

DRAFT; NOT YET EDITED; FOR COMMITTEE DISCUSSION

TO THE HONORABLE SENATE:

The Committee on Government Operations to which was referred Senate Bill No. 124 entitled “An act relating to miscellaneous law enforcement amendments” respectfully reports that it has considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Vermont Criminal Justice Training Council * * *

Sec. 1. 20 V.S.A. § 2351 is amended to read:

§ 2351. CREATION AND PURPOSE OF COUNCIL

* * *

(b) The Council is created to encourage and assist municipalities, counties, and governmental agencies of this State in their efforts to improve the quality of law enforcement and citizen protection by maintaining a uniform standard of ~~recruitment~~ recruit and in-service training for law enforcement officers.

* * *

Sec. 2. 20 V.S.A. § 2352 is amended to read:

§ 2352. COUNCIL MEMBERSHIP

(a)(1) The Vermont Criminal Justice Training Council shall consist of:

(A) the Commissioners of Public Safety, ~~of Corrections, of Motor Vehicles, and of Fish and Wildlife, and of Mental Health;~~

Commented [BW1]: Technical correction that would have been made in [2018, S.273 As Passed House and Senate](#), Sec. 1.

(Council offers training to recruits; it does not offer training on *recruitment*.)

Commented [BW2]: Based on [2018, S.273 As Passed Senate](#), except adds Ex. Dir. of the Dept. of State’s Attorneys and Sheriffs.

Currently a 12-member Council.

This amendment would create a 16-member Council.

Note that each member is able to designate proxies under current law [20 V.S.A. § 2354](#).

See also Sec. 3, which would address existing members who may continue to serve under this revised make-up, despite being appointed by a different appointing authority.

- 1 (B) the Attorney General;
- 2 (C) the Executive Director of the Department of State’s Attorneys
- 3 and Sheriffs;
- 4 (D) a member of the Vermont Troopers’ Association or its successor
- 5 entity, elected by its membership;
- 6 ~~(D)~~(E) a member of the Vermont Police Association, elected by its
- 7 membership; ~~and~~
- 8 ~~(E)~~(F) ~~five additional members appointed by the Governor.~~
- 9 (i) ~~The Governor’s appointees shall provide broad representation~~
- 10 ~~of all aspects of law enforcement and the public in Vermont on the Council.~~
- 11 (ii) ~~The Governor shall solicit recommendations for appointment~~
- 12 ~~from the Vermont State’s Attorneys Association, the Vermont State’s Sheriffs~~
- 13 ~~Association, the Vermont Police Chiefs Association, and the Vermont~~
- 14 ~~Constables Association~~ a member of the Chiefs of Police Association of
- 15 Vermont, appointed by the President of the Association;
- 16 (G) a member of the Vermont Sheriffs’ Association, appointed by the
- 17 President of the Association;
- 18 (H) a law enforcement officer appointed by the President of the
- 19 Vermont State Employees Association;
- 20 (I) an employee of the Vermont League of Cities and Towns,
- 21 appointed by the Executive Director of the League;

1 Sec. 3. TRANSITIONAL PROVISION TO ADDRESS NEW COUNCIL

2 MEMBERSHIP

3 Any existing member of the Vermont Criminal Justice Training Council
4 who will serve on the Council under its new membership as set forth in Sec. 2
5 of this act may serve the remainder of his or her term in effect immediately
6 prior to the effective date of Sec. 2.

7 Sec. 4. 20 V.S.A. § 2355 is amended to read:

8 § 2355. COUNCIL POWERS AND DUTIES

9 (a) The Council shall adopt rules with respect to:

10 (1) the approval, or revocation thereof, of law enforcement officer
11 training schools and off-site training programs, which shall include rules to
12 identify and implement alternate routes to certification aside from the training
13 provided at the Vermont Police Academy;

14 * * *

15 (b)(1) The Council shall conduct and administer training schools and offer
16 courses of instruction for law enforcement officers and other criminal justice
17 personnel. The Council shall offer courses of instruction for law enforcement
18 officers in different areas of the State and shall strive to offer nonovernight
19 courses whenever possible.

Commented [BW5]: From [2018, S.273 As Passed House and Senate](#), Sec. 4a.

Commented [BW6]: From [2018, S.273 As Passed Senate](#), Sec. 2, and [As Passed House and Senate](#), Sec. 5.

Commented [BW7]: [3/5/20](#): Removed requirement that Council offer courses on 1st come, 1st served basis as would be required in bill as intro'd.

See also the Council report that would be required by Sec. 6(1).

1 Sec. 7. 20 V.S.A. § 2361 is amended to read:

2 § 2361. ADDITIONAL TRAINING

3 (a) Nothing in this chapter prohibits any State law enforcement agency,
4 ~~department, or office or any municipality or county of the State~~ from providing
5 additional training beyond basic training to its personnel where no certification
6 is requested of or required by the Council or its Executive Director.

7 (b) ~~The head of a State agency, department, or office, a municipality's chief~~
8 ~~of police, or a sheriff~~ executive officer of a law enforcement agency may seek
9 certification from the Council for any in-service training he ~~or~~ she, or his or
10 her designee may provide to ~~his or her employees~~ law enforcement officers of
11 his or her agency or of another agency, or both.

12 Sec. 8. 20 V.S.A. § 2362a is amended to read:

13 § 2362a. POTENTIAL HIRING AGENCY; DUTY TO CONTACT

14 FORMER AGENCY

15 (a)(1) Prior to hiring a law enforcement officer ~~who is no longer employed~~
16 ~~at his or her last law enforcement agency,~~ the executive officer of a potential
17 hiring law enforcement agency shall:

18 (A) require that officer to execute a written waiver that explicitly
19 authorizes the officer's;

Commented [BW9]: From [2018, S.273 As Passed House and Senate](#),
Sec. 8.

Mostly technical corrections, except subsec. (b) would explicitly allow certification for training provided by one agency to the LEOs of another agency.

Commented [BW10]: See also Sec. 9, which addresses current NDAs.

1 (i) current law enforcement agency to disclose its analysis of the
2 officer's performance at that agency, if the offer is still employed at that
3 agency; or

4 (ii) last law enforcement agency employer to disclose the reason
5 that officer is no longer employed by that agency, if the officer is not currently
6 employed at an agency; and

7 (B) contact that former agency to determine that reason and provide
8 to that agency a copy of that written waiver.

9 (2) An officer who refuses to execute the written waiver shall not be
10 hired by the potential hiring agency.

11 (b)(1)(A) If that current or former agency is a law enforcement agency in
12 this State, the executive officer of that current or former agency or designee
13 shall disclose to the potential hiring agency in writing its analysis of the
14 officer's performance at that agency or the reason the officer is no longer
15 employed by the former agency, as applicable.

16 (B) The executive officer or designee shall send a copy of the
17 disclosure to the officer at the same time he or she sends it to the potential
18 hiring agency.

19 (2) Such a former agency shall be immune from liability for its
20 disclosure described in subdivision (1) of this subsection, unless such
21 disclosure would constitute intentional misrepresentation or gross negligence.

* * *

Sec. 9. LAW ENFORCEMENT AGENCY; DUTY TO DISCLOSE

The requirement of a current law enforcement agency to disclose its analysis of its law enforcement officer’s performance at the agency as set forth in 20 V.S.A. § 2362a in Sec. 7 of this act shall not apply if there is a binding nondisclosure agreement prohibiting that disclosure that was executed prior to the effective date of that section.

Sec. 10. 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), subchapter 2 is amended to read:

Subchapter 2. Unprofessional Conduct

§ 2401. DEFINITIONS

As used in this subchapter:

(1) “Category A conduct” means:

(A) A felony.

(B) A misdemeanor that is committed while on duty and did not involve the legitimate performance of duty.

(C) Any of the following misdemeanors, if committed off duty:

(i) simple assault, second offense;

(ii) domestic assault;

(iii) false reports and statements;

(iv) driving under the influence, second offense;

Commented [BW11]: Similar to the session law provided when the disclosure requirement was originally enacted. See [2017, Act No. 56](#), Sec. 2(c).

- 1 (v) violation of a relief from abuse order or of a condition of
2 release;
- 3 (vi) stalking;
- 4 (vii) false pretenses;
- 5 (viii) voyeurism;
- 6 (ix) prostitution or soliciting prostitution;
- 7 (x) distribution of a regulated substance;
- 8 (xi) simple assault on a law enforcement officer; or
- 9 (xii) possession of a regulated substance, second offense.

10 (2) “Category B conduct” means gross professional misconduct
11 amounting to actions on duty or under color of authority, or both, that involve
12 willful failure to comply with a State-required policy or substantial deviation
13 from professional conduct as defined by the law enforcement agency’s policy
14 or if not defined by the agency’s policy, then as defined by Council policy,
15 ~~such as~~ and shall include:

- 16 (A) sexual harassment involving physical contact or misuse of
17 position;
- 18 (B) misuse of official position for personal or economic gain;
- 19 (C) excessive use of force under color of authority, ~~second~~ first
20 offense;
- 21 (D) biased enforcement; or

Commented [BW12]: Makes more explicit that the current (A)-(E) list “shall” constitute Category B conduct for any LEO at any agency, while “include” means that (A)-(E) is not an exhaustive list.

Commented [BW13]: Based on Council feedback, 7/24/19: This change is related to an agency’s duty under § 2403(a)(1), below, to report alleged Category B conduct:

-Under this current law definition, Category B is defined to include *excessive use of force, second offense*.

-This means that agencies are not reporting to the Council alleged *excessive use of force, first offense* under § 2403(a)(1)(B), *nor* an agency’s termination of an LEO for a first offense of excessive use of force under the termination reporting required under § 2403(a)(1)(C), since “Category B” is defined as excessive use of force, *second offense*.

-The Council is still prohibited from taking action against an LEO for a first offense of Category B conduct under § 2407(a), but “offense” is defined in § 2407(b) as any offense committed by an LEO during the course of his/her certification, including any offenses committed during employment at a previous agency.

oBecause agencies are not currently required to report to the Council *first offenses* of excessive use of force, it is difficult for the Council to track how many excessive uses of force an LEO may have committed.

-Moreover, because current law defines Category B as *excessive use of force, second offense*, and because § 2407(a) prohibits the Council from taking action on a ***Category B first offense***, that means the Council cannot take action against an LEO until a third offense of excessive use of force.

1 (E) use of electronic criminal records database for personal, political,
2 or economic gain.

3 (3) “Category C conduct” means any allegation of misconduct
4 pertaining to Council processes or operations, including:

5 (A) intentionally exceeding the scope of practice for an officer’s
6 certification level;

7 (B) knowingly making material false statements or reports to the
8 Council;

9 (C) falsification of Council documents;

10 (D) intentional interference with Council investigations, including
11 intimidation of witnesses or misrepresentations of material facts;

12 (E) material false statements about certification status to a law
13 enforcement agency;

14 (F) knowing employment of an individual in a position or for duties
15 for which the individual lacks proper certification;

16 (G) intentional failure to conduct a valid investigation or file a report
17 as required by this subchapter; ~~or~~

18 (H) failure to complete annual in-service training requirements; or

19 (I) failure to complete the training required for a higher level of
20 certification due to academic or inappropriate conduct reasons.

Commented [BW14]: Based on Council feedback at its Oct. meeting.

1 (4) “Effective internal affairs program” means that a law enforcement
2 agency does all of the following:

3 * * *

4 (5) “Unprofessional conduct” means Category A, B, or C conduct.

5 (6)(A) “Valid investigation” means an investigation conducted pursuant
6 to a law enforcement agency’s established or accepted procedures.

7 (B) An investigation shall not be valid if:

8 (i) the agency has not adopted an effective internal affairs
9 program;

10 (ii) the agency refuses, without any legitimate basis, to conduct an
11 investigation;

12 (iii) the agency intentionally did not report allegations to the
13 Council as required;

14 (iv) the agency attempts to cover up the misconduct or takes an
15 action intended to discourage or intimidate a complainant; or

16 (v) the agency’s executive officer is the officer accused of
17 misconduct.

18 * * *

19 § 2403. LAW ENFORCEMENT AGENCIES; DUTY TO REPORT

20 (a)(1) The executive officer of a law enforcement agency or the chair of the
21 agency’s civilian review board shall report to the Council within 10 business

1 days if any of the following occur in regard to a law enforcement officer of the
2 agency:

3 (A) Category (A).

4 (i) There is a finding of probable cause by a court that the officer
5 committed Category A conduct.

6 (ii) There is any decision or findings of fact or verdict regarding
7 allegations that the officer committed Category A conduct, including a judicial
8 decision and any appeal therefrom.

9 (B) Category B.

10 (i) The agency receives a complaint against the officer that, if
11 ~~deemed credible by the executive officer of the agency as a result of a valid~~
12 ~~investigation,~~ alleges that the officer committed Category B conduct.

13 (ii) The agency receives or issues any of the following:

14 (I) a report or findings of a valid investigation finding that the
15 officer committed Category B conduct; or

16 (II) any decision or findings, including findings of fact or
17 verdict, regarding allegations that the officer committed Category B conduct,
18 including a hearing officer decision, arbitration, administrative decision, or
19 judicial decision, and any appeal therefrom.

20 (C) Termination. The agency terminates the officer for Category A or
21 Category B conduct.

Commented [BW15]: Based on VCJTC feedback, 10/2/19: Under this current law phrase—which provides that the Council is to be made aware of Category B complaints only after the executive officer of the law enforcement agency conducts a valid investigation and deems the complaint credible—the Council may not be made aware of all complaints of LEO conduct that may rise to the level of Category B conduct.

By eliminating this phrase, the Council would be made aware of all allegations of Category B conduct and could thereafter check in with the agency on the status of its investigation, which would provide more Council oversight of a complaint against an LEO and the LEO agency's valid investigation of it.

1 (D) Resignation. The officer resigns from the agency while under
2 investigation for unprofessional conduct.

3 (2) As part of his or her report, the executive officer of the agency or the
4 chair of the civilian review board shall provide to the Council a copy of any
5 relevant documents associated with the report, including any findings,
6 decision, and the agency's investigative report.

7 (b) The Executive Director of the Council shall report to the Attorney
8 General and the State's Attorney of jurisdiction any allegations that an officer
9 committed Category A conduct.

10 * * *

11 * * * Municipal Police Officer Recruitment and Retention * * *

12 Sec. 11. STATE TREASURER; RETIREMENT DIVISION; PROPOSED
13 PLAN; POLICE OFFICERS COVERED UNDER VERMONT
14 MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM

15 (a) On or before January 15, 2021, the State Treasurer's Retirement
16 Division shall submit to the Senate and House Committees on Government
17 Operations a proposed plan to place municipal police officers covered under
18 the Municipal Employees' Retirement System of Vermont (VMERS) on a
19 new retirement plan substantially equivalent to the retirement plan that
20 covers law enforcement officers under the Vermont State Retirement System

1 (VSRS), except for the health and medical benefits available to officers under
2 the VSRS.

3 (b) The Retirement Division’s proposed plan shall include:

4 (1) recommendations on how to transition VMERS officers to the new
5 retirement plan, including any specific timing recommendations;

6 (2) the costs associated with the new retirement plan; and

7 (3) concerns, if any, regarding the new retirement plan.

8 * * * Vermont Crime Information Center * * *

9 **Sec. 12.** 20 V.S.A. § 2053 is amended to read:

10 § 2053. COOPERATION WITH OTHER AGENCIES

11 (a) The ~~center~~ Center shall cooperate with other ~~state~~ State departments and
12 agencies, municipal police departments, sheriffs, and other law enforcement
13 officers in this ~~state~~ State and with federal and international law enforcement
14 agencies to develop and carry on a uniform and complete ~~state~~ State, interstate,
15 national, and international system of records of ~~criminal activities~~ commission
16 of crimes and information.

17 (b)(1) All ~~state~~ State departments and agencies, municipal police
18 departments, sheriffs, and other law enforcement officers shall cooperate with
19 and assist the ~~center~~ Center in the establishment of a complete and uniform
20 system of records relating to the commission of crimes, arrests, convictions,
21 imprisonment, probation, parole, fingerprints, photographs, stolen property,

Commented [BW16]: As an alternative to S.124 As Intro'd, Sec. 7, which would require all law enforcement agencies to use one universal system of crime records management, this language from [2018, S.273 As Passed Senate](#), Sec. 6 would require VCIC to provide training for LEOs to use the same definitions when entering data into whichever system the LEO's agency uses (Valcour or Spillman).

1 and other matters relating to the identification and records of persons who have
2 or who are alleged to have committed a crime, or who are missing persons, or
3 who are fugitives from justice.

4 (2) In order to meet the requirements of subdivision (1) of this
5 subsection, the Center shall establish and provide training on a uniform list of
6 definitions to be used in entering data into a law enforcement agency's system
7 of records, and every law enforcement officer shall use those definitions when
8 entering data into his or her agency's system.

9 Sec. 13. 20 V.S.A. § 2055 is amended to read:

10 § 2055. FILES

11 (a) The ~~director~~ Director of the Vermont ~~crime information center~~ Crime
12 Information Center shall:

13 (1) disseminate on a quarterly basis to the legislative body of each town
14 in the State without a police department a report describing the nature of
15 crimes alleged to have been committed in that town in the preceding quarter,
16 without providing any personally identifying information; and

17 (2) maintain and disseminate such files as are necessary relating to the
18 commission of crimes, arrests, convictions, disposition of criminal causes,
19 probation, parole, fugitives from justice, missing persons, fingerprints,
20 photographs, stolen property, and such matters as the ~~commissioner~~

21 Commissioner deems relevant.

1 (b) The ~~director~~ Director shall maintain criminal records pursuant to this
2 chapter regardless of whether the record is fingerprint supported. Any “no
3 print, no record” rule or policy of the ~~center~~ Center shall be void.

4 * * * Law Enforcement Advisory Board * * *

5 Sec. 14. LEAB; REPEAL FOR RECODIFICATION

6 24 V.S.A. § 1939 (Law Enforcement Advisory Board) is repealed.

7 Sec. 15. 20 V.S.A. § 1818 is added to read:

8 § 1818. LAW ENFORCEMENT ADVISORY BOARD

9 (a) The Law Enforcement Advisory Board is created within the Department
10 of Public Safety to advise the Commissioner of Public Safety, the Governor,
11 and the General Assembly on issues involving the cooperation and
12 coordination of all agencies that exercise law enforcement responsibilities.
13 The Board shall review any matter that affects more than one law enforcement
14 agency. The Board shall comprise the following members:

15 (1) the Commissioner of Public Safety;

16 (2) the Director of the Vermont State Police;

17 (3) the Director of the Vermont Criminal Justice Services Division;

18 (4) a member of the Chiefs of Police Association of Vermont appointed
19 by the President of the Association;

20 (5) a member of the Vermont Sheriffs’ Association appointed by the
21 President of the Association;

- 1 (6) a representative of the Vermont League of Cities and Towns
2 appointed by the Executive Director of the League;
- 3 (7) a member of the Vermont Police Association appointed by the
4 President of the Association;
- 5 (8) the Attorney General or designee;
- 6 (9) a State’s Attorney appointed by the Executive Director of the
7 Department of State’s Attorneys and Sheriffs;
- 8 (10) the U.S. Attorney or designee;
- 9 (11) the Executive Director of the Vermont Criminal Justice Training
10 Council;
- 11 (12) the Defender General or designee;
- 12 (13) one representative of the Vermont Troopers’ Association or its
13 successor entity, **elected by its membership**; and
- 14 (14) a member of the Vermont Constables Association appointed by the
15 President of the Association.
- 16 (b) The Board shall elect a chair and a vice chair, which positions shall
17 rotate among the various member representatives. Each member shall serve a
18 term of two years. The Board shall meet at the call of the Chair. A quorum
19 shall consist of **eight** members, and decisions of the Board shall require the
20 approval of a majority of those members present and voting.

1 (c) The Board shall undertake an ongoing formal review process of law
2 enforcement policies and practices with a goal of developing a comprehensive
3 approach to providing the best services to Vermonters, given monies available.
4 The Board shall also provide educational resources to Vermonters about public
5 safety challenges in the State.

6 (d)(1) The Board shall meet not fewer than six times a year to develop
7 policies and recommendations for law enforcement priority needs, including
8 retirement benefits, recruitment of officers, training, homeland security issues,
9 dispatching, and comprehensive drug enforcement.

10 (2) The Board shall present its findings and recommendations in brief
11 summary form to the House and Senate Committees on Judiciary and on
12 Government Operations annually on or before January 15.

13 Sec. 16. LEAB; RECODIFICATION DIRECTIVE

14 (a) 24 V.S.A. § 1939 is recodified as 20 V.S.A. § 1818. During statutory
15 revision, the Office of Legislative Council shall revise accordingly any
16 references to 24 V.S.A. § 1939 in the Vermont Statutes Annotated.

17 (b) Any references in session law and adopted rules to 24 V.S.A. § 1939 as
18 previously codified shall be deemed to refer to 20 V.S.A. § 1818.

1 Sec. 17. LEAB; 2021 REPORT ON MUNICIPAL ACCESS TO LAW
2 ENFORCEMENT SERVICES

3 As part of its annual report in the year 2021, the Law Enforcement
4 Advisory Board shall specifically recommend ways that towns can increase
5 access to law enforcement services.

6 * * * Dispatch * * *

7 Sec. 18. 20 V.S.A. § 1871 is amended to read:

8 § 1871. DEPARTMENT OF PUBLIC SAFETY; COMMISSIONER

9 (a) The ~~department of public safety~~ Department of Public Safety, created
10 by 3 V.S.A. § 212, shall include a ~~commissioner of public safety~~
11 Commissioner of Public Safety.

12 (b) The head of the ~~department~~ Department shall be a ~~commissioner of~~
13 ~~public safety~~ the Commissioner of Public Safety, who shall be a citizen of the
14 United States and shall be selected on the basis of training, experience and
15 qualifications. The ~~commissioner~~ Commissioner shall be appointed by the
16 ~~governor~~ Governor, with the advice and consent of the ~~senate~~ Seante, ~~for a~~
17 ~~term of six years~~.

18 * * *

19 (i)(1) The ~~commissioner of public safety~~ Commissioner of Public Safety
20 may enter into contractual arrangements to perform dispatching functions for
21 ~~state~~ State, municipal, or other emergency services, establishing charges

Commented [BW17]: SGO Q: If you will propose to amend this section to address dispatch in subsec. (i), do you want to make this amendment, since via 3 V.S.A. § 258 and § 2004, gubernatorial appointees hold office at the pleasure of the Governor and Governors have not been appointing the Commissioner for a six-year term?

If so, similarly, do you want to repeal 20 V.S.A. § 1873 (removal of the Commissioner) as a technical correction, because it is still in the V.S.A. purporting to require the Governor to only remove the Comm'r for cause and after a hearing requested by the Comm'r, but the SCOV in State v. Lynch, 137 Vt. 607 (1979) held that it was superseded by 3 V.S.A. § 2004 as the later enacted statute in irreconcilable conflict with 20 V.S.A. § 1873, since 3 V.S.A. § 2004 allows the Governor to remove his/her appointees at pleasure?

1 sufficient to recover the costs of dispatching. Dispatch positions ~~which~~ that are
2 fully funded under such contracts may be authorized under the provisions of
3 32 V.S.A. § 5(b).

4 (2) Beginning on July 1, 2023, the Department shall not perform
5 dispatch functions that are not for State-level services or for the contractual
6 arrangements authorized under subdivision (1) of this subsection.

7 (j) Charges collected under subsections (e), (f), and (i) of this section shall
8 be credited to the ~~Vermont law telecommunications special fund Law~~
9 Telecommunications Special Fund and shall be available to the ~~department~~
10 Department to offset the costs of providing the services.

11 Sec. 19. 20 V.S.A. § 1875 is amended to read:

12 § 1875. RADIO COMMUNICATION SYSTEM

13 (a) The ~~commissioner~~ Commissioner shall establish a communication
14 system as will best enable the ~~department~~ Department to carry out the purposes
15 of this chapter. This shall include a radio set furnished, on written request, to
16 the sheriff and ~~state's attorney~~ State's Attorney of each county on a
17 memorandum receipt.

18 (b)(1) The ~~commissioner~~ Commissioner may charge to all users of
19 telecommunications services managed, maintained, or operated by the
20 ~~department~~ Department for the benefit of the users a proportionate share of the

Commented [BW18]: According to [this DFR report](#), this does appear to be the correct name of this special fund.

This appears to be the same fund referenced in 20 V.S.A. 1875, but it has a different name in that statute. Therefore, § 1875 is included below for technical correction. **DPS, please confirm.**

1 actual cost of providing the services and products inclusive of administrative
2 costs.

3 (2) Such charges shall be based on a pro rata allocation of the actual
4 costs of services or products, determined in an equitable manner, which shall
5 be representative of services provided to or system usage by individual units of
6 government, including ~~state~~ State, local, and federal agencies or private
7 nonprofit entities.

8 (3) Such charges shall be credited to the Vermont ~~communication~~
9 ~~system special fund~~ Law Telecommunications Special Fund and shall be
10 available to the ~~department~~ Department to offset the costs of providing the
11 services.

Commented [BW19]: DPS: Please confirm this is a technical correction to the name of this fund.

12 Sec. 20. 30 V.S.A. § 7053 is amended to read:

13 § 7053. BOARD; RESPONSIBILITIES AND POWERS

14 (a) The Board shall be the single governmental agency responsible for
15 statewide Enhanced 911. To the extent feasible, the Board shall consult with
16 the Agency of Human Services, the Department of Public Safety, the
17 Department of Public Service, and local community service providers on the
18 development of policies, system design, standards, and procedures. The Board
19 shall develop designs, standards, and procedures and shall adopt rules on the
20 following:

1 (1) The technical and operational standards for public safety answering
2 points and for performing dispatch functions.

3 (2) The system database standards and procedures for developing and
4 maintaining the database. The system database shall be the property of the
5 Board.

6 (3) Statewide, locatable means of identifying customer location, such as
7 addressing, geo-coding, or other methods of locating the caller.

8 (4) Standards and procedures to ensure system and database security.

9 * * *

10 (f) The Board shall adopt such rules as are necessary to carry out the
11 purposes of this chapter, including, where appropriate, imposing reasonable
12 fines or sanctions against persons that do not adhere to applicable Board rules.

13 * * *

14 Sec. 21. VERMONT ENHANCED 911 BOARD; DISPATCH RULE

15 ADOPTION AND APPLICATION

16 The Vermont Enhanced 911 Board shall finally adopt the dispatch standards
17 rules required by Sec. 20 of this act so that those rules are in effect and apply
18 to all dispatch functions performed in this State beginning on July 1, 2023.

* * * Emergency Medical Services * * *

Sec. 22. 24 V.S.A. chapter 71 is amended to read:

CHAPTER 71. AMBULANCE SERVICES

Subchapter 1. Emergency Medical Services Districts

§ 2651. DEFINITIONS

As used in this chapter:

* * *

(14) ~~“State Board” means the State Board of Health. [Repealed.]~~

* * *

Commented [BW20]: Unnecessary to retain this defined term if DOH is substituted for the State Board in accordance with DOH’s proposal to do so.

§ 2652. CREATION OF DISTRICTS

The ~~State Board~~ Department of Health may divide the State into emergency medical services districts, the number, size, and boundaries of which shall be determined by the ~~Board~~ Department in the interest of affording adequate and efficient emergency medical services throughout the State.

* * *

Commented [BW21]: It is a DOH proposal to transfer the duties of the State Board under this chapter to DOH. Therefore, throughout this chapter, all references to the State Board are substituted with DOH.

§ 2654. RECORDING DETERMINATION OF DISTRICTS

The ~~State Board~~ Department of Health shall cause to be recorded in the office of the Secretary of State a certificate containing its determination of emergency medical services districts.

* * *

1 § 2656. DUTIES AND POWERS OF OFFICERS AND DIRECTORS

2 (a) The board of directors shall have full power to manage, control, and
3 supervise the conduct of the district and to exercise in the name of the district
4 all powers and functions belonging to the district, subject to such laws or
5 ~~regulations~~ rules as may be applicable.

Commented [BW22]: Technical correction

6 * * *

7 § 2657. PURPOSES AND POWERS OF EMERGENCY MEDICAL
8 SERVICES DISTRICTS

9 (a) It shall be the function of each emergency medical services district to
10 foster and coordinate emergency medical services within the district, in the
11 interest of affording adequate ambulance services within the district. Each
12 emergency medical services district shall have powers ~~which~~ that include the
13 power to:

14 * * *

15 (3) enter into agreements and contracts for furnishing technical,
16 educational, and support services ~~and credentialing~~ related to the provision of
17 emergency medical treatment;

Commented [BW23]: 3/4/20: Related to repeal of EMS credentialing requirement.

18 * * *

19 (6) monitor the provision of emergency medical services within the
20 district and make recommendations to the ~~State Board~~ Department of Health

1 regarding licensure, relicensure, and removal or suspension of licensure for
2 ambulance vehicles, ambulance services, and first responder services;

3 * * *

4 (10) assist the Department of Health in a program of testing for
5 licensure of emergency medical services personnel; and

6 (11) ~~assure that each affiliated agency in the district has implemented a~~
7 ~~system for the credentialing of all its licensed emergency medical personnel;~~
8 ~~and [Repealed.]~~

9 (12) develop protocols for providing appropriate response times to
10 requests for emergency medical services.

11 * * *

12 (b) Two or more contiguous emergency medical services districts by a
13 majority vote of the district board in each of the districts concerned may
14 change the mutual boundaries of their emergency medical services districts.
15 The district boards shall report all changes in district boundaries to the ~~State~~
16 ~~Board~~ Department of Health.

17 * * *

18 Subchapter 2. Licensing Operation of ~~Ambulance Service Affiliated Agencies~~
19 § 2681. LICENSE REQUIRED; CERTIFICATES OF NEED

20 (a) A person furnishing ambulance services or first responder services shall
21 obtain a license to furnish services under this subchapter.

Commented [BW24]: 3/4/20: Related to repeal of EMS credentialing requirement.

Commented [BW25]: Technical correction, since under 24 V.S.A. § 2651(16), an “affiliated agency” is defined as an ambulance service or first responder service licensed under this T.24 chapter.

1 **(b) Prior to obtaining a license, an ambulance service shall obtain a**
2 **certificate of need from the Green Mountain Care Board in accordance with**
3 **18 V.S.A. chapter 221, subchapter 5.**

Commented [BW26]: Note this applies only to ambulance license applicants and not to first responder license applicants.

Commented [BW27]: See also Sec. 23, which amends the chapter re: GMCB certificates of need.

4 § 2682. POWERS OF ~~STATE BOARD~~ THE DEPARTMENT OF HEALTH

5 (a) The ~~State Board~~ Department of Health shall administer this subchapter
6 and shall have power to:

7 (1) Issue licenses for ambulance services and first responder services
8 under this subchapter.

9 (2) Revoke or suspend upon due notice and opportunity for hearing the
10 license of any person who violates or fails to comply with any provision of this
11 subchapter, or any rule or requirement adopted under its authority.

12 (3) Make, adopt, amend, and revise, as it deems necessary or expedient,
13 reasonable rules in order to promote and protect the health, safety, and welfare
14 of members of the public using, served by, or in need of emergency medical
15 treatment. Any rule may be repealed within 90 days of the date of its adoption
16 by a majority vote of all the district boards. Such rules may cover or relate to:

17 (A) age, training, ~~credentialing~~, and physical requirements for
18 emergency medical services personnel;

Commented [BW28]: 3/4/20: Related to repeal of EMS credentialing requirement.

19 (B) design and equipping of ambulances;

20 (C) cooperation with hospitals and organizations in other related
21 fields, and participation in central communications procedures; and

1 (D) any other matters properly within the purposes of this chapter.

2 (b) No fee or other payment shall be required of an applicant for a license.

3 § 2683. TERM OF LICENSE

4 Full licenses shall be issued on forms to be prescribed by the ~~State Board~~
5 Department of Health for a period of ~~one year~~ three years beginning on
6 January 1, or for the balance of any such ~~year~~ three-year period. Temporary,
7 conditional, or provisional licenses may also be issued by the ~~Board~~
8 Department.

9 * * *

10 § 2689. REIMBURSEMENT FOR AMBULANCE SERVICE PROVIDERS

11 (a)(1) When an ambulance service provides emergency medical treatment
12 to a person who is insured by a health insurance policy, plan, or contract that
13 provides benefits for emergency medical treatment, the health insurer shall
14 reimburse the ambulance service directly, subject to the terms and conditions
15 of the health insurance policy, plan, or contract.

16 (2) The Department of Financial Regulation shall enforce the provisions
17 of this subsection.

18 (b) Nothing in this section shall be construed to interfere with coordination
19 of benefits or to require a health insurer to provide coverage for services not
20 otherwise covered under the insured's policy, plan, or contract.

Commented [BW29]: DOH proposal to increase a license term from one to three years

Commented [BW30]: See also Sec. 25, requiring DFR to submit to the Gov Ops and Health Care committees a one-time report re: its enforcement of this provision.

1 (c) Nothing in this section shall preclude an insurer from negotiating with
2 and subsequently entering into a contract with a nonparticipating ambulance
3 service to establish rates of reimbursement for emergency medical treatment.

4 **Sec. 23.** 18 V.S.A. chapter 221 (health care administration), subchapter 5 is
5 amended to read:

6 Subchapter 5. Health Facility Planning

7 * * *

8 § 9432. DEFINITIONS

9 As used in this subchapter:

10 * * *

11 (15) “Ambulance service” has the same meaning as in 24 V.S.A.
12 § 2651.

13 * * *

14 § 9434. CERTIFICATE OF NEED; GENERAL RULES

15 * * *

16 (f) A person shall not operate an ambulance service unless, prior to
17 obtaining its initial license from the Department of Health under 24 V.S.A.
18 chapter 71, subchapter 2, it obtains a certificate of need in accordance with
19 section 9440c of this title.

20 * * *

Commented [BW31]: Related to Sec. 22’s requirement for new ambulance license applicants to first obtain from the GMCB a certificate of need.

1 § 9440c. AMBULANCE SERVICES; REVIEW PROCEDURES

2 Notwithstanding the procedures in section 9440 of this title, the Board shall
3 establish by rule standards and expedited procedures for reviewing applications
4 for the operation of an ambulance service. Such applications shall not be
5 granted or approved unless they are consistent with the Health Resource
6 Allocation Plan.

7 Sec. 24. 18 V.S.A. § 9405 is amended to read:

8 § 9405. STATE HEALTH IMPROVEMENT PLAN; HEALTH RESOURCE
9 ALLOCATION PLAN

10 * * *

11 (b) The Green Mountain Care Board, in consultation with the Secretary of
12 Human Services or designee, shall publish on its website the Health Resource
13 Allocation Plan identifying Vermont’s critical health needs, goods, services,
14 and resources, which shall be used to inform the Board’s regulatory processes,
15 cost containment and statewide quality of care efforts, health care payment and
16 delivery system reform initiatives, and any allocation of health resources
17 within the State. The Plan shall identify Vermont residents’ needs for health
18 care services, programs, and facilities; the resources available and the
19 additional resources that would be required to realistically meet those needs
20 and to make access to those services, programs, and facilities affordable for
21 consumers; and the priorities for addressing those needs on a statewide basis.

Commented [BW32]: CoN issued by GMCB via an expedited review process.

Similar to GMCB’s current law authority to establish by rule standards and expedited procedures for reviewing applications for health care IT projects set forth in [18 V.S.A. § 9440b](#).

Commented [BW33]: The HRAP – described in [18 V.S.A. § 9405\(b\)](#) and developed by GMCB in consultation with the Sec. of AHS – informs the GMCB on multiple health care system issues, including the allocation of health resources within the State.

The HRAP identifies VTers’ health care needs and the resources necessary to meet those needs.

“Health resources” is defined to include emergency care, including ambulance services.

Commented [BW34]: [3/5/20](#): Re: SGO request that the HRAP address the EMS system.

1 The Board may expand the Plan to include resources, needs, and priorities
2 related to the social determinants of health. The Plan shall be revised
3 periodically, but not less frequently than once every four years.

4 (1) In developing the Plan, the Board shall:

5 (A) consider the principles in section 9371 of this title, as well as the
6 purposes enumerated in sections 9401 and 9431 of this title;

7 (B) identify priorities using information from:

8 (i) the State Health Improvement Plan;

9 (ii) emergency medical services resources and needs identified by
10 the EMS Advisory Committee in accordance with subsection 909(f) of this
11 title;

12 (iii) the community health needs assessments required by section
13 9405a of this title;

14 ~~(iii)~~(iv) available health care workforce information;

15 ~~(iv)~~(v) materials provided to the Board through its other regulatory
16 processes, including hospital budget review, oversight of accountable care
17 organizations, issuance and denial of certificates of need, and health insurance
18 rate review; and

19 ~~(v)~~(vi) the public input process set forth in this section;

20 (C) use existing data sources to identify and analyze the gaps
21 between the supply of health resources and the health needs of Vermont

1 residents and to identify utilization trends to determine areas of
2 underutilization and overutilization; and

3 (D) consider the cost impacts of fulfilling any gaps between the
4 supply of health resources and the health needs of Vermont residents.

5 * * *

6 Sec. 25. DEPARTMENT OF FINANCIAL REGULATION; REPORT ON
7 ENFORCEMENT OF HEALTH INSURER REIMBURSEMENTS
8 TO AMBULANCE SERVICES

9 On or before January 15, 2022, the Department of Financial Regulation
10 shall report to the Senate Committees on Government Operations and on
11 Health and Welfare and the House Committees on Government Operations and
12 on Health Care regarding its enforcement of 24 V.S.A. § 2689(a) (health
13 insurers' direct reimbursement to ambulance services) as set forth in Sec. 22 of
14 this act.

15 Sec. 26. 18 V.S.A. chapter 17 is amended to read:

16 CHAPTER 17. EMERGENCY MEDICAL SERVICES

17 § 901. POLICY

18 It is the policy of the State of Vermont that all persons who suffer sudden
19 and unexpected illness or injury should have access to the emergency medical
20 services system in order to prevent loss of life or the aggravation of the illness
21 or injury, and to alleviate suffering.

1 § 906. EMERGENCY MEDICAL SERVICES DIVISION;

2 RESPONSIBILITIES

3 To implement the policy of section 901 of this ~~title~~ chapter, the Department
4 of Health shall be responsible for:

5 (1) Developing and implementing minimum standards for training
6 emergency medical personnel in basic life support and advanced life support,
7 and licensing emergency medical personnel according to their level of training
8 and competence. The Department shall establish by rule at least three levels of
9 emergency medical personnel instructors and the education required for each
10 level, in the following order of least to most expansive scope of training
11 authority:

12 (A) Instructor I, who conduct skills training;

13 (B) Instructor II, who have the authority of an Instructor I and who
14 deliver the didactic components of educational curriculum; and

15 (C) Instructor/Coordinator, who are responsible for all aspects of the
16 planning and delivery of approved educational programs.

17 (2) Developing and implementing minimum standards for vehicles used
18 in providing emergency medical care, designating the types and quantities of
19 equipment that must be carried by these vehicles, and registering those
20 vehicles according to appropriate classifications.

Commented [BW41]: See also the transitional EMS provision at the end of this portion of the draft, grandfathering existing EMS Instructor/Coordinators as this new Instructor/Coordinator level of instructor licensure.

1 (3) Developing a statewide system of emergency medical services,
2 including planning, organizing, coordinating, improving, expanding,
3 monitoring, and evaluating emergency medical services.

4 ~~(4) Establishing by rule minimum standards for the credentialing of~~
5 ~~emergency medical personnel by their affiliated agency, which shall be~~
6 ~~required in addition to the licensing requirements of this chapter in order for a~~
7 ~~person to practice as an emergency medical provider. Credentialing shall~~
8 ~~consist of the minimum and appropriate requirements necessary to ensure that~~
9 ~~an emergency medical provider can demonstrate the competence and minimum~~
10 ~~skills necessary to practice within his or her scope of licensure. Any rule shall~~
11 ~~balance the need for documenting competency against the burden placed on~~
12 ~~rural or smaller volunteer squads with little or no administrative staff.~~

13 [Repealed.]

14 (5) Developing volunteer and career response time standards for urban
15 and rural requests for emergency services.

16 (6)(A) Training, or assisting in the training of, emergency medical
17 personnel, including using monies appropriated to the Department for
18 emergency medical personnel training as follows:

19 (i) 50 percent shall be used for competitive grants to Vermont
20 EMS first responder, emergency medical responder, emergency medical

Commented [BW42]: 3/4/20: Related to repeal of EMS credentialing requirement.

Commented [BW43]: 3/4/20: Based on H.742 (grants for EMS personnel training), except does not include specific reference to monies appropriated to the EMS Special Fund, in accordance with SGO's request to eliminate the additional \$750k appropriated to that special fund via the Fire Safety Special Fund, which is funded by charges on specified insurance companies.

1 technician, and advanced emergency medical technician training programs
2 based on documented regional and multiagency support;

3 (ii) 25 percent shall be used to support the online, distance-
4 learning Vermont EMS first responder, emergency medical responder,
5 emergency medical technician, and advanced emergency medical technician
6 training opportunities developed by the Department pursuant to subsection
7 908(b) of this chapter and to support partnerships with regional ambulance
8 services to provide practical education and skill development; and

9 (iii) 25 percent shall be used to provide to Vermont first EMS
10 responders, emergency medical responders, emergency medical technicians,
11 and advanced emergency medical technicians licensed under this chapter and
12 employed by an affiliated agency with grant assistance to finance their
13 enrollment in a paramedic educational program.

14 (B) The Department shall adopt rules in accordance with 3 V.S.A.
15 chapter 25 to specify eligibility criteria for applicants to receive grants under
16 subdivision (A) of this subdivision. The Department's rules shall include a
17 requirement that recipient programs offer their training courses at no or low
18 cost to participants who intend to provide services as a member of a Vermont-
19 affiliated local or regional first responder service.

1 (7) Assisting hospitals in the development of programs ~~which~~ that will
2 improve the quality of in-hospital services for persons requiring emergency
3 medical ~~care~~ treatment.

Commented [BW44]: Technical correction.

4 (8) Developing and implementing procedures to ensure that emergency
5 medical services are rendered only with appropriate medical control. For the
6 provision of advanced life support, appropriate medical control shall include at
7 a minimum:

8 (A) written protocols between the appropriate officials of receiving
9 hospitals and emergency medical services districts defining their operational
10 procedures;

11 (B) where necessary and practicable, direct communication between
12 emergency medical personnel and a physician or person acting under the direct
13 supervision of a physician;

14 (C) when such communication has been established, a specific order
15 from the physician or person acting under the direct supervision of the
16 physician to employ a certain medical procedure;

17 (D) use of advanced life support, when appropriate, only by
18 emergency medical personnel who are certified by the Department of Health to
19 employ advanced life support procedures.

1 (9) Establishing requirements for the collection of data by emergency
2 medical personnel and hospitals as may be necessary to evaluate emergency
3 medical ~~care treatment~~.

Commented [BW45]: Technical correction.

4 (10) Establishing, by rule, license levels for emergency medical
5 personnel. There shall be at least five levels of licensure, in the following
6 order of least to most expansive scope of practice: (1) Vermont EMS first
7 responder (VFR); (2) emergency medical responder (EMR); (3) emergency
8 medical technician (EMT); (4) advanced emergency medical technician (A-
9 EMT); and (5) paramedic. The Commissioner shall use the guidelines
10 established by the National Highway Traffic Safety Administration (NHTSA)
11 in the U.S. Department of Transportation as a standard or other comparable
12 standards, except that a felony conviction shall not necessarily disqualify an
13 applicant. The rules shall also provide that:

14 (A) An individual may apply for and obtain one or more additional
15 licenses, including licensure as an advanced emergency medical technician or
16 as a paramedic.

17 (B) An individual licensed by the Commissioner as an emergency
18 medical technician, advanced emergency medical technician, or a paramedic;
19 ~~who is credentialed by an affiliated agency;~~ shall be able to practice fully
20 within the scope of practice for such level of licensure as defined by NHTSA's
21 National EMS Scope of Practice Model consistent with the license level of the

Commented [BW46]: 3/4/20: Related to repeal of EMS credentialing requirement.

1 affiliated agency, and subject to the medical direction of the emergency
2 medical services district medical advisor.

3 (C)(i) Unless otherwise provided under this section, an individual
4 seeking any level of licensure shall be required to pass an examination
5 approved by the Commissioner for that level of licensure, except that any
6 psychomotor skills testing for Vermont EMS first responder, emergency
7 medical responder, or emergency medical technician licensure shall be
8 accomplished by the demonstration of those skills competencies as part of the
9 education required for that license level.

10 (ii) Written and practical examinations shall not be required for
11 relicensure; however, to maintain licensure, all individuals shall complete a
12 specified number of hours of continuing education as established by rule by the
13 Commissioner. The Commissioner shall ensure that continuing education
14 classes are available online and provided on a regional basis to accommodate
15 the needs of volunteers and part-time individuals, including those in rural areas
16 of the State.

17 (D) If there is a hardship imposed on any applicant for a license
18 under this section because of unusual circumstances, the applicant may apply
19 to the Commissioner for a temporary or permanent waiver of one or more of
20 the licensure requirements, which the Commissioner may grant for good cause.

Commented [BW47]: EMS Rule § 12 currently requires NREMT psychomotor exams. (However, EMS stakeholders advise that NREMT permits each state to determine the psychomotor skills testing requirements for EMRs and EMTs, and does not specifically require the NREMT psychomotor exam for these license levels.)

See also the transitional EMS provision section at the end of this portion of the draft, which requires DoH to amend rules as required by this act.

Commented [BW48]: 3/4/20: *See also* Sec. 29, requiring a report from DOH on each EMS district's use of these continuing ed classes.

1 (E) An applicant who has served as a hospital corpsman or a medic in
2 the U.S. Armed Forces, or who is licensed as a registered nurse or a physician
3 assistant shall be granted a permanent waiver of the training requirements to
4 become a licensed emergency medical technician, an advanced emergency
5 medical technician, or a paramedic, provided the applicant passes ~~the any~~
6 applicable examination approved by the Commissioner for that level of
7 licensure ~~and further provided that the applicant is credentialed by an affiliated~~
8 ~~agency.~~

Commented [BW49]: 3/4/20: Related to repeal of EMS credentialing requirement.

9 (F) An applicant who is registered on the National Registry of
10 Emergency Medical Technicians as an emergency medical technician, an
11 advanced emergency medical technician, or a paramedic shall be granted
12 licensure as a Vermont emergency medical technician, an advanced emergency
13 medical technician, or a paramedic without the need for further testing,
14 provided he or she is ~~credentialed by an affiliated agency or is~~ serving as a
15 medic with the Vermont National Guard.

Commented [BW50]: 3/4/20: Related to repeal of EMS credentialing requirement.

16 (G) [Repealed.]

17 * * *

18 § 906b. ~~TRANSITIONAL PROVISION; CERTIFICATION TO~~
19 ~~LICENSURE~~

20 ~~Every person certified as an emergency medical provider shall have his or~~
21 ~~her certification converted to the comparable level of licensure. Until such~~

1 ~~time as the Department of Health issues licenses in lieu of certificates, each~~
2 ~~certified emergency medical provider shall have the right to practice in~~
3 ~~accordance with his or her level of certification.~~ [Repealed.]

4 * * *

5 § 906d. RENEWAL REQUIREMENTS; SUNSET REVIEW

6 (a) Not less than once every five years, the Department shall review
7 emergency medical personnel continuing education and other continuing
8 competency requirements. The review results shall be in writing and address
9 the following:

10 (1) the renewal requirements of the profession;

11 (2) the renewal requirements in other jurisdictions, particularly in the
12 Northeast region;

13 (3) the cost of the renewal requirements for emergency medical
14 personnel; and

15 (4) an analysis of the utility and effectiveness of the renewal
16 requirements with respect to public protection.

17 (2) The Department shall amend its rules or propose any necessary
18 statutory amendments to revise any emergency medical personnel continuing
19 education and other continuing competency requirements that are not
20 necessary for the protection of the public health, safety, or welfare.

21 * * *

Commented [BW51]: Technical correction. This was a transitional provision from 2012, when EMS professional regulation transitioned from certification to licensure.

This section appears temporary in nature and therefore may be repealed.

Commented [BW52]: Based on [S.233](#) (uniform licensing standards).

Purpose is to review the ongoing need for current renewal requirements.

1 § 909. EMS ADVISORY COMMITTEE; EMS EDUCATION COUNCIL

2 (a) The Commissioner shall establish ~~an advisory committee~~ the
3 Emergency Medical Services Advisory Committee to advise on matters
4 relating to the delivery of emergency medical services (EMS) in Vermont.

5 (b) The ~~Emergency Medical Services Advisory~~ Committee shall include
6 the following members:

7 * * *

8 (e) Beginning on January 1, 2019, the Committee shall report annually on
9 the ~~emergency medical services~~ EMS system to the House Committees on
10 Government Operations, on Commerce and Economic Development, and on
11 Human Services and to the Senate Committees on Government Operations, on
12 Economic Development, Housing and General Affairs, and on Health and
13 Welfare. The Committee's reports shall include information on the following:

14 * * *

15 (5) funding mechanisms and funding gaps for EMS personnel and
16 providers across the State, including for the funding of infrastructure,
17 equipment, and operations and costs associated with initial and continuing
18 training; and licensure, and credentialing of personnel;

19 (6) the nature and costs of dispatch services for EMS providers
20 throughout the State, including the annual number of mutual aid calls to an

Commented [BW53]: 3/4/20: Related to repeal of EMS credentialing requirement.

1 emergency medical service area that come from outside that area, and
2 suggestions for improvement;

3 * * *

4 (8) how the current system of preparing and licensing EMS personnel
5 could be improved, including the role of Vermont Technical College's EMS
6 program; whether the State should create an EMS academy; and how such an
7 EMS academy should be structured; and

8 (9) how EMS instructor training and licensing could be improved; ~~and~~
9 ~~(10) the impact of the State's credentialing requirements for EMS~~
10 ~~personnel on EMS providers.~~

11 (f) In addition to its report set forth in subsection (e) of this section, the
12 Committee shall identify EMS resources and needs in each EMS district and
13 provide that information to the Green Mountain Care Board to inform the
14 Board's periodic revisions to the Health Resource Allocation Plan developed
15 pursuant to subsection 9405(b) of this title.

16 (g) The Committee shall establish from among its members the EMS
17 Education Council, which shall:

18 (1) sponsor or approve training and education programs required for
19 emergency medical personnel licensure in accordance with the Department of
20 Health's required standards for that training and education;

Commented [BW54]: 3/4/20: Related to repeal of EMS credentialing requirement.

Commented [BW55]: 3/5/20: Related to SGO request that the HRAP address EMS needs. See also the amendment to HRAP in Sec. 24.

- 1 (2) provide notice to the Department of Health of any training or
2 education program that it approves; and
3 (3) provide advice to the Department of Health regarding the standards
4 for emergency medical personnel licensure and any recommendations for
5 changes to those standards.

6 Sec. 27. 32 V.S.A. § 8557 is amended to read:

7 § 8557. VERMONT FIRE SERVICE TRAINING COUNCIL

8 (a)(1) Sums for the expenses of the operation of training facilities and
9 curriculum of the Vermont Fire Service Training Council not to exceed
10 \$1,200,000.00 per year shall be paid to the Fire Safety Special Fund created by
11 20 V.S.A. § 3157 by insurance companies; writing fire, homeowners multiple
12 peril, allied lines, farm owners multiple peril, commercial multiple peril (fire
13 and allied lines), private passenger and commercial auto, and inland marine
14 policies on property and persons situated within the State of Vermont within
15 30 days after notice from the Commissioner of Financial Regulation of such
16 estimated expenses. Captive companies shall be excluded from the effect of
17 this section.

18 (2) The Commissioner shall annually, on or before July 1, apportion
19 such charges among all such companies and shall assess them for the charges
20 on a fair and reasonable basis as a percentage of their gross direct written
21 premiums on such insurance written during the second prior calendar year on

Commented [BW56]: 3/4/20: Revised so that there is not
an additional amount appropriated to EMS via this fund.

Instead, the only revision is to subdiv. (a)(4), so that the
current law funding can also be used to support the new VFR
license level proposed in this bill and the existing EMR
license level.

1 property situated in the State. The Department of Taxes shall collect all
2 assessments under this section.

3 (3) An amount not less than \$100,000.00 shall be specifically allocated
4 to the provision of what are now or formerly referred to as Level I, units I, II,
5 and III (basic) courses for entry-level firefighters.

6 (4) An amount not less than \$150,000.00 shall be specifically allocated
7 to the Emergency Medical Services Special Fund established under 18 V.S.A.
8 § 908 for the provision of training programs for Vermont EMS first
9 responders, emergency medical responders, emergency medical technicians,
10 advanced emergency medical technicians, and paramedics.

11 (5) The Department of Health shall present a plan to the Joint Fiscal
12 Committee that shall review the plan prior to the release of any funds.

13 (b) All administrative provisions of chapter 151 of this title, including those
14 relating to the collection and enforcement of the income tax by the
15 Commissioner, shall apply to this section.

16 Sec. 28. EMERGENCY MEDICAL PERSONNEL TRAINING;

17 APPROPRIATION

18 The sum of \$600,000.00 is appropriated from the General Fund to the
19 Emergency Medical Services Fund in fiscal year 2021 for use by the
20 Department of Health for emergency medical personnel training as follows:

Commented [BW57]: 3/4/20: JFO, please review.

1 (1) \$300,000.00 shall be used for competitive grants for Vermont EMS
2 first responder, emergency medical responder, emergency medical technician,
3 and advanced emergency medical technician training programs based on
4 documented regional and multiagency support;

5 (2) \$150,000.00 shall be used to support online, distance-learning
6 Vermont EMS first responder, emergency medical responder, emergency
7 medical technician, and advanced emergency medical technician training
8 opportunities developed by the Department pursuant to 18 V.S.A. § 908(b) and
9 to support partnerships with regional ambulance services to provide practical
10 education and skill development; and

11 (3) \$150,000.00 shall be used to provide to Vermont EMS first
12 responders, emergency medical responders, emergency medical technicians,
13 and advanced emergency medical technicians licensed under 18 V.S.A. chapter
14 17 and employed by a Vermont affiliated agency with grant assistance to
15 finance their enrollment in a paramedic educational program.

16 **Sec. 29. DEPARTMENT OF HEALTH; REPORT; EMS CONTINUING**

17 EDUCATION AVAILABILITY AND USAGE

18 On or before January 15, 2021, the Department of Health shall report to the
19 Senate Committees on Government Operations and on Health and Welfare and
20 the House Committees on Government Operations and on Health Care
21 regarding the online and regional emergency medical personnel continuing

1 education the Department is required to ensure is made available to those
2 personnel in accordance with 18 V.S.A. § 906(10)(C)(ii). The report shall
3 address:

4 (1) what continuing education courses are made available to each
5 specific emergency medical services district in the State;

6 (2) each emergency medical service district's rate of usage of the
7 continuing education made available to it; and

8 (3) the Department's findings regarding any such continuing education
9 that is made available but is not being used.

10 **Sec. 30. EMERGENCY SERVICE PROVIDERS; PROGRAMS OF STUDY**

Commented [BW58]: From [H.707](#)

11 The Agency of Education shall coordinate with the following partners to
12 provide at each of the regional technical centers one or more postsecondary
13 career technical education programs that lead to **Firefighter I and** Emergency
14 Medical Technician certifications through the Dual Enrollment Program
15 created in 16 V.S.A. § 944:

16 (1) the Division of Fire Safety within the Department of Public Safety;

17 (2) the Emergency Preparedness, Response and Injury Prevention
18 Division within the Department of Health;

19 (3) the Student Pathways Division within the Agency of Education; and

20 (4) the respective supervisory authorities for each regional technical
21 center.

1 Sec. 31. TRANSITIONAL EMS PROVISIONS

2 (a) Rules. On or before July 1, 2021, the Department of Health and the
3 Green Mountain Care Board shall finally adopt or amend the rules required by
4 this act, unless that deadline is extended by the Legislative Committee on
5 Administrative Rules pursuant to 3 V.S.A. § 843(c).

6 (b) Ambulance service certificates of need. The certificate of need required
7 for new ambulance services' initial licensure described in Secs. 22 and 23 of
8 this act shall apply to new ambulance service license applicants on and after
9 July 1, 2021 or on and after the effective date of the Green Mountain Care
10 Board rules adopted pursuant to Sec. 23 of this act and subsection (a) of this
11 section, whichever date is later.

12 (c) Existing EMS Instructor/Coordinator licensees. Any person who is
13 licensed as an EMS Instructor/Coordinator under the Department of Health's
14 Emergency Medical Service Rules in effect immediately prior to the effective
15 date of the rules establishing the new levels of instructor licenses as required
16 by 18 V.S.A. § 906(1) in Sec. 26 of this act shall be deemed to be an
17 Instructor/Coordinator as described in that section.

18 (d) Sunset review of renewal requirements. Pursuant to 18 V.S.A. § 906d
19 (renewal requirements; sunset review) set forth in Sec. 26 this act, the
20 Department of Health shall conduct its first sunset review on or before

1 November 1, 2020 and thereafter amend its rules or propose any necessary
2 statutory amendments in accordance with that section.

3 * * * Public Safety Planning * * *

4 Sec. 32. 20 V.S.A. § 6 is amended to read:

5 § 6. LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT;
6 TOWN AND CITY PUBLIC SAFETY PLANS

7 (a) Each town and city of this ~~state~~ State is hereby authorized and directed
8 to establish a local organization for emergency management in accordance
9 with the ~~state emergency management plan~~ State Emergency Management
10 Plan and program.

11 (1)(A) Except in a town that has a town manager in accordance with
12 ~~chapter 37 of Title 24 V.S.A. chapter 37~~, the executive officer or legislative
13 branch of the town or city is authorized to appoint a town or city emergency
14 management director who shall have direct responsibility for the organization,
15 administration, and coordination of the local organization for emergency
16 management, subject to the direction and control of the executive officer or
17 legislative branch.

18 (B) If the town or city that has not adopted the town manager form of
19 government and the executive officer or legislative branch of the town or city
20 has not appointed an emergency management director, the executive officer or
21 legislative branch shall be the town or city emergency management director.

Commented [BW59]: Potential alternative to the Town Plan provisions in S.124 As Intro'd, Sec. 10.

Under current law:

-Town plans adopted under [24 V.S.A. § 4382](#) are discretionary and are generally for the purpose of land use/development. The purpose of municipal and regional planning is described in [24 V.S.A. § 4302](#).

-Under this current law 20 V.S.A. § 6 within the T.20 chapter on emergency management, each town is required to have a “local organization for emergency management”- which is either the mayor or selectboard or an appointed emergency management director and any coordinator or other staff – that is responsible for planning for and managing emergency functions in response to “all hazard” incidents.

o“Emergency functions” is defined in [20 V.S.A. § 2\(4\)](#) to include law enforcement, firefighting, medical and health services, rescue, communications, and emergency transportation.

o“All-hazards” is defined in 20 V.S.A. § 2(1) to include natural disasters, use of WMDs, terrorism, and radiological incidents.

-Under this current law 20 V.S.A. § 6(d), each local organization is required to annually analyze and report its capacity to perform emergency functions in response to an all-hazards event, and to perform those emergency functions in response to an all-hazards event.

This potential amendment would require each town to have a public safety plan for standard LEO, fire, and EMS needs – which may include partnering with other munis or entities to provide those resources – that would be proposed by the “local organization for emergency management” and adopted by the legislative body pursuant to a process similar to that of town plans.

1 (2) The town or city **emergency management director may appoint an**
2 **emergency management coordinator and other staff as necessary** to accomplish
3 the purposes of this chapter.

4 (b) Except as provided in subsection (d) of this section, **each local**
5 **organization for emergency management shall perform emergency**
6 **management functions within the territorial limits of the town or city** within
7 which it is organized, and, in addition, shall conduct such functions outside of
8 the territorial limits as may be required pursuant to the provisions of this
9 chapter and in ~~accord~~ accordance with such regulations as the ~~governor~~
10 Governor may prescribe.

11 (c) Each local organization shall participate in the development of an all-
12 hazards plan with the local emergency planning committee and the public
13 safety district.

14 (d)(1) Each local organization shall **annually** notify the local emergency
15 planning committee on forms provided by the ~~state emergency response~~
16 ~~commission~~ State Emergency Response Commission **of its capacity to perform**
17 **emergency functions in response to an all-hazards incident.**

18 (2) Each local organization shall perform the emergency functions
19 indicated on the most recently submitted form in response to an all-hazards
20 incident.

1 (e) Each town and city legislative body shall adopt a public safety plan in
2 accordance with this subsection that describes how the town or city will
3 address the regular law enforcement, fire, and emergency medical service
4 resources, needs, scarcities, costs, and problems within the municipality
5 unrelated to an all-hazards incident, which may include partnering with one or
6 more other municipalities or entities to address those issues.

7 (1) Concurrently with its annual notification required under subsection
8 (d) of this section, each local organization shall analyze the law enforcement,
9 fire, and emergency medical service resources, needs, scarcities, costs, and
10 problems within the municipality and report that information to its legislative
11 body.

12 (2) After receipt of that information, the legislative body:

13 (A) shall solicit and accept public comment on the current public
14 safety plan;

15 (B) may consult with the municipal and regional planning
16 commission, neighboring local organizations, and any other relevant law
17 enforcement, fire, and emergency medical service entities in order to determine
18 how those services may be provided and shared on a regional basis;

19 (C) shall propose any revisions to the current public safety plan that
20 the legislative body deems necessary, and in that case, shall provide public

1 notice of those proposed revisions and hold at least one public hearing on those
2 proposed revisions not less than 30 days after the public notice of them; and

3 (D) shall finally adopt any revisions to the current public safety plan.

4 Sec. 33. TRANSITIONAL PROVISION; INITIAL PUBLIC SAFETY PLAN

5 Each town and city shall undertake the process to adopt a public safety plan
6 as set forth in Sec. 32 of this act so that every town and city has adopted such a
7 plan on or before [X date].

8 Sec. 34. AGENCY OF COMMERCE AND COMMUNITY

9 DEVELOPMENT; REGIONAL PLANNING COMMISSIONS;

10 PUBLIC SAFETY PLANNING GRANT **PILOT PROJECT**

11 (a) Appropriation. The sum of \$50,000.00 is appropriated to the Agency of
12 Commerce and Community Development in fiscal year 2021 for the public
13 safety planning grant **pilot project** described in subsection (b) of this section.

14 The Agency shall award the grants in accordance with its procedure
15 established under the Vermont Community Development Act.

16 **(b) Public safety planning grant pilot project.**

17 **(1) There is created a pilot project for the purpose of fostering public**
18 **safety planning in rural regions of the State that do not have adequate access to**
19 **one or more public safety functions.**

20 (1) A regional planning commission may apply to the Agency for a
21 public safety planning grant for the purpose of planning the integration.

1 consolidation, or regionalization of public safety functions within the
2 commission’s jurisdiction. A grant shall be for a maximum of three years and
3 shall not exceed \$[X amount].

4 (2) As used in this section:

5 (A)(i) “Planning” means hiring personnel or contracting for services
6 to determine the feasibility of or to establish the procedure to implement, or
7 both, the integration, consolidation, or regionalization of public safety
8 functions.

9 (ii) “Planning” does not mean implementing such integration,
10 consolidation, or regionalization.

11 (B) “Public safety functions” means fire, police, emergency medical
12 services, and dispatching services.

13 * * * Effective Date * * *

14 Sec. 35. EFFECTIVE DATE

15 This act shall take effect on July 1, 2020.

16 and that after passage the title of the bill be amended to read: “An act relating
17 to governmental structures protecting the public health, safety, and welfare”

18 (Committee vote: _____)

19 _____
20 Senator _____

21 FOR THE COMMITTEE