

Journal of the Senate

THURSDAY, MAY 16, 2019

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 71

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposal of amendment to House bill entitled:

H. 525. An act relating to miscellaneous agricultural subjects.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. Partridge of Windham
Rep. Graham of Williamstown
Rep. Norris of Shoreham.

The House has considered Senate proposal of amendment to House bill entitled:

H. 530. An act relating to the qualifications and election of the Adjutant and Inspector General.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. Troiano of Stannard
Rep. Stevens of Waterbury
Rep. Hango of Berkshire.

Pursuant to the request of the Senate for a Committee of Conference the Speaker appointed the following members on the part of the House:

S. 110. An act relating to data privacy and consumer protection.

Rep. Kimbell of Woodstock
Rep. Marcotte of Coventry
Rep. Jerome of Brandon.

Message from the House No. 72

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 95. An act relating to municipal utility capital investment.

And has adopted the same on its part.

The House has considered Senate proposal of amendment to House proposal of amendment to Senate bill of the following title:

S. 31. An act relating to informed health care financial decision making.

And has concurred with further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Proposal of Amendment; Third Reading Ordered

H. 292.

Senator Rodgers, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to town banners over highway rights-of-way.

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

Sec. 1. 10 V.S.A. § 494 is amended to read:

§ 494. EXEMPT SIGNS

The following signs are exempt from the requirements of this chapter except as indicated in section 495 of this title:

* * *

(18)(A) A sign that is a banner erected over a highway right-of-way for not more than 21 days if the bottom of the banner is not less than 16 feet 6 inches above the surface of the highway and is securely fastened with breakaway fasteners.

(B) As used in this subdivision (18), “banner” means a sign that is constructed of soft cloth or fabric or flexible material such as vinyl or plastic cardboard.

Sec. 2. 10 V.S.A. § 495 is amended to read:

§ 495. OTHER REGULATIONS APPLYING TO PERMITTED SIGNS

* * *

(d) Notwithstanding any other provisions of this title, a person, firm, or corporation shall not erect or maintain any outdoor advertising structure, device, or display within the limits of the highway right-of-way; however, this limitation shall not apply to the signs and devices referred to in subdivisions 494(1), (2), (3), (6), (7), (10), (14), and (17) of this title.

* * *

(f) Except on limited access facilities, the limitation established by subsection (d) of this section shall not apply to the signs referred to in subdivision 494(18) of this title.

Sec. 3. 1 V.S.A. § 377 is amended to read:

§ 377. GREEN UP DAY; ~~RIVER GREEN UP~~ CLEANUP MONTH

(a) The first Saturday in the month of May is designated as Green Up Day.

(b) September of each year is designated as ~~River Green Up~~ Cleanup Month.

Sec. 4. 10 V.S.A. § 1446 is amended to read:

§ 1446. REGISTERED PROJECTS; EXEMPTIONS FROM PERMITTING

* * *

(b) Exemptions. The following activities in a protected shoreland area do not require a permit under section 1444 or 1445 of this title:

* * *

(18) Removal of constructed feature. Temporary cutting or removal of vegetation to remove an existing constructed feature, provided that the area of removal is revegetated according to the requirements for the management of vegetative cover under section 1447 of this title and all cutting and removal of vegetation complies with the Agency’s low-risk site handbook for erosion prevention and sediment control.

* * *

Sec. 5. 10 V.S.A. § 4254 is amended to read:

§ 4254. FISHING AND HUNTING LICENSES; ELIGIBILITY, DESIGN,
DISTRIBUTION, SALE, AND ISSUE

* * *

(i)(1) If the Board establishes a moose hunting season, ~~up to five moose permits shall be set aside to be auctioned~~ not more than 10 percent of the total number of annual moose permits authorized by the Board shall be set aside to be auctioned. ~~The total number of annual moose permits set aside to be auctioned shall not exceed six.~~ The moose permits, if any, set aside for auction shall be in addition to the included in the total number of annual moose permits authorized by the Board. The Board shall adopt rules necessary for the Department to establish, implement, and run the auction process. The Commissioner annually may establish a minimum dollar amount of not less than \$1,500.00 for any winning bid for a moose permit auctioned under this subdivision. Proceeds from the auction shall be deposited in the Fish and Wildlife Fund and used for conservation education programs run by the Department. Successful bidders must have a Vermont hunting or combination license in order to purchase a moose permit.

(2) If the Board establishes a moose hunting season, ~~there shall be established a program to~~ the Commissioner shall set aside five moose permits not more than 10 percent of the total number of annual moose permits authorized by the Board for Vermont residents who have served on active duty in any branch of the U.S. Armed Forces provided that he or she has not received a dishonorable discharge. The total number of annual moose permits set aside for Vermont veterans shall not exceed six. Veterans awarded a moose permit under this subsection shall possess a valid Vermont hunting license or combination license in order to purchase a moose permit. The Department of Fish and Wildlife shall coordinate with the Office of Veterans Affairs to provide notice to eligible veterans of the moose permits set aside under this subsection.

(3) The Department of Fish and Wildlife shall adopt a procedure to implement the set-aside program for auction and for veterans, including a method to award applicants preference bonus points and a method by which auction participants and veterans who applied for but failed to receive a permit in one hunting season are awarded priority in the subsequent moose hunting season. The procedure adopted under this subdivision ~~shall be consistent with the preference system for the permit auction authorized under subdivision (1) of this subsection.~~ ~~Veterans awarded a moose permit under this subsection~~

~~must possess a valid Vermont hunting or combination license in order to purchase a moose permit. The Department of Fish and Wildlife shall coordinate with the Office of Veterans Affairs to provide notice to eligible veterans of the moose permits set aside under this subsection may include a provision for freezing bonus points in the event that the Board does not approve a moose hunting season or approves a small number of permits for the moose hunting season.~~

Sec. 6. 10 App. V.S.A. § 33 is amended to read:

§ 33. MOOSE MANAGEMENT RULE

* * *

~~3.6 “Bonus point” means: 1) a point accrued for successfully applying for a permit, but not being drawn, or 2) a point accrued by indicating on the application that the person should not be entered into that year’s drawing, but wishes to accrue a point. [Repealed.]~~

* * *

7.0 Lottery Points

~~7.1 A person may accumulate one additional chance, or “bonus point” to win the lottery for each consecutive year that person legally submits and provides the fee for an application but is not selected to receive a permit.~~

~~7.2 Two separate lotteries may be held, one for the archery season and one for the regular season. Applicants may accumulate up to one bonus point per year in each of the two separate lotteries, provided a complete application is submitted.~~

~~7.3 Applicants may elect to accrue a bonus point without entering the moose hunt lottery by submitting a completed application and fee and indicating at the appropriate place on the application form that they do not wish to be entered in the lottery for the current calendar year.~~

~~7.4 To accrue bonus points, a person must provide a complete application for the given year’s lottery for which the person wishes to receive a permit (archery or regular). All bonus points in both lotteries are lost upon receipt of a valid permit or failure to provide a complete application for each designated lottery – a person may continue to accrue bonus points in one lottery, even if he or she fails to provide a valid application for the other. [Repealed.]~~

* * *

Sec. 7. 10 V.S.A. § 4255 is amended to read:

§ 4255. LICENSE FEES

* * *

(j) If the Board determines that a moose season will be held in accordance with the rules adopted under sections 4082 and 4084 of this title, the Commissioner annually may issue three no-cost moose licenses to a person who has a life-threatening disease or illness and who is sponsored by a qualified charitable organization, provided that at least one of the no-cost annual moose licenses awarded each year shall be awarded to a child or young adult 21 years of age or under who has a life-threatening illness. The child or adult shall comply with all other requirements of this chapter and the rules of the Board. Under this subsection, a person may receive only one no-cost moose license in his or her lifetime. ~~The Commissioner shall adopt rules in accordance with 3 V.S.A. chapter 25 to implement this subsection. The rules shall define the child or adult qualified to receive the no-cost license, shall define a qualified sponsoring charitable organization, and shall provide the application process and criteria for issuing the no-cost moose license.~~

* * *

Sec. 8. REPEAL; SPECIAL OPPORTUNITY YOUTH MOOSE LICENSE RULE

The Vermont Department of Fish and Wildlife Commissioner Rule entitled Special Opportunity Youth Moose License Rule, 12-010-072 Vt. Code R. § 1, effective September 13, 2005, and amended May 18, 2010, is hereby repealed.

Sec. 9. AMENDMENTS TO AIR POLLUTION CONTROL RULES REGARDING WOOD HEATERS; COMMENCEMENT; ADOPTION; INSTITUTIONAL, COMMERCIAL, AND INDUSTRIAL WOOD HEATING APPLIANCES

(a)(1) The Secretary of Natural Resources, in consultation with interested parties and parties having expertise in wood heating and wood heating appliances, shall adopt amendments to the provisions of the Vermont Air Pollution Control Regulations governing the manufacture, sale, purchase, installation, and operation of wood heating appliances for use in institutional, commercial, or industrial applications in Vermont. These rules shall allow for alternative methods of demonstrating compliance with applicable air quality and efficiency standards as determined by the Air Pollution Control Officer.

(2) On or before July 1, 2019, the Secretary of Natural Resources shall submit to the Senate Committee on Natural Resources and Energy and the House Committees on Energy and Technology and on Natural Resources, Fish,

and Wildlife a copy of the draft rule amendments to Vermont Air Pollution Control Regulations required in subsection (a) of this section.

(3) The Secretary of Natural Resources shall commence the rulemaking required under this subsection on or before October 1, 2019 and shall adopt the rules on or before May 1, 2020.

(b)(1) Until such time that a rule amendment as required in subsection (a) of this section is adopted, and notwithstanding VT ADC 12-031-001:5-204, manufacturers of wood heating appliances that are equipped with oxygen trim systems for use in institutional, commercial, or industrial applications shall be subject to a certification process conducted by the Agency of Natural Resources wherein each discrete model to be installed in Vermont shall be certified by the Air Pollution Control Officer before installation occurs, unless such appliance has been certified by the U.S. Environmental Protection Agency as meeting the requirements of 40 C.F.R. Part 60, Subparts AAA and QQQQ as published in the Federal Register on March 16, 2015. Units that do not meet the requirements for certification will remain subject to VT ADC 12-031-001:5-204.

(2) Certification process.

(A) The Secretary shall develop a certification process in accordance with this section by July 10, 2019. As part of the certification process, the Secretary shall:

(i) accept test data pursuant to the European Standard EN 303-5 adjusted for higher heat value and condensable particulate matter fraction or other similar methods approved by the Air Pollution Control Officer; and

(ii) require emissions standards no more stringent than those levels established under 40 C.F.R. §§ 60.5474(b)(2) and 60.532(b) as published in the Federal Register on March 16, 2015.

(B) A fee of \$1,000.00 shall be due the Agency for each certification application that is submitted in accordance with the certification process.

(C) Certification of a particular unit model issued by the Air Pollution Control Officer is not subject to the procedures and requirements of 10 V.S.A. chapter 170.

(c) Notwithstanding subsection (b) of this section, prior to September 1, 2019, new wood heating appliances that are equipped with oxygen trim systems for use in institutional, commercial, or industrial applications may be installed in Vermont.

(d)(1) Notice to buyers. No persons shall sell or distribute any new wood heating appliance for installation in an institutional, commercial, or industrial

application as allowed in subsections (b) or (c) of this section unless, prior to any retail sales or lease agreement, the seller or dealer provides the prospective buyer or lessee with written notice stating that:

(A) only allowed fuels, as specified in VT ADC 12-031-001:5-204(c)(3)(ii), may be burned in a new wood heating appliance; and

(B) all new wood heating appliances must be operated in conformance with the manufacturer's operating and maintenance instructions.

(2) The written notice shall be signed and dated by the prospective buyer or lessee to verify timely receipt of the notice prior to the sale or lease and shall contain the name, address, and telephone number of both the seller or dealer and the prospective buyer or lessee, the location where the new wood heating appliance will be installed, the wood fuel type to be used, and the make and model of the new wood heating appliance. Prior to delivery of a new wood heating appliance to any buyer or lessee, the seller or dealer shall mail or otherwise provide a copy of the signed notice to the Secretary.

(e)(1) Requirements for installers, owners, and operators. No person shall install any new wood heating appliance allowed pursuant to subsections (b) or (c) of this section that is also an outdoor hydronic heater that does not meet the setback requirements of VT ADC 12-031-001:5-204(c)(2)(iv).

(2) No person shall cause, allow, or permit the operation of a new wood heating appliance allowed pursuant to subsections (b) and (c) of this section that is not in accordance with the requirements of VT ADC 12-031-001:5-204(c)(3)(ii)-(iii).

Sec. 10. 10 V.S.A. § 4081 is amended to read:

§ 4081. POLICY.

* * *

(g) If the Board finds that an antlerless season is necessary to maintain the health and size of the herd, the Department shall administer an antlerless deer program. Annually, the Board shall determine how many antlerless permits to issue in each wildlife management unit. For a nonrefundable fee of ~~\$10.00~~ \$15.00 for residents and ~~\$25.00~~ \$30.00 for nonresidents a person may apply for a permit. Each person may submit only one application for a permit. The Department shall allocate the permits in the following manner:

(1) A Vermont landowner, as defined in section 4253 of this title, who owns 25 or more contiguous acres and who applies shall receive a permit for antlerless hunting in the management unit on which the land is located before any are given to people eligible under subdivision (2) of this subsection. If the land is owned by more than one individual, corporation, or other entity, only

one permit shall be issued. Landowners applying for antlerless permits under this subdivision shall not, at the time of application or thereafter during the regular hunting season, post their lands except under the provisions of section 4710 of this title. As used in this section, "post" means any signage that would lead a reasonable person to believe that hunting is restricted on the land. If the number of landowners who apply exceeds the number of permits for that district, the Department shall award all permits in that district to landowners by lottery.

(2) Permits remaining after allocation pursuant to subdivision (1) of this subsection shall be issued by lottery.

(3) Any permits remaining after permits have been allocated pursuant to subdivisions (1) and (2) of this subsection shall be issued by the Department for a ~~\$10.00~~ \$15.00 fee for residents. Ten percent of the remaining permits may be issued to nonresident applicants for a ~~\$25.00~~ \$30.00 fee.

Sec. 11. 10 V.S.A. § 4252 is amended to read:

§ 4252. ACTIVITIES PERMITTED UNDER LICENSES.

(a) Subject to provisions of this part and rules of the Board:

(1) A fishing license shall entitle the holder to take fish.

(2) A hunting license shall entitle the holder to take wild animals, other than fish, except by trapping and for those species that require a separate big game license, and to shoot and spear pickerel.

(3) A trapping license shall entitle the holder to take animals other than fish with the use of traps.

(4) A combination fishing and hunting license shall entitle the holder to take fish and wild animals, except by trapping and for those species that require a separate big game license, and to shoot and spear pickerel.

(5) An archery license shall entitle the holder to take ~~one~~ wild deer by bow and arrow or crossbow.

(6) A muzzle loader license shall entitle the holder to take deer with a muzzle loading firearm.

(7) A turkey license shall entitle the holder to take wild turkey.

(8) A small game license shall entitle the holder to take small game by any lawful means other than a trap.

(9) ~~A second muzzle loader license, which may only be purchased by a holder of a muzzle loader license, shall entitle the holder to take one wild deer, in addition to the number allowed to a holder of a muzzle loader license, with a muzzle loading firearm. [Repealed.]~~

~~(10) A second archery license, which may only be purchased by a holder of an archery license, shall entitle the holder to take one deer, in addition to the number allowed to a holder of an archery license, with a bow and arrow. [Repealed.]~~

* * *

Sec. 12. 10 V.S.A. § 4701 is amended to read:

§ 4701. USE OF GUN, BOW AND ARROW, AND CROSSBOW; LEGAL DAY; DOGS

(a) Unless otherwise provided by statute, a person shall not take game except with:

(1) a gun fired at arm's length;

(2) a bow and arrow; or

~~(3) a crossbow as authorized under section 4711 of this title or as authorized by the rules of the Board.~~

(b) A person shall not take game between one-half hour after sunset and one-half hour before sunrise unless otherwise provided by statute or by the rules of the Board.

(c) A person may take game and fur-bearing animals during the open season therefor, with the aid of a dog, unless otherwise prohibited by statute or by the rules of the Board.

Sec. 13. 10 V.S.A. § 4711 is amended to read:

§ 4711. ~~CROSSBOW HUNTING; PERMIT.~~

~~A person who is impaired to the degree that he or she cannot operate a standard bow may obtain a permit to take game with a crossbow. The permit fees shall be \$25.00 for a permanent permit and \$5.00 for a temporary permit. A person who has lost a crossbow permit may request a new permit from the agent of original issue. The fee shall be \$5.00. All fees shall be deposited in the Fish and Wildlife Fund. A person applying for this permit must personally appear before the Commissioner of Fish and Wildlife, or his or her designee, with certification from a licensed physician that he or she is so disabled. The Commissioner may obtain a second medical opinion to verify the disability. Upon satisfactory proof of the disability, the Commissioner may issue a permit under this section. The permit shall set forth whether it was issued because of an inability to use a standard bow, and be attached to the license. The holder of the permit shall carry it at all times while hunting, and produce it on demand for inspection by any game warden or other law enforcement officer authorized to make arrests. Unless it is uncocked, a person shall not possess or~~

~~transport a crossbow in or on a motor vehicle, motorboat, airplane, snowmobile, or other motor-propelled craft or any vehicle drawn by a motor-propelled vehicle except as permitted under subsection 4705(e) of this title. [Repealed.]~~

Sec. 14. 10 V.S.A. § 4742a is amended to read:

§ 4742a. YOUTH DEER HUNTING WEEKEND.

(a) ~~The Saturday and Sunday Board shall designate by rule a youth deer hunting weekend prior to opening day of the regular deer season established by Board rule shall be youth deer hunting weekend.~~

(b) A person who is 15 years of age or under on the weekend of the hunt, and who has successfully completed a hunter safety course, may take one wild deer during youth deer hunting weekend in accordance with the rules of the Board. In order to hunt under this section, a young person shall also hold a valid hunting license under section 4255 of this title, hold a youth deer hunting tag, and be accompanied by an unarmed adult who holds a valid Vermont hunting license and who is over 18 years of age. An adult accompanying a youth under this section shall accompany no more than two young people at one time.

(c) Each year, the Board shall determine whether antlerless deer may be taken under this section in any deer management unit or units. A determination under this subsection shall be made by rule, shall be based on the game management study conducted pursuant to section 4081 of this title, and, notwithstanding subsection (g) of that section, may allow taking of antlerless deer.

(d) No person shall hunt under this section on privately owned land without first obtaining the written permission of the owner or occupant.

* * *

Sec. 15. EFFECTIVE DATES

(a) This section, Sec. 4 (lake shoreland; removal of constructed features), and Sec. 9 (air pollution rules; wood heating) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2019.

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

An act relating to miscellaneous natural resources and energy subjects.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Campion, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendments thereto:

First: By striking out Sec. 10, 10 V.S.A. § 4081 in its entirety and by renumbering the remaining sections to be numerically correct.

Second: In the newly renumbered Sec. 13, 10 V.S.A. § 4742a in subsection (d), by striking out the word “written”

Third: By striking out the newly renumbered Sec. 14, effective dates, in its entirety and inserting in lieu thereof the following:

Sec. 14. EFFECTIVE DATES

(a) This section, Secs. 4 (lake shoreland; removal of constructed features), and 9 (air pollution rules; wood heating) shall take effect on passage.

(b) Secs. 5, 6, 7, and 8 shall take effect on January 1, 2020.

(c) All other sections shall take effect on July 1, 2019.

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

An act relating to miscellaneous natural resources and energy subjects.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Natural Resources and Energy was amended as recommended by the Committee on Finance.

Thereupon, the proposal of amendment recommended by the Committee on Natural Resources and Energy, as amended, was agreed to and third reading of the bill was ordered.

Proposal of Amendment; Consideration Postponed

H. 63.

Senator Bray, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to the time frame for return of unclaimed beverage container deposits.

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

* * * Weatherization; Building Energy Labeling and Benchmarking * * *

Sec. 1. FINDINGS

The General Assembly finds that for the purposes of Secs. 1–7 of this act:

(1) Pursuant to 10 V.S.A. § 578, it is the goal of Vermont to reduce greenhouse gas emissions from the 1990 baseline by 50 percent by January 1, 2028, and, if practicable, by 75 percent by January 1, 2050. Pursuant to 10 V.S.A. § 581, it is also the goal of Vermont to improve the energy fitness of at least 20 percent (approximately 60,000 units) of the State’s housing stock by 2017, and 25 percent (approximately 80,000 units) by 2020, thereby reducing fossil fuel consumption and saving Vermont families a substantial amount of money.

(2) The State is failing to achieve these goals. For example, Vermont’s greenhouse gas emissions have increased 16 percent compared to the 1990 baseline.

(3) Approximately 24 percent of the greenhouse gas emissions within Vermont stem from residential and commercial heating and cooling usage. Much of Vermont’s housing stock is old, inadequately weatherized, and therefore not energy efficient.

(4) The Regulatory Assistance Project recently issued a report recommending two strategies to de-carbonize Vermont and address climate change. First, electrifying the transportation sector. Second, focusing on substantially increasing the rate of weatherization in Vermont homes and incentivizing the adoption of more efficient heating technologies such as cold climate heat pumps.

(5) Although the existing Home Weatherization Assistance Program assists Vermonters with low income to weatherize their homes and reduce energy use, the Program currently weatherizes approximately 850 homes a year. This rate is insufficient to meet the State’s statutory greenhouse gas reduction and weatherization goals.

(6) Since 2009, proceeds from the Regional Greenhouse Gas Initiative (RGGI) and the Forward Capacity Market (FCM) have been used to fund thermal efficiency and weatherization initiatives by Efficiency Vermont, under the oversight of the Public Utility Commission (PUC). Approximately 800 Vermont homes and businesses are weatherized each year under a market-based approach that utilizes 50 participating contractors. Efficiency Vermont and the contractors it works with have the capacity to substantially increase the number of projects undertaken each year.

(7) A multipronged approach is necessary to address these issues. The first part will establish a statewide voluntary program for rating and labeling the energy performance of buildings to make energy use and costs visible for buyers, sellers, owners, lenders, appraisers, and real estate professionals. The second part will allow Efficiency Vermont to use unspent funds to weatherize more homes and buildings. The third part will ask the Public Utility Commission to undertake a proceeding to examine whether to recommend to the General Assembly the creation of an all-fuels energy efficiency program, the expansion of the services that efficiency utilities may provide, and related issues.

Sec. 2. 30 V.S.A. chapter 2, subchapter 2 is added to read:

Subchapter 2. Building Energy Labeling and Benchmarking

§ 61. DEFINITIONS

As used in this subchapter:

(1) “Benchmarking” means measuring the energy performance of a single building or portfolio of buildings over time in comparison to other similar buildings or to modeled simulations of a reference building built to a specific standard such as an energy code.

(2) “Commercial Working Group” means the Commercial and Multiunit Building Energy Labeling Working Group established by subsection 62(b) of this title.

(3) “Commission” means the Public Utility Commission.

(4) “Department” means the Department of Public Service.

(5) “Distribution company” means a company under the jurisdiction of the Commission that distributes electricity or natural gas for consumption by end users.

(6) “Energy efficiency utility” means an energy efficiency entity appointed under subdivision 209(d)(2) of this title.

(7) “Energy label” means the visual presentation in a consistent format of an energy rating for a building and any other supporting and comparative information. The label may be provided as a paper certificate or made available online, or both.

(8) “Energy rating” means a simplified mechanism to convey a building’s energy performance. The rating may be based on the operation of the building or modeled based on the building’s assets.

(9) “Home energy assessor” means an individual who assigns buildings a home energy performance score using a scoring system based on the energy rating.

(10) “Multiunit building” means a building that contains more than one independent dwelling unit or separate space for independent commercial use, or both.

(11) “Residential Working Group” means the Residential Building Energy Labeling Working Group established by subsection 62(a) of this title.

(12) “Unit holder” means the tenant or owner of an independent dwelling unit or separate space for independent commercial use within a multiunit building.

§ 62. BUILDING ENERGY WORKING GROUPS

(a) Residential Working Group. There is established the Residential Building Energy Labeling Working Group.

(1) The Residential Working Group shall consist of the following:

(A) the Commissioner of Public Service (Commissioner) or designee;

(B) an expert in the design, implementation, and evaluation of programs and policies to promote investments in energy efficiency who is not a member of an organization described elsewhere in this subsection, appointed by the Commissioner;

(C) a representative of each energy efficiency utility, chosen by that efficiency utility;

(D) the Director of the State Office of Economic Opportunity or designee;

(E) a representative of Vermont’s community action agencies appointed by the Vermont Community Action Partnership;

(F) a representative, with energy efficiency expertise, of the Vermont Housing and Conservation Board, appointed by that Board;

(G) a building performance professional, appointed by the Building Performance Professionals Association;

(H) a representative of the real estate industry, appointed by the Vermont Association of Realtors; and

(I) such other members with expertise in energy efficiency, building design, energy use, or the marketing and sale of real property as the Commissioner may appoint.

(2) The Residential Working Group shall advise the Commissioner in the development of informational materials pursuant to section 63 of this title.

(b) Commercial Working Group. There is established the Commercial and Multiunit Building Energy Labeling Working Group.

(1) The Commercial Working Group shall consist of the following:

(A) the Commissioner or designee;

(B) an expert in the design, implementation, and evaluation of programs and policies to promote investments in energy efficiency who is not a member of an organization described elsewhere in this subsection, appointed by the Commissioner;

(C) a representative of each energy efficiency utility, chosen by that efficiency utility;

(D) the Director of the State Office of Economic Opportunity or designee;

(E) a representative of Vermont's community action agencies, appointed by the Vermont Community Action Partnership;

(F) a representative, with energy efficiency expertise, of the Vermont Housing and Conservation Board, appointed by that Board; and

(G) such other members with expertise in energy efficiency, building design, energy use, or the marketing and sale of real property as the Commissioner may appoint.

(2) The Commercial Working Group shall advise the Commissioner in the development of forms pursuant to section 64 of this title.

(c) Co-chairs. Each working group shall elect two co-chairs from among its members.

(d) Meetings. Meetings of each working group shall be at the call of a co-chair or any three of its members. The meetings shall be subject to the Vermont Open Meeting Law and 1 V.S.A. § 172.

(e) Vacancy. When a vacancy arises in a working group created under this section, the appointing authority shall appoint a person to fill the vacancy.

(f) Responsibilities. The Working Groups shall advise the Commissioner on the following:

(1) requirements for home assessors, including any endorsements, licensure, and bonding required;

(2) programs to train home energy assessors;

(3) requirements for reporting building energy performance scores given by home energy assessors and the establishment of a system for maintaining such information;

(4) requirements to standardize the information on a home energy label; and

(5) other matters related to benchmarking, energy rating, or energy labels for residential, commercial, and multiunit buildings.

§ 63. DISCLOSURE OF INFORMATIONAL MATERIAL; SINGLE-FAMILY DWELLINGS

(a) Disclosure. For a contract for the conveyance of real property that is a single-family dwelling, executed on or after January 1, 2020, the seller shall, within 72 hours of the execution, provide the buyer with informational materials developed by the Department in consultation with the Residential Working Group. These materials shall include information on:

(1) resources for determining home energy use and costs for Vermont homes and opportunities for energy savings;

(2) available voluntary tools for energy rating and energy labels; and

(3) available programs and services in Vermont related to energy efficiency, building energy performance, and weatherization.

(b) Marketability of title. Noncompliance with the requirements of this section shall not affect the marketability of title of a property.

(c) Penalty; liability. Liability for failure to provide the informational materials required by this section shall be limited to a civil penalty, imposed by the Public Utility Commission under section 30 of this title, of not less than \$25.00 and not more than \$250.00 for each violation.

§ 64. MULTIUNIT BUILDINGS; ACCESS TO AGGREGATED DATA

(a) Obligation; aggregation and release of data. On request of the owner of a multiunit building or the owner's designated agent, each distribution company and energy efficiency utility shall aggregate monthly energy usage data in its possession for the unit holders in the building and release the aggregated data to the owner or agent. The aggregated data shall be anonymized.

(1) Under this section, the obligation to aggregate and release data shall accrue when the owner or agent:

(A) Certifies that the request is made for the purpose of benchmarking or preparing an energy label for the building.

(B) With respect to a multiunit building that has at least four unit holders, provides documentation certifying that, at least 14 days prior to submission of the request, each unit holder was notified that the energy usage data of the holder was to be requested and that this notice gave each unit holder an opportunity to opt out of the energy use aggregation. The owner or agent shall identify to the distribution company or energy efficiency utility requesting the data each unit holder that opted out.

(C) With respect to a multiunit building that has fewer than four unit holders, provides an energy usage data release authorization from each unit holder.

(2) A unit holder may authorize release of the holder's energy usage data by signature on a release authorization form or clause in a lease signed by the unit holder. The provisions of 9 V.S.A. § 276 (recognition of electronic records and signatures) shall apply to release authorization forms under this subsection.

(3) After consultation with the Commercial Working Group, the Commissioner of Public Service shall prescribe forms for requests and release authorizations under this subsection. The request form shall include the required certification.

(b) Response period. A distribution company or energy efficiency utility shall release the aggregated energy use data to the building owner or designated agent within 30 days of its receipt of a request that meets the requirements of subsection (a) of this section.

(1) The aggregation shall exclude energy usage data for each unit holder who opted out or, in the case of a multiunit building with fewer than four unit holders, each unit holder for which a signed release authorization was not received.

(2) A distribution company may refer a complete request under subsection (a) of this section to an energy efficiency utility that possesses the requisite data, unless the data is to be used for a benchmarking program to be conducted by the company.

Sec. 3. 27 V.S.A. § 617 is added to read:

§ 617. DISCLOSURE OF ENERGY INFORMATIONAL MATERIAL;
SINGLE-FAMILY DWELLINGS

The provisions of 30 V.S.A. § 63 shall apply when a contract is executed for the conveyance of real property that is a single-family dwelling.

Sec. 4. WORKING GROUPS; CONTINUATION

(a) The Residential Energy Labeling Working Group and Commercial Energy Labeling Working Group convened by the Department of Public Service in response to 2013 Acts and Resolves No. 89, Sec. 12, as each group existed on February 1, 2019, shall continue in existence respectively as the Residential Building Energy Labeling Working Group and the Commercial and Multiunit Building Energy Labeling Working Group created under Sec. 2 of this act, 30 V.S.A. § 62. Those persons who were members of such a working group as of that date may continue as members and, in accordance with 30 V.S.A. § 62, the appointing authorities shall fill vacancies in the working group as they arise.

(b) Within 60 days of this section's effective date, the Commissioner of Public Service shall make appointments to each working group created under Sec. 2 of this act to fill each membership position newly created by Sec. 2, 30 V.S.A. § 62.

Sec. 5. REPORT; COMMERCIAL AND MULTIUNIT BUILDING ENERGY

(a) On or before January 15, 2021, the Commissioner of Public Service (the Commissioner), in consultation with the Commercial and Multiunit Building Energy Labeling Working Group created under Sec. 2 of this act, shall file a report and recommendations on each of the following:

(1) each issue listed under "unresolved issues" on page 45 of the report to the General Assembly in response to 2013 Acts and Resolves No. 89, Sec. 12, entitled "Development of a Voluntary Commercial/Multifamily/Mixed-Use Building Energy Label" and dated December 15, 2014; and

(2) the appropriateness and viability of publicly disclosing the results of benchmarking as defined in 30 V.S.A. § 61.

(b) The Commissioner shall file the report and recommendations created under subsection (a) of this section with the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy.

* * * Efficiency Vermont; Public Utility Commission Proceeding * * *

Sec. 6. EFFICIENCY VERMONT; FUNDS FOR ADDITIONAL THERMAL ENERGY EFFICIENCY SERVICES

(a) Notwithstanding any provision of law to the contrary, Efficiency Vermont may use the following funds in 2019 and 2020 for thermal energy and process fuel energy efficiency services in accordance with 30 V.S.A.

§ 209(e)(1), with priority to be given to weatherization services for residential customers, including those at income levels of 80–140 percent of the Area Median Income (AMI), and projects that may result in larger greenhouse gas (GHG) reductions:

(1) any balances in the Electric Efficiency Fund that are allocated to Efficiency Vermont and that are carried forward from prior calendar years pursuant to 30 V.S.A. § 209(d)(3)(A); and

(2) any funds that are allocated to Efficiency Vermont and that, as a result of operational efficiencies, are not spent on, or committed to, another project or purpose in calendar years 2019 and 2020.

(b) Funds used pursuant to subsection (a) of this section shall not be used to supplant existing programs and services and shall only be used to supplement existing programs and services.

(c) Efficiency Vermont shall report to the Public Utility Commission on:

(1) how funds were spent pursuant to subsection (a) of this section; and

(2) the costs and benefits of the programs and services delivered.

Sec. 7. PUBLIC UTILITY COMMISSION PROCEEDING

(a) The Public Utility Commission shall open a proceeding, or continue an existing proceeding, to consider the following:

(1) Creation of an all-fuels energy efficiency program. The Commission shall consider whether to recommend that one or more entities should be appointed to provide for the coordinated development, implementation, and monitoring of efficiency, conservation, and related programs and services as to all regulated fuels, unregulated fuels, and fossil fuels as defined in 30 V.S.A. § 209(e)(3). The Commission shall consider all information it deems appropriate and make recommendations as to:

(A) whether the appointment of an all-fuels efficiency entity or entities to deliver the comprehensive and integrated programs and services necessary to establish an all-fuels energy efficiency and conservation program would, while continuing to further the objectives set forth in 30 V.S.A. § 209(d)(3)(B):

(i) help achieve the State goals set forth in 10 V.S.A. §§ 578, 580, and 581;

(ii) further the recommendations contained in the State Comprehensive Energy Plan;

(iii) further the objectives set forth in 30 V.S.A. § 8005(a)(3);

(iv) develop and utilize a full cost-benefit, full life cycle accounting method for analyzing energy policy and programs; and

(v) employ metrics that assess positive and negative externalities, including health impacts on individuals and the public.

(B) the best model to accomplish the goals set forth in subdivision (1)(A) of this subsection (a), including whether to recommend:

(i) the appointment of one or more new entities; or

(ii) the appointment of one or more entities that are currently providing efficiency and conservation programs pursuant to 30 V.S.A. § 209(d)(2) and distribution utilities that are currently providing programs and services pursuant to 30 V.S.A. § 8005(a)(3).

(2) Expansion of the programs and services that efficiency utilities may provide. The Commission shall consider whether to recommend that efficiency programs and services, whether provided by entities currently providing efficiency and conservation programs pursuant to 30 V.S.A. § 209(d)(2), distribution utilities currently providing programs and services pursuant to 30 V.S.A. § 8005(a)(3), or a new entity or entities recommended pursuant to subdivision (1) of this subsection (a), should incorporate additional technologies, services, and strategies, including:

(A) demand response;

(B) flexible load management;

(C) energy storage;

(D) reduction of fossil fuel use through electrification and the use of renewable fuels and energy; and

(E) building shell improvement and weatherization.

(3) Funding.

(A) The Commission shall consider and recommend how best to provide consistent, adequate, and equitable funding for efficiency, conservation, and related programs and services, including:

(i) how to use existing or new funding sources to better support existing efficiency and conservation programs and services, including those described in Sec. 6 of this act, during the period the Commission is conducting the proceeding pursuant to this subsection;

(ii) how to use existing or new funding sources to provide sufficient funds to implement and support the Commission's recommendations made pursuant to subdivisions (1) and (2) of this subsection (a); and

(iii) whether Thermal Renewable Energy Certificates (T-RECs) can be used to provide for the proper valuation of thermal load reduction investments, to create a revenue stream to support thermal load reduction work, and to evaluate the role of such work within the overall suite of energy programs designed to reduce greenhouse gas (GHG) emissions and generate savings for Vermonters.

(B) In reaching its recommendations pursuant to subdivision (A) of this subdivision (3), the Commission shall consider how any recommendation may affect the financial and economic well-being of Vermonters.

(b) Process. The Commission shall schedule workshops and seek written filings from all interested stakeholders and ensure that all stakeholders have an opportunity to provide input. The Commission may use contested case procedures if it deems appropriate.

(c) Reports. On or before:

(1) January 15, 2020, the Commission shall submit a preliminary report to the House Committee on Energy and Technology and the Senate Committee on Natural Resources and Energy concerning its progress and any preliminary findings and recommendations as to subsection (a) of this section, including recommendations as to subdivision (a)(3)(A) of this section; and

(2) January 15, 2021, the Commission shall submit a final written report to the House Committee on Energy and Technology and the Senate Committee on Natural Resources and Energy with its findings and detailed recommendations as to subsection (a) of this section, including recommendations for legislative action.

* * * Beverage Containers; Escheats * * *

Sec. 8. 10 V.S.A. § 1530 is amended to read:

§ 1530. ~~ABANDONED BEVERAGE CONTAINER DEPOSITS; DEPOSIT TRANSACTION ACCOUNT; BEVERAGE REDEMPTION FUND~~

(a) As used in this section, “deposit initiator” means the first distributor or manufacturer to collect the deposit on a beverage container sold to any person within the State.

~~(b) A deposit initiator shall open a separate interest-bearing account to be known as the deposit transaction account in a Vermont branch of a financial institution. The deposit initiator shall keep the deposit transaction account separate from all other revenues and accounts.~~

~~(c) Beginning on October 1, 2019, each deposit initiator shall deposit in its deposit transaction account the refund value established by section 1522 of this~~

~~title for all beverage containers sold by the deposit initiator. The deposit initiator shall deposit the refund value for each beverage container in the deposit transaction account not more than three business days after the date on which the beverage container is sold. All interest, dividends, and returns earned on the deposit transaction account shall be paid directly to the account. The deposit initiator shall pay all refunds on returned beverage containers from the deposit transaction account.~~

~~(d) Beginning on January 1, 2020, and quarterly thereafter, every deposit initiator shall report to the Secretary of Natural Resources and the Commissioner of Taxes concerning transactions affecting the deposit initiator's deposit transaction account in the preceding quarter. The report shall be submitted on or before the 25th day of the calendar month succeeding the quarter ending on the last day of March, June, September, and December each year. The deposit initiator shall submit the report on a form provided by the Commissioner of Taxes. The report shall include:~~

~~(1) the balance of the deposit transaction account at the beginning of the preceding quarter;~~

~~(2) the number of beverage containers sold in the preceding quarter and the number of beverage containers returned in the preceding quarter;~~

~~(3)(2) the amount of beverage container deposits received by the deposit initiator and deposited into the deposit transaction account;~~

~~(4)(3) the amount of refund payments made from the deposit transaction account in the preceding quarter; and~~

~~(5) any income earned on the deposit transaction account in the preceding quarter;~~

~~(6) any other transactions, withdrawals, or service charges on the deposit transaction account from the preceding quarter; and~~

~~(7)(4) any additional information required by the Commissioner of Taxes.~~

~~(e)(c)(1) On or before January 1, 2020, and quarterly thereafter, at the time a report is filed pursuant to subsection (d) of this section, each deposit initiator shall remit from its deposit transaction account to the Commissioner of Taxes any abandoned beverage container deposits from the preceding quarter. The amount of abandoned beverage container deposits for a quarter is the amount equal to the amount of deposits that should be in the deposit transaction account less the sum of:~~

~~(A) income earned on amounts on the deposit transaction account during that quarter; and~~

~~(B) the total amount of refund value paid out by the deposit initiator for beverage containers during that quarter the deposit initiator collected in the quarter less the amount of the total refund value paid out by the deposit initiator for beverage containers during the quarter.~~

(2) In any calendar quarter, the deposit initiator may submit to the Commissioner of Taxes a request for reimbursement of refunds paid under this chapter that exceed the ~~funds that are or should be in the deposit initiator's deposit transaction account~~ amount of deposits collected in the quarter. The Commissioner of Taxes shall pay a request for reimbursement under this subdivision from the funds remitted to the Commissioner under subdivision (1) of this subsection, provided that:

(A) the Commissioner determines that the ~~funds in the deposit initiator's deposit transaction account~~ deposits collected by the deposit initiator are insufficient to pay the refunds on returned beverage containers; and

(B) a reimbursement paid by the Commissioner to the deposit initiator shall not exceed the amount paid by the deposit initiator under subdivision (1) of this subsection ~~(e) during the preceding 12 months (c)~~ less amounts paid to the initiator pursuant to this subdivision (2) during that same 12-month period in the previous four quarterly filings.

(3) Except as expressly provided otherwise in this chapter, all the administrative provisions of 32 V.S.A. chapter 151, including those relating to collection, enforcement, interest, and penalty charges, shall apply to the remittance of abandoned beverage container deposits.

(4) A deposit initiator may, within 60 days after the date of mailing of a notice of deficiency, the date of a full or partial denial of a request for reimbursement, or the date of an assessment, petition the Commissioner of Taxes in writing for a hearing and determination on the matter. The hearing shall be subject to and governed by 3 V.S.A. chapter 25. Within 30 days after a determination, an aggrieved deposit initiator may appeal a determination by the Commissioner of Taxes to the Washington Superior Court or the Superior Court of the county in which the deposit initiator resides or has a place of business.

(5) Notwithstanding any appeal, upon finding that a deposit initiator has failed to remit the full amount required by this chapter, the Commissioner of Taxes may treat any refund payment owed by the Commissioner to a deposit initiator as if it were a payment received and may apply the payment in accordance with 32 V.S.A. § 3112.

~~(f)(d)~~ The Secretary of Natural Resources may prohibit the sale of a beverage that is sold or distributed in the State by a deposit initiator who fails

to comply with the requirements of this chapter. The Secretary may allow the sale of a beverage upon the deposit initiator's coming into compliance with the requirements of this chapter.

(e) Data reported to the Secretary of Natural Resources and the Commissioner of Taxes by a deposit initiator under this section shall be confidential business information exempt from public inspection and copying under 1 V.S.A. § 317(c)(9), provided that the Commissioner of Taxes may use and disclose such information in summary or aggregated form that does not directly or indirectly identify individual deposit initiators.

Sec. 9. 10 V.S.A. § 8003(a) is amended to read:

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

* * *

(7) 10 V.S.A. chapter 53, relating to beverage containers, provided that the Secretary may not take action to enforce the provisions of section 1530 of this title that are enforceable by the Commissioner of Taxes;

* * *

Sec. 10. 10 V.S.A. § 8503(a)(1)(G) is amended to read:

(G) chapter 53 (beverage containers; deposit-redemption system), except for those acts or decisions of the Commissioner of Taxes under section 1530 of this title;

* * * Effective Dates * * *

Sec. 11. EFFECTIVE DATES

(a) This section and Secs. 8–10 (beverage container; escheats) shall take effect on passage.

(b) Secs. 1–7 (weatherization) shall take effect on July 1, 2019.

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

An act relating to weatherization, building labeling and benchmarking, a Public Utility Commission proceeding, and unclaimed beverage container deposits.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Pearson, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendment thereto:

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

* * * Efficiency Vermont; Public Utility Commission Proceeding * * *

Sec. 1. EFFICIENCY VERMONT; FUNDS FOR ADDITIONAL
THERMAL ENERGY EFFICIENCY SERVICES

(a) Notwithstanding any provision of law to the contrary, Efficiency Vermont may use the following funds in 2019 and 2020 for thermal energy and process fuel energy efficiency services in accordance with 30 V.S.A. § 209(e)(1), with priority to be given to weatherization services for residential customers, including those at income levels of 80–140 percent of the Area Median Income (AMI), and projects that may result in larger greenhouse gas (GHG) reductions:

(1) up to \$2,250,000.00 of any balances in the Electric Efficiency Fund that are allocated to Efficiency Vermont and that are carried forward from prior calendar years pursuant to 30 V.S.A. § 209(d)(3)(A); and

(2) any funds that are allocated to Efficiency Vermont and that, as a result of operational efficiencies, are not spent on, or committed to, another project or purpose in calendar years 2019 and 2020.

(b) Funds used pursuant to subsection (a) of this section shall not be used to supplant existing programs and services and shall only be used to supplement existing programs and services.

(c) Efficiency Vermont shall report to the Public Utility Commission on:

(1) how funds were spent pursuant to subsection (a) of this section; and

(2) the costs and benefits of the programs and services delivered.

Sec. 2. PUBLIC UTILITY COMMISSION PROCEEDING

(a) The Public Utility Commission shall open a proceeding, or continue an existing proceeding, to consider the following:

(1) Creation of an all-fuels energy efficiency program. The Commission shall consider whether to recommend that one or more entities should be appointed to provide for the coordinated development, implementation, and monitoring of efficiency, conservation, and related programs and services as to all regulated fuels, unregulated fuels, and fossil

fuels as defined in 30 V.S.A. § 209(e)(3). The Commission shall consider all information it deems appropriate and make recommendations as to:

(A) whether the appointment of an all-fuels efficiency entity or entities to deliver the comprehensive and integrated programs and services necessary to establish an all-fuels energy efficiency and conservation program would, while continuing to further the objectives set forth in 30 V.S.A. § 209(d)(3)(B):

(i) accelerate progress toward the State goals set forth in 10 V.S.A. §§ 578, 580, and 581;

(ii) accelerate progress toward the recommendations contained in the State Comprehensive Energy Plan;

(iii) further the objectives set forth in 30 V.S.A. § 8005(a)(3);

(iv) develop and utilize a full cost-benefit, full life cycle accounting method for analyzing energy policy and programs; and

(v) employ metrics that assess positive and negative externalities, including health impacts on individuals and the public.

(B) the best model to accomplish the goals set forth in subdivision (1)(A) of this subsection (a), including whether to recommend:

(i) the appointment of one or more new entities; or

(ii) the appointment of one or more entities that are currently providing efficiency and conservation programs pursuant to 30 V.S.A. § 209(d)(2) and distribution utilities that are currently providing programs and services pursuant to 30 V.S.A. § 8005(a)(3).

(2) Expansion of the programs and services that efficiency utilities may provide. The Commission shall consider whether to recommend that efficiency programs and services, whether provided by entities currently providing efficiency and conservation programs pursuant to 30 V.S.A. § 209(d)(2), distribution utilities currently providing programs and services pursuant to 30 V.S.A. § 8005(a)(3), or a new entity or entities recommended pursuant to subdivision (1) of this subsection (a), should incorporate additional technologies, services, and strategies, including:

(A) demand response;

(B) flexible load management;

(C) energy storage;

(D) reduction of fossil fuel use through electrification and the use of renewable fuels and energy; and

(E) building shell improvement and weatherization.

(3) Funding.

(A) The Commission shall consider and recommend how best to provide consistent, adequate, and equitable funding for efficiency, conservation, and related programs and services, including:

(i) how to use existing or new funding sources to better support existing efficiency and conservation programs and services, including those described in Sec. 6 of this act, during the period the Commission is conducting the proceeding pursuant to this subsection;

(ii) how to use existing or new funding sources to provide sufficient funds to implement and support the Commission's recommendations made pursuant to subdivisions (1) and (2) of this subsection (a); and

(iii) whether Thermal Renewable Energy Certificates (T-RECs) can be used to provide for the proper valuation of thermal load reduction investments, to create a revenue stream to support thermal load reduction work, and to evaluate the role of such work within the overall suite of energy programs designed to reduce greenhouse gas (GHG) emissions and generate savings for Vermonters.

(B) In reaching its recommendations pursuant to subdivision (A) of this subdivision (3), the Commission shall consider how any recommendation may affect the financial and economic well-being of Vermonters.

(b) The existing Energy Efficiency Utility Orders of Appointment issued by the Public Utility Commission shall not be altered or revoked in the proceeding pursuant to subsection (a) of this section.

(c) Process. The Commission shall schedule workshops and seek written filings from all interested stakeholders and ensure that all stakeholders have an opportunity to provide input. The Commission may use contested case procedures if it deems appropriate.

(d) Reports. On or before:

(1) January 15, 2020, the Commission shall submit a preliminary report to the House Committee on Energy and Technology and the Senate Committee on Natural Resources and Energy concerning its progress and any preliminary findings and recommendations as to subsection (a) of this section, including recommendations as to subdivision (a)(3)(A) of this section, and any findings and recommendations that may influence the scope and focus of Efficiency Vermont's 2021-23 Demand Resources Plan Proceeding; and

(2) January 15, 2021, the Commission shall submit a final written report to the House Committee on Energy and Technology and the Senate Committee on Natural Resources and Energy with its findings and detailed recommendations as to subsection (a) of this section, including recommendations for legislative action.

* * * Carbon Emissions Reduction Committee * * *

Sec. 3. 2 V.S.A. chapter 17 is amended to read:

CHAPTER 17: JOINT ENERGY CARBON EMISSIONS REDUCTION COMMITTEE

§ 601. CREATION OF COMMITTEE

(a) There is created a Joint Energy Carbon Emissions Reduction Committee whose membership shall be appointed each biennial session of the General Assembly. The Committee shall consist of ~~four~~ five Representatives, at least one from ~~each major party~~ the Committees on Appropriations, on Commerce and Economic Development, on Energy and Technology, and on Transportation, to be appointed by the Speaker of the House, and ~~four~~ five members of the Senate, at least one from ~~each major party~~ the Committees on Appropriations, on Finance, on Natural Resources and Energy, and on Transportation, to be appointed by the Committee on Committees.

(b) The Committee shall elect a chair, and vice chair, and clerk and shall adopt rules of procedure. The Chair shall rotate biennially between the House and the Senate members. The Committee may meet during a session of the General Assembly at the call of the Chair ~~or a majority of the members of the Committee~~ and with the approval of the Speaker of the House and the President Pro Tempore of the Senate. The Committee may meet up to five times during adjournment ~~subject to approval of the Speaker of the House and the President Pro Tempore of the Senate.~~ A majority of the membership shall constitute a quorum.

(c) The Office of Legislative Council shall provide legal, professional, and administrative assistance to the Committee.

(d) For attendance at a meeting when the General Assembly is not in session, members of the Committee shall be entitled to the same per diem compensation and expense reimbursement as provided members of standing committees pursuant to section 406 of this title.

§ 602. EMPLOYEES; RULES

(a) ~~The Joint Energy Committee shall meet following the appointment of its membership to organize and begin the conduct of its business.~~

~~(b) The staff of the Office of Legislative Council shall provide professional and clerical assistance to the Joint Committee.~~

~~(c) For attendance at a meeting when the General Assembly is not in session, members of the Joint Energy Committee shall be entitled to the same per diem compensation and reimbursement for necessary expenses as provided members of standing committees under section 406 of this title.~~

~~(d) The Joint Energy Committee shall keep minutes of its meetings and maintain a file thereof. [Repealed.]~~

§ 603. FUNCTIONS DUTIES

The Joint ~~Energy~~ Carbon Emissions Reduction Committee shall:

~~(1) carry on a continuing review of all energy matters in the State and in the northeast region of the United States, including energy sources, energy distribution, energy costs, energy planning, energy conservation, and pertinent related subjects;~~

~~(2) work with, assist, and advise other committees of the General Assembly, the Executive, and the public in energy-related matters within their respective responsibilities provide oversight when the General Assembly is not in session of State policies and activities concerning and affecting carbon emissions from Vermont's electric, residential and commercial buildings, and transportation sectors.~~

* * * VLITE and the Home Weatherization Assistance Fund * * *

Sec. 4. 33 V.S.A. § 2501 is amended to read:

§ 2501. HOME WEATHERIZATION ASSISTANCE FUND

(a) There is created in the State Treasury a fund to be known as the Home Weatherization Assistance Fund to be expended by the Director of the State Office of Economic Opportunity in accordance with federal law and this chapter.

(b) The Fund shall be composed of the receipts from the gross receipts tax on retail sales of fuel imposed by section 2503 of this title, such funds as may be allocated from the Oil Overcharge Fund, such funds as may be allocated from the federal Low Income Energy Assistance Program, such funds as may be deposited or transferred into the Fund by the Vermont Low Income Trust for Electricity, and such other funds as may be appropriated by the General Assembly.

* * *

Sec. 5. HOME WEATHERIZATION ASSISTANCE PROGRAM;
VERMONT LOW INCOME TRUST FOR ELECTRICITY

(a) The General Assembly finds that:

(1) It is the energy policy of the State to substantially increase the number of homes weatherized each year in order to meet the goals set forth in 10 V.S.A. § 581 and in the State Comprehensive Energy Plan.

(2) In its January 2019 report prepared for the General Assembly, *An Analysis of Decarbonization Methods in Vermont*, Resources for the Future stated that Vermont's Greenhouse Gas emissions are concentrated in two areas, heating and transportation. The Regulatory Assistance Project (RAP), in its related report, *Economic Benefits and Energy Savings Through Low-Cost Carbon Management*, issued in February 2019, found that energy efficiency initiatives, including home insulation and weatherization, are key to meeting Vermont's climate goals. As a result, the RAP recommended expanding the Home Weatherization Assistance Program pursuant to 33 V.S.A. chapter 25.

(3) The mission of the Vermont Low Income Trust for Electricity (VLITE) is to fund projects that further the State's energy policy and that assist Vermonters with low-income. VLITE uses dividends from Vermont Electric Power Company (VELCO) stock that it owns to fund such projects.

(4) VLITE investing the dividends from its VELCO stock in the Home Weatherization Assistance Program will implement the RAP recommendation to expand this Program, help the State achieve its carbon reduction goals pursuant to statute and the Comprehensive Energy Plan, and also assist Vermonters with low-income to reduce fossil fuel use and save money.

(b) The General Assembly finds that investing the dividends from VLITE's VELCO stock in the Home Weatherization Assistance Program is consistent with VLITE's mission and furthers the State's energy plan and Greenhouse Gas reduction goals. As a result, the General Assembly encourages VLITE to invest the dividends from its VELCO stock into the Home Weatherization Assistance Fund pursuant to 33 V.S.A. § 2501.

* * * Supplemental Weatherization Funding * * *

Sec. 6. SUPPLEMENTAL WEATHERIZATION FUNDING

In fiscal year 2020, \$350,000.00 is appropriated from the General Fund to Efficiency Vermont for weatherization programs and services pursuant to subsection (a) of Sec. 6 of this act.

* * * Beverage Containers; Escheats * * *

Sec. 7. 10 V.S.A. § 1530 is amended to read:

§ 1530. ~~ABANDONED BEVERAGE CONTAINER DEPOSITS; DEPOSIT TRANSACTION ACCOUNT; BEVERAGE REDEMPTION FUND~~

(a) As used in this section, “deposit initiator” means the first distributor or manufacturer to collect the deposit on a beverage container sold to any person within the State.

~~(b) A deposit initiator shall open a separate interest-bearing account to be known as the deposit transaction account in a Vermont branch of a financial institution. The deposit initiator shall keep the deposit transaction account separate from all other revenues and accounts.~~

~~(c) Beginning on October 1, 2019, each deposit initiator shall deposit in its deposit transaction account the refund value established by section 1522 of this title for all beverage containers sold by the deposit initiator. The deposit initiator shall deposit the refund value for each beverage container in the deposit transaction account not more than three business days after the date on which the beverage container is sold. All interest, dividends, and returns earned on the deposit transaction account shall be paid directly to the account. The deposit initiator shall pay all refunds on returned beverage containers from the deposit transaction account.~~

~~(d) Beginning on January 1, 2020, and quarterly thereafter, every deposit initiator shall report to the Secretary of Natural Resources and the Commissioner of Taxes concerning transactions affecting the deposit initiator’s deposit transaction account in the preceding quarter. The report shall be submitted on or before the 25th day of the calendar month succeeding the quarter ending on the last day of March, June, September, and December each year. The deposit initiator shall submit the report on a form provided by the Commissioner of Taxes. The report shall include:~~

~~(1) the balance of the deposit transaction account at the beginning of the preceding quarter;~~

~~(2) the number of beverage containers sold in the preceding quarter and the number of beverage containers returned in the preceding quarter;~~

~~(3)(2) the amount of beverage container deposits received by the deposit initiator and deposited into the deposit transaction account;~~

~~(4)(3) the amount of refund payments made from the deposit transaction account in the preceding quarter; and~~

~~(5) any income earned on the deposit transaction account in the preceding quarter;~~

~~(6) any other transactions, withdrawals, or service charges on the deposit transaction account from the preceding quarter; and~~

~~(7)~~(4) any additional information required by the Commissioner of Taxes.

~~(e)(c)(1) On or before January 1, 2020, and quarterly thereafter, at the time a report is filed pursuant to subsection (d) of this section, each deposit initiator shall remit from its deposit transaction account to the Commissioner of Taxes any abandoned beverage container deposits from the preceding quarter. The amount of abandoned beverage container deposits for a quarter is the amount equal to the amount of deposits that should be in the deposit transaction account less the sum of:~~

~~(A) income earned on amounts on the deposit transaction account during that quarter; and~~

~~(B) the total amount of refund value paid out by the deposit initiator for beverage containers during that quarter the deposit initiator collected in the quarter less the amount of the total refund value paid out by the deposit initiator for beverage containers during the quarter.~~

(2) In any calendar quarter, the deposit initiator may submit to the Commissioner of Taxes a request for reimbursement of refunds paid under this chapter that exceed the funds that are or should be in the deposit initiator's ~~deposit transaction account~~ amount of deposits collected in the quarter. The Commissioner of Taxes shall pay a request for reimbursement under this subdivision from the funds remitted to the Commissioner under subdivision (1) of this subsection, provided that:

(A) the Commissioner determines that the ~~funds in the deposit initiator's deposit transaction account~~ deposits collected by the deposit initiator are insufficient to pay the refunds on returned beverage containers; and

(B) a reimbursement paid by the Commissioner to the deposit initiator shall not exceed the amount paid by the deposit initiator under subdivision (1) of this subsection ~~(e) during the preceding 12 months (c)~~ less amounts paid to the initiator pursuant to this subdivision (2) ~~during that same 12-month period~~ in the previous four quarterly filings.

(3) Except as expressly provided otherwise in this chapter, all the administrative provisions of 32 V.S.A. chapter 151, including those relating to collection, enforcement, interest, and penalty charges, shall apply to the remittance of abandoned beverage container deposits.

(4) A deposit initiator may within 60 days after the date of mailing of a notice of deficiency, the date of a full or partial denial of a request for reimbursement, or the date of an assessment petition the Commissioner of Taxes in writing for a hearing and determination on the matter. The hearing shall be subject to and governed by 3 V.S.A. chapter 25. Within 30 days after a determination, an aggrieved deposit initiator may appeal a determination by the Commissioner of Taxes to the Washington Superior Court or the Superior Court of the county in which the deposit initiator resides or has a place of business.

(5) Notwithstanding any appeal, upon finding that a deposit initiator has failed to remit the full amount required by this chapter, the Commissioner of Taxes may treat any refund payment owed by the Commissioner to a deposit initiator as if it were a payment received and may apply the payment in accordance with 32 V.S.A. § 3112.

~~(d)~~ (d) The Secretary of Natural Resources may prohibit the sale of a beverage that is sold or distributed in the State by a deposit initiator who fails to comply with the requirements of this chapter. The Secretary may allow the sale of a beverage upon the deposit initiator's coming into compliance with the requirements of this chapter.

(e) Data reported to the Secretary of Natural Resources and the Commissioner of Taxes by a deposit initiator under this section shall be confidential business information exempt from public inspection and copying under 1 V.S.A. § 317(c)(9), provided that the Commissioner of Taxes may use and disclose such information in summary or aggregated form that does not directly or indirectly identify individual deposit initiators.

Sec. 8. 10 V.S.A. § 8003(a) is amended to read:

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

* * *

(7) 10 V.S.A. chapter 53, relating to beverage containers, provided that the Secretary may not take action to enforce the provisions of section 1530 of this title that are enforceable by the Commissioner of Taxes;

* * *

Sec. 9. 10 V.S.A. § 8503(a)(1)(G) is amended to read:

(G) chapter 53 (beverage containers; deposit-redemption system), except for those acts or decisions of the Commissioner of Taxes under section 1530 of this title;

* * * Effective Dates * * *

Sec. 10. EFFECTIVE DATES

(a) This section and Secs. 7–9 (beverage container; escheats) shall take effect on passage.

(b) Secs. 1–6 (Efficiency Vermont, Public Utility Commission Proceeding, Carbon Emissions Reduction Committee, VLITE and Home Weatherization Assistance Fund, and supplemental weatherization funding) shall take effect on July 1, 2019.

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

An act relating to weatherization, a Public Utility Commission proceeding, and unclaimed beverage container deposits.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Ashe, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Finance with the following amendments thereto:

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

Sec. 2. PUBLIC UTILITY COMMISSION PROCEEDING

(a) The Public Utility Commission shall open a proceeding, or continue an existing proceeding, to consider the following:

(1) Creation of an all-fuels energy efficiency program. The Commission shall consider whether to recommend that one or more entities should be appointed to provide for the coordinated development, implementation, and monitoring of efficiency, conservation, and related programs and services as to all regulated fuels, unregulated fuels, and fossil fuels as defined in 30 V.S.A. § 209(e)(3). The Commission shall consider all information it deems appropriate and make recommendations as to:

(A) whether the appointment of an all-fuels efficiency entity or entities to deliver the comprehensive and integrated programs and services necessary to establish an all-fuels energy efficiency and conservation program would, while continuing to further the objectives set forth in 30 V.S.A. § 209(d)(3)(B):

(i) accelerate progress toward the State goals set forth in 10 V.S.A. §§ 578, 580, and 581;

(ii) accelerate progress toward the recommendations contained in the State Comprehensive Energy Plan; and

(iii) further the objectives set forth in 30 V.S.A. § 8005(a)(3).

(B) the best model to create an all-fuels energy efficiency program including whether to recommend:

(i) the appointment of one or more new entities; or

(ii) the appointment of one or more entities that are currently providing efficiency and conservation programs pursuant to 30 V.S.A. § 209(d)(2) and distribution utilities that are currently providing programs and services pursuant to 30 V.S.A. § 8005(a)(3).

(C) how to:

(i) develop and utilize a full cost-benefit, full life cycle accounting method for analyzing energy policy and programs; and

(ii) employ metrics that assess positive and negative externalities, including health impacts on individuals and the public.

(2) Expansion of the programs and services that efficiency utilities may provide. The Commission shall consider whether to recommend that efficiency programs and services, whether provided by entities currently providing efficiency and conservation programs pursuant to 30 V.S.A. § 209(d)(2), distribution utilities currently providing programs and services pursuant to 30 V.S.A. § 8005(a)(3), or a new entity or entities recommended pursuant to subdivision (1) of this subsection (a), should incorporate additional technologies, services, and strategies, including:

(A) demand response;

(B) flexible load management;

(C) energy storage;

(D) reduction of fossil fuel use through electrification and the use of renewable fuels and energy; and

(E) building shell improvement and weatherization.

(3) Funding.

(A) The Commission shall consider and recommend how best to provide consistent, adequate, and equitable funding for efficiency, conservation, and related programs and services, including:

(i) how to use existing or new funding sources to better support existing efficiency and conservation programs and services, including those

described in Sec. 1 of this act, during the period the Commission is conducting the proceeding pursuant to this subsection;

(ii) how to use existing or new funding sources to provide sufficient funds to implement and support the Commission's recommendations made pursuant to subdivisions (1) and (2) of this subsection (a); and

(iii) whether Thermal Renewable Energy Certificates (T-RECs) can be used to provide for the proper valuation of thermal load reduction investments, to create a revenue stream to support thermal load reduction work, and to evaluate the role of such work within the overall suite of energy programs designed to reduce greenhouse gas (GHG) emissions and generate savings for Vermonters.

(B) In reaching its recommendations pursuant to subdivision (A) of this subdivision (3), the Commission shall consider how any recommendation may affect the financial and economic well-being of Vermonters.

(b) The existing Energy Efficiency Utility Orders of Appointment issued by the Public Utility Commission shall not be altered or revoked in the proceeding pursuant to subsection (a) of this section.

(c) Process. The Commission shall schedule workshops and seek written filings from all interested stakeholders and ensure that all stakeholders have an opportunity to provide input. The Commission may use contested case procedures if it deems appropriate.

(d) Reports. On or before:

(1) January 15, 2020, the Commission shall submit a preliminary report to the House Committee on Energy and Technology and the Senate Committee on Natural Resources and Energy concerning its progress and any preliminary findings and recommendations as to subsection (a) of this section, including recommendations as to subdivision (a)(3)(A) of this section, and any findings and recommendations that may influence the scope and focus of Efficiency Vermont's 2021-23 Demand Resources Plan Proceeding; and

(2) January 15, 2021, the Commission shall submit a final written report to the House Committee on Energy and Technology and the Senate Committee on Natural Resources and Energy with its findings and detailed recommendations as to subsection (a) of this section, including recommendations for legislative action.

Second: In Sec. 6 (supplemental weatherization funding), after the following: "pursuant to subsection (a) of Sec." by striking the number "6" and inserting in lieu thereof the number 1

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Finance was amended as recommended by the Committee on Appropriations.

Thereupon, the recommendation of proposal of amendment of the Committee on Natural Resources and Energy, was amended as recommended by the Committee on Finance, as amended.

Thereupon, Senators Perchlik, Ashe, Balint and Bray moved to amend the proposal of amendment of the Committee on Natural Resources and Energy, as amended as follows:

First: By adding a new to be numbered Sec. 7 to read as follows:

Sec. 7. 2018 Acts and Resolves No. 188, Sec. 7 is amended to read:

Sec. 7. ACCELERATED WEATHERIZATION PROGRAM; HOUSING IMPROVEMENT PROGRAM; STATE TREASURER; FUNDING

(a) The General Assembly finds that, in addition to the weatherization efforts provided under the Home Weatherization Assistance Program established in 33 V.S.A. chapter 25, an increased pace of weatherization and housing improvements would result in both environmental and economic benefits to the State. Accelerated weatherization efforts and housing improvements will:

- (1) decrease the emission of greenhouse gases;
- (2) increase job opportunities in the field of weatherization;
- (3) enable Vermonters to live in safer, healthier housing; and
- (4) reduce health care costs by reducing the incidence of respiratory illnesses, allergies, and other health problems.

(b) In fiscal years 2019, ~~and 2020~~, and 2021 the State Treasurer is authorized to invest up to \$5,000,000.00 of funds from the credit facility established in 10 V.S.A. § 10 for an accelerated weatherization and housing improvement program, provided that:

- (1) ~~for owner-occupied homes~~, the funds shall be used to support weatherization efforts and housing improvement efforts for ~~homeowners with a family income that is not more than 120 percent of the area or statewide median family income, whichever is higher, as reported by the U.S.~~

~~Department of Housing and Urban Development for the most recent year for which data are available~~ owner-occupied homes and multi-family homes; and

~~(2) for multi-family rental homes, the funds shall be used in conjunction with other State programs, and that not less than 50 percent of the tenant households residing in properties to be rehabilitated shall have an annual household income that is not more than 80 percent of the area or statewide median family income, whichever is higher, as reported by the U.S. Department of Housing and Urban Development for the most recent year for which data are available; and~~

~~(3) weatherization efforts are included in the improvements to any housing unit funded from the credit facility.~~

and by renumbering the remaining sections to be numerically correct.

Second: By striking out the newly renumbered Sec 11 in its entirety and inserting in lieu thereof the following:

Sec. 11. EFFECTIVE DATES

(a) This section and Secs. 8–10 (beverage container; escheats) shall take effect on passage.

(b) Secs. 1–7 (Efficiency Vermont, Public Utility Commission Proceeding, Carbon Emissions Reduction Committee, VLITE and Home Weatherization Assistance Fund, and supplemental weatherization funding) shall take effect on July 1, 2019.

Which was agreed to.

Thereupon, the proposal of amendment of the Committee on Natural Resources and Energy, as amended, was agreed to.

Thereupon, pending the question, Shall the bill be read the third time?, Senator Bray moved to amend the Senate proposal of amendment by inserting four new sections to be numbered Sec. 10, 11, 12 and 13 to read as follows:

* * * Weatherization; Building Energy Labeling and Benchmarking * * *

Sec. 10. FINDINGS

The General Assembly finds that for the purposes of Secs. 10-13 of this act:

(1) Pursuant to 10 V.S.A. § 578, it is the goal of Vermont to reduce greenhouse gas emissions from the 1990 baseline by 50 percent by January 1, 2028, and, if practicable, by 75 percent by January 1, 2050. Pursuant to 10 V.S.A. § 581, it is also the goal of Vermont to improve the energy fitness of at least 20 percent (approximately 60,000 units) of the State's housing stock by 2017, and 25 percent (approximately 80,000 units) by 2020, thereby

reducing fossil fuel consumption and saving Vermont families a substantial amount of money.

(2) The State is failing to achieve these goals. For example, Vermont's greenhouse gas emissions have increased 16 percent compared to the 1990 baseline.

(3) Approximately 24 percent of the greenhouse gas emissions within Vermont stem from residential and commercial heating and cooling usage. Much of Vermont's housing stock is old, inadequately weatherized, and therefore not energy efficient.

(4) The Regulatory Assistance Project recently issued a report recommending two strategies to de-carbonize Vermont and address climate change. First, electrifying the transportation sector. Second, focusing on substantially increasing the rate of weatherization in Vermont homes and incentivizing the adoption of more efficient heating technologies such as cold climate heat pumps.

(5) Although the existing Home Weatherization Assistance Program assists Vermonters with low income to weatherize their homes and reduce energy use, the Program currently weatherizes approximately 850 homes a year. This rate is insufficient to meet the State's statutory greenhouse gas reduction and weatherization goals.

(6) Since 2009, proceeds from the Regional Greenhouse Gas Initiative (RGGI) and the Forward Capacity Market (FCM) have been used to fund thermal efficiency and weatherization initiatives by Efficiency Vermont, under the oversight of the Public Utility Commission (PUC). Approximately 800 Vermont homes and businesses are weatherized each year under a market-based approach that utilizes 50 participating contractors. Efficiency Vermont and the contractors it works with have the capacity to substantially increase the number of projects undertaken each year.

(7) A multipronged approach is necessary to address these issues. The first part will establish a statewide voluntary program for rating and labeling the energy performance of buildings to make energy use and costs visible for buyers, sellers, owners, lenders, appraisers, and real estate professionals. The second part will allow Efficiency Vermont to use unspent funds to weatherize more homes and buildings. The third part will ask the Public Utility Commission to undertake a proceeding to examine whether to recommend to the General Assembly the creation of an all-fuels energy efficiency program, the expansion of the services that efficiency utilities may provide, and related issues.

Sec. 11. 30 V.S.A. chapter 2, subchapter 2 is added to read:

Subchapter 2. Building Energy Labeling and Benchmarking

§ 61. DEFINITIONS

As used in this subchapter:

(1) “Benchmarking” means measuring the energy performance of a single building or portfolio of buildings over time in comparison to other similar buildings or to modeled simulations of a reference building built to a specific standard such as an energy code.

(2) “Commercial Working Group” means the Commercial and Multiunit Building Energy Labeling Working Group established by subsection 62(b) of this title.

(3) “Commission” means the Public Utility Commission.

(4) “Department” means the Department of Public Service.

(5) “Distribution company” means a company under the jurisdiction of the Commission that distributes electricity or natural gas for consumption by end users.

(6) “Energy efficiency utility” means an energy efficiency entity appointed under subdivision 209(d)(2) of this title.

(7) “Energy label” means the visual presentation in a consistent format of an energy rating for a building and any other supporting and comparative information. The label may be provided as a paper certificate or made available online, or both.

(8) “Energy rating” means a simplified mechanism to convey a building’s energy performance. The rating may be based on the operation of the building or modeled based on the building’s assets.

(9) “Home energy assessor” means an individual who assigns buildings a home energy performance score using a scoring system based on the energy rating.

(10) “Multiunit building” means a building that contains more than one independent dwelling unit or separate space for independent commercial use, or both.

(11) “Residential Working Group” means the Residential Building Energy Labeling Working Group established by subsection 62(a) of this title.

(12) “Unit holder” means the tenant or owner of an independent dwelling unit or separate space for independent commercial use within a multiunit building.

§ 62. BUILDING ENERGY WORKING GROUPS

(a) Residential Working Group. There is established the Residential Building Energy Labeling Working Group.

(1) The Residential Working Group shall consist of the following:

(A) the Commissioner of Public Service (Commissioner) or designee;

(B) an expert in the design, implementation, and evaluation of programs and policies to promote investments in energy efficiency who is not a member of an organization described elsewhere in this subsection, appointed by the Commissioner;

(C) a representative of each energy efficiency utility, chosen by that efficiency utility;

(D) the Director of the State Office of Economic Opportunity or designee;

(E) a representative of Vermont's community action agencies appointed by the Vermont Community Action Partnership;

(F) a representative, with energy efficiency expertise, of the Vermont Housing and Conservation Board, appointed by that Board;

(G) a building performance professional, appointed by the Building Performance Professionals Association;

(H) a representative of the real estate industry, appointed by the Vermont Association of Realtors; and

(I) such other members with expertise in energy efficiency, building design, energy use, or the marketing and sale of real property as the Commissioner may appoint.

(2) The Residential Working Group shall advise the Commissioner in the development of informational materials pursuant to section 63 of this title.

(b) Commercial Working Group. There is established the Commercial and Multiunit Building Energy Labeling Working Group.

(1) The Commercial Working Group shall consist of the following:

(A) the Commissioner or designee;

(B) an expert in the design, implementation, and evaluation of programs and policies to promote investments in energy efficiency who is not a member of an organization described elsewhere in this subsection, appointed by the Commissioner;

(C) a representative of each energy efficiency utility, chosen by that efficiency utility;

(D) the Director of the State Office of Economic Opportunity or designee;

(E) a representative of Vermont's community action agencies, appointed by the Vermont Community Action Partnership;

(F) a representative, with energy efficiency expertise, of the Vermont Housing and Conservation Board, appointed by that Board; and

(G) such other members with expertise in energy efficiency, building design, energy use, or the marketing and sale of real property as the Commissioner may appoint.

(2) The Commercial Working Group shall advise the Commissioner in the development of forms pursuant to section 64 of this title.

(c) Co-chairs. Each working group shall elect two co-chairs from among its members.

(d) Meetings. Meetings of each working group shall be at the call of a Co-Chair or any three of its members. The meetings shall be subject to the Vermont Open Meeting Law and 1 V.S.A. § 172.

(e) Vacancy. When a vacancy arises in a working group created under this section, the appointing authority shall appoint a person to fill the vacancy.

(f) Responsibilities. The Working Groups shall advise the Commissioner on the following:

(1) requirements for home assessors, including any endorsements, licensure, and bonding required;

(2) programs to train home energy assessors;

(3) requirements for reporting building energy performance scores given by home energy assessors and the establishment of a system for maintaining such information;

(4) requirements to standardize the information on a home energy label; and

(5) other matters related to benchmarking, energy rating, or energy labels for residential, commercial, and multiunit buildings.

§ 63. MULTIUNIT BUILDINGS; ACCESS TO AGGREGATED DATA

(a) Obligation; aggregation and release of data. On request of the owner of a multiunit building or the owner's designated agent, each distribution

company and energy efficiency utility shall aggregate monthly energy usage data in its possession for the unit holders in the building and release the aggregated data to the owner or agent. The aggregated data shall be anonymized.

(1) Under this section, the obligation to aggregate and release data shall accrue when the owner or agent:

(A) Certifies that the request is made for the purpose of benchmarking or preparing an energy label for the building.

(B) With respect to a multiunit building that has at least four unit holders, provides documentation certifying that, at least 14 days prior to submission of the request, each unit holder was notified that the energy usage data of the holder was to be requested and that this notice gave each unit holder an opportunity to opt out of the energy use aggregation. The owner or agent shall identify to the distribution company or energy efficiency utility requesting the data each unit holder that opted out.

(C) With respect to a multiunit building that has fewer than four unit holders, provides an energy usage data release authorization from each unit holder.

(2) A unit holder may authorize release of the holder's energy usage data by signature on a release authorization form or clause in a lease signed by the unit holder. The provisions of 9 V.S.A. § 276 (recognition of electronic records and signatures) shall apply to release authorization forms under this subsection.

(3) After consultation with the Commercial Working Group, the Commissioner of Public Service shall prescribe forms for requests and release authorizations under this subsection. The request form shall include the required certification.

(b) Response period. A distribution company or energy efficiency utility shall release the aggregated energy use data to the building owner or designated agent within 30 days of its receipt of a request that meets the requirements of subsection (a) of this section.

(1) The aggregation shall exclude energy usage data for each unit holder who opted out or, in the case of a multiunit building with fewer than four unit holders, each unit holder for which a signed release authorization was not received.

(2) A distribution company may refer a complete request under subsection (a) of this section to an energy efficiency utility that possesses the

requisite data, unless the data is to be used for a benchmarking program to be conducted by the company.

Sec. 12. WORKING GROUPS; CONTINUATION

(a) The Residential Energy Labeling Working Group and Commercial Energy Labeling Working Group convened by the Department of Public Service in response to 2013 Acts and Resolves No. 89, Sec. 12, as each group existed on February 1, 2019, shall continue in existence respectively as the Residential Building Energy Labeling Working Group and the Commercial and Multiunit Building Energy Labeling Working Group created under Sec. 2 of this act, 30 V.S.A. § 62. Those persons who were members of such a working group as of that date may continue as members and, in accordance with 30 V.S.A. § 62, the appointing authorities shall fill vacancies in the working group as they arise.

(b) Within 60 days of this section's effective date, the Commissioner of Public Service shall make appointments to each working group created under 30 V.S.A. § 62.

Sec. 13. REPORT; COMMERCIAL AND MULTIUNIT BUILDING ENERGY

(a) On or before January 15, 2021, the Commissioner of Public Service (the Commissioner), in consultation with the Commercial and Multiunit Building Energy Labeling Working Group created under Sec. 2 of this act, shall file a report and recommendations on each of the following:

(1) each issue listed under "unresolved issues" on page 45 of the report to the General Assembly in response to 2013 Acts and Resolves No. 89, Sec. 12, entitled "Development of a Voluntary Commercial/Multifamily/Mixed-Use Building Energy Label" and dated December 15, 2014; and

(2) the appropriateness and viability of publicly disclosing the results of benchmarking as defined in 30 V.S.A. § 61.

(b) The Commissioner shall file the report and recommendations created under subsection (a) of this section with the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy.

And by renumbering the remaining section to be numerically correct.

Thereupon, pending the question Shall the Senate proposal of amendment be amended as recommended by Senator Bray?, on motion of Senator Pearson consideration of the bill was postponed.

**House Proposal of Amendment Not Concurred In; Committee of
Conference Requested; Committee of Conference Appointed; Bill
Messaged**

S. 108.

House proposal of amendment to Senate bill entitled:

An act relating to employee misclassification.

Was taken up.

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

* * * Employee Misclassification * * *

Sec. 1. 21 V.S.A. § 712 is added to read:

§ 712. ENFORCEMENT BY ATTORNEY GENERAL

(a) Following the referral of a complaint by the Commissioner of Labor pursuant to the provisions of section 3 of this title, the Attorney General may investigate a complaint that an employer has committed a willful, substantial, or systemic violation of section 687 or 708 of this chapter by claiming that it is not an employer as defined pursuant to subdivision 601(3) of this chapter or that an individual is not a worker or employee as defined pursuant to subdivision 601(14) of this chapter and may enforce those provisions by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458–2461 as though an employer that violates section 687 or 708 of this chapter by claiming that it is not an employer as defined pursuant to subdivision 601(3) of this chapter or that an individual is not a worker or employee as defined pursuant to subdivision 601(14) of this chapter is committing an unfair act in commerce. Any employer, employment agency, or labor organization complained against shall have the same rights and remedies as specified in 9 V.S.A. §§ 2458–2461. The Superior Courts may impose the same civil penalties and investigation costs and order other relief to the State of Vermont or an aggrieved employee for a violation of section 687 or 708 of this chapter and any related violations of the provisions of this chapter as they are authorized to impose or order under the provisions of 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the Superior Courts may order restitution of wages or other benefits on behalf of an employee and may order reinstatement and other appropriate relief on behalf of an employee.

(b)(1) The Attorney General shall share information and coordinate investigatory and enforcement resources with the Departments of Financial

Regulation, of Labor, and of Taxes pursuant to the provisions of section 3 of this title.

(2) Upon receiving notice that the Attorney General has determined that an employer committed a violation of section 687 or 708 of this chapter by claiming that it was not an employer as defined pursuant to subdivision 601(3) of this chapter or that an individual was not a worker or employee as defined pursuant to subdivision 601(14) of this chapter, the Commissioners of Financial Regulation and of Taxes shall review whether the employer is in compliance with the insurance or tax laws that are under their jurisdiction.

Sec. 2. 21 V.S.A. § 1379 is added to read:

§ 1379. COMPLAINT OF MISCLASSIFICATION; ENFORCEMENT BY ATTORNEY GENERAL

(a) Following the referral of a complaint by the Commissioner of Labor pursuant to the provisions of section 3 of this title, the Attorney General may investigate a complaint that an employing unit or employer has committed a willful, substantial, or systemic violation of section 1314a of this chapter by failing to properly classify one or more employees and may enforce the provisions of this chapter by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458–2461 as though the misclassification of an employee is an unfair act in commerce. Any employing unit or employer complained against shall have the same rights and remedies as specified in 9 V.S.A. §§ 2458–2461. The Superior Courts may impose the same civil penalties and investigation costs and order other relief to the State of Vermont or an aggrieved employee for the misclassification of an employee and any related violations of the provisions of this chapter as they are authorized to impose or order under the provisions of 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the Superior Courts may order restitution of wages or other benefits on behalf of an employee and may order reinstatement and other appropriate relief on behalf of an employee.

(b)(1) The Attorney General shall share information and coordinate investigatory and enforcement resources with the Departments of Financial Regulation, of Labor, and of Taxes pursuant to the provisions of section 3 of this title.

(2) Upon receiving notice that the Attorney General has determined that an employing unit or employer has committed a violation of section 1314a of this chapter by failing to properly classify one or more employees, the Commissioners of Financial Regulation and of Taxes shall review whether the

employing unit or employer is in compliance with the insurance or tax laws that are under their jurisdiction.

Sec. 3. 21 V.S.A. § 1314 is amended to read:

§ 1314. REPORTS AND RECORDS; SEPARATION INFORMATION;
DETERMINATION OF ELIGIBILITY; FAILURE TO REPORT
EMPLOYMENT INFORMATION; DISCLOSURE OF
INFORMATION TO OTHER STATE AGENCIES TO
INVESTIGATE MISCLASSIFICATION OR MISCODING

* * *

(d)(1) Except as otherwise provided in this chapter, information obtained from any employing unit or individual in the administration of this chapter, and determinations as to the benefit rights of any individual shall be held confidential and shall not be disclosed or open to public inspection in any manner revealing the individual's or employing unit's identity, nor be admissible in evidence in any action or proceeding other than one arising out of this chapter, or to support or facilitate an investigation by a public agency identified in subdivision (e)(1) of this section.

* * *

(e)(1) Subject to such restrictions as the Board may by regulation prescribe, information from unemployment insurance records may be made available to any public officer or public agency of this or any other state or the federal government dealing with the administration or regulation of relief, public assistance, unemployment compensation, a system of public employment offices, wages and hours of employment, workers' compensation, misclassification or miscoding of workers, occupational safety and health, or a public works program for purposes appropriate to the necessary operation of those offices or agencies. The Commissioner may also make information available to colleges, universities, and public agencies of the State for use in connection with research projects of a public service nature, and to the Vermont Economic Progress Council with regard to the administration of 32 V.S.A. chapter 105, subchapter 2; but no person associated with those institutions or agencies may disclose that information in any manner that would reveal the identity of any individual or employing unit from or concerning whom the information was obtained by Commissioner.

* * *

(8) The Department of Labor shall disclose, upon request, to the Attorney General and employees of the Office of the Attorney General information necessary for the Attorney General to investigate a complaint and

enforce the provisions of this chapter as provided pursuant to section 1379 of this chapter.

* * *

Sec. 4. 21 V.S.A. § 346 is added to read:

§ 346. ENFORCEMENT BY ATTORNEY GENERAL; EMPLOYEE MISCLASSIFICATION

(a) Following the referral of a complaint by the Commissioner of Labor pursuant to the provisions of section 3 of this title, the Attorney General may investigate a complaint that an employer has committed a willful, substantial, or systemic violation of section 342, 343, 348, 482, or 483 of this chapter by misclassifying an employee as an independent contractor and may enforce those provisions by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458–2461 as though the misclassification of an employee is an unfair act in commerce. Any employer complained against shall have the same rights and remedies as specified in 9 V.S.A. §§ 2458–2461. The Superior Courts may impose the same civil penalties and investigation costs and order other relief to the State of Vermont or an aggrieved employee for the misclassification of an employee and any related violations of the provisions of this chapter as they are authorized to impose or order under the provisions of 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the Superior Courts may order restitution of wages or other benefits on behalf of an employee and may order reinstatement and other appropriate relief on behalf of an employee.

(b)(1) The Attorney General shall share information and coordinate investigatory and enforcement resources with the Departments of Financial Regulation, of Labor, and of Taxes pursuant to the provisions of section 3 of this title.

(2) Upon receiving notice that the Attorney General has determined that an employing unit has committed a violation of section 342, 343, 348, 482, or 483 of this chapter by misclassifying an employee as an independent contractor, the Commissioners of Financial Regulation and of Taxes shall review whether the employer is in compliance with the insurance or tax laws that are under their jurisdiction.

Sec. 5. 21 V.S.A. § 342a is amended to read:

§ 342a. INVESTIGATION OF COMPLAINTS OF UNPAID WAGES

* * *

(h) Information obtained from any employer, employee, or witness in the course of investigating a complaint of unpaid wages shall be confidential and shall not be disclosed or open to public inspection in any manner that reveals the employee's or employer's identity or be admissible in evidence in any action or proceeding other than one arising under this subchapter. However, such information may be released to any public official for the purposes provided in subdivision 1314(e)(1) of this title or to the Attorney General in relation to investigations conducted pursuant to section 346 of this subchapter as provided pursuant to the terms of the memorandum of understanding between the Attorney General and the Commissioner of Labor executed pursuant to section 3 of this title.

Sec. 6. 21 V.S.A. § 387 is added to read:

§ 387. ENFORCEMENT BY ATTORNEY GENERAL; EMPLOYEE MISCLASSIFICATION

(a) Following the referral of a complaint by the Commissioner of Labor pursuant to the provisions of section 3 of this title, the Attorney General may investigate a complaint that an employer has committed a willful, substantial, or systemic violation of this subchapter by misclassifying an employee as an independent contractor and may enforce the provisions of this subchapter by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458–2461 as though the misclassification of an employee is an unfair act in commerce. Any employer complained against shall have the same rights and remedies as specified in 9 V.S.A. §§ 2458–2461. The Superior Courts may impose the same civil penalties and investigation costs and order other relief to the State of Vermont or an aggrieved employee for the misclassification of an employee and any related violations of the provisions of this chapter as they are authorized to impose or order under the provisions of 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the Superior Courts may order restitution of wages or other benefits on behalf of an employee and may order reinstatement and other appropriate relief on behalf of an employee.

(b)(1) The Attorney General shall share information and coordinate investigatory and enforcement resources with the Departments of Financial Regulation, of Labor, and of Taxes pursuant to the provisions of section 3 of this title.

(2) Upon receiving notice that the Attorney General has determined that an employing unit has committed a violation of this subchapter by misclassifying an employee as an independent contractor, the Commissioners of Financial Regulation and of Taxes shall review whether the employer is in

compliance with the insurance or tax laws that are under their jurisdiction.

Sec. 7. 32 V.S.A. § 3102 is amended to read:

§ 3102. CONFIDENTIALITY OF TAX RECORDS

* * *

(d) The Commissioner shall disclose a return or return information:

* * *

(5) to the Attorney General, if such return or return information relates to chapter 205 of this title or 33 V.S.A. chapter 19, subchapters 1A and 1B, for purposes of investigating potential violations of and enforcing 7 V.S.A. chapter 40, 20 V.S.A. chapter 173, subchapter 2A, and 33 V.S.A. chapter 19, subchapters 1A and 1B, and 21 V.S.A. §§ 346, 387, 712, and 1379;

* * *

Sec. 8. 21 V.S.A. § 3 is added to read:

§ 3. COOPERATION WITH ATTORNEY GENERAL; MEMORANDUM OF UNDERSTANDING

(a) The Attorney General and the Commissioner of Labor shall enter into a memorandum of understanding to establish a process for the referral of complaints received by the Commissioner of Labor to the Attorney General, the sharing of information, and the coordination of investigatory and enforcement resources in relation to the provisions of sections 346, 387, 712, and 1379 of this title. Notwithstanding any provision of 9 V.S.A. § 2460(a) to the contrary, the memorandum shall, at a minimum, provide for:

(1) notice from the Attorney General to the Commissioner of Labor regarding complaints received by the Attorney General that relate to a possible violation of the laws under the jurisdiction of the Commissioner;

(2) a procedure for the Commissioner of Labor to refer a complaint to the Attorney General if the employer complained of appears to be engaging in willful, substantial, or systemic violations of the provisions of chapter 5, subchapter 2 or 3 of this title, or chapter 9 or 17 of this title through the misclassification of employees.

(3) a requirement that the Commissioner of Labor shall, upon receiving a complaint against an employer that has been determined to have engaged in employee misclassification on three separate occasions during the past 10 years or is alleged to have misclassified 10 or more employees, refer the complaint to the Attorney General and coordinate with the Attorney General to investigate the complaint and, depending on the outcome of the investigation,

seek any appropriate penalties pursuant to the provisions of this title and 9 V.S.A. §§ 2458–2461;

(4) the exchange of information and coordination of investigatory and enforcement resources between the Commissioner of Labor and the Attorney General.

(b) Nothing in this section shall be construed to prevent the Commissioner of Labor from investigating complaints of violations of the laws under his or her jurisdiction or enforcing those laws pursuant to the applicable provisions of this title.

(c) The Attorney General shall enter into separate memoranda of understanding with the Commissioner of Financial Regulation and the Commissioner of Taxes to establish a process for sharing information related to an investigation by the Attorney General pursuant to sections 346, 387, 712, and 1379 of this title. Notwithstanding any provision of 9 V.S.A. § 2460(a) to the contrary, each memorandum shall, at a minimum, provide for the disclosure by the Attorney General of any instance in which he or she has determined that an employer has, through the misclassification of an employee, violated the provisions of chapter 5, subchapter 2 or 3 of this title or chapter 9 or 17 of this title and the basis for that determination.

(d) Information shared pursuant to this section shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential. Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption created in this section shall continue in effect and shall not be repealed through the operation of 1 V.S.A. § 317(e).

Sec. 9. EMPLOYEE MISCLASSIFICATION; ENFORCEMENT BY ATTORNEY GENERAL; REPORTS

(a)(1) On or before January 15, 2021, the Attorney General and the Commissioner of Labor shall submit a written report to the House Committees on Commerce and Economic Development and on General, Housing, and Military Affairs and the Senate Committees on Economic Development, Housing and General Affairs and on Finance regarding the enforcement of employment laws related to employee misclassification pursuant to 21 V.S.A. §§ 346, 387, 712, and 1379 and by the Commissioner of Labor pursuant to 21 V.S.A. chapter 5, subchapters 2 and 3, and 21 V.S.A. chapters 9 and 17.

(2)(A) The report shall include for both the Office of the Attorney General and the Department of Labor in each calendar year:

(i) the number of complaints received in relation to violations of 21 V.S.A. chapter 5, subchapters 2 and 3, and 21 V.S.A. chapters 9 and 17 that involved employee misclassification;

(ii) the number and percentage of complaints received that were referred to the other entity;

(iii) the number of investigations initiated;

(iv) the average number of days between the receipt of a complaint, the start of an investigation, and the completion of an investigation;

(v) the number and percentage of investigations that resulted in, for the Office of the Attorney General, the imposition of a civil penalty, an assurance of discontinuance, or the imposition of injunctive relief, and, for the Department of Labor, the imposition of a penalty;

(vi) the number and percentage of investigations that resulted in a determination that the employer had engaged in employee misclassification;

(vii) the number and percentage of investigations that resulted in the imposition of debarment pursuant to 21 V.S.A. §§ 692, 708, or 1314a; and

(viii) the number of investigations related to employers who had previously violated the provisions of 21 V.S.A. chapter 5, subchapter 2 or 3, or 21 V.S.A. chapter 9 or 17; and

(B) any recommendations for legislative action to improve the effectiveness of the provisions of 21 V.S.A. §§ 346, 387, 712, and 1379.

(b)(1) On or before January 15, 2023, the Attorney General, in consultation with the Commissioners of Financial Regulation, of Labor, and of Taxes, shall submit a written report to the House Committees on Commerce and Economic Development and on General, Housing, and Military Affairs and the Senate Committees on Economic Development, Housing and General Affairs and on Finance regarding the enforcement of employment laws related to employee misclassification by the Attorney General pursuant to 21 V.S.A. §§ 346, 387, 712, and 1379 and by the Commissioner of Labor pursuant to 21 V.S.A. chapter 5, subchapters 2 and 3, and 21 V.S.A. chapters 9 and 17.

(A) The report shall include for both the Office of the Attorney General and the Department of Labor in each calendar year:

(i) the number of complaints received in relation to violations of 21 V.S.A. chapter 5, subchapters 2 and 3, and 21 V.S.A. chapters 9 and 17 that involved employee misclassification;

(ii) the number and percentage of complaints received that were referred to the other entity;

(iii) the number of investigations initiated;

(iv) the average number of days between the receipt of a complaint, the start of an investigation, and the completion of an investigation;

(v) the number and percentage of investigations that resulted in, for the Office of the Attorney General, the imposition of a civil penalty, an assurance of discontinuance, or the imposition of injunctive relief, and, for the Department of Labor, the imposition of a penalty;

(vi) the number and percentage of investigations that resulted in a determination that the employer had engaged in employee misclassification;

(vii) the number and percentage of investigations that resulted in the imposition of debarment pursuant to 21 V.S.A. § 692, 708, or 1314a; and

(viii) the number of investigations related to employers who had previously violated the provisions of 21 V.S.A. chapter 5, subchapter 2 or 3, or 21 V.S.A. chapter 9 or 17; and

(B) a recommendation regarding whether to delay or eliminate the repeal of 21 V.S.A. §§ 346, 387, 712, and 1379, and if a delay or elimination of the repeal is proposed, any recommendations for legislative action related to those sections.

(c) As used in this section, “employee misclassification” means:

(1) the misclassification of an employee as an independent contractor;

or

(2) a violation of 21 V.S.A. § 687 or 708 that results from an employer claiming that it is not an employer as defined pursuant to 21 V.S.A. § 601(3) or that an individual is not a worker or employee as defined pursuant to 21 V.S.A. § 601(14).

Sec. 10. REPEAL

21 V.S.A. §§ 346, 387, 712, and 1379 are repealed.

Sec. 11. 21 V.S.A. § 1314 is amended to read:

§ 1314. REPORTS AND RECORDS; SEPARATION INFORMATION;
DETERMINATION OF ELIGIBILITY; FAILURE TO REPORT
EMPLOYMENT INFORMATION; DISCLOSURE OF
INFORMATION TO OTHER STATE AGENCIES TO
INVESTIGATE MISCLASSIFICATION OR MISCODING

* * *

(e)(1) Subject to such restrictions as the Board may by regulation prescribe, information from unemployment insurance records may be made available to any public officer or public agency of this or any other state or the

federal government dealing with the administration or regulation of relief, public assistance, unemployment compensation, a system of public employment offices, wages and hours of employment, workers' compensation, misclassification or miscoding of workers, occupational safety and health, or a public works program for purposes appropriate to the necessary operation of those offices or agencies. The Commissioner may also make information available to colleges, universities, and public agencies of the State for use in connection with research projects of a public service nature, and to the Vermont Economic Progress Council with regard to the administration of 32 V.S.A. chapter 105, subchapter 2; but no person associated with those institutions or agencies may disclose that information in any manner that would reveal the identity of any individual or employing unit from or concerning whom the information was obtained by Commissioner.

* * *

~~(8) The Department of Labor shall disclose, upon request, to the Attorney General and employees of the Office of the Attorney General information necessary for the Attorney General to investigate a complaint and enforce the provisions of this chapter as provided pursuant to section 1379 of this chapter. [Repealed.]~~

* * *

Sec. 12. 21 V.S.A. § 342a is amended to read:

§ 342a. INVESTIGATION OF COMPLAINTS OF UNPAID WAGES

* * *

(h) Information obtained from any employer, employee, or witness in the course of investigating a complaint of unpaid wages shall be confidential and shall not be disclosed or open to public inspection in any manner that reveals the employee's or employer's identity or be admissible in evidence in any action or proceeding other than one arising under this subchapter. However, such information may be released to any public official for the purposes provided in subdivision 1314(e)(1) of this title ~~or to the Attorney General pursuant to the terms of a memorandum of understanding between the Commissioner and the Attorney General that was agreed to in relation to investigations conducted pursuant to section 346 of this subchapter.~~

Sec. 13. 32 V.S.A. § 3102 is amended to read:

§ 3102. CONFIDENTIALITY OF TAX RECORDS

* * *

(d) The Commissioner shall disclose a return or return information:

* * *

(5) to the Attorney General, if such return or return information relates to chapter 205 of this title or 33 V.S.A. chapter 19, subchapters 1A and 1B, for purposes of investigating potential violations of and enforcing 7 V.S.A. chapter 40, 20 V.S.A. chapter 173, subchapter 2A, and 33 V.S.A. chapter 19, subchapters 1A and 1B, and 21 V.S.A. §§ 346, 387, 712, and 1379;

* * *

Sec. 14. EDUCATION AND OUTREACH

(a) On or before September 15, 2019, the Commissioner of Labor and the Attorney General shall develop and disseminate informational materials for employers and employees that informs them:

(1) that the Attorney General has been granted investigation and enforcement authority in relation to complaints of employee misclassification pursuant to the provisions of 21 V.S.A. §§ 346, 387, 712, and 1379;

(2) of the requirements related to proper employee classification; and

(3) about how to file a complaint regarding employee misclassification.

(b) The methods of disseminating the informational materials shall include:

(1) posting the information on the Attorney General's and the Department of Labor's websites; and

(2) e-mailing or otherwise providing written notice to employer and employee organizations.

* * * Workers' Compensation * * *

Sec. 15. 21 V.S.A. § 711 is amended to read:

§ 711. WORKERS' COMPENSATION ADMINISTRATION FUND

(a) The Workers' Compensation Administration Fund is created pursuant to 32 V.S.A. chapter 7, subchapter 5 to be expended by the Commissioner for the administration of the workers' compensation and for costs of the occupational disease safety and health programs that are not funded by federal OSHA grants and matching State General Fund appropriations. The Fund shall consist of contributions from employers made at a rate of 1.4 percent of the direct calendar year premium for workers' compensation insurance, one percent of self-insured workers' compensation losses, and one percent of workers' compensation losses of corporations approved under this chapter. Disbursements from the Fund shall be on warrants drawn by the Commissioner of Finance and Management in anticipation of receipts authorized by this section.

* * *

Sec. 16. WORKERS' COMPENSATION EXEMPTION FOR EQUINE CARE AND MANAGEMENT; REPORT

(a) On or before January 15, 2020, the Commissioners of Agriculture and of Labor shall report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs regarding whether certain activities related to equine care and management should be excluded from the definition of "worker" and "employee" pursuant to 21 V.S.A. § 601(14).

(b) The report shall specifically address the following:

(1) an appropriate definition for the terms "agriculture" and "farm employment" as those terms are used in 21 V.S.A. § 601(14)(C);

(2) whether any activities related to equine care and management would fall within the definitions of "agriculture" and "farm employment" determined pursuant to subdivision (1) of this subsection;

(3) what activities related to equine care and management, if any, should be included in the exemptions from the definition of "worker" and "employee"; and

(4) what the potential impact of excluding the activities identified pursuant to subdivision (3) of this subsection from the definition of "worker" and "employee" would be with respect to workers' compensation premiums, worker safety, and potential liability for employers that have equine care and management operations.

(c) The report may include a recommendation for legislative action.

Sec. 17. STATE EMPLOYEES; WORKERS' COMPENSATION; POST-TRAUMATIC STRESS DISORDER; MENTAL DISORDERS; STUDY; REPORT

On or before January 15, 2020, the Agency of Administration, Office of Risk Management, in consultation with the Agency of Human Services, the Department for Children and Families, and the Departments of Human Resources and of Labor, shall submit a written report on the workers' compensation claims submitted by State employees in relation to post-traumatic stress disorder and other mental conditions to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs. The report shall:

(1) examine the occurrence and frequency of workers' compensation claims submitted by State employees in relation to post-traumatic stress

disorder and other mental conditions that are caused or aggravated by workplace stressors or workplace violence;

(2) identify professions and occupations in State government that have a heightened risk of exposure to traumatic situations or stress that could cause post-traumatic stress disorder or other mental conditions;

(3) include an inventory of currently existing prevention and education plans related to the occurrence of post-traumatic stress disorder and other mental conditions among State employees;

(4) identify various approaches for preventing the occurrence of post-traumatic stress disorder and other mental conditions among State employees, including specific actions and methods to reduce the likelihood of job-related stressors or workplace violence; and

(5) identify specific training and educational activities and materials that can be implemented to:

(A) enable State employees to better recognize situations, incidents, and other occurrences that may result in a stressful situation or violent interaction;

(B) enable State employees to better recognize the symptoms of post-traumatic stress disorder and other common mental conditions in themselves and their coworkers;

(C) identify the resources available to employees following a stressful or traumatic incident, including the Employee Assistance Program and counseling; and

(D) educate State employees regarding how to file and pursue a workers' compensation claim for work-related post-traumatic stress disorder or another work-related mental condition that requires treatment or has become disabling.

Sec. 18. WORKERS' COMPENSATION; COMPENSATION FOR
PRESCRIBED OVER-THE-COUNTER MEDICATIONS;
OUTREACH

On or before October 15, 2019, the Commissioner of Labor shall develop and disseminate informational materials to educate workers and employers regarding the ability of a worker to receive compensation for the cost of prescribed over-the-counter medications. The methods of disseminating the materials shall include:

(1) posting the information on the Department's website;

(2) e-mailing or otherwise providing written notice to insurance carriers that offer workers' compensation insurance in Vermont; and

(3) ensuring, in coordination with the Department of Health and the appropriate professional licensing boards and professional membership associations, that the information is made available to all licensed health care professionals who are authorized to prescribe medications and to all licensed pharmacists in Vermont.

Sec. 19. 21 V.S.A. § 650 is amended to read:

§ 650. PAYMENT; AVERAGE WAGE; COMPUTATION

* * *

(f) When benefits have been awarded or are not in dispute as provided in subsection (e) of this section, the employer shall establish a weekday on which payment shall be mailed or deposited and notify the claimant and the Department of that day. The employer shall ensure that each weekly payment is mailed or deposited on or before the day established. Payment shall be made by direct deposit to a claimant who elects that payment method. The employer shall notify the claimant of his or her right to payment by direct deposit. If the benefit payment is not mailed or deposited on the day established, the employer shall pay to the claimant a late fee of \$10.00 or five percent of the benefit amount, whichever is greater, for each weekly payment that is made after the established day. ~~For the purposes of~~ As used in this subsection, "paid" means the payment is mailed to the claimant's mailing address or, in the case of direct deposit, transferred into the designated account. In the event of a dispute, proof of payment shall be established by affidavit.

* * * Required Notice for Unemployment Insurance * * *

Sec. 20. 21 V.S.A. § 1346 is amended to read:

§ 1346. CLAIMS FOR BENEFITS; ~~REGULATIONS~~ RULES; NOTICE

(a) Claims for benefits shall be made in accordance with ~~such regulations as rules adopted by the Board may prescribe. Each employer shall post and maintain printed statements of such regulations in places readily accessible to individuals in his or her service and shall make available to each such individual, at the time he or she becomes unemployed, a printed statement of such regulations. Such printed statements shall be supplied by the Commissioner to each employer without cost to him or her.~~

(b) Every person making a claim shall certify that he or she has not, during the week with respect to which waiting period credit or benefits are claimed, earned or received wages or other remuneration for any employment, whether

subject to this chapter or not, otherwise than as specified in his or her claim. All benefits shall be paid in accordance with ~~such regulations as~~ the rules adopted by the Board may prescribe.

(c) An employer shall post notice of how an unemployed individual can seek unemployment benefits in a form provided by the Commissioner in a place conspicuous to individuals performing services for the employer. The notice shall also advise individuals of their rights under the Domestic and Sexual Violence Survivor's Transitional Employment Program, pursuant to chapter 16A of this title. The Commissioner shall provide a copy of the notice to an employer upon request without cost to the employer.

* * * Short-Time Compensation Program * * *

Sec. 21. FINDINGS

The General Assembly finds:

(1) The Short-Time Compensation Program was enacted in 1986 to assist employers in avoiding layoffs by temporarily reducing the hours worked by some of their employees.

(2) The Program provides partial unemployment insurance benefits to the employees who are working reduced hours.

(3) In 2014, the General Assembly amended 21 V.S.A. § 1338a to change the formula by which partially unemployed individuals who are not covered by a short-time compensation plan are paid partial unemployment benefits. By changing a claimant's so-called "disregarded earnings" from 30 percent to 50 percent of the claimant's weekly wage, the amount of unemployment benefits available to a partially employed individual increased significantly.

(4) Because of the change in disregarded earnings, employers and employees both have less to gain from short-time compensation plans.

(5) The application and approval process for short-time compensation plans is an administrative burden for employers.

(6) Since 2014, only one employer in Vermont has established a Short-Time Compensation Program.

(7) Therefore, the General Assembly finds that 21 V.S.A. chapter 17, subchapter 3, which establishes the Short-Time Compensation Program, should be repealed.

Sec. 22. REPEAL

21 V.S.A. chapter 17, subchapter 3 is repealed.

* * * Self-Employment Assistance Program * * *

Sec. 23. 21 V.S.A. § 1340a is added to read:

§ 1340a. SELF-EMPLOYMENT ASSISTANCE PROGRAM

(a) As used in this section:

(1) “Full-time basis” means that the individual is devoting the necessary time as determined by the Commissioner to establish a business that will serve as a full-time occupation for that individual.

(2) “Regular benefits” shall have the same meaning as in subdivision 1421(5) of this title.

(3) “Self-employment assistance activities” means activities approved by the Commissioner in which an individual participates for the purpose of establishing a business and becoming self-employed, including entrepreneurial training, business counseling, and technical assistance.

(4) “Self-employment assistance allowance” means an allowance payable in lieu of regular benefits from the Unemployment Compensation Trust Fund to an individual who meets the requirements of this section.

(5) “Self-Employment Assistance Program” means the program under which an individual who meets the requirements of subsection (d) of this section is eligible to receive an allowance in lieu of regular benefits for the purpose of assisting that individual in establishing a business and becoming self-employed.

(b) The weekly amount of the self-employment assistance allowance payable to an individual shall be equal to the weekly benefit amount for regular benefits otherwise payable pursuant to this title.

(c) The maximum amount of the self-employment assistance allowance paid pursuant to this section shall not exceed the maximum amount of benefits established pursuant to section 1340 of this title with respect to any benefit year.

(d)(1) An individual may receive a self-employment assistance allowance if that individual:

(A) is eligible to receive regular benefits or would be eligible to receive regular benefits except for the requirements described in subdivisions (2)(A) and (B) of this subsection (d);

(B) is identified by a worker profiling system as an individual likely to exhaust regular benefits;

(C) has received the approval of the Commissioner to participate in a program providing self-employment assistance activities;

(D) is engaged actively on a full-time basis in activities that may include training related to establishing a business and becoming self-employed; and

(E) has filed a weekly claim for the self-employment assistance allowance and provided the information the Commissioner requires.

(2) A self-employment allowance shall be payable to an individual at the same interval, on the same terms, and subject to the same conditions as regular benefits pursuant to this chapter, except:

(A) the requirements of section 1343 of this title, relating to availability for work, efforts to secure work, and refusal to accept work, are not applicable to the individual; and

(B)(i) the individual is not considered to be self-employed pursuant to subdivision 1301(24) of this title;

(ii) an individual who meets the requirements of this section shall be considered to be unemployed pursuant to section 1338 of this title; and

(iii) an individual who fails to participate in self-employment assistance activities or who fails to engage actively on a full-time basis in activities, including training, relating to the establishment of a business and becoming self-employed shall be disqualified from receiving an allowance for the week in which the failure occurs.

(e) The self-employment assistance allowance may be paid to up to 35 qualified individuals at any time.

(f)(1) The self-employment assistance allowance shall be charged to the Unemployment Compensation Trust Fund.

(2) In the event that the self-employment assistance allowance cannot be charged to the Unemployment Compensation Trust Fund pursuant to subdivision (1) of this subsection, the allowance shall be charged in accordance with section 1325 of this title.

(g) The Commissioner may approve a program upon determining that it will provide self-employment assistance activities to qualified individuals.

(h)(1) The Commissioner shall adopt rules to implement this section.

(2) The rules adopted pursuant to this subsection shall include a detailed explanation of how an individual may apply for and establish eligibility for the

Self-Employment Assistance Program and any criteria that the Commissioner will consider in determining whether to approve a program.

(i) The Commissioner may suspend the Self-Employment Assistance Program with approval of the Secretary of Administration and notice to the House Committee on Commerce and Economic Development and the Senate Committee on Finance in the event that the Program presents unintended adverse consequences to the Unemployment Compensation Trust Fund.

Sec. 24. USE OF SELF EMPLOYMENT ASSISTANCE PROGRAM;
REPORT

On or before January 15, 2021, the Commissioner of Labor shall submit a written report to the House Committee on Commerce and the Senate Committee on Economic Development, Housing and General Affairs regarding the utilization of the Self Employment Assistance Program during the previous 18 months, including the number of applications received, programs approved, and programs completed, and any recommendations for legislative action to improve the utilization of the Self Employment Assistance Program. The Commissioner shall also present the report in person to both Committees.

* * * Unemployment Insurance Experience Ratings * * *

Sec. 25. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;
DISCLOSURE TO SUCCESSOR ENTITY

(a)(1) The Commissioner shall maintain an experience-rating record for each employer. Benefits paid shall be charged against the experience-rating record of each subject employer who provided base-period wages to the eligible individual. Each subject employer's experience-rating charge shall bear the same ratio to total benefits paid as the total base-period wages paid by that employer bear to the total base-period wages paid to the individual by all base-period employers. The experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual under any of the following conditions:

* * *

(E) The individual was paid wages of \$1,000.00 or less by the employer during the individual's base period.

* * *

Sec. 26. MITIGATING IMPACT OF EXPERIENCE RATING SYSTEM ON SMALL BUSINESSES; REPORT

On or before January 15, 2020, the Commissioner of Labor shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs regarding potential approaches to mitigate the impact of a single separation from employment on a small employer's unemployment insurance experience rating and contribution rate. The report shall specifically identify and describe provisions in other states' laws that reduce the impact of a single separation from employment on small employers' unemployment insurance experience ratings and contribution rates, and any resulting effect on the state's unemployment insurance trust fund. The report shall also identify any amendments to the Vermont Statutes Annotated that could reduce the impact of a single separation from employment on a small employer's unemployment insurance experience rating and contribution rate and, if possible, make a recommendation for legislative action to accomplish that goal.

* * * Effective Dates * * *

Sec. 27. EFFECTIVE DATES

(a) Sec. 8 of this act shall take effect on July 1, 2019, and the memoranda of understanding required pursuant to that section shall be executed on or before September 1, 2019.

(b) Secs. 10, 11, 12, and 13 of this act shall take effect on July 1, 2023.

(c) Sec. 19 of this act shall take effect on January 1, 2020, and shall apply to injuries incurred on or after that date.

(d) The remaining sections of this act shall take effect on July 1, 2019.

and that after passage the title of the bill be amended to read: "An act relating to workers' compensation, unemployment insurance, and employee misclassification"

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Sirotkin, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

Thereupon, pursuant to the request of the Senate, the President announced the appointment of

Senator Sirotkin
Senator Clarkson
Senator Hooker

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Committee of Conference Appointed

H. 525.

An act relating to miscellaneous agricultural subjects.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Collamore
Senator Pollina
Senator Starr

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Committee of Conference Appointed

H. 530.

An act relating to the qualifications and election of the Adjutant and Inspector General.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator White
Senator Collamore
Senator Pollina

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 108, H. 525, H. 530.

Adjournment

On motion of Senator Ashe, the Senate adjourned until four o'clock in the afternoon.

Afternoon

The Senate was called to order by the President.

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the fifteenth day of May, 2019 he approved and signed a bill originating in the Senate of the following title:

S. 49. An act relating to the regulation of polyfluoroalkyl substances in drinking and surface waters.

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the sixteenth day of May, 2019 he approved and signed a bill originating in the Senate of the following title:

S. 86. An act relating to increasing the legal age for buying and using cigarettes, electronic cigarettes, and other tobacco products from 18 to 21 years of age.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment**H. 512.**

House bill entitled:

An act relating to miscellaneous court and Judiciary related amendments.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sears moved to amend the Senate proposal of amendment in Sec. 6, 15 V.S.A. § 752, by striking out subsection (c) in its entirety.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Consideration Resumed; Bill Amended; Third Reading Ordered**H. 63.**

Consideration was resumed on House bill entitled:

An act relating to the time frame for return of unclaimed beverage container deposits.

Thereupon, the pending question, Shall the Senate proposal of amendment be amended as recommended by Senator Bray?, was agreed to.

Thereupon, the recurring question, Shall the bill be read the third time?, was decided in the affirmative.

Proposal of Amendment; Third Reading Ordered**H. 513.**

Senator Brock, for the Committee on Finance, to which was referred House bill entitled:

An act relating to broadband deployment throughout Vermont.

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

* * * Legislative Findings * * *

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Department of Public Service data indicates that seven percent of Vermont addresses do not have access to the most basic high-speed Internet access, which is 4 Mbps download and 1 Mbps upload. Nearly 20 percent of Vermont addresses lack access to modern Internet speeds of 10 Mbps download and 1 Mbps upload. The Federal Communications Commission (FCC) defines broadband as a minimum of 25 Mbps download and 3 Mbps upload. Approximately 27 percent of Vermont addresses lack access to this level of service.

(2) As Vermont is a rural state with many geographically remote locations, broadband is essential for supporting economic and educational activities, strengthening health and public safety networks, and reinforcing freedom of expression and democratic, social, and civic engagement.

(3) The accessibility and quality of communications networks in Vermont, specifically broadband, is critical to our State's future.

(4) The FCC anticipates that a “light-touch” regulatory approach under Title I of the Communications Act of 1934, rather than “utility-style” regulation under Title II, will further advance the Congressional goals of promoting broadband deployment and infrastructure investment.

(5) The FCC’s regulatory approach is unlikely to achieve the intended results in Vermont. The policy does little, if anything, to overcome the financial challenges of bringing broadband service to hard-to-reach locations with low population density. However, it may result in degraded broadband quality of service. The State has a compelling interest in preserving and protecting consumer access to high quality broadband service.

(6) Reaching the last mile will require a grassroots approach that is founded on input from and support of local communities, whose residents are best situated to decide which broadband solution fits their needs. By developing a toolkit that encompasses numerous innovative approaches to achieving successful broadband buildout and by investing in programs and personnel that can provide local communities with much-needed resources and technical assistance, the State can facilitate and support community efforts to design and implement broadband solutions.

(7) Existing Internet service providers are not providing adequate service to many rural areas where fewer potential customers reduce the profitability necessary to justify system expansion.

(8) Multiple communities have attempted to implement their own unique solutions outside of traditional delivery methods but have been hampered by a lack of access to capital. Existing broadband grant programs do not offer the scale to solve this problem, and banks and investors typically shy away from start-up businesses with limited revenue history and little equity or collateral.

(9) Community broadband solutions may mean either partnering with a new business that must design and build a network or with an established Internet service provider, which is followed by a 12- to 24-month process of initial customer acquisition.

(10) A growing challenge is the isolation that may result from increased reliance on the Internet and online communities. In rural settings, the physical and psychological draw into isolation is much greater simply as a result of limited chances for interaction with neighbors and community members. As we expand our access and reliance on the Internet, we need to be intentional in supporting our rural communities and town centers.

* * * VUSF; Rate Increase; Connectivity Fund; Specialist * * *

Sec. 2. 30 V.S.A. § 7523 is amended to read:

§ 7523. RATE OF CHARGE

(a) Beginning on July 1, 2014, the rate of charge shall be two percent of retail telecommunications service.

(b) Beginning on July 1, 2019, the rate of charge established under subsection (a) of this section shall be increased by three-tenths of one percent of retail telecommunications service, and the monies collected from this increase shall be transferred to the Connectivity Fund established under section 7516 of this title.

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

Sec. 3. 30 V.S.A. § 7516 is amended to read:

§ 7516. CONNECTIVITY FUND

(a) There is created a Connectivity Fund for the purpose of providing support to the High-Cost Program established under section 7515 of this chapter and the Connectivity Initiative established under section 7515b of this chapter. The fiscal agent shall determine annually, on or before September 1, the amount of monies available to the Connectivity Fund. Such funds shall be apportioned as follows: 45 percent to the High-Cost Program and 55 percent to the Connectivity Initiative.

(b) Of the money transferred to the Connectivity Fund pursuant to subsection 7523(b) of this title, up to \$120,000.00 shall be appropriated annually to the Department of Public Service to fund a Rural Broadband Technical Assistance Specialist whose duties shall include providing outreach, technical assistance, and other support services to communications union districts established pursuant to chapter 82 of this title and other units of government, nonprofit organizations, cooperatives, and for-profit businesses for the purpose of expanding broadband service to unserved and underserved locations. Support services also may include providing business model templates for various approaches, including formation of or partnership with a cooperative, a communications union district, a rural economic development infrastructure district, an electric utility, or a new or existing Internet service provider as operator of the network. Any remaining funds shall be used to support the Connectivity Initiative established under section 7515b of this title.

* * * High-Cost Program; Connectivity Initiative;
Speed Requirements * * *

Sec. 4. 30 V.S.A. § 7515 is amended to read:

§ 7515. HIGH-COST PROGRAM

(a) The Universal Service Charge shall be used as a means of keeping basic telecommunications service affordable in all parts of this State, thereby maintaining universal service, and as a means of supporting access to broadband service in all parts of the State.

* * *

(g) Except as provided in subsection (h) of this section, a VETC shall provide broadband Internet access at speeds no lower than ~~4 Mbps download and 1 Mbps upload~~ 25 Mbps download and 3 Mbps upload in each high-cost area it serves within five years of designation. A VETC need not provide broadband service to a location that has service available from another service provider, as determined by the Department of Public Service.

* * *

Sec. 5. 30 V.S.A. § 7515b is amended to read:

§ 7515b. CONNECTIVITY INITIATIVE

(a) The purpose of the Connectivity Initiative is to provide each service location in Vermont access to Internet service that is capable of speeds of at least ~~10 Mbps download and 1 Mbps upload~~ 25 Mbps download and 3 Mbps upload, or the FCC speed requirements established under Connect America Fund Phase II, whichever is higher, beginning with locations not served as of December 31, 2013 according to the minimum technical service characteristic objectives applicable at that time. Within this category of service locations, priority shall be given first to unserved and then to underserved locations. As used in this section, “unserved” means a location having access to only satellite or dial-up Internet service and “underserved” means a location having access to Internet service with speeds that exceed satellite and dial-up speeds but are less than 4 Mbps download and 1 Mbps upload. Any new services funded in whole or in part by monies from this Initiative shall be capable of being continuously upgraded to reflect the best available, most economically feasible service capabilities.

* * *

* * * VUSF; Prepaid Wireless; Point of Sale * * *

Sec. 6. 30 V.S.A. § 7521(d) is amended to read:

~~(d)(1) Notwithstanding any other provision of law to the contrary, beginning on September 1, 2014, in the case of prepaid wireless telecommunications service, the Universal Service Charge shall be imposed as follows:~~

~~(A) If the provider sells directly to a consumer in a retail transaction, the provider may collect the Charge from the customer at the rate specified in section 7523 of this title; or~~

~~(B) if the provider does not sell directly to the consumer, or if the provider sells directly to the customer in a retail transaction but elects not to collect the Charge from the customer, the Charge shall be imposed on the provider at the rate determined in subdivision (2) of this subsection (d).~~

~~(2) The Public Utility Commission shall establish a formula to ensure the Universal Service Charge rate imposed on prepaid wireless telecommunications service providers under subdivision (1)(B) of this subsection reflects two percent of retail prepaid wireless telecommunications service in Vermont.~~

~~(3) As used in this subsection, “prepaid wireless telecommunications service” means a telecommunications service as defined in subdivision 203(5) of this title that a consumer pays for in advance and that is sold in predetermined units or dollars that decline with use. [Repealed.]~~

Sec. 7. 30 V.S.A. § 7521(e) is added to read:

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

(2) If a minimal amount of prepaid wireless telecommunications service is sold with a prepaid wireless device for a single, nonitemized price, then the seller may elect not to apply the Universal Service Charge to such transaction.

(3) As used in this subsection:

(A) "Minimal amount" means an amount of service denominated as not more than 10 minutes or not more than \$5.00.

(B) "Prepaid wireless telecommunications service" means a telecommunications service as defined in subdivision 203(5) of this title that a consumer pays for in advance and that is sold in predetermined units or dollars that decline with use.

(C) "Seller" means a person who sells prepaid wireless telecommunications service to a consumer.

* * * One-Time Transfer and Appropriation; Broadband Innovation Grant Program; Federal RUS Grants and Loans * * *

Sec. 8. FISCAL YEAR 2020 ONE-TIME GENERAL FUND TRANSFER

(a) From the General Fund to the Connectivity Fund established pursuant to 30 V.S.A. § 7516: \$955,000.00 to be allocated as follows:

(1) \$700,000.00 to fund grants through the Broadband Innovation Grant Program established in Sec. 10 of this act.

(2) \$205,000.00 to fund grants through the Connectivity Initiative as provided in 30 V.S.A. § 7515b(b).

(3) \$50,000.00 to the Department of Public Service to assess the feasibility of providing broadband service using electric utility infrastructure, pursuant to Sec. 11 of this act.

(b) These monies shall not be subject to the distribution requirements of 30 V.S.A. § 7511(a)(1)(A)–(D).

Sec. 9. FISCAL YEAR 2020 ONE-TIME GENERAL FUND APPROPRIATION

To the ThinkVermont Innovation Initiative established in 2018 Acts and Resolves No. 197, Sec. 2, \$45,000.00 is appropriated for the purpose of funding technical assistance grants to Vermont municipalities planning broadband projects.

Sec. 10. DEPARTMENT OF PUBLIC SERVICE; BROADBAND INNOVATION GRANT PROGRAM

(a) There is established the Broadband Innovation Grant Program to be administered by the Commissioner of Public Service. The purpose of the

Program is to fund feasibility studies related to the deployment of broadband in rural unserved and underserved areas of Vermont. The following conditions shall apply to the Program:

(1) Grants shall be used to support studies that contemplate the provision of broadband service that is capable of speeds of at least 100 Mbps symmetrical.

(2) Eligible grant applicants shall include communications union districts and other units of government, nonprofit organizations, cooperatives, and for-profit businesses.

(3) Grantees shall produce an actionable business plan for a potential broadband solution, which may include formation of or partnership with a cooperative, communications union district, rural economic development infrastructure district, municipal communications plant, or utility. The business plan required by this subdivision shall include engineering and design plans, financing models, estimated construction costs, and ideal operational models.

(4) A grant award may not exceed \$60,000.00.

(5) Not more than 2.5 percent of a grant may be used for grant management.

(6) Not more than two electric distribution utilities shall be awarded a grant under the Program for the purpose of determining the market feasibility of providing broadband service using electric company infrastructure. Awards to distribution utilities shall be made pursuant to a competitive bidding process initiated not sooner than January 1, 2020, or upon submission of the report required by Sec. 11 of this act, whichever is sooner, and shall be consistent with the recommendations contained in that report.

(7) Studies funded through the Program shall conclude within six months of receipt of the award; distribution utility studies shall conclude within 12 months of receipt of the award.

(8) The Commissioner shall retain 50 percent of the grant award until he or she determines that the study has been completed consistent with the terms of the grant.

(9) Grant recipients shall report their findings and recommendations to the Commissioner of Public Service within 30 days following the completion of a study funded under the Program.

(b) To the extent such information is available, the Commissioner of Public Service shall aggregate the information submitted under subdivision (a)(9) of this section and shall report his or her findings and recommendations to the

House Committee on Energy and Technology and the Senate Committee on Finance on or before January 15, 2020, and annually thereafter until all of the funds in the Program have been expended.

Sec. 11. STUDY; FEASIBILITY OF ELECTRIC COMPANIES OFFERING BROADBAND SERVICE IN VERMONT

(a) The Commissioner of Public Service shall study the feasibility of Vermont electric companies providing broadband service using electric distribution and transmission infrastructure. Among other things, a feasibility determination shall address potential advantages of serving utilities' internal data needs and expanding fiber for providing broadband service, the compatibility of broadband service with existing electric service, the financial investment necessary to undertake the provision of broadband service, identification of the unserved and underserved areas of the State where the provision of broadband service by an electric company appears feasible; the impact on electric rates, the financial risk to electric companies, and any differences that may exist between electric companies. The Commissioner also shall address any financial consequences and any technical or safety issues resulting from attaching communications facilities in the electric safety space as opposed to the communications space of distribution infrastructure.

(b) In performing the feasibility study required by this section, the Commissioner, in consultation with the Public Utility Commission, shall consider regulatory barriers to the provision of broadband service by electric companies, and shall develop legislative proposals to address those barriers. In addition, the Commissioner, in collaboration with representatives from each electric company, shall evaluate whether it is in the public interest and also in the interest of electric companies for electric companies to:

(1) make improvements to the distribution grid in furtherance of providing broadband service in conjunction with electric distribution grid transformation projects;

(2) operate a network using electric distribution and transmission infrastructure to provide broadband service at speeds of at least 25 Mbps download and 3 Mbps upload; and

(3) permit a communications union district or other unit of government, nonprofit organization, cooperative, or for-profit business to lease excess utility capacity to provide broadband service to unserved and underserved areas of the State.

(c) Any electric distribution or transmission company subject to the jurisdiction of the Public Utility Commission shall aid in the development of information and analysis as requested by the Commissioner to complete the report required by this section.

(d) The Commissioner shall report the feasibility findings and recommendations required by this section to the Senate Committee on Finance and to the House Committee on Energy and Technology on or before January 1, 2020.

Sec. 12. 30 V.S.A. § 3047 is amended to read:

§ 3047. COST ALLOCATIONS; SUBSIDIZATION PROHIBITED

In carrying out the purposes of this chapter, the electric revenues received from regulated activities of a cooperative shall not subsidize any nonelectric activities of the cooperative. A cooperative shall adopt cost allocation procedures to ensure that the electrical distribution revenues received from regulated activities of a cooperative do not subsidize any of the nonelectric activities and that costs attributable to any nonelectric activities are not included in the cooperative's rates for electric service. A copy of the cost allocation procedures shall be available to the public upon request. ~~Nonelectric activities of the cooperative shall not be financed by loans or grants from the Rural Utilities Service of the U.S. Department of Agriculture or any successor federal agency.~~

* * * Municipalities; Communications Plants; Public-Private Partnership;
Study of General Obligation Bonding Authority * * *

Sec. 13. 24 V.S.A. § 1913 is amended to read:

§ 1913. COMMUNICATIONS PLANT; OPERATION AND REGULATION

(a) A municipality shall operate its communications plant in accordance with the applicable State and federal law and regulation, and chapter 53 of this title, relating to municipal indebtedness, with regard to the financing, improvements, expansion, and disposal of the municipal communications plant and its operations. However, the powers conferred by such provisions of law shall be supplemental to, construed in harmony with, and not in restriction of, the powers conferred in this chapter.

(b) A municipality's operation of any communications plant shall be supported solely by the revenues derived from the operation of such communications plant, except that portion which is used for its own municipal purposes.

(c) A municipality may finance any capital improvement related to its operation of such communications plant for the benefit of the people of the municipality in accordance with the provisions of chapter 53 of this title, provided that revenue-backed bonds shall be paid from net revenues derived from the operation of the communications plant.

(d) Any restriction regarding the maximum outstanding debt that may be issued in the form of general obligation bonds shall not restrict the issuance of any bonds issued by a municipality and payable out of the net revenues from the operation of a public utility project under chapter 53, subchapter 2 of chapter 53 of this title.

(e) To the extent that a municipality constructs communication infrastructure with the intent of providing communications services, whether wholesale or retail, the municipality shall ensure that any and all losses from these businesses, or in the event these businesses are abandoned or curtailed, any and all costs associated with the investment in communications infrastructure, are not borne by the municipality's taxpayers.

(f) Notwithstanding any other provision of law to the contrary, a municipality may enter into a public-private partnership for the purpose of exercising its authority under this subchapter regarding the provision of communications services and may contract with a private entity to co-own, operate, or manage a communications plant financed in whole or in part pursuant to this chapter and chapter 53, subchapter 2 of this title, provided the municipality first issues a request for proposals seeking an Internet service provider to serve unserved and underserved locations targeted by the issuing municipality. The terms of such a partnership shall specify that the owner or owners of the communications plant, as applicable, shall be responsible for debt service.

Sec. 14. RECOMMENDATION; GENERAL OBLIGATION
BONDS FOR MUNICIPAL COMMUNICATIONS PLANTS

The Secretary of Administration or designee, in collaboration with the State Treasurer or designee and the Executive Director of the Vermont Municipal Bond Bank or designee, shall investigate the use of general obligation bonds by a municipality to finance capital improvements related to the operation of a communications plant. On or before December 1, 2019, the Secretary shall report his or her findings and recommendations to the House Committee on Energy and Technology and the Senate Committee on Finance.

* * * VEDA; Broadband Expansion Loan Program * * *

Sec. 15. 10 V.S.A. chapter 12, subchapter 14 is added to read:

Subchapter 14. Broadband Expansion Loan Program

§ 280ee. BROADBAND EXPANSION LOAN PROGRAM

(a) Creation. There is established within the Authority the Vermont Broadband Expansion Loan Program (the Program), the purpose of which is to enable the Authority to make loans that expand broadband service to unserved and underserved Vermonters.

(b) Intent. It is understood that loans under the Program may be high-risk loans to likely start-up businesses and therefore losses in the Program may be higher than the Authority's historical loss rate. Loans shall be underwritten by the Authority utilizing underwriting parameters that acknowledge the higher risk nature of these loans. The Authority shall not make a loan unless the Authority has a reasonable expectation of the long-term viability of the business.

(c)(1) Requirements. The Authority shall make loans for start-up and expansion that enable the Internet service providers to expand broadband availability in unserved and underserved locations.

(2) The Authority shall establish policies and procedures for the Program necessary to ensure the expansion of broadband availability to the largest number of Vermont addresses as possible. The policies shall specify that:

(A) loans may be made in an amount of up to \$4,000,000.00;

(B) eligible borrowers include communications union districts and other units of government, nonprofit organizations, cooperatives, and for-profit businesses;

(C) a loan shall not exceed 90 percent of project costs;

(D) interest and principal may be deferred up to two years;

(E) a maximum of \$10,800,000.00 in Authority loans may be made under the Program commencing on the effective date of this act; and

(F) the provider shall offer to all customers broadband service that is capable of speeds of at least 100 Mbps symmetrical.

(3) To ensure the limited funding available through the Program supports the highest-quality broadband available to the most Vermonters and prioritizes delivering services to the unserved and underserved, the Authority shall consult with the Department of Public Service.

(d) On or before January 1, 2020, and annually thereafter, the Authority shall submit a report of its activities pursuant to this section to the Senate Committee on Finance and the House Committees on Commerce and Economic Development and on Energy and Technology. Each report shall include operating and financial statements for the two most recently concluded State fiscal years. In addition, each report shall include information on the Program portfolio, including the number of projects financed; the amount, terms, and repayment status of each loan; and a description of the broadband projects financed in whole or in part by the Program.

§ 280ff. FUNDING

(a) The State Treasurer, in consultation with the Secretary of Administration, shall negotiate an agreement with the Authority incorporating the provisions of this section and consistent with the requirements of this subchapter.

(b) Repayment from or appropriation to the Authority in years 2021 and until the Program terminates is based on the Authority's contributions to loan loss reserves for the Program in accordance with generally accepted accounting principles. Any difference between the actual loan losses incurred by the Authority in fiscal year 2020 through Program termination shall be adjusted in the following year's appropriation.

(1) The Program shall terminate when all borrowers enrolled in the Program have repaid in full or loans have been charged-off against the reserves of the Authority.

(2) Upon termination of the Program, any remaining funds held by the Authority and not used for the Program shall be repaid to the State.

(3) The accumulated total of the appropriation shall not exceed \$8,500,000.00 over the life of the Program.

(4) The Authority shall absorb its historical loan loss reserve rate before any State funds are expended.

(5) Additionally, the Authority shall absorb up to \$3,000,000.00 in Program losses shared with the State on a pro rata basis.

Sec. 16. FISCAL YEAR 2020 ONE-TIME GENERAL FUND
APPROPRIATION

To the Vermont Economic Development Authority, \$540,000.00 is appropriated to serve as loan reserves to administer the Broadband Expansion Loan Program established in Sec.15 of this act.

Sec. 17. 10 V.S.A. § 219(d) is amended to read:

(d) In order to ensure the maintenance of the debt service reserve requirement in each debt service reserve fund established by the Authority, there may be appropriated annually and paid to the Authority for deposit in each such fund, such sum as shall be certified by the Chair of the Authority, to the Governor, the President of the Senate, and the Speaker of the House, as is necessary to restore each such debt service reserve fund to an amount equal to the debt service reserve requirement for such fund. The Chair shall annually, on or about February 1, make, execute, and deliver to the Governor, the President of the Senate, and the Speaker of the House, a certificate stating the

sum required to restore each such debt service reserve fund to the amount aforesaid, and the sum so certified may be appropriated, and if appropriated, shall be paid to the Authority during the then current State fiscal year. The principal amount of bonds or notes outstanding at any one time and secured in whole or in part by a debt service reserve fund to which State funds may be appropriated pursuant to this subsection shall not exceed ~~\$175,000,000.00~~ \$181,000,000.00, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the Authority in contravention of the Constitution of the United States.

Sec. 18. 30 V.S.A. § 8064(a)(1) is amended to read:

(a)(1) The Authority may issue its negotiable notes and bonds in such principal amount as the Authority determines to be necessary to provide sufficient funds for achieving any of its corporate purposes, including the payment of interest on notes and bonds of the Authority, establishment of reserves to secure the notes and bonds including the reserve funds created under section 8065 of this title, and all other expenditures of the Authority incident to and necessary or convenient to carry out its corporate purposes and powers. However, the bonds or notes of the Authority outstanding at any one time shall not exceed ~~\$40,000,000.00~~ \$34,000,000.00. No bonds shall be issued under this section without the prior approval of the Governor and the State Treasurer or their respective designees. In addition, before the Authority may initially exercise its bonding authority granted by this section, it shall submit to the Emergency Board of the State a current business plan, including an explanation of the bond issue or issues initially proposed.

* * * Pole Attachments * * *

Sec. 19. POLE ATTACHMENTS; PUBLIC UTILITY COMMISSION
RULES

(a) The Public Utility Commission shall revise Rule 3.700 to implement the following:

(1) One-touch make-ready policies for pole attachments in the communications space. The Commission shall consider measures requiring pole-owning utilities to complete any needed pole replacements, and related electrical work, in sufficient time to make it reasonably possible for existing attaching entities in the communications space to comply with make-ready deadlines and shall also consider whether a pole-owning utility whose delays prevent timely make-ready completion by the attaching entities in the communications space should pay interest to the applicant.

(2) Measures designed to minimize delays and costs and promote fair and reasonable rates and the rapid resolution of disputes.

(3) Specifications for when a make-ready completion period commences and ends, including a process for extending the make-ready completion period in limited circumstances as defined by the Commission.

(4) Any other revisions deemed relevant by the Commission.

(b) The Commission shall file a final proposed rule with the Secretary of State and with the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841 on or before December 1, 2019.

(c) On July 15, 2016, the Commission opened a rulemaking proceeding to consider amending Commissioner Rule 3.706(D)(1) regarding the rental calculation for pole attachments. The Commission shall complete this proceeding and file a final proposed rule with the Secretary of State and with the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841 on or before June 1, 2020.

Sec. 20. 30 V.S.A. § 209(i) is amended to read:

(i)(1) Pole attachments; broadband. For the purposes of Commission rules on attachments to poles owned by companies subject to regulation under this title, broadband service providers shall be considered “attaching entities” with equivalent rights to attach facilities as those provided to “attaching entities” in the rules, regardless of whether such broadband providers offer a service subject to the jurisdiction of the Commission. The Commission shall adopt rules in accordance with 3 V.S.A. chapter 25 to further implement this section. The rules shall be aimed at furthering the State’s interest in ubiquitous deployment of mobile telecommunications and broadband services within the State.

(2) The rules adopted pursuant to this subsection shall specify that:

(A) The applicable make-ready completion period shall not be extended solely because a utility pole is jointly owned.

(B) At the time of an initial pole make-ready survey application, when a pole is jointly owned, the joint owners shall inform the applicant which owner is responsible for all subsequent stages and timely completion of the make-ready process.

(C) If the make-ready work is not completed within the applicable make-ready completion period, the pole owner shall refund the portion of the payment received for make-ready work that is not yet completed, and the attaching entity may hire a qualified contractor to complete the make-ready work. All pole owners and attaching entities shall submit to the Commission a list of contractors whom they allow to perform make-ready surveys, make-ready installation or maintenance, or other specified tasks upon their

equipment. The Commission shall provide the appropriate list to an attaching entity, upon request.

Sec. 20a. LEGISLATIVE INTENT; POLE ATTACHMENTS

Sections 19 and 20 of this act, concerning revisions to Vermont's pole attachment rules, shall not be construed to endorse a particular generation of communications technology, be it wired or wireless. The revisions are intended to clarify the terms and conditions of pole attachments, in general, and to promote greater transparency and certainty for attaching entities and for pole owners and to do so in a manner that furthers Vermont's interest in achieving ubiquitous deployment of mobile telecommunications and broadband services within the State.

* * * Department of Public Service; Rural Broadband

Technical Assistance Specialist * * *

Sec. 21. RURAL BROADBAND TECHNICAL ASSISTANCE SPECIALIST

One new classified position, Rural Broadband Technical Assistance Specialist, is authorized to be established within the Department of Public Service in fiscal year 2020. Beginning in fiscal year 2020, this position shall be funded as provided under 30 V.S.A. § 7516(b).

* * * State Telecommunications Plan * * *

Sec. 22. 30 V.S.A. § 202d is amended to read:

§ 202d. TELECOMMUNICATIONS PLAN

(a) The Department of Public Service shall constitute the responsible planning agency of the State for the purpose of obtaining for all consumers in the State stable and predictable rates and a technologically advanced telecommunications network serving all service areas in the State. The Department shall be responsible for the provision of plans for meeting emerging trends related to telecommunications technology, markets, financing, and competition.

(b) The Department shall prepare the Telecommunications Plan for the State. ~~The Department of Innovation and Information~~ Agency of Digital Services, the Agency of Commerce and Community Development, and the Agency of Transportation shall assist the Department in preparing the Plan. The Plan shall be for a 10-year period and shall serve as a basis for State telecommunications policy. Prior to preparing the Plan, the Department shall prepare:

(1) An overview, looking 10 years ahead, of ~~future requirements for telecommunications services, considering services needed for economic~~

~~development, technological advances, and other trends and factors which, as determined by the Department of Public Service, will significantly affect State telecommunications policy and programs statewide growth and development as they relate to future requirements for telecommunications services, including patterns of urban expansion, statewide and service area economic growth, shifts in transportation modes, economic development, technological advances, and other trends and factors that will significantly affect State telecommunications policy and programs. The overview shall include an economic and demographic forecast sufficient to determine infrastructure investment goals and objectives.~~

(2) One or more surveys of Vermont residents and businesses, conducted in cooperation with the Agency of Commerce and Community Development to determine what telecommunications services are needed now and in the succeeding 10 years, generally, and with respect to the following specific sectors in Vermont;

(A) the educational sector, with input from the Secretary of Education;

(B) the health care and human services sectors, with input from the Commissioner of Health and the Secretary of Human Services;

(C) the public safety sector, with input from the Commissioner of Public Safety and the Executive Director of the Enhanced 911 Board; and

(D) the workforce training and development sectors, with input from the Commissioner of Labor.

(3) An assessment of the current state of telecommunications infrastructure.

~~(4) An assessment, conducted in cooperation with the Department of Innovation and Information and the Agency of Transportation, of the current State telecommunications system and evaluation of alternative proposals for upgrading the system to provide the best available and affordable technology for use by government Agency of Digital Services and the Agency of Transportation, of State-owned and managed telecommunications systems and related infrastructure and an evaluation, with specific goals and objectives, of alternative proposals for upgrading the systems to provide the best available and affordable technology for use by State and local government, public safety, educational institutions, community media, nonprofit organizations performing governmental functions, and other community anchor institutions.~~

~~(5) An A geographically specific assessment of the state status, coverage, and capacity of telecommunications networks and services in available throughout Vermont, a comparison of available services relative to~~

other states, including price and broadband speed comparisons for key services and comparisons of the state status of technology deployment.

(6) An assessment of opportunities for shared infrastructure, open access, and neutral host wireless facilities that is sufficiently specific to guide the Public Utility Commission, the Department, State and local governments, and telecommunications service companies in the deployment of new technology.

(7) An analysis of available options to support the State's access media organizations.

(8) With respect to emergency communications, an analysis of all federal initiatives and requirements, including the Department of Commerce FirstNet initiative and the Department of Homeland Security Statewide Communication Interoperability Plan, and how these activities can best be integrated with strategies to advance the State's interest in achieving ubiquitous deployment of mobile telecommunications and broadband services within Vermont.

(9) An analysis of alternative strategies to leverage the State's ownership and management of the public rights-of-way to create opportunities for accelerating the buildout of fiber-optic broadband and for increasing network resiliency capacity.

(c) In developing the Plan, the Department shall ~~take into account~~ address each of the State telecommunications policies and goals of section 202c of this title, and shall assess initiatives designed to advance and make measurable progress with respect to each of those policies and goals. The assessment shall include identification of the resources required and potential sources of funding for Plan implementation.

(d) The Department shall establish a participatory planning process that includes effective provisions for increased public participation. In establishing plans, public hearings shall be held and the Department shall consult with members of the public, representatives of telecommunications utilities with a certificate of public good, other providers, including the Vermont Electric Power Co., Inc. (VELCO) and communications union districts, and other interested State agencies, particularly the Agency of Commerce and Community Development, the Agency of Transportation, and the ~~Department of Innovation and Information~~ Agency of Digital Services, whose views shall be considered in preparation of the Plan. To the extent necessary, the Department shall include in the Plan surveys to determine existing, needed, and desirable plant improvements and extensions, access and coordination between telecommunications providers, methods of operations, and any

change that will produce better service or reduce costs. To this end, the Department may require the submission of data by each company subject to supervision by the Public Utility Commission.

~~(e) Before adopting the Plan, the Department shall first prepare and publish a preliminary draft and solicit public comment. The Department's procedures for soliciting public comment shall include a method for submitting comments electronically. After review and consideration of the comments received, the Department shall prepare a final draft. This final draft shall either incorporate public comments received with respect to the preliminary draft or shall include a detailed explanation as to why specific individual comments were not incorporated. The Department shall conduct at least four public hearings across the State on a the final draft and shall consider the testimony presented at such hearings in when preparing the final Plan. The Department shall coordinate with Vermont's access media organizations when planning the public hearings required by this subsection. At least one public hearing shall be held jointly with committees of the General Assembly designated by the General Assembly for this purpose. The Plan shall be adopted by September 1, 2014, and then reviewed and updated as provided in subsection (f) of this section.~~

~~(f) The Department, from time to time, but in no event less than every three years, shall institute proceedings to review the Plan and make revisions, where necessary. The three-year major review shall be made according to the procedures established in this section for initial adoption of the Plan shall adopt a new Plan every three years pursuant to the procedures established in subsection (e) of this section. The Plan shall outline significant deviations from the prior Plan. For good cause or upon request by a joint resolution passed by the General Assembly, an interim review and revision of any section of the Plan may be made after conducting public hearings on the interim revision. At least one hearing shall be held jointly with committees of the General Assembly designated by the General Assembly for this purpose.~~

~~(g) The Department shall review and update the minimum technical service characteristic objectives not less than every three years beginning in 2017. In the event such review is conducted separately from an update of the Plan, the Department shall issue revised minimum technical service characteristic objectives as an amendment to the Plan.~~

Sec. 23. TELECOMMUNICATIONS PLAN ADOPTION SCHEDULE; RESOURCES

(a) It is the intent of the General Assembly that, regardless of when the 2017 Telecommunications Plan is adopted, a new Plan shall be adopted on or before December 1, 2020 in accordance with the procedures established

in 30 V.S.A. § 202d(e). The next Plan after that shall be adopted on or before December 1, 2023, and so on.

(b) If at any time it becomes apparent to the Commissioner of Public Service that the Department lacks the time or the resources to comply with the requirements of 30 V.S.A. § 202d or of this section, the Commissioner shall submit a report to the General Assembly on what additional resources or time are necessary. The report shall be submitted prior to the adoption date and with sufficient time to allow for any needed legislative action prior to the adoption date. The report may include a proposal for contracting with an outside entity to prepare the Plan, or a portion thereof, and, if so, shall include a suggested funding amount and source.

* * * Radio Frequency Emissions; Report * * *

Sec. 24. WIRELESS TECHNOLOGIES; PUBLIC HEALTH REPORT

(a) On or before January 1, 2020, the Commissioner of Health shall submit to the Senate Committees on Health and Welfare and on Finance and the House Committees on Health Care and on Energy and Technology a report on the possible health consequences from exposure to the radio frequency fields produced by wireless technologies, including cellular telephones and FCC-regulated transmitters. The report shall include a summary of available scientific data as well as a comparison of various emissions standards and guidelines.

(b) The purpose of this report is to provide policymakers and the general public information deemed significant by many Vermonters. It is not intended that the information gathered in the report be used to form the basis of policies that are inconsistent with federal law.

* * * E-911 Service; Power Outages; Reporting * * *

Sec. 25. POWER OUTAGES AFFECTING E-911 SERVICE; REPORTING; RULE; E-911 BOARD

(a) The E-911 Board shall adopt a rule requiring every provider of facilities-based, fixed voice service that is not line-powered to report to the E-911 Board within two hours any outage in its system such that more than 10 subscribers lose the capacity to make an E-911 call. An outage for purposes of this section is any loss of E-911 calling capacity, whether caused by lack of function of the subscriber's backup power equipment, lack of function within the provider's system, or by any other factor external to the provider's system, including an outage in the electric power system. In addition, the rule shall require every electric company to report to the E-911 Board any network-wide power outage affecting more than one service location within two hours of notice of the outage or as soon as practicable. The E-911 Board shall file a

final proposed rule with the Secretary of State and with the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841 on or before February 1, 2020.

(b) On or before 30 days after the effective date of this section, the E-911 Board shall adopt temporary standards and procedures consistent with the requirements in subsection (a) of this section that shall remain in effect until the effective date of permanent rules adopted under subsection (a) of this section.

* * * Backup Power; E-911 Service; Report * * *

Sec. 26. E-911 SERVICE; BACKUP POWER REQUIREMENTS;
WORKSHOP; REPORT

(a) Findings. As many telecommunications networks transition away from copper-based, line-powered technology, many consumers remain unaware that they must take action to ensure the availability of a dial tone in the event of a commercial power outage. As a result, this transition has the potential to create a widespread public safety issue if Vermonters are unable to access E-911 services during a power outage. In recognition of this issue, the FCC adopted rules placing backup-power obligations on providers of “facilities-based fixed, residential voice services that are not line-powered” (covered services). See *Ensuring Continuity of 911 Communications*, Report and Order, 30 FCC Rcd 8677 (2015), 47 C.F.R. § 12.5. The FCC rules mandate performance requirements and disclosure obligations on providers of covered services. After receiving concerns by Vermonters regarding provider compliance with the FCC’s backup-power obligations, the Department of Public Service filed a request with the Public Utility Commission to initiate a workshop on the matter. The Commission authorized the workshop on March 21, 2019, Case No. 19-0705-PET.

(b) Report. Given the critical public safety issues at stake, on or before December 15, 2019, the Public Utility Commission shall report to the General Assembly its findings regarding provider compliance with backup-power obligations and shall recommend best practices for minimizing disruptions to E-911 services during power outages through:

- (1) consumer education and community outreach;
- (2) technical and financial assistance to consumers and communities;
- (3) cost-effective and technologically efficient ways in which providers or alternative entities can provide such information and assistance; and
- (4) ongoing monitoring of provider compliance with backup-power obligations.

* * * PEG Access; Joint Information Technology Oversight Committee * * *

Sec. 27. PEG ACCESS; JOINT INFORMATION TECHNOLOGY
OVERSIGHT COMMITTEE; REPORT

On or before December 15, 2019, the Joint Information Technology Oversight Committee established under 2 V.S.A. chapter 18 shall submit to the General Assembly a report that addresses public, educational, and government (PEG) access television in Vermont. The report shall include findings and recommendations regarding any changes in federal and State law and policy, market trends, and any other matters that have an affect on the availability of or funding for PEG access television. The Committee shall assess the value of PEG access to Vermont communities; the costs of such programming and related services; and options for sustainable funding for PEG access television. The Committee shall solicit input from regulators, communications providers, access management organizations, and any other organizations and individuals deemed appropriate by the Committee.

* * * Effective Dates * * *

Sec. 28. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 6 (repeal of prepaid wireless revenue surcharge) shall take effect on January 1, 2020.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Ashe, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Finance.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Finance?, Senators Brock, Balint, Campion, Cummings, MacDonald, Pearson and Sirotkin moved to amend the proposal of amendment of the Committee on Finance as follows:

First: In Sec. 2, 30 V.S.A. § 7523, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Beginning on July 1, 2019, the rate of charge established under subsection (a) of this section shall be increased by four-tenths of one percent of retail telecommunications service, and the monies collected from this increase shall be transferred to the Connectivity Fund established under section 7516 of this title.

Second: In Sec. 10 (concerning the Broadband Innovation Grant Program), subdivision (a)(1), by striking out subdivision (a)(1) in its entirety and inserting in lieu thereof a new subdivision (a)(1) to read as follows:

(1) In awarding grants under this section, the Commissioner shall give preference to feasibility studies that contemplate the provision of broadband service that is symmetrical.

Third: In Sec. 13 (concerning public-private partnerships and communications plants), 24 V.S.A. § 1913, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

(f) Notwithstanding any other provision of law to the contrary, a municipality may enter into a public-private partnership for the purpose of exercising its authority under this subchapter regarding the provision of communications services. A municipality may contract with a private entity to operate and manage a communications plant owned by the municipality or may contract with a private entity to co-own, operate, or manage a communications plant. A communications plant that is the subject of a public-private partnership authorized by this subsection may be financed in whole or in part pursuant to this chapter and chapter 53, subchapter 2 of this title, provided the municipality first issues a request for proposals seeking an Internet service provider to serve or to assist with serving unserved and underserved locations targeted by the issuing municipality. The terms of such a partnership shall specify that the owner or owners of the communications plant, as applicable, shall be responsible for debt service.

Fourth: In Sec. 20 (concerning refunds for make-ready work not timely completed), 30 V.S.A. § 209, subdivision (i)(2)(C), in the first sentence, immediately after the words “pole owner” by adding the following: , within 30 days of the expiration of the make-ready completion period,

Fifth: By striking out Sec. 25 in its entirety and inserting in lieu thereof a new Sec. 25 to read as follows:

Sec. 25. OUTAGES AFFECTING E-911 SERVICE; REPORTING; RULE;
E-911 BOARD

The E-911 Board shall adopt a rule establishing protocols for the E-911 Board to obtain or be apprised of, in a timely manner, system outages applicable to providers of facilities-based, fixed voice service that is not line-powered and to electric companies for the purpose of enabling the E-911 Board to assess 911 service availability during such outages. An outage for purposes of this section includes any loss of E-911 calling capacity, whether caused by lack of function of the telecommunications subscriber’s backup-power equipment, lack of function within a telecommunications provider’s

system, or an outage in the electric power system. The E-911 Board shall file a final proposed rule with the Secretary of State and with the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841 on or before February 1, 2020.

Sixth: By striking out Sec. 27 in its entirety and inserting in lieu thereof a new Sec. 27 to read as follows:

Sec. 27. PEG ACCESS STUDY COMMITTEE

(a) Creation. There is created a PEG Access Study Committee. The Committee shall consider changes to the State's cable franchising authority and develop for legislative consideration alternative regulatory and funding mechanisms to support public, educational, and government (PEG) access channels and services to communities across Vermont.

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

(1) a member of the Senate Committee on Finance appointed by the Committee on Committees;

(2) a member of the House Committee on Energy and Technology appointed by the Speaker of the House;

(3) the Commissioner of Public Service or designee;

(4) a member of the Public Utility Commission or designee;

(5) a representative from the Vermont Access Network, selected by its Board of Directors;

(6) a representative from a Vermont cable company, selected by the Governor; and

(7) the Executive Director of the Vermont League of Cities and Towns or designee.

(c) Powers and Duties. The Committee shall consider changes in federal and State law and policy, market trends, and any other matters that have an affect on the availability of or funding for PEG access channels and services in Vermont. The Committee shall hold at least one public hearing on the value of PEG access television to Vermont communities; the costs of such programming and services; and funding options. The Committee shall solicit input from regulators, communications providers, access management organizations, and any other organizations or individuals it deems appropriate.

(d) Assistance. The Committee shall be entitled to staff services of the Department of Public Service, the Office of the Legislative Council, and the Joint Fiscal Office.

(e) Report. The Committee shall submit its findings and recommendations in the form of draft legislation to the Senate Committee on Finance and the House Committee on Energy and Technology on or before November 15, 2019.

(f) Meetings. The Commissioner of Public Service shall call the first meeting of the Committee to occur on or before July 1, 2019. The Committee shall select a chair and vice chair from among its members at the first meeting. A majority of the membership shall constitute a quorum. A member's physical presence is required in order to count toward a quorum and to vote. The Committee is authorized to meet up to six times and shall cease to exist on December 15, 2019.

(g) Compensation and reimbursement. Legislative members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406. Except for members employed by the State, other members of the Committee shall be entitled to per diem compensation as provided under 32 V.S.A. § 1010(a) and mileage reimbursement as provided under 32 V.S.A. § 1267.

Seventh: By adding Sec. 27a and an accompanying reader assistance heading to read as follows:

* * * State-owned 2G Microcells; Municipal Use * * *

Sec. 27a. 2G MICROCELLS; MUNICIPALITIES; EMERGENCY SERVICES

The Commissioner of Public Service is authorized to spend up to \$100,000.00 for contractual services to provide resources and technical assistance to municipalities seeking to acquire or use already-installed, State-owned, 2G microcells for the purpose of providing emergency communications in areas that otherwise would not have access to mobile wireless E-911 service, consistent with the objectives of prior State investments in microcell network infrastructure. Technical assistance shall include a cost-benefit analysis, which shall include consideration of rates and charges related to electric, backhaul, and geolocation services, pole rental fees, backup-power requirements, co-location requirements, the use of radio spectrum, and the negotiation of roaming agreements with national wireless providers.

Which was agreed to.

Thereupon, the proposal of amendment of the Committee on Finance, as amended was agreed to and third reading of the bill was ordered.

House Proposal of Amendment Concurred In with Amendment

S. 146.

House proposal of amendment to Senate bill entitled:

An act relating to substance misuse prevention.

Was taken up.

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

* * * Legislative Intent * * *

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that:

(1) prevention efforts focus on social and environmental factors to ensure that all Vermonters have opportunities to be active, engaged, connected, and heard throughout their lifetimes;

(2) substance misuse prevention efforts are consolidated and coordinated across State government to improve the health of all Vermonters;

(3) a significant portion of any new revenue generated by taxation of substances at risk of misuse, including cannabis, tobacco, tobacco substitutes, alcohol, and opioids, be directed to fund substance misuse prevention initiatives throughout the State in accordance with the advice of the Substance Misuse Prevention Oversight and Advisory Council established in 18 V.S.A. § 4803; and

(4) funds designated for the Opioid Coordination Council be redirected to fund the Chief Prevention Officer pursuant to 3 V.S.A. § 2321 and the Manager of Substance Misuse Prevention pursuant to 18 V.S.A. § 4804.

* * * Chief Prevention Officer * * *

Sec. 2. 3 V.S.A. chapter 45, subchapter 6 is added to read:

Subchapter 6. Chief Prevention Officer

§ 2321. CHIEF PREVENTION OFFICER

(a) There is created the permanent position of Chief Prevention Officer within the Office of the Secretary in the Agency of Administration for the purpose of coordinating, across State government and in collaboration with community partners, policies, programs, and budgets to support and improve

the well-being of all Vermonters through prevention efforts. The Chief Prevention Officer shall:

(1) identify and coordinate initiatives across State government and among community stakeholder groups that improve well-being;

(2) examine promising prevention practices in other jurisdictions that may be replicated in Vermont; and

(3) improve the well-being of all Vermonters by considering population prevention measures in relation to all policy determinations.

(b) The Chief Prevention Officer shall have a master's-level degree or bachelor's-level degree in a human services field, public health, or public administration and professional-level experience in prevention, substance use disorders, public health, or a closely related field.

* * * Substance Misuse Prevention * * *

Sec. 3. 18 V.S.A. chapter 94 is amended to read:

CHAPTER 94. DIVISION OF ALCOHOL AND DRUG ABUSE
PROGRAMS SUBSTANCE USE DISORDERS

* * *

§ 4803. ALCOHOL AND DRUG ABUSE COUNCIL; CREATION; TERMS;
PER-DIEM SUBSTANCE MISUSE PREVENTION OVERSIGHT
AND ADVISORY COUNCIL

~~(a) The Alcohol and Drug Abuse Council is established within the Agency of Human Services to promote the dual purposes of reducing problems arising from alcohol and drug abuse and improving prevention, intervention, treatment, and recovery services by advising the Secretary on policy areas that can inform Agency programs.~~

~~(b) The Council shall consist of 12 members:~~

~~(1) the Secretary of Human Services or designee;~~

~~(2) the Commissioner of Public Safety or designee;~~

~~(3) the Commissioner of Mental Health or designee;~~

~~(4) the Deputy Commissioner of Health for the Division of Alcohol and Drug Abuse Programs;~~

~~(5) the Director of the Blueprint for Health or designee;~~

~~(6) a representative of an approved provider or preferred provider, appointed by the Governor;~~

~~(7) a licensed alcohol and drug abuse counselor, appointed by the Governor;~~

~~(8) a representative of hospitals, appointed by the Vermont Association of Hospitals and Health Systems;~~

~~(9) an educator involved in substance abuse prevention services, appointed by the Governor;~~

~~(10) a youth substance abuse prevention specialist, appointed by the Governor;~~

~~(11) a community prevention coalition member, appointed by the Governor; and~~

~~(12) a member of the peer community involved in recovery services, appointed by the Governor.~~

~~(c) The term of office of members appointed pursuant to subsection (b) of this section shall be three years.~~

~~(d) The Council membership shall annually elect a member to serve as chair.~~

~~(e) All members shall be voting members.~~

~~(f) At the expiration of the term of an appointed member or in the event of a vacancy during an unexpired term, the new member shall be appointed in the same manner as his or her predecessor. Members of the Council may be reappointed.~~

~~(g)(1) The Council may submit a written report to the House Committee on Human Services and to the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.~~

~~(2) The report shall include the following:~~

~~(A) measurable goals for the State's substance abuse system of care; and~~

~~(B) three to five performance measures that demonstrate the system's results.~~

~~(3) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required to be made under this subsection.~~

~~(h) Each member of the Council not otherwise receiving compensation from the State of Vermont or any political subdivision thereof shall be entitled to receive per diem compensation as provided in 32 V.S.A. § 1010(b) for not more than six meetings annually. Each member shall be entitled to his or her actual and necessary expenses.~~

(a) Creation. There is created the Substance Misuse Prevention Oversight and Advisory Council within the Department of Health to improve the health outcomes of all Vermonters through a consolidated and holistic approach to substance misuse prevention that addresses all categories of substances. The Council shall provide advice to the Governor and General Assembly for improving prevention policies and programming throughout the State and to ensure that population prevention measures are at the forefront of all policy determinations. The Advisory Council's prevention initiatives shall encompass all substances at risk of misuse, including:

(1) alcohol;

(2) cannabis;

(3) controlled substances, such as opioids, cocaine, and methamphetamines; and

(4) tobacco products and tobacco substitutes as defined in 7 V.S.A. § 1001 and substances containing nicotine or that are otherwise intended for use with a tobacco substitute.

(b)(1) Membership. The agenda of the Council shall be determined by an executive committee composed of the following members:

(A) the Commissioner of Health or designee, who shall serve as co-chair;

(B) a community leader in the field of substance misuse prevention, appointed by the Governor, who shall serve as co-chair;

(C) the Secretary of Education or designee;

(D) the Commissioner of Public Safety or designee; and

(E) the Chief Prevention Officer established pursuant to 3 V.S.A. § 2321.

(2) The members of the executive committee jointly shall appoint members to the Council with demographic and regional diversity and who collectively offer expertise and experience in the following:

(A) at least two people with lived substance use disorder experience, including a person in recovery and a family member of a person in recovery;

(B) one or more youth less than 18 years of age;

(C) one or more young adults between 18 and 25 years of age; and

(D) the Director of Trauma Prevention and Resilience Development established pursuant to 33 V.S.A. § 3403; and

(E) persons with expertise in the following disciplines:

- (i) substance misuse prevention in a professional setting;
- (ii) pediatric care specific to substance misuse prevention or substance use disorder;
- (iii) academic research pertaining to substance misuse prevention or behavioral addiction treatment;
- (iv) education in a public school setting specific to substance misuse prevention;
- (v) law enforcement with expertise in drug enforcement, addressing impaired driving, and community policing;
- (vi) community outreach or collaboration in the field of substance misuse prevention;
- (vii) the criminal justice system;
- (viii) treatment of substance use disorder;
- (ix) recovery from substance use disorder in a community setting;
- (x) municipalities;
- (xi) substance use disorder or substance misuse prevention within the youth population;
- (xii) substance use disorder or substance misuse prevention within the older Vermonter population; and
- (xiii) comprehensive communications and media campaigns.

(c) Powers and duties. The Council shall strengthen the State's response to the substance use disorder crisis by advancing evidence-based and evidence-informed substance misuse prevention initiatives. The Council's duties shall include:

- (1) reviewing and making recommendations on best practices to assist communities and schools to significantly reduce the demand for substances through prevention and education;
- (2) reviewing substance misuse prevention program evaluations and making specific recommendations for modification based on the results, including recommendations to address gaps in both services and populations served;
- (3) reviewing existing State laws, rules, policies, and programs and proposing changes to eliminate redundancy and to eliminate barriers

experienced by communities and schools in coordinating preventative action with State government;

(4) reviewing existing community-based youth programming, including recreation, municipal programs, parent-child center programs, and afterschool and year-round programs, to determine a foundation of connection and support for all Vermont children and youth;

(5) reviewing community-based programs for older Vermonters for the purpose of identifying gaps in services, including geographic disparities, eliminating barriers, and coordinating prevention services;

(6) recommending strategies to integrate substance misuse prevention programming across the State, including between State agencies and in public-private partnerships;

(7) development of a statewide media campaign for substance misuse prevention; and

(8) holding a minimum of two public meetings to receive public input and advice for setting program priorities for substances at risk of misuse.

(d) Committees. The Council shall have the ability to create issue-specific committees for the purpose of carrying out its duties, such as a youth committee. Any committees created may draw on the expertise of any individual regardless of whether that individual is a member of the Council.

(e) Assistance. The Council shall have administrative, technical, and communications assistance from the Manager of Substance Misuse Prevention established pursuant to section 4804 of this title.

(f) Report. Annually on or before January 1, the Council shall submit a written report to the Governor, the House Committees on Appropriations and on Human Services, and the Senate Committees on Appropriations and on Health and Welfare with its findings and any recommendations for legislative action. The report shall also include the following:

(1) measurable goals for the effectiveness of prevention programming statewide;

(2) three to five performance measures for all substances at risk of misuse that demonstrate the system's results;

(3) the results of evaluations of State-funded programs; and

(4) an explanation of State-funded program budgets.

(g) Organization.

(1) Members of the Council shall serve two-year terms and may be reappointed. Any vacancy on the Council shall be filled in the same manner as the original appointment. The replacement member shall serve for the remainder of the unexpired term. Any individual interested in serving on the Council may submit a letter of interest or resume to the Manager of Substance Misuse Prevention.

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

(h) Compensation and reimbursement. Members of the Council who are not employed by the State or whose participation is not supported through their employment or association shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings per year, unless further authorized by the Commissioner of Health. Payments to members of the Council authorized under this subsection shall be made from monies appropriated to the Department of Health.

§ 4804. ADMINISTRATIVE SUPPORT MANAGER OF SUBSTANCE MISUSE PREVENTION

The Agency of Human Services shall provide the Council with such administrative support as is necessary for it to accomplish the purposes of this chapter. There is created the permanent position of the Manager of Substance Misuse Prevention within the Department of Health for the purpose of:

(1) coordinating the work of the Substance Misuse Prevention Oversight and Advisory Council established pursuant to section 4803 of this title; and

(2) coordinating regional planning.

§ 4805. DUTIES

The Council shall:

(1) advise the Governor as to the nature and extent of alcohol and drug abuse problems and the programs necessary to understand, prevent, and alleviate those problems;

(2) make recommendations to the Governor and General Assembly for developing:

(A) a comprehensive and coordinated system for delivering effective programs, including any appropriate reassignment of responsibility for such programs; and

(B) a substance abuse system of care that integrates substance abuse services with health care reform initiatives, such as pay-for-performance methodologies;

~~(3) provide for coordination and communication among the regional alcohol and drug abuse councils, State agencies and departments, providers, consumers, consumer advocates, and interested citizens;~~

~~(4) jointly, with the State Board of Education, develop educational and preventive programs;~~

~~(5) assess substance abuse services and service delivery in the State, including the following:~~

~~(A) the effectiveness of existing substance abuse services in Vermont and opportunities for improved treatment; and~~

~~(B) strategies for enhancing the coordination and integration of substance abuse services across the system of care; and~~

~~(6) provide recommendations to the General Assembly regarding State policy and programs for individuals experiencing public inebriation. [Repealed.]~~

* * *

* * * Repealing the Tobacco Evaluation and Review Board * * *

Sec. 4. 18 V.S.A. chapter 225 is amended to read:

Chapter 225. Tobacco Prevention, Cessation, and Control

§ 9501. DEFINITIONS

As used in this chapter:

(1) "Board" means the Vermont Tobacco Evaluation and Review Board established by this chapter. [Repealed.]

* * *

§ 9503. VERMONT TOBACCO PREVENTION AND TREATMENT

(a) Except as otherwise specifically provided, the tobacco prevention and treatment program shall be administered and coordinated statewide by the Department of Health and the Vermont Tobacco Evaluation and Review Board, pursuant to the provisions of this chapter. The program shall be comprehensive and research-based, and shall include the following components:

~~(1) community-based programs;~~

~~(2) school-based programs;~~

~~(3) tobacco cessation programs;~~

~~(4) countermarketing activities;~~

- ~~(5) enforcement activities;~~
- ~~(6) surveillance and evaluation activities;~~
- ~~(7) policy initiatives; and~~
- ~~(8) any other activities determined by the Commissioner or the Board to be necessary to implement the provisions of this section.~~

~~(b) By June 1, 2001, the Department and the Board shall jointly establish a plan that includes goals for each program component listed in subsection (a) of this section, for reducing adult and youth smoking rates by 50 percent in the following 10 years. By June 1 of each year, the The Department and the Board shall jointly establish goals for reducing adult and youth smoking rates in the following two years, including goals for each program component listed in subsection (a) of this section, including performance measures for each goal in conjunction with the Substance Misuse Prevention Oversight and Advisory Council established pursuant to section 4803 of this title. The services provided by a quitline approved by the Department of Health shall be offered and made available to any minor, upon his or her consent, who is a smoker or user of tobacco products as defined in 7 V.S.A. § 1001.~~

* * *

~~(f) The Board shall be represented on all tobacco program advisory committees, including the youth working group, Community Grants Advisory Board, and the Scientific Advisory Board. The Board's representative on any such advisory committee shall include at least one member other than the Commissioner of Health. [Repealed.]~~

~~§ 9504. CREATION OF THE VERMONT TOBACCO EVALUATION AND REVIEW BOARD~~

~~(a) There is created and established, within the Office of the Secretary, a body to be known as the Vermont Tobacco Evaluation and Review Board, an independent State board created to work in partnership with the Agency of Human Services and the Department of Health in establishing the annual budget, program criteria and policy development, and review and evaluation of the tobacco prevention and treatment program.~~

~~(b) The Board shall consist of 14 members, including ex officio the Commissioner of Health and the Secretary of Education or their designees; the Commissioner of Liquor Control or designee; the Attorney General or designee; a member of the House of Representatives appointed by the Speaker of the House; a member of the Senate appointed by the Committee on Committees; a member representing a nonprofit organization qualifying under Section 501(c)(3) of the Internal Revenue Code and dedicated to anti-tobacco~~

~~activities appointed by the Speaker of the House; a member representing the low-income community appointed by the Senate Committee on Committees; two persons under the age of 30, one appointed by the Speaker of the House and one appointed by the Committee on Committees; and four members appointed by the Governor with the advice and consent of the Senate, including: one K-12 educator involved in prevention education; one tobacco use researcher; one member representing the health care community; and one tobacco industry countermarketing expert. The public members shall serve for three-year terms, beginning on July 1 of the year in which the appointment is made, except that the first members appointed by the Governor to the Board shall be appointed, two for a term of two years, one for a term of three years, and one for a term of four years. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.~~

~~(c) The Governor shall appoint a chair from among the Board's public members. The Chair shall serve for a term of two years. The Chair may be removed for good cause by a two-thirds, voting majority of the Board. The Board may elect such other officers as it may determine. The Board may appoint committees or subcommittees for the purpose of providing advice on community-based programs, countermarketing activities, and independent program evaluations. Meetings shall be held at the call of the Chair or at the request of three members; however, the Board shall meet no fewer than four times a year. A majority of the sitting members shall constitute a quorum, and action taken by the Board under the provisions of this chapter may be authorized by a majority of the members present and voting at any regular or special meeting. Actions taken by the Board to approve, authorize, award, grant, or otherwise expend money appropriated to the Board or the Department shall require authorization from a majority of members of the entire Board.~~

~~(d) Public members other than ex officio members shall be entitled to per diem compensation authorized under 32 V.S.A. § 1010 for each day spent in the performance of their duties, and members shall be reimbursed from the Fund for reasonable expenses incurred in carrying out their duties under this chapter. Legislative members shall be entitled to per diem compensation and reimbursement for expenses in accordance with 2 V.S.A. § 406.~~

~~(e) The Board may employ staff, through the Agency of Human Services, to assist the Board in planning, administering, and executing its functions under this chapter, subject to the policies, control, and direction of its members and the powers and duties of the Board under this chapter. The Board may employ technical experts and contractors as necessary to effect the purposes of this chapter. The Board shall use the Office of the Attorney General for legal services. The Board shall receive additional staff assistance from the~~

~~Department of Health, the Office of Legislative Council, and the Joint Fiscal Office.~~

~~(f) The Agency of Human Services shall provide administrative support to the Board for the purposes of this chapter.~~

~~(g) No member of the Board shall have any direct or knowing affiliation or contractual relationship with any tobacco company, its affiliates, its subsidiaries, or its parent company. Each Board member shall file a conflict of interest statement, stating that he or she has no such affiliation or contractual relationship. [Repealed.]~~

§ 9505. GENERAL POWERS AND DUTIES

~~The Board Department shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this section, and shall:~~

~~(1) Establish jointly with the Department of Health the selection criteria for community grants and review and recommend the grants to be funded.~~

~~(2) Select, upon the advice of the Commissioner, a contractor responsible for countermarketing activities. The Department shall pay the fees and costs of any such contractor. The Board and Commissioner shall jointly approve any final countermarketing campaign.~~

~~(3) Review and advise the Department selection criteria for grantees and contracts funded by the Program in conformity with the goals established by the Department and Board.~~

~~(4) Establish jointly with the Department an application process, criteria, and components for an independent evaluation. The Board shall select an independent contractor to perform an independent evaluation, and oversee the independent contractor's evaluation of the tobacco prevention, treatment, and control program. Perform ongoing evaluations of tobacco cessation efforts and publish the evaluation measures on the Department's website.~~

~~(5)(4) Review and make recommendations regarding the overall plan and any Execute a memorandum of understanding developed jointly by the Department of Health and with the Agency of Education for school-based programs funded through the Tobacco Program Fund.~~

~~(6)(5) Review and make recommendations regarding Consult with the Department of Liquor and Lottery concerning enforcement activities administered by the Department of Liquor Control in accordance with the provisions of this chapter.~~

~~(7) Review and advise any State agency on applications for funds contributed from any outside sources that are designated for purposes of reducing tobacco use.~~

~~(8) In collaboration with the Agency and Department, organize a minimum of two public meetings, by September 15 of each year, to receive public input and advice for setting program priorities and establishing an annual program budget.~~

~~(9) Conduct jointly with the Secretary a review of the Department's proposed annual budget for the program, including funds contributed from any outside sources that are designated for purposes of reducing tobacco use, and submit independent recommendations to the Governor, Joint Fiscal Committee, and House and Senate Committees on Appropriations by October 1 of each year.~~

~~(10)(6) Propose to the Department strategies for program coordination and collaboration with other State agencies, health care providers and organizations, community and school groups, nonprofit organizations dedicated to anti-tobacco activities, and other nonprofit organizations.~~

~~(11) Adopt a conflict of interest policy within 30 days of the appointment of the full Board and include this policy in the annual report required under this chapter.~~

§ 9506. ALLOCATION SYSTEM

~~(a) In determining the allocation of funds available for the purposes of this chapter, the Department and the Board shall consider all relevant factors, including:~~

~~(1) the level of funding or other participation by private or public sources in the activity being considered for funding;~~

~~(2) what resources will be required in the future to sustain the program;~~

~~(3) geographic distribution of funds; and~~

~~(4) the extent to which the goals of the project can be measured by reductions in adult or youth smoking rates.~~

~~(b) The Department's and Board's allocation system shall include a method, developed jointly, that evaluates the need for and impact and quality of the activities proposed by eligible applicants, including, if appropriate, measuring the results of the project through reductions in adult and youth smoking rates.~~

§ 9507. ANNUAL REPORT

(a) ~~On or before January 15 of each year, the Board shall submit a report concerning its activities under this chapter to the Governor and the General Assembly. The report shall include, to the extent possible, the following:~~

~~(1) the results of the independent program evaluation, beginning with the report filed on January 15, 2003, and then each year thereafter;~~

~~(2) a full financial report of the activities of the Departments of Health and of Liquor Control, the Agency of Education, and the Board, including a special accounting of all activities from July 1 through December 31 of the year preceding the legislative session during which the report is submitted;~~

~~(3) a recommended budget for the program; and~~

~~(4) an explanation of the results of approved programs, measured through reductions in adult and youth smoking rates. [Repealed.]~~

(b) [Repealed.]

* * * Substance Misuse Prevention Inventory * * *

Sec. 5. INVENTORY; SUBSTANCE MISUSE PREVENTION SERVICES

(a) On or before January 1, 2021, the Manager of Substance Misuse Prevention established pursuant to 18 V.S.A. § 4804, in consultation with the Chief Prevention Officer established pursuant to 3 V.S.A. § 2321, shall develop and submit to the House Committee on Human Services and to the Senate Committee on Health and Welfare an inventory of substance misuse prevention programs in the State. The Manager shall include in the inventory:

(1) the estimated cost and funding source of each program;

(2) the geographic reach of each program;

(3) the effectiveness of each program; and

(4) any identified gaps in services.

(b) On or before January 1, 2020, the Manager shall submit an interim report to the House Committee on Human Services and to the Senate Committee on Health and Welfare regarding its progress and findings related to subsection (a) of this section.

* * * Vermont Prescription Drug Advisory Council * * *

Sec. 6. 18 V.S.A. § 4255 is amended to read:

§ 4255. CONTROLLED SUBSTANCES AND PAIN MANAGEMENT
VERMONT PRESCRIPTION DRUG ADVISORY COUNCIL

(a) There is hereby created the ~~Controlled Substances and Pain Management~~ Vermont Prescription Drug Advisory Council for the purpose of advising the Commissioner of Health on matters related to the Vermont Prescription Monitoring System and to the appropriate use of controlled substances in treating acute and chronic pain and in preventing prescription drug abuse, misuse, and diversion.

(b)(1) The ~~Controlled Substances and Pain Management~~ Advisory Council shall consist of the following members:

* * *

Sec. 7. 18 V.S.A. § 4284 is amended to read:

§ 4284. PROTECTION AND DISCLOSURE OF INFORMATION

* * *

(g) Following consultation with the ~~Controlled Substances and Pain Management~~ Vermont Prescription Drug Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to use information from VPMS to determine if individual prescribers and dispensers are using VPMS appropriately.

(h) Following consultation with the ~~Controlled Substances and Pain Management~~ Vermont Prescription Drug Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to evaluate the prescription of regulated drugs by prescribers.

* * *

Sec. 8. 18 V.S.A. § 4289 is amended to read:

§ 4289. STANDARDS AND GUIDELINES FOR HEALTH CARE PROVIDERS AND DISPENSERS

* * *

(e) The Commissioner of Health shall, after consultation with the ~~Controlled Substances and Pain Management~~ Vermont Prescription Drug Advisory Council, adopt rules necessary to effect the purposes of this section. The Commissioner and the Council shall consider additional circumstances under which health care providers should be required to query the VPMS, including whether health care providers should be required to query the VPMS prior to writing a prescription for any opioid Schedule II, III, or IV controlled substance or when a patient requests renewal of a prescription for an opioid Schedule II, III, or IV controlled substance written to treat acute pain, and the Commissioner may adopt rules accordingly.

* * *

* * * Effective Date * * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Lyons moved that the Senate concur in the House proposal of amendment with an amendment as follows:

In Sec. 3, 18 V.S.A. § 4803, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b)(1) Membership. The agenda of the Council shall be determined by an executive committee composed of the following members:

(A) the Commissioner of Health or designee, who shall serve as chair;

(B) a community leader in the field of substance misuse prevention, appointed by the Governor, who shall serve as vice chair;

(C) the Secretary of Education or designee;

(D) the Commissioner of Public Safety or designee; and

(E) the Chief Prevention Officer established pursuant to 3 V.S.A. § 2321.

(2) The members of the executive committee jointly shall appoint members to the Council with demographic and regional diversity. Members of the Council shall collectively offer expertise and experience in the categories listed below with the understanding that a single member may offer expertise and experience in multiple categories:

(A) at least two people with lived substance use disorder experience, including a person in recovery and a family member of a person in recovery;

(B) one or more youth less than 18 years of age;

(C) one or more young adults between 18 and 25 years of age;

(D) the Director of Trauma Prevention and Resilience Development established pursuant to 33 V.S.A. § 3403; and

(E) persons with expertise in the following disciplines:

(i) substance misuse prevention in a professional setting;

(ii) pediatric care specific to substance misuse prevention or substance use disorder;

(iii) academic research pertaining to substance misuse prevention or behavioral addiction treatment;

(iv) education in a public school setting specific to substance misuse prevention;

(v) law enforcement with expertise in drug enforcement, addressing impaired driving, and community policing;

(vi) community outreach or collaboration in the field of substance misuse prevention;

(vii) the criminal justice system;

(viii) treatment of substance use disorder;

(ix) recovery from substance use disorder in a community setting;

(x) municipalities;

(xi) community-based, nonprofit youth services;

(xii) substance use disorder or substance misuse prevention within the older Vermonter population; and

(xiii) comprehensive communications and media campaigns.

Which was agreed to.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 146, H. 512.

Message from the House No. 73

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered bills originating in the Senate of the following titles:

S. 30. An act relating to the regulation of hydrofluorocarbons.

S. 105. An act relating to miscellaneous judiciary procedures.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House proposal of amendment to Senate bill of the following title:

S. 73. An act relating to licensure of ambulatory surgical centers.

And has concurred therein with further proposal of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House proposal of amendment to Senate bill of the following title:

S. 131. An act relating to insurance and securities.

And has concurred therein.

Message from the House No. 74

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The Governor has informed the House that on May 16, 2019, he approved and signed bills originating in the House of the following titles:

H. 26. An act relating to restricting retail and Internet sales of electronic cigarettes, liquid nicotine, and tobacco paraphernalia in Vermont.

H. 275. An act relating to the Farm-to-Plate Investment Program.

H. 278. An act relating to acknowledgment or denial of parentage.

H. 523. An act relating to miscellaneous changes to the State's retirement systems.

H. 528. An act relating to the Rural Health Services Task Force.

Adjournment

On motion of Senator Ashe, the Senate adjourned until eleven o'clock in the morning.