

House Calendar

Friday, February 11, 2022

39th DAY OF THE ADJOURNED SESSION

House Convenes at 9:30 A.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

Favorable with Amendment

- H. 447** Approval of amendments to the charter of the Town of Springfield
Rep. Mrowicki for Government Operations 361

Senate Proposal of Amendment

- H. 679** Fiscal year 2022 budget adjustments
Senate Proposal of Amendment. 403

NOTICE CALENDAR

Favorable with Amendment

- H. 515** Banking, insurance, and securities
Rep. Jerome for Commerce and Economic Development 442
- H. 628** Amending a birth certificate to reflect gender identity
Rep. Small for Human Services 497

Governor's Veto

- H. 157** Registration of construction contractors..... 499

Consent Calendar

- H.C.R. 98** Congratulating Mary L. Miner of Manchester on her 100th birthday
..... 501
- H.C.R. 99** Congratulating the Town of Stowe on earning a three-year
designation as a Quality Youth Development Community..... 501
- H.C.R. 100** Honoring Rebecca Buck for her superb service as a member of the
Joint Fiscal Office staff..... 501
- H.C.R. 101** In memory of former Representative Carl D. Powden of Johnson
..... 502
- H.C.R. 102** Honoring Stephen A. Klein for his dedicated leadership as the
General Assembly's Chief Fiscal Officer..... 502

H.C.R. 103 Congratulating the 2021 class of Eagle Scouts in the State of Vermont.....	502
S.C.R. 12 Senate concurrent resolution memorializing the more than 500 Vermonters who have died due to COVID-19, extending sincere condolences to their families, and thanking those Vermonters whose frontline jobs have been especially challenging during the pandemic.....	502
S.C.R. 13 Senate concurrent resolution congratulating Kekla Magoon on her 2021 and 2022 literary honors as an author of young people’s literature.....	502
S.C.R. 14 Senate concurrent resolution congratulating Jason Chin of Burlington on his winning of the 2022 Randolph Caldecott Medal.....	502

ORDERS OF THE DAY

ACTION CALENDAR

Favorable with Amendment

H. 447

An act relating to approval of amendments to the charter of the Town of Springfield

Rep. Mrowicki of Putney, for the Committee on Government Operations, recommends the bill be amended as follows:

By striking out Sec. 2, 24 App. V.S.A. chapter 149 (Town of Springfield) in its entirety and inserting in lieu thereof a new Sec. 2 and Sec. 3 to read as follows:

Sec. 2. 24 App. V.S.A. chapter 149 is amended to read:

CHAPTER 149. TOWN OF SPRINGFIELD

* * *

§ 2. APPLICATION OF GENERAL LAW; PROPOSED CHARTER

(a) Purpose. This document is drafted to ~~supersede~~ update and replace the existing charter.

(b) Application of general laws.

* * *

(2) In the event of any conflict or contradiction, either direct or implied, between the powers conferred ~~herein~~ in this charter and State statute, this charter shall prevail.

§ 3. POWERS OF THE TOWN

(a) The Town of ~~Springfield~~ shall have all the powers and functions conferred upon ~~towns and villages~~ municipalities by the Constitution and general laws of the State, ~~and shall also have~~ all implied powers necessary to implement ~~such~~ those powers and functions, and any additional powers conferred by this charter that are consistent with the Constitution. All powers and functions conferred or implied by the charter shall be in addition to the powers and functions conferred upon the Town by laws now in force or ~~hereinafter~~ later enacted.

(b) Without limiting any of the express or implied powers granted by this charter, the Town shall have the following additional specific authorities:

(1) To adopt and enforce ordinances relating to the cleaning and repair of any premises when in a condition that:

(A) impairs the general appearance of the Town;

(B) may physically injure other property in the vicinity; or

(C) is a health hazard.

(2) To control the removal of rubbish, waste, and objectionable material of any premises subject to subdivision (1) of this subsection.

(3) Not less than 30 days before any action taken under this subsection (b), the Town shall provide to the property owner and any lienholders a notice of the Town's intent to issue civil penalties, clean or repair the premises, or remove rubbish, waste, or objectionable material. The Town shall provide to the property owner and any lienholders reasonable opportunity and resources to appeal the proposed action or to clean or repair the premises before the Town takes any final action.

(c) Nothing in this charter shall be construed as a limitation of such the powers and functions incident to public and municipal corporations.

* * *

§ 5. ORDINANCES

(a) Town legislation. Town legislation shall be by ordinance. Ordinances and rules ~~promulgated~~ adopted pursuant thereto to ordinances shall have the full force of law embodied in this charter.

(b) Legislative body.

* * *

(2) Town ~~meeting~~ meetings, annual or special, as constituted ~~herein in this section~~, in addition to ~~its~~ their other functions, shall also serve as a legislative body and may adopt, amend, or repeal an ordinance.

* * *

(B) The entire text or an explanation of the nature and purpose of ordinances subject to Town meeting action must be posted on the Town's website and published in a newspaper or newspapers of general circulation as may be directed or designated by the Selectboard, at least 30 days before the meeting.

(C) Any ordinance to be considered by Town meeting shall be reviewed by the Town Attorney or other counsel engaged by the Selectboard prior to the official warning. Said The Attorney shall be charged with the duty

to correct ~~such~~ the ordinance to avoid repetition, illegal, or unconstitutional provisions, and to ensure accuracy in the text and reference, along with clear and precise phraseology. The ordinance shall not be changed in its meaning and effect.

(D) The effect of Town meeting action on an ordinance shall take place upon passage unless otherwise provided ~~therein~~ in the body of the ordinance.

~~(E) Ordinances acted upon by Town meeting shall not apply to any appointments of officers, members of boards and commissions to be made by the Board of Selectmen, or to the appointment or designation of the selectmen, or their rules of order. [Repealed.]~~

* * *

(c) Ordinance adoption procedure, other than zoning and subdivision bylaws.

* * *

(d) Procedure for drafting, adoption, rejection, major amendment, or repeal of ordinances.

(1) Drafting.

~~(A) Ordinances or actions related thereto~~ The Selectboard may appoint an ordinance committee including not more than two Selectboard members.

~~(B) If the Selectboard appoints an ordinance committee, ordinances of all categories, with the exception of emergency ordinances, shall be drafted by or submitted in draft form to an~~ the ordinance subcommittee consisting of no more than two Selectboard members committee.

(2) Reporting out.

~~(A) The~~ If the Selectboard appoints an ordinance committee, the ordinance subcommittee committee shall review the any ordinance for form submitted to them by the Selectboard and report it out to the Board of Selectmen Selectboard for first review within 90 days following submission.

~~(B) Ordinances reported out for first review must be reviewed beforehand by the Town Attorney or other counsel engaged by the Selectboard, and signed by him/her signifying proper legal form and constitutionality~~ the Town Attorney or other counsel.

* * *

(3) Introduction and first review.

(A) The proposed ordinance ~~or action, amendment, or repeal~~ shall be introduced at a ~~Board of Selectmen~~ Selectboard meeting by the ordinance ~~subcommittee~~ committee.

(B) During first review, the proposed ordinance ~~or action,~~ amendment, or repeal may be amended.

(C) ~~A final draft~~ The proposed ordinance including any amendments must be accepted or rejected at the completion of first review.

(D) Upon completion of first review, a date for second review and public hearing shall be fixed within ~~no~~ not less than 14, ~~but not~~ nor more than ~~28~~ 40 days from first review.

* * *

(C) ~~At~~ A public hearing shall be held at the time and place specified in the notice, a public hearing shall be held.

(5) Amendment during second review. Should the Selectboard decide after the public hearing to substantively amend the text of the proposed ordinance, the process and timetable shall revert back to second review with the new public hearing to be held in ~~no~~ not less than 14, ~~but no~~ nor more than ~~28~~ 40 days and all notice requirements to be met in ~~subsection 4 above~~ subdivision (4) of this subsection.

(6) Final action.

* * *

(B) Failure to act ~~in 14~~ within 40 days following the final review shall constitute a rejection.

* * *

(e) Minor amendments. ~~An action-classed~~ Any proposed change to an existing ordinance that is classified by Selectboard vote as to constitute a minor amendment, ~~pursuant to subsection (e) of this section,~~ may be adopted by the Selectboard after the completion of the first review.

(f) Emergency ordinances.

(1) ~~To meet a public emergency affecting life, health, property, or the public peace~~ Following a declaration of public emergency pursuant to section 10 of this charter, the Selectboard may adopt one or more emergency ordinances.

* * *

(4) An emergency ordinance must be clearly titled as such, and contain a clear declaration of the emergency, describing it in specific terms.

(5) An emergency ordinance may be adopted ~~or rejected, with or without amendment, at the meeting at which it is introduced, but an affirmative vote of four Selectboard members is required for adoption,~~ amended, or repealed upon a two-thirds vote, with at least three affirmative votes.

* * *

(7) Any emergency ordinance shall automatically stand repealed on the 61st day following adoption; ~~this shall not prevent reenactment of the ordinance if the emergency still exists~~ its effective date.

(8) In order for actions taken under an emergency ordinance to be binding beyond the time period of the emergency as determined by the Selectboard, the ordinance must be ratified in a manner similar to other ordinances; this shall not prevent reenactment of the ordinance if the Selectboard determines that the emergency still exists.

(9) An emergency ordinance may also be repealed ~~by the adoption of a repealing ordinance~~ in the manner specified in this section for emergency ordinance.

(g) ~~Changes in zoning and subdivision bylaws: Changes in zoning and subdivision bylaws shall be in accordance with Vermont statutes. [Repealed.]~~

(h) Standard codes of technical regulations.

(1) The Selectboard may adopt any standard code of technical regulations by ~~references thereto~~ reference in an ~~adopting~~ ordinance.

(2) The procedure and requirements governing ~~such an adopting ordinance~~ the adoption of an ordinance concerning standard codes of technical regulations shall be the same as prescribed for ordinances generally except that the requirements ~~of this charter~~ for distribution and filing of copies of the ordinance shall include the ~~adoption~~ ordinance itself, but and shall ~~not only~~ include a citation to the entire set of technical regulations, and a copy of each adopted code of technical regulations shall be authenticated and recorded by the Town Clerk for distribution or for purchase at a reasonable price.

(i) Authentication and recording, codification, printing and publication.

* * *

(2) Printing Publication of ordinances and resolutions.

(A) The Selectboard shall cause each ordinance and resolution ~~having the force and effect of law to be printed~~ published.

(B) ~~Printed ordinances~~ Ordinances, resolutions, charters, and charter amendments shall be ~~distributed or sold~~ published electronically and made available in printed form for sale to the public at reasonable prices set by the Selectboard.

(C) All ~~printed~~ ordinances, codes, resolutions, and charter amendments should follow a uniform format or style ~~established by the initial codification following this charter adoption~~.

(3) Codification.

(A) ~~Within one year after the adoption of this charter, and at~~ At least every five 10 years thereafter, the Selectboard shall provide for the uniform codification of all ordinances, zoning bylaws, subdivision bylaws, and resolutions ~~having the force of law~~.

(B) When completed, the updated codification ~~will be adopted by the Selectboard by ordinance~~, shall be published in a form convenient for general use and shall be incorporated into the Town code.

(j) Penalties.

* * *

(2) The Town may take actions necessary to prosecute any person who violates ordinances passed under this charter. ~~Said~~ The prosecution may be through the courts ~~or the Town Grand Juror as may be established under this charter~~.

(3) The Town may also bring an action for injunctive relief seeking a court order to require compliance with any ordinance in addition to the penalty set forth in the ordinance.

* * *

§ 7. POTENTIAL OR ACTUAL CONFLICT OF INTEREST; PERSONAL FINANCIAL INTEREST

(a) ~~At a meeting, no elective or appointive officer, acting in an official capacity, or employee of the Town, while engaged in his or her duties, shall raise the issue of, place on the agenda, participate in a discussion of, or take part in a discussion concerning any business of the Town relating to his or her business or personal financial interests, or those of a spouse, be they direct or indirect, to the degree that said interests exceed those of taxpayers generally.~~

~~(b) Personal and business interests shall include direct or indirect ownership of land, stock, property, materials, supplies or services.~~

~~(c) Discussions of salary and benefits shall be exempt from this prohibition.~~

~~(d) Any officer or employee having such an interest shall immediately make said interest known publicly.~~

~~(e) Any officer who willfully conceals such an interest, or willfully violates any requirement of this section shall forfeit said office or position, as provided under subdivision 23(b)(8)(B) of this charter.~~

~~(f) Any contract, sale, or action taken in violation of this section shall be voidable by the Board of Selectmen.~~

~~(g) Officers of the Town may buy; sell goods and services from; to the Town subject to the restrictions above, provided said procurement is done competitively in accordance with the procurement ordinance.~~

~~(h) The Board of Selectmen may require public disclosure of assets or financial interest, in a form they may prescribe, of any elected or appointed official as part of an investigation into matters of conflict of interest, or for the purposes of general investigation. Failure to disclose or incomplete or falsified disclosure may be cause for removal as provided under subdivision 23(b)(8)(B) of this charter.~~

~~(i) No officer shall devote any Town property or labor to private use, except as may be provided by law or ordinance.~~

The Selectboard shall adopt and maintain a conflict of interest policy.

§ 8. LICENSES; FEES; CHARGES; USER FEES; FEES FOR SERVICE

~~(a) The Selectboard shall have the sole authority for the setting of all fees, charges, user fees, or fees for services, related to Town government, except those prescribed by State statute relating to the Office of the Town Clerk or otherwise provided for in this charter. All fees and charges set by the Selectboard shall be reasonably related to actual costs.~~

~~(b) The Board of Selectmen shall have the authority to license or issue permits for any function or activity taking place or occurring within the boundaries of the Town over which jurisdiction is established by statute, ordinance or this charter. [Repealed.]~~

~~(c) All licenses required by the Town shall be authorized by passage and/r amendment of a license ordinance. [Repealed.]~~

~~(d) All fees, charges, user fees, or fees for service shall be implemented by passage of a comprehensive fee ordinance which shall be placed on the Board of Selectmen agenda for review and/or update, every three years from its date of passage. [Repealed.]~~

(e) No officer of the Town shall collect fees or monetary prerequisites for ~~his or her~~ the Town officer's own use, and all fees or charges shall be accrued to the General Fund Town funds.

§ 9. ACQUISITION AND DISPOSITION OF TOWN PROPERTY

(a) The Selectboard shall pass ~~an ordinance~~ a policy governing the acquisition or disposition of Town property, which shall outline procedures for the handling of ~~such~~ these matters.

(b) The Selectboard may acquire or dispose of real property in accordance with ~~such ordinance~~ policy.

§ 10. EMERGENCY POWERS

(a) Declaration of public emergency. The Selectboard may, upon ~~majority~~ a two-thirds vote with at least three members present, declare a state of public emergency ~~which that~~ that threatens life, property, or the public health or welfare.

(b) Condemnation, eminent domain. In the event of a declared public emergency ~~which that~~ that threatens life, property, the public health or welfare, duly declared by ~~unanimous~~ unanimous Selectboard ~~duly warned~~ meeting warned in accordance with State statute, the Selectboard, by a minimum of three affirmative votes and not more than one dissenting vote, may exercise powers of eminent domain and condemnation and take real property or personal property, after notice to the owner and the fixing of fair compensation. An aggrieved party may appeal to Superior Court.

(c) Civil preparedness. The Town Manager shall be the designated civil preparedness Chair and shall be duty bound to exercise the powers afforded by statute and any powers and functions outlined by the Selectboard in a declared emergency. On an annual basis, the Selectboard shall adopt an emergency preparedness plan that shall go into effect upon declaration of a public emergency.

§ 11. PROCEDURES FOR CHARTER REVISION AND AMENDMENT

(a) The procedures and process for charter amendment ~~herein~~ in subsection (b) of this section may be initiated either by a ~~unanimous~~ unanimous vote of four members of the Selectboard or by a citizen initiative (petition) ~~equal to~~ of at least five percent of the voters registered at the time that the petition is submitted.

(b) The procedure for charter ~~revision~~ amendment shall be as follows:

(1) The Selectboard shall appoint a Charter Review Committee of not less than ~~ten (10)~~ 11 members, which shall include two representatives from the Selectboard, and two representatives from the administration, ~~and the community at large~~ one of which must be the Town Clerk, with the majority from the community at large.

* * *

(3) The Selectboard shall determine if the proposed amendments are a comprehensive revision and shall determine the format of the article. All provisions of 17 V.S.A. § 2645 that are not in conflict with this charter shall be adhered to.

(4) Any changes in the charter must be effected by a Town meeting vote ~~with at least 25 of voters participating.~~

(c) In addition to the procedure set forth above in subsections (a) and (b) of this section, the charter may be revised or amended by the submission of a citizen initiative (petition) specifying the amendments or revisions desired and signed by 10 percent of the registered voters. The petition and subsequent action shall conform to the requirements of State statutes relating to charter amendment procedures, ~~shall be subject to the determination of the Board of Selectmen as to whether or not they are comprehensive in nature,~~ and shall be approved by a an annual Town meeting vote with at least ~~25~~ 15 percent of voters participating. If a proposed amendment or revision under this subsection is voted down at the annual Town meeting, it or a substantially similar amendment may not be petitioned again for a period of one year.

(d) Any changes in the Town charter shall become effective immediately upon passage by the registered voters and approval by the ~~Legislature~~ General Assembly as prescribed by statute.

(e) ~~Charter amendment revote shall be subject to the limits prescribed in section 22(b)(7) of this charter~~ A comprehensive revision of this charter, as determined by the Selectboard, may be voted only once in three years.

* * *

§ 13. USE OF STREETS BY PUBLIC UTILITIES AND PRIVATE INTERESTS

Every non-Springfield municipal public utility ~~and~~ or private interest that desires to ~~dig up~~ excavate in a public street ~~or alley for the purpose of laying pipes or wires~~ right-of-way shall first obtain from the Selectboard Town Manager or designee a written permit stating the place where and the time

when ~~digging excavation and repair~~ may be done. Upon receipt of a permit, the ~~digging up and replacing of the street or alley~~ excavation and repair shall be done under the supervision of the Selectboard; ~~they may complete the work at the expense of the utility or private interest and recover that expense in an action of tort under 19 V.S.A. § 1525, in the name of the Town, with costs~~ Town Manager or designee.

§ 14. SEPARABILITY SEVERABILITY

The sections of this charter and the parts thereof are ~~separable~~ severable. If any portion of this charter, or application thereof to any person or circumstance, shall be held invalid, the remainder thereof or the application of such invalid portions to other persons or circumstances shall not be affected thereby.

Subchapter 2. Elections and Local Officials

§ 21. ~~FORM OF GOVERNMENT~~ GOVERNMENTAL AUTHORITY

All governmental authority of the Town of ~~Springfield~~ rests ultimately with the citizens and registered voters of the Town, who shall exercise their power by Australian ballot at the annual Town meeting in determining:

* * *

(5) Any articles placed on the warning ~~which~~ that involve the expenditure of tax dollars or ~~in the provision of direction in the exercise of directing~~ the power vested in elected or appointed officials;

(6) Adoption, amendment, or repeal of ordinances provided by petition per section 5 of this charter; and

(7) charter amendments.

§ 22. TOWN MEETING; ELECTIONS

(a) ~~Applicability of general laws: Except as otherwise herein limited, provisions of the general laws of the State related to voter qualifications, warnings, methods of voting, duties of Town officers at Town meeting and elections, counting of votes, recount of votes, certification of results, and nominations of candidates, so far as they may be applicable, shall govern all municipal elections and all annual and special Town meetings. [Repealed.]~~

(b) Meetings and Elections.

(1) Annual Town meeting.

(A) On the Monday preceding the first Tuesday in March, beginning at ~~7:30~~ 7:00 p.m. at a place designated by the Selectboard, the Town shall start

its annual meeting and may transact at that time any business not involving Australian ballot. At this meeting, public discussion of ballot ~~issues~~ questions and all other issues appearing on the warning, other than the election of candidates, shall be permitted.

* * *

(C) The date of the annual Town meeting may be changed by a vote of the citizens at a an annual or a special Town meeting duly warned for that purpose.

* * *

(3) Warnings.

(A) Timetable and notice. Public notice of every annual or special Town meeting, or Town election, shall be given by a warning posted in ~~at least five~~ not less than four public places in the Town and on the Town's website, at least not less than 30, ~~but no~~ nor more than 40 days prior to the meeting; ~~and published~~ in a newspaper or newspapers of general circulation in the municipality as may be directed or designated by the Selectboard.

(B) Contents. The warning shall contain:

* * *

(ii) ~~specific indications of separate~~ separate articles which reflect specifically indicating the business to be ~~voted~~ transacted, in the language to be voted upon;

* * *

(C) Placing of articles on a warning for the annual Town meeting.

* * *

(ii) Articles submitted by petition must be filed ~~with the Town Clerk not less than 40 days before the date of the meeting~~ pursuant to State statute as to form and process.

(4) Power of Selectboard on Australian ballot decree.

(A) The Selectboard may cause any question ~~not covered in section 21(1) of this charter~~ to be voted by Australian ballot at any annual or special Town meeting called on their action, or by petition, provided that the warning for such meeting specifies the question to be voted.

(B) ~~Any article~~ All articles to be voted by Australian ballot shall be preceded by a public informational hearing. The warning of the vote shall

include the notice of the public informational hearing and set forth the time and place of said the public informational hearing.

(5) Presiding officials at Town meeting and elections.

* * *

(E) While the polls are open, the Town Clerk shall rule on all questions covering the conduct of Australian ballot elections, except the resolution of questions concerning the checklist ~~which that~~ shall be made by the majority of the Board of Civil Authority members present.

(F) In the absence ~~or disability~~ of the Town Clerk, should it occur before an election, the Board of Civil Authority shall, upon notice, immediately meet and designate an Acting Clerk for the duration of the election. Should ~~such the absence or disability~~ occur on election day, the Board of Civil Authority members present at the election shall designate an ~~on-site temporary officer~~ Acting Clerk to preside for the duration of the election.

(6) Postponing or continuing of Town meetings.

(A) The Selectboard may postpone ~~the a special Town meeting~~ vote ~~on any question to be voted at a special meeting~~ to the later annual Town meeting if the date of the special Town meeting ~~would~~ will fall within 75 days ~~prior to of~~ the annual Town meeting.

(B) If a special Town meeting called by petition falls within 45 days of a ~~later subsequent~~ special or annual Town meeting called by petition, the Selectboard may warn the questions to be voted at such Town meeting for the later Town meeting and may by resolution rescind the call of the earlier meeting.

(7) Citizen initiatives; revote; ~~reversion~~ rescission of articles other than election of officers.

(A) Any question voted at an annual or special Town meeting, except ~~charter revision or amendment~~ the adoption, amendment, or repeal of ordinances or of the charter and the recall of elected officials, may be submitted for revote or ~~reversion~~ rescission at a subsequent annual or special Town meeting, subject to the limits contained herein.

(B) Requests for revote or ~~reversion~~ rescission must be by resolution of at least four members of the Selectboard or by a petition filed with the Town Clerk and signed by at least five percent of the voters registered on the date of the action.

(C) Any ~~action~~ request for revote or ~~recession~~ rescission must be taken or filed within 30 days of following the date the ~~action~~ question was first considered.

(D) The Town Clerk shall warn a special Town meeting to be held within 60 days of the date of following the ~~call~~ request for revote or ~~recession~~ rescission.

(E) The Town budget shall be subject to a revote only if voted in the negative, or if ~~voted in the affirmative at an election having a turnout of less than 15 percent of the registered voters at the time of the Town meeting.~~

* * *

(G) Any question voted on or considered shall be subject to revote or ~~recession~~ rescission only once in the 12 months following the initial vote, except for the Town budget, which shall be voted until passed, and except for charter amendments by citizen initiative that are governed by subsection 11(c) of this charter.

(H) A vote of a proposed amendment or revision of this charter by citizen initiative that is substantially similar in substance to a previous proposed amendment by citizen initiative may be voted occur only once in one year.

(8) Tie votes.

(A) A tie vote, other than for an elected office, at any Town meeting shall be subject to require an immediate recount; the article or election shall be subject to immediate revote If the tie vote is affirmed, then the articles must be revoted at a special Town meeting within the timetable prescribed by charter 60 days.

(B) ~~Recount~~ Recounts other than tie votes may be requested in accordance with State statute.

(9) Nonproductive elections. In the event that a legal election fails to produce a person to fill any elected Town office, the Selectboard shall, within 30 days of following the election, appoint a qualified individual registered voter to serve in the position until the next annual Town meeting at which an election will occur for the term of office or remaining balance of the unexpired term, whichever is applicable.

* * *

§ 23. LOCAL ELECTED OFFICIALS

(a) Local elective offices to be filled by the registered voters of the Town of Springfield shall be only those articulated by this charter and shall include:

* * *

(2) ~~Listers; [Repealed.]~~

* * *

(4) ~~First Constable~~ Library Trustees;

* * *

(b) Provisions related generally to all elected local offices.

(1) Term.

(A) Terms for elective offices shall begin officially ~~at the point which~~ when the Town Clerk and Board of Civil Authority certify election returns as final.

(B) In the event of a recount, or unresolved irregularities in election returns, should ~~emergency~~ action be required, it shall be taken by the ~~elective~~ officials sitting at the time of the election.

(2) Oath of office.

(A) ~~Before taking any official action, an~~ An elected official shall take the oath of office prescribed by statute, if applicable, prior to taking any official action.

* * *

(4) Recall of elected officials.

* * *

(B) If the Town votes for removal of an elected officer, the office shall thereupon become vacant, and the Selectboard shall call a special meeting, to be held within 45 days ~~of~~ following the vote for removal, to fill the vacancy ~~until the term of the officer so removed expires for the remainder of the unexpired term.~~ The office shall remain vacant until the next annual Town meeting if ~~such~~ the special Town meeting would fall within 75 calendar days prior to the annual Town meeting.

(5) Attendance. ~~Any All~~ All elected ~~official shall be required~~ officials are expected to regularly attend all meetings of the public bodies of which they are members.

(6) Holding of more than one office.

(A) Elective offices. Nothing ~~herein~~ in this section shall be interpreted as limiting any person from holding a State or federal elective office at the same time ~~he/she~~ that person holds local office, provided ~~such~~ the service does not interfere or conflict with the proper attendance at meetings and execution of the duties of the office.

* * *

(7) Qualification to run for ~~and~~ or hold local office.

(A) No person shall be qualified to run for or be elected to hold an elective office unless ~~he/she~~ the person is a ~~duly qualified~~ registered voter in the Town of ~~Springfield~~ and a resident.

(B) Should an elected holder of local office establish residence in some place other than ~~Springfield~~ the Town, the office shall be declared immediately vacant by the Selectboard and said vacancy shall be filled in accordance with the provisions of ~~the~~ this charter.

* * *

(8) Vacancy of elected office.

(A) In addition to the requirement of subdivision (7) of this subsection ~~(b)~~, a vacancy shall be deemed to exist in any local office where an officer ~~dies;~~ ~~resigns;~~ ~~is removed or recalled from office;~~ ~~is convicted of a felony;~~ is convicted of a misdemeanor involving a breach of public trust; ~~or;~~ ~~is judicially declared to be mentally incompetent;~~ ~~or is no longer a resident~~ resides in the Town.

(B) The declaration of ~~a condition for forfeiture of office~~ vacancy shall be made by ~~the unanimous~~ a majority vote of the Selectboard, or in the case of a Selectboard member, by the other members of the Selectboard, ~~and shall be according to procedures established in 3 V.S.A. chapter 25, as they pertain to contested cases, and may be appealed to the Superior Court as contested cases are appealed~~ Selectboard.

(c) Elected officers, duties, responsibilities, and conduct.

(1) Selectboard.

(A) Number and term. Unless altered by the procedures provided herein, the policy making body for the Town shall be a five member Selectboard, elected at large, on a nonpartisan basis, to ~~rotating, three year~~ staggered three-year terms.

* * *

(E) Meetings. All meetings shall be conducted in accordance with Vermont's Open Meeting Law, 1 V.S.A. chapter 5, subchapter 2.

(i) Organizational meeting.

(I) Within seven days after the annual Town meeting, the Selectboard, ~~duly certified,~~ shall meet for the purpose of taking the oath of office, organizing, electing a ~~Chair~~ chair and ~~Vice Chair~~ vice chair, and the adoption of adopting rules for the transaction of business.

(II) The Town Clerk or designee shall preside at the organizational meeting of the Selectboard prior to the election of the Board Chair.

* * *

(ii) Regular meetings.

* * *

(II) ~~The time and place of regular Selectboard meetings shall be publicly announced to the media. [Repealed.]~~

(iii) Agenda.

(I) ~~The Chair or Vice Chair shall, with the Town Manager, prepare a written agenda for each regular meeting of the Selectboard. [Repealed.]~~

(II) Any Selectboard member, citizen in attendance, or the Manager may request at the start of the meeting that items be added to the agenda, ~~provided all Selectboard members present so vote to add the item. Items may be added to the agenda subject to Selectboard approval.~~

(iv) Quorums; votes.

* * *

(III) No action of the Board shall be valid or binding unless acted upon by ~~the affirmative vote of three or more members of the board a majority of the members present~~ unless otherwise provided for by this charter.

(v) ~~Clerk; minutes~~ Minutes.

(I) The Town Clerk or the Selectboard's designee shall be the official Clerk of the ~~Board~~ Selectboard and shall be responsible for minutes in a form prescribed by ~~the Board~~ Vermont's Open Meeting Law.

(II) ~~The Selectboard may employ a stenographer to assist the Town Clerk in the discharge of duties related to minutes. [Repealed.]~~

(vi) Special meetings and workshops.

~~(I) Special meetings may be called at any time by the Chair, or the Vice Chair in the absence of the Chair, or by written request, signed by three Board members.~~

~~(II) Notice of a special meeting shall be served, in a reasonable manner, on all members of the Selectboard.~~

~~(III) Notice of the special meeting shall be released to the local news media.~~

~~(IV) Whenever practical, an agenda shall be issued at a special meeting, with additions to be handled in the same manner as regular meetings.~~

~~(V) If an emergency meeting of the Selectboard is required, on very short notice, every possible effort shall be made to notify the media.~~

(vii) Public meetings; citizen input; executive Executive session.

~~(I) All meetings of the Selectboard shall be open to the public and shall comply with all the pertinent provisions of this charter.~~

~~(II) Allowances should be made informally or on the agenda for citizen comment unless it interferes with regular business.~~

~~(III) The Board Selectboard may, upon a vote of four (4) members hold an executive session to discuss any action in accordance with the provisions of section 6 of this charter Vermont's Open Meeting Law.~~

~~(viii) Correction of irregularities. Any irregularities or defects in the notice of or conduct of any meeting of the Selectboard may be cured at any subsequent regular meeting, provided that such resolution is included on the agenda of a regular or special meeting and is adopted by a majority of the Board. [Repealed.]~~

(ix) Vacancies. A vacancy on the Selectboard shall may be filled by a majority vote of the remaining Board Selectboard, said the appointment to run until the next annual Town meeting at which an election can shall be warned to fill the any unexpired term.

(2) Listers.

~~(A) There shall be two elected listers elected on a nonpartisan basis for three-year terms that shall not coincide.~~

~~(B) The Chief Assessor shall serve as a third lister.~~

~~(C) Duties and responsibilities of the listers shall be in accordance with State statute and herein limited.~~

~~(D) Vacancies on the Board of Listers shall be filled by a majority vote of the Selectboard, said appointment to run until the next annual Town meeting at which an election can be warned to fill the unexpired term. [Repealed.]~~

(3) Moderator.

* * *

~~(B) Should a vacancy occur in the office of Moderator, it shall may be filled by a majority vote of the Selectboard for the, the appointment to run until the next annual Town meeting at which an election shall be warned to fill any unexpired term.~~

(4) ~~Town Constable~~ Library Trustees.

~~(A) There shall be elected a Town Constable, who shall serve a one-year term.~~

~~(B) The Constable shall be responsible for assisting the Town Clerk in the regulation and licensing of dogs.~~

~~(C) The Constable shall be in attendance at all Town meetings thereby serving as a Sergeant at Arms to assist the Moderator as necessary in the maintenance of order.~~

~~(D) The constables shall have powers of service equal to a deputy sheriff under Vermont Statutes.~~

~~(E) The Constable may exercise the law enforcement duties vested in the position only upon completion of certifiable training and being subject to the supervision of the Chief of Police.~~

~~(F) A vacancy in the Office of Constable shall be filled by a majority vote of the Selectboard.~~

(A) The Library Board of Trustees shall consist of seven members to be elected at large.

(B) Library Trustees shall serve staggered terms of three years.

(C) Should a vacancy occur in the Office of Library Trustee, it may be filled by a majority vote of the Selectboard, the appointment to run until the next annual Town meeting at which an election shall be warned to fill any unexpired term.

(5) Cemetery ~~commissioners~~ Commissioners.

(A) ~~There shall be elected five Cemetery commissioners for a term of five years on a rotating basis~~ Commissioners each to serve staggered five-year terms.

(B) ~~The Town Clerk shall be a sixth cemetery commissioner, but shall not vote~~ nonvoting ex-officio member of the Cemetery Commission.

* * *

(F) ~~Vacancies shall~~ Should a vacancy occur in the office of cemetery commissioner, it may be filled by a majority vote of the Selectboard, said the appointment to run until the next annual Town meeting at which an election can shall be warned to fill the unexpired term.

(6) Trustees of public funds. Public funds are funds received from private outside sources for specific long-term purposes and are maintained separately from the general operating fund. The Town has a fiduciary responsibility to maintain these funds in accordance with any restrictions placed on the funds at the time the funds were received.

(A) ~~There shall be elected three trustees of public funds, each to serve a~~ staggered three-year term terms.

(B) ~~The Town Treasurer shall serve the trustees of public funds in an advisory capacity in connection with fund management and shall attend all meetings.~~ [Repealed.]

* * *

(D) ~~The trustees shall be charged with maximizing the return on all invested funds while maintaining their security,~~ which shall include the preservation of principal. ~~In service of this goal, they shall file with the Selectboard an annual plan outlining the program of investments for the year.~~

* * *

(F) ~~Vacancies on the trustees shall~~ Should a vacancy occur in the office of trustee of public funds, it may be filled by a majority vote of the Selectboard, said the appointment to run until the next annual Town meeting at which an election can shall be warned to fill the unexpired term.

§ 24. APPOINTED NONADMINISTRATIVE OFFICIALS

(a) General provisions applying to all appointed positions.

* * *

(3) All appointees shall be administered the oath of office in the form as provided for by statute, if applicable.

* * *

(5) ~~For the purposes of the administrative code, within one year after the adoption of this charter, all appointees, positions, boards, and commissions shall be required to submit a proposed ordinance to the Selectboard outlining duties and responsibilities, which the Selectboard shall amend and adopt. [Repealed.]~~

* * *

(7) Although operating independently, all appointive boards and commissions shall be required to cooperate with the Selectboard in the exercise of their duties in the pursuit of the public good. They shall be required to file an annual report for inclusion in the Town report, and also to file any other reports requested by the Selectboard, and ~~be in attendance at attend~~ any meeting so requested by the Selectboard.

(8) If an appointed official misses three consecutive ~~regular~~ regularly scheduled meetings of the appointed body ~~for reasons other than health or personal emergency, that office may be declared immediately vacant by the Selectboard, the chair of that board or commission shall report to the Selectboard, who may then declare that position vacant. The official shall be entitled to a hearing before the Board prior to a final determination.~~

* * *

(10) ~~Members of the administrative service~~ Town employees may serve in appointive positions as limited by charter, but may not vote on any issue directly affecting their position or conditions of employment.

(b) Appointed positions.

(1) The functions of the following positions are created by this charter, ~~their functions to be governed by the applicable State statute, as limited by charter or ordinance:~~

(A) ~~Weigher of Coal; [Repealed.]~~

(B) ~~Fence viewers; [Repealed.]~~

* * *

(D) ~~Surveyor of Wood and Lumber; [Repealed.]~~

* * *

(I) ~~Grand Juror; [Repealed.]~~

(J) Delinquent Tax Collector;

(K) Town Constable.

(i) The Selectboard shall appoint the Town Constable, who shall serve a one-year term.

(ii) The Constable shall be responsible for assisting the Town Clerk in the regulation and licensing of dogs.

(iii) The Constable shall be in attendance at all Town meetings and shall serve as sergeant at arms to assist the moderator as necessary in the maintenance of order.

(iv) The Selectboard may assign additional responsibilities to the Constable as necessary or convenient.

(v) A vacancy in the Office of the Constable shall be filled by a majority vote of the Selectboard.

(c) Appointed boards and commissions established by charter.

(1) Planning Commission.

(A) The Selectboard shall appoint the members of the Planning Commission in accordance with State statute. All members shall be registered voters of the Town.

~~(B) The duties and responsibilities of the Planning Commission shall be in accordance with State statute as limited herein. [Repealed.]~~

(2) ~~Zoning Board of Adjustment Development Review Board.~~

~~(A) The Selectboard shall appoint the members of the Zoning Board of Adjustment Development Review Board in accordance with State statute. All members shall be registered voters of the Town.~~

~~(B) Duties and responsibilities of the Zoning Board of Adjustment shall be in accordance with State statute as limited herein. [Repealed.]~~

(3) Housing Authority.

(A) The Selectboard shall appoint members of the Housing Authority established pursuant to 24 V.S.A. chapter 113.

~~(B) The Housing Authority shall be the agency responsible for dealing with all publicly owned housing, and subsidized housing issues in the Town of Springfield. [Repealed.]~~

* * *

(4) Airport Commission.

(A) ~~So long as~~ Provided that there is ~~an~~ a regional, State-owned airport in ~~Springfield~~ the Town, the Selectboard shall appoint an Airport Commission, the number of members to be decided by the Selectboard.

* * *

(d) Boards, commissions, committees created by Selectboard action.

* * *

(3) Any body created under this ~~section~~ subsection shall not have an effective life of more than three years. At the end of that period, the mandate creating the committee shall terminate and the Selectboard shall be required to review the reason for the body's existence and may act to reconstitute the body.

Subchapter 3. The Administrative Service

§ 31. THE TOWN MANAGER

* * *

(b) Qualifications. The Town Manager shall be appointed solely on the basis of ~~his or her~~ the person's executive and administrative skills, based on education, training, and experience relative to the duties of the Town Manager, and without reference to political belief or personal relationships.

(c) Term of appointment. The Manager may be appointed for ~~an indefinite~~ a term of not less than two years and not more than five years and may be removed at the pleasure of the Selectboard.

(d) Residency. The person appointed as Town Manager ~~need not be a resident of the Town or State at the time of appointment, but must assume residence within a period judged reasonable by the Selectboard, but not to exceed six months~~ must become a resident of Vermont within six months of appointment and may be required to become a resident of the Town within a period of time judged reasonable by the Selectboard at the time of appointment.

(e) ~~Conditions~~ Terms and conditions of employment; compensation. The conditions of employment and compensation shall be a matter to be determined at the time of appointment, and annually thereafter by the Selectboard ~~on the Manager's anniversary date~~ on a date convenient for the annual budgeting process, after negotiations that may be held in executive session between the Town Manager (candidate) and the Selectboard.

(f) Town Manager; evaluation. Before the Selectboard determines the subsequent annual compensation of the Manager, the Board and Town

Manager shall be required to hold an evaluation session in executive session, at which the Town Manager shall present management goals for the coming year based on townwide goals articulated by the Selectboard, and shall be evaluated by the Selectboard regarding performance in relation to such goals set out for the previous year, and the Selectboard may also employ commonly used evaluation practices in the town management profession.

(g) Oath and bond. Before entering into the duties of office, the Town Manager shall be sworn to the impartial and faithful performance thereof, with a certificate to that effect to be filed with the Town Clerk. The Town Manager shall execute a bond in favor of the Town for the faithful performance of ~~his or her~~ the Town Manager's duties in a sum determined by the Selectboard, or shall purchase comparable insurance coverage. The premium for said surety shall be paid by the Town.

(h) Town Manager nonrenewal or removal. The ~~Town Manager~~ Manager's term of employment may be not renewed without explanation or reason. The Town Manager may be removed at the discretion of for cause by the Selectboard, with ~~no~~ written reasons presented to the Town Manager and an opportunity for a public hearing before the Selectboard with not less than four affirmative votes, after the following procedure is followed:

(1) ~~The Board~~ Selectboard shall draft, in executive session, a resolution stating its intent to remove the Town Manager. ~~Said~~ The resolution must state the reasons for removal and must be served upon the Town Manager personally, not more than five days from the date of drafting.

(2) ~~Within five working days from the date of service of the resolution, the Manager must file with the Selectboard a written request for a public hearing. Failure to file said notice shall constitute waiver of the right to a hearing.~~

(3) ~~No less than 15 days but no more than 45 days from the deadline prescribed in subdivision (2) of this subsection, the Selectboard shall schedule a meeting or public hearing for the purpose of considering the resolution.~~

(4) ~~Final action on the resolution shall be taken within five days of the hearing in subdivision (3) of this subsection.~~

(5) ~~During the period in which the above proceedings transpire, the Manager shall be on administrative leave and accrue full salary until official date of action on the resolution.~~

(6) Action by the Selectboard in the removal of a Town Manager shall be final.

~~(7) In the event of the removal of a Manager for reasons other than poor performance or wrongful conduct, the Selectboard may negotiate severance pay to the maximum of six months.~~

(i) Acting Town Manager; vacancy in the office.

(1) In the event that the Town Manager shall be absent from the Town for a period exceeding two consecutive weeks, ~~he or she~~ the Town Manager shall designate an acting Town Manager, subject to the advice and consent of the Selectboard, who shall exercise the duties of Town Manager. ~~The Manager may overrule the actions of the Acting Manager.~~

(2) In the event that illness or injury renders a Town Manager unable to discharge ~~his or her~~ the Town Manager's duties for a period exceeding two consecutive weeks, or in the event that the Town Manager is suspended or placed on administrative leave, the Selectboard shall declare a vacancy in the office and appoint an acting Town Manager to serve until such time as the Town Manager is able to assume regular duties or a new Town Manager is selected appointed.

(3) An acting Town Manager appointed to fill a declared vacancy in the office shall have all the powers and perform all the duties of the Town Manager and shall be compensated at a rate of ~~pay not inconsistent with the responsibilities of the position as determined by the Selectboard.~~ An acting Town Manager shall not serve for more than 180 calendar days unless the Selectboard determines there are extenuating circumstances that warrant an extension of that time period.

* * *

(j) ~~Responsibilities and authority of the Town Manager and authority.~~

(1) In general. The Town Manager shall be the chief administrative officer of the Town. ~~He or she~~ The Town Manager shall be responsible accountable to the Selectboard for the administration and general supervision of all business affairs and property placed in ~~his or her~~ the Town Manager's charge pursuant to this charter, State statute, or otherwise.

(2) Limits to authority in general.

(A) ~~The~~ In addition to the limits on authority enumerated in State statutes, authority of the Town Manager shall in no way extend to:

* * *

(iii) ~~judicial or legislative functions of the Selectboard or other legal bodies, boards, and commissions~~ Town public bodies;

* * *

(B) The Town Manager may, upon request, advise or counsel officials in the performance of the ~~above~~ duties in subdivision (A) of this subdivision (2).

(C) The ~~Town of Springfield. He or she~~ The Town Manager may, however, serve on appointed ~~boards and commissions~~ public bodies relevant to Town functions in an ex officio status, as may be determined by the Selectboard.

(3) Authority and duties in particular. ~~The~~ In addition to the authority conferred by State statute, the Town Manager shall be charged with full authority to, and be responsible for the following:

(A) ~~To organize, reorganize, continue, or discontinue such Town Departments as the Board may determine.~~ [Repealed.]

* * *

(D) To institute and maintain an appropriate budget and financial internal control system systems.

(E) To keep the Selectboard informed on the financial condition of the Town, including monthly and year end reports showing in detail all ~~receipts~~ revenues and expenditures for Town functions

* * *

(G) To make such reports as the Selectboard may require, or the Manager deems appropriate, or may be required by law ~~or ordinance~~ regarding any and all functions under ~~his or her~~ the Town Manager's supervision.

(H) To keep full and complete records of the actions of the Town Manager's office.

(I) To be present at all regular Selectboard meetings unless excused by the Board and to have the right to attend and ~~take part~~ participate in all special meetings of the Selectboard and subcommittees ~~thereof~~, except when the removal of the Town Manager is being discussed. ~~Nothing herein shall deny the Manager any rights outlined in subsection (h) of this section, Town Manager removal.~~

(J) To appoint, upon merit ~~and fitness alone~~, and, when the Town Manager deems necessary for the good of the service Town, suspend or remove any subordinate official, employee, or agent under the Town Manager's supervision as provided for in this charter. Notwithstanding appeals of Town Manager decisions to the Selectboard, the Town Manager

shall have the exclusive authority to hold subordinate employees, officers, or agents responsible for the faithful discharge of their duties. All such appointments may be without definite terms unless for provisional, temporary, or emergency service, in which case, terms shall not exceed the maximum periods prescribed by the ~~personnel rules and regulations~~ employee handbook. The Town Manager may authorize the head of a department, or of an office responsible to the Town Manager, to appoint and remove subordinates in ~~such~~ the office or department.

(K) To ensure the proper and equitable administration of the Town's ~~personnel system~~ human resources function.

(L) To ~~fix the compensation of~~ make recommendations to the Selectboard as to the compensation for Town employees as provided in this charter.

(M) To remain ultimately responsible to the Selectboard for all administrative actions under ~~his or her~~ the Town Manager's jurisdiction although ~~he or she may hold subordinate employees offices or agents responsible for the faithful discharge of their duties.~~

* * *

(O) To examine, or cause to be examined, with or without notice, the affairs of any department under ~~his or her~~ the Town Manager's control, or the conduct of any officer or employee ~~thereof~~ of a department under the Town Manager's control. For this purpose, the Town Manager shall have access to all books, papers, files, reports, or records of all departments that may be necessary for the proper performance of ~~his or her~~ the Town Manager's duties.

(P) To ensure the preservation of the public peace, health, and safety of persons and property, ~~and;~~ to see to the enforcement of this charter, and ordinances; and to ensure the Town's compliance with State and federal laws as applicable.

* * *

(R) To have charge and supervision of all Town buildings, properties, and facilities, all repairs thereon, and all construction by the Town ~~unless otherwise voted.~~

(S) To ~~supervise and~~ expend all special appropriations of the Town as if they were a separate Town department, ~~unless otherwise voted by the town or provided in this charter.~~

(T) To cause to be collected ~~by the Town Treasurer, or to collect,~~ all taxes due the Town, except as otherwise provided by statute.

* * *

(V) To perform such other duties consistent with ~~his or her~~ the Town Manager's office as may be required by a vote of the Selectboard, by law, ordinance, or mandate not inconsistent with this charter.

(4) Accountability, ~~noninterference~~, and appointive power. The Town Manager shall be responsible to the Selectboard for the proper and efficient administration of the departments under ~~his or her~~ the Town Manager's charge as outlined ~~above~~ in this charter. Neither the Selectboard, any individual member of the Selectboard, nor any of its committees or committee members shall dictate the appointment or discharge of any Town employee by the Town Manager, or in any manner interfere with ~~his or her~~ the Town Manager's exercising of judgment in the appointment and discharge of employees in the administration.

(5) Noninterference with administrative discretion and supervision: Except for the purposes of formal inquiries ~~or~~, investigations, suspensions, and terminations made under this charter, the Selectboard and its members shall deal with the ~~administration~~, Town officers, and employees, who are subject to the Town Manager's direction and supervision, solely through the Town Manager. Neither the Selectboard ~~or~~ nor any of its members shall give orders to, or request any action publicly or privately of any Town employee. Communications for the purposes of information and background shall be considered proper when approved by the Town Manager.

§ 32. ADMINISTRATIVE DEPARTMENTS

~~(a) Plan of administrative organization. Within one year after the adoption of this charter, the Town Manager shall submit to the Selectboard a plan of organization for the administration, dividing the administrative service into departments and divisions and defining the functions of each. Said plan shall be reviewed and acted on within 30 days from submission. [Repealed.]~~

(b) Department heads. Each Town department shall have a designated department head appointed by the Town Manager who shall supervise and control the department and employees ~~therein~~ of the department. The Town Manager may, at any time, assume the duties of a department head.

* * *

(d) Creation, reorganization, consolidation, or abolition of administrative departments. Departments within the ~~administrative—service~~ Town administration can only be created, reorganized, consolidated, or abolished by formal action of the Selectboard.

§ 33. ADMINISTRATIVE CODE

~~(a) Submission and adoption. On a timetable prescribed by the Selectboard, but not to exceed two years in length, the Town Manager shall assemble an administrative code for review and approval by the Selectboard, which shall consist of~~ The administrative code shall include the following:

* * *

~~(3) a copy of the Town's personnel rules and regulations~~ employee handbook, classification, and pay plan;

~~(4) a copy of the Town's financial and purchasing and procurement regulations~~ policies;

* * *

~~(6) enabling Town~~ legislation, ordinances, and resolutions for all Town boards, commissions, and committees public bodies, accompanying an updated list of all elected and appointed officers;

~~(7) A copy of the plan of administrative organization.~~

(b) Distribution and availability.

(1) ~~Copies of the~~ The administrative code and its components shall be considered ~~an official document~~ documents to which a person may refer for up-to-date information on the Town.

~~(2) The document shall be placed in the Town Hall and Library for free public access and sufficient copies made for sale to citizens at a cost of production fixed by the Selectboard~~ A current administrative code shall be made available in the Town Clerk's office for public access at no charge.

~~(c) Administrative Code update. The Town Clerk shall be responsible for the accurate maintenance and update of the administrative code.~~

§ 34. ADMINISTRATIVE AND POLICY FUNCTIONS PRESCRIBED BY CHARTER

(a) Department of Assessment.

(1) There shall be a the Department of Assessment ~~to consist of a Chief Assessor, the elected listers,~~ as prescribed by charter and State statute, ~~and such assistants and support~~ with any staff as may be recommended by the Town Manager and approved by the Selectboard.

(2) The ~~Chief Assessor~~ head of the Department of Assessment shall be appointed or removed by the Town Manager with the advice and consent of the Selectboard.

* * *

(4) The Department of Assessment shall have the same powers, discharge the same duties, proceed in the discharge thereof of those duties, and in the same manner be subject to the same liabilities as are prescribed for assessors, listers, or boards of listers under the laws of the State of Vermont, except as herein provided in this section. Tax grievances shall be appealed to the Department of Assessment. Appeals from the Department of Assessment will be to the Board of Civil Authority.

~~(5) The Department of Assessment on January 1 of each year shall proceed to take up such inventories and make such personal examination of the property, both real and personal, which they are required to appraise as will enable them to appraise it at its fair market value.~~

~~(6) The Department shall review, or cause to be reviewed, their appraisals of all real property in the Town which is subject to taxation in accordance with the standards of appraising established by the laws of the State of Vermont, except as herein provided.~~

~~(7) All employees in the Department of Assessment shall be governed by applicable rules and regulations promulgated under this charter.~~

~~(b) Town Clerk, Grand Juror, Town Treasurer, Town Attorney.~~

~~* * *~~

~~(2) The duties of the Town Clerk and Town Treasurer shall be as prescribed by statute, except as provided herein.~~

~~* * *~~

~~(4) The term of the Grand Juror shall not exceed three years. He or she shall be responsible for the prosecution of violations of local ordinances. The salary of the Grand Juror shall be fixed by the Selectboard and he or she shall be responsible to the Board in the performance of his or her duties. The Grand Juror shall be duty bound to work in cooperation with the Town Manager and administrative service. The Grand Juror may recommend to the Selectboard the appointment of staff who shall be part of the administrative service. [Repealed.]~~

~~(5) Appointments of the Town Clerk, Grand Juror, Treasurer, and Town Attorney shall be validated by the voters at the next annual town meeting following the appointment. Until validation, all appointments shall be temporary. [Repealed.]~~

~~(6) Removal of a the Town Clerk, Grand Juror, Town Treasurer, and Town Attorney shall be by a process identical to removal of the Town Manager as outlined in section subsection 31(h) of this charter.~~

* * *

(8) Support personnel, supplies, material, and equipment for the Town Clerk and Town Treasurer shall may be provided by the Selectboard upon recommendation by the Town Manager.

* * *

(10) All staff provided to the Town Clerk, ~~Grand Juror,~~ and Town Treasurer shall be part of the ~~administrative service~~ Town administration and be subject to all rules and regulations ~~promulgated~~ adopted under this charter.

* * *

(c) ~~Personnel system~~ Human Resources Department.

(1) Merit principle outlined. All employment actions relating to Town officers and employees shall be made ~~solely~~ on the basis of merit, ~~and fitness~~ except for employees subject to collective bargaining agreements.

(2) ~~Personnel Director~~ Human Resources Manager.

(A) There shall be a ~~Personnel Director~~ Human Resources Manager who shall be responsible for the ongoing administration of the Town's ~~personnel system~~ human resources system. The ~~Personnel Director~~ Human Resources Manager shall be the ~~Town Manager or his or her~~ Town Manager's designated agent, but must be a member of the ~~administrative service~~ Town administration.

(B) The authority of the ~~Personnel Director~~ Human Resources Manager in relation to all Town department heads shall be prescribed by the Town Manager.

(3) ~~Personnel merit system ordinance~~.

(A) ~~There shall be adopted, within six months of the passage of this charter, a new personnel and merit system ordinance which shall carry the full force of law embodied in this charter.~~

(B) ~~The personnel ordinance shall enable the enactment of rules and regulations which shall include the following provisions:~~

(i) ~~a classification and pay plan for all Town employees with uniform procedures for reclassification;~~

(ii) ~~a system of evaluation for fitness or merit for appointment and promotion;~~

(iii) ~~a system of discipline and removal for cause or unfitness for duty;~~

~~(iv) a system for the reduction in the work force, layoff, and recall;~~

~~(v) a system dictating hours of work and attendance policies;~~

~~(vi) allowances for provisional and part time appointments;~~

~~(vii) a program for in-service training and employee development;~~

~~(viii) a system for the hearing, processing, and resolution of employee grievances;~~

~~(ix) provisions for relations with employee organizations and/or unions;~~

~~(x) a uniform system regulating benefits, sick time, and vacations;~~

~~(xi) opportunities for employee input related to safety, the quality of the work environment, and increased productivity;~~

~~(xii) other practices, procedures, and issues as may be necessary to the ongoing administration of the personnel system. [Repealed.]~~

(4) Personnel rules and regulations ~~employee~~ Employee handbook.

(A) The Personnel Director Human Resources Manager shall issue and maintain ~~in updated status a set of comprehensive rules and regulations an~~ employee handbook governing the ongoing administration of the Town personnel human resources system.

~~(B) The personnel rules shall be adopted and amended by a procedure established by the Selectboard and shall carry the full force of law of this charter.~~

~~(C) Copies~~ A copy of the personnel rules employee handbook shall be provided to each Town employee.

(5) Town charter and collective bargaining agreements.

~~(A) The Selectboard may not commit the Town to any collective bargaining agreement which shall contradict, violate, or circumvent any provision of this charter or ordinances passed pursuant to this charter shall have the sole authority to enter into collective bargaining agreements and may commit the Town to collective bargaining agreements that shall control over conflicting rules and regulations adopted pursuant to this charter.~~

~~(B) Selectboard may commit the Town to bargaining agreements which shall act as a substitute for rules and regulations promulgated pursuant to this charter. [Repealed.]~~

(6) Service of Town employees in elective or appointive office.

(A) A Town employee may not, ~~other than membership in the General Assembly,~~ hold a local, State, or federal elective office, other than membership in the General Assembly, which that makes policy that shall directly or indirectly affect ~~his or her~~ the employee's department or any Town functions while employed by the Town of Springfield.

* * *

(C) A Town employee may not be disciplined ~~in any way for failing refusing to electioneer on behalf of~~ campaign for or against any candidate for any ~~local Town~~ elective office, contribute financially to a ~~local candidate's~~ campaign, or take or advocate a position on referendum questions.

(D) Nothing herein shall limit the right of an employee to express ~~his or her~~ the employee's opinion on a matter of public concern, belong to a political party, or exercise ~~his or her~~ the employee's right to vote, ~~except as limited in subsection (c) above.~~

(E) Nothing herein shall limit the right of employees to participate in the elective process for State and federal offices, except as otherwise stated in this section.

(7) Surety bonds. Any Town officer and employee, as required by the Selectboard, shall annually give surety bonds or shall purchase comparable coverage to the satisfaction of the Selectboard for the faithful discharge of ~~his or her~~ the officer or employee's duties. In the event any officer or employee neglects to give a bond, is unable to obtain a bond, or obtain comparable coverage as herein specified in this section, after 10 calendar days' notice from the ~~Board~~ Selectboard that ~~he or she~~ the officer or employee is required to do so, ~~his or her~~ the officer or employee's office or position shall ~~thereupon~~ become vacant and the vacancy shall be filled as provided in this charter. ~~Each bond must be approved by the Town Attorney.~~ All official bonds shall be corporate surety bonds, and the premiums thereon shall be paid by the Town. Such bonds shall be filed with the Town Clerk.

Subchapter 4. Budgets and Finance

§ 41. FISCAL YEAR OF THE TOWN GOVERNMENT

The fiscal year ~~for of the~~ Town government shall be fixed by the Selectboard, ~~in a manner to maximize efficiency in Town financial matters.~~

§ 42. OPERATING TOWN MANAGER'S PROPOSED BUDGET

TIMETABLE AND PREPARATION

(a) Submission of timetable. At least five months before the scheduled date of Town meeting, the Town Manager shall prepare and present to the

Selectboard and Budget Advisory Committee a proposed timetable ~~which that~~ shall project the progress of events leading to the adoption of the Town budget.

(b) Statement by the Selectboard regarding budget policy. Upon receipt of the Town Manager's timetable, the Selectboard shall issue an annual budget policy statement, outlining the direction the Town Manager shall take in the drafting or assembly of the budget document.

(c) Departmental submissions. In following the timetable submitted to the Selectboard, all department heads, and elected or appointed officials with budget responsibility shall submit ~~operating~~ budget requests to the Town Manager in a ~~uniform~~ the format ~~to be established by the~~ Town Manager.

(d) Drafting of ~~administration's proposed~~ annual budget.

(1) Unified administrative request. The Town Manager shall, ~~upon after~~ consultation with department heads, ~~draft a unified, proposed operating budget for submission~~ submit to the Selectboard, ~~reflecting a single budget request from the administration for each department~~ all departments.

(2) ~~Manager's budget~~ Budget message. The Town Manager's ~~administration's~~ proposed budget shall be ~~preceded~~ introduced by a budget message ~~which that~~ shall explain the budget in both fiscal terms and in terms of work programs. It shall outline the ~~proposed financial policies~~ budget of the Town for the coming year, describe important features of the budget, indicate any major changes from the current year in terms of ~~financial policies,~~ revenues, and expenditures, indicating the reasons for ~~the change~~ any changes. The message shall summarize the Town's debt position, include a profile of the capital expenditure program for the year, and also include any other material ~~which that~~ the Town Manager deems appropriate.

(3) Budget; contents, and format.

(A) The ~~proposed~~ budget shall provide a complete financial plan for all Town funded activities for the ensuing fiscal year, and except as required by law, or charter, shall be in a form the Town Manager deems appropriate or the Selectboard may ~~require~~ prescribe.

(B) ~~In organizing the budget, the~~ The Town Manager shall ~~utilize~~ organize the budget by utilizing the most feasible combination of expenditure classifications by fund, organizational units, work ~~program~~ programs, purposes, ~~action~~ actions, and objects.

(C) The budget shall begin with a clear, general summary of its contents and shall show, ~~in detail,~~ all ~~proposed revenues, income,~~ expected revenue and all proposed expenditures.

(D) The budget should be arranged so as to show comparative figures for actual and ~~estimated~~ budgeted revenues, ~~income~~, and expenditures for the preceding year, and for the year covered by the ~~proposed~~ budget.

(E) The budget shall include ~~in separate sections~~:

(i) proposed expenditures for ~~current~~ operations during the ensuing fiscal year, detailed by offices, departments, and agencies, detailed in terms of respective work programs, and the method of financing such expenditures;

* * *

(iv) proposed estimated ~~monies~~ revenues to be raised from ~~all sources~~ each source to be collected, levied, or raised by taxation to defray the expenses of the Town.

(e) Subsidiary budgets for utilities.

* * *

(2) Cross subsidy in areas other than fund management between Town government operations and utility operations shall be limited to ~~legitimate~~ services and support provided as approved by the Selectboard.

§ 43. CAPITAL EXPENDITURE PROGRAM

(a) Preparation and submission. The Town Manager, after consultation with department heads, shall submit a proposed five-year capital expenditure program to the Selectboard, with a copy provided to the Budget Advisory Committee, at least three months prior to Town meeting.

(b) Contents.

(1) The capital expenditure program shall include:

(A) a ~~clear~~ narrative summary of ~~needs~~ requests;

* * *

(C) ~~Actual cost~~ cost estimates, proposed methods of financing, and necessary time schedules for each improvement; or asset

~~(D) Estimated annual cost of operating and maintaining the facilities to be constructed or acquired.~~

(c) Revision and update. The above program shall be revised and extended each year to reflect progress or projects still pending or assets to be acquired.

(d) Inclusion in ~~annual~~ budget. A summary of the capital expenditure program shall be included in the ~~annual~~ budget with special emphasis on the expenditures for the particular year.

§ 44. ~~CAPITAL RESERVE FUNDS AND EQUIPMENT FUNDS~~

(a) The Selectboard may raise and appropriate money for the establishment of capital reserve or equipment reserve funds for the financing of all or part of:

* * *

~~(3) the size and regulation of capital reserve funds shall be determined by Selectboard action other purposes to meet specific obligations and needs of the Town so as to ensure efficient operations.~~

(b) The size and regulation of reserve funds shall be determined by the Selectboard.

§ 45. SELECTBOARD ACTION ON THE BUDGET

Board review and final action.

(1) The Selectboard shall schedule ~~public~~ one or more meetings, as it deems appropriate, for the review and discussion of the ~~administration's proposed~~ budget ~~proposal~~ and comments from the Budget Advisory Committee.

* * *

(3) The ~~Board~~ Selectboard shall then schedule a public hearing prior to Town meeting, warned as such.

(4) Following the public hearing, the Selectboard shall act to officially ~~fix~~ finalize the budget to be finalized or proposed at Town meeting.

(5) The Selectboard, in ~~fixing~~ finalizing the budget, shall place it on the warning as a gross appropriation.

§ 46. SPECIAL APPROPRIATIONS

In response to a request, or upon its own initiative, should the Selectboard so judge, the appropriation relative to a special element of Town business may be placed on the warning as a special appropriation by a majority vote of the Board Selectboard. In taking action, the Selectboard shall maintain the right to reject, alter, or reduce a request. This section does not apply to articles placed on the warning by petition, as described in subdivision 22(b)(3)(C)(i)(II) of this charter.

§ 47. ~~CITIZEN INPUT; CITIZEN PARTICIPATION IN THE BUDGET~~

ADVISORY COMMITTEE; BUDGET PROCESS

~~Citizen participation plan; public notice.~~

~~(1) Timetable. Before the sixth month of a fiscal year, the Selectboard shall draft and adopt a citizen participation plan, which shall provide for a committee of not more than 18 citizens, for the upcoming budget cycle.~~

~~(2) Contents.~~

~~(A) The citizen participation plan shall outline, in specific terms, the manner by which the Selectboard intends to provide for citizen input and public notice of the budget and its contents.~~

~~(B) The citizen participation plan must provide for, but shall not be limited to formal budget workshops before Town meeting; along with the publication of a budget summary in the Town report indicating budgeted and actual expenditures for the current year and proposed expenditures for the coming year.~~

~~(C) The citizen participation plan shall make proper allowances for review of all special appropriations. The Selectboard shall appoint a Budget Advisory Committee that shall be composed of not less than five and not more than nine registered voters of the Town at least six months before the scheduled date of the annual Town meeting. The Budget Advisory Committee shall be governed by operating procedures established by the Selectboard.~~

~~§ 48. APPROPRIATION-TOWN; BUDGET~~

~~(a) Gross appropriation fixed and levy.~~

~~(1) The vote of Town meeting or other action finalizing the Town budget shall make a gross appropriation for the coming fiscal year. The Town meeting may not make any budget No appropriation not recommended by the selectmen, may be voted unless such action was duly warned.~~

~~* * *~~

~~(3) Nothing herein shall limit the authorizing of payments or making of capital expenditures to be financed, wholly or partly whether in whole or in part, by the issuance of bonds except as provided in section 52 of this charter.~~

~~(4) Any officer The Town Manager or the Town Manager's designee may, upon approval of the Selectboard, make a contract or lease for payments beyond the end of the fiscal year.~~

~~(5) Every appropriation, except an appropriation for a capital expenditure and multiyear contracts for which Town monies have been obligated, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure~~

shall continue in force until the purpose for which it has been made has been accomplished or abandoned.

~~(6) The money raised by taxation, and other lawful sources, shall constitute the entire sum from which appropriations and payments are to be made by or under the authority of the Selectboard.~~

(b) Overruns on gross appropriations, emergency appropriations.

(1) The gross appropriation may not be exceeded, except by consent of the Selectboard, as ~~herein~~ limited in this charter.

* * *

(3) Any amount in excess of five percent of the gross appropriation shall be warned and voted by special or regular Town meeting.

(c) Under expenditures; excess revenues.

(1) Under expenditures. If during the fiscal year, the Board, upon recommendation and certification of the Town Manager, determines that there are funds available due to under expenditure of the funds or revenue returns exceeding projections proposed in the budget, the Board may make supplemental appropriations for the fiscal year up to the amount of such excess, not to exceed five percent of the gross appropriation.

* * *

(d) Surplus. Any surplus created, subject to the provisions of subsection (d) of this section, ~~shall~~ may be carried over to the next fiscal year's budget and counted as a fixed receipt on the calculation of the ensuing tax rate, or, by action of the Selectboard, may be placed in a capital reserve fund as provided for in this charter.

* * *

(f) Ongoing appropriation; in the event of a budget revote.

* * *

(2) ~~Expenditures~~ In the event that the budget is not adopted before the beginning of the fiscal year, expenditures during the budget revote shall be limited on a monthly basis to an allotment based on the prior year's appropriation until such time as the budget is adopted.

§ 49. FINANCIAL ADMINISTRATION AND TOWN BUDGET

(a) ~~Financial officer~~ Finance Director.

(1) ~~The Town Manager may appoint, on the basis of education, training, experience, and performance, an officer upon merit alone, a person who shall serve as financial officer~~ the Finance Director.

(2) ~~The financial officer~~ Finance Director shall be a member of the ~~administrative service~~ Town administration and be subject to all rules and regulations ~~therein~~ of the Town administration, and may be the Town Treasurer or ~~other administrative officer~~ a Selectboard member.

(3) ~~The financial officer~~ Finance Director shall perform such duties as the job description submitted by the Town Manager and approved by the Selectboard shall indicate.

(b) Depository of Town funds; cash and fund management.

* * *

(3) The officer responsible for each fund ~~management~~ shall issue a ~~regular~~ report of investments and yields to the ~~manager~~ Town Manager and the Selectboard at least annually and when requested by either the Town Manager or the Selectboard.

(c) Independent audit; ~~Town Auditor.~~

* * *

(2) ~~Such~~ The audits shall be made by ~~the Town Auditor who shall be a CPA~~ certified public accountant or firm of such accountants who have no personal interest, direct or indirect, with Town government, its fiscal affairs, or its officers.

(3) ~~The Board~~ Town Manager shall appoint such accountant or firm annually at a time proper to the scheduling of the audit itself.

(4) Should the State of Vermont make such an audit at the request of the ~~Board~~ Selectboard, it shall meet the requirements of this section.

(5) At the conclusion of the audit, the auditors shall present their report and findings to the Selectboard in open session.

(d) Authorization for expenditure of Town funds.

(1) Money shall not be paid out of the Town Treasury unless it is authorized by a payroll or payment authorization signed by at least three members of the Selectboard, or in accordance with the provisions of 24 V.S.A. § 1623.

(2) No payment of money on account of any department of which the Town Manager has supervision shall be made except upon vouchers approved by the Town Manager or ~~his or her~~ the Town Manager's designated agent.

(3) In the event of the absence, ~~disability termination~~, or suspension of the Town Manager, the Selectboard may approve ~~such~~ the vouchers or authorize their approval by ~~some other person~~ a Town employee or other Town officer.

(4) The Town Manager may provide for periodic or quarterly allotments of the appropriations to departments, funds, or agencies under such rules as ~~he or she~~ the Town Manager may prescribe and as may be agreeable to the Selectboard.

(e) Budget Financial reports, books, and records.

(1) Regular reporting. The Town Manager shall submit, on a schedule prescribed by the Selectboard, but ~~no~~ not less often than quarterly, a budget report indicating the relationship between actual and estimated ~~receipts~~ revenues and expenditures to date.

(2) All ~~books of account~~ accounting records, in relation to the receipt, holding, or disbursement of money of the Town kept by any official of the Town, shall be paid for by the Town, shall remain the property of the Town, and shall be turned over to the Town Clerk whenever the keeper of the ~~books of account~~ accounting records retires from office. All ~~books~~ records pertaining to Town affairs kept by the Town Manager, Town Clerk, or other elective or appointive officer of the Town shall be kept in the Town buildings in their proper places and shall not be removed therefrom without an order of a court or a vote of the Selectboard.

(f) Purchasing and procurement.

(1) All purchasing and procurement for the Town shall be the responsibility of the Town Manager, who may delegate purchasing authority ~~to~~ within the limits allowed by charter.

(2) All purchasing and procurement shall be by competitive bid or quote wherever practical or as required.

(3) The Town Manager shall ~~establish~~ maintain purchasing and procurement ~~guidelines~~ policies approved by the Selectboard as part of the Town code.

§ 50. TRUST FUNDS

(a) Trust funds of the Town of Springfield shall ~~continue to be~~ accounted for separately and kept separate and apart from other Town funds.

(b) Trust funds shall be ~~in the hands~~ the responsibility of the trustees of public funds in accordance with this charter and State law, unless the trust document specifies otherwise.

§ 51. TAXATION AND COLLECTION

(a) Authority for taxation.

(1) ~~The Town shall retain rights of taxation as afforded by State statute related to real estate and personal property.~~

(2) ~~The Selectboard shall be the tax authority for all Town and school functions and shall fix all rates of taxation as limited by charter and statute. [Repealed.]~~

(b) Responsibility for taxation and collection.

* * *

(2) ~~The Selectboard shall designate the Collector of Delinquent Taxes. [Repealed.]~~

(3) The Collector of Taxes or Delinquent Taxes may charge and collect such fees and interest as may be fixed by the Selectboard and shall deposit them ~~in~~ into the General Fund. Fees and interest established shall not exceed those provided by statute.

(c) Manner of collection.

(1) The timetable of tax collection in terms of due dates and installments shall be fixed by the Town Treasurer, subject to the approval of the Selectboard.

(2) ~~Delinquent taxes shall be administered in accordance with State statute. [Repealed.]~~

(d) ~~Tax abatement. Tax abatement shall be administered in accordance with State statute. [Repealed.]~~

(e) Tax stabilization.

(1) ~~Authority~~ The authority to negotiate and grant tax stabilization agreements shall be granted and revoked by the voters.

(2) The Selectboard shall negotiate all stabilization agreements when so authorized by the voters.

(3) Under this section, the Selectboard shall ~~draft~~ maintain uniform guidelines outlining the scope and nature of tax stabilization agreements.

~~(4) The Selectboard shall confer with the School Board on stabilization related matters but shall retain final authority on stabilization agreements.~~

~~* * *~~

~~(g) Tax classification; special nonresidential property tax; repeal of inventory tax:~~

~~(1) For purposes of this section:~~

~~(A) All real and personal property, other than inventory, that is not classified in the grand list as residential property, a farm, or vacant land shall be classified as commercial, industrial, utilities (electric), utilities (other), or equipment, and shall be collectively classified as "special nonresidential property." Special nonresidential property does not include property used for dwelling or farm purposes or accessory property which is subordinate to or customarily incidental to the main residential or farm use, such as garages and out buildings.~~

~~(B) "1996 minimum grand list value" means the aggregate grand list value of special nonresidential property and inventory on January 1, 1996.~~

~~(C) "Special tax" means the additional tax on special nonresidential property and inventory authorized by this section.~~

~~(2) Beginning with the January 1, 1997 grand list, the inventory tax shall be phased out over a period of five years and real and personal property shall be taxed as provided in this section.~~

~~(3) For purposes of calculating the property tax rate, the aggregate grand list value of special nonresidential property and inventory shall be the aggregate grand list value of such property and inventory as calculated below or the 1996 minimum grand list value, whichever is greater.~~

~~(4) Beginning with the January 1, 1997 grand list, special nonresidential property and inventory shall be subject to a special tax. The special tax shall be imposed in any tax year in which the aggregate grand list value of special nonresidential property and inventory is less than the 1996 minimum grand list value. The special tax shall be in addition to taxes imposed on real and personal property generally. The special tax rate shall be sufficient to generate the tax revenues necessary to fully offset the decrease in tax revenues that would result from basing the property tax rate on the 1996 minimum grand list value rather than the actual aggregate grand list value of special nonresidential property and inventory.~~

~~(5) Inventory shall be valued on the grand list as follows:~~

~~(A) 80% percent of fair market value as of January 1, 1997.~~

~~(B) 60% percent of fair market value as of January 1, 1998.~~

~~(C) 40% percent of the fair market value as of January 1, 1999.~~

~~(D) 20% percent of the fair market value as of January 1, 2000.~~

~~(E) Zero percent of the fair market value for the year 2001 and thereafter.~~

~~(6) Properties upon which payments are made in lieu of taxes pursuant to a contractual agreement with the Town shall be classified according to their grand list classification and assessed for the purposes of such payments.~~

~~(7) If a property is used for both residential and nonresidential purposes for both farm and nonfarm purposes, the value of the property shall be apportioned according to such uses and classified and assessed as in this section. [Repealed.]~~

§ 52. DEBT; AND BONDED DEBT FOR TOWN AND SCHOOL IMPROVEMENTS

(a) Authorization for any long-term bonded debt shall be granted by the voters at an annual or special Town meeting duly authorized for that purpose. As used in this section, "long-term" means a period of indebtedness greater than five years.

(b) An article requesting authorization to incur long-term debt can only be placed on the warning by a vote of four Selectboard members, ~~which indicates that the cost of the improvement will be too great to be paid out of the annual income or revenues of the Town.~~

~~(c) Any vote authorizing long-term debt shall only be valid if voted at a Town meeting at which the total number of votes casting ballots exceeds 10 percent of the total number of names on the checklist on the date of the last annual Town meeting. [Repealed.]~~

(d) Articles requesting authorization for long-term debt shall be warned in accordance with section 22(b)(3) of this charter related to Town warnings generally State statute.

(e) The Town Treasurer shall be authorized, subject to the approval of the Selectboard, to incur short-term debt in anticipation of taxes for Town and school funding.

Sec. 3. REPEAL

24 App. V.S.A. chapter 149, § 6 (open meetings; freedom of information) is repealed.

and by renumbering the remaining sections to be numerically correct.

(Committee Vote: 8-3-0)

Senate Proposal of Amendment

H. 679

An act relating to fiscal year 2022 budget adjustments

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

Sec. 1. 2021 Acts and Resolves No. 74, Sec. B.126 is amended to read:

Sec. B.126 Legislature

Personal services	5,033,474	5,138,474
Operating expenses	<u>3,768,163</u>	<u>3,768,163</u>
Total	8,801,637	8,906,637
Source of funds		
General fund	<u>8,801,637</u>	<u>8,906,637</u>
Total	8,801,637	8,906,637

Sec. 2. 2021 Acts and Resolves No. 74, Sec. B.127 is amended to read:

Sec. B.127 Joint fiscal committee

Personal services	2,288,387	2,478,387
Operating expenses	<u>158,873</u>	<u>158,873</u>
Total	2,447,260	2,637,260
Source of funds		
General fund	2,322,260	2,512,260
Interdepartmental transfers	<u>125,000</u>	<u>125,000</u>
Total	2,447,260	2,637,260

Sec. 3. 2021 Acts and Resolves No. 74, Sec. B.145 is amended to read:

Sec. B.145 Total general government

Source of funds

General fund	98,982,912	99,277,912
Transportation fund	3,911,594	3,911,594
Special funds	16,446,601	16,446,601
Federal funds	1,150,041	1,150,041
Internal service funds	138,310,838	138,310,838
Interdepartmental transfers	7,551,641	7,551,641
Enterprise funds	6,840	6,840
Pension trust funds	7,169,079	7,169,079

Private purpose trust funds	<u>1,135,286</u>	<u>1,135,286</u>
Total	<u>274,664,832</u>	<u>274,959,832</u>

Sec. 4. 2021 Acts and Resolves No. 74, Sec. B.225.2 is amended to read:

Sec. B.225.2 Agriculture, Food and Markets - Clean Water

Personal services	3,249,011	3,249,011
Operating expenses	486,344	486,344
Grants	<u>4,060,891</u>	<u>5,503,348</u>
Total	<u>7,796,246</u>	<u>9,238,703</u>
Source of funds		
General fund	1,087,080	1,087,080
Special funds	<u>6,089,920</u>	<u>7,532,377</u>
Federal funds	133,534	133,534
Interdepartmental transfers	<u>485,712</u>	<u>485,712</u>
Total	<u>7,796,246</u>	<u>9,238,703</u>

Sec. 5. 2021 Acts and Resolves No. 74, Sec. B.240 is amended to read:

Sec. B.240 Cannabis Control Board

Personal services	<u>650,000</u>	<u>850,000</u>
Total	<u>650,000</u>	<u>850,000</u>
Source of funds		
Special funds	<u>650,000</u>	<u>850,000</u>
Total	<u>650,000</u>	<u>850,000</u>

Sec. 6. 2021 Acts and Resolves No. 74, Sec. B.241 is amended to read:

Sec. B.241 Total protection to persons and property

Source of funds		
General fund	171,360,524	171,360,524
Transportation fund	20,250,000	20,250,000
Special funds	<u>91,319,879</u>	<u>92,962,336</u>
Tobacco fund	561,843	561,843
Federal funds	70,315,412	70,315,412
ARRA funds	520,000	520,000
Interdepartmental transfers	14,457,347	14,457,347
Enterprise funds	<u>12,785,618</u>	<u>12,785,618</u>
Total	<u>381,570,623</u>	<u>383,213,080</u>

Sec. 7. 2021 Acts and Resolves No. 74, Sec. B.300 is amended to read:

Sec. B.300 Human services - agency of human services - secretary's office

Personal services	<u>11,427,819</u>	<u>11,346,910</u>
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Operating expenses	5,214,621	5,214,621
Grants	<u>2,895,202</u>	<u>2,895,202</u>
Total	19,537,642	19,456,733
Source of funds		
General fund	8,430,401	8,802,492
Special funds	135,517	135,517
Federal funds	9,959,398	9,959,398
Global Commitment fund	453,000	0
Interdepartmental transfers	<u>559,326</u>	<u>559,326</u>
Total	19,537,642	19,456,733

Sec. 8. 2021 Acts and Resolves No. 74, Sec. B.301 is amended to read:

Sec. B.301 Secretary's office - global commitment

Grants	1,680,637,999	<u>1,839,201,185</u>
Total	1,680,637,999	1,839,201,185
Source of funds		
General fund	559,592,034	585,702,238
Special funds	33,370,086	33,228,937
Tobacco fund	21,049,373	21,049,373
State health care resources fund	17,078,501	16,023,501
Federal funds	1,044,929,568	1,179,162,966
Interdepartmental transfers	<u>4,618,437</u>	<u>4,034,170</u>
Total	1,680,637,999	1,839,201,185

Sec. 9. 2021 Acts and Resolves No. 74, Sec. B.306 is amended to read:

Sec. B.306 Department of Vermont health access - administration

Personal services	130,163,425	130,170,447
Operating expenses	26,394,423	26,444,423
Grants	<u>3,192,301</u>	<u>2,912,301</u>
Total	159,750,149	159,527,171
Source of funds		
General fund	32,776,219	33,116,885
Special funds	3,363,758	5,678,861
Federal funds	114,469,002	111,590,255
Global Commitment fund	4,314,039	4,314,039
Interdepartmental transfers	<u>4,827,131</u>	<u>4,827,131</u>
Total	159,750,149	159,527,171

Sec. 10. 2021 Acts and Resolves No. 74, Sec. B.307 is amended to read:

Sec. B.307 Department of Vermont health access - Medicaid program - global commitment

Personal services	547,983	547,983
Grants	<u>757,772,233</u>	<u>855,581,847</u>
Total	<u>758,320,216</u>	<u>856,129,830</u>
Source of funds		
Global Commitment fund	<u>758,320,216</u>	<u>856,129,830</u>
Total	<u>758,320,216</u>	<u>856,129,830</u>

Sec. 11. 2021 Acts and Resolves No. 74, Sec. B.309 is amended to read:

Sec. B.309 Department of Vermont health access - Medicaid program - state only

Grants	<u>42,367,754</u>	<u>50,029,823</u>
Total	<u>42,367,754</u>	<u>50,029,823</u>
Source of funds		
General fund	<u>42,315,703</u>	<u>40,459,853</u>
Global Commitment fund	<u>52,051</u>	<u>9,569,970</u>
Total	<u>42,367,754</u>	<u>50,029,823</u>

Sec. 12. 2021 Acts and Resolves No. 74, Sec. B.310 is amended to read:

Sec. B.310 Department of Vermont health access - Medicaid non-waiver matched

Grants	<u>32,842,006</u>	<u>34,768,604</u>
Total	<u>32,842,006</u>	<u>34,768,604</u>
Source of funds		
General fund	<u>12,664,602</u>	<u>12,817,789</u>
Federal funds	<u>20,177,404</u>	<u>21,950,815</u>
Total	<u>32,842,006</u>	<u>34,768,604</u>

Sec. 13. 2021 Acts and Resolves No. 74, Sec. B.311 is amended to read:

Sec. B.311 Health - administration and support

Personal services	5,753,602	5,753,602
Operating expenses	6,567,686	5,946,041
Grants	<u>6,313,608</u>	<u>6,313,608</u>
Total	<u>18,634,896</u>	<u>18,013,251</u>
Source of funds		
General fund	<u>2,982,217</u>	<u>2,360,572</u>
Special funds	2,061,857	2,061,857
Federal funds	7,777,658	7,777,658
Global Commitment fund	5,748,858	5,748,858
Interdepartmental transfers	64,306	64,306
Total	<u>18,634,896</u>	<u>18,013,251</u>

Sec. 14. 2021 Acts and Resolves No. 74, Sec. B.314 is amended to read:

Sec. B.314 Mental health - mental health

Personal services	32,985,332	34,712,990
Operating expenses	4,700,264	4,850,264
Grants	<u>246,498,959</u>	<u>234,392,478</u>
Total	284,184,555	273,955,732
Source of funds		
General fund	10,281,092	10,850,067
Special funds	1,685,284	1,685,284
Federal funds	9,398,134	9,377,108
Global Commitment fund	262,745,408	251,968,636
Interdepartmental transfers	<u>74,637</u>	<u>74,637</u>
Total	284,184,555	273,955,732

Sec. 15. 2021 Acts and Resolves No. 74, Sec. B.316 is amended to read:

Sec. B.316 Department for children and families - administration & support services

Personal services	38,362,798	39,823,024
Operating expenses	17,035,520	19,109,020
Grants	<u>3,819,106</u>	<u>3,819,106</u>
Total	59,217,424	62,751,150
Source of funds		
General fund	33,091,620	34,739,860
Special funds	2,711,682	2,761,682
Federal funds	21,062,298	23,494,784
Global Commitment fund	2,000,936	1,403,936
Interdepartmental transfers	<u>350,888</u>	<u>350,888</u>
Total	59,217,424	62,751,150

Sec. 16. 2021 Acts and Resolves No. 74, Sec. B.317 is amended to read:

Sec. B.317 Department for children and families - family services

Personal services	39,332,995	39,636,555
Operating expenses	4,997,338	4,997,338
Grants	<u>81,171,012</u>	<u>83,187,102</u>
Total	125,501,345	127,820,995
Source of funds		
General fund	49,047,462	49,543,086
Special funds	729,587	729,587
Federal funds	31,365,138	32,373,091
Global Commitment fund	44,344,158	45,137,731

Interdepartmental transfers	<u>15,000</u>	<u>37,500</u>
Total	125,501,345	127,820,995

Sec. 17. 2021 Acts and Resolves No. 74, Sec. B.318 is amended to read:

Sec. B.318 Department for children and families - child development

Personal services	5,020,429	5,624,306
Operating expenses	848,079	921,579
Grants	<u>100,111,841</u>	<u>97,958,128</u>
Total	105,980,349	104,504,013
Source of funds		
General fund	27,348,614	25,996,178
Special funds	16,820,000	16,820,000
Federal funds	50,874,814	50,623,626
Global Commitment fund	10,914,421	11,064,209
Interdepartmental transfers	<u>22,500</u>	<u>0</u>
Total	105,980,349	104,504,013

Sec. 18. 2021 Acts and Resolves No. 74, Sec. B.321 is amended to read:

Sec. B.321 Department for children and families - general assistance

Personal services	15,000	15,000
Grants	<u>2,823,574</u>	<u>2,823,574</u>
Total	2,838,574	2,838,574
Source of funds		
General fund	2,441,239	2,541,239
Federal funds	411,320	11,320
Global Commitment fund	<u>286,015</u>	<u>286,015</u>
Total	2,838,574	2,838,574

Sec. 19. 2021 Acts and Resolves No. 74, Sec. B.323 is amended to read:

Sec. B.323 Department for children and families - reach up

Operating expenses	29,119	29,119
Grants	<u>31,842,843</u>	<u>31,842,843</u>
Total	31,871,962	31,871,962
Source of funds		
General fund	19,904,694	19,704,694
Special funds	5,854,320	5,954,320
Federal funds	3,431,330	3,531,330
Global Commitment fund	<u>2,681,618</u>	<u>2,681,618</u>
Total	31,871,962	31,871,962

Sec. 20. 2021 Acts and Resolves No. 74, Sec. B.325 is amended to read:

Sec. B.325 Department for children and families - office of economic opportunity

Personal services	636,177	636,177
Operating expenses	43,488	43,488
Grants	<u>19,383,262</u>	<u>25,483,262</u>
Total	<u>20,062,927</u>	<u>26,162,927</u>
Source of funds		
General fund	14,225,798	20,325,798
Special funds	57,990	57,990
Federal funds	4,423,154	4,423,154
Global Commitment fund	<u>1,355,985</u>	<u>1,355,985</u>
Total	<u>20,062,927</u>	<u>26,162,927</u>

Sec. 21. 2021 Acts and Resolves No. 74, Sec. B.327 is amended to read:

Sec. B.327 Department for Children and Families - Secure Residential Treatment

Personal services	258,100	258,100
Operating expenses	650,463	650,463
Grants	<u>3,476,862</u>	<u>3,773,834</u>
Total	<u>4,385,425</u>	<u>4,682,397</u>
Source of funds		
General fund	4,355,425	4,652,397
Global Commitment fund	<u>30,000</u>	<u>30,000</u>
Total	<u>4,385,425</u>	<u>4,682,397</u>

Sec. 22. 2021 Acts and Resolves No. 74, Sec. B.328 is amended to read:

Sec. B.328 Department for children and families - disability determination services

Personal services	7,139,139	6,991,600
Operating expenses	<u>460,858</u>	<u>460,858</u>
Total	<u>7,599,997</u>	<u>7,452,458</u>
Source of funds		
General fund	111,120	111,120
Federal funds	<u>7,488,877</u>	<u>7,341,338</u>
Total	<u>7,599,997</u>	<u>7,452,458</u>

Sec. 23. 2021 Acts and Resolves No. 74, Sec. B.329 is amended to read:

Sec. B.329 Disabilities, aging, and independent living - administration & support

Personal services	33,906,585	35,498,760
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Operating expenses	<u>5,953,426</u>	<u>5,953,426</u>
Total	<u>39,860,011</u>	<u>41,452,186</u>
Source of funds		
General fund	<u>17,731,954</u>	<u>19,174,129</u>
Special funds	<u>1,390,457</u>	<u>1,390,457</u>
Federal funds	<u>19,671,316</u>	<u>19,821,316</u>
Interdepartmental transfers	<u>1,066,284</u>	<u>1,066,284</u>
Total	<u>39,860,011</u>	<u>41,452,186</u>

Sec. 24. 2021 Acts and Resolves No. 74, Sec. B.330 is amended to read:

Sec. B.330 Disabilities, aging, and independent living - advocacy and independent living grants

Grants	<u>19,352,893</u>	<u>19,921,075</u>
Total	<u>19,352,893</u>	<u>19,921,075</u>
Source of funds		
General fund	<u>7,644,654</u>	<u>7,644,654</u>
Federal funds	<u>7,148,466</u>	<u>7,148,466</u>
Global Commitment fund	<u>4,559,773</u>	<u>5,127,955</u>
Total	<u>19,352,893</u>	<u>19,921,075</u>

Sec. 25. 2021 Acts and Resolves No. 74, Sec. B.334 is amended to read:

Sec. B.334 Disabilities, aging, and independent living - Brain injury home and community-based waiver

Grants	<u>5,564,689</u>	<u>5,714,689</u>
Total	<u>5,564,689</u>	<u>5,714,689</u>
Source of funds		
Global Commitment fund	<u>5,564,689</u>	<u>5,714,689</u>
Total	<u>5,564,689</u>	<u>5,714,689</u>

Sec. 26. 2021 Acts and Resolves No. 74, Sec. B.334.1 is amended to read:

Sec. B.334.1 Disabilities, aging and independent living - Long Term Care

Grants	<u>230,505,916</u>	<u>238,018,868</u>
Total	<u>230,505,916</u>	<u>238,018,868</u>
Source of funds		
General fund	<u>498,579</u>	<u>498,579</u>
Federal funds	<u>2,083,333</u>	<u>2,083,333</u>
Global Commitment fund	<u>227,924,004</u>	<u>235,436,956</u>
Total	<u>230,505,916</u>	<u>238,018,868</u>

Sec. 27. 2021 Acts and Resolves No. 74, Sec. B.339 is amended to read:

Sec. B.339 Corrections - Correctional services-out of state beds

Personal services	<u>5,640,604</u>	<u>5,223,574</u>
Total	5,640,604	5,223,574
Source of funds		
General fund	<u>5,640,604</u>	<u>5,223,574</u>
Total	5,640,604	5,223,574

Sec. 28. 2021 Acts and Resolves No. 74, Sec. B.342 is amended to read:

Sec. B.342 Vermont veterans' home - care and support services

Personal services	19,020,560	20,520,560
Operating expenses	<u>5,426,960</u>	<u>5,899,095</u>
Total	24,447,520	26,419,655
Source of funds		
General fund	2,843,321	4,025,456
Special funds	11,868,942	12,658,942
Federal funds	<u>9,735,257</u>	<u>9,735,257</u>
Total	24,447,520	26,419,655

Sec. 29. 2021 Acts and Resolves No. 74, Sec. B.346 is amended to read:

Sec. B.346 Total human services

Source of funds		
General fund	1,022,527,917	1,056,891,225
Special funds	116,659,874	119,773,828
Tobacco fund	23,088,208	23,088,208
State health care resources fund	17,078,501	16,023,501
Federal Coronavirus Relief Fund	15,000,000	15,000,000
Federal funds	1,497,837,906	1,634,136,654
Global Commitment fund	1,641,496,441	1,746,171,697
Internal service funds	1,951,982	1,951,982
Interdepartmental transfers	25,329,631	24,745,364
Permanent trust funds	<u>25,000</u>	<u>25,000</u>
Total	4,360,995,460	4,637,807,459

Sec. 30. [Deleted.]

Sec. 31. 2021 Acts and Resolves No. 74, Sec. B.400 is amended to read:

Sec. B.400 Labor - programs

Personal services	31,359,103	30,259,103
Operating expenses	7,701,210	7,701,210
Grants	<u>1,822,409</u>	<u>1,822,409</u>
Total	40,882,722	39,782,722
Source of funds		

General fund	5,394,154	5,394,154
Special funds	6,422,539	6,422,539
Federal funds	28,658,417	27,558,417
Interdepartmental transfers	<u>407,612</u>	<u>407,612</u>
Total	40,882,722	39,782,722

Sec. 32. 2021 Acts and Resolves No. 74, Sec. B.401 is amended to read:

Sec. B.401 Total labor

Source of funds

General fund	5,394,154	5,394,154
Special funds	6,422,539	6,422,539
Federal funds	28,658,417	27,558,417
Interdepartmental transfers	<u>407,612</u>	<u>407,612</u>
Total	40,882,722	39,782,722

Sec. 33. [Deleted.]

Sec. 34. [Deleted.]

Sec. 35. 2021 Acts and Resolves No. 74, Sec. B.605 is amended to read:

Sec. B.605 Vermont student assistance corporation

Grants	<u>22,251,315</u>	19,978,588
Total	22,251,315	19,978,588

Source of funds

General fund	19,978,588	19,978,588
Interdepartmental transfers	<u>2,272,727</u>	0
Total	22,251,315	19,978,588

Sec. 36. 2021 Acts and Resolves No. 74, Sec. B.608 is amended to read:

Sec. B.608 Total higher education

Source of funds

General fund	98,861,685	98,861,685
Education fund	41,225	41,225
Global Commitment fund	409,461	409,461
Interdepartmental transfers	<u>2,272,727</u>	0
Total	101,585,098	99,312,371

Sec. 37. 2021 Acts and Resolves No. 74, Sec. B.702 is amended to read:

Sec. B.702 Fish and wildlife - support and field services

Personal services	18,654,752	18,754,752
Operating expenses	6,717,480	7,617,480

Grants	<u>670,446</u>	<u>670,446</u>
Total	26,042,678	27,042,678
Source of funds		
General fund	6,403,816	6,403,816
Special funds	<u>239,657</u>	1,239,657
Fish and wildlife fund	9,561,364	9,561,364
Federal funds	8,504,410	8,504,410
Interdepartmental transfers	1,322,431	1,322,431
Permanent trust funds	<u>11,000</u>	<u>11,000</u>
Total	26,042,678	27,042,678

Sec. 38. 2021 Acts and Resolves No. 74, Sec. B.711 is amended to read:

Sec. B.711 Environmental conservation - office of water programs

Personal services	28,652,311	28,652,311
Operating expenses	6,722,953	6,722,953
Grants	<u>31,819,350</u>	<u>29,319,350</u>
Total	67,194,614	64,694,614
Source of funds		
General fund	7,926,170	7,926,170
Special funds	<u>22,601,929</u>	20,101,929
Federal funds	36,003,082	36,003,082
Interdepartmental transfers	<u>663,433</u>	<u>663,433</u>
Total	67,194,614	64,694,614

Sec. 39. 2021 Acts and Resolves No. 74, Sec. B.713 is amended to read:

Sec. B.713 Natural resources board

Personal services	<u>2,597,208</u>	2,747,096
Operating expenses	<u>545,630</u>	<u>395,742</u>
Total	3,142,838	3,142,838
Source of funds		
General fund	631,629	631,629
Special funds	<u>2,511,209</u>	<u>2,511,209</u>
Total	3,142,838	3,142,838

Sec. 40. 2021 Acts and Resolves No. 74, Sec. B.714 is amended to read:

Sec. B.714 Total natural resources

Source of funds		
General fund	31,693,115	31,693,115
Special funds	<u>78,151,968</u>	76,651,968
Fish and wildlife fund	9,561,364	9,561,364
Federal funds	54,981,735	54,981,735

Interdepartmental transfers	11,534,344	11,534,344
Permanent trust funds	<u>11,000</u>	<u>11,000</u>
Total	185,933,526	184,433,526

Sec. 41. 2021 Acts and Resolves No. 74, Sec. B.900 is amended to read:

Sec. B.900 Transportation - finance and administration

Personal services	13,654,880	13,558,021
Operating expenses	2,507,103	2,507,103
Grants	<u>50,000</u>	<u>50,000</u>
Total	16,211,983	16,115,124
Source of funds		
Transportation fund	15,815,083	15,718,224
Federal funds	<u>396,900</u>	<u>396,900</u>
Total	16,211,983	16,115,124

Sec. 42. 2021 Acts and Resolves No. 74, Sec. B.903 is amended to read:

Sec. B.903 Transportation - program development

Personal services	58,611,534	58,092,913
Operating expenses	227,109,245	226,965,577
Grants	<u>28,813,660</u>	<u>28,813,660</u>
Total	314,534,439	313,872,150
Source of funds		
Transportation fund	48,717,849	48,055,560
TIB fund	10,597,637	10,597,637
Federal funds	254,737,875	254,737,875
Local match	<u>481,078</u>	<u>481,078</u>
Total	314,534,439	313,872,150

Sec. 43. 2021 Acts and Resolves No. 74, Sec. B.905 is amended to read:

Sec. B.905 Transportation - maintenance state system

Personal services	45,339,790	45,955,270
Operating expenses	57,902,709	58,046,377
Grants	<u>277,000</u>	<u>277,000</u>
Total	103,519,499	104,278,647
Source of funds		
Transportation fund	87,191,712	87,950,860
Federal funds	16,227,787	16,227,787
Interdepartmental transfers	<u>100,000</u>	<u>100,000</u>
Total	103,519,499	104,278,647

Sec. 44. 2021 Acts and Resolves No. 74, Sec. B.919 is amended to read:

Sec. B.919 Transportation - municipal mitigation assistance program

Operating expenses	265,000	265,000
Grants	<u>5,845,000</u>	<u>8,020,150</u>
Total	6,110,000	8,285,150
Source of funds		
Transportation fund	705,000	705,000
Special funds	3,977,000	6,152,150
Federal funds	<u>1,428,000</u>	<u>1,428,000</u>
Total	6,110,000	8,285,150

Sec. 45. 2021 Acts and Resolves No. 74, Sec. B.922 is amended to read:

Sec. B.922 Total transportation

Source of funds

Transportation fund	271,865,668	271,865,668
TIB fund	11,397,637	11,397,637
Special funds	<u>4,027,000</u>	6,202,150
Federal funds	361,546,034	361,546,034
Internal service funds	22,202,720	22,202,720
Interdepartmental transfers	2,888,052	2,888,052
Local match	<u>1,833,316</u>	<u>1,833,316</u>
Total	<u>675,760,427</u>	677,935,577

Sec. 46. 2021 Acts and Resolves No. 74, Sec. B.1106 is amended to read:

Sec. B.1106 FISCAL YEAR 2022 ONE-TIME GENERAL FUND
APPROPRIATIONS

(a) In fiscal year 2022, funds are appropriated from the General Fund for new and ongoing initiatives as follows:

(1) ~~\$38,430,000~~ \$39,460,000 to the Agency of Administration for the following:

(A) ~~\$11,580,000~~ \$12,420,000 for distribution to departments to fund the fiscal year 2022 53rd week of Medicaid.

(B) ~~\$12,450,000~~ \$12,640,000 for distribution to departments to fund the fiscal year 2022 27th payroll pay period.

* * *

(12) ~~\$126,000 to the Agency of Human Services Secretary's Office Department for Children and Families – administration and support services to maintain the 211-call center.~~

* * *

(21) \$25,000,000 to the Agency of Human Services – Central Office to address emergent and exigent circumstances following the COVID-19 pandemic.

(A) On or before March 1, 2022, the Agency of Human Services shall report to the House and Senate Committees on Appropriations on a plan to address costs associated with contract staffing for nursing homes. The plan shall include a methodology for addressing costs incurred for state fiscal year 2022, as well as a timeline for implementation. The plan shall include a timeline to address the rate setting process for future ongoing base costs starting in state fiscal year 2023.

(B) Funds appropriated in the subsection may be included among the Global Commitment appropriations referenced in 2021 Acts and Resolves No. 74, Sec. E.301.2 as available for transfers if it is determined that grants made under this provision can be included and matched in the Global Commitment waiver.

(22) \$3,300,000 to the Agency of Digital Services for a cyber security initiative as follows:

(A) \$2,300,000 for purchase and implementation of Security Information and Event Management software.

(B) \$1,000,000 to prepay the fiscal year 2023 annual licensing/maintenance costs for the system.

(23) \$350,000 to the Department of Environmental Conservation to evaluate and provide an analysis of the capital and ongoing operations and maintenance costs of the Green River Dam. Any unspent funds shall be directed to State-owned dams to evaluate the capital and ongoing operations and maintenance costs.

(24) \$33,000 to the Joint Fiscal Office for the expense of a consultant for the Health Reform Oversight Committee.

(25) \$350,000 to the Agency of Education to provide support for the four statewide nonprofit organizations in the Adult Education and Literacy (AEL) network to address budget shortfalls resulting from the effects of COVID-19.

(26) \$300,000 to the Public Service Department to support the continuity of statewide public, educational, and governmental (PEG) access services.

(27) \$166,667 to the Department of Health, Alcohol and Drug Abuse Programs, to support four statewide syringe services programs.

(28) \$250,000 to the Agency of Commerce and Community Development, Housing and Community Development, to make grants to municipal planning organizations.

(29) \$112,000 to the Center for Crime Victim Services for legal services for victims.

(30) \$150,000 to the Agency of Education for the vaccine incentive program for recognized and approved Independent Schools that are not eligible to receive Elementary and Secondary School Emergency Relief (ESSER) funds.

(31) \$150,000 to the Agency of Commerce and Community Development for a grant to the Town of New Haven for expenses related to the relocation of the railroad station. These funds are in addition to other funding provided to the town for the same purpose from other state entities and other sources.

(32) \$500,000 to the Green Mountain Care Board for a consultant to perform per capita benchmarking analyses with comparisons to national, peers and better performers. This shall include an analysis of avoidable utilization and low value care.

(33) \$1,000,000 to the Agency of Commerce of Community Development to provide state match for U.S. Economic Development Administration funding to be allocated equally between the Build to Scale and the Good Jobs Challenge proposals to be submitted for funding.

Sec. 47. FISCAL YEAR 2022; VERMONT STATE EMPLOYEES'
RETIREMENT SYSTEM; RECOMMENDATIONS;
DEPARTMENT OF CORRECTIONS EMPLOYEES; LONGEVITY
INCENTIVE

(a) On or before April 15, 2022, the State Treasurer and the Board of Trustees for the Vermont State Employees Retirement System shall recommend to the House and Senate Committees on Appropriations and on Government Operations a plan for the following:

(1) the creation of a new pension benefit group for Department of Corrections employees that is actuarially neutral to the pension system and results in no additional employer pension costs; and

(2) the development of a longevity incentive that encourages Group F members who are eligible for a normal retirement a longevity incentive to

continue working past their retirement date, provided that the incentive is designed to result in actuarial savings to the pension system and reduce employer pension expenses.

Sec. 48. 2021 Acts and Resolves No. 74, Sec. D.101 is amended to read:

Sec. D.101 FUND TRANSFERS, REVERSIONS AND RESERVES

(a) Notwithstanding any other provision of law, the following amounts are transferred from the funds indicated:

* * *

(6) From the Clean Water Fund (21932) established by 10 V.S.A. § 1388 to the Agricultural Water Quality Special Fund (21933) created under 6 V.S.A. § 4803: ~~\$4,521,393~~ \$5,963,850.

* * *

(9) From the Transportation Infrastructure Bond Fund established by 19 V.S.A. § 11f to the Transportation Infrastructure Bonds Debt Service Fund (35200) established by 32 V.S.A. § 951a for funding ~~fiscal year 2023 transportation infrastructure bonds debt service~~ the redemption of transportation infrastructure bonds prior to maturity: \$2,502,363.

(10) From the Transportation FHWA Fund (20135) to the Transportation Infrastructure Bonds Debt Service Fund (35200) established by 32 V.S.A. § 951a for funding the redemption of transportation infrastructure bonds prior to maturity: \$12,554,768.

(11) From the Transportation Fund – Non-Dedicated (20105) to the Transportation Infrastructure Bonds Debt Service Fund (35200) established by 32 V.S.A. § 951a for funding the redemption of transportation infrastructure bonds prior to maturity: \$4,863,957.

(12) From the General Fund to the Property Management Fund (58700) established by 29 V.S.A. § 160: \$5,000,000.

(13) From the General Fund to the State Liability Self-Insurance Fund (56200): \$6,700,000.

(14) From the General Fund to the Victims Compensation Special Fund (21145) established by 13 V.S.A. § 5359: \$1,300,000.

(15) From the General Fund to the Domestic and Sexual Violence Special Fund (21926) established by 13 V.S.A. § 5360: \$250,000.

(16) From the General Fund to the Correctional Industries Internal Services Fund (59100): \$1,877,092.

(17) From the General Fund to the Cannabis Regulation Fund (21998):
\$850,000.

(b) Notwithstanding any provisions of law to the contrary, in fiscal year 2022:

(1) The following amounts shall be transferred to the General Fund from the funds indicated:

* * *

21500 Interdepartmental Transfer Fund – 7100000022 \$125,000.00

* * *

(d) Notwithstanding any provision of law to the contrary, in fiscal year 2022, the following amounts shall revert to the General Fund from the accounts indicated:

<u>2150010000</u>	<u>Military – administration</u>	<u>\$200,000.00</u>	<u>\$316,556.00</u>
<u>1210002000</u>	<u>Legislature</u>	<u>\$140,000.00</u>	<u>\$435,000.00</u>
<u>1215001000</u>	<u>Legislative Counsel</u>		<u>\$50,000.00</u>
<u>1220000000</u>	<u>Joint Fiscal Office</u>		<u>\$50,000.00</u>
<u>1225001000</u>	<u>Legislative IT</u>		<u>\$60,000.00</u>
<u>1100010000</u>	<u>Secretary of Administration</u>		<u>\$50,000.00</u>
<u>1110003000</u>	<u>Budget & Management</u>		<u>\$117,075.64</u>
<u>1110006000</u>	<u>University of Vermont</u>		<u>\$1.00</u>
<u>1110007000</u>	<u>UVM– Morgan Horse Farm</u>		<u>\$1.00</u>
<u>1110009100</u>	<u>Vermont State Colleges</u>		<u>\$3.00</u>
<u>1130030000</u>	<u>Libraries</u>		<u>\$26,000.38</u>
<u>1140010000</u>	<u>Tax Operation Costs</u>		<u>\$200,000.00</u>
<u>1140040000</u>	<u>Homeowner Rebates</u>		<u>\$333,503.02</u>
<u>1140330000</u>	<u>Renter Rebates</u>		<u>\$1,712,964.82</u>
<u>1240001000</u>	<u>Lieutenant Governor’s Office</u>		<u>\$20,672.89</u>
<u>2130200000</u>	<u>Sheriffs</u>		<u>\$542,914.55</u>
<u>2140010000</u>	<u>DPS – State Police</u>		<u>\$13,666,973.39</u>
<u>2170010000</u>	<u>Criminal Justice Trng Council</u>		<u>\$62,049.00</u>
<u>2280001000</u>	<u>Human Rights Commission</u>		<u>\$9,101.68</u>

<u>3150891901</u>	<u>Copeland Center</u>	<u>\$5,803.03</u>
<u>3330010000</u>	<u>Green Mountain Care Board</u>	<u>\$0.44</u>
<u>3400001000</u>	<u>Secretary's Office Admin Costs</u>	<u>\$50,000.00</u>
<u>3400002000</u>	<u>RSVP Appropriation</u>	<u>\$1,035.00</u>
<u>3400891902</u>	<u>Elec Med/Health Records Syst</u>	<u>\$3,894.00</u>
<u>3410017000</u>	<u>DVHA-Programs-ST-Only Funded</u>	<u>\$76,450.02</u>
<u>3420010000</u>	<u>Administration</u>	<u>\$650,000.00</u>
<u>3420021000</u>	<u>Public Health</u>	<u>\$1,784,782.61</u>
<u>3420892110</u>	<u>VDH-Data Collection</u>	<u>\$134,000.00</u>
<u>3440060000</u>	<u>DCFS - General Assistance</u>	<u>\$4,374,450.77</u>
<u>3440891903</u>	<u>Parent Child Centers</u>	<u>\$18,089.40</u>
<u>3440891906</u>	<u>Incentivizing Child Care Profs</u>	<u>\$96,628.40</u>
<u>3440891908</u>	<u>Weatherization Assist Bridge</u>	<u>\$290,035.94</u>
<u>3460020000</u>	<u>Advocacy & Indep Living Grants</u>	<u>\$241,585.88</u>
<u>3480004000</u>	<u>Corrections-Correctional Services</u>	<u>\$6,361,238.22</u>
<u>5100010000</u>	<u>Administration</u>	<u>\$118,500.00</u>
<u>5100060000</u>	<u>Adult Basic Education</u>	<u>\$63,476.19</u>
<u>5100070000</u>	<u>Education Services</u>	<u>\$51,719.84</u>
<u>5100210000</u>	<u>Ed-Flexible Pathways</u>	<u>\$10,675.00</u>
<u>5100891807</u>	<u>Restorative Justice Grants</u>	<u>\$75,867.34</u>
<u>5100891901</u>	<u>AOE New Positions</u>	<u>\$214,729.59</u>
<u>6100040000</u>	<u>Property Tax Assessment Approp</u>	<u>\$0.93</u>
<u>6130010000</u>	<u>Administration</u>	<u>\$0.70</u>
<u>7100892107</u>	<u>ACCD-Public Access TV</u>	<u>\$30,450.10</u>
<u>7120892001</u>	<u>ThinkVermont Initiative</u>	<u>\$45,000.00</u>

(e) Notwithstanding any provision of law to the contrary, in fiscal year 2022, the following amounts shall revert to the Education Fund from the accounts indicated:

<u>1140060000</u>	<u>Reappraisal & Listing Payments</u>	<u>\$0.13</u>
<u>5100010000</u>	<u>Administration</u>	<u>\$950,949.54</u>

<u>5100040000</u>	<u>Special Education Formula</u>	<u>\$5,824,528.53</u>
<u>5100050000</u>	<u>State-Placed Students</u>	<u>\$880,000.00</u>
<u>5100090000</u>	<u>Education Grant</u>	<u>\$0.69</u>
<u>5100110000</u>	<u>Small School Grant</u>	<u>\$614,965.00</u>
<u>5100190000</u>	<u>Essential Early Educ Grant</u>	<u>\$41,295.67</u>
<u>5100200000</u>	<u>Education-Technical Education</u>	<u>\$1,841,126.00</u>
<u>5100210000</u>	<u>Ed-Flexible Pathways</u>	<u>\$1,579,282.05</u>

(f) Notwithstanding any provision of law to the contrary, in fiscal year 2022, the following amount shall revert to the Transportation Fund from the account indicated:

<u>2140010000</u>	<u>DPS-State Police</u>	<u>\$3,933,026.61</u>
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(g) Notwithstanding any provision of law to the contrary, in fiscal year 2022, the following amount shall revert to the Clean Water Fund from the account indicated:

<u>6140040000</u>	<u>Environmental Conservation – Office of Water Programs</u>	
	<u>Office of Water Programs</u>	<u>\$675,149.73</u>

Sec. 49 2021 Acts and Resolves No. 74, Sec. D.102 is amended to read:

Sec. D.102 27/53 RESERVE; TRANSFER AND USE

(a) ~~\$3,740,000~~ \$4,770,000 from the General Fund shall be reserved in the 27/53 reserve in fiscal year 2022. This action is the fiscal year 2022 contribution to the reserve for the 53rd week of Medicaid as required by 32 V.S.A. § 308e and the 27th payroll reserve as required by 32 V.S.A. § 308e(b).

(b) ~~\$24,030,000~~ \$25,060,000 shall be unreserved from the 27/53 Reserve in in fiscal year 2022 to provide for the appropriations described in Secs. B.1106(a)(1)(A) and B.1106(a)(1)(B) of this act.

Sec. 50. 2021 Acts and Resolves No. 74, Sec. E.107 is amended to read:

Sec. E.107 CORONAVIRUS RELIEF FUND APPROPRIATIONS;
REVERSION AND REAL LOCATION; REPORTS

(a) The Commissioner of Finance and Management is authorized to revert all unobligated Coronavirus Relief Fund (CRF) appropriations prior to December 31, 2021. The total amount of CRF monies reverted in accordance with this subsection shall be allocated pursuant to 32 V.S.A. § 511 to any

agency or department for CRF-eligible costs incurred from ~~July 1, 2021~~ March 1, 2020 through December 31, 2021.

(b) If previously obligated CRF monies become unobligated after December 31, 2021, the Commissioner of Finance and Management is authorized to revert the unobligated CRF appropriations and allocate the monies for expenditure pursuant to 32 V.S.A. § 511 to any agency or department for CRF-eligible costs incurred from ~~July 1, 2021~~ March 1, 2020 through December 31, 2021.

Sec. 51. CORONAVIRUS RELIEF FUND REALLOCATION

(a) Pursuant to 2021 Acts and Resolves No. 74, Sec. E.107 as amended by Sec. 50 of this act, the following amount is reallocated from the Coronavirus Relief Fund to the following eligible appropriation:

(1) To the Agency of Education for Local Educational Agency (LEA) grants: \$436,217.22

Sec. 52. [Deleted.]

Sec. 53. FISCAL YEAR 2022 UNALLOCATED RESERVE

(a) After satisfying the requirements of 32 V.S.A. § 308, and after other reserve requirements have been met, but prior to satisfying the requirements of 32 V.S.A. § 308c, the first \$81,000,000 of remaining unreserved and undesignated funds at the close of fiscal year 2022 shall remain in the General Fund and be carried forward to fiscal year 2023. These funds may be used to provide state match to the federal Infrastructure Investment and Jobs Act.

(b) After meeting the requirements of subsection (a) of this section, but prior to satisfying the requirements of 32 V.S.A. § 308c, the remaining unreserved and undesignated funds at the close of fiscal year 2022 shall be allocated as follows:

(1) \$5,000,000 shall be transferred to the Property Management Fund (58700) established by 29 V.S.A. § 160.

(2) \$20,000,000 is appropriated to the State Treasurer's Office to be used to redeem, prior to maturity, State of Vermont general obligation bonds that may become eligible for redemption in fiscal years 2022 and 2023. These funds shall carry forward into fiscal year 2023 and be used only for the purpose of redeeming State of Vermont general obligation bonds prior to maturity.

(3) \$25,114,179 is appropriated to the extent available and, in fiscal year 2022, the Commissioner of Finance and Management is authorized to replace American Rescue Plan Act – Coronavirus State Fiscal Recovery Funds

appropriated in 2021 Acts and Resolves No. 74, Sec. G.300, as amended by Sec. 68 of this act, with General Fund dollars in the following amounts:

(A) \$6,000,000 to replace the fund source in the appropriation in Sec. G.300(a)(23) (Vermont Foodbank);

(B) \$1,001,913 to replace the fund source in the appropriation in Sec. G.300(a)(26) (adult day services);

(C) \$4,934,590 to replace the fund source in the appropriation in Sec. G.300(a)(27) (Department of Corrections);

(D) \$12,803,996 to replace the fund source in the appropriation in Sec. G.300(a)(28) (Department of Labor); and

(E) \$373,680 to replace the fund source in the appropriation in Sec. G.300(a)(29) (Vermont Veterans' Home).

(c) After meeting the requirements of subsections (a) and (b) of this section, but prior to satisfying the requirements of 32 V.S.A. § 308c, the remaining unreserved and undesignated funds at the close of fiscal year 2022 shall remain in the General Fund and be carried forward to fiscal year 2023.

Sec. 53a. 32 V.S.A. § 902 is amended to read

§ 902. AUTHORIZATION TO BORROW MONEY

* * *

(c) Notwithstanding any other provision of law to the contrary, the State Treasurer shall have the authority to redeem any previously issued bonds or notes prior to their maturity, at a time and on terms consistent with the provisions of such bonds or notes, with funds specifically appropriated by the General Assembly for such redemption or in the case of any bonds maturing within a particular fiscal year, from funds appropriated or available for payment of debt service for the particular fiscal year.

Sec. 54. GENERAL ASSISTANCE EMERGENCY HOUSING;
TRANSITIONAL HOUSING; SOURCE OF FUNDS

(a) The Department for Children and Families shall continue to make emergency housing available through the General Assistance Emergency Housing program to individuals and families through June 30, 2022, using eligibility criteria in effect on January 1, 2022.

(b) The Adverse Weather Conditions policy in effect on November 22, 2021 shall continue in effect until March 31, 2022 using 100 percent FEMA funds and through the end of the fiscal year using either 100 percent FEMA funds or Emergency Rental Assistance Program (ERAP) funds.

(c)(1) The Commissioner for Children and Families shall reconvene the General Assistance working group described in 2021 Acts and Resolves No. 74, sections E.321 and E.321.2 for the purpose of assisting with the development of rules for a transitional housing program, which shall be funded by federal ERAP funds. The Department shall initiate emergency rulemaking as soon as practicable and shall be deemed to have met the emergency rulemaking criteria in 3 V.S.A. § 844. The Department shall file permanent rules pursuant to 3 V.S.A. chapter 25 concurrently with its emergency rule filing.

(2) Notwithstanding subsection (a) of this section, once emergency rules have been adopted for the ERAP-funded transitional housing program, and if the Department has located housing through facilitated occupancy agreements with motels and hotels or other housing providers on behalf of program participants, the Department shall begin transitioning participating individuals and families from the General Assistance emergency housing program funded by 100 percent FEMA funds to the transitional housing program funded by ERAP funds prior to June 30, 2022.

(3) The Department is authorized to provide supplemental services as needed for the safety of program participants and providers to the extent that ERAP or 100 percent FEMA funds are available for this purpose.

Sec. 54a. 9 V.S.A. § 4452 is amended to read:

§ 4452. EXCLUSIONS

Unless created to avoid the application of this chapter, this chapter does not apply to any of the following:

* * *

(8) transient occupancy in a hotel, motel, or lodgings during the time the occupant is a recipient of General Assistance or Emergency Assistance temporary housing assistance, or occupancy in a hotel or motel funded by federal Emergency Rental Assistance administered by the Department for Children and Families through September 30, 2025, regardless of whether the occupancy is subject to a tax levied under 32 V.S.A. chapter 225;

* * *

Sec. 55. 2021 Acts and Resolves No. 74, Sec. E.126 is amended to read:

Sec. E.126 TRANSFER OF FUNDS WITHIN LEGISLATIVE BRANCH

(a) Notwithstanding 32 V.S.A. § 706, in fiscal year 2022, appropriations within the Legislative Branch may be transferred between respective offices to ensure a balanced close-out in the fiscal year.

(b) The Joint Fiscal Office shall be reimbursed by a transfer from the Legislative budget for any costs incurred in contracting with an economist or independent consulting entity for the study created in 2021 Acts and Resolves No. 45, Sec. 14.

Sec. 56. FISCAL YEAR 2022; STATE HOUSE EXPANSION; REQUEST FOR PROPOSAL; SERGEANT AT ARMS; DEPARTMENT OF BUILDINGS AND GENERAL SERVICES; GENERAL FUND CARRYFORWARD

(a) On or before May 1, 2022, the Department of Buildings and General Services, in collaboration with the Sergeant at Arms, shall develop and issue a request for proposal (RFP) for programming, schematic design, and the initial phase of design development documents for an expansion of the State House, including the infrastructure needs for any future phases of expansion.

(b) Upon approval and funding from the General Assembly, it is the intent of the General Assembly that the Sergeant at Arms and the Department of Buildings and General Services will extend the RFP for architectural and engineering services to finalize design development and construction and bid documents.

Sec. 57. 2021 Acts and Resolves No. 74, Sec. E.215 is amended to read:

Sec. E.215 Military – Administration

(a) The amount of \$1,119,834 \$934,290 shall be disbursed to the Vermont Student Assistance Corporation for the National Guard educational assistance program established in 16 V.S.A. § 2856 and the National Guard Tuition Benefit Program established in 16 V.S.A. § 2857.

Sec. 58. [Deleted.]

Sec. 59. CANNABIS CONTROL BOARD

(a) The establishment of the following eight (8) new permanent classified positions are authorized in fiscal year 2022:

- (1) One (1) Licensing Director,
- (2) Two (2) Licensing Administrators,
- (3) One (1) Policy Enforcement Director,
- (4) Three (3) Compliance Officers; and
- (5) One (1) Financial Manager.

Sec. 59a. 2021 Acts and Resolves No. 62, Sec. 15 is amended to read:

Sec. 15. IMPLEMENTATION OF MEDICAL CANNABIS REGISTRY

(a) On January 1, 2022, the following shall transfer from the Department of Public Safety to the Cannabis Control Board:

(1) the authority to administer the Medical Cannabis Registry and the regulation of cannabis dispensaries pursuant to 18 V.S.A. chapter 86;

(2) the cannabis registration fee fund established pursuant to 18 V.S.A. chapter 86; and

(3) the positions dedicated to administering 18 V.S.A. chapter 86.

(b) The Registry shall continue to be governed by 18 V.S.A. chapter 86 and the rules adopted pursuant to that chapter until 7 V.S.A. chapters 35 and 37 and the rules adopted by the Board pursuant to those chapters take effect on ~~March 1, 2022~~ July 1, 2022 as provided in 2019 Acts and Resolves No. 164.

Sec. 59b. 2019 Acts and Resolves No. 164, Sec. 33 is amended to read:

Sec. 33. EFFECTIVE DATES

* * *

(d) ~~Secs. 9 (Medical Cannabis Registry chapter), except for 7 V.S.A. § 956 (rulemaking); 11 (Repeal); 12 (Medical Cannabis Dispensaries), except for 7 V.S.A. § 974 (rulemaking); 14 (creation of excise tax); 14a (tax license disclosure); 15 (sales tax exemption); 16 (tax exemption); 17 (tax expenditure); 17a (meals and rooms tax); 17b (meals and rooms tax expenditure); and 17c (dedicated use of sales and use tax revenue) shall take effect March 1, 2022.~~

(e) ~~See Secs. 6d (Auditor of Accounts report); 9 (Medical Cannabis Registry chapter), except for 7 V.S.A. § 956 (rulemaking); 11 (Repeal); and 12 (Medical Cannabis Dispensaries), except for 7 V.S.A. § 974 (rulemaking), shall take effect on July 1, 2022.~~

* * *

Sec. 60. 2021 Acts and Resolves No. 74, Sec. E.301 is amended to read:

Sec. E.301 SECRETARY'S OFFICE – GLOBAL COMMITMENT:

* * *

(b) In addition to the State funds appropriated in this section, a total estimated sum of ~~\$24,993,731~~ \$25,220,180 is anticipated to be certified as State matching funds under the Global Commitment as follows:

* * *

(2) ~~\$2,773,731~~ \$3,000,180 certified State match available from local designated mental health and developmental services agencies for eligible mental health services provided under Global Commitment.

(c) Up to ~~\$4,618,437~~ \$4,034,170 is transferred from the AHS Federal Receipts Holding Account to the Interdepartmental Transfer Fund consistent with the amount appropriated in Sec. B.301 of this act – Secretary’s Office – Global Commitment.

Sec. 60a. MEDICAID; POSTPARTUM COVERAGE; STATE PLAN
AMENDMENT

(a) The Agency of Human Services shall seek to amend Vermont’s Medicaid state plan to extend Medicaid coverage to 12 months postpartum for eligible individuals, as permitted under Sec. 9812 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2, beginning on April 1, 2022.

Sec. 61. DEPARTMENT FOR CHILDREN AND FAMILIES

(a) \$2,000,000 of federal spending authority for the Department for Children and Families’ administrative division, to be established pursuant to 32 V.S.A. § 511, shall be used for federal matching funds to implement the first phase of the Comprehensive Child Welfare Information System in Vermont in accordance with 45 CFR § 1355.55.

Sec. 62. 2021 Acts and Resolves No. 74, Sec. E.335 is amended to read:

Sec. E.335 CORRECTIONS APPROPRIATIONS; UNEXPENDED
FUNDS TRANSFER; JUSTICE REINVESTMENT; REPORT

* * *

(b) In fiscal year 2022, any unexpended funds for correctional services out-of-state beds shall be carried forward to fiscal year 2023, and the amount reported to the Joint Legislative Justice Oversight Committee in September 2022, to ~~support~~ provide additional funding to community-based service programs in support of Justice Reinvestment II initiatives. Funds may only be expended on community-based service programs upon approval of the Joint Legislative Justice Oversight Committee. Prior to approval, the House Committees on Appropriations and on Corrections and Institutions and the Senate Committees on Appropriations and on Judiciary shall be notified of any proposed expenditures on community-based service programs.

Sec. 63. 2021 Acts and Resolves No. 74, Sec. E.501.1(a) is amended to read:

(a) ESSER I funds. The following sums are appropriated to the Agency of Education in fiscal year 2021 from the ESSER funds provided to the State pursuant to Section 18003 of Division B of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116–136 (CARES Act); a portion of the funds may be expended in fiscal year 2020 consistent with the terms of the

grant acceptance, and any unexpended amounts may be carried forward to fiscal years 2022 and after:

(1) \$953,021 for software tools to assist with the response to the COVID-19 pandemic;

(2) ~~\$2,006,074~~ \$1,006,074 for learning management assistance, including remote learning supports and materials; and

(3) \$1,000,000 for emerging State-level needs; and

(4) \$155,741 for administrative and personnel costs.

Sec. 64. 2021 Acts and Resolves No. 74, Sec. E.501.2(b) is amended to read:

(b) ESSER III funds. The federal funds appropriated in Sec. B.501 of this act shall be allocated as follows:

(1) \$1,000,000 from the ESSER funds provided to the State pursuant to Sec. 2001(f) of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 ~~to address emerging State-level needs~~ for learning management assistance, including remote learning supports and materials; and

* * *

Sec. 65. 2020 Acts and Resolves No. 120, Sec. A.51, as amended by 2020 Acts and Resolves No. 154, Sec. B. 1113 is further amended to read:

Sec. A.51. SCHOOL INDOOR AIR QUALITY GRANT PROGRAM;
CORONAVIRUS RELIEF FUND; APPROPRIATION

* * *

(c) Definition. As used in this section, “covered school” means public schools, regional career technical center school districts as defined in 16 V.S.A. 1571, regional CTE centers as defined in 16 V.S.A 1522, and approved independent schools as defined under 16 V.S.A. § 11.

* * *

Sec. 65a. ONETIME FISCAL YEAR 2022 TECHNICAL EDUCATION
SUPPLEMENTAL GRANT FUNDING

(a) In fiscal year 2022, \$1,725,000 is appropriated from the Education Fund to the Agency of Education to make supplemental grants to career technical education centers. The grants shall be made proportionally based on fiscal year 2019 through 2021 average headcount of attendees at each center.

Sec. 66. 2021 Acts and Resolves No. 74, Sec. E.311.3 to read:

Sec. E.311.3 EDUCATIONAL ASSISTANCE; MEDICAL STUDENT

INCENTIVE SCHOLARSHIP PROGRAM;
APPROPRIATION

* * *

(b) This funding shall remain available to VSAC until expended, and if needed, fiscally neutral adjustments to spending authority shall be included in future budget legislation.

Sec. 67. 2021 Acts and Resolves No. 74, Sec. E.602.2(c) is added to read:

(c) Vermont State College System (VSCS) shall use funds remaining with Vermont Technical College provided in 2019 Acts and Resolves No. 80 to continue to study a model for course delivery at Career and Technical Education (CTE) centers in Vermont and pilot up to two programs that offer these degree programs in up to two CTE centers. On or before January 15, 2023, the VSCS shall submit a written supplemental report to the House and Senate Committees on Education and the State Board of Education with its findings and recommendations from the pilot programs.

Sec. 67a. REAFFIRMATION OF MULTIYEAR FUNDING PRIORITIES
FOR AMERICAN RESCUE PLAN ACT (ARPA) AND OTHER
FEDERAL AND STATE FUNDS

(a) In 2021 Acts and Resolves No. 74, Sec. G.100, the General Assembly recognized that ARPA State Fiscal Relief funds, along with other federal or State funds, offer the unprecedented opportunity to invest in Vermont's recovery and long-term future by supporting Vermonters' health and well-being and by strengthening Vermont's communities, businesses, environment, and climate.

(b) In November 2021, the federal Infrastructure Investment and Jobs Act (IIJA) was enacted. This federal law includes unprecedented levels of federal investments for broadband; water, transportation, and electricity infrastructure; environmental remediation; cybersecurity; and carbon reduction and climate resilience strategies. The law authorizes approximately \$1.2 trillion of funding over five years, of which approximately \$550 billion is newly authorized spending, for transformative investments in these critical infrastructure systems. The law provides for formula funding to states, as well as competitive grants that states may apply for to seek additional funding, with nearly 50 percent of the additional funding allocated for nontransportation investments. While match requirements vary by project and funding stream, the additional state match requirements necessary to draw down the nontransportation formula and competitive grant funding will be substantial.

(c) The General Assembly reaffirms the intention of 2021 Acts and Resolves No. 74, Sec. G.100 and will seek to make the budget and appropriations processes of the 2022 legislative session consistent with the need to create state fiscal capacity to maximize the federal funding opportunities in the IJA for broadband, cybersecurity, water, energy, and climate initiatives.

Sec. 68. 2021 Acts and Resolves No. 74, Sec. G.300 is amended to read:

Sec. G.300 INVESTMENTS IN VERMONT'S ECONOMY,
WORKFORCE, AND COMMUNITIES

(a) ~~\$109,200,000~~ \$187,114,176 in fiscal year 2022 is appropriated from the American Rescue Plan Act (ARPA) - Coronavirus State Fiscal Recovery Funds as follows:

* * *

(7) ~~\$1,000,000~~ \$2,000,000 in fiscal year 2022 to the University of Vermont.

(A) \$1,000,000 for matching funds for research grant opportunities related to COVID-19.

(B) \$1,000,000 to provide up to two free classes in calendar year 2022 for any Vermont resident who is seeking to transition to a new career or to enhance the resident's job skills.

(8) ~~\$10,000,000~~ \$19,700,000 in fiscal year 2022 to the Vermont State Colleges for the following programs; funds shall be carried forward until expended:

(A) \$2,000,000 to provide funding for up to six credits or two courses in the 2022–2023 academic year, including wraparound services for Vermonters whose employment was impacted by the COVID-19 public health emergency since March 13, 2020. The wraparound services may also be provided to students who enroll in six credit hours or two courses in the summer or fall of 2021 and spring of 2022 pursuant to 2021 Acts and Resolves No. 9, Sec. 18.

(B) \$3,000,000 to provide degree completion scholarships for up to 30 credits towards a credential of value for adult learners who have earned at least 40 credits towards an undergraduate degree and have a gap in attendance of at least two years.

(C) ~~\$5,000,000~~ \$14,700,000 to provide free last dollar tuition for one year of undergraduate studies for critical occupation careers, including bookkeeping certificate, IT service desk specialist certificate, certified

production technician, graphic design certificate, software and web development program, electrical and plumbing apprenticeships, dental hygiene, certificate in accounting, small business management, radiologic science, and respiratory therapy. \$540,000 of these funds shall be allocated for paramedic/EMS programs and any unexpended amount of this allocation shall be available for the broader purpose in this subdivision (C). Funds may be used for practical nursing, childcare, nursing, and mental health counseling programs only after available federal and State financial aid is applied to ensure no cost to the student. Of this amount, \$7,350,000 shall be carried forward for the 2022–2023 school year. If demand from undergraduates is met, then funds may be used to pay for tuition for the following graduate programs:

- (i) Master in Education (all programs);
- (ii) Master in Educational Leadership;
- (iii) Master of Arts and Certificate of Advanced Graduate Studies in School Psychology;
- (iv) Masters in Counseling; and
- (v) Masters in Clinical Mental Health Counseling.

* * *

(22) \$2,320,000 to the Agency of Commerce and Community Development for Working Community Challenge grants.

(23) \$6,000,000 to the Department for Children and Families to be granted to the Vermont Foodbank.

(24) [Deleted.]

(25) \$2,000,000 to the Agency of Agriculture, Food and Markets for grants to be made to eligible projects in the Working Lands Enterprise Initiative.

(26) \$1,001,913 to the Department of Disabilities, Aging, and Independent Living to be granted to Adult Day service providers to maintain operations through June 30, 2022.

(27) \$4,934,590 to the Department of Corrections for costs associated with the collective bargaining unit related to retention and shift differential.

(28) \$12,803,996 to the Department of Labor to cover pandemic related operating costs in the Unemployment system and other programs.

(29) \$373,680 to the Vermont Veteran's Home for retention and personal protective equipment related expenses.

(30) \$6,000,000 to the Department for Children and Families to be granted to childcare providers to address emergent and exigent circumstances following the COVID-19 pandemic for workforce retention bonuses to retain early childhood educators. It is the intent of the General Assembly that the eligible employers awarded funds pursuant to this section shall use the funds to make retention payments to their employees. The employers shall be afforded flexibility in determining how best to provide the financial retention assistance to their employees and how best to encourage employment beyond the terms of this program.

(31) \$30,000,000 to the Agency of Human Services for a program to provide workforce recruitment and retention funding as specified in Sec. 72 of this act. These funds are combined with other funding provide in Sec. 72 for total \$60,000,000 retention payment program.

(32) \$1,500,000 to the Department of Buildings and General Services to develop and issue the request for proposal for the State House expansion planning design, provided that any funds remaining unobligated by October 1, 2023 shall be reverted and made available for reallocation.

(33) \$2,600,000.00 to the Agency of Agriculture, Food and Markets for purposes of implementing the Dairy Risk Management Assistance Program established under Sec. 77 of this act. Funds appropriated under this section that are unexpended in fiscal year 2022 shall carry forward for use by the Agency of Agriculture, Food and Markets in providing risk management assistance for dairy farmers in fiscal year 2023.

* * *

Sec. 69. 2021 Acts and Resolves No. 74, Sec. G.400 is amended to read:

Sec. G.400 HOUSING AND HOMELESSNESS INVESTMENTS

(a) ~~\$99,000,000~~ \$124,000,000 in fiscal year 2022 is appropriated from the American Rescue Plan Act (ARPA) - Coronavirus State Fiscal Recovery Funds as follows:

(1) ~~\$94,000,000~~ \$119,000,000 to the Vermont Housing and Conservation Board (VHCB) to provide housing and increase shelter capacity, with priority given to populations who may be displaced from the hotel/motel voucher problem or are currently without housing, including by providing permanent homes in mixed-income settings. VHCB shall distribute the funds in consultation with the Secretary of Human Services and may subgrant a portion to other entities, including the Department of Housing and Community

Development, the Vermont Housing Finance Agency, and regional nonprofit housing organizations, for one or more of the following purposes:

(A) if necessary, to help ensure that households and areas impacted by the pandemic are served;

(B) to undertake additional housing initiatives, such as home ownership, to the extent permitted by ARPA and related regulations and guidance; or

(C) to provide for the efficient use of the funds.

* * *

(b) ~~\$91,000,000~~ \$121,000,000 is appropriated from other funds as follows:

(1) \$40,000,000 in fiscal year 2021 is appropriated from the General Fund to the Vermont Housing and Conservation Board (VHCB) for affordable housing initiatives. These funds shall carryforward into fiscal year 2022 and are in addition to funding provided to VHCB in 2021 Acts and Resolves No. 9 and \$30,000,000 in fiscal year 2022 is appropriated from the General Fund to the Vermont Housing and Conservation Board (VHCB) for affordable housing initiatives.

* * *

Sec. 70. 2021 Acts and Resolves No. 74, Sec. G.700(a)(4)(B)(i) is amended to read:

(i) \$1,000,000 to increase the funds available for grants and loan forgiveness to replace failed or inadequate residential on-site wastewater and water supply systems.

Sec. 71. 2021 Acts and Resolves No. 74, Sec. G.700(a)(5) is amended to read:

(5) ~~\$10,000,000 to the Department of Environmental Conservation for allocation by the Clean Water Board established under 10 V.S.A. § 1389, as part of their budget process in fiscal year 2022~~ for water quality initiatives to be allocated as follows:

(A) \$6,500,000 to the Department of Environmental Conservation for municipal water control grants and storm water project delivery, planning, and implementation.

(B) \$3,500,000 to the Agency of Agriculture, Food and Markets for water quality grants to partners and farmers.

Sec. 71a. AMERICAN RESCUE PLAN ACT; PREVAILING WAGE REQUIREMENT

(a)(1) Except as provided in subsection (b) of this section, any contract awarded for a maintenance, construction, or improvement project that receives \$200,000.00 or more in American Rescue Plan Act (ARPA) funds shall provide that all construction employees working on the project shall be paid not less than the mean prevailing wage published periodically by the Vermont Department of Labor in its occupational employment and wage survey plus an additional fringe benefit of 42 and one-half percent of wage, as calculated by the current Vermont prevailing wage survey.

(2) As used in this subsection, “fringe benefits” has the same meaning as used in 29 V.S.A. § 161.

(b) The requirements of subsection (a) of this section shall not apply to any maintenance, construction, or improvement project that received \$200,000.00 or more in American Rescue Plan Act (ARPA) funds appropriated prior to the effective date of this act if any of the following apply as of the effective date of this act:

- (1) the project has been invited or advertised for bid;
- (2) the project is under contract; or
- (3) the funds are obligated.

(c) Subsection (a) of this section shall not apply to contracts awarded for maintenance, construction, or improvements projects that are required by law to comply with the requirements of the federal Davis-Bacon Act.

Sec. 72. WORKFORCE RECRUITMENT AND RETENTION FUNDING FOR EMPLOYEES OF ELIGIBLE HEALTH CARE AND SOCIAL SERVICE EMPLOYERS

(a) The Secretary of Human Services shall establish a workforce recruitment and retention grant program for employees of eligible employers, as defined in this section. The Secretary shall develop a needs-based application process by which the Secretary shall invite eligible employers to apply by a date certain, assess the need across all employers following the application deadline, and disburse the funds appropriated in this section to eligible employers in a single round of grants. The total grant award amount for each eligible employer shall be based on the employer’s demonstrated need, subject to available funds.

(b) As used in this section, “eligible employers” means providers of health care and social services in the following categories that are located in Vermont and deliver health care or social services, or both, in this State:

- (1) hospitals, including community hospitals and psychiatric hospitals;

(2) health care professional services, including independent medical practices, hospital-owned medical practices, designated and specialized services agencies, federally qualified health centers, rural health clinics, ambulatory surgical centers, and laboratory and imaging centers;

(3) dental services;

(4) other professional services, including mental health providers, residential and nonresidential substance use disorder treatment providers, emergency medical service and ambulance service providers, advanced practice registered nurses, physical therapists, podiatrists, optometrists, chiropractors, naturopathic physicians, and other health care providers licensed by the Board of Medical Practice or the Office of Professional Regulation;

(5) home health and hospice agencies;

(6) pharmacy services;

(7) facility- and community-based long-term care services, including skilled nursing facilities, nursing homes, residential care homes, assisted living facilities, and adult day service providers; and

(8) organizations recognized by the Agency of Human Services through their status as provider grant recipients providing health support services, including the area agencies on aging; organizations providing peer support services; organizations providing peer outreach services to individuals with intellectual disabilities; organizations providing children's integrated services; shared living providers; recovery centers; children, youth, and family-based support providers; and programs licensed by the Department for Children and Families as residential treatment programs.

(c) For the purpose of administering recruitment and retention payment amounts to independent direct support providers, ARIS Solutions, as the fiscal agent for the employers of independent direct support providers, is authorized to apply for a grant in the same manner as an eligible employer and to disburse recruitment and retention payments funded by the grant to eligible independent direct support providers in a manner consistent with ARIS Solutions' payroll practices, to the extent that making those awards is not inconsistent with the terms of the collective bargaining agreement between the Agency of Human Services and the independent direct support providers.

(d)(1) It is the intent of the General Assembly that the eligible employers awarded funds pursuant to this section shall use the funds to make recruitment and retention payments to their employees. The employers shall be afforded flexibility in determining how best to provide the financial recruitment and retention assistance to their employees and how best to encourage employment

beyond the terms of this program, provided that each employee who receives a recruitment or retention payment under the program established in this section shall commit to continuing employment with the employer for not less than 12 months following receipt of the payment.

(2) Notwithstanding any provision of Vermont law to the contrary and to the extent permitted under federal law, the amount of a recruitment or retention payment received by an employee of an eligible employer under the program established in this section shall be disregarded for purposes of determining the employee's or employee's household's income eligibility for any benefit program.

(e) A total of \$60,000,000 is appropriated in fiscal year 2022 for the workforce recruitment and retention program established in this section. The Agency of Human Services may use up to 1.5 percent of these funds for administration of the program. This funding is from the following sources:

(1) \$25,000,000 as appropriated in Sec. 72a (c)(2) to the Agency of Human Services in fiscal year 2022 from the Global Commitment Fund. The Agency shall amend the American Rescue Plan Act Home and Community-Based Services plan it submitted to the Centers for Medicare and Medicaid Services if needed to reflect this allocation.

(2) \$5,000,000 is appropriated to the Agency of Human Services in fiscal year 2022 from the General Fund, these funds may be included among the Global Commitment appropriations referenced in 2021 Acts and Resolves No. 74, Sec. E.301.2 as available for transfers if it is determined that grants made under this provision can be included and matched in the Global Commitment waiver. These funds shall carry forward if not fully expended in fiscal year 2022; and

(3) \$30,000,000 shall be made available for this purpose from the funds allocated to the Agency of Human Services from the American Rescue Plan Act of 2021 – Coronavirus State Fiscal Recovery Fund in 2021 Acts and Resolves No. 74, as amended by Sec. 68 of this act.

(f) On or before April 1, 2022, the Secretary of Human Services shall report to the House Committees on Appropriations, on Health Care, and on Human Services and the Senate Committees on Appropriations and on Health and Welfare regarding the status of program implementation. The Secretary shall require eligible employer applicants, and ARIS Solutions on behalf of employers of independent direct support providers, to report to the Agency the number of employees who received recruitment and retention payments under the program, including the maximum, minimum, and median employee payment amount and the status of those employees' continued employment in

order to evaluate the program's effectiveness. The Agency shall also report on the total amount of funds allocated and expended for recruitment and the number of staff successfully recruited who did not come from active employment with another Vermont provider eligible for this program. On or before June 30, 2023, the Secretary shall provide a final report to the committees on the overall effectiveness of the program.

Sec. 72a. MEDICAID HOME- AND COMMUNITY-BASED SERVICES
(HCBS) PLAN

(a) Pursuant to Sec. 9817 of the American Rescue Plan Act (ARPA), in October 2021, the State submitted a home- and community-based services (HCBS) spending plan to the Centers for Medicare and Medicaid Services. This plan currently totals \$146,600,000, consisting of the following major components:

(1) \$77,800,000 allocated to improve services;

(2) \$25,000,000 allocated to promote a high-performing and stable HCBS workforce; and

(3) \$43,800,000 allocated to improve HCBS care through data systems, value-based payment models, and oversight.

(b) The Agency of Human Services (AHS) is authorized to transfer General Fund appropriations made in fiscal year 2022 in the Global Commitment line to a new, one-time General Fund HCBS appropriation departmental ID. The amount transferred shall be not greater than the amount accounted for in fiscal year 2022 as a result of the 10 percent match rate allowed under ARPA Sec. 9817. The estimate of this transfer is between \$65,000,000 and \$69,000,000. Up to \$7,540,128 of the funds transferred and appropriated in this subsection may be used in fiscal year 2022 as State matching funds in 2021 Acts and Resolves No. 74, Sec. B.301 for the \$17,136,654 HCBS Global Commitment rate increases provided in 2021 Acts and Resolves No. 74. AHS shall report to the Joint Fiscal Committee in July 2022 on the actual amount transferred pursuant to this authority and the amount expended as the State match for all the HCBS plan expenditures in fiscal year 2022. Funds transferred and appropriated under this subsection shall carry forward until expended and may only be used as State matching funds for the HCBS plan.

(c) In fiscal year 2022, a total of \$59,457,740 is appropriated from the Global Commitment Fund to AHS to meet the objectives of the HCBS plan. This appropriation consists of \$17,136,654 as appropriated in 2021 Acts and Resolves No. 74 for a three percent rate increase to HCBS providers, including

the assistive community care rates and children integrated services rates, and the following appropriations in distinct one-time departmental IDs:

(1) \$25,000,000 is appropriated for the retention and recruitment grant program for HCBS providers as specified in Sec. 72 of this act.

(2) \$3,447,500 is appropriated to the Agency of Human Services – Secretary’s Office.

(3) \$2,370,000 is appropriated to the Department of Disabilities, Aging, and Independent Living.

(4) \$6,171,000 is appropriated to the Department of Mental Health.

(5) \$390,000 is appropriated to the Department of Vermont Health Access.

(6) \$4,942,586 is appropriated to the Department of Health.

(d) The Global Commitment Fund appropriated in subsection (c) of this section may be obligated in fiscal year 2022 for the purposes of bringing HCBS plan spending authority forward into fiscal year 2023. The funds appropriated in subsections (b) and (c) of this section may be transferred on a net-neutral basis in fiscal year 2022 in the same manner as the Global Commitment appropriations referenced in 2021 Acts and Resolves No. 74, Sec. E.301.2. The Agency shall report to the Joint Fiscal Committee in September 2022 on transfers of appropriations made and final amounts expended by each department in fiscal year 2022 and any obligated funds carried forward to be expended in fiscal year 2023.

Sec. 73. 2020 Acts and Resolves No. 136, Sec. 7, as amended by 2020 Acts and Resolves No. 154, Sec. B.1121, and 2021 Acts and Resolves No. 3, Sec. 50, is further amended to read:

Sec. 7. AGENCY OF HUMAN SERVICES; HEALTH CARE PROVIDER STABILIZATION GRANT PROGRAM

* * *

(d) Specific allocations. Notwithstanding any provisions of this section to the contrary, of the funds appropriated in subsection (a) of this section, the Agency of Human Services shall make the following allocations for the following purposes:

* * *

(3) Up to \$3,000,000.00 for COVID-19-related expenses incurred by designated and specialized service agencies through ~~December 30, 2020~~ December 31, 2021.

* * *

Sec. 74. HEALTH CARE PROVIDER STABILIZATION GRANT
PROGRAM; ALTERNATIVE FUND DISTRIBUTION PROCESS

Notwithstanding any provision of 2020 Acts and Resolves No. 136, Sec. 7, as amended by 2020 Acts and Resolves No. 154, Sec. B.1121, 2021 Acts and Resolves No. 3, Sec. 50, and this act to the contrary, the Agency of Human Services may distribute funds from the Health Care Provider Stabilization Grant Program to eligible health care providers using an alternative process to that set forth in 2020 Acts and Resolves No. 136, Sec. 7, as amended, as deemed necessary by the Agency due to emergent and exigent circumstances attributable to the COVID-19 pandemic.

Sec. 75. 2019 Acts and Resolves No. 6, Sec. 105, as amended by 2019 Acts and Resolves No. 71, Sec. 19, is further amended to read:

Sec. 105. EFFECTIVE DATES

* * *

(b) Sec. 73 (further amending 32 V.S.A. § 10402) shall take effect on July 1, ~~2021~~ 2023.

* * *

Sec. 76. CARRYFORWARD AUTHORITY

(a) Notwithstanding any other provisions of law and subject to the approval of the Secretary of Administration, General, Transportation, Transportation Infrastructure Bond, Education Fund, Clean Water Fund (21932), and Agricultural Water Quality Fund (21933) appropriations remaining unexpended on June 30, 2022 in the Executive Branch of State government shall be carried forward and shall be designated for expenditure.

(b) Notwithstanding any other provisions of law, General Fund appropriations remaining unexpended on June 30, 2022 in the Legislative and Judicial Branches of State government shall be carried forward and shall be designated for expenditure.

Sec. 77. DAIRY MARGIN COVERAGE PROGRAM; PREMIUM
ASSISTANCE

(a) As used in this section:

(1) “Dairy Margin Coverage Program” or “DMC” means a voluntary program authorized under the Farm Act that provides dairy operations with risk management coverage that will pay producers when the difference

between the national price of milk and the average cost of feed falls below a certain level selected by the Program participants.

(2) “Farm Act” means the federal Agriculture Improvement Act of 2018, Pub. L. No. 115-334.

(3) “Good standing” means an applicant under this section that:

(A) does not have an active enforcement violation under any Agency of Agriculture, Food and Markets program that has reached a final order with the Secretary and is not subject to an ongoing enforcement action initiated by the Agency of Natural Resources; and

(B) is in compliance with all terms of a current grant agreement or contract with the Secretary.

(4) “Milk producer” or “producer” means a person, partnership, unincorporated association, or corporation who owns or controls one or more dairy cows, dairy goats, or dairy sheep and sells or offers for sale a part or all of the milk produced by the animals.

(5) “Secretary” means the Secretary of Agriculture, Food and Markets.

(b) The Secretary shall establish the Dairy Risk Management Assistance Program (Assistance Program) for the purpose of assisting milk producers that participate in the federal DMC management programs. A milk producer in Vermont that participates in the DMC at the first-tier coverage level may apply for reimbursement of premium payments from the Assistance Program. A milk producer shall be eligible for assistance if the producer:

(1) is in good standing with the Agency of Agriculture, Food and Markets and the Agency of Natural Resources; and

(2) provides proof of payment of an annual premium payment for participation in Tier 1 of DMC.

(c)(1) A milk producer shall apply to the Secretary on or before July 1, 2022 to participate.

(2) The Secretary shall reimburse eligible applicants in the order in which the Secretary receives administratively complete applications. The Secretary shall have the discretion to determine when an application is administratively complete.

(3) After funds are exhausted, applicants shall no longer be eligible for reimbursement from the Secretary unless or until additional funds are appropriated to the Assistance Program.

Sec. 78. EDUCATION FUND REFUND; CITY OF BARRE TIF DISTRICT;

TAX INCREMENT; FISCAL YEAR 2016 – 2019

Notwithstanding 16 V.S.A. chapter 133 and any other provision of law to the contrary, the sum of \$20,962 shall be transferred from the Education Fund to the City of Barre not later than fiscal year 2023 to compensate the City for overpayments of education property taxes in fiscal years 2016 to 2019 due to insufficient retention of tax increment from the City’s Tax Increment Financing District Fund.

Sec. 79. 2021 Acts and Resolves No. 55, Sec. 20 is amended to read:

Sec. 20. MILEAGESMART

(a) The Agency is authorized to spend up to \$750,000.00 in one-time Transportation Fund monies in fiscal years 2021 and 2022 combined and up to \$500,000.00 in one-time General Fund monies in fiscal year 2022 on MileageSmart, which was established in 2019 Acts and Resolves No. 59, Sec. 34, as amended, with up to ~~10~~ 15 percent of the total amount that is distributed in incentives in fiscal year 2022, including incentive funding authorized by this section and incentive funding carried over from prior fiscal years pursuant to 2019 Acts and Resolves No. 59, Sec. 34, as amended, available for costs associated with administering MileageSmart.

Sec. 80. SEPARATE INDIVIDUAL AND SMALL GROUP HEALTH INSURANCE MARKETS FOR PLAN YEAR 2023 IF FEDERAL SUBSIDIES EXTENDED

(a) Purpose. The purpose of this section is to allow for separate individual and small group health insurance markets for plan year 2023 in the event that Congress extends increased opportunities for federal advanced premium tax credits to include plan year 2023 and that extension is enacted on or before September 1, 2022.

(b) Definitions. As used in this section, “health benefit plan,” “registered carrier,” and “small employer” have the same meanings as in 33 V.S.A. § 1811.

(c) Separate plans and community rating. Notwithstanding any provision of 33 V.S.A. § 1811 to the contrary, if the Department of Vermont Health Access, after consultation with interested stakeholders, determines on or before September 1, 2022 that Congress has extended the increased opportunities for federal premium assistance originally made available through the American Rescue Plan Act of 2021, Pub. L. No. 117-2 to eligible households purchasing qualified health benefit plans in the individual market to include plan year 2023, or has made substantially similar opportunities available, then for plan year 2023, a registered carrier shall:

(1) offer separate health benefit plans to individuals and families in the individual market and to small employers in the small group market;

(2) apply community rating in accordance with 33 V.S.A. § 1811(f) to determine the premiums for the carrier's plan year 2023 individual market plans separately from the premiums for its small group market plans; and

(3) file premium rates with the Green Mountain Care Board pursuant to 8 V.S.A. § 4062 separately for the carrier's individual market and small group market plans.

Sec. 81. EFFECTIVE DATES

(a) This act shall take effect on passage except, notwithstanding 1 V.S.A. § 214:

(1) Secs. 73 (designated and specialized service agencies; COVID-19-related expenses) and 74 (Health Care Provider Stabilization Grant Program; alternative fund distribution process) shall take effect retroactively on January 1, 2021; and

(2) Sec. 75 (health care claims tax) shall take effect retroactively on July 1, 2021.

NOTICE CALENDAR

Favorable with Amendment

H. 515

An act relating to banking, insurance, and securities

Rep. Jerome of Brandon, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Insurance; Securities; Banking * * *

Sec. 1. 8 V.S.A. § 3685(f)(1) is amended to read:

(1) Sales, purchases, exchanges, loans, or extensions of credit, ~~guarantees~~, or investments, provided such transactions are equal to or exceed:

* * *

Sec. 2. 9 V.S.A. § 5302(e) is amended to read:

(e) At the time of the filing of the information prescribed in ~~subsections~~ subsection (a), (b), (c), or (d) of this section, except investment companies subject to 15 U.S.C. § 80a-1 et seq., the issuer shall pay to the Commissioner a

fee of \$600.00. ~~If the notice filing is withdrawn or otherwise terminated, the Commissioner shall retain the fee paid~~ The fee is nonrefundable.

Sec. 3. 9 V.S.A. § 5305(b) is amended to read:

(b) A person filing a registration statement shall pay a filing fee of \$600.00. A person filing a registration statement in connection with the New England Crowdfunding Initiative shall be exempt from the filing fee requirement. Open-end investment companies shall pay a registration fee and an annual renewal fee for each portfolio as long as the registration of those securities remains in effect. ~~If a registration statement is withdrawn before the effective date or a preeffective stop order is issued under section 5306 of this title, the Commissioner shall retain the fee~~ The fee is nonrefundable.

Sec. 4. 8 V.S.A. § 11601(a)(7) is added to read:

(7) Revoke the charter of a Vermont financial institution that ceases to exist or ceases to be eligible for a charter.

Sec. 5. 8 V.S.A. § 14106 is amended to read:

§ 14106. EXPANDED POWERS OF VERMONT FINANCIAL
INSTITUTIONS

In addition to all other powers permitted under these statutes, any Vermont financial institution shall have the powers conferred under federal law administered by the Federal Reserve Board, the Office of the Comptroller of the Currency, ~~or the Office of Thrift Supervision~~ FDIC, the Consumer Financial Protection Bureau, or other federal banking regulator upon national financial institutions or their subsidiaries.

Sec. 6. 8 V.S.A. § 10405(c)(2) is amended to read:

(2) All assignments, sales, or transfers of a loan agreement or motor vehicle or retail installment contract to which a debt protection agreement relates and the related debt protection agreement, shall be to a financial institution as defined in subdivision 11101(32) of this title, a credit union, or an entity licensed under subdivision 2201(a)(1) or ~~(3)~~(4) of this title to engage in lending or sales financing.

Sec. 7. 8 V.S.A. § 2502(f) is added to read:

(f) A licensee shall register each remote access unit, commonly referred to as a "kiosk," where a consumer may access money transmission services, including buying or selling virtual currency. Each kiosk is subject to the disclosure requirements established in section 10302 of this title. If a kiosk is owned by a person other than the licensee and the owner charges an additional

fee to the consumer for access to the licensee's services, the owner is also subject to the disclosure requirements of chapter 200 of this title.

Sec. 8. 8 V.S.A. § 4724(8) is amended to read:

(8) Rebates.

* * *

(C) Nothing in subdivision (7) or (8)(A) of this section shall be construed as including within the definition of discrimination or rebates any of the following practices:

* * *

(iii) readjustment of the rate of premium for a group insurance policy based on the loss or expense thereunder under the group insurance policy, at the end of the first or any subsequent policy year of insurance thereunder under the group policy, which may be made retroactive only for such policy year;

(iv) the offer or provision by insurers, by or through employees, affiliates, or third-party representatives of value-added products or services at no or reduced cost, even when such products or services are not specified in the insurance policy, provided the product or service meets each of the following criteria:

(I) The product or service relates to the insurance coverage.

(II) The product or service is primarily designed to satisfy one or more of the following:

(aa) provide loss mitigation or loss control;

(bb) reduce claim costs or claim settlement costs;

(cc) provide education about liability risks or risk of loss to persons or property;

(dd) monitor or assess risk, identify sources of risk, or develop strategies for eliminating or reducing risk;

(ee) enhance health;

(ff) enhance financial wellness through items such as education or financial planning services;

(gg) provide post-loss service;

(hh) incent behavioral changes to improve health or reduce the risk of death or disability or an insured or potential insured; or

(ii) assist in the administration of the employee or retiree benefit insurance coverage.

(III) The cost to the insurer offering the product or service to any given customer is determined by the Commissioner to be reasonable in comparison to that customer's premiums or insurance coverage for the policy class.

(IV) The insurer, providing the product or service directly or through a producer, ensures that the customer is provided with contact information to assist the customer with questions regarding the product or service.

(V) The availability of the product or service is based on documented objective criteria and offered in a manner that is not unfairly discriminatory.

(VI) Within 10 days after offering or providing a product or service pursuant to subdivision (8)(C)(iv) of this section, the insurer submits to the Commissioner a description of the offer or provision, accompanied by an explanation of how each criterion in this subdivision (8)(C)(iv) of this section is met.

(D) An insurer, producer, or representative of either may not offer or provide insurance as an inducement to the purchase of another policy or otherwise use the words "free" or "no cost" or words of similar import in an advertisement.

Sec. 9. 8 V.S.A. § 3750(d)(1)(C)(iii) is amended to read:

(iii) Where the resulting interest rate is not less than ~~one~~ 0.15 percent.

* * * Travel Insurance; Producers; Licensure * * *

Sec. 10. 8 V.S.A. chapter 148 is added to read:

CHAPTER 148. TRAVEL INSURANCE

§ 7122. SCOPE AND PURPOSE

(a) The purpose of this chapter is to promote the public welfare by creating a comprehensive legal framework within which travel insurance may be sold in Vermont.

(b) The requirements of this chapter apply to travel insurance that covers any resident of this State, and is sold, solicited, negotiated, or offered in this State, and the policies and certificates of which are delivered or issued for

delivery in this State. It shall not apply to cancellation fee waivers or travel assistance services, except as expressly provided herein in this chapter.

(c) All other applicable provisions of this State's insurance laws shall continue to apply to travel insurance except that the specific provisions of this chapter shall supersede any general provisions of law that would otherwise be applicable to travel insurance.

§ 7123. DEFINITIONS

As used in this chapter:

(1) "Aggregator site" means a website that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in comparison shopping.

(2) "Blanket travel insurance" means a policy of travel insurance issued to any eligible group providing coverage for specific classes of persons defined in the policy with coverage provided to all members of the eligible group without a separate charge to individual members of the eligible group.

(3) "Cancellation fee waiver" means a contractual agreement between a supplier of travel services and its customer to waive some or all of the nonrefundable cancellation fee provisions of the supplier's underlying travel contract with or without regard to the reason for the cancellation or form of reimbursement. A cancellation fee waiver is not insurance.

(4) "Eligible group" means two or more persons who are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, including any of the following:

(A) any entity engaged in the business of providing travel or travel services, including a tour operator, lodging provider, vacation property owner, hotel or resort, travel club, travel agency, property manager, cultural exchange program, or common carrier, or the operator, owner, or lessor of a means of transportation of passengers, including to an airline, cruise line, railroad, steamship company, or public bus carrier, wherein with regard to any particular travel or type of travel or travelers, all members or customers of the group have a common exposure to risk attendant to such travel;

(B) any college, school, or other institution of learning, covering students, teachers, employees, or volunteers;

(C) any employer covering any group of employees, volunteers, contractors, board of directors, dependents, or guests;

(D) any sports team, camp, or sponsor thereof, covering participants, members, campers, employees, officials, supervisors, or volunteers;

(E) any religious, charitable, recreational, educational, or civic organization, or branch thereof, covering any group of members, participants, or volunteers;

(F) any financial institution or financial institution vendor, or parent holding company, trustee, or agent of or designated by one or more financial institutions or financial institution vendors, including accountholders, credit card holders, debtors, guarantors, or purchasers;

(G) any incorporated or unincorporated association, including a labor union, having a common interest, constitution, and bylaws and organized and maintained in good faith for purposes other than obtaining insurance for members or participants of such association covering its members;

(H) any trust or the trustees of a fund established, created, or maintained for the benefit of and covering members, employees, or customers, subject to the Commissioner's permitting the use of a trust and the State's premium tax provisions in section 7125 of this chapter, of one or more associations meeting the requirements of subdivision (4)(G) of this section;

(I) any entertainment production company covering any group of participants, volunteers, audience members, contestants, or workers;

(J) any volunteer fire department, ambulance, rescue, police, court, or any first aid, civil defense, or other such volunteer group;

(K) any preschool, daycare institution for children or adults, or senior citizen club;

(L) any automobile or truck rental or leasing company covering a group of individuals who may become renters, lessees, or passengers defined by their travel status on the rented or leased vehicles, provided that the common carrier, the operator, owner, or lessor of a means of transportation or the automobile or truck rental or leasing company is the policyholder under a policy to which this section applies; or

(M) any other group where the Commissioner has determined that the members are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, and that issuance of the policy would not be contrary to the public interest.

(5) "Fulfillment materials" means documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan's coverage and assistance details.

(6) "Group travel insurance" means travel insurance issued to any eligible group.

(7) “Limited lines travel insurance producer” means a:

(A) licensed managing general agent or third-party administrator;

(B) licensed insurance producer, including a limited lines producer, designated by an insurer as the travel insurance supervising entity as set forth in subsection 7124(f) of this title; or

(C) travel administrator.

(8) “Offer and disseminate” means to provide general information, including a description of the coverage and price, as well as to process the application and collect premiums.

(9) “Primary certificate holder” means an individual person who elects and purchases travel insurance under a group policy.

(10) “Primary policyholder” means an individual person who elects and purchases individual travel insurance.

(11) “Travel administrator” means a person who directly or indirectly underwrites, collects charges, collateral, or premiums from, or adjusts or settles claims on residents of this State, in connection with travel insurance, except that a person shall not be considered a travel administrator if that person’s only actions that would otherwise cause it to be considered a travel administrator are among the following:

(A) a person working for a travel administrator to the extent that the person’s activities are subject to the supervision and control of the travel administrator;

(B) an insurance producer selling insurance or engaged in administrative and claims-related activities within the scope of the producer’s license;

(C) a travel retailer offering and disseminating travel insurance and registered under the license of a limited lines travel insurance producer in accordance with this chapter;

(D) an individual adjusting or settling claims in the normal course of that individual’s practice or employment as an attorney-at-law and who does not collect charges or premiums in connection with insurance coverage; or

(E) a business entity that is affiliated with a licensed insurer while acting as a travel administrator for the direct and assumed insurance business of an affiliated insurer.

(12) “Travel assistance services” means noninsurance services for which the consumer is not indemnified based on a fortuitous event and where

providing the service does not result in transfer or shifting of risk that would constitute the business of insurance. Travel assistance services include the provision of security advisories, destination information, vaccination and immunization information services, travel reservation services, entertainment, activity, or event planning, translation assistance, emergency messaging, international legal and medical referrals, medical case monitoring, coordination of transportation arrangements, emergency cash transfer assistance, medical prescription replacement assistance, passport and travel document replacement assistance, lost luggage assistance, or concierge services. Travel assistance services are not insurance and not related to insurance.

(13)(A) “Travel insurance” means insurance coverage for personal risks incident to planned travel, including:

- (i) interruption or cancellation of a trip or event;
- (ii) loss of baggage or personal effects;
- (iii) damages to accommodations or rental vehicles;
- (iv) sickness, accident, disability, or death occurring during travel;
- (v) emergency evacuation;
- (vi) repatriation of remains; or
- (vii) any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the Commissioner.

(B) Travel insurance does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting six months or longer, including, for example, those working overseas as expatriates, or any other product that requires a specific insurance producer license.

(14) “Travel protection plan” means a plan that provides one or more of the following: travel insurance; travel assistance services; or cancellation fee waivers.

(15) “Travel retailer” means a business entity that makes, arranges, or offers travel services and may offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a limited lines travel insurance producer.

§ 7124. LICENSING AND REGISTRATION

(a) The Commissioner may issue to an individual or a business entity that has complied with the requirements of this chapter and filed an application for such limited lines travel insurance producer license in a form and manner prescribed by the Commissioner, a limited lines travel insurance producer license, which authorizes the limited lines travel insurance producer to sell, solicit, or negotiate travel insurance through a licensed insurer. A person may not act as a limited lines travel insurance producer or travel retailer unless properly licensed or registered, respectively.

(b) A travel retailer may offer and disseminate travel insurance under a limited lines travel insurance producer license only if the following conditions are met:

(1) The limited lines travel insurance producer or travel retailer provides to purchasers of travel insurance:

(A) a description of the material terms or the actual material terms of the insurance coverage at the time of purchase;

(B) a description of the process for filing a claim;

(C) a description of the review and cancellation process for the travel insurance policy; and

(D) the identity and contact information of the insurer and limited lines travel insurance producer.

(2) At the time of licensure, the limited lines travel insurance producer has established and maintains a register on a form prescribed by the Commissioner of each travel retailer that offers travel insurance on the limited lines travel insurance producer's behalf. The register shall be maintained and updated annually by the limited lines travel insurance producer and shall include the name, address, and contact information of the travel retailer and an officer or person who directs or controls the travel retailer's operations, and the travel retailer's Federal Tax Identification Number. The limited lines travel insurance producer shall submit such register within 30 days of request by the Commissioner. The limited lines travel insurance producer shall also certify that the travel retailer registered complies with 18 U.S.C. § 1033. The grounds for the suspension and revocation and the penalties applicable to resident insurance producers under 8 V.S.A. § 4804 shall be applicable to the limited lines travel insurance producers and travel retailers.

(3) The limited lines travel insurance producer has designated one of its employees who is a licensed individual producer as the person responsible for the limited lines travel insurance producer's compliance with the travel

insurance laws, rules, and regulations of the State. This person shall be identified as the Designated Responsible Licensed Producer (DRLP).

(4) The DRLP, president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance producer's insurance operations has complied with the fingerprinting requirements applicable to insurance producers in the resident state of the limited lines travel insurance producer.

(5) The limited lines travel insurance producer has paid all applicable insurance producer licensing fees as set forth in section 4800 of this title.

(6) The limited lines travel insurance producer requires each employee and authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, which may be subject to review by the Commissioner. The training material shall, at a minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.

(c) Any travel retailer offering or disseminating travel insurance shall make available to prospective purchasers brochures or other written materials that have been approved by the travel insurer. Such materials shall include information that, at a minimum:

(1) provides the identity and contact information of the insurer and the limited lines travel insurance producer;

(2) explains that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer; and

(3) explains that an unlicensed travel retailer is permitted to provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

(d) A travel retailer's employee or authorized representative who is not licensed as an insurance producer may not:

(1) evaluate or interpret the technical terms, benefits, or conditions of the offered travel insurance coverage;

(2) evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or

(3) hold themselves out as a licensed insurer, licensed producer, or insurance expert.

(e) A travel retailer whose insurance-related activities, and those of its employees and authorized representatives, are limited to offering and disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer meeting the conditions stated in this section is authorized to do so and receive related compensation for such services, upon registration by the limited lines travel insurance producer as described in subdivision (b)(2) of this section.

(f) As the insurer's designee, a limited lines travel insurance producer is responsible for the acts of each of its registered travel retailers related to the offer and dissemination of travel insurance and shall use reasonable means to ensure the travel retailer's compliance with this chapter.

(g) Any person licensed in a major line of authority as an insurance producer is authorized to sell, solicit, and negotiate travel insurance. A property and casualty insurance producer is not required to become appointed by an insurer in order to sell, solicit, or negotiate travel insurance.

(h) The limited lines travel insurance producer and any travel retailer offering and disseminating travel insurance under a limited lines travel insurance producer license shall be subject to the provisions of sections 13 and 4804 and chapter 129 of this title.

§ 7125. PREMIUM TAX

(a) A travel insurer shall pay premium tax, as provided in 32 V.S.A. § 8551, on travel insurance premiums paid by any of the following:

(1) a primary policyholder who is a resident of this State;

(2) a primary certificate holder who is a resident of this State who elects coverage under a group travel insurance policy; or

(3) a blanket travel insurance policyholder that is a resident in or has its principal place of business or the principal place of business of an affiliate or subsidiary that has purchased blanket travel insurance in this State for eligible blanket travel insurance group members, subject to any apportionment rules that apply to the insurer across multiple taxing jurisdictions or that permit the insurer to allocate premium on an apportioned basis in a reasonable and equitable manner in those jurisdictions.

(b) A travel insurer shall:

(1) document the state of residence or principal place of business of the policyholder or certificate holder, as required in subsection (a) of this section; and

(2) report as premium only the amount allocable to travel insurance and not any amounts received for travel assistance services or cancellation fee waivers.

§ 7126. TRAVEL PROTECTION PLANS

A travel protection plan may be offered for one price for the combined features that the travel protection plan offers in this State if:

(1) the travel protection plan clearly discloses to the consumer, at or prior to the time of purchase, that it includes travel insurance, travel assistance services, or cancellation fee waivers, as applicable, and provides information and an opportunity, at or prior to the time of purchase, for the consumer to obtain additional information regarding the features and pricing of each;

(2) the person offering the travel protection plan that includes a travel insurance policy complies with section 7127 of this title; and

(3) the fulfillment materials:

(A) describe and delineate the travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plan; and

(B) include the travel insurance disclosures and the contact information for persons providing travel assistance services and cancellation fee waivers, as applicable.

§ 7127. SALES PRACTICES

(a) All persons offering travel insurance to residents of this State are subject to chapter 129 of this title, except as otherwise provided in this section. In the event of a conflict between this chapter and other provisions of this title regarding the sale and marketing of travel insurance and travel protection plans, the provisions of this chapter shall control.

(b) Offering or selling a travel insurance policy that could never result in payment of any claims for any insured under the policy is an unfair trade practice under chapter 129 of this title.

(c)(1) All documents provided to consumers prior to the purchase of travel insurance, including sales materials, advertising materials, and marketing materials, shall be consistent with the travel insurance policy itself, including forms, endorsements, policies, rate filings, and certificates of insurance.

(2) For a travel insurance policy or certificate that contains preexisting condition exclusions:

(A) information and an opportunity to learn more about the preexisting condition exclusions shall be provided prior to the time of purchase and in the coverage's fulfillment materials; and

(B) the policy or certificate may only exclude preexisting conditions for which medical advice or treatment was recommended by or received from a health care provider within a six-month period preceding the effective date of coverage.

(3)(A) The fulfillment materials and the information described in subdivisions 7124(b)(1)(B)–(D) of this title shall be provided to a policyholder or certificate holder as soon as practicable following the purchase of a travel protection plan. Unless the insured has either started a covered trip or filed a claim under the travel insurance coverage, a policyholder or certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of a travel protection plan until at least:

(i) 15 days following the date of delivery of the travel protection plan's fulfillment materials by U.S. mail; or

(ii) 10 days following the date of delivery of the travel protection plan's fulfillment materials by means other than U.S. mail.

(B) As used in this subdivision, "delivery" means handing fulfillment materials to the policyholder or certificate holder or sending fulfillment materials by U.S. mail or electronic means to the policyholder or certificate holder.

(5) A travel insurer shall disclose in the policy documentation and fulfillment materials whether the travel insurance is primary or secondary to other applicable coverage.

(6) Where travel insurance is marketed directly to a consumer through an insurer's website or by others through an aggregator site, it shall not be an unfair trade practice or other violation of law where an accurate summary or short description of coverage is provided on the web page, provided the consumer has access to the full provisions of the policy through electronic means.

(d) A person offering, soliciting, or negotiating travel insurance or travel protection plans on an individual or group basis may not do so by using negative option or opt out, which would require a consumer to take an affirmative action to deselect coverage, such as by unchecking a box on an electronic form, when the consumer purchases a trip.

(e) Marketing blanket travel insurance coverage as free is an unfair trade practice under chapter 129 of this title.

(f) Where a consumer's destination jurisdiction requires insurance coverage, it shall not be an unfair trade practice to require that a consumer choose between the following options as a condition of purchasing a trip or travel package:

(1) purchasing the coverage required by the destination jurisdiction through the travel retailer or limited lines travel insurance producer supplying the trip or travel package; or

(2) agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements prior to departure.

(g) For any travel insurance policy or certificate that provides coverage for sickness, sickness shall include any mental disorder as defined by the American Psychiatric Association DSM-5, or its current equivalent that is diagnosed or treated by a properly qualified medical professional.

§ 7128. TRAVEL ADMINISTRATORS

(a) A person shall not act or represent themselves as a travel administrator for travel insurance in this State unless that person:

(1) is a licensed property and casualty insurance producer in this State for activities permitted under that producer license;

(2) holds a valid managing general agent license in this State; or

(3) holds a valid third-party administrator license in this State.

(b) A travel administrator and its employees are exempt from the licensing requirements of section 4803 of this title for travel insurance it administers.

(c) An insurer is responsible for the acts of a travel administrator administering travel insurance underwritten by the insurer and is responsible for ensuring that the travel administrator maintains all books and records relevant to the insurer to be made available by the travel administrator to the Commissioner upon request.

§ 7129. POLICY

(a) Notwithstanding any other provision of this title to the contrary, travel insurance shall be classified and filed for purposes of rates and forms under an inland marine line of insurance; provided, however, that travel insurance that provides coverage for sickness, accident, disability, or death occurring during travel, either exclusively or in conjunction with related coverages such as emergency evacuation or repatriation of remains, or incidental limited property

and casualty benefits such as baggage or trip cancellation, may be filed under either an accident and health line of insurance or an inland marine line of insurance.

(b) Travel insurance may be provided under an individual, group, or blanket policy.

(c) Eligibility and underwriting standards for travel insurance may be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels, provided those standards also meet the State's underwriting standards for inland marine.

§ 7130. RULEMAKING AUTHORITY

The Commissioner may adopt rules to implement the provisions of this chapter.

Sec. 11. 8 V.S.A. § 4813i(c) is amended to read:

(c) A person who applies for a limited lines travel insurance producer license for travel accident or travel baggage insurance under chapter 148 of this title shall not be required to be examined by the Commissioner.

Sec. 12. 8 V.S.A. § 3301(a)(11) is added to read:

(11) "Inland marine insurance" means any insurance that is defined by statute, rule, or general custom as inland marine insurance.

* * * Captive Insurance * * *

Sec. 13. 8 V.S.A. § 6007(c)(2) is amended to read:

(2) in order to provide sufficient detail to support the premium tax return, the pure captive insurance company, association captive insurance company, sponsored captive insurance company, or industrial insured captive insurance company shall file prior to March 15 of each year for each calendar year-end, pages 1, 2, 3, and 5 the premium schedule of the "Vermont Captive Insurance Company Annual Report-Short Form" verified by oath of two of its executive officers.

Sec. 14. 8 V.S.A. § 6038 is amended to read:

§ 6038. DELINQUENCY OF SPONSORED CAPTIVE INSURANCE COMPANIES

(a) Except as otherwise provided in this section, the provisions of chapter 145 of this title shall apply in full to a sponsored captive insurance company and to each of its protected cells.

(b) Upon any order of supervision, rehabilitation, or liquidation of a sponsored captive insurance company or any of its protected cells, the receiver shall manage the assets and liabilities of the sponsored captive insurance company or any of its protected cells pursuant to the provisions of this subchapter.

(c) Notwithstanding the provisions of chapter 145 of this title to the contrary:

(1) In connection with the conservation, rehabilitation, or liquidation of a sponsored captive insurance company or any of its protected cells, the assets and liabilities of a protected cell shall at all times be kept separate from, and shall not be commingled with, those of other protected cells and the sponsored captive insurance company.

(2) The assets of a protected cell may not be used to pay any expenses or claims other than those attributable to such protected cell.

(3) Unless the sponsor consents and the Commissioner has granted prior written approval, the assets of the sponsored captive insurance company's general account shall not be used to pay any expenses or claims attributable solely to a protected cell or protected cells of the sponsored captive insurance company. In the event that the assets of the sponsored captive insurance company's general account are used to pay expenses or claims attributable solely to a protected cell or protected cells of the sponsored captive insurance company, the sponsor is not required to contribute additional capital and surplus to the sponsored captive insurance company's general account, notwithstanding the provisions of section 6004 of this title.

(4) A sponsored captive insurance company's capital and surplus shall at all times be available to pay any expenses of or claims against the sponsored captive insurance company.

(d) Notwithstanding the provisions of chapter 145 of this title or any other provision of law to the contrary, and, in addition to the provisions of this section, in the event of an insolvency of a sponsored captive insurance company or any of its protected cells where the Commissioner determines that one or more protected cells remain solvent, the Commissioner may separate such cells from the sponsored captive insurance company and, on application of the sponsor, may allow for the conversion of such protected cells into one or more new or existing sponsored captive insurance companies, or one or more other captive insurance companies, pursuant to a plan or plans of operation approved by the Commissioner.

(e) Notwithstanding the provisions of chapter 145 of this title or any other provision of law to the contrary, and in addition to the provisions of this section, in the event of an insolvency of one or more protected cells of a sponsored captive insurance company, the Commissioner may separate such cell or cells from the sponsored captive insurance company and may allow for the conversion of such protected cell or cells into one or more new or existing sponsored captive insurance companies, or one or more other captive insurance companies, pursuant to a plan or plans of operation approved by the Commissioner.

Sec. 15. 8 V.S.A. § 6032(7)(C) is amended to read:

(C) that insures the risks only of its participants or, subject to Commissioner approval, other parties unaffiliated with a participant, through separate participant contracts; and

Sec. 16. 8 V.S.A. § 6034 is amended to read:

§ 6034. PROTECTED CELLS

* * *

~~(7) Each sponsored captive insurance company shall annually file with the Commissioner such financial reports as the Commissioner shall require, which shall include accounting statements detailing the financial experience of each protected cell.~~

~~(8)~~(7) Each sponsored captive insurance company shall notify the Commissioner in writing within 10 business days of any protected cell that is insolvent or otherwise unable to meet its claim or expense obligations.

~~(9)~~(8) No participant contract shall take effect without the Commissioner's prior written approval, and the addition of each new protected cell and withdrawal of any participant or termination of any existing protected cell shall constitute a change in the business plan requiring the Commissioner's prior written approval.

~~(10)~~(9) If required by the Commissioner, in his or her discretion, the business written by a sponsored captive, with respect to each cell, shall be:

(A) Fronted by an insurance company licensed under the laws of any state.

(B) Reinsured by a reinsurer authorized or approved by the State of Vermont.

(C) Secured by a trust fund in the United States for the benefit of policyholders and claimants or funded by an irrevocable letter of credit or

other arrangement that is acceptable to the Commissioner. The Commissioner may require the sponsored captive to increase the funding of any security arrangement established under this subdivision. If the form of security is a letter of credit, the letter of credit must be issued or confirmed by a bank approved by the Commissioner. A trust maintained pursuant to this subdivision shall be established in a form and upon such terms approved by the Commissioner.

Sec. 17. 8 V.S.A. § 6034f is added to read:

§ 6034f. ANNUAL REPORT; BOOKS AND RECORDS

(a) For purposes of subsection 6007(b) of this chapter:

(1) Each sponsored captive insurance company shall annually file with the Commissioner such financial reports as the Commissioner requires, which shall include accounting statements detailing the financial experience of each protected cell.

(2) Unless otherwise approved in advance by the Commissioner, a sponsored captive insurance company shall maintain its books, records, documents, accounts, vouchers, and agreements in this State. A sponsored captive insurance company shall make its books, records, documents, accounts, vouchers, and agreements available for inspection by the Commissioner at any time. A sponsored captive insurance company shall keep its books and records in such manner that its financial condition, affairs, and operations can be readily ascertained and so that the Commissioner may readily verify its financial statements and determine its compliance with this chapter.

(3) Unless otherwise approved in advance by the Commissioner, all original books, records, documents, accounts, vouchers, and agreements shall be preserved and kept available in this State for the purpose of examination and inspection and until such time as the Commissioner approves the destruction or other disposition of such books, records, documents, accounts, vouchers, and agreements. If the Commissioner approves the keeping of the items listed in this subdivision outside this State, the sponsored captive insurance company shall maintain in this State a complete and true copy of each such original. Books, records, documents, accounts, vouchers, and agreements may be photographed, reproduced on film, or stored and reproduced electronically.

Sec. 18. 8 V.S.A. § 6002(a) is amended to read:

(a) Any captive insurance company, when permitted by its articles of association, charter, or other organizational document, may apply to the

Commissioner for a license to do any and all insurance comprised in subdivisions 3301(a)(1), (2), (3)(A)–(C), (E)–(Q), and (4)–(9) of this title and may grant annuity contracts as defined in section 3717 of this title, and may accept or transfer risk by means of a parametric contract; provided, however, that:

* * *

(10) Any captive insurance company that transfers risk by means of a parametric contract shall comply with all applicable State and federal laws and regulations. As used in this subdivision, “parametric contract” means a contract to make a payment upon the occurrence of one or more specified triggering events without proof of loss or obligation to indemnify. A parametric contract is not an insurance contract.

Sec. 19. 8 V.S.A. § 6006a(b) is amended to read:

(b) When such merger ~~or consolidation~~ has been effected as provided in this section:

* * *

* * * Vermont Insurance Data Security Law * * *

Sec. 20. 8 V.S.A. § 4728 is added to read:

§ 4728. INSURANCE DATA SECURITY

(a) Title. This section shall be known and may be cited as the “Vermont Insurance Data Security Law.”

(b) Construction.

(1) Notwithstanding any other provision of law, this section establishes the exclusive State standards applicable to licensees for data security and for the investigation of a cybersecurity event.

(2) This section shall not be construed to change any aspect of the Security Breach Notice Act, 9 V.S.A. § 2435.

(3) This section may not be construed to create or imply a private cause of action for violation of its provisions, nor may it be construed to curtail a private cause of action which would otherwise exist in the absence of this section.

(4) A licensee in compliance with N.Y. Comp. Codes R. & Regs. Title 23, section 500, Cybersecurity Requirements for Financial Services Companies, effective March 1, 2017, shall be considered to meet the

requirements of this section, provided that the licensee submits a written statement to the Commissioner certifying such compliance.

(c) Definitions. As used in this section:

(1) “Authorized person” means a person known to and screened by the licensee and determined to be necessary and appropriate to have access to the nonpublic information held by the licensee and its information systems.

(2) “Consumer” means an individual, including but not limited to an applicant, policyholder, insured, beneficiary, claimant, or certificate holder, who is a resident of this State and whose nonpublic information is in a licensee’s possession, custody, or control.

(3) “Cybersecurity event” means an event resulting in unauthorized access to or disruption or misuse of an information system or nonpublic information stored on such information system. The term “cybersecurity event” does not include:

(A) the unauthorized acquisition of encrypted nonpublic information if the encryption, process, or key is not also acquired, released, or used without authorization; or

(B) an event with regard to which the licensee has determined that the nonpublic information accessed by an unauthorized person has not been used or released and has been returned or destroyed.

(4) “Encrypted” means the transformation of data into a form that results in a low probability of assigning meaning without the use of a protective process or key.

(5) “Information security program” means the administrative, technical, and physical safeguards that a licensee uses to access, collect, distribute, process, protect, store, use, transmit, dispose of, or otherwise handle nonpublic information.

(6) “Information system” means a discrete set of electronic information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of electronic information, as well as any specialized system such as an industrial/process controls system, telephone switching and private branch exchange system, or environmental control system.

(7) “Licensee” means a person licensed, authorized to operate, or registered or required to be licensed, authorized, or registered pursuant to the insurance laws of this State, but shall not include:

(A) a captive insurance company;

(B) a purchasing group or risk retention group chartered; or

(C) a licensee domiciled in a jurisdiction other than this State or a person that is acting as an assuming insurer for a licensee domiciled in this State.

(8) “Multi-factor authentication” means authentication through verification of at least two of the following types of authentication factors:

(A) a knowledge factor, such as a password;

(B) a possession factor, such as a token or text message on a mobile phone; or

(C) an inherence factor, such as a biometric characteristic.

(9) “Nonpublic information” means information that is not publicly available information and is:

(A) business-related information of a licensee, the tampering with which, or unauthorized disclosure, access, or use of which would cause a material adverse impact to the business, operations, or security of the licensee;

(B) information concerning a consumer that, because of name, number, personal mark, or other identifier, can be used to identify such consumer, in combination with any one or more of the following data elements:

(i) Social Security number;

(ii) driver’s license number or nondriver identification card number;

(iii) individual taxpayer identification number;

(iv) passport number;

(v) military identification card number;

(vi) financial account number or credit or debit card number;

(vii) security code, access code, or password that would permit access to a consumer’s financial account; or

(viii) biometric record;

(C) information or data, except age or gender, in any form or medium created by or derived from a health care provider or a consumer, that relates to:

(i) the past, present, or future physical, mental, or behavioral health or condition of any consumer or a member of the consumer’s family;

(ii) the provision of health care to any consumer; or

(iii) payment for the provision of health care to any consumer.

(10)(A) “Publicly available information” means information that a licensee has a reasonable basis to believe is lawfully made available to the general public from federal, state, or local government records, widely distributed media, or disclosures to the general public that are required to be made by federal, state, or local law.

(B) As used in this subdivision, a licensee has a “reasonable basis to believe” that information is lawfully made available to the general public if the licensee has taken steps to determine:

(i) that the information is of the type that is available to the general public; and

(ii) whether a consumer can direct that the information not be made available to the general public and, if so, that the consumer has not done so.

(11) “Risk assessment” means the risk assessment that each licensee is required to conduct under subdivision (d)(3) of this section.

(12) “Third-party service provider” means a person, not otherwise defined as a licensee, that contracts with a licensee to maintain, process, or store nonpublic information or is otherwise permitted access to nonpublic information through its provision of services to the licensee.

(d) Information Security Program.

(1) Commensurate with the size and complexity of the licensee, the nature and scope of the licensee’s activities, including its use of third-party service providers, and the sensitivity of the nonpublic information used by the licensee or in the licensee’s possession, custody, or control, each licensee shall develop, implement, and maintain a comprehensive written information security program that is based on the licensee’s risk assessment and contains administrative, technical, and physical safeguards for the protection of nonpublic information and the licensee’s information system.

(2) A licensee’s information security program shall be designed to:

(A) protect the security and confidentiality of nonpublic information and the security of the information system;

(B) protect against any threats or hazards to the security or integrity of nonpublic information and the information system;

(C) protect against unauthorized access to or use of nonpublic information and minimize the likelihood of harm to any consumer; and

(D) define and periodically reevaluate a schedule for retention of nonpublic information and a mechanism for its destruction when no longer needed.

(3) The licensee shall:

(A) designate one or more employees, an affiliate, or an outside vendor designated to act on behalf of the licensee to be responsible for the information security program;

(B) identify reasonably foreseeable internal or external threats that could result in unauthorized access, transmission, disclosure, misuse, alteration, or destruction of nonpublic information, including the security of information systems and nonpublic information that are accessible to or held by third-party service providers;

(C) assess the likelihood and potential damage of these threats, taking into consideration the sensitivity of the nonpublic information;

(D) assess the sufficiency of policies, procedures, information systems, and other safeguards in place to manage these threats, including consideration of threats in each relevant area of the licensee's operations, including:

(i) employee training and management;

(ii) information systems, including network and software design, as well as information classification, governance, processing, storage, transmission, and disposal; and

(iii) detecting, preventing, and responding to attacks, intrusions, or other systems failures; and

(E) implement information safeguards to manage the threats identified in its ongoing assessment and, not less than annually, assess the effectiveness of the safeguards' key controls, systems, and procedures.

(4) Based on its risk assessment, the licensee shall:

(A) Design its information security program to mitigate the identified risks, commensurate with the size and complexity of the licensee, the nature and scope of the licensee's activities, including its use of third-party service providers, and the sensitivity of the nonpublic information used by the licensee or in the licensee's possession, custody, or control.

(B) Determine which security measures listed below are appropriate and implement such security measures:

(i) place access controls on information systems, including controls to authenticate and permit access only to authorized persons to protect against the unauthorized acquisition of nonpublic information;

(ii) identify and manage the data, personnel, devices, systems, and facilities that enable the organization to achieve business purposes in accordance with their relative importance to business objectives and the organization's risk strategy;

(iii) restrict physical access to nonpublic information to authorized persons only;

(iv) protect by encryption or other appropriate means all nonpublic information while being transmitted over an external network and all nonpublic information stored on a laptop computer or other portable computing or storage device or media;

(v) adopt secure development practices for in-house developed applications utilized by the licensee and procedures for evaluating, assessing, or testing the security of externally developed applications utilized by the licensee;

(vi) modify the information system in accordance with the licensee's information security program;

(vii) utilize effective controls, which may include multi-factor authentication procedures, for any individual accessing nonpublic information;

(viii) regularly test and monitor systems and procedures to detect actual and attempted attacks on or intrusions into information systems;

(ix) include audit trails within the information security program designed to detect and respond to cybersecurity events and reconstruct material financial transactions sufficient to support normal operations and obligations of the licensee;

(x) implement measures to protect against destruction, loss, or damage of nonpublic information due to environmental hazards, such as fire and water damage or other catastrophes or technological failures; and

(xi) develop, implement, and maintain procedures for the secure disposal of nonpublic information in any format.

(C) Include cybersecurity risks in the licensee's enterprise risk management process.

(D) Stay informed regarding emerging threats and vulnerabilities and utilize reasonable security measures when sharing information relative to the character of the sharing and the type of information shared.

(E) Provide its personnel with cybersecurity awareness training that is updated as necessary to reflect risks identified by the licensee in the risk assessment.

(5)(A) If the licensee has a board of directors, the board or an appropriate committee of the board shall, at a minimum:

(i) require the licensee's executive management or its delegates to develop, implement, and maintain the licensee's information security program;

(ii) require the licensee's executive management or its delegates to report in writing at least annually the following information:

(I) the overall status of the information security program and the licensee's compliance with this section; and

(II) material matters related to the information security program, addressing issues such as risk assessment; risk management and control decisions; third-party service provider arrangements; results of testing, cybersecurity events, or violations and management's responses thereto; and recommendations for changes in the information security program.

(B) If executive management delegates any of its responsibilities under subsection (d) of this section, it shall oversee the development, implementation, and maintenance of the licensee's information security program prepared by the delegate or delegates and shall receive a report from the delegate or delegates complying with the requirements of the report to the board of directors.

(6)(A) A licensee shall exercise due diligence in selecting its third-party service provider.

(B) A licensee shall require a third-party service provider to implement appropriate administrative, technical, and physical measures to protect and secure the information systems and nonpublic information that are accessible to or held by the third-party service provider.

(7) A licensee shall monitor, evaluate, and adjust, as appropriate, the information security program consistent with any relevant changes in technology, the sensitivity of its nonpublic information, internal or external threats to information, and the licensee's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements, and changes to information systems.

(8)(A) As part of its information security program, a licensee shall establish a written incident response plan designed to promptly respond to and recover from any cybersecurity event that compromises the confidentiality, integrity, or availability of nonpublic information in its possession; the licensee's information systems; or the continuing functionality of any aspect of the licensee's business or operations.

(B) The incident response plan shall address the following areas:

(i) the internal process for responding to a cybersecurity event;

(ii) the goals of the incident response plan;

(iii) the definition of clear roles, responsibilities, and levels of decision-making authority;

(iv) external and internal communications and information sharing;

(v) identification of requirements for the remediation of any identified weaknesses in information systems and associated controls;

(vi) documentation and reporting regarding cybersecurity events and related incident response activities; and

(vii) the evaluation and revision as necessary of the incident response plan following a cybersecurity event.

(9) Annually, each insurer domiciled in this State shall submit to the Commissioner a written statement on or before April 15, certifying that the insurer is compliant with the requirements established in subsection (d) of this section. Each insurer shall maintain for examination by the Commissioner all records, schedules, and data supporting this certificate for a period of five years. To the extent an insurer has identified areas, systems, or processes that require material improvement, updating, or redesign, the insurer shall document the identification and the remedial efforts planned and underway to address such areas, systems, or processes. Such documentation shall be available for inspection by the Commissioner.

(e) Investigation of a Cybersecurity Event.

(1) If the licensee learns that a cybersecurity event has or may have occurred, the licensee or an outside vendor or service provider, or both, designated to act on behalf of the licensee shall conduct a prompt investigation.

(2) During the investigation, the licensee or an outside vendor or service provider, or both, designated to act on behalf of the licensee shall, at a minimum, make the best effort to:

(A) determine whether a cybersecurity event has occurred;

(B) assess the nature and scope of the cybersecurity event;

(C) identify any nonpublic information that may have been involved in the cybersecurity event; and

(D) perform or oversee reasonable measures to restore the security of the information systems compromised in the cybersecurity event in order to prevent further unauthorized acquisition, release, or use of nonpublic information in the licensee's possession, custody, or control.

(3) The licensee shall maintain records concerning all cybersecurity events for a period of at least five years from the date of the cybersecurity event and shall produce those records upon demand of the Commissioner.

(f) Power of Commissioner.

(1) The Commissioner shall have power to examine and investigate into the affairs of any licensee to determine whether the licensee has been or is engaged in any conduct in violation of this section. This power is in addition to the powers the Commissioner has under section 4726 of this title and 9 V.S.A. § 2435(h)(2). Any such investigation or examination shall be conducted pursuant to section 4726 of this title.

(2) Whenever the Commissioner has reason to believe that a licensee has been or is engaged in conduct in this State that violates this section, the Commissioner may take action that is necessary or appropriate to enforce the provisions of this section.

(g) Confidentiality.

(1) Any documents, materials or other information in the control or possession of the Commissioner that are furnished by a licensee or an employee or agent thereof acting on behalf of the licensee pursuant to subdivision (d)(8) of this section, or that are obtained by the Commissioner in an investigation or examination pursuant to subsection (f) of this section, shall be confidential by law and privileged, shall not be subject to 1 V.S.A. §§ 315–320, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's duties.

(2) Neither the Commissioner nor any person who received documents, materials, or other information while acting under the authority of the Commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subdivision (g)(1) of this section.

(3) To assist in the performance of the Commissioner's duties under this section, the Commissioner may:

(A) share documents, materials, or other information, including confidential and privileged documents, materials, or information subject to subdivision (g)(1) of this section, with other state, federal, and international regulatory agencies, the National Association of Insurance Commissioners, its affiliates or subsidiaries, and state, federal, and international law enforcement authorities, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information shared;

(B) receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information;

(C) share documents, materials, or other information subject to subdivision (g)(1) of this section with a third-party consultant or vendor, provided that the consultant agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information shared; and

(D) enter into agreements governing the sharing and use of information consistent with this subsection.

(4) No waiver of any applicable privilege or claim of confidentiality in any document, material, or information shall occur as a result of its disclosure to the Commissioner under this section or as a result of sharing as authorized in subdivision (g)(3) of this section.

(5) Nothing in this section shall prohibit the Commissioner from releasing final adjudicated actions that are open to public inspection pursuant to 1 V.S.A. §§ 315–320 to a database or other clearinghouse service

maintained by the National Association of Insurance Commissioners or its affiliates or subsidiaries.

(h) Exceptions.

(1) The following exceptions apply to this section:

(A) A licensee with fewer than 20 employees, including any independent contractors, is exempt from subsection (d) of this section.

(B) A licensee that is in possession of protected health information subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Pub. L. No. 104-191, 110 Stat. 1936, that has established and maintains an information security program pursuant to such statutes and the rules, regulations, procedures, or guidelines established under HIPAA, is considered to meet the requirements of subsection (d) of this section, provided that the licensee is compliant with, and annually submits a written statement to, the Commissioner certifying its compliance with such program. As used in this section, the definition of “protected health information” is as set forth in HIPAA and the regulations promulgated under HIPAA and shall be considered to be a subset of nonpublic information.

(C) An employee, agent, representative, or designee of a licensee, who is also a licensee, is exempt from subsection (d) of this section and need not develop its own information security program to the extent that the employee, agent, representative, or designee is covered by the information security program of the other licensee.

(D) A licensee that is affiliated with a financial institution, as defined in subdivision 11101(32) of this title, or a credit union, as defined in subdivision 30101(5) of this title, that has established and maintains an information security program in compliance with the interagency guidelines establishing standards for safeguarding customer information as set forth in section 501(b) of the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq., is considered to meet the requirements of subsection (d) of this section, provided that the licensee produces, upon request, documentation satisfactory to the Commissioner that independently validates the affiliated financial institution’s or credit union’s adoption of an information security program that satisfies the interagency guidelines.

(2) In the event that a licensee ceases to qualify for an exception, such licensee shall have 180 days to comply with this section.

(i) Penalties. In the case of a violation of this section, a licensee may be penalized in accordance with section 3661 or 4726 of this title, as appropriate.

(j) Effective date. This section shall take effect on January 1, 2023. A licensee shall have one year from the effective date of this section to implement subsection (d) of this section, other than subdivision (d)(6) of this section. A licensee shall have two years from the effective date of this section to implement subdivision (d)(6) of this section.

* * * Vermont Whistleblower Award and Protection Act * * *

Sec. 21. 9 V.S.A. § 5616 is amended to read:

§ 5616. VERMONT FINANCIAL SERVICES EDUCATION AND VICTIM
RESTITUTION SPECIAL FUND

(a) Purpose. The purpose of this section is to provide:

(1) funds for the purposes specified in subsection 5601(d) of this title;
and

(2) restitution assistance to victims of securities violations who:

(A) were awarded restitution in a final order issued by the Commissioner or were awarded restitution in the final order in a legal action initiated by the Commissioner;

(B) have not received the full amount of restitution ordered before the application for restitution assistance is due; and

(C) demonstrate to the Commissioner's satisfaction that there is no reasonable likelihood that they will receive the full amount of restitution in the future; and

(3) funds for the purposes specified in section 5617 of this title.

* * *

(f) Vermont Financial Services Education, and Victim Restitution, and Whistleblower Award Special Fund. The Vermont Financial Services Education, ~~and~~ Victim Restitution, and Whistleblower Award Special Fund, pursuant to 32 V.S.A. chapter 7, subchapter 5, is created to provide funds for the purposes specified in this section, ~~and~~ in subsection 5601(d) of this title, and in section 5617 of this title. All monies received by the State for use in financial services education initiatives pursuant to subsection 5601(d) of this title, ~~or~~ in providing uncompensated victims restitution pursuant to this section, or in providing whistleblower awards pursuant to section 5617 of this title shall be deposited into the Fund. The Commissioner may direct a party to deposit a sum not to exceed 15 percent of the total settlement amount into the Fund in conjunction with settling a State securities law enforcement matter. Interest earned on the Fund shall be retained in the Fund.

* * *

Sec. 22. 9 V.S.A. § 5617 is added to read:

§ 5617. VERMONT WHISTLEBLOWER AWARD AND PROTECTION
ACT

(a) Purpose. The purpose of this section is to provide:

(1) protection from retaliation for whistleblowers and internal reporters who comply with the requirements in this section; and

(2) monetary awards to whistleblowers who voluntarily provide original information that leads to the successful enforcement of an administrative or judicial action under chapter 150 of this title.

(b) Definitions. As used in this section,

(1) “Monetary sanction” means any monies, including penalties, disgorgement, and interest ordered to be paid as a result of an administrative or judicial action.

(2) “Original information” means information that is:

(A) derived from the independent knowledge or analysis of a whistleblower;

(B) not already known to the Commissioner from any other source, unless the whistleblower is the original source of the information;

(C) not exclusively derived from an allegation made in an administrative or judicial hearing; in a governmental report, hearing, audit, or investigation; or from the news media, unless the whistleblower is the source of the information; and

(D) provided to the Commissioner for the first time after the date of the enactment of this section.

(3) “Whistleblower” means an individual who, alone or jointly with others, provides the State or other law enforcement agency with information pursuant to the provisions set forth in this section, and the information relates to a possible violation of state or federal securities laws, including any rules or regulations adopted or promulgated under such laws, that has occurred, is ongoing, or is about to occur.

(c) Authority to make a whistleblower award. Subject to the provisions of this section, the Commissioner may award an amount to one or more whistleblowers who voluntarily provide, in writing, in the form and manner required by the Commissioner, original information that leads to the successful

enforcement of an administrative or judicial action under chapter 150 of this title.

(d) Anonymous whistleblower complaints. Any individual who anonymously makes a claim for a whistleblower award shall be represented by counsel if the individual anonymously submits the information upon which the claim is based. Prior to the payment of an award, a previously anonymous whistleblower shall disclose the whistleblower's identity and provide such other information as the Commissioner may require, directly or through counsel for the whistleblower. Failure to provide such information shall be a basis to deny compensation under this section.

(e) Amount of a whistleblower award. If the Commissioner determines to make one or more awards under this section, the aggregate amount of awards that may be awarded in connection with an administrative or judicial action may not be less than 10 percent nor more than 30 percent of the monetary sanctions imposed and collected in the related administrative or judicial action.

(f) Discretion to determine the amount of a whistleblower award. The determination of the amount of an award made under this section shall be in the discretion of the Commissioner consistent with subsections (e) and (h) of this section.

(g) Source of payment of whistleblower award. Any whistleblower awards paid under this section shall be paid from the fund established in section 5616 of this title.

(h) Factors used to determine the amount of a whistleblower award. In determining the amount of an award under this section, the Commissioner shall consider:

(1) the significance of the original information provided by the whistleblower to the success of the administrative or judicial action;

(2) the degree of assistance provided by the whistleblower in connection with the administrative or judicial action;

(3) the programmatic interest of the Commissioner in deterring violations of the securities laws by making awards to whistleblowers who provide original information that leads to the successful enforcement of such laws; and

(4) any other factors the Commissioner considers relevant.

(i) Disqualification from award. The Commissioner shall not provide an award to a whistleblower under this section if the whistleblower:

(1) is convicted of a crime in connection with the administrative or judicial action for which the whistleblower otherwise could receive an award;

(2) acquires the original information through the performance of an audit of financial statements required under the securities laws and for whom providing the original information violates 15 U.S.C. § 78j-1;

(3) fails to timely submit information to the Commissioner in such form as the Commissioner may prescribe;

(4) knowingly or recklessly makes a false, fictitious, or fraudulent statement or representation as part of, or in connection with, the original information provided or the administrative or judicial proceeding for which the original information was provided;

(5) in the whistleblower's submission, its other dealings with the Commissioner, or in its dealings with another authority in connection with a possible violation or related action, knowingly or recklessly makes any false, fictitious, or fraudulent statement or representation or uses or provides any false writing or document knowing that or having a reckless disregard as to whether it contains any false, fictitious, or fraudulent statement or entry;

(6) has a legal duty to report the original information to the Commissioner;

(7) is, or was at the time the whistleblower acquired the original information submitted to the Commissioner, a member, officer, or employee of the Department of Financial Regulation, the Securities and Exchange Commission, any other state securities regulatory authority, a self-regulatory organization, the Public Company Accounting Oversight Board, or any law enforcement organization;

(8) is, or was at the time the whistleblower acquired the original information submitted to the Commissioner, a member, officer, or employee of a foreign government, any political subdivision, department, agency, or instrumentality of a foreign government, or any other foreign financial regulatory authority as that term is defined in 15 U.S.C. § 78c(a)(52);

(9) is the spouse, parent, child, or sibling of, or resides in the same household as, the Commissioner or an employee of the Department of Financial Regulation; or

(10) directly or indirectly acquires the original information provided to the Commissioner from a person:

(A) who is subject to subdivision (i)(2) of this section, unless the information is not excluded from that person's use, or provides the

Commissioner with information about possible violations involving that person;

(B) who is a person described in subdivision (i)(7), (8), or (9) of this section; or

(C) with the intent to evade any provision of this section.

(j) Protection of whistleblowers and internal reporters.

(1) No employer may terminate, discharge, demote, suspend, threaten, harass, directly or indirectly, or in any other manner retaliate against, an individual because of any lawful act done by the individual:

(A) in providing information to the State or other law enforcement agency concerning a possible violation of state or federal securities laws, including any rules or regulations adopted or promulgated under such laws, that has occurred, is ongoing, or is about to occur;

(B) in initiating, testifying in, or assisting in any investigation or administrative or judicial action of the Commissioner or other law enforcement agency based upon or related to such information;

(C) in making disclosures that are required or protected under the Sarbanes-Oxley Act of 2002 (15 U.S.C. § 7201 et seq.), the Securities Act of 1933 (15 U.S.C. § 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), 18 U.S.C. § 1513(e), any other law, rule, or regulation subject to the jurisdiction of the Securities and Exchange Commission, or chapter 150 of this title or a rule adopted under chapter 150 of this title; or

(D) in making disclosures to a person with supervisory authority over the employee or to such other person working for the employer who has the authority to investigate, discover, or terminate misconduct regarding matters subject to the jurisdiction of the Commissioner or the Securities and Exchange Commission.

(2) Notwithstanding subdivision (j)(1) of this section, an individual is not protected under this section if:

(A) the individual knowingly or recklessly makes a false, fictitious, or fraudulent statement or representation as part of, or in connection with, the original information provided or the administrative or judicial proceeding for which the original information was provided; or

(B) the individual, in its dealings with its supervisor, the State, law enforcement, or any other authority in connection with a possible violation or related action, knowingly or recklessly makes any false, fictitious, or fraudulent statement or representation or uses or provides any false writing or

document knowing that or having a reckless disregard as to whether it contains any false, fictitious, or fraudulent statement or entry.

(3) An individual who alleges any act of retaliation in violation of subdivision (j)(1) of this section may bring an action for the relief provided in subdivision (j)(6) of this section in the court of original jurisdiction for the county or state where the alleged violation occurs, the individual resides, or the person against whom the action is filed resides or has a principal place of business.

(4) A subpoena requiring the attendance of a witness at a trial or hearing conducted under subdivision (j)(3) of this section may be served at any place in the United States.

(5) An action under subdivision (j)(3) of this section may not be brought more than the latest of:

(A) six years after the date on which the violation of subdivision (j)(1) of this section occurred;

(B) three years after the date when facts material to the right of action are known or reasonably should have been known by the employee alleging a violation of subdivision (j)(1) of this section;

(C) but in no event more than 10 years after the date on which the violation occurs.

(6) A court may award as relief for an individual prevailing in an action brought under this subsection:

(A) reinstatement with the same compensation, fringe benefits, and seniority status that the individual would have had, but for the retaliation;

(B) two times the amount of back pay otherwise owed to the individual, with interest;

(C) compensation for litigation costs, expert witness fees, and reasonable attorneys' fees;

(D) actual damages;

(E) an injunction to restrain a violation; or

(F) any combination of these remedies.

(7) Information that could reasonably be expected to reveal the identity of a whistleblower is exempt from public disclosure under 1 V.S.A. § 316. This subsection does not limit the ability of any person to present evidence to a

grand jury or to share evidence with potential witnesses or defendants in the course of an ongoing criminal investigation.

(8) No person may take any action to impede an individual from communicating directly with the Commissioner or the Commissioner's staff about a possible securities law violation, including enforcing, or threatening to enforce, a confidentiality agreement with respect to such communications, except with respect to:

(A) agreements concerning communications covered by the attorney-client privilege, unless disclosure of that information would otherwise be permitted by an attorney under applicable state attorney conduct rules or otherwise; and

(B) information obtained in connection with legal representation of a client on whose behalf an individual or the individual's employer or firm are providing services, and the individual is seeking to use the information to make a whistleblower submission for the individual's own benefit, unless disclosure would otherwise be permitted by an attorney pursuant to applicable state attorney conduct rules or otherwise.

(9) The rights and remedies provided for in this section may not be waived by any agreement, policy form, or condition of employment, including by a predispute arbitration agreement.

(10) Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any individual under any federal or state law, or under any collective bargaining agreement.

(k) The Commissioner may adopt such rules as may be necessary or appropriate to implement the provisions of this section consistent with its purpose.

* * * Credit for Reinsurance * * *

Sec. 23. 8 V.S.A. § 3634a is amended to read:

§ 3634a. CREDIT FOR REINSURANCE

(a) Purpose. It is the purpose of this section to protect the interest of insureds, claimants, ceding insurers, assuming insurers, and the public generally. The General Assembly hereby declares its intent is to ensure adequate regulation of insurers and reinsurers and adequate protection for those to whom they owe obligations. In furtherance of that State interest, the General Assembly hereby provides a mandate that upon the insolvency of a non-U.S. insurer or reinsurer that provides security to fund its U.S. obligations in accordance with this section, the assets representing the security shall be

maintained in the United States and claims shall be filed with and valued by the state insurance Commissioner with regulatory oversight, and the assets shall be distributed in accordance with the insurance laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic U.S. insurance companies. The General Assembly declares that the matters contained in this section are fundamental to the business of insurance in accordance with 15 U.S.C. §§ 1011-1012.

(b) Credit allowed a domestic ceding insurer. Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a ~~deduction~~ reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of subdivision (1), (2), (3), (4), (5), (6), or (7) of this subsection (b), provided that the Commissioner may adopt by rule or regulation pursuant to subdivision (e)(2) of this section specific additional requirements relating to any or all of the following: the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements described in subdivision (e)(2) of this section, or the circumstances pursuant to which credit will be reduced or eliminated. Credit shall be allowed under subdivision (1), (2), or (3) of this subsection (b) only with respect to cessions of those kinds or classes of business that the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a U.S. branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed under subdivision (3) or (4) of this subsection (b) only if the applicable requirements of subdivision (8) of this subsection (b) have been satisfied.

(1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this State.

(2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is accredited by the Commissioner as a reinsurer in this State. An accredited reinsurer is one that:

(A) files with the Commissioner evidence of its submission to this State's jurisdiction;

(B) submits to this State's authority to examine its books and records;

(C) is licensed to transact insurance or reinsurance in at least one state or, in the case of a U.S. branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

(D) files annually with the Commissioner ~~on or before March 1 of each year~~ a copy of its annual statement filed with the insurance department of its state of domicile and ~~files on or before June 1 of each year~~ a copy of its most recent audited financial statement;

(E) files with the Commissioner its charter, bylaws, and any other material required by the Commissioner;

(F) pays an initial fee of \$500.00 and thereafter an annual fee of \$200.00 on or before March 1 of each year; and

(G) demonstrates to the satisfaction of the Commissioner that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is deemed to meet this requirement, provided that at the time of its application it:

(i) maintains a surplus for policyholders that is not less than \$20,000,000.00 and whose accreditation has not been denied by the Commissioner within 90 days of following its submission; or

(ii) maintains a surplus for policyholders in an amount less than \$20,000,000.00 and whose accreditation has been approved the Commissioner.

~~(H) Credit for reinsurance ceded to a certified reinsurer shall be permitted only for reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer by the Commissioner.~~

(3)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer ~~which~~ that is domiciled and licensed in, or in the case of a U.S. branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or U.S. branch of an alien assuming insurer:

(i) maintains a surplus for policyholders in an amount not less than \$20,000,000.00; and

(ii) submits to the authority of this State to examine its books and records.

(B) The requirement of subdivision (3)(A)(i) of this subsection (b) does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(4)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer ~~which~~ that maintains a trust fund in a qualified U.S. financial institution, as defined in subdivision (d)(2) of this section, for the payment of

the valid claims of its U.S. ~~policyholders and~~ ceding insurers, their assigns, and successors in interest. The assuming insurer shall report annually to the Commissioner information required by the Commissioner and substantially the same as that required to be reported on the National Association of Insurance Commissioners' Annual Statement form by licensed insurers to enable the Commissioner to determine the sufficiency of the trust fund. ~~On or before February 28 of each year, the trustees of the trust shall report to the Commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31. A trust and trust instrument maintained pursuant to this subdivision shall:~~

~~(i) be established in a form and upon such terms approved by the Commissioner;~~

~~(ii) provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States;~~

~~(iii) vest legal title to its assets in the trustees of the trust for its U.S. policyholders and ceding insurers, their assigns and successors in interest;~~

~~(iv) be subject to examination as determined by the Commissioner;~~

~~(v) remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust; and~~

~~(vi) be filed with the Commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The assuming insurer shall submit to examination of its books and records by the Commissioner and bear the expense of the examination.~~

(B)(i) Credit for reinsurance shall not be granted under this subsection (b) unless the form of the trust and any amendments to the trust have been approved by:

(I) the commissioner of the state where the trust is domiciled;
or

(II) the commissioner of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(ii) The form of the trust and any trust amendments also shall be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in its trustees for the benefit of the assuming insurer's U.S. ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the Commissioner.

(iii) The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. Not later than February 28 of each year the trustee of the trust shall report to the Commissioner in writing the balance of the trust and a list of the trust's investments at the preceding year-end and shall certify the date of termination of the trust, if so planned, or certify that the trust will not expire prior to the following December 31.

(C) The following requirements shall apply to the following categories of assuming insurer:

(i) In the case of a single assuming insurer, the trust fund shall consist of a ~~trusteed account~~ funds in trust in an amount not less than representing the assuming insurer's liabilities attributable to ~~business written in the United States~~ reinsurance ceded by U.S. ceding insurers, and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than \$20,000,000.00, except at any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the ~~Commissioner~~ commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trusteed surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of U.S. ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trusteed surplus may not be reduced to an amount less than 30 percent of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers covered by the trust.

~~(C)(ii)(I)~~ In the case of a group including incorporated and individual unincorporated underwriters, the trust shall consist of a trusteed account

~~representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trusted surplus of which \$100,000,000.00 shall be held jointly for the benefit of U.S. ceding insurers of any member of the group; the incorporated members of the group shall not engage in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members; and the group shall make available to the Commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants:~~

(aa) for reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after January 1, 1993, the trust shall consist of a trusted account in an amount not less than the respective underwriters' several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any underwriter of the group;

(bb) for reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this section, the trust shall consist of a trusted account in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and

(cc) in addition to the trusts specified in subdivisions (aa) and (bb) of this subdivision (C)(ii)(I), the group shall maintain in trust a trusted surplus of which \$100,000,000.00 shall be held jointly for the benefit of U.S. domiciled ceding insurers of any member of the group for all years of the account.

(II) The incorporated members of the group shall not engage in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members.

(III) Within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the Commissioner an annual certification of the solvency of each underwriter member by the group's domiciliary regulator or, if certification is unavailable, financial statements prepared by independent public accountants of each underwriter member of the group.

~~(D)(iii) In the case of a group of incorporated insurers under common administration which complies with the filing requirements contained in subdivision (b)(2) of this section and which has, the group shall:~~

~~(I) have continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation, and submits to this State's authority to examine its books and records and bears the expense of the examination, and which has aggregate policyholders' surplus of \$10,000,000,000.00, the trust shall be in an amount equal to the group's several liabilities attributable to business ceded by U.S. ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of such group, plus the group shall maintain a joint trustee surplus of which \$100,000,000.00 shall be held jointly for the benefit of U.S. ceding insurers of any member of the group as additional security for any such liabilities, and each member of the group shall make available to the Commissioner an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant;~~

~~(II) maintain aggregate policyholders' surplus of at least \$10,000,000,000.00;~~

~~(III) maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of such group;~~

~~(IV) maintain a joint trustee surplus of which \$100,000,000.00 shall be held jointly for the benefit of U.S. domiciled ceding insurers of any member of the group as additional security for liabilities; and~~

~~(V) within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, make available to the Commissioner an annual certification of each underwriter member's solvency by the member's domiciliary regulator and financial statements of each underwriter member of the group prepared by an independent public accountant.~~

(5) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the Commissioner as a reinsurer in this State and secures its obligations in accordance with the requirements of this subdivision.

(A) In order to be eligible for certification, the assuming insurer shall:

(i) be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the Commissioner under subdivision (C) of this subdivision (5);

(ii) maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the Commissioner by rule or regulation;

(iii) maintain financial strength ratings from two or more rating agencies deemed acceptable by the Commissioner by rule or regulation;

(iv) agree to submit to the jurisdiction of this State, appoint the Commissioner as its agent for service of process in this State, and agree to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment;

(v) agree to meet applicable information filing requirements as determined by the Commissioner, both with respect to an initial application for certification and on an ongoing basis; and

(vi) ~~the assuming insurer must~~ satisfy any other requirements for certification deemed relevant by the Commissioner.

(B) An ~~Assœiation~~ association, including incorporated and individual unincorporated underwriters, may be a certified reinsurer. In order to be eligible for certification, in addition to satisfying the requirements of subdivision (A) of this subdivision (5):

(i) The ~~Assœiation~~ association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents, net of liabilities, of the ~~Assœiation~~ association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the ~~Assœiation~~ association or any of its members, in an amount determined by the Commissioner to provide adequate protection.

(ii) The incorporated members of the ~~Assœiation~~ association shall not be engaged in any business other than underwriting as a member of the ~~Assœiation~~ association and shall be subject to the same level of regulation and solvency control by the ~~Assœiation's~~ association's domiciliary regulator as are the unincorporated members.

(iii) Within 90 days after its financial statements are due to be filed with the ~~Assœiation's~~ association's domiciliary regulator, the ~~Assœiation~~ association shall provide to the Commissioner an annual certification by the ~~Assœiation's~~ association's domiciliary regulator of the solvency of each underwriter member; or, if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the ~~Assœiation~~ association.

(C) The Commissioner shall create and publish a list of qualified jurisdictions under which an assuming insurer licensed and domiciled in such

jurisdiction is eligible to be considered for certification by the Commissioner as a certified reinsurer.

(i) In order to determine whether the domiciliary jurisdiction of a non-U.S. assuming insurer is eligible to be recognized as a qualified jurisdiction, the Commissioner shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and extent of reciprocal recognition afforded by the non-U.S. jurisdiction to reinsurers licensed and domiciled in the United States. A qualified jurisdiction shall agree to share information and cooperate with the Commissioner with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the Commissioner has determined that the jurisdiction does not adequately and promptly enforce final U.S. judgments and arbitration awards. Additional factors may be considered in the discretion of the Commissioner.

(ii) A list of qualified jurisdictions shall be published through the NAIC committee process. The Commissioner shall consider this list in determining qualified jurisdictions. If the Commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the Commissioner shall provide thoroughly documented justification in accordance with criteria to be developed by rule or regulation.

(iii) U.S. jurisdictions that meet the requirement for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

(iv) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the Commissioner has the discretion to suspend the reinsurer's certification indefinitely, in lieu of revocation.

(D) The Commissioner shall assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies deemed acceptable to the Commissioner by rule or regulation. The Commissioner shall publish a list of all certified reinsurers and their ratings.

(E) A certified reinsurer shall secure obligations assumed from U.S. ceding insurers under this subsection (b) at a level consistent with its rating, as specified in rules or regulations adopted by the Commissioner.

(i) In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the

Commissioner and consistent with the provisions of subsection (c) of this section or in a multibeneficiary trust in accordance with subdivision (4) of this subsection (b), except as otherwise provided in this subdivision.

(ii) If a certified reinsurer maintains a trust to fully secure its obligations subject to subdivision (4) of this subsection (b) and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this subsection (b) or comparable laws of other U.S. jurisdictions and for its obligations subject to subdivision (4) of this subsection. It shall be a condition to the grant of certification under this subdivision (5) of this subsection (b) that the certified reinsurer shall have bound itself, by the language of the trust and agreement with the Commissioner with principal regulatory oversight of each such trust account, to fund, upon termination of any such trust account, out of the remaining surplus of such trust any deficiency of any other such trust account.

(iii) The minimum trusted surplus requirements provided in subdivision (4) of this subsection (b) are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this ~~subsection~~ subdivision (5)(E), except that such trust shall maintain a minimum trusted surplus of \$10,000,000.00.

(iv) With respect to obligations incurred by a certified reinsurer under this ~~subsection~~ subdivision (5)(E), if the security is insufficient, the Commissioner shall reduce the allowable credit by an amount proportionate to the deficiency and has the discretion to impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(v) For purposes of this subdivision (5), a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure 100 percent of its obligations.

(I) As used in this subdivision (5), the term "terminated" refers to revocation, suspension, voluntary surrender, and inactive status.

(II) If the Commissioner continues to assign a higher rating as permitted by other provisions of this section, this requirement does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

(F) If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the Commissioner has the discretion to defer to that jurisdiction's certification and has the discretion to defer to the rating assigned by that jurisdiction, and such assuming insurer shall be considered to be a certified reinsurer in this State.

(G) A certified reinsurer that ceases to assume new business in this State may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this subsection (b), and the Commissioner shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

(6)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer meeting each of the conditions set forth below:

(i) The assuming insurer shall have its head office or be domiciled in, as applicable, and be licensed in a reciprocal jurisdiction. As used in this section, "reciprocal jurisdiction" means a jurisdiction that meets one of the following:

(I) a non-U.S. jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority; or, in the case of a covered agreement between the United States and European Union, is a member state of the European Union. As used in this ~~subsection~~ subdivision (b)(6), a "covered agreement" means an agreement entered into pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this State or for allowing the ceding insurer to recognize credit for reinsurance;

(II) a U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or

(III) a qualified jurisdiction, as determined by the Commissioner pursuant to subdivision (5)(C) of this subsection (b), that is not otherwise described in subdivision (6)(A)(i)(I) or (6)(A)(i)(II) of this subsection (b) and that meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified by the Commissioner in rule or regulation.

(ii) The assuming insurer must have and maintain, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated according to the methodology of its domiciliary jurisdiction, in an amount to be set forth in rule or regulation. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, minimum capital and surplus equivalents, net of liabilities, calculated according to the methodology applicable in its domiciliary jurisdiction, and a central fund containing a balance in amounts to be set forth in rule or regulation.

(iii) The assuming insurer must have and maintain, on an ongoing basis, a minimum solvency or capital ratio, as applicable, ~~that~~ which will be set forth in rule or regulation. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, a minimum solvency or capital ratio in the reciprocal jurisdiction where the assuming insurer has its head office or is domiciled, as applicable, and is also licensed.

(iv) The assuming insurer must agree and provide adequate assurance to the Commissioner, in a form specified in rule or regulation by the Commissioner, of the following:

(I) The assuming insurer must provide prompt written notice and explanation to the Commissioner if it falls below the minimum requirements set forth in subdivision (6)(A)(ii) or (6)(A)(iii) of this subsection; (b) or if any regulatory action is taken against it for serious noncompliance with applicable law.

(II) The assuming insurer must consent in writing to the jurisdiction of the courts of this State and to the appointment of the Commissioner as agent for service of process. The Commissioner may require that consent for service of process be provided to the Commissioner and included in each reinsurance agreement. Nothing in this ~~subsection~~ subdivision (6)(A)(iv)(II) shall limit, or in any way alter, the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws.

(III) The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained.

(IV) Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to

100 percent of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its resolution estate.

(V) The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement that involves this State's ceding insurers, and agree to notify the ceding insurer and the Commissioner and to provide security in an amount equal to 100 percent of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of subdivision (b)(5) and subsection (c) of this section and as specified by the Commissioner in rule or regulation.

(v) The assuming insurer or its legal successor must provide, if requested by the Commissioner, on behalf of itself and any legal predecessors, certain documentation to the Commissioner, as specified by the Commissioner in rule or regulation.

(vi) The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements, pursuant to criteria set forth in rule or regulation.

(vii) The assuming insurer's supervisory authority must confirm to the Commissioner on an annual basis, as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, that the assuming insurer complies with the requirements set forth in subdivisions (6)(A)(ii) and (6)(A)(iii) of this subsection (b).

(viii) Nothing in this subdivision (b)(6)(A) precludes an assuming insurer from providing the Commissioner with information on a voluntary basis.

(B) The Commissioner shall timely create and publish a list of reciprocal jurisdictions.

(i) A list of reciprocal jurisdictions is published through the NAIC committee process. The Commissioner's list shall include any reciprocal jurisdiction as defined under subdivisions (6)(A)(i)(I) and (6)(A)(i)(II) of this subsection (b) and shall consider any other reciprocal jurisdiction included on the NAIC list. The Commissioner may approve a jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions in accordance with criteria to be developed in rules or regulations adopted by the Commissioner.

(ii) The Commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a reciprocal jurisdiction, in accordance with a process set forth in rules or regulations adopted by the Commissioner, except that the Commissioner shall not remove from the list a reciprocal jurisdiction as defined under subdivisions (6)(A)(i)(I) and (6)(A)(i)(II) of this subsection (b). Upon removal of a reciprocal jurisdiction from this list, credit for reinsurance ceded to an assuming insurer that has its home office or is domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to this section.

(C) The Commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this ~~subsection~~ subdivision (b)(6) and to which cessions shall be granted credit in accordance with this ~~subsection~~ subdivision. The Commissioner may add an assuming insurer to such list if an NAIC accredited jurisdiction has added such assuming insurer to a list of such assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the Commissioner as required under subdivision (6)(A)(iv) of this subsection (b) and complies with any additional requirements that the Commissioner may impose by rule or regulation, except to the extent that they conflict with an applicable covered agreement.

(D) If the Commissioner determines that an assuming insurer no longer meets one or more of the requirements under this ~~subsection~~ subdivision (b)(6), the Commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this ~~subsection~~ subdivision in accordance with procedures set forth in rule or regulation.

(i) While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with subsection (c) of this section.

(ii) If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the Commissioner and consistent with the provisions of subsection (c) of this section.

(E) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding ceded liabilities.

(F) Nothing in this ~~subsection~~ subdivision (b)(6) shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by this section or other applicable law ~~or, rule, or regulation.~~

(G)(i) Credit may be taken under this subsection (b) only for reinsurance agreements entered into, amended, or renewed on or after January 1, 2021, and only with respect to losses incurred and reserves reported on or after the later of:

(I) the date on which the assuming insurer has met all eligibility requirements pursuant to ~~subdivision (6)(A) of this subsection~~ subdivision (b)(6)(A) of this section; and

(II) the effective date of the new reinsurance agreement, amendment, or renewal.

(ii) This subdivision (b)(6)(G) does not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under this ~~subsection~~ subdivision (b)(6), as long as provided the reinsurance qualifies for credit under any other applicable provision of this section.

(iii) Nothing in this ~~subsection~~ subdivision (b)(6) shall authorize an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement.

(iv) Nothing in this ~~subsection~~ subdivision (b)(6) shall limit, or in any way alter, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

(7) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of subdivision (1), (2), (3), (4), (5), or (6) of this subsection (b), but only as to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

(8) If the assuming insurer is not licensed or accredited or certified to transact insurance or reinsurance in this State, the credit permitted by

subdivisions (3) and (4) of this subsection (b) shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(A)(i) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or of any appellate court in the event of an appeal.

(B)(ii) To designate the Commissioner, ~~the Secretary of State~~, or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company.

(B) This ~~provision~~ subdivision (b)(8) is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

(9) If the assuming insurer does not meet the requirements of subdivision (1), (2), (3), or (6) of this subsection (b), the credit permitted by subdivision (4) or (5) of this subsection (b) shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(A) Notwithstanding any other provisions in the trust instrument to the contrary, if the trust fund is inadequate because it contains an amount less than the amount required by subdivisions (4)(B)–(D) of this subsection (b) or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the ~~Commissioner~~ commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the ~~Commissioner~~ commissioner with regulatory oversight all of the assets of the trust fund.

(B) The assets shall be distributed by and claims shall be filed with and valued by the ~~Commissioner~~ commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

(C) If the ~~Commissioner~~ commissioner with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the U.S. ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the ~~Commissioner~~ commissioner

with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

(D) The grantor shall waive any right otherwise available to it under U.S. law that is inconsistent with this ~~provision~~ subdivision (b)(9).

(10) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the Commissioner may suspend or revoke the reinsurer's accreditation or certification.

(A) The Commissioner must give the reinsurer notice and opportunity for hearing. The Commissioner may suspend or revoke a reinsurer's accreditation or certification without a hearing if:

(i) the reinsurer waives its right to hearing;

(ii) the Commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under subdivision (5)(F) of this subsection (b); or

(iii) the Commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the Commissioner's action.

(B) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with subsection (c) of this section. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with subdivision (5)(E) of this subsection (b) or subsection (c) of this section.

(11) Concentration risk.

(A) A ceding insurer shall take steps to manage its reinsurance recoverables proportionate to its own book of business. A domestic ceding insurer shall notify the Commissioner within 30 days after reinsurance recoverables from any single assuming insurer or group of affiliated assuming insurers exceeds 50 percent of the domestic ceding insurer's last reported surplus to policyholders or after it is determined that reinsurance recoverables from any single assuming insurer or group of affiliated assuming insurers is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(B) A ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the Commissioner within 30 days after ceding to any single assuming insurer or group of affiliated assuming insurers more than 20 percent of the ceding insurer's gross written premium in the prior calendar year or after it has determined that the reinsurance ceded to any single assuming insurer or group of affiliated assuming insurers is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(c) Asset or reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of subsection (b) of this section. An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of subsection (b) of this section shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer, provided that the Commissioner may adopt by rule or regulation pursuant to subdivision (e)(2) of this section specific additional requirements relating to or setting forth any or all of the following: the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements described in subdivision (e)(2) of this section, and the circumstances pursuant to which credit will be reduced or eliminated. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as collateral for the payment of obligations thereunder, if such collateral is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified U.S. financial institution, as defined in subdivision (d)(2) of this section. This security may be in the form of:

(1) ~~Cash~~ cash;

(2) ~~Securities~~ securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets;

(3) ~~Clean~~ clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified U.S. financial institution as defined in subdivision (d)(1) of this section, which are effective ~~no~~ not later than December 31 ~~in~~ respect of the year for which filing is being made, and in the possession of, or in trust for, the ceding company on or before the filing date of its annual statement.

~~(4) Letters~~ letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs; ~~or~~

~~(4)(5) Any~~ any other form of collateral acceptable to the Commissioner.

(d) Qualified U.S. financial institutions.

(1) ~~For purposes of~~ As used in subdivision (c)(3) of this section, a "qualified U.S. financial institution" means an institution that:

(A) is organized or, in the case of a U.S. office of a foreign banking organization, licensed under the laws of the United States or any state thereof;

(B) is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies; and

(C) has been determined by either the Commissioner or the Securities Valuation Office of the National Association of Insurance Commissioners to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the Commissioner.

(2) A "qualified U.S. financial institution" means, for purposes of those provisions of this section specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that is:

(A) organized or, in the case of a U.S. branch or agency office of a foreign banking organization, licensed under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and

(B) regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

~~(e) Notwithstanding the provisions of this subsection to the contrary, the Commissioner shall allow credit for reinsurance ceded and assumed to a pooling arrangement that has the following characteristics:~~

~~(1) the majority of the pooling members are licensed to transact business in this State, or are licensed in a state that is accredited with the National Association of Insurance Commissioners, or are approved by the Commissioner;~~

~~(2) the members of the pool are subject to joint and several liability;~~

~~(3) all members of the pool agree to file with the Commissioner, annually on or before March 1, a copy of the member's annual statement filed with the insurance department of its state of domicile; and~~

~~(4) the manager of the pool files with the Commissioner, annually on or before December 1, a request to be exempted from the provisions of subdivisions (b)(1) through (4) of this section.~~

~~(f) Rules and regulations.~~

~~(1) The Commissioner may adopt rules or regulations implementing the provisions of this section.~~

~~(2)(A) The Commissioner may adopt rules or regulations applicable to reinsurance agreements. Such rules or regulations may apply only to reinsurance relating to:~~

~~(i) life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits;~~

~~(ii) universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;~~

~~(iii) variable annuities with guaranteed death or living benefits;~~

~~(iv) long-term care insurance policies; or~~

~~(v) such other life and health insurance and annuity products as to which the NAIC adopts model regulatory requirements with respect to credit for reinsurance.~~

~~(B) A rule or regulation adopted pursuant to subdivision (2)(A)(i) or (ii) of this subsection (e) may apply to any treaty that contains:~~

~~(i) policies issued on or after January 1, 2015; or~~

~~(ii) policies issued prior to January 1, 2015, if risk pertaining to such pre-2015 policies is ceded in connection with the treaty, in whole or in part, on or after January 1, 2015; or both.~~

~~(3) A rule or regulation adopted pursuant to subdivision (2) of this subsection (e) may require the ceding insurer, in calculating the amounts or forms of security required to be held under regulations promulgated under this authority, to use the Valuation Manual adopted by the NAIC under Section 11B(1) of the NAIC Standard Valuation Law, including all amendments adopted by the NAIC and in effect on the date as of which the calculation is made, to the extent applicable.~~

(4) A rule or regulation adopted pursuant to subdivision (2) of this subsection (e) shall not apply to cessions to an assuming insurer that:

(A) meets the conditions set forth in subdivision (b)(6) of this section;

(B) is certified in this State; or

(C) maintains at least \$250,000,000.00 in capital and surplus when determined in accordance with the NAIC Accounting Practices and Procedures Manual, including all amendments thereto adopted by the NAIC, excluding the impact of any permitted or prescribed practices; and is:

(i) licensed in at least 26 states; or

(ii) licensed in at least 10 states and licensed or accredited in a total of at least 35 states.

(5) The authority to adopt rules or regulations pursuant to subdivision (2) of this subsection (e) does not limit the Commissioner's general authority to adopt rules or regulations pursuant to subdivision (1) of this subsection (e).

(g)(f) Reinsurance agreements affected. This section shall apply to all cessions after the effective date of this section under reinsurance agreements that have an inception, anniversary, or renewal date not less than six months after the effective date of this section.

* * * Effective Dates * * *

Sec. 24. EFFECTIVE DATES

This act shall take effect on passage except that Secs. 10 and 11 (travel insurance) shall take effect 90 days after enactment.

(Committee Vote: 9-0-1)

H. 628

An act relating to amending a birth certificate to reflect gender identity

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

Sec. 1. LEGISLATIVE INTENT AND PURPOSE

It is the intent of the General Assembly to promote equity by allowing all individuals, regardless of gender, to amend their vital records to accurately reflect and affirm their identities. There is a long history of discrimination and violence against the LGBTQIA+ community. This act serves to mitigate future harm through the creation of a simple and equitable system to provide

for all gender marker changes on a Vermont birth certificate to be made through means such as self-attestation.

Sec. 2. 18 V.S.A. § 5112 is amended to read:

§ 5112. ISSUANCE OF NEW BIRTH CERTIFICATE;~~CHANGE OF SEX~~

~~(a)(1) Upon receipt of an application for a new birth certificate and after receiving sufficient evidence to determine that an individual's sexual reassignment has been completed, the State Registrar shall update the Statewide Registration System and issue a new birth certificate to:~~

~~(A) show that the sex of the individual born in this State has been changed; and~~

~~(B) if the application is accompanied by a decree of the Probate Division authorizing a change of name associated with the change of sex, to reflect the change of name.~~

~~(2) The State Registrar shall record in the System the identity of the person requesting the new certificate, the nature and content of the change made, the person who made the change, and the date of the change.~~

~~(b)(1) An affidavit by a licensed physician who has treated or evaluated the individual stating that the individual has undergone surgical, hormonal, or other treatment appropriate for that individual for the purpose of gender transition shall constitute sufficient evidence to determine that sexual reassignment has been completed. The affidavit shall include the medical license number and signature of the physician.~~

~~(2) If the State Registrar denies an application under this section, the applicant may petition the Probate Division of the Superior Court, which shall review the application and relevant evidence de novo to determine if the issuance of a new birth certificate under this section is warranted. If the court issues a decree ordering the issuance of a new birth certificate under this section, the State Registrar shall update the Statewide Registration System and issue a new birth certificate in accordance with subsection (a) of this section.~~

~~(c) A new certificate issued pursuant to subsection (a) of this section shall be substituted for the original birth certificate in official records. The new certificate shall not show that a change in name or sex, or both, has been made. The original birth certificate, the Probate Division change of name decree, if any, and any other records relating to the issuance of the new birth certificate shall be confidential and shall be exempt from public inspection and copying under the Public Records Act; however an individual may have access to his or her own records and may authorize the State Registrar to confirm that he or~~

~~she issued a new birth certificate to the individual that reflects a change in name or sex, or both.~~

~~(d) If an individual born in this State has an amended birth certificate showing that the sex of the individual has been changed, and the birth certificate is marked "Court Amended" or otherwise clearly shows that it has been amended, the individual may receive a new birth certificate from the State Registrar upon application.~~

(a) It is the policy of the State of Vermont to honor and acknowledge all gender identities and protect public health and dignity of all individuals in Vermont, irrespective of their gender. Accordingly, the State shall adopt a simple process by which an individual may amend the marker on a birth certificate to reflect the individual's gender identity, including a third nonbinary marker.

(b) Pursuant to 3 V.S.A. chapter 25, the Department shall adopt rules as necessary for the purposes of implementing, administering, or enforcing the requirements of this section.

(c) The Department may adopt rules to add gender pronouns to the list of markers on a birth certificate in order to foster a gender literate environment and reflect an individual's gender identity.

(d) Except as otherwise required by law, records relating to the amendment of a birth certificate pursuant to this chapter shall be confidential and shall be exempt from public inspection and copying under the Public Records Act.

Sec. 3. EMERGENCY RULEMAKING AUTHORITY

Notwithstanding any provision of 3 V.S.A. § 844 to the contrary, the Department of Health shall have the authority to adopt emergency rules for the purposes of implementing, administering, or enforcing the purposes of this act.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

(Committee Vote: 11-0-0)

Governor's Veto

H. 157

An act relating to registration of construction contractors.

Text of Veto Message

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned **House Bill No. H. 157** to the House is as

follows:

February 10, 2022

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H. 157, *An act relating to registration of contractors*, without my signature because of my objections described herein.

As I have previously said, I strongly support protecting the interests of consumers, who are already facing a crisis of affordability. I also support policy that helps Vermont's small businesses succeed and grow. These small, local businesses are the heart and soul of our communities and the backbone of our economy.

The fact is the findings of the Legislature in support of this bill are flawed.

This bill has the potential to undermine and weaken a large number of Vermont's small businesses – small, local residential contractors – at a time when we all agree we must prioritize new and revitalized housing.

More specifically, this bill favors larger and more established businesses at the expense of small entry-level businesses by imposing, by law, specific contract and insurance requirements that many of the smaller businesses will not be able to meet. Such specific requirements are rarely, if ever imposed on other professions. Ultimately, these provisions harm small businesses – which could lead to closures – and they harm consumers through higher costs and fewer options for making needed repairs.

There are multiple ways of finding residential contractors in one's community and for holding contractors accountable without creating this new regulatory system. One can find directories maintained by trades associations, as well as commercial listings, social media, consumer sites, references, and, of course, word of mouth.

Importantly, there are existing avenues for determining and adjudicating complaints already, as well as an existing Home Improvement Fraud Registry. Current law clearly authorizes the Attorney General to pursue both civil and criminal complaints against contractors for unfair or deceptive acts or practices. The Criminal Law provisions relating to home improvement fraud apply to oral and written contracts for \$500 or more; convictions for home improvement fraud require notice to the Attorney General; and the Attorney General maintains the Home Improvement Fraud Registry (although it is important to note successfully completed deferred sentences will be expunged).

Finally, the Legislature concedes in its findings that registration confers no assurance of competence. Given this concession, we should not risk the economic harm of this legislation when we already have tools in the toolbox to protect consumers and perhaps those tools should be sharpened.

I would agree there is room to improve existing processes already designed to protect consumers, but not necessarily through Legislative action, and certainly not action that could advantage larger established entities over small, local mom-and-pop businesses; reduce our contracting workforce and increase costs for already over-burdened consumers – not to mention the \$250 fee that will be charged to get on this registry.

As legislators are well aware, I have been willing to work with you to find a path forward, but based on the objections outlined above, I cannot support this piece of legislation and must return it without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

Philip B. Scott

Governor

Consent Calendar

Concurrent Resolutions for Adoption Under Joint Rule 16a

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar of February 10, 2022.

H.C.R. 98

House concurrent resolution congratulating Mary L. Miner of Manchester on her 100th birthday

H.C.R. 99

House concurrent resolution congratulating the Town of Stowe on earning a three-year designation as a Quality Youth Development Community

H.C.R. 100

House concurrent resolution honoring Rebecca Buck for her superb service as a member of the Joint Fiscal Office staff

H.C.R. 101

House concurrent resolution in memory of former Representative Carl D. Powden of Johnson

H.C.R. 102

House concurrent resolution honoring Stephen A. Klein for his dedicated leadership as the General Assembly's Chief Fiscal Officer

H.C.R. 103

House concurrent resolution congratulating the 2021 class of Eagle Scouts in the State of Vermont

S.C.R. 12

Senate concurrent resolution memorializing the more than 500 Vermonters who have died due to COVID-19, extending sincere condolences to their families, and thanking those Vermonters whose frontline jobs have been especially challenging during the pandemic

S.C.R. 13

Senate concurrent resolution congratulating Kekla Magoon on her 2021 and 2022 literary honors as an author of young people's literature.

S.C.R. 14

Senate concurrent resolution congratulating Jason Chin of Burlington on his winning of the 2022 Randolph Caldecott Medal.

For Informational Purposes

Crossover Deadline

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and on Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 11, 2022**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by **Friday, March 11, 2022**.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and on Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 18, 2022**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

Exceptions to the foregoing deadlines include the major money bills

(the general Appropriations bill (“The Big Bill”), the Transportation capital bill, the Capital Construction bill, and the Fee/Revenue bills).

Joint Assembly

February 17, 2022 - 10:30 a.m. – Election of two (2) trustees for the Vermont State Colleges Corporation.

Candidates for the positions of trustee must notify the Secretary of State **in writing** not later than February 10, 2022 , by 4:30 P.M. pursuant to the provisions of 2 V.S.A. §12(b). Otherwise their names will not appear on the ballots for these positions.

The following rules shall apply to the conduct of these elections:

First: All nominations for these offices will be presented in alphabetical order prior to voting.

Second: There will be only one nominating speech of not more than three (3) minutes and not more than two seconding speeches of not more than one (1) minute each for each nominee.