free public library, or a free town, village, or traveling library, a book, paper, magazine, document, or other reading matter, or an art book, picture, print, plate, or other art work, kept in such library for public use or circulation, without the consent of the librarian or other person in charge of such library, ~~shall be fined not more than \$50.00 for each offense, half to the use of~~ commits a Class E misdemeanor. One-half of the criminal fine shall be paid to the library from which the same was so removed, and the other half to the use of one-half shall be paid to the treasury liable for the costs of prosecution.

Sec. 32. 13 V.S.A. § 3733 is amended to read:

§ 3733. MILLS, DAMS OR BRIDGES

A person who willfully and maliciously injures, removes, or opens a dam, reservoir, gate, or flume; ~~or injures or removes the wheels, mill gear, or machinery of a water mill;~~ or injures, removes, or destroys a public or toll bridge, ~~shall be imprisoned not more than five years or fined not more than \$500.00, or both~~ commits a Class D felony.

Sec. 33. 13 V.S.A. § 3738 is amended to read:

§ 3738. OBSTRUCTION AND USE OF PRIVATE ROADS AND LANDS
BY MOTOR VEHICLE

(a) A person who shall not, without the permission of the owner or occupant and by use of a motor vehicle as defined in 23 V.S.A. § 4:

(1) ~~obstructs~~ obstruct a private driveway, barway, or gateway; ~~or~~

(2) ~~travels~~ travel over a private road that is so marked, ~~or travels~~ travel over other private lands; or

(3) ~~enters~~ enter on private lands for the purpose of camping; ~~without the permission of the owner or occupant shall be fined not more than \$500.00.~~

(b) A person who violates this section commits a Class E misdemeanor.

Sec. 34. 13 V.S.A. § 3739 is amended to read:

§ 3739. OPERATION OF VEHICLES ON STATE OWNED LAND

~~(a) A person who operates~~ shall not operate a motor vehicle, as defined in 23 V.S.A. § 4, on any land that is owned or held by the State:

(1) except in places or on trails specifically designated and marked by the Secretary of Natural Resources; or

(2) contrary to any rule governing the use of the place or trail ~~shall be fined not more than \$500.00.~~

(3) For the purposes of this section “land owned or held by the State” does not include a highway as defined in 23 V.S.A. § 4.

* * *

(c) A person who violates this section commits a Class E misdemeanor.

Sec. 35. 13 V.S.A. § 3740 is amended to read:

§ 3740. DAMAGE TO STATE LAND

A person who operates a motor vehicle, as defined in 23 V.S.A. § 4, on any land, that is owned or held by the State, in such a manner as to purposely and maliciously cause injury, damage, erosion, or waste to the land ~~shall be fined not more than \$500.00~~ commits a Class E misdemeanor. For the purposes of this section “land” does not include a highway as defined in 23 V.S.A. § 4.

Sec. 36. 13 V.S.A. § 3761 is amended to read:

§ 3761. UNAUTHORIZED REMOVAL OF HUMAN REMAINS

A person who, not being authorized by law, intentionally excavates, disinters, removes, or carries away a human body, or the remains thereof, interred or entombed in this State or intentionally excavates, disinters, removes, or carries away an object interred or entombed with a human body in this State, or knowingly aids in such excavation, disinterment, removal, or

carrying away, or is accessory thereto, ~~shall be imprisoned not more than 15 years or fined not more than \$10,000.00, or both~~ commits a Class C felony.

Sec. 37. 13 V.S.A. § 3767 is amended to read:

§ 3767. PENALTIES

(a) A person who violates a provision of sections 3764–3766 of this title ~~shall, except as provided in subsection (b) of this section, be imprisoned not more than five years or fined not more than \$5,000.00, or both~~ commits a Class D felony.

(b) A person who violates subsection 3766(c) of this title ~~shall be imprisoned not more than one year or fined not more than \$500.00, or both~~ commits a Class B misdemeanor.

Sec. 38. 13 V.S.A. § 3771 is amended to read:

§ 3771. DISTURBING A FUNERAL SERVICE

* * *

(b) No person shall disturb or attempt to disturb a funeral service by engaging in picketing within 100 feet of the service within one hour prior to and two hours following the publicly announced time of the commencement of the service.

(c) A person who violates this section ~~shall be imprisoned not more than 30 days or fined not more than \$500.00, or both~~ commits a Class D misdemeanor.

Sec. 39. 13 V.S.A. § 3781 is amended to read:

§ 3781. TAPPING GAS PIPES WITH INTENT TO DEFRAUD

A person who taps gas pipes with intent to take gas therefrom, or who connects pipes with such gas pipes so that gas may be used without passing through the meters for measurement, or who knowingly burns gas without measurement by gas meters, without the consent of the owner, ~~shall be imprisoned not more than one year or fined not more than \$100.00, or both~~ commits a Class A misdemeanor. The owner of the gas may recover of the person so unlawfully tapping or connecting such pipes or using gas, the actual damages, with costs, in a civil action on this statute.

Sec. 40. 13 V.S.A. § 3782 is amended to read:

§ 3782. TAPPING ELECTRIC LINES; INJURIES TO ELECTRIC PLANTS

A person who willfully commits or causes to be committed an act with intent to injure a machine, apparatus, or structure appertaining to the works of a person, firm, association, or corporation engaged in manufacturing, selling,

or distributing electrical energy in this State, or whereby such works may be stopped, obstructed, or injured, or who taps an electrical line of a person, firm, association, or corporation so that electricity can be taken therefrom, or knowingly uses electricity taken from such line without the consent of such person, firm, association, or corporation, ~~shall be imprisoned not more than two years or fined not more than \$300.00, or both~~ commits a Class A misdemeanor. Such person shall also be liable to such person, firm, association, or corporation or to anyone injured for actual damages, with full costs, in a civil action on this statute.

Sec. 41. 13 V.S.A. § 3784 is amended to read:

§ 3784. INTERFERING WITH METERS

A person, other than an authorized agent or employee acting for the owner, manufacturer, or operator thereof, who maliciously opens, closes, breaks into, or in any manner adjusts or interferes with a meter, or other regulating or measuring device or appliance attached to or connected with wires, pipe lines, mains, service pipes, or house pipes owned or used by a manufacturer or furnisher of electricity, gas, or water ~~shall be imprisoned not more than three months or fined not more than \$100.00, or both~~ commits a Class D misdemeanor.

Sec. 42. 13 V.S.A. § 3785 is amended to read:

§ 3785. INJURING LIGHTS IN STREETS AND PUBLIC BUILDINGS

A person who willfully and maliciously breaks the glass about a street lamp or gaslight, or a lamp or gaslight in the grounds about a public building, or, without authority, lights such a lamp or gaslight or extinguishes the same when lighted, or in any manner interferes therewith, or injures any part of the fixtures supporting such lamp or gaslight, or defaces the same by painting or posting notices thereon, or fastens a horse or animal thereto, ~~shall be imprisoned not more than three months or fined not more than \$50.00, or both~~ commits a Class D misdemeanor.

Sec. 43. 13 V.S.A. § 3786 is amended to read:

§ 3786. TAPPING CABLE TELEVISION SYSTEMS; DAMAGE TO
EQUIPMENT

A person who willfully or maliciously damages, or causes to be damaged, any wire, cable, conduit, apparatus, or equipment of a company operating a cable television system, as defined in 30 V.S.A. § 501, or who commits any act with intent to cause damage to any wire, cable, conduit, apparatus, or equipment of a company operating such a system, or who taps, tampers with,

or connects any wire or device to the equipment of the cable television company that would degrade the service rendered without authorization of the company ~~may be fined not more than \$100.00~~ commits a Class E misdemeanor and shall be liable in a civil action for three times the actual amount of damages sustained thereby.

Sec. 44. 13 V.S.A. § 3831 is amended to read:

§ 3831. CUTTING ICE AND NOT FENCING HOLE

A person who takes ice from water over which people are accustomed to pass and does not place around the opening thereby made in the ice suitable guards to prevent a person, team, or vehicle from falling into such hole or opening ~~shall be fined not more than \$50.00~~ commits a Class E misdemeanor.

Sec. 45. 13 V.S.A. § 3833 is amended to read:

§ 3833. UNLAWFUL TAKING OF TANGIBLE PERSONAL PROPERTY;
PENALTY

A person who, without the consent of the owner, takes and carries away or causes to be taken and carried away any tangible personal property with the intent of depriving the owner temporarily of the lawful possession of his or her property ~~shall be fined not more than \$100.00~~ commits a Class E misdemeanor. This section shall not be construed to limit or restrict prosecutions for larceny or theft.

Sec. 46. 13 V.S.A. § 3834 is amended to read:

§ 3834. REMOVAL OF SURVEYING MONUMENTS

A person who knowingly removes or alters monuments marking the boundary of lands or knowingly defaces, alters, or removes marks upon any tree, post, or stake that is a monument designating a point, course, or line in the boundary of a parcel of land ~~shall be fined \$100.00~~ commits a Class E misdemeanor and shall be civilly liable for the replacement cost and any consequential damages. However, land surveyors in their professional practice may perpetuate such monumentation by adding additional marks, or by remonumenting nonsubstantial monuments or by the placing of new monuments to preserve monuments to be destroyed or made inaccessible.

Sec. 47. 13 V.S.A. § 4102 is amended to read:

§ 4102. UNAUTHORIZED ACCESS

A person who knowingly and intentionally and without lawful authority, accesses any computer, computer system, computer network, computer software, computer program, or data contained in such computer, computer

system, computer program, or computer network ~~shall be imprisoned not more than six months or fined not more than \$500.00, or both~~ commits a Class C misdemeanor.

Sec. 48. 13 V.S.A. § 4103 is amended to read:

§ 4103. ACCESS TO COMPUTER FOR FRAUDULENT PURPOSES

* * *

(b) Penalties. A person convicted of the crime of access to computer for fraudulent purposes shall be:

~~(1) if the value of the matter involved does not exceed \$500.00, imprisoned not more than one year or fined not more than \$500.00, or both;~~

~~(2) if the value of the matter involved does not exceed \$500.00, for a second or subsequent offense, imprisoned not more than two years or fined not more than \$1,000.00, or both; or~~

~~(3) if the value of the matter involved exceeds \$500.00, imprisoned not more than 10 years or fined not more than \$10,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 49. 13 V.S.A. § 4104 is amended to read:

§ 4104. ALTERATION, DAMAGE, OR INTERFERENCE

(a) A person shall not intentionally and without lawful authority, alter, damage, or interfere with the operation of any computer, computer system, computer network, computer software, computer program, or data contained in such computer, computer system, computer program, or computer network.

(b) Penalties. A person convicted of violating this section shall be:

~~(1) if the damage or loss does not exceed \$500.00 for a first offense, imprisoned not more than one year or fined not more than \$5,000.00, or both;~~

~~(2) if the damage or loss does not exceed \$500.00 for a second or subsequent offense, imprisoned not more than two years or fined not more than \$10,000.00, or both; or~~

~~(3) if the damage or loss exceeds \$500.00, imprisoned not more than 10 years or fined not more than \$25,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 50. 13 V.S.A. § 4105 is amended to read:

§ 4105. THEFT OR DESTRUCTION

(a)(1) A person shall not intentionally and without claim of right deprive

the owner of possession, take, transfer, copy, conceal, or retain possession of, or intentionally and without lawful authority, destroy any computer system, computer network, computer software, computer program, or data contained in such computer, computer system, computer program, or computer network.

(2) Copying a commercially available computer program or computer software is not a crime under this section, provided that the computer program and computer software has a retail value of \$500.00 or less and is not copied for resale.

(b) Penalties. A person convicted of violating this section shall be:

~~(1) if the damage or loss does not exceed \$500.00 for a first offense, imprisoned not more than one year or fined not more than \$5,000.00, or both;~~

~~(2) if the damage or loss does not exceed \$500.00 for a second or subsequent offense, imprisoned not more than two years or fined not more than \$10,000.00, or both; or~~

~~(3) if the damage or loss exceeds \$500.00, imprisoned not more than 10 years or fined not more than \$25,000.00, or both sentenced pursuant to sections 52, 53, and 55 of this title.~~

Sec. 51. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

(Committee Vote: 10-0-0)

H. 740

An act relating to changes to the Nuclear Decommissioning Citizens Advisory Panel

Rep. Sibia of Dover, for the Committee on Energy and Technology, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 1700 is amended to read:

§ 1700. CREATION; MEMBERSHIP; OFFICERS; QUORUM

(a) There is created the Nuclear Decommissioning Citizens Advisory Panel that shall consist of the following:

- (1) The Secretary of Human Services, ex officio, or designee.
- (2) The Secretary of Natural Resources, ex officio, or designee.
- (3) The Commissioner of Public Service, ex officio, or designee.
- (4) The Secretary of Commerce and Community Development, ex

officio, or designee.

(5) One member of the House Committee on Energy and Technology, chosen by the Speaker of the House.

(6) One member of the Senate Committee on Natural Resources and Energy, chosen by the Committee on Committees.

(7) One representative of the Windham Regional Commission or designee, selected by the Regional Commission.

(8) ~~One representative~~ Two representatives of the Town of Vernon or ~~designee~~ designees, selected by the legislative body of that town.

(9) Six members of the public, two each selected by the Governor, the Speaker of the House, and the President Pro Tempore of the Senate. Under this subdivision, each appointing authority initially shall appoint a member for a three-year term and a member for a four-year term. Subsequent appointments under this subdivision shall be for terms of four years.

(10) Two representatives of the owners of the Vermont Yankee Nuclear Power Station (VYNPS or Station) selected by the owner of the Station site.

(11) ~~A representative of the International Brotherhood of Electric Workers (IBEW) selected by the IBEW who shall be a present or former employee at the VYNPS.~~

~~(12)~~ One optional member who will represent collectively the Towns of Chesterfield, Hinsdale, Richmond, Swanzey, and Winchester, New Hampshire, when selected by the Governor of New Hampshire at the invitation of the Commissioner of Public Service.

~~(13)~~(12) One optional member who will represent collectively the Towns of Bernardston, Colrain, Gill, Greenfield, Leyden, Northfield, and Warwick, Massachusetts, when selected by the Governor of Massachusetts at the invitation of the Commissioner of Public Service.

(b) Ex officio members shall serve for the duration of their time in office or until a successor has been appointed. Members of the General Assembly shall be appointed for two years or until their successors are appointed, beginning on or before January 15 in the first year of the biennium. Representatives designated by ex officio members shall serve at the direction of the designating authority.

* * *

(f) Members of the panel who are not ex officio members, employees of the State of Vermont, representatives of the ~~VYNPS~~ owners of the Vermont

Yankee site, or members representing towns outside Vermont, and who are not otherwise compensated or reimbursed for their attendance, shall be entitled to \$50.00 per diem and their necessary and actual expenses. Funds for this purpose shall come from the monies collected under 30 V.S.A. § 22 for the purpose of maintaining the Department of Public Service. Legislative members shall not be entitled to a per diem under this section for meetings while the General Assembly is in session.

(g) The Commissioner of Public Service shall:

* * *

(6) hire experts, contract for services, and provide for materials and other reasonable and necessary expenses of the Panel as the Commissioner may consider appropriate on request of the Panel from time to time. Funds for this purpose shall come from the ~~monies collected under 30 V.S.A. § 22 for the purpose of maintaining the Department of Public Service and such other sources as may be or become available~~ owners of the Vermont Yankee site as the Commissioner of Public Service may consider appropriate, not to exceed \$35,000 annually. The obligation to support the Panel's activities shall cease upon the submission of the application for Partial License Termination by the owners of the Vermont Yankee site to the Nuclear Regulatory Commission. On or before June 30 annually, the Commissioner of Public Service shall render to the owners of the Vermont Yankee site a statement detailing the amount of money expended or contracted for under this subdivision (6), which shall be paid within 30 days by the owners of the Vermont Yankee site into the special fund established pursuant to 30 V.S.A. § 22 for the purpose of maintaining the Department of Public Service and Public Utility Commission. The funds paid into the special fund by the owners of the Vermont Yankee site shall be paid solely to the Department. Within 30 days of receiving the statement of funds due, the owners of the Vermont Yankee site may petition the Public Utility Commission for a hearing to review and determine the necessity and reasonableness of such expenses. Following the review, the Public Utility Commission may amend or revise the cost assessments as it deems appropriate.

Sec. 2. 18 V.S.A. § 1701 is amended to read:

§ 1701. DUTIES

The Panel shall serve in an advisory capacity only and shall not have authority to direct decommissioning of the ~~VYNPS~~ Vermont Yankee site. The duties of the Panel shall be:

(1) To hold a minimum of ~~four~~ three public meetings each year for the

purpose of discussing issues relating to the decommissioning of ~~the VYNPS Vermont Yankee~~. The Panel may hold additional meetings.

(2) To advise the Governor, the General Assembly, the agencies of the State, and the public on issues related to the decommissioning of ~~the VYNPS Vermont Yankee~~, with a written report being provided annually to the Governor and to the energy committees of the General Assembly. The provisions of 2 V.S.A. § 20(d) (expiration of reports) shall not apply to this report.

(3) To serve as a conduit for public information and education on and to encourage community involvement in matters related to the decommissioning of ~~the VYNPS Vermont Yankee~~ and to receive written reports and presentations on the decommissioning of the ~~Station~~ site at its regular meetings.

(4) To periodically receive reports, including those required by the Public Utility Commission Docket No. 8880 Order, on the Decommissioning Trust Fund and other funds associated with decommissioning of or site restoration at ~~the VYNPS Vermont Yankee~~, including fund balances, expenditures made, and reimbursements received.

(5) To receive reports and presentations at regular meetings regarding the decommissioning progress and plans for the VYNPS Vermont Yankee, including any site assessments and post-shutdown decommissioning assessment reports; provide a forum for receiving public comment on these plans and reports; and ~~to~~ provide comment on these plans and reports as the Panel may consider appropriate to State agencies and the owner of ~~the VYNPS Vermont Yankee~~ and in the annual report described in subdivision (2) of this subsection.

Sec. 3. 18 V.S.A. § 1702 is amended to read:

§ 1702. ASSISTANCE

The Department of Public Service, the Agency of Human Services, and the Agency of Natural Resources shall furnish administrative support to the Panel, with assistance from the owners of the ~~VYNPS Vermont Yankee~~ site as the Commissioner of Public Service may consider appropriate.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee Vote: 9-0-0)

H. 837

An act relating to enhanced life estate deeds

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

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 27 V.S.A. chapter 6 is added to read:

CHAPTER 6. ENHANCED LIFE ESTATE DEEDS

§ 651. SHORT TITLE

This chapter shall be known as the “Enhanced Life Estate Deed Act” or the “ELED Act”.

§ 652. APPLICATION OF CHAPTER

This chapter applies to deeds in which a grantor reserves a common law life estate interest in real property while expressly reserving rights such that the deed creates a contingent remainder interest in the grantee.

§ 653. DEFINITIONS

In this chapter, unless a deed indicates an intention to the contrary:

(1) “Convey” means to grant, sell, gift, lease, transfer, or encumber real property, with or without consideration, including the ability to revise or revoke a deed.

(2) “Enhanced life estate deed” or “ELE Deed” means a deed in which:

(A) the grantor expressly reserves a common law life estate;

(B) the grantor expressly reserves the right to convey the property during the grantor’s lifetime;

(C) the grantee acquires a contingent remainder interest such that, prior to the death of the grantor, the grantee has no vested rights in the property; and

(D) upon the death of the grantor, title vests in the surviving grantee or, for a deceased grantee, title passes pursuant to section 658 of this title, subject to encumbrances of record.

(3) “Grantee” means one or more grantees and the grantee’s heirs and assigns.

(4) “Grantor” means one or more grantors, each of whom shall be a

natural person, and the grantor's heirs and assigns.

(5) "Revoke" means to negate an ELE deed and is accomplished when the grantor records a deed from the grantor to himself or herself.

(6) "Revise" means to change the grantee on an ELE deed and is accomplished when the grantor records a new ELE deed to a grantee other than, or in addition to, the grantee named in the prior ELE deed. A revised deed supercedes and replaces a prior ELE deed. To add an additional grantee to an existing ELE deed, the new ELE deed must name all grantees.

§ 654. EXECUTION AND RECORDING OF AN ENHANCED LIFE

ESTATE DEED

(a) Subject to the rights expressly reserved in the deed, a validly executed and recorded ELE deed does not:

(1) affect the ownership rights of the grantor or the grantor's creditors;

(2) transfer or convey any present right, title, or interest in the property or create any present legal or equitable interest in the grantee; or

(3) subject the grantor's property to process from the grantee's creditors.

(b) The grantor may convey the property described in an ELE deed, or any portion thereof, without the need for joinder by, consent from, agreement of, or notice to the grantee.

(c) If not previously conveyed during the lifetime of the grantor, upon the death of the grantor, subject to encumbrances of record, the interest stated in an ELE deed vests in the grantee or, for a deceased grantee, the interest passes pursuant to section 658 of this title.

§ 655. ACCEPTANCE OR CONSIDERATION NOT REQUIRED;

CONVEYANCE NOT PERMITTED

(a) An enhanced life estate deed is effective without:

(1) acceptance by the designated grantee during the grantor's life; or

(2) consideration.

(b) A grantee named in an ELE deed shall not convey the grantee's contingent remainder interest during the grantor's lifetime, and any conveyance which attempts to do so is void.

§ 656. REVOCATION, REVISION, MORTGAGES

(a) A grantor may revoke or revise an ELE deed.

(b) Joinder by, consent to, agreement of, or notice to the grantee of an ELE deed shall not be required for revocation or revision.

(c) The granting of a mortgage shall not operate to revoke or revise an ELE deed, but the property interests conveyed and reserved in an ELE deed shall be encumbered by the mortgage and by any future advances made pursuant to it.

§ 657. EXECUTION BY GUARDIAN; USE OF POWER OF ATTORNEY

(a) With the approval of the Probate Division, a guardian may convey the real property of a person under guardianship by an ELE deed.

(b) An ELE deed may be executed by an agent under a power of attorney if the power of attorney complies with the requirements of 14 V.S.A. chapter 123, including any applicable gifting and self-dealing provisions.

§658. DEATH OF GRANTEE PRIOR TO DEATH OF GRANTOR

Unless the ELE deed provides otherwise:

(1) If an ELE deed conveys title to a single grantee and the grantee predeceases the grantor, upon the death of the grantor, title to the property vests in the heirs of an intestate grantee or the interest shall be distributed or conveyed to a grantee's heirs or beneficiaries, as directed by the Probate Division.

(2) If an ELE deed conveys title to multiple grantees as tenants in common and one or more grantees predecease the grantor, upon the death of the grantor, title to the property vests in the heirs of any intestate grantee or the interest shall be distributed or conveyed to a grantee's heirs or beneficiaries, as directed by the probate court.

(3) If an ELE deed conveys title to multiple grantees as joint tenants and one or more grantees predecease the grantor, upon the death of the grantor, title to the property vests in any grantee who survives the grantor.

§ 659. PREVIOUSLY EXECUTED AND RECORDED ENHANCED LIFE

ESTATE DEEDS

Nothing in this chapter shall be construed to affect the validity of an enhanced life estate deed, a "Life Estate Deed with Reserved Powers," a "Lady Bird Deed," a "Medicaid Deed," an "Italian Deed," or similar deed executed and recorded prior to the effective date of this act.

§ 660. OPTIONAL FORM FOR ENHANCED LIFE ESTATE DEED

The following form may be used to create an enhanced life estate deed:

ENHANCED LIFE ESTATE DEED

(Vermont statutory form deed)

KNOW ALL PERSONS BY THESE PRESENTS, that

I/We, _____ and _____ of _____, in the
County of _____ and State of Vermont, Grantors, without
consideration, by these presents, do freely GIVE, GRANT, SELL, CONVEY,
AND CONFIRM unto the Grantees, _____ and
_____, of _____, in the County of _____ and
State of Vermont and their heirs and assigns forever as _____ [insert
nature of tenancy] a certain piece of land in _____, in the County of
_____, and State of Vermont, described as follows:

PROPERTY DESCRIPTION:

[Insert property description or attach schedule]

GRANTORS RESERVED RIGHTS:

This is an enhanced life estate deed executed pursuant to, and with the
rights and privileges set forth in, 27 V.S.A. chapter 6, the Enhanced Life Estate
Deed Act (the "ELED Act"). The Grantors, or the survivor of them, hereby
reserve unto themselves: (a) a common law life estate, with the exclusive use,
possession, and enjoyment of the property; and (b) the right to convey the
property. Reference is hereby made to the aforementioned deeds and records
and to the deeds and records contained in those documents, in further aid of
this description.

TO HAVE AND TO HOLD said granted premises, with all the privileges
and appurtenances thereof, to the said Grantees, _____, and their
heirs and assigns, to their own use and behoof forever, as _____ [insert
nature of tenancy] . I/We, the said Grantors, for ourselves and our heirs,
executors, administrators, and assigns do covenant with the said Grantees,
_____ and _____, and their heirs and assigns,
that until the ensembling of these presents we are the sole owners of the premises
and have good right and title to convey the same in the manner aforesaid, that
they are FREE FROM EVERY ECUMBERANCE, except as aforesaid, and
the Grantors hereby engage to WARRANT AND DEFEND the same against
all lawful claims whatsoever, except as otherwise provided in this deed. I/WE
HAVE HERUNTO set our hands this _____, of _____,
20__.

[INSERT NOTARY CLAUSE]

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(**Committee Vote: 10-0-0**)

H. 926

An act relating to changes to Act 250.

(**Rep. Dolan of Waitsfield** will speak for the Committee on Natural Resources; Fish; and Wildlife.)

H. 926

An act relating to changes to Act 250

Rep. Ancel of Calais, for the Committee on Ways and Means, recommends the bill be amended as follows:

First: In Sec. 3, 10 V.S.A. § 6083a(a)(1), by striking out “~~\$6.65~~ \$9.65” and inserting in lieu thereof “\$6.65”

Second: In Sec. 3, 10 V.S.A. § 6083a(a)(4), by striking out “~~\$0.02~~ \$0.03” and inserting in lieu thereof “\$0.02”

Third: In Sec. 3, by striking out 10 V.S.A. § 6094, assessment of costs, in its entirety.

(**Committee Vote: 6-5-0**)

Rep. Conquest of Newbury, for the Committee on Appropriations, recommends that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following::

* * * Revisions to Capability and Development Plan * * *

Sec. 1. 1973 Acts and Resolves No. 85, Sec. 7(a)(20) is added to read:

(20) GREENHOUSE GAS EMISSIONS AND CLIMATE CHANGE

Climate change poses serious risks to human health and safety, functioning ecosystems that support a diversity of species and economic growth, and Vermont’s tourist, forestry, and agricultural industries. The primary driver of climate change in Vermont and elsewhere is the increase of atmospheric carbon dioxide from the burning of fossil fuels, which has a warming effect that is amplified because atmospheric water vapor, another greenhouse gas, increases as temperature rises. Vermont should minimize its emission of

greenhouse gases and, because the climate is changing, ensure that the design and materials used in development enable projects to withstand an increase in extreme weather events and adapt to other changes in the weather and environment.

Sec. 2. 1973 Acts and Resolves No. 85, Sec. 7(a)(2) is amended to read:

(2) ECOSYSTEM PROTECTION AND UTILIZATION OF NATURAL RESOURCES

(A) Healthy ecosystems clean water, purify air, maintain soil, regulate the climate, recycle nutrients, and provide food. They provide raw materials and resources for medicines and other purposes. They are at the foundation of civilization and sustain the economy. These ecosystem services are the state's natural capital.

(B) Biodiversity is the key indicator of an ecosystem's health. A wide variety of species copes better with threats than a limited number of species in large populations.

(C) Products of the land and the stone and minerals under the land, as well as the beauty of our landscape are principal natural resources of the state.

(D) Preservation Protection of healthy ecosystems in Vermont, preservation of the agricultural and forest productivity of the land, and the economic viability of agricultural units, conservation of the recreational opportunity afforded by the state's hills, forests, streams and lakes, wise use of the state's non-renewable earth and mineral reserves, and protection of the beauty of the landscape are matters of public good. Uses which threaten or significantly inhibit these healthy ecosystems and the state's natural and scenic resources should be permitted only when the public interest is clearly benefited thereby.

* * * Revisions to State Land Use Law * * *

Sec. 3. 10 V.S.A. chapter 151 is amended to read:

CHAPTER 151. STATE LAND USE AND DEVELOPMENT PLANS

Subchapter 1. General Provisions

§ 6000. PURPOSE; CONSTRUCTION

The purposes of this chapter are to protect and conserve the environment of the State and to support the achievement of the goals of the Capability and Development Plan and of 24 V.S.A. § 4302(c). The chapter shall be construed broadly to effect these purposes.

§ 6001. DEFINITIONS

In As used in this chapter:

(1) “Board” means the Natural Resources Board.

(2) “Capability and Development Plan” means the Plan prepared pursuant to section 6042 of this title and adopted pursuant to 1973 Acts and Resolves No. 85, Secs. 6 and 7, as amended by this act.

(3)(A) “Development” means each of the following:

* * *

(vi) The construction of improvements for commercial, industrial, or residential use at or above the elevation of ~~2,500~~ 2,000 feet.

* * *

(xi) The construction of improvements for commercial or industrial use within 2,000 feet of a point of access to or exit from the interstate highway system as measured from the midpoint of the interconnecting roadways, unless a regional planning commission has determined, at the request of the municipality where the interchange is located or any municipality with land in the 2,000-foot radius, that municipal ordinances or bylaws applicable to properties around the interchange:

(I) Ensure that planned development patterns will maintain the safety and function of the interchange area for all road users, including nonmotorized, for example, by limiting curb cuts, and by sharing parking and access points and parcels will be interconnected to adjoining parcels wherever physically possible.

(II) Ensure that development will be undertaken in a way that preserves scenic characteristics both at and beyond the project site. This shall include a determination that site and building design fit the context of the area.

(III) Ensure that development does not destroy or compromise necessary wildlife habitat or endangered species.

(IV) Ensure that uses allowed in the area will not impose a burden on the financial capacity of a town or the State.

(V) Ensure that allowed uses be of a type, scale, and design that complement rather than compete with uses that exist in designated downtowns, village centers, growth centers, or other regional growth areas. Principle retail should be discouraged or prohibited in highway interchange areas.

(VI) Ensure that development in this area not establish or contribute to a pattern of strip development. Where strip development already exists, development in this area must be infill that minimizes the characteristics of strip development.

(VII) Require site design to use space efficiently by siting buildings close together; minimizing paved surfaces; locating parking to consider aesthetics, neighborhoods, and view sheds; and minimizing the use of one-story buildings.

(VIII) Require the permitted uses, patterns of development, and aesthetics of development in these areas to conform with the regional plan and be consistent with the goals of 24 V.S.A. § 4302.

(xii) The construction of a road or roads and any associated driveways to provide access to or within a tract of land of more than one acre owned or controlled by a person. For the purposes of determining jurisdiction under this subdivision, any new development or subdivision on a parcel of land that will be provided access by the road and associated driveways is land involved in the construction of the road. Jurisdiction under this subdivision shall not apply unless the length of the road and any associated driveways in combination is greater than 2,000 feet. As used in this subdivision, “roads” shall include any new road or improvement to a Class IV road by a private person, including roads that will be transferred to or maintained by a municipality after their construction or improvement. For the purpose of determining the length of any road and associated driveways, the length of all other roads and driveways within the tract of land constructed within any continuous period of 10 years commencing after July 1, 2020 shall be included. This subdivision shall not apply to a State or municipal road, a utility corridor of an electric transmission or distribution company, or a road used primarily for farming or forestry purposes. The conversion of a road used for farming or forestry purposes that also meets the requirements of this subdivision shall constitute development.

* * *

~~(6) “Floodway” means the channel of a watercourse which is expected to flood on an average of at least once every 100 years and the adjacent land areas which are required to carry and discharge the flood of the watercourse, as determined by the Secretary of Natural Resources with full consideration given to upstream impoundments and flood control projects. “Flood hazard area” has the same meaning as under section 752 of this title.~~

~~(7) “Floodway fringe” means an area which is outside a floodway and is flooded with an average frequency of once or more in each 100 years as~~

determined by the Secretary of Natural Resources with full consideration given to upstream impoundments and flood control projects. “River corridor” has the same meaning as under section 752 of this title.

* * *

(12) “Necessary wildlife habitat” means concentrated habitat ~~which~~ that is identifiable and is demonstrated as being decisive to the survival of a species of wildlife at any period in its life, including breeding and migratory periods.

* * *

(19)(A) “Subdivision” means each of the following:

(i) A tract or tracts of land, owned or controlled by a person, ~~which~~ located outside of a designated downtown or neighborhood development area, that the person has partitioned or divided for the purpose of resale into 10 or more lots within a radius of five miles of any point on any lot, or within the jurisdictional area of the same District Commission, within any continuous period of five years. In determining the number of lots, a lot shall be counted if any portion is outside such an area and within five miles or within the jurisdictional area of the same District Commission.

(ii) A tract or tracts of land, owned or controlled by a person, ~~which~~ that the person has partitioned or divided for the purpose of resale into six or more lots, within a continuous period of five years, in a municipality ~~which~~ that does not have duly adopted permanent zoning and subdivision bylaws.

(iii) A tract or tracts of land, owned or controlled by a person, ~~which~~ that have been partitioned or divided for the purpose of resale into five or more separate parcels of any size within a radius of five miles of any point on any such parcel, and within any period of ten years, by public auction.

(I) ~~In~~ As used in this subdivision (iii), “public auction” means any auction advertised or publicized in any manner, or to which more than ten persons have been invited.

* * *

(38) “Connecting habitat” refers to land or water, or both, that links patches of habitat within a landscape, allowing the movement, migration, and dispersal of wildlife and plants and the functioning of ecological processes. A connecting habitat may include recreational trails and improvements constructed for farming, logging, or forestry purposes.

(39) “Forest block” means a contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may

include recreational trails, wetlands, or other natural features that do not themselves possess tree cover and improvements constructed for farming, logging, or forestry purposes.

(40) “Fragmentation” means the division or conversion of a forest block or connecting habitat by the separation of a parcel into two or more parcels; the construction, conversion, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill; and any change in the use of any building or other structure, or land, or extension of use of land. However, fragmentation does not include the division or conversion of a forest block or connecting habitat by a recreational trail or by improvements constructed for farming, logging, or forestry purposes below the elevation of 2,500 feet.

(41) “Habitat” means the physical and biological environment in which a particular species of plant or wildlife lives.

(42) As used in subdivisions (38), (39), and (40) of this section, “recreational trail” means a corridor that is not paved and that is used for recreational purposes, including hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, and horseback riding.

(43) “Air contaminant” has the same meaning as under section 552 of this title.

(44) “Commercial purpose” means the provision of facilities, goods, or services by a person other than for a municipal or State purpose to others in exchange for payment of a purchase price, fee, contribution, donation, or other object or service having value, regardless of whether the payment is essential to sustain the provision of the facilities, goods, or services.

(45) “Greenhouse gas” means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other chemical or physical substance that is emitted into the air and that the Secretary of Natural Resources or District Commission reasonably anticipates to cause or contribute to climate change.

(46) “Technical determination” means a decision that results from the application of scientific, engineering, or other similar expertise to the facts to determine whether activity for which a permit is requested meets the standards for issuing the permit under statute and rule. The term does not include an interpretation of a statute or rule.

(47) “Forest-based enterprise” means an enterprise that aggregates forest products from forestry operations and adds value through processing or marketing in the forest products supply chain or directly to consumers through

retail sales. “Forest-based enterprise” includes sawmills; veneer mills; pulp mills; pellet mills; producers of firewood, woodchips, mulch and fuel wood; and log and pulp concentration yards. “Forest-based enterprise” does not include facilities that purchase, market, and resell finished goods, such as wood furniture, wood pellets, and milled lumber, without first receiving forest products from forestry operations.

(48) “Forest product” means logs, pulpwood, veneer wood, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, maple sap, and bark.

(49) “Environmental justice” means that all people and communities have the right to equal environmental protection under the law and the right to live, work, and play in communities that are safe, healthy, and free of life-threatening conditions.

* * *

Subchapter 2. Administration

* * *

§ 6022. PERSONNEL

(a) Regular personnel. The Board may ~~appoint~~ retain legal counsel, scientists, engineers, experts, investigators, temporary employees, and administrative personnel, as it finds necessary in carrying out its duties, ~~unless the Governor shall otherwise provide~~ and may authorize the District Commissions to retain personnel to assist on matters within its jurisdiction, including oversight and monitoring of permit compliance. The Board shall ensure that District Commissions and district coordinators have the resources necessary to perform their duties, including access to legal resources and training.

(b) Personnel for particular proceedings.

(1) The Board may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, and other research services:

(A) to assist the Board in any proceeding before it under this chapter; and

(B) to monitor compliance with any formal opinion of the Board or a District Commission.

(2) The personnel authorized by this section shall be in addition to the regular personnel of the Board. The Board shall fix the amount of

compensation and expenses to be paid to such additional personnel.

* * *

§ 6031. ETHICAL STANDARDS

(a) The Chair and members of the Board and the Chair and members of each District Commission shall comply with the following ethical standards:

(1) The provisions of 12 V.S.A. § 61 (disqualification for interest).

(2) The Chair and each member shall conduct the affairs of his or her office in such a manner as to instill public trust and confidence and shall take all reasonable steps to avoid any action or circumstance that might result in any one of the following:

(A) undermining his or her independence or impartiality of action;

(B) taking official action on the basis of unfair considerations;

(C) giving preferential treatment to any private interest on the basis of unfair considerations;

(D) giving preferential treatment to any family member or member of his or her household;

(E) using his or her office for the advancement of personal interest or to secure special privileges or exemptions; or

(F) adversely affecting the confidence of the public in the integrity of the District Commission.

(4) The District Commission shall not initiate, permit, or consider ex parte communications or consider other communications made to the District Commission outside the presence of the parties concerning a pending or impending proceeding, except that:

(A) Where circumstances require, ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized, provided:

(i) the District Commission reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and

(ii) the District Commission makes provision promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.

(B) The District Commission may obtain the advice of a disinterested expert on the law applicable to a proceeding if the District Commission gives

notice to the parties of the person consulted and the substance of the advice and affords the parties reasonable opportunity to respond.

(C) The District Commission may consult with personnel whose function is to aid the District Commission in carrying out its adjudicative responsibilities.

(D) The District Commission may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle matters pending before the District Commission.

(E) The District Commission may initiate or consider any ex parte communications when expressly authorized by law to do so.

* * *

Subchapter 4. Permits

§ 6081. PERMITS REQUIRED; EXEMPTIONS

* * *

(l)(1) By no later than January 1, 1997, any owner of land or mineral rights or any owner of slate quarry leasehold rights on a parcel of land on which a slate quarry was located as of June 1, 1970, may register the existence of the slate quarry with the District Commission and with the clerk of the municipality in which the slate quarry is located, while also providing each with a map which indicates the boundaries of the parcel which contains the slate quarry.

* * *

(6) Registered slate quarries shall be added to the Agency of Natural Resources Natural Resource Atlas.

* * *

(o) If a designation pursuant to 24 V.S.A. chapter 76A is removed, subsection (a) of this section shall apply to any subsequent substantial change to a priority housing project development or subdivision that was originally exempt pursuant to subdivision 6001(3)(A)(iv)(I) of this title or subsection (p) of this section on the basis of that designation.

(p)(1) No permit or permit amendment is required for any subdivision, development, or change to a project that is located entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793 ~~if the change consists exclusively of any combination of mixed use and mixed income housing, and the cumulative changes within any continuous period of five years, commencing on or after the effective date of this subsection, remain~~

below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title or a neighborhood development area designated pursuant to 24 V.S.A. § 2793e. Upon receiving notice and a copy of the permit issued by the appropriate municipal panel pursuant to 24 V.S.A. § 4460(f) a previously issued permit for a development or subdivision located in a downtown development area or a new neighborhood area shall be extinguished.

* * *

~~(v) A permit or permit amendment shall not be required for a development or subdivision in a designated downtown development district for which the District Commission has issued positive findings and conclusions under section 6086b of this title on all the criteria listed in that section. A person shall obtain new or amended findings and conclusions from the District Commission under section 6086b of this title prior to commencement of a material change, as defined in the rules of the Board, to a development or subdivision for which the District Commission has issued such findings and conclusions. A person may seek a jurisdictional opinion under section 6007 of this title concerning whether such a change is a material change. [Repealed.]~~

* * *

§ 6083a. ACT 250 FEES

* * *

(5) For projects involving the review of a master plan, the fee established in subdivision (1) of this section shall be due for any portion of the proposed project for which construction approval is sought and a fee equivalent to \$0.10 per \$1,000.00 of total estimated construction costs in current dollars in addition to the fee established in subdivision (1) of this subsection for any portion of the project seeking construction approval shall be due for all other portions of the proposed project. If construction approval is sought in future permit applications, the fee established in subdivision (1) of this subsection shall be due, except to the extent that it is waived pursuant to subsection (f) of this section.

(6) In no event shall a permit application fee exceed \$165,000.00.

(b) Notwithstanding the provisions of subsection (a) of this section, there shall be a minimum fee of \$187.50 for original applications and \$62.50 for amendment applications, in addition to publication and recording costs. These costs shall be in addition to any other fee established by statute, unless otherwise expressly stated.

(c) Fees shall not be required for projects undertaken by municipal

agencies or by State governmental agencies, except for publication and recording costs.

~~(d) Neighborhood development area fees. Fees for residential development in a Vermont neighborhood or neighborhood development area designated according to 24 V.S.A. § 2793e shall be no more than 50 percent of the fee otherwise charged under this section. The fee shall be paid within 30 days after the permit is issued or denied. [Repealed.]~~

(e) A written request for an application fee refund shall be submitted to the District Commission to which the fee was paid within 90 days of the withdrawal of the application.

* * *

(4) District Commission decisions regarding application fee refunds may be appealed to the Natural Resources Board in accordance with Board rules.

* * *

~~(f) In the event that an application involves a project or project impacts that previously have been reviewed, the An applicant may petition the Chair of the District Commission to waive all or part of the application fee. If an application fee was paid previously in accordance with subdivisions (a)(1) through (4) of this section, the Chair may waive all or part of the fee for a new or revised project if the Chair finds that the impacts of the project have been reviewed in an applicable master permit application, or that the project is not significantly altered from a project previously reviewed, or that there will be substantial savings in the review process due to the scope of review of the previous applications.~~

(1) In reviewing this petition, the District Commission shall consider the following:

(A) Whether a portion of the project's impacts have been reviewed in a previous permit.

(B) Whether the project is being reviewed as a major application, minor application, or administrative amendment.

(C) Whether the applicant relies on any presumptions permitted under subsection 6086(d) of this title and has, at the time of the permit application, already obtained the permits necessary to trigger the presumptions. If a presumption is rebutted, the District Commission may require the applicant to pay the previously waived fee.

(D) Whether the applicant has engaged in any preapplication

planning that will result in a decrease in the amount of time the District Commission will have to consider the application.

(2) The District Commission shall issue a written decision in response to any application for a fee waiver. The written decision shall address each of the factors in subdivision (1) of this subsection.

(3) If the classification of an application is changed from an administrative amendment or minor application to a major application, the Board may require the applicant to pay the previously waived fee.

(g) A Commission or the Natural Resources Board may require any permittee to file a certification of actual construction costs and may direct the payment of a supplemental fee in the event that an application understated a project's construction costs. Failure to file a certification or to pay a supplemental fee shall be grounds for permit revocation.

* * *

§ 6084. NOTICE OF APPLICATION; PREAPPLICATION PROCESS;
HEARINGS; COMMENCEMENT OF REVIEW

(a) The plans for the construction of any development or subdivision subject to the permitting requirements of this chapter must be submitted by the applicant to the District Commission, municipal and regional planning commissions, affected State agencies, and adjoining landowners not less than 30 days prior to filing an application under this chapter, unless the municipal and regional planning commissions and affected State agencies waive this requirement.

(1) The District Commission may hold a meeting on the proposed plans and the municipal or regional planning commission may take one or more of the following actions:

(A) make recommendations to the applicant within 30 days;

(B) once the application is filed with the District Commission, make recommendations to the District Commission by the deadline established in the applicable provision of this section, Board rule, or scheduling order issued by the District Commission.

(2) The application shall address the substantive written comments and recommendations made by the planning commissions related to the criteria of subsection 6086(a) of this title received by the applicant and the substantive oral comments related to those criteria made at a public hearing under subdivision (1) of this subsection.

(3) This subsection shall not apply to a project that has been designated as using simplified procedures pursuant to subdivision 6025(b)(1) of this title or an administrative amendment.

~~(b) On or before the date of~~ Upon the filing of an application with the District Commission, the ~~applicant~~ District Commission shall send, by electronic means, notice ~~and a copy~~ of the ~~initial~~ application to the owner of the land if the applicant is not the owner; the municipality in which the land is located; the municipal and regional planning commissions for the municipality in which the land is located; the Vermont Agency of Natural Resources; and any adjacent Vermont municipality and municipal and regional planning commission if the land is located on a municipal or regional boundary. The ~~applicant shall furnish to the~~ District Commission ~~the names of those furnished notice by affidavit,~~ and shall ~~post,~~ send by electronic means a copy of the notice ~~in~~ to the town clerk's office of the town or towns in which the project lies. The town clerk shall post the notice in the town office. The applicant shall also provide a list of adjoining landowners to the District Commission. Upon request and for good cause, the District Commission may authorize the applicant to provide a partial list of adjoining landowners in accordance with Board rules.

~~(b)(c)~~ (c) Upon an application being ruled complete, the District Commission shall determine whether to process the application as a major application with a required public hearing or process the application as a minor application with the potential for a public hearing in accordance with Board rules.

* * *

~~(e)(d)~~ (d) Anyone required to receive notice of commencement of minor application review pursuant to subsection ~~(b)(c)~~ (c) of this section may request a hearing by filing a request within the public comment period specified in the notice pursuant to Board rules. The District Commission, on its own motion, may order a hearing within 20 days of notice of commencement of minor application review.

~~(d)(e)~~ (e) Any hearing or prehearing conference for a major application shall be held within 40 days of receipt of a complete application; or within 20 days of the end of the public comment period specified in the notice of minor application review if the District Commission determines that it is appropriate to hold a hearing for a minor.

~~(e)(f)~~ (f) Any notice for a major or minor application, as required by this section, shall also be published by the District Commission in a local newspaper generally circulating in the area where the development or subdivision is located and on the Board's website not more than ten days after

receipt of a complete application.

* * *

~~(f)~~(g) This subsection concerns an application for a new permit amendment to change the conditions of an existing permit or existing permit amendment in order to authorize the construction of a priority housing project described in subdivision 6081(p)(2) of this title.

* * *

~~(g)~~(h) When an application concerns the construction of improvements for one of the following, the application shall be processed as a minor application in accordance with subsections ~~(b)~~(c) through ~~(e)~~(f) of this section:

* * *

§ 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

(a) Criteria. Before granting a permit, the District Commission shall find that the subdivision or development:

(1) Air pollution. Will not result in undue ~~water or~~ air pollution. In making this determination, the District Commission shall at least consider: the air contaminants, greenhouse gas emissions, and noise to be emitted by the development or subdivision, if any; the proximity of the emission source to residences, population centers, and other sensitive receptors; and emission dispersion characteristics at or near the source.

(A) Air contaminants. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other applicable criteria, the emission, if any, of air contaminants by the development or subdivision will meet any applicable requirement under the Clean Air Act, 42 U.S.C. chapter 85, and the air pollution control regulations of the Department of Environmental Conservation.

(2) Water pollution. Will not result in undue water pollution. In making this determination ~~it,~~ the District Commission shall at least consider: the elevation of land above sea level; and in relation to the flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable Health and Environmental Conservation Department regulations.

(A) Headwaters. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other applicable criteria, the development or subdivision will meet any applicable Health and Environmental Conservation Department regulation regarding reduction of the

quality of the ground or surface waters flowing through or upon lands ~~which~~ that are not devoted to intensive development, and which lands are:

- (i) headwaters of watersheds characterized by steep slopes and shallow soils; or
- (ii) drainage areas of 20 square miles or less; or
- (iii) above 1,500 feet elevation; or
- (iv) watersheds of public water supplies designated by the Agency of Natural Resources; or
- (v) areas supplying significant amounts of recharge waters to aquifers.

(B) Waste disposal. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other applicable criteria, the development or subdivision will meet any applicable Health and Environmental Conservation Department regulations regarding the disposal of wastes, and will not involve the injection of waste materials or any harmful or toxic substances into ground water or wells.

(C) Water conservation. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other applicable criteria, the design has considered water conservation, incorporates multiple use or recycling where technically and economically practical, utilizes the best available technology for such applications, and provides for continued efficient operation of these systems.

(D) ~~Floodways~~ Flood hazard areas; river corridors. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other applicable criteria,

~~(i) the development or subdivision of lands within a floodway flood hazard area or river corridor will not restrict or divert the flow of flood waters, cause or contribute to fluvial erosion, and endanger the health, safety, and welfare of the public or of riparian owners during flooding; and~~

~~(ii) the development or subdivision of lands within a floodway fringe will not significantly increase the peak discharge of the river or stream within or downstream from the area of development and endanger the health, safety, or welfare of the public or riparian owners during flooding.~~

(E) Streams. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other applicable criteria, the development or subdivision of lands on or adjacent to the banks of a stream will, whenever feasible, maintain the natural condition of the stream, and will

not endanger the health, safety, or welfare of the public or of adjoining landowners.

(F) Shorelines. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other criteria, the development or subdivision of shorelines must of necessity be located on a shoreline in order to fulfill the purpose of the development or subdivision, and the development or subdivision will, insofar as possible and reasonable in light of its purpose:

- (i) retain the shoreline and the waters in their natural condition;
- (ii) allow continued access to the waters and the recreational opportunities provided by the waters;
- (iii) retain or provide vegetation ~~which~~ that screen the development or subdivision from the waters; and
- (iv) stabilize the bank from erosion, as necessary, with vegetation cover.

(G) Wetlands. A permit will be granted whenever it is demonstrated by the applicant, in addition to other criteria, that the development or subdivision will not violate the rules of the Secretary of Natural Resources, as adopted under chapter 37 of this title, relating to significant wetlands.

~~(2)~~(3) Water supply.

(A) Does have sufficient water available for the reasonably foreseeable needs of the subdivision or development.

~~(3)~~(B) Will not cause an unreasonable burden on an existing water supply, if one is to be utilized.

* * *

(5)(A) Transportation. Will not cause unreasonable congestion or unsafe conditions with respect to use of the highways₅₂; waterways₅₂; railways₅₂; airports and airways₅₂; bicycle, pedestrian, and other transit infrastructure; and other means of transportation existing or proposed.

(B) ~~As appropriate, will~~ Will incorporate transportation demand management strategies and provide safe use, access, and connections to adjacent lands and facilities and to existing and planned pedestrian, bicycle, and transit networks and services. ~~In determining appropriateness under this subdivision (B) However, the District Commission shall consider whether~~ may decline to require such a strategy, access, or connection ~~constitutes a measure if it finds that a reasonable person would take~~ not undertake the measure given the type, scale, and transportation impacts of the proposed development or

subdivision.

* * *

(8) Ecosystem protection; scenic beauty; historic sites.

(A) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, or historic sites ~~or rare and irreplaceable natural areas.~~

~~(A)~~(B) Necessary wildlife habitat and endangered species. A permit will not be granted if unless it is demonstrated by ~~any party opposing~~ the applicant that a development or subdivision will not destroy or significantly imperil necessary wildlife habitat or any endangered species; ~~and~~ or, if such destruction or imperilment will occur:

(i) the economic, social, cultural, recreational, or other benefit to the public from the development or subdivision will ~~not~~ outweigh the economic, environmental, or recreational loss to the public from the destruction or imperilment of the habitat or species; ~~or~~

(ii) all feasible and reasonable means of preventing or lessening the destruction, diminution, or imperilment of the habitat or species have ~~not~~ been or will ~~not~~ continue to be applied; or

(iii) a reasonably acceptable alternative site is not owned or controlled by the applicant ~~which~~ that would allow the development or subdivision to fulfill its intended purpose.

(C) Will not result in an undue adverse impact on forest blocks, connecting habitat, or rare and irreplaceable natural areas. If a project as proposed would result in an undue adverse impact, a permit may only be granted if effects are avoided, minimized, and mitigated in accordance with rules adopted by the Board.

(9) Capability and development plan. Is in conformance with a duly adopted capability and development plan, and land use plan when adopted. However, the legislative findings of subdivisions 7(a)(1) through (19) of Act 85 of 1973 shall not be used as criteria in the consideration of applications by a District Commission.

* * *

(F) Energy conservation and efficiency. A permit will be granted when it has been demonstrated by the applicant that, in addition to all other applicable criteria, the planning and design of the subdivision or development reflect the principles of energy conservation and energy efficiency, including reduction of greenhouse gas emissions from the use of energy, and incorporate

the best available technology for efficient use or recovery of energy. An applicant seeking an affirmative finding under this criterion shall provide evidence, by certification and established through inspection, that the subdivision or development complies with the applicable building energy standards and stretch codes under 30 V.S.A. § 51 or 53.

* * *

(K) Development affecting public investments. A permit will be granted for the development or subdivision of lands adjacent to governmental and public utility facilities, services, and lands, including highways, airports, waste disposal facilities, office and maintenance buildings, fire and police stations, universities, schools, hospitals, prisons, jails, electric generating and transmission facilities, oil and gas pipe lines, parks, hiking trails and, forest and game lands, lands conserved under chapter 155 of this title, and facilities or lands protected in perpetuity and funded by the Vermont Housing and Conservation Board under chapter 15 of this title, when it is demonstrated that, in addition to all other applicable criteria, the development or subdivision will not unnecessarily or unreasonably endanger the public or quasi-public investment in the facility, service, or lands, or materially jeopardize or interfere with the function, efficiency, or safety of, or the public's use or enjoyment of or access to the facility, service, or lands.

* * *

(M) Climate adaptation. A permit will be granted for the development or subdivision when it has been demonstrated that, in addition to all other applicable criteria, the development or subdivision will employ building orientation, site and landscape design, and building design that are sufficient to enable the improvements to be sited and constructed, including buildings, roads, and other infrastructure, to withstand and adapt to the effects of climate change, including extreme temperature events, wind, and precipitation reasonably projected at the time of application.

(N) Environmental justice. A permit will be granted for the development or subdivision when it has been demonstrated by the applicant that, in addition to all other applicable criteria, no group of people or municipality will bear a disproportionate share of the negative environmental consequences of the development or subdivision.

(10) Local and regional plans. Is in conformance with any duly adopted local ~~or~~ plan that has been approved under 24 V.S.A. § 4350, regional plan that has been approved by the Board under 24 V.S.A. § 4348, or capital program under 24 V.S.A. ~~chapter 117~~ § 4430. In making this finding, if:

(A) The District Commission shall require conformance with the future land use maps contained in the local and regional plans and with the written provisions of those plans.

(B) The District Commission shall decline to apply a provision of a local or regional plan only if it is persuaded that the provision does not afford a person of ordinary intelligence with a reasonable opportunity to understand what the provision directs, requires, or proscribes.

(C) If the District Commission finds applicable provisions of the town plan to be ambiguous, the District Commission, for interpretive purposes, shall consider bylaws, but only to the extent that they implement and are consistent with those provisions, and need not consider any other evidence.

* * *

(c) Permit Conditions.

(1) A permit may contain such requirements and conditions as are allowable proper exercise of the police power and ~~which~~ that are appropriate within the respect to subdivisions (a)(1) through (10) of this section, including those set forth in 24 V.S.A. §§ 4414(4), 4424(a)(2), 4414(1)(D)(i), 4463(b), and 4464, the dedication of lands for public use, and the filing of bonds to ~~insure~~ ensure compliance. The requirements and conditions incorporated from Title 24 may be applied whether or not a local plan has been adopted. General requirements and conditions may be established by rule of the Natural Resources Board.

(2) Permit conditions on a forest-based enterprise.

(A) A permit condition that sets hours of operation for a forest-based enterprise shall only be imposed to mitigate an impact under subdivision (a)(1), (5), or (8) of this section.

(B) Unless an impact under subdivision (a)(1) or (5) of this section would result, a permit issued to a forest-based enterprise shall allow the enterprise to ship and receive forest products outside regular hours of operation. These permits shall allow for deliveries of forest products from forestry operations to the enterprise outside of permitted hours of operation, including nights, weekends, and holidays, for a minimum of 60 days per year.

(C) In making a determination under this subdivision (2) as to whether an impact exists, the District Commission shall consider the enterprise's role in sustaining forestland use and the impact of the permit condition on the forest-based enterprise. Conditions shall impose the minimum restriction necessary to address the undue adverse impact.

(3) Permit conditions on the delivery of wood heat fuels. A permit issued to a forest-based enterprise that produces wood chips, pellets, cord wood, or other fuel wood used for heat shall allow shipment of that fuel wood from the enterprise to the end user outside permitted hours of operation, including nights, weekends, and holidays, from October 1 through April 30 of each year.

(4) Forest-based enterprises holding a permit may request an amendment to existing permit conditions related to hours of operation and seasonal restrictions to be consistent with subdivisions (2) and (3) of this subsection. Requests for condition amendments under this subsection shall not be subject to Act 250 Rule 34E.

(d) Other permits and approvals; presumptions. The Natural Resources Board ~~may by rule shall~~ allow the acceptance of a permit or permits or approval of any State agency with respect to subdivisions (a)(1) through (5) of this section or a permit or permits of a specified municipal government with respect to subdivisions (a)(1) through (7) and (9) and (10) of this section, or a combination of such permits or approvals, in lieu of evidence by the applicant. ~~A District Commission, in accordance with rules adopted by the Board, shall accept determinations issued by a development review board under the provisions of 24 V.S.A. § 4420, with respect to local Act 250 review of municipal impacts.~~ The acceptance of such approval, ~~positive determinations,~~ permit, or permits shall create a presumption that the application is not detrimental to the public health and welfare with respect to the specific requirement for which it is accepted. In the case of approvals and permits issued by the Agency of Natural Resources, technical determinations of the Agency shall be accorded substantial deference by the Commissions. ~~The acceptance of negative determinations issued by a development review board under the provisions of 24 V.S.A. § 4420, with respect to local Act 250 review of municipal impacts shall create a presumption that the application is detrimental to the public health and welfare with respect to the specific requirement for which it is accepted. Any determinations, positive or negative, under the provisions of 24 V.S.A. § 4420 shall create presumptions only to the extent that the impacts under the criteria are limited to the municipality issuing the decision.~~ Such a rule may be revoked or amended pursuant to the procedures set forth in ~~3 V.S.A., chapter 25,~~ the Vermont Administrative Procedure Act.

(1) The rules adopted by the Board shall not approve the acceptance of a permit or approval of such an agency or a permit of a municipal government unless it satisfies the appropriate requirements of subsection (a) of this section.

(2) A presumption created under this subsection may be rebutted by the

introduction of evidence contrary to the presumed fact.

(3) The District Commission, in accordance with rules adopted by the Board, shall accept determinations issued by a development review board under the provisions of 24 V.S.A. § 4420, with respect to local review of municipal impacts under criteria of this section. The acceptance of such a determination, if positive, shall create a presumption that the application is not detrimental to the public health and welfare with respect to the specific requirement for which it is accepted and, if negative, shall create a presumption that the application is so detrimental. Any determinations, positive or negative, under the provisions of 24 V.S.A. § 4420 shall create presumptions only to the extent that the impacts under the criteria are limited to the municipality issuing the decision. If a municipality fails to respond to a request by the applicant within 90 days as to the impacts related to subdivision (a)(6) or (7), the application will be presumed not to have an unreasonable burden on educational, municipal, or governmental services.

* * *

§ 6087. DENIAL OF APPLICATION

(a) No application shall be denied by the District Commission unless it finds the proposed subdivision or development detrimental to the public health, safety, or general welfare.

* * *

(d) The District Commission may deny an application without prejudice if the applicant fails to respond to an incomplete determination or recess order within six months of its issuance.

§ 6088. BURDEN OF PROOF; PRODUCTION AND PERSUASION

(a) The initial burden of production, to produce sufficient evidence for the District Commission to make a factual determination, shall be on the applicant with respect to subdivisions 6086(a)(1) through (10) of this title.

(b) The burden of persuasion, to show that the application meets the relevant standard, shall be on the applicant with respect to subdivisions 6086(a)(1), (2), (3), (4), (8)(A) through (C), (9), and (10) of this title.

(b)(c) The burden shall be on any party opposing the applicant application with respect to subdivisions 6086(a)(5) through (8), (6), (7), and (8), not including (8)(A) through (8)(C), of this title to show an unreasonable or adverse effect that the application does not meet the relevant standard.

* * *

§ 6090. RECORDING; DURATION AND REVOCATION OF PERMITS

(a) Recording. In order to afford adequate notice of the terms and conditions of land use permits, permit amendments, and revocations of permits, they shall be recorded in local land records. Recordings under this chapter shall be indexed as though the permittee were the grantor of a deed.

(b) Permits for specified period.

(1) Any permit granted under this chapter for extraction of mineral resources, operation of solid waste disposal facilities, or logging above 2,500 feet, shall be for a specified period determined by the Board in accordance with the rules adopted under this chapter as a reasonable projection of the time during which the land will remain suitable for use if developed or subdivided as contemplated in the application, and with due regard for the economic considerations attending the proposed development or subdivision. Other permits issued under this chapter shall be for an indefinite term, ~~as long as~~ provided there is compliance with the conditions of the permit.

(2) Expiration dates contained in permits issued before July 1, 1994 (involving developments that are not for extraction of mineral resources, operation of solid waste disposal facilities, or logging above 2,500 feet) are extended for an indefinite term, ~~as long as~~ provided there is compliance with the conditions of the permits.

(c) Change to nonjurisdictional use; release from permit.

(1) On an application signed by each permittee, the Board may release land subject to a permit under this chapter from the obligations of that permit and the obligation to obtain amendments to the permit, on finding each of the following:

(A) The use of the land as of the date of the application is not the same as the use of the land that caused the obligation to obtain a permit under this chapter or the municipality where the land is located has adopted permanent zoning and subdivision bylaws, but had not when the permit was issued.

(B) The use of the land as of the date of the application does not constitute development or subdivision as defined in section 6001 of this title and would not require a permit or permit amendment but for the fact that the land is already subject to a permit under this chapter.

(C) The permittee or permittees are in compliance with the permit and their obligations under this chapter.

(2) It shall be a condition of each affirmative decision under this

subsection that a subsequent proposal of a development or subdivision on the land to which the decision applies shall be subject to this chapter as if the land had never previously received a permit under the chapter.

(3) An application for a decision under this subsection shall be made on a form prescribed by the Board. The form shall require evidence demonstrating that the application complies with subdivisions (1)(A) through (C) of this subsection. The application shall be processed in the manner described in section 6084 of this title and may be treated as a minor application under that section. In determining whether to treat as minor an application under this subsection, the Board shall apply the criteria of this subsection and not of subsection 6086(a) of this title.

* * *

§ 6093. MITIGATION OF PRIMARY AGRICULTURAL SOILS

* * *

(c) Mitigation and offsets for forest-based enterprises. Notwithstanding any provision of this chapter to the contrary, a conversion of primary agricultural soils by a forest-based enterprise permitted under this chapter shall be entitled to a ratio of 1:1 protected acres to acres of affected primary agricultural soil.

* * *

* * * Resource Mapping; Forest Blocks * * *

Sec. 4. 10 V.S.A. § 127 is amended to read:

§ 127. RESOURCE MAPPING

~~(a) On or before January 15, 2013, the~~ The Secretary of Natural Resources (the Secretary) shall complete and maintain resource mapping based on the Geographic Information System (GIS) or other technology. The mapping shall identify natural resources throughout the State, including forest blocks, that may be relevant to the consideration of energy projects and projects subject to chapter 151 of this title. The Center for Geographic Information shall be available to provide assistance to the Secretary in carrying out the GIS-based resource mapping.

~~(b) The Secretary of Natural Resources shall consider the GIS-based resource maps developed under subsection (a) of this section when providing evidence and recommendations to the Public Utility Commission under 30 V.S.A. § 248(b)(5) and when commenting on or providing recommendations under chapter 151 of this title to District Commissions on other projects.~~

(c) The Secretary shall establish and maintain written procedures that include a process and science-based criteria for updating resource maps developed under subsection (a) of this section. Before establishing or revising these procedures, the Secretary shall provide opportunities for affected parties and the public to submit relevant information and recommendations.

* * * Designated Center Appeal * * *

Sec. 5. 24 V.S.A. § 2798 is amended to read:

§ 2798. DESIGNATION DECISIONS; ~~NONAPPEAL~~ APPEAL

(a) The A person aggrieved by a designation ~~decisions~~ decision of the State Board under this chapter are not subject to appeal section 2793 or 2793e of this title may appeal to the Natural Resources Board established under 10 V.S.A. chapter 151 within 30 days of the decision.

(b) The Natural Resources Board shall conduct a de novo hearing on the decision under appeal and shall proceed in accordance with the contested case requirements of the Vermont Administrative Procedure Act. The Natural Resources Board shall issue a final decision within 90 days of the filing of the appeal. The provisions of 10 V.S.A. § 6024 regarding assistance to the Natural Resources Board from other departments and agencies of the State shall apply to appeals under this section.

* * * Regional and Municipal Planning * * *

Sec. 6. 24 V.S.A. § 4348(f) is amended to read:

(f) A regional plan or amendment shall be adopted by not less than a 60 percent vote of the commissioners representing municipalities, in accordance with the bylaws of the regional planning commission, and immediately submitted to the legislative bodies of the municipalities that comprise the region.

(1) The plan or amendment shall be considered duly adopted ~~and shall take effect~~ 35 days after the date of adoption, unless, within 35 days of the date of adoption, the regional planning commission receives certification from the legislative bodies of a majority of the municipalities in the region vetoing the proposed plan or amendment. In case of such a veto, the plan or amendment shall be deemed rejected.

(2) Upon adoption, the regional planning commission shall submit the plan or amendment to the Natural Resources Board established under 10 V.S.A. chapter 151, which shall approve the plan or amendment if it determines that the plan or amendment is consistent with the goals of section 4302 of this title. The plan or amendment shall take effect on the issuance of

such approval. The Board shall issue its decision within 30 days after receiving the plan or amendment.

* * *

Sec. 7. 24 V.S.A. § 4382 is amended to read:

§ 4382. THE PLAN FOR A MUNICIPALITY

(a) A plan for a municipality ~~may~~ shall be consistent with the goals established in section 4302 of this title and compatible with approved plans of other municipalities in the region and with the regional plan and shall include the following:

* * *

Sec. 8. 24 V.S.A. § 4460 is amended to read:

§ 4460. APPROPRIATE MUNICIPAL PANELS

* * *

(f)(1) This subsection shall apply to a subdivision or development that:

(A) was previously permitted pursuant to 10 V.S.A. chapter 151;

(B) is located in a downtown development district or neighborhood development area designated pursuant to chapter 76A of this title; and

(C) has applied for a permit or permit amendment required by zoning regulations or bylaws adopted pursuant to this subchapter.

(2) The appropriate municipal panel reviewing an application for a municipal permit or permit amendment pursuant to this subsection shall include conditions contained within a permit previously issued pursuant to 10 V.S.A. chapter 151 unless the panel determines that the permit condition pertains to any of the following:

(A) the construction phase of the project that has already been completed;

(B) compliance with another State permit that has independent jurisdiction that addresses the condition in the previously issued permit;

(C) federal or State law that is no longer in effect or applicable;

(D) an issue that is addressed by municipal regulation, and the project will meet the municipal standards; and

(E) a physical or use condition that is no longer in effect or applicable, or that will no longer be in effect or applicable once the new project is approved.

(3) After issuing or amending a permit containing conditions pursuant to this subsection, the appropriate municipal panel shall provide notice and a copy of the permit to the Natural Resources Board.

(4) The appropriate municipal panel's determinations shall be made following notice and a public hearing as provided in subdivision 4464(a)(1) of this title and to those persons requiring notice pursuant to 10 V.S.A. § 6084(b). The notice shall explicitly reference the existing Act 250 permit.

(5) The appropriate municipal panel's decision shall be issued in accord with subsection 4464(b) of this title and shall include specific findings with respect to its determinations pursuant to subdivision (f)(2) of this section.

(6) Any final action by the appropriate municipal panel affecting a condition of a permit previously issued pursuant to 10 V.S.A. chapter 151 shall be recorded in the municipal land records.

Sec. 9. REPEAL

10 V.S.A. § 6086b (downtown development; findings) is repealed.

* * * River Permits * * *

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

§ 754. FLOOD HAZARD AREA RULES; USES EXEMPT FROM MUNICIPAL REGULATION

(a) Rulemaking authority.

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

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

(ii)(B) State-owned and State-operated institutions and facilities that are located within a flood hazard area or river corridor.

(2) On or before November 1, 2022, the Secretary shall adopt rules pursuant to 3 V.S.A. chapter 25 that designate highest priority river corridors and establish requirements for the issuance and enforcement of permits applicable to uses located in highest priority river corridors. Highest priority river corridors are those that provide or have the potential to provide critical floodwater storage or flood energy dissipation thereby protecting adjacent and downstream lands and property that are highly vulnerable to flood-related

inundation and erosion.

(3) The Secretary shall not adopt rules under this subsection that regulate agricultural activities without the consent of the Secretary of Agriculture, Food and Markets, provided that the Secretary of Agriculture, Food and Markets shall not withhold consent under this subdivision when lack of such consent would result in the State's noncompliance with the National Flood Insurance Program.

~~(3)~~(4) The Secretary shall seek the guidance of the Federal Emergency Management Agency in developing and drafting the rules required by this section in order to ensure that the rules are sufficient to meet eligibility requirements for the National Flood Insurance Program.

* * *

(d) General permit. The rules authorized by this section may establish requirements for a general permit to implement the requirements of this section, including authorization under the general permit to conduct a specified use ~~exempt from municipal regulation~~ subject to regulation under this section without notifying or reporting to the Secretary or an agency delegated under subsection (g) of this section.

* * *

(f)(1) Permit requirement.

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

(B) Beginning on November 1, 2021, a person shall not commence construction of a development or subdivision that is subject to a permit under chapter 151 of this title without a permit issued pursuant under the rules required under subsection (a) of this section by the Secretary or by a State agency delegated permitting authority under subsection (g) of this section.

(C) Beginning on November 1, 2023, a person shall not commence or conduct a use located in a highest priority river corridor without a permit issued pursuant under the rules required under subsection (a) of this section by

the Secretary or by a State agency delegated permitting authority under subsection (g) of this section.

* * * Racial Equity Review * * *

Sec. 11. IMPACTS ON RACIAL EQUITY AND DIVERSITY; REVIEW

(a) Pursuant to the duties and powers established under 3 V.S.A. chapter 68, the Executive Director of Racial Equity, in cooperation with the Racial Equity Advisory Panel and the Human Rights Commission, shall conduct a comprehensive review of the processes, procedures, and language of 10 V.S.A. chapter 151 (Act 250) to assess the extent to which Act 250 has contributed to adverse impacts on racial equity and diversity within the State. The review shall:

(1) identify the impacts of acts or decisions made pursuant to Act 250 on inequities in home ownership, land ownership, and land distribution within the State;

(2) measure the extent to which minority populations in the State have incurred disproportional environmental impacts due to acts or decisions of the State pursuant to Act 250;

(3) assess the capability of the current public participation processes, notice requirements, and appointment processes under Act 250 to fairly represent the interests of minority populations within the State; and

(4) recommend legislative changes to Act 250 necessary to achieve the goals of racial equity and diversity representation for minority population.

(b) On or before October 15, 2021, the Executive Director of Racial Equity shall report to the General Assembly with its findings and any recommendations for legislative action.

* * * Planning Review * * *

Sec. 12. VERMONT REGIONAL AND MUNICIPAL PLANNING REVIEW

(a) On or before December 15, 2020, the Natural Resources Board, in consultation with the Agency of Commerce and Community Development, shall submit a draft report, with recommendations, that addresses:

(1) How Sec. 7 of 1973 Acts and Resolves No. 85 (Capability and Development Plan Findings) should be incorporated into 10 V.S.A. chapter 151 and what changes should be made, if any, to the Capability and Development Plan Findings.

(2) How the State should update the Capability and Development Plan authorized by 10 V.S.A. chapter 151, subchapter 3. If the recommendation is

to update the Capabilities and Development Plan, the report shall provide a schedule and budget for the proposed update.

(3) How 10 V.S.A. chapter 151 should require the creation of Capability and Development maps. If the recommendation is to require the creation of Capability and Development maps, the report shall identify the resources and land uses to be mapped and provide a schedule and budget for the proposed update.

(4) How Capability and Development Plan Findings, the Capability and Development Plan, and Capability and Development maps would be used in permitting under 10 V.S.A. chapter 151 and how these would relate to the criteria considered under 10 V.S.A. § 6086(a).

(5) Whether designations of village centers, growth centers, and new town centers should be appealable. If these designations are appealable, which tribunal should hear the appeal.

(b) The Natural Resources Board shall have a public comment period of at least 30 days on the draft report required by subsection (a) of this section. The Board shall hold at least one public informational meeting on the draft report. Notice provided by the Board shall include affected State agencies, municipalities, regional planning commissions, the Vermont Planners Association, the Vermont Planning and Development Association, and other interested persons.

(c) On or before March 1, 2021, the Natural Resources Board shall provide a final report to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy. The final report shall incorporate recommendations from the public engagement process under subsection (b) of this section and shall contain a response to stakeholder comments as a part of the final report.

* * * Permit Fee Review * * *

Sec. 13. ACT 250 PERMIT FEE REVIEW

On or before December 15, 2020, the Secretary of Administration shall submit to the House Committees on Appropriations, on Natural Resources, Fish, and Wildlife, and on Ways and Means and the Senate Committees on Appropriations, on Natural Resources and Energy, and on Finance a review of the Act 250 permit program and fees. The review shall include the following:

(1) the workload of the Natural Resources Board, including the District Commissions,

(2) whether the Natural Resources Board, including the District

Commissions, has sufficient staff to administer the Act 250 program,

(3) the sufficiency of the current Act 250 permit fee structure to cover agency work done on Act 250 permit applications;

(4) the possibility of allocating Act 250 permit fees to other State agencies; and

(5) the possibility of State agencies directly charging applicants for work done on Act 250 permit applications.

* * * Revision Authority; Rulemaking; Effective Dates * * *

Sec. 14. REFERENCES; REVISION AUTHORITY

(a) In 10 V.S.A. § 6001 as amended by Sec. 3 of this act, the Office of Legislative Council shall:

(1) in subdivision (2), replace the reference to “this act” with the specific citation to this act as enacted; and

(2) reorganize and renumber the definitions so that they are in alphabetical order and, in the Vermont Statutes Annotated, shall revise all cross-references to those definitions accordingly.

(b) In 10 V.S.A. § 6086, the Office of Legislative Council shall insert the following subsection and subdivision headings:

(1) in subdivision (a)(4): Soil erosion; capacity of land to hold water.

(2) in subdivision (a)(6): Educational services.

(3) in subdivision (a)(7): Local governmental services.

(4) in subsection (b): Partial findings.

(5) in subsection (e): Temporary improvements; film or TV.

(6) in subsection (f): Stay of construction.

Sec. 15. CRITERION 8(C) RULEMAKING

(a) The Natural Resources Board (Board), in consultation with the Agency of Natural Resources shall adopt rules to implement the requirements for the administration of 10 V.S.A. § 6086(a)(8)(C). Rules adopted by the Board shall include:

(1) How forest blocks and connecting habitat are further defined, including their size, location, and function, which may include:

(A) information that will be available to the public to determine where forest blocks and connecting habitat are located; or

(B) advisory mapping resources, how they will be made available, how they will be used, and how they will be updated.

(2) Standards establishing how fragmentation of forest block or connecting habitat is avoided or minimized, which may include steps to promote proactive site design of buildings, roadways and driveways, utility location, and location relative to existing features such as roads, tree lines and fence lines.

(3) Criteria to identify when a forest block or connecting habitat is eligible for mitigation.

(4) Standards for how impacts to a forest block or connecting habitat may be mitigated. Standards may include:

(A) appropriate ratios for compensation;

(B) appropriate forms of compensation such as conservation easements, fee interests in land, and other forms of compensation; and

(C) appropriate uses of on-site and off-site mitigation.

(b) The Board shall convene a working group to provide input to the rule prior to prefiling with the Interagency Committee on Administrative Rules. The Board shall convene the working group on or before September 1, 2020.

(c) The Board shall file a final proposed rule with the Secretary of State and Legislative Committee on Administrative Rules on or before September 1, 2021.

Sec. 16. EFFECTIVE DATES

This act shall take effect on passage, except that 10 V.S.A. § 6086(a)(8) (Ecosystem protection; scenic beauty; historic sites) shall take effect on September 1, 2021.

(Committee Vote: 11-0-0)

Amendment to be offered by Rep. Dolan of Waitsfield and Rep. McCullough of Williston to H. 926

Representatives Dolan of Waitsfield and McCullough of Williston move to amend the bill as follows:

First: A Sec. 3a be added to read:

Sec. 3a. 10 V.S.A. § 442(3) is amended to read:

(3) "Trails" means land used for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar activities. Trails may be used for recreation, transportation, and other

compatible purposes. “Trails” does not include land primarily used for the operation of a motor vehicle. For purposes of this definition, “motor vehicle” shall not include all-terrain vehicles or snowmobiles.

Second: In Sec. 3, 10 V.S.A. § 6001 be amended to add subdivisions (50) and (51) to read:

(50) “Recreational trail” shall have the same meaning as “trails” in subdivision 442(3) of this title.

(51) “Vermont trails system trail” means a recreational trail recognized by the Agency of Natural Resources pursuant to section 443 of this title. The construction, operation, and maintenance of a Vermont trails system trail shall be for a municipal or State purpose under this chapter.

Third: In Sec. 3, 10 V.S.A. § 6001 is amended to add subdivision (3)(A)(xiii) to read:

(xiii) The construction of improvements for a Vermont trails system trail on a tract or tracts of land involving more than 10 acres.

(I) This subdivision shall be the exclusive mechanism for determining jurisdiction over a new or proposed recreational trail that is or will be a part of the Vermont trails system.

(II) This subdivision shall apply to the construction of improvements made on or after July 1, 2020.

(III) For purposes of this subdivision, involved land includes infrastructure that is necessary for the operation of the trail, including restrooms, parking areas, shelters, picnic areas, kiosks, and interpretive and directional signage. Involved land does not include any recreational trail constructed before July 1, 2020.

(IV) The total acreage of involved land shall include any ground disturbance and clearing that will occur. Area where no ground will be disturbed or cleared shall not be considered involved land.

(V) Development and subdivisions requiring a permit under another provision of this chapter shall include recreational trails for determining the amount of involved land that relates to that development but shall not consider the construction of improvements related to the trail as a part of the review of that permit application.

Fourth: In Sec. 3, 10 V.S.A. § 6001 is amended to add subdivision (3)(C)(vi) to read:

(vi) Recreational trails. Jurisdiction over a recreational trail shall

extend only to the recreational trail and infrastructure that is necessary for the operation of the trail. Jurisdiction shall not extend to the rest of a parcel or parcels where a recreational trail is located.

Fifth: In Sec. 3, 10 V.S.A. § 6081, subdivision (y) is added to read:

(y) No permit or permit amendment shall be required for the construction of improvements on a tract of land that would provide access across a trail provided that the access is not related to the use of the permitted recreational trail and would not establish jurisdiction under 10 V.S.A, chapter 151 on its own.

Sixth: A Sec. 14a is added to read:

Sec. 14a. RECREATIONAL TRAILS RECOMMENDATIONS AND
REPORT

On or before December 15, 2020, the Agency of Natural Resources shall report to the House Committee on Natural Resources, Fish, and Wildlife and to the Senate Committee on Natural Resource and Energy with legislative recommendations for a best management practices driven program for Vermont trails system trails that includes technical assistance, education, and oversight from the Agency of Natural Resources. The report shall include recommendations for a strategic plan and comprehensive mapping, legislative authority to administer the program, and potential funding sources. The Agency of Natural Resources shall consult with stakeholders on the proposed program, including the Vermont Trail Alliance, the Forest Partnership, and the Vermont Agency of Transportation.

Seventh: In Sec. 21, by striking in its entirety and adding in lieu thereof the following:

Sec. 21. EFFECTIVE DATES AND SUNSET

(a) This act shall take effect on passage, except that 10 V.S.A. § 6086(a)(8) (Ecosystem protection; scenic beauty; historic sites) shall take effect on September 1, 2021.

(b) 10 V.S.A. § 6001(3)(A)(xiii) shall be repealed on January 1, 2022.

Amendment to be offered by Rep. Dolan of Waitsfield to H. 926

Rep. Dolan of Waitsfield moves to amend the bill as follows:

First: By adding a Sec.5a to read:

Sec. 5a. 24 V.S.A. § 2793a is amended to read:

§ 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

* * *

(e)(1) A village center designated by the State Board pursuant to subsection (a) of this section is eligible to apply to the State Board to receive an enhanced designation. This enhanced designation shall allow the village center to be exempt from 10 V.S.A. chapter 151.

(2) To receive enhanced designation under this subdivision, village center shall have:

(A) a duly adopted and regionally approved municipal plan; and

(B) duly adopted permanent zoning and subdivision bylaws that include flood hazard and river corridor bylaws.

Second: In Sec. 3, 10 V.S.A. chapter 151, in subdivision 6081(p)(1), before “or a neighborhood development area designated pursuant to 24 V.S.A. § 2793e.”, by inserting “, village center that has received enhanced designation under 24 V.S.A. § 2793a(e),” and, immediately before “or a new neighborhood area shall be extinguished.”, by inserting “village center that has received an enhanced designation”

Third: In Sec. 5, 24 V.S.A. § 2798, in subsection (a), immediately following “section 2793”, by inserting “, 2793a,”

Fourth: In Sec. 8, 24 V.S.A. § 4460, in subdivision (f)(1)(B) after “located in a downtown development district”, by inserting “, village center that has received enhanced designation,”

Fifth: By striking out Sec. 9 in its entirety and inserting in lieu thereof following:

Sec. 9. REPEALS

10 V.S.A. § 6086b (downtown development; findings) and 24 V.S.A. § 2798 (designation decisions; nonappeal) are repealed.

Amendment to be offered by Rep. Sheldon of Middlebury to H. 926

Representative Sheldon moves that the bill be amended as follows:

First: In Sec. 3, 10 V.S.A. chapter 151, in subdivision 6001(3)(A)(xi), after the “the midpoint of the interconnecting roadways,” by inserting the words “unless it is in a designated center or”

Second: In Sec. 3, 10 V.S.A. chapter 151, following “Subchapter 2. Administration” by striking out “* * *” and inserting in lieu thereof the following:

§ 6021. BOARD; VACANCY, REMOVAL

(a) A Natural Resources Board is created.

(1) The Board shall consist of five members appointed by the Governor, with the advice and consent of the Senate, so that one appointment expires in each year. In making these appointments, the Governor and the Senate shall give consideration to experience, expertise, or skills relating to the environment or land use environmental science, natural resources law and policy, land use planning, community planning, environmental justice, or racial equity.

(A) The Governor shall appoint a chair of the Board, a position that shall be a full-time position. The Governor shall ensure, to the extent possible, that the Board membership reflects the racial, ethnic, gender, and geographic diversity of the State.

* * *

Third: In Sec. 3, 10 V.S.A. chapter 151, after “* * *” and before § 6031. ETHICAL STANDARDS” by inserting the following:

§ 6026. DISTRICT COMMISSIONERS

(a) For the purposes of the administration of this chapter, the State is divided into nine districts.

* * *

(b) A District Environmental Commission is created for each district. Each District Commission shall consist of three members from that district appointed in the month of February by the Governor so that two appointments expire in each odd-numbered year. Two of the members shall be appointed for a term of four years, and the Chair (third member) of each District shall be appointed for a ~~two-year~~ four-year term. In any district, the Governor may appoint ~~not more than four~~ up to two alternate members from that district whose terms shall not exceed two years, who may hear any case when a regular member is disqualified or otherwise unable to serve. The Governor shall ensure, to the extent possible, that appointments are made in a timely manner and that each District Commission reflects the racial, ethnic, gender, and geographic diversity of the State.

(c) Members shall be removable for cause only, except the Chair, who shall serve at the pleasure of the Governor.

(d) Any vacancy shall be filled by the Governor for the unexpired period of the term.

§ 6027. POWERS

(a) The Board and District Commissions shall have supervisory authority in environmental matters respecting projects within their jurisdiction and shall apply their independent judgment in determining facts and interpreting law. They each shall have the power, with respect to any matter within its jurisdiction, to:

(1) administer oaths, take depositions, subpoena and compel the attendance of witnesses, and require the production of evidence;

(2) allow parties to enter upon lands of other parties for the purposes of inspecting and investigating conditions related to the matter before the Board or Commission;

(3) enter upon lands for the purpose of conducting inspections, investigations, examinations, tests, and site evaluations as it deems necessary to verify information presented in any matter within its jurisdiction; and

(4) apply for and receive grants from the federal government and from other sources.

(b) The powers granted under this chapter are additional to any other powers ~~which~~ that may be granted by other legislation.

* * *

(n) The Board shall have the authority to:

(1) hear appeals of a determination by a regional planning commission as to the sufficiency of municipal bylaws pursuant to subdivision 6001(3)(A)(xi) of this title;

(2) hear appeals of a determination by the Downtown Development Board designating a downtown development district or neighborhood development area pursuant to 24 V.S.A. chapter 76A; and

(3) approve regional plans pursuant to 24 V.S.A. § 4348.

* * *

Fourth: In Sec. 3, 10 V.S.A. chapter 151, in subdivision 6086(a)(9)(F), after “by certification”, by striking out “and established through inspection”

Action Postponed Until March 10, 2020

Senate Proposal of Amendment

H. 550

An act relating to unclaimed property

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 2. 27 V.S.A. § 1461(5) after the word “a” by inserting payroll card or and by striking out “other than amounts held on a payroll card, but”

Second: In Sec. 2. 27 V.S.A § 1461(11) by striking out “including” and inserting in lieu thereof other than and by striking out the word “on” and inserting in lieu thereof the word in

Third: In Sec. 2. 27 V.S.A. § 1462(a) after “years after” by inserting the later of

Fourth: In Sec. 2. 27 V.S.A. § 1462(a)(1) by striking out “the later of”

Fifth: In Sec. 2. 27 V.S.A. § 1462(a)(2)(A) by striking out “70.5” and inserting in lieu thereof 72

Sixth: In Sec. 2. 27 V.S.A. § 1469(b)(4) after “is held,” by inserting or in another account of the owner’s held by the same business association or financial organization,

Seventh: By striking out Sec. 3, effective date, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2021.

(For text see House Journal February 23, 2020; page 220)

NOTICE CALENDAR

Favorable with Amendment

H. 635

An act relating to regulation of long-term care facilities

Rep. Rosenquist of Georgia, for the Committee on Human Services, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 7102 is amended to read:

§ 7102. DEFINITIONS

As used in this chapter:

* * *

(12) “Insolvent” means:

(A) having generally ceased to pay debts in the ordinary course of business other than as a result of bona fide dispute;

(B) being unable to pay debts as they become due; or

(C) being insolvent within the meaning of federal bankruptcy law.

Sec. 2. 33 V.S.A. § 7110(b) is amended to read:

(b) The licensing agency may take immediate enforcement action when necessary to eliminate a condition ~~which~~ that can reasonably be expected to cause death or serious physical or mental harm to residents or staff before it can be eliminated through the provisions of section 7111 of this title. A licensing agency taking such action shall explain that action and the reasons for it in the notice of violation.

Sec. 3. 33 V.S.A. § 7206 is amended to read:

§ 7206. APPOINTMENT OF RECEIVER; HEARING AND ORDER

(a) After the hearing on the merits, the ~~Court~~ court may appoint a receiver from the list provided by the licensing agency if it finds that one or more of the grounds set forth in section 7202 of this chapter is satisfied, and that the person is qualified to perform the duties of a receiver as provided for in section 7205 of this chapter. The court's determination of whether one or more of the grounds set forth in section 7202 of this chapter is satisfied shall be based on the condition of the facility at the time the complaint requesting the appointment of a receiver was filed.

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

H. 741

An act relating to criminal record checks on contractors working in State-owned or -leased facilities

Rep. Taylor of Colchester, for the Committee on Corrections and Institutions, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. § 2056e is redesignated to read:

§ 2056e. DISSEMINATION OF CRIMINAL HISTORY RECORDS TO THE
DEPARTMENT OF BUILDINGS AND GENERAL SERVICES;
SECURITY PERSONNEL

Sec. 2. 20 V.S.A. § 2056i is added to read:

§ 2056i. DISSEMINATION OF CRIMINAL HISTORY RECORDS TO THE
DEPARTMENT OF BUILDINGS AND GENERAL SERVICES;
PRIVATE CONTRACTORS

(a) Definitions. As used in this section:

(1) “Criminal record” means the record of:

(A) convictions in Vermont; or

(B) convictions in other jurisdictions recorded in other state repositories or by the Federal Bureau of Investigation (FBI).

(2) “Private contractor” means any individual who is performing specific services or functions for the Department of Buildings and General Services on State-owned or -leased property pursuant to a contract with the State or a subcontract with a person who has contracted with the State and includes an individual who is employed by a person that is performing specific services or functions for the Department of Buildings and General Services on State-owned or -leased property pursuant to a contract with the State or a subcontract with a person who has contracted with the State.

(b) Authority. The Department of Buildings and General Services may obtain from the Vermont Crime Information Center a Vermont criminal record, an out-of-state criminal record, and a record from the Federal Bureau of Investigation for any person who is or will be working in a private contractor position and any applicant for a private contractor position who has given written authorization, on a release form prescribed by the Center, pursuant to the provisions of this subchapter and the user’s agreement filed by the Commissioner of Buildings and General Services with the Center. The user’s agreement shall require the Department to comply with all federal and State statutes, rules, regulations, and policies regulating the release of criminal history records and the protection of individual privacy. The user’s agreement shall be signed and kept current by the Commissioner. Release of interstate and Federal Bureau of Investigation criminal history records is subject to the rules and regulations of the Federal Bureau of Investigation’s National Crime Information Center.

(c) Request process. A request made under this section shall be accompanied by a set of the person’s fingerprints.

(d) Notice of records. Upon completion of a criminal record check, the Vermont Crime Information Center shall send to the Commissioner a notice that no record exists or, if a record exists, a copy of any criminal record.

(e) Process for sending information. The Commissioner may inform the

contractor in writing of the approved level of access granted but shall not reveal the content of the record to the contractor.

(f) Notice of rights. Information sent to a person by the Commissioner of Buildings and General Services under subsection (e) of this section shall be accompanied by a written notice of the person's rights under subsection (g) of this section, a description of the policy regarding maintenance and destruction of records, and the person's right to request that the notice of no record or record be maintained for purposes of using it to comply with future criminal record check requests pursuant to subsection (i) of this section.

(g) Appeal. Any person subject to a criminal record check pursuant to this section may challenge the accuracy of the record by appealing to the Vermont Crime Information Center pursuant to rules adopted by the Commissioner of Public Safety.

(h) Confidentiality. Criminal records and criminal record information received under this section are designated confidential unless, under State or federal law or regulation, the record or information may be disclosed to specifically designated persons.

(i) Recheck of records request. The Commissioner may request a name and date of birth or fingerprint-supported recheck of the criminal record for any person who is working in a private contractor position every three years or as otherwise required by law.

(j) Maintenance of records. The Commissioner shall maintain the record or information pursuant to the user agreement for maintenance of records. At the end of the time required by the user agreement for maintenance of the information, the Commissioner shall destroy the information in accordance with the user agreement.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee Vote: 7-0-1)

Favorable

H. 562

An act relating to the definition of agricultural land for the purposes of use value appraisals

Rep. Graham of Williamstown, for the Committee on Agriculture and Forestry, recommends the bill ought to pass.

(Committee Vote: 8-0-0)

Consent Calendar

Concurrent Resolutions

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar.

H.C.R. 266

House concurrent resolution in memory of former Highgate School Board member David F. Roddy

H.C.R. 267

House concurrent resolution honoring Barbara Wagner of Bridport

H.C.R. 269

House concurrent resolution honoring Eric Nye of Georgia

H.C.R. 270

House concurrent resolution in memory of former Representative, Senator, and Commissioner of Employment and Training Sarah Goodwin (Thompson) Soule of Shelburne

H.C.R. 271

House concurrent resolution congratulating the 2019 Rice Memorial High School Green Knights Division II championship girls' soccer team

H.C.R. 272

House concurrent resolution honoring Weybridge Selectboard Chair Don Mason for his outstanding municipal public service

H.C.R. 273

House concurrent resolution honoring Barbara Torian and Tim Bouton of New Haven for their outstanding civic service

H.C.R. 274

House concurrent resolution recognizing July 2020 as Parks and Recreation Month in Vermont and designating July 17, 2020 as Vermont Park and Recreation Professionals' Day

H.C.R. 275

House concurrent resolution designating Wednesday, March 11, 2020 as the 26th Early Childhood Day at the State House

H.C.R. 276

House concurrent resolution in memory of Peter Saltonstall Mallett of Georgia

H.C.R. 277

House concurrent resolution honoring the distinguished military career of former Vermont Adjutant General Herbert Thomas Johnson of Bradford

H.C.R. 278

House concurrent resolution honoring former Representative Richard James Howrigan of Fairfield

H.C.R. 279

House concurrent resolution congratulating Ian Carpenter of Fairfax on being named the 2019 Special Olympics Vermont Unified Athlete of the Year

H.C.R. 280

House concurrent resolution honoring Frank Snow of Bennington

H.C.R. 281

House concurrent resolution congratulating Elinor Purrier of Montgomery on her record-setting pace at the 2020 Wanamaker Mile in New York City

H.C.R. 282

House concurrent resolution remembering former Rutland City Board of Aldermen President David Sagi on Disability Awareness Day

H.C.R. 283

House concurrent resolution congratulating Weidmann Electrical Technology Inc. on the 50th anniversary of its St. Johnsbury plant

H.C.R. 284

House concurrent resolution honoring Euclid Farnham for his extraordinary legacy in the Town of Tunbridge

H.C.R. 285

House concurrent resolution honoring John McCullough and Donna Fitch for their leadership in the renovation of the Calais Town Hall

H.C.R. 286

House concurrent resolution honoring former Representative Linda J. Martin for her service as Wolcott Town Clerk and Treasurer

For Informational Purposes

CROSSOVER DATES

The Joint Rules Committee established the following Crossover deadlines:

(1) All Senate/House bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before Friday, March 13, 2020, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by Friday March 13, 2020.

(2) All Senate/House bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before Friday, March 20, 2020, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

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

Exceptions to the foregoing deadlines include the major money bills (the general Appropriations bill (“The Big Bill”), the Transportation Capital bill, the Capital Construction bill and the Fee/Revenue bills.

Public Hearings

PUBLIC HEARING

Held by the Senate Education Committee on the subject of a **Pupil Weighting Study, Wednesday, March 11, 2020, 4-6 P.M. in Room 11**. Clerk of the Committee: Senator Debbie Ingram; Committee Assistant: Jeannie Lowell.