

Senate Calendar

THURSDAY, MAY 6, 2021

SENATE CONVENES AT: 10:00 A.M.

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ACTION CALENDAR

UNFINISHED BUSINESS OF WEDNESDAY, MAY 5, 2021

House Proposals of Amendment

S. 42

An act relating to establishing the Emergency Service Provider Wellness Commission.

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

Sec. 1. 18 V.S.A. § 7257b is added to read:

§ 7257b. EMERGENCY SERVICE PROVIDER WELLNESS
COMMISSION

(a) As used in this section:

(1) “Chief executive of an emergency service provider organization” means a person in charge of an organization that employs or supervises emergency service providers in their official capacity.

(2) “Emergency service provider” means a person:

(A) currently or formerly recognized by a Vermont Fire Department as a firefighter;

(B) currently or formerly licensed by the Department of Health as an emergency medical technician, emergency medical responder, advanced emergency medical technician, or paramedic;

(C) currently or formerly certified as a law enforcement officer by the Vermont Criminal Justice Council, including constables and sheriffs;

(D) currently or formerly employed by the Department of Corrections as a probation, parole, or correctional facility officer; or

(E) currently or formerly certified by the Vermont Enhanced 911 Board as a 911 call taker or employed as an emergency communications dispatcher providing service for an emergency service provider organization.

(3) “Licensing entity” means a State entity that licenses or certifies an emergency service provider.

(b) There is created the Emergency Service Provider Wellness Commission within the Agency of Human Services that, in addition to the purposes listed below, shall consider the diversity of emergency service providers on the basis of gender, race, age, ethnicity, sexual orientation, gender identity, disability status, and the unique needs that emergency service providers who have experienced trauma may have as a result of their identity status:

(1) to identify where increased or alternative supports or strategic investments within the emergency service provider community, designated or specialized service agencies, or other community service systems could improve the physical and mental health outcomes and overall wellness of emergency service providers;

(2) to identify how Vermont can increase capacity of qualified clinicians in the treatment of emergency service providers to ensure that the services of qualified clinicians are available throughout the State without undue delay;

(3) to create materials and information, in consultation with the Department of Health, including a list of qualified clinicians, for the purpose of populating an electronic emergency service provider wellness resource center on the Department of Health's website;

(4) to educate the public, emergency service providers, State and local governments, employee assistance programs, and policymakers about best practices, tools, personnel, resources, and strategies for the prevention and intervention of the effects of trauma experienced by emergency service providers;

(5) to identify gaps and strengths in Vermont's system of care for both emergency service providers who have experienced trauma and their immediate family members to ensure access to support and resources that address the impacts of primary and secondary trauma;

(6) to recommend how peer support services and qualified clinician services can be delivered regionally or statewide;

(7) to recommend how to support emergency service providers in communities that are resource challenged, remote, small, or rural;

(8) to recommend policies, practices, training, legislation, rules, and services that will increase successful interventions and support for emergency service providers to improve health outcomes, job performance, and personal well-being and reduce health risks, violations of employment, and violence associated with the impact of untreated trauma, including whether to amend Vermont's employment medical leave laws to assist volunteer emergency

service providers in recovering from the effects of trauma experienced while on duty; and

(9) to consult with federal, State, and municipal agencies, organizations, entities, and individuals in order to make any other recommendations the Commission deems appropriate.

(c)(1) The Commission shall comprise the following members and, to the extent feasible, include representation among members that reflects the gender, gender identity, racial, age, ethnic, sexual orientation, social, and disability status of emergency service providers in the State:

(A) the Chief of Training of the Vermont Fire Academy or designee;

(B) a representative, appointed by the Vermont Criminal Justice Council;

(C) the Commissioner of Health or designee;

(D) the Commissioner of Public Safety or designee;

(E) the Commissioner of the Department of Corrections or designee;

(F) the Commissioner of Mental Health or designee;

(G) the Commissioner of Human Resources or designee;

(H) a law enforcement officer who is not a chief or sheriff, appointed by the President of the Vermont Police Association;

(I) a representative, appointed by the Vermont Association of Chiefs of Police;

(J) a representative, appointed by the Vermont Sheriffs' Association;

(K) a volunteer firefighter, appointed by the Vermont State Firefighters' Association;

(L) a representative of the designated and specialized service agencies, appointed by Vermont Care Partners;

(M) a representative, appointed by the Vermont State Employees Association;

(N) a representative, appointed by the Vermont Troopers' Association;

(O) a professional firefighter, appointed by the Professional Firefighters of Vermont;

(P) a clinician associated with a peer support program who has experience in treating workplace trauma, appointed by the Department of Mental Health;

(Q) a professional emergency medical technician or paramedic, appointed by the Vermont State Ambulance Association;

(R) a volunteer emergency medical technician or paramedic, appointed by the Vermont State Ambulance Association;

(S) a person who serves or served on a peer support team, appointed by the Department of Mental Health;

(T) a representative, appointed by the Vermont League of Cities and Towns;

(U) a Chief, appointed by the Vermont Career Fire Chiefs Association;

(V) a Chief, appointed by the Vermont Fire Chiefs Association;

(W) a representative, appointed by the Vermont Association for Hospitals and Health Systems; and

(X) the Executive Director of the Enhanced 911 Board or designee.

(2) The term of office of each member shall be three years. Of the members first appointed, ten shall be appointed for a term of one year, ten shall be appointed for a term of two years, and the remainder shall be appointed for a term of three years. Members shall hold office for the term of their appointments and until their successors have been appointed. All vacancies shall be filled for the balance of the unexpired term in the same manner as the original appointment. Members are eligible for reappointment.

(3) Commission members shall recuse themselves from any discussion of an event or circumstance that the member believes may involve an emergency service provider known by the member and shall not access any information related to it. The Commission may appoint an interim replacement member to fill the category represented by the recused member for review of that interaction.

(d)(1) The Commissioner of Health or designee shall call the first meeting of the Commission to occur on or before September 30, 2021.

(2) The Commission shall select a chair and vice chair from among its members at the first meeting and annually thereafter.

(3) The Commission shall meet at such times as may reasonably be necessary to carry out its duties but at least once in each calendar quarter.

(4) The Department of Health shall provide technical, legal, and administrative assistance to the Commission.

(e) The Commission's meetings shall be open to the public in accordance with 1 V.S.A. chapter 5, subchapter 2. Notwithstanding 1 V.S.A. § 313, the Commission may go into executive session in the event a circumstance or an event involving a specific emergency service provider is described, regardless of whether the emergency service provider is identified by name.

(f) Commission records describing a circumstance or an event involving a specific emergency service provider, regardless of whether the emergency service provider is identified by name, are exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

(g) To the extent permitted under federal law, the Commission may enter into agreements with agencies, organizations, and individuals to obtain otherwise confidential information.

(h) Notwithstanding 2 V.S.A. § 20(d), the Commission shall report its conclusions and recommendations to the Governor and General Assembly as the Commission deems necessary but not less frequently than once per calendar year. The report shall disclose individually identifiable health information only to the extent necessary to convey the Commission's conclusions and recommendations, and any such disclosures shall be limited to information already known to the public. The report shall be available to the public through the Department of Health.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

S. 66

An act relating to electric bicycles.

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

First: In Sec. 1, 23 V.S.A. § 4(18)(A), by inserting motor-assisted bicycles, preceding the words "electric bicycles"

Second: In Sec. 2, 23 V.S.A. § 4(21), by inserting motor-assisted bicycles, preceding the words "electric bicycles"

Third: In Sec. 5, 23 V.S.A. § 4(81), by inserting the words a motor-assisted bicycle or preceding the words "an electric bicycle"

Fourth: In Sec. 8, 23 V.S.A. § 3501(1), in the last sentence, by striking out the words "or electric bicycle" and inserting in lieu thereof , a motor-assisted bicycle, or an electric bicycle

Fifth: In Sec. 9, 23 V.S.A. § 3801(1), by inserting , motor-assisted bicycles, preceding the words “or electric bicycles”

Sixth: By striking out Sec. 3, 23 V.S.A. § 4(45), in its entirety and inserting a new Sec. 3 to read as follows:

Sec. 3. 23 V.S.A. § 4(45) is amended to read:

(45)(A) “Motor-driven cycle” means any vehicle equipped with two or three wheels, a power source providing up to a maximum of two brake horsepower and having a maximum piston or rotor displacement of 50 cubic centimeters if a combustion engine is used, which will propel the vehicle, unassisted, at a speed not to exceed 30 miles per hour on a level road surface, and which is equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged. As motor vehicles, motor-driven cycles shall be subject to the purchase and use tax imposed under 32 V.S.A. chapter 219 rather than to a general sales tax. ~~Neither an electric~~ Electric personal assistive mobility device nor a devices, ~~motor-assisted bicycle is a bicycles, and electric bicycles are not motor-driven eyele cycles.~~

(B)(i) “Motor-assisted bicycle” means any bicycle or tricycle with fully operable pedals and equipped with a motor that in itself is capable of producing a top speed of not more than 20 miles per hour on a paved level surface when ridden by an operator who weighs 170 pounds and either:

(I) has an internal combustion motor with a power output of not more than 1,000 watts or 1.3 horsepower; and or

(II) ~~in itself is capable of producing a top speed of no more than 20 miles per hour on a paved level surface when ridden by an operator who weighs 170 pounds~~ has an electric motor with a power output of not more than 1,000 watts and does not meet the requirements of one of the three classes in subdivisions (46)(A)(i)–(iii) of this section.

(ii) Motor-assisted bicycles shall be regulated in accordance with section 1136 of this title.

(iii) Electric bicycles, as defined in subdivision (46) of this section, are not motor-assisted bicycles, as defined in subdivision (45) of this section.

NEW BUSINESS

Third Reading

H. 426.

An act relating to addressing the needs and conditions of public school facilities in the State.

Proposal of amendment to H. 426 to be offered by Senators Campion, Chittenden, Hooker, Lyons, Pearson, Perchlik and Terenzini before Third Reading

Senators Campion, Chittenden, Hooker, Lyons, Pearson, Perchlik and Terenzini move to amend the Senate proposal of amendment by striking out Sec. 12, effective date, in its entirety and inserting in lieu thereof the following:

Sec. 12. RADON TESTING; SCHOOL FACILITIES; DEPARTMENT OF HEALTH

(a) On or before January 15, 2023, each public school, as defined in 16 V.S.A. § 11, shall perform a radon measurement in accordance with the ANSI/AARST protocol for conducting Radon and Radon Decay Products in Schools and Large Buildings (MALB-2014) on any facility that has not had a test completed in five or more years.

(b) Each public school shall make available the results of the radon measurement described in subsection (a) of this section to each employee and student at the school.

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.

H. 433.

An act relating to the Transportation Program and miscellaneous changes to laws related to transportation.

Second Reading
Favorable with Proposal of Amendment

H. 449.

An act relating to the membership and duties of the Vermont Pension Investment Commission and the creation of the Pension Benefits, Design, and Funding Task Force.

Reported favorably with recommendation of proposal of amendment by Senator White for the Committee on Government Operations.

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

First: By striking out Sec. 1, 3 V.S.A. chapter 17, in its entirety and inserting in lieu thereof the following:

~~CHAPTER 17. VERMONT STATE POLICE AND MOTOR VEHICLE
INSPECTORS' RETIREMENT SYSTEM VERMONT PENSION
INVESTMENT COMMISSION~~

§ 521. DEFINITIONS

As used in this chapter:

(1) “Committee” “Commission” means the Vermont Pension Investment ~~Committee~~ Commission.

(2) “Financial expert” means an individual with material expertise and experience in institutional fund management, or other significant pension or other relevant financial expertise.

(3) “Independent” means an individual who does not have a direct or indirect material interest in the Plans.

(A) An individual has a direct or indirect material interest in the Plans if:

(i) the individual is a beneficiary of any of the Plans; or

(ii) the individual or the individual's spouse, parent, child, sibling, or in-law is or has been within the past five years an employee, director, officer, owner of a publicly traded company, consultant, manager, or had another material role with an entity servicing the Plans.

(B) An individual is considered an owner of a publicly traded company if the individual owns, directly or indirectly, five percent or more of a class of the company's equity securities registered under the Securities Exchange Act of 1934 (15 U.S.C. § 78 et seq.), as amended.

(4) "Plans" means the Vermont State Teachers' Retirement System, the Vermont State Employees' Retirement System, and the Vermont Municipal Employees' Retirement System pursuant to section 472 of this title, 16 V.S.A. § 1943, and 24 V.S.A. § 5063.

§ 522. VERMONT PENSION INVESTMENT COMMITTEE
COMMISSION

(a) Members. There is created the Vermont Pension Investment Committee Commission, an independent commission, to comprise ~~seven~~ nine members as follows:

(1) ~~one member and one alternate, who may or may not be trustees of the Board of the Vermont State Employees' Retirement System,~~ elected by the employee and retiree members of ~~that board~~ the Board of the Vermont State Employees' Retirement System;

(2) ~~one member and one alternate, who may or may not be trustees of the Board of the State Teachers' Retirement System of Vermont,~~ elected by the employee and retiree members of ~~that~~ the Board of the Vermont State Teachers' Retirement System;

(3) ~~one member and one alternate, who may or may not be trustees of the Board of the Vermont Municipal Employees' Retirement System,~~ elected by the municipal employee and municipal official members of ~~that~~ the Board of the Vermont Municipal Employees' Retirement System;

(4) ~~two members and one alternate, who shall each be a financial expert and independent,~~ appointed by the Governor;

(5) ~~the State Treasurer or designee, an ex-officio voting member; and~~

(6) ~~one member, appointed by the other six voting~~ eight members of the ~~Committee~~ Commission, who shall serve as Chair of the ~~Committee~~ Commission and at the pleasure of the ~~Committee~~ Commission;

(7) ~~one member representing a municipal employer, appointed by the Executive Director of the Vermont League of Cities and Towns; and~~

(8) ~~one member representing a school employer, appointed by the Vermont School Boards Association.~~

(b) Training. ~~An authority responsible for electing or appointing a member or alternate shall consider the experience and knowledge of potential members and alternates consistent with the purposes of the Committee, and shall inform potential members and alternates that they shall participate in~~ Members and alternates of the Commission shall be required to participate in onboarding and ongoing periodic training in investments, securities, and fiduciary

responsibilities as directed by the ~~Committee~~ Commission. The Commission shall provide an annual report to the respective authorities responsible for electing and appointing members and alternates regarding attendance at Commission meetings and relevant educational programs attended.

~~(c) Initially, one appointee and the alternate appointee of the Governor shall serve a two-year term, and the second appointee shall serve for a four-year term. Thereafter, the Governor's appointees and alternate appointee shall serve for four-year terms. Initially, the member and alternate chosen by the Vermont Municipal Employees' Retirement Board shall serve for a two-year term, the member and alternate chosen by the Vermont State Teachers' Retirement Board shall serve for a three-year term and the member and alternate chosen by the Vermont State Employees' Retirement Board shall serve for a four-year term. Thereafter, all members and alternates shall serve for four-year terms. Member terms.~~

(1) Except as provided in subdivision (2) of this section and for the ex-officio members of the Commission, all members and alternates of the Commission shall serve staggered four-year terms. A vacancy created before the expiration of a term shall be filled in the same manner as the original appointment for the unexpired portion of the term. A member or alternate appointed to fill a vacancy created before the expiration of a term shall not be deemed to have served a term for the purpose of this subsection. Members and alternates of the Commission shall be eligible for reappointment and shall serve not more than three terms; provided, however, that a single term served as an alternate shall not be used to calculate a member's total term limit. Members and alternates of the Commission may be removed only for cause. The Commission shall adopt rules pursuant to chapter 25 of this title to define the basis and process for removal.

(2) If the Chair is unable to perform his or her duties, the Commission shall elect an interim chair who shall be a financial expert and independent.

(3) Terms shall end on June 30 with new terms beginning on July 1.

(4) Notwithstanding subdivision (3) of this subsection, members and alternates shall serve until their successors are appointed subject to the term limits provided in this subsection.

(d) Chair and vice chair.

(1)(A) The Chair of the Vermont Pension Investment ~~Committee~~ Commission shall have the financial, investment, leadership, and governance expertise as required by policies adopted by the Commission.

(B) The Chair shall be a nonvoting member, except in the case of a tie vote.

(2) The Vermont Pension Investment Commission shall elect a vice chair from among its members.

~~(e) The Vermont Pension Investment Committee shall elect a vice chair from among its members~~ Eligibility. No legislator who is currently serving in the General Assembly shall serve on the Commission.

~~(f) Four Meetings.~~

(1) Five members of the Committee Commission shall constitute a quorum.

(2) If a member is not in attendance, the alternate of that member shall be eligible to act as a member of the Committee Commission during the absence of the member.

~~(3) Four Five~~ concurring votes shall be necessary for a decision of the Committee Commission at any meeting of the Committee Commission, except that any decision of the Commission relating to setting actuarial assumptions pursuant to subdivision 523(b)(1) of this title shall require six concurring votes. The Committee shall be attached to the Office of the State Treasurer for administrative support, and the expenses of the Committee and the Treasurer's office in support of the Committee shall be paid proportionately from the funds of the three retirement systems and any individual municipalities that have been allowed to invest their retirement funds pursuant to subsection 523(a) of this title.

(g) Leave time. Public employee members and alternates shall be granted reasonable leave time by their employers to attend Committee Commission meetings and Committee-related Commission-related educational programs.

~~(h) The Committee shall provide an annual report to the respective authorities responsible for electing and appointing members and alternates regarding attendance at Committee meetings and relevant educational programs attended~~ Compensation and reimbursements. Members and alternates of the Commission who are not public employees shall be entitled to compensation as set forth in 32 V.S.A. § 1010 and reimbursement for all necessary expenses that they may incur through service on the Commission from the funds of the retirement systems. The Chair of the Commission may be compensated from the funds at a level not to exceed one-third of the salary of the State Treasurer, as determined by the other members of the Commission.

~~(i) A vacancy of an elected or appointed member or alternate shall be filled for the remainder of the term by the authority responsible for electing or appointing that member or alternate~~ Assistance and expenses.

(1) The Commission shall have the administrative and technical support of the Office of the State Treasurer.

(2) The Commission may collect proportionally from the funds of the three retirement systems and any individual municipalities that have been allowed to invest their retirement funds pursuant to subsection 523(a) of this title, any expenses incurred that are associated with carrying out its duties, and any expenses incurred by the Treasurer's office in support of the Commission.

(3) The Attorney General shall serve as legal advisor to the Commission.

§ 523. VERMONT PENSION INVESTMENT COMMITTEE
COMMISSION; DUTIES

(a) General. The Vermont Pension Investment ~~Committee~~ Commission shall be responsible for the investment of the assets of the ~~State Teachers' Retirement System of Vermont~~ Vermont State Teachers' Retirement System, the Vermont State Employees' Retirement System, and the Vermont Municipal Employees' Retirement System pursuant to section 472 of this title, 16 V.S.A. § 1943, and 24 V.S.A. § 5063. The ~~Committee~~ Commission shall strive to maximize total return on investment, within acceptable levels of risk for public retirement systems, in accordance with the standards of care established by the prudent investor rule under 14A V.S.A. § 902. The ~~Committee~~ Commission may, in its discretion, subject to approval by the Attorney General, also enter into agreements with municipalities administering their own retirement systems to invest retirement funds for those municipal pension plans. The State Treasurer shall serve as the custodian of the funds of all three retirement systems. The ~~Committee~~ Commission may, in its discretion, also enter into agreements with the State Treasurer to invest the State Employees' Postemployment Benefits Trust Fund, established in ~~3 V.S.A. § section~~ 479a of this title, and the Retired Teachers' Health and Medical Benefits Fund, established in 16 V.S.A. § 1944b.

(b) ~~Members and alternates of the Committee who are not public employees shall be entitled to compensation as set forth in 32 V.S.A. § 1010 and reimbursement for all necessary expenses that they may incur through service on the committee from the funds of the retirement systems. The Chair of the Committee may be compensated from the funds at a level not to exceed one-third of the salary of the State Treasurer, as determined by the other members of the Committee~~ Powers and duties. The Commission shall have the following duties:

(1) Set the following actuarial assumptions:

(A) the investment rate of return;

(B) the inflation rate; and

(C) the smoothing rate method used for the actuarial valuation of assets and returns.

(2) Not more than 180 days after the end of each fiscal year, conduct an asset allocation study that reviews the expected return of each fund, including a risk analysis using best practices methodologies to estimate potential risks to the fund's asset values over a five-, 10-, and 20-year period, and the remainder of the statutory amortization period. The study shall be submitted to the House and Senate Committees on Government Operations and the Office of the Governor and made publicly available within 10 days of completion.

(c) Recordkeeping. The ~~Committee~~ Commission shall keep a record of all its proceedings, which shall be open for public inspection.

(d) Policies. The ~~Committee~~ Commission shall formulate policies and procedures deemed necessary and appropriate to carry out its functions, including a written statement of the responsibilities of and expectations for the Chair of the ~~Committee~~ Commission and standards of conduct for members and employees of the Commission in order to maintain and promote public confidence in the integrity of the Commission. The standard of conduct policies shall prohibit members and employees from receiving or soliciting any gift, including meals, alcoholic beverages, travel fare, room and board, or any other thing of value, tangible or intangible, from any vendor or potential vendor of investment services, management services, brokerage services, and other services to the Commission.

(e) The Attorney General shall serve as legal advisor to the Committee Contracts.

(f) Contracts approved by the ~~Committee~~ Commission and related documents may be executed by the Chair; or, in the Chair's absence, the Vice Chair.

(f) Asset and liability study. Beginning on July 1, 2022, and every three years thereafter, based on the most recent actuarial valuations of each Plan, the Commission shall study the assets and liabilities of each Plan over a 20-year period. The study shall:

(1) project the expected path of the key indicators of each Plan's financial health based on all current actuarial and investment assumptions; current contribution and benefit policies, including the Plans' mark-to-market funded ratio; actuarially required contributions by source; payout ratio; and related liquidity obligations; and

(2) project the effect on each Plan's financial health resulting from:

(A) possible material deviations from Plan assumptions in investment assumptions, including returns versus those expected and embedded in the actuary's estimate of actuarially required contributions and any material changes in capital markets volatility; and

(B) possible material deviations from key plan actuarial assumptions, including retiree longevity, potential benefit increases, and inflation.

(g) Changes to actuarial rate of return. Notwithstanding any other provision of law to the contrary, Any changes to the actuarial rate of return shall be made at a joint meeting of by the Commission and the appropriate Retirement Board. The Board and Commission shall review the recommendations of the actuary and the investment consultant. A change to an actuarial rate of return shall be by joint resolution of the Board and Commission. Each body shall vote according to its own procedures. In the event that the Board and Commission are unable to agree on an actuarial rate of return, the existing assumed rate of return shall remain in effect.

(h) Annual reports.

(1) Beginning on January 15, 2022, and every year thereafter, the Commission shall submit to the House and Senate Committees on Government Operations:

(A) a report on the performance of each Plan versus its demographic investment and other actuarial assumptions over a three-, five-, seven-, and 10-year period, and the funding ratio of each Plan to each Plan beneficiary at the end of each fiscal year; and

(B) a report on the status of the funding and investment performance of each Plan and any relevant information from the asset liability and scenario testing completed during the prior fiscal year.

(2) The Commission shall send to each participant or beneficiary of each Plan a written or electronic copy of the report described in subdivision (1) of this subsection, in the format authorized by the participant or beneficiary. The report shall be consolidated with any other reports required to be sent by the Commission to the participants or beneficiaries of each Plan.

Second: In Sec. 2, Vermont Pension Investment Commission; transition of member terms, by striking out subdivision (1) and inserting in lieu thereof the following:

(1) Beginning on July 1, 2021, members shall be appointed to fill the new member seats established in 3 V.S.A. § 522(a)(7) and (8) in Sec. 1 of this

act. The member appointed pursuant to 3 V.S.A. § 522(a)(7) in Sec. 1 of this act shall serve an initial term of one year, and the member appointed pursuant to 3 V.S.A. § 522(a)(8) in Sec. 1 of this act shall serve an initial term of two years.

Third: In Sec. 3, Vermont Pension Investment Commission; fiscal year 2022 reports, in subsection (b), in the first sentence, by striking out “stand-alone entity” and inserting in lieu thereof an independent entity

Fourth: By striking out Secs. 10–12 in their entirety and inserting in lieu thereof the following:

Sec. 10. PENSION BENEFITS, DESIGN, AND FUNDING TASK FORCE;
STATE EMPLOYEES’ RETIREMENT SYSTEM; STATE
TEACHERS’ RETIREMENT SYSTEM; REPORT

(a) Creation. There is created the Pension Benefits, Design, and Funding Task Force to review and report on the benefits, design, and funding of retirement and retiree health benefit plans for the Vermont State Employees’ Retirement System and the Vermont State Teachers’ Retirement System.

(b) Membership.

(1) The Task Force shall be composed of the following members:

(A) two current members of the House of Representatives, not from the same political party, who shall be appointed by the Speaker of the House;

(B) two current members of the Senate, not from the same political party, who shall be appointed by the Committee on Committees;

(C) the Secretary of Administration or designee;

(D) the State Treasurer or designee;

(E) three members, who shall be appointed by the President of the Vermont-NEA;

(F) two members, who shall be appointed by the President of the Vermont State Employees’ Association; and

(G) one member of the Vermont Troopers’ Association, who shall be appointed by the President of the Vermont Troopers’ Association.

(2)(A) The members appointed pursuant to subdivisions (1)(A) and (B) of this subsection (b) shall not be direct or indirect beneficiaries of the Vermont State Employees’ Retirement System or the Vermont State Teachers’ Retirement System.

(B) The members appointed pursuant to subdivisions (1)(E)–(G) of this subsection (b) shall not be currently serving as a legislator or the spouse or partner of an individual currently serving as a legislator.

(c) Powers and duties.

(1) The Task Force shall make recommendations about benefit provisions and appropriate funding sources along with other recommendations it deems appropriate for consideration, consistent with actuarial and governmental accounting standards, as well as demographic and workforce trends and the long-term sustainability of the benefit programs, including the following:

(A) developing and evaluating a range of strategies to lower the actuarially determined employer contributions and unfunded actuarially accrued liability based on actuarial value of assets in the State Employees' Retirement System and the Teachers' Retirement System by between 25 and 100 percent of the size of the increases from fiscal year 2021 to fiscal year 2022, as reported in the respective Actuarial Valuation and Review for each retirement system, dated June 30, 2020, while maintaining the 2038 amortization date;

(B) a five-year review of benefit expenditure levels as well as employer and employee contribution levels and growth rates and a three-, five-, and 10-year projection of these levels and rates;

(C) identifying potential options for limiting the growth in the actuarially determined employer contributions to not more than inflation;

(D) assessing the impacts associated with any modifications to the current amortization schedule;

(E) based on benefit and funding benchmarks:

(i) proposed benefit structures with the objective of adequate benefits, including an evaluation of a shared-risk model for employer and employee contributions and cost-of-living adjustments, with a focus on reducing any future increases to the unfunded actuarially accrued liability;

(ii) an estimate of the cost of current and any proposed benefit structures on a budgetary and full actuarial accrual basis;

(iii) the State's pension contributions as a percentage of direct general spending and a comparison of other states' pension contributions; and

(iv) how proposed benefit changes for new members may reduce the impact of future actuarial assumption losses;

(F) evaluating any cross-subsidization between all groups within the Vermont State Employees' Retirement System and adjusting contribution amounts to eliminate any cross-subsidization;

(G) examining permanent and temporary revenue streams to fund the Vermont State Employees' Retirement System and the State Teachers' Retirement System;

(H) a plan for prefunding other postemployment benefits, with an evaluation of using federal funds to the extent permissible, including identifying long-term impacts of pay-as-you-go funding;

(I) evaluating the intermediate and long-term impacts to the State and local economies because of any proposed changes to current benefit structures and contribution characteristics and their potential effects on retiree spending power, including retirees who identify as female and retirees who are persons with disabilities; and

(J) an examination of the effects of current benefit structures and contribution characteristics on the recruitment and retention of public school educators and State employees and an evaluation of any proposed changes to current benefit structures and contribution characteristics on the recruitment and retention of public school educators and State employees in the future.

(2) The Task Force shall not make recommendations on adjusting the assumed rates of return.

(d) Stakeholder input. During the course of its deliberations, and prior to any final recommendations being made, the Task Force shall:

(1) solicit input, including through public hearings, from affected stakeholders, including those impacted by issues of inequities; and

(2) consult with representatives designated by the Supreme Court acting in its constitutional role as the administrator of the Judicial Branch, Group D members of the State Employees' Retirement System, and members of the State Employees' Retirement System who are employees of the Department of Corrections.

(e) Assistance.

(1) The Task Force shall have:

(A) fiscal assistance from the Joint Fiscal Office and Office of the State Treasurer; and

(B) committee support services from the Office of Legislative Operations.

(2) The Office of Legislative Counsel and Joint Fiscal Office are authorized to contract for advisory services for the Task Force from an independent actuary, benefits expert, and legal expert, as necessary.

(f) Leave time. Public employee members of the Task Force shall be granted reasonable leave time by their employers to attend Task Force meetings.

(g) Report. On or before October 15, 2021, the Task Force shall submit an interim written report to the Governor and to the House and Senate Committees on Government Operations with an update on the work of the Task Force. The Task Force shall submit a final report with its findings and any recommendations for legislative action on or before December 2, 2021. The Task Force shall also provide the report to the Board of Trustees of the State Employees' and Teachers' Retirement Systems for their consideration and comment to the General Assembly.

(h) Meetings.

(1) The members appointed pursuant to subdivisions (b)(1)(A) and (B) of this section shall appoint a House and Senate member as co-chairs, who shall call the first meeting of the Task Force to occur on or before June 15, 2021.

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

(3) The Task Force shall cease to exist on June 30, 2022.

(i) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Task Force serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than 15 meetings. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Task Force who are not State employees shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than 15 meetings. These payments shall be made from monies appropriated to the State Treasurer.

Sec. 11. 2 V.S.A. chapter 31 is added to read:

Chapter 31. JOINT LEGISLATIVE PENSION OVERSIGHT
COMMITTEE

§ 1001. CREATION OF COMMITTEE

(a) Creation. There is created a Joint Legislative Pension Oversight Committee for the purpose of working with and providing assistance to other legislative committees on matters related to State's retirement system other postemployment benefits.

(b) Members. The Committee shall be composed of the following members, who shall be appointed each biennial session of the General Assembly:

(1) three members of the House, who shall not be from the same party, appointed by the Speaker of the House; and

(2) three members of the Senate, who shall not be from the same party, appointed by the Committee on Committees.

(c) Powers and duties. The Committee shall evaluate and make recommendations on the following:

(1) issues of public policy related to the provision of retirement benefits to the State's public sector workforce;

(2) changes to statutory provisions regarding the provision, design, and administration of retirement benefits and the retirement systems;

(3) issues of public policy relating to health benefit design innovations, State regulatory measures, and alternative methods of providing pooled health care benefits to both active and retired school employees to lower health care costs for employees, retirees, school boards, and the State; and

(4) the appropriate annual appropriation to fund the State's retirement obligations in accordance with actuarial recommendations, statutory amortization schedules, and funding policies.

(d) Policies. The Committee shall elect a chair, vice chair, and clerk from among its members and shall adopt rules of procedures. The Chair shall rotate biennially between the House and Senate members. The Committee shall keep minutes of its meetings.

(e) Meetings.

(1) When the General Assembly is in session, the Committee shall meet at the call of the Chair.

(2) The Committee may meet six times during adjournment and may meet more often subject to approval of the Speaker of the House and the President Pro Tempore of the Senate.

(3) A quorum shall consist of four members.

(f) Assistance. The Committee shall have assistance from the Office of Legislative Counsel, the Office of Legislative Operations, and the Joint Fiscal Office.

(g) Compensation and reimbursement. For attendance at a meeting when the General Assembly is not in session, members of the Committee shall be entitled to compensations for services and reimbursement of expenses as provided under subsection 23(a) of this title.

(h) Reports. Annually, on or before December 1 each year, the Vermont Investment Pension Commission and the Boards of Trustees for the State Employees' Retirement System, Teachers' Retirement System, and Municipal Employees' Retirement, shall report to the Committee.

Sec. 12. CONFORMING REVISIONS

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Counsel shall replace "Vermont Pension Investment Committee" with "Vermont Pension Investment Commission" throughout the statutes as needed for consistency with Secs. 1-9 of this act, provided the revisions have no other effect on the meaning of the affected statutes.

Sec. 13. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 11 shall take effect on July 1, 2022.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for April 22, 2021, pages 708-710 and April 23, 2021, page 728.)

Amendment to proposal of amendment of the Committee on Government Operations to H. 449 to be offered by Senators Brock, Benning and White

Senators Brock, Benning and White move to amend the proposal of amendment of the Committee on Government Operations in Sec. 1, 3 V.S.A. chapter 17, § 522, subsection (d), subdivision (1)(A) by inserting be a financial expert and independent, and shall after "Vermont Pension Investment Committee Commission shall"

House Proposals of Amendment

S. 1

An act relating to extending the baseload renewable power portfolio requirement.

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

First: In Sec. 1, 30 V.S.A. § 8009(b), following “Vermont retail electricity” by striking out the word “~~provider~~” and inserting in lieu thereof the word provider

Second: In Sec. 4, plant closure contingency plan, by striking it out in its entirety and inserting in lieu thereof a new Sec. 4 to read:

Sec. 4. PLANT CLOSURE CONTINGENCY PLAN

On or before March 1, 2022, the Secretary of Commerce and Community Development in consultation with the Commissioner of Forests, Parks, and Recreation shall report to the Senate Committees on Agriculture, Economic Development, Housing, and General Affairs, and Finance and the House Committees on Agriculture and Forestry, Commerce and Economic Development, and Energy and Technology a contingency plan to address how to reduce the economic impacts that may occur if the baseload renewable power plant closes. The plan shall address how to remediate harm to the workforce impacted by the closure of the plant, the forestry industry, and forest health. The contingency plan shall be developed in consultation with the Northern Vermont Development Association, a Vermont resident selected by the Commissioner of Forests, Parks and Recreation who works in the forestry industry from the Ryegate lumber catchment area, and the owners of the Ryegate Plant. On or before July 1, 2021, the Department of Forests, Parks and Recreation shall render to the owners of the Ryegate Plant a statement for \$10,000.00 to be used on the creation of the contingency plan, which the owners of the Ryegate Plant shall pay within 30 days. The group of stakeholders developing the plan shall hold at least one evening public hearing on the plan in the lumber catchment area.

S. 86

An act relating to miscellaneous changes to laws related to vehicles and vessels.

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

* * * Temporary Plates * * *

Sec. 1. 23 V.S.A. § 511 is amended to read:

§ 511. MANNER OF DISPLAY

(a) Number plates. A motor vehicle operated on any highway shall have displayed in a conspicuous place either one or two number plates as the Commissioner may require. Such number plates shall be furnished by the Commissioner and shall show the number assigned to such vehicle by the Commissioner. If only one number plate is furnished, the same shall be securely attached to the rear of the vehicle. If two are furnished, one shall be securely attached to the rear and one to the front of the vehicle. The number plates shall be kept entirely unobscured, and the numerals and ~~the~~ letters thereon shall be plainly legible at all times. They shall be kept horizontal, shall be so fastened as not to swing, excepting however, there may be installed on a motor truck or truck tractor a device that would, upon contact with a substantial object, permit the rear number plate to swing toward the front of the vehicle, provided such device automatically returns the number plate to its original rigid position after contact is released, and the ground clearance of the lower edges thereof shall be established by the Commissioner pursuant to the provisions of 3 V.S.A. chapter 25.

(b) Validation sticker. A registration validation sticker shall be unobstructed and shall be affixed as follows:

(1) for vehicles issued registration plates with dimensions of approximately 12 x 6 inches, in the lower right corner of the rear registration plate; and

(2) for vehicles issued a registration plate with a dimension of approximately 7 x 4 inches, in the upper right corner of the rear registration plate.

(c) Violation. A person shall not operate a motor vehicle unless number plates and a validation sticker are displayed as provided in this section.

(d) Failure to display a validation sticker. An operator cited for violating subsection (c) of this section with respect to failure to display a validation sticker on a pleasure car, motorcycle, or truck that could be registered for less than 26,001 pounds shall be subject to a civil penalty of not more than \$5.00, which penalty shall be exempt from surcharges under 13 V.S.A. § 7282(a), if he or she is cited within the 14 days following the expiration of the motor vehicle's registration.

(e) Temporary and in-transit registration plates. A motor vehicle issued a temporary or in-transit registration plate under sections 312, 458, 463, and 516–518 of this title operated on any highway shall have the temporary or in-transit registration plate displayed horizontally in a conspicuous place on the rear of the vehicle, including in the rear window. The temporary or in-transit registration plate shall be kept entirely unobscured, and the numerals and letters thereon shall be plainly legible at all times.

Sec. 2. 23 V.S.A. § 518 is amended to read:

§ 518. ELECTRONIC IN-TRANSIT PERMIT ELECTRONIC ISSUANCE OF TEMPORARY PLATE AND TEMPORARY REGISTRATION

(a) Issuance of permit plate and registration; length. The Commissioner is authorized to electronically issue electronic in-transit registration permits a temporary plate and temporary registration to be printed by the owner of a motor vehicle for the purpose of movement over the highways of certain motor vehicles otherwise required to be registered when the vehicles are sold by a person; other than a registered motor vehicle dealer; to a resident to be transported to or within and registered in this State. The electronic in-transit temporary plate and temporary registration permit issued pursuant to this section shall be valid for a period of ~~40~~ 60 days from issuance and shall be in the form and design prescribed by the Commissioner.

(b) Form of application; fee. The temporary plate and temporary registration may be obtained by submitting an application under oath on a form prescribed and furnished by the Commissioner, which shall require the applicant to attest to compliance with the provisions of section 800 of this title and provide any other proof of the identity of the vehicle the Commissioner reasonably requires. The Commissioner is authorized to charge a fee of \$6.00 for the processing of the application and the issuance of the electronic permit temporary plate and temporary registration.

(c) Proof to be carried by operator. ~~It shall be unlawful for any individual to drive a vehicle registered pursuant to this section unless the operator has in his or her possession a valid bill of sale for the vehicle and proof of compliance with the provisions of section 800 of this title. Notwithstanding section 511 of this title, a motor vehicle may be operated without having displayed one or two number plates if the operator has an electronic in-transit registration permit. An operator may prove that he or she is in possession of an electronic in-transit registration permit for the vehicle he or she is operating using a portable electronic device; however, use of a device for this purpose does not in itself constitute consent for an enforcement officer to access other contents of the device. [Repealed.]~~

* * * Duty to Report Blood Tests; Health Care Education * * *

Sec. 3. 23 V.S.A. § 1203b is amended to read:

§ 1203b. DUTY TO REPORT BLOOD TEST RESULTS

(a) Notwithstanding any law or court rule to the contrary, if a health care provider who is providing health services to a person in the emergency room of a health care facility as a result of a motor vehicle ~~accident~~ crash becomes aware as a result of any blood test performed in the health care facility that the person's blood alcohol level meets or exceeds the level prohibited by law, the health care provider shall report that fact, as soon as is reasonably possible, to a law enforcement agency having jurisdiction over the location where the ~~accident~~ crash occurred.

* * *

(g) Health care facilities have a responsibility to ensure that all health care providers who work in the health care facility and may provide health care to a person injured as a result of a motor vehicle ~~accident~~ crash are aware of their responsibilities under this section. Every health care facility that provides health care to persons injured as a result of motor vehicle ~~accidents~~ crashes shall:

(1) adopt a policy that implements this section;

(2) provide a copy of the policy to all health care providers who work in the health care facility who may provide health care to a person as a result of a motor vehicle ~~accident~~ crash; and

(3) conduct an educational and training program within one month of ~~July 1, 1998~~ employment for all ~~such~~ health care providers ~~currently working who work at the health care facility and, for all such health care providers hired thereafter, within one month of their employment who may provide health care to an individual as a result of a motor vehicle crash.~~

* * * Powers of Enforcement Officers; Investigation of Accidents * * *

Sec. 4. 23 V.S.A. § 1603 is amended to read:

§ 1603. INVESTIGATION OF ACCIDENTS CRASHES

The Commissioner of Public Safety shall ~~forthwith~~ immediately after receiving notice of ~~an accident~~ a crash where a personal injury occurs, and, in case of notice of ~~an accident~~ a crash where an injury occurs to property, may cause such ~~accident~~ crash to be investigated by an enforcement officer, and where such investigation reveals facts tending to show culpability on the part of any motor vehicle owner or operator, he or she shall cause such facts to be

reported to the State's Attorney of the county where the ~~accident~~ crash occurred. The State's Attorney shall further investigate the ~~accident~~ crash and may hold an inquest as provided by 13 V.S.A. §§ 5131–5137. After such investigation or inquest, he or she shall immediately report ~~forthwith~~ to the Commissioner of Motor Vehicles the result thereof together with his or her recommendation as to the suspension of the license of the operator of any motor vehicle involved in the ~~accident~~ crash.

* * * Certificate of Title * * *

Sec. 5. 23 V.S.A. § 2015(c) is amended to read:

(c) If the application refers to a vehicle last previously registered in another state or country, the application shall contain or be accompanied by:

* * *

~~(3) the certificate of a person authorized by the Commissioner that the identification number of the vehicle has been inspected and found to conform to the description given in the application, or any other proof of the identity of the vehicle the Commissioner reasonably requires.~~

* * * Gasoline Tax * * *

* * * Calibration of Tank Vehicles * * *

Sec. 6. 23 V.S.A. § 3104 is amended to read:

§ 3104. CALIBRATION OF TANK VEHICLES

A distributor shall cause all tank vehicles used by him or her in the delivery of motor fuel to be calibrated under the supervision of the ~~director of weights and measures~~ Secretary of Agriculture, Food and Markets and under rules as he or she may prescribe, so as to show the number of gallons of motor fuel contained in these vehicles. The distributor shall make application in writing to the ~~director~~ Secretary for calibration stating the number of tank vehicles to be calibrated.

* * * Lien Filing Fees * * *

Sec. 7. 23 V.S.A. § 3121 is amended to read:

§ 3121. LIEN FILING FEES

Notwithstanding 32 V.S.A. § 502, the Commissioner may charge against any collection of liability any related lien filing fees specified in ~~subdivision 32 V.S.A. § 1671(a)(6) or subsection 1671(c) of this title~~ paid by the Commissioner. Fees collected under this section shall be credited to a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and shall be available as payment for the fees of the clerk of the municipality.

* * * Snowmobiles; Exhaust Systems * * *

Sec. 8. 23 V.S.A. § 3205 is amended to read:

§ 3205. SNOWMOBILE EQUIPMENT; WINDSHIELD; USE OF HEADLIGHT; ILLEGAL NOISE LEVEL; EXEMPTION FROM EQUIPMENT REQUIREMENT

(a) Snowmobile; required equipment. All snowmobiles shall be equipped with one or more operational:

* * *

(5) such other equipment and devices as may be required to meet the noise level specifications of subsection (d) of this section.

* * *

~~(d) Muffler devices; Exhaust system; noise levels emissions. Any snowmobile manufactured on or after the following dates shall be equipped with a muffler system and such other equipment or devices that reduce maximum machine operating noise to a noise level of not more than: An individual shall not operate the following on the State Snowmobile Trail System:~~

~~(1) as of September 1, 1972, 82 decibels on the A scale at 50 feet, in a normal operating environment; a snowmobile manufactured after February 1, 2007 that does not display a visible and unaltered marking of "SSCC Certified" issued by the Snowmobile Safety and Certification Committee (SSCC) on all critical components of the exhaust system; or~~

~~(2) as of September 1, 1973, at such level as established by the Commissioner by rule except that the level may not exceed the level established in subdivision (1) of this subsection. a snowmobile, regardless of the date of manufacture, with an exhaust system that has been modified in a manner that amplifies or otherwise increases total noise emission above that of the snowmobile as originally constructed.~~

(e) Prohibited sale; illegal noise level; notice to consumer.

(1) No person shall sell for operation, or offer to sell for operation, within the State of Vermont;

~~(1) A a snowmobile manufactured after the dates specified in subsection (d) of this section unless it complies that does not comply with the sound exhaust system requirements specified in subsection (d) of this section.~~

(2) No snowmobile shall be equipped in any manner that permits the operator thereof to bypass the muffler system.

(3) ~~Replacement exhaust muffler.~~ No person shall sell or offer to sell a replacement exhaust ~~muffler~~ system or component of an exhaust system that will not meet or exceed the exhaust noise reduction capabilities of the snowmobile manufacturer's original equipment specifications for the snowmobile.

(4) ~~Consumer information on noise levels.~~ Any person selling or offering to sell a snowmobile or replacement ~~muffler~~ exhaust system shall include in the specifications ~~thereof~~ precise information concerning the designed maximum sound levels of the snowmobile or replacement ~~muffler~~ exhaust system as outlined by the SSCC.

* * *

* * * Vessels * * *

Sec. 9. 23 V.S.A. chapter 29 is redesignated to read:

CHAPTER 29. SNOWMOBILES, ~~MOTORBOATS~~ VESSELS, AND
WATER SPORTS

Sec. 10. 23 V.S.A. chapter 29, subchapter 2 is redesignated to read:

Subchapter 2. ~~Motorboats~~ Vessels

Sec. 11. 23 V.S.A. § 3302 is amended to read:

§ 3302. DEFINITIONS

As used in this chapter, unless the context clearly requires a different meaning:

(1) “All-round light” means a light showing an unbroken light over an arc of the horizon of 360 degrees.

(2) “Holding tank” means a container or device designed to provide for the retention of wastes on board a vessel and to prevent the discharge of wastes into the waters of this State.

(2)(3) “Law enforcement officer” shall mean means a person designated in subdivision 4(11) of this title and shall include includes deputy State game wardens and auxiliary State Police officers.

(3)(4) “Marine toilet” means any toilet on or within any vessel except those that have been permanently sealed and made inoperative.

(5) “Masthead light” means a white light placed over the fore and aft centerline of the vessel showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on either side of the vessel, except that on a vessel of less than 12 meters in length, the masthead light shall be placed as nearly as practicable to the fore and aft centerline of the vessel.

(4)(6) “Motorboat” means any vessel ~~propelled by~~ equipped with machinery capable of propelling the vessel, whether or not such machinery is the principal source of propulsion, ~~but shall not include a vessel that has a valid marine document issued by U.S. Customs and Border Protection or any successor federal agency.~~

(5)(7) “Operate” means to navigate or otherwise use a ~~motorboat or~~ vessel.

(6)(8) “Owner” means a person, other than a lienholder, having the property in or title to a ~~motorboat vessel~~. The term includes a person entitled to the use or possession of a ~~motorboat vessel~~ subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

(7)(9) “Person” means an individual, partnership, firm, corporation, association, or other entity.

(8)(10) “Personal watercraft” means a class A vessel that uses an inboard engine powering a water jet pump as its primary source of motive power and that is designed to be operated by ~~a person or persons~~ an individual or individuals sitting, standing, or kneeling on, or being towed behind the vessel ~~motorboat~~ rather than in the conventional manner of sitting or standing inside the vessel.

(9)(11) “Public waters of the State” means navigable waters as defined in 10 V.S.A. chapter 49, excepting those waters in private ponds and private preserves as set forth in 10 V.S.A. §§ 5204, 5205, 5206, and 5210.

(40)(12) “Racing shell or rowing scull” means a manually propelled vessel that is recognized by national or international racing associations for use in competitive racing, and one in which all occupants row or scull, with the exception of a coxswain, if one is provided, and is not designed to carry and does not carry any equipment not solely for competitive racing.

(41)(13) “Sailboard” means a sailboat whose unsupported mast is attached to a surfboard-like hull by a flexible joint.

(14) “Sailing vessel” means any vessel under sail provided that propelling machinery, if fitted, is not being used.

(15) “Sidelights” mean a green light on the starboard side and a red light on the port side, each showing an unbroken light over an arc of the horizon of 112.5 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on its respective side. On a vessel of less than 20 meters in length the side lights may be combined in one lantern carried on the fore and aft centerline of the vessel, except that on a vessel of less than 12 meter in length the sidelights, when combined in one lantern, shall be placed as nearly as practicable to the fore and aft centerline of the vessel.

(16) “Sternlight” means a white light placed as nearly as practicable at the stern, showing an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees from right aft on each side of the vessel.

~~(12)~~(17) “Vessel” means every description of watercraft, other than a seaplane on the water or a racing shell or rowing scull occupied exclusively by persons over 12 years of age, used or capable of being used as a means of transportation on water.

~~(13)~~(18) “Waste” means effluent, sewage, or any substance or material, liquid, gaseous, solid, or radioactive, including heated liquids, whether or not harmful or deleterious to waters of this State.

~~(14)~~(19) “Waters of this State” means any waters within the territorial limits of this State.

Sec. 12. 23 V.S.A. § 3303 is amended to read:

§ 3303. OPERATION OF UNNUMBERED MOTORBOATS PROHIBITED

Except for motorboats exempt from numbering under subdivisions ~~3307(a)(2)-(4)~~ 3307(a)(2)-(6) of this title, every motorboat on the waters of this State shall be numbered. A person shall not operate or give permission for the operation of any motorboat on such waters unless the motorboat is numbered in accordance with this subchapter, or in accordance with applicable federal law, or in accordance with a federally approved numbering system of another state, and unless:

* * *

Sec. 13. 23 V.S.A. §§ 3305, 3305a, 3305b, and 3306 are amended to read:

§ 3305. FEES

(a) ~~A person~~ An individual shall not operate a motorboat on the public waters of this State unless the motorboat has a valid marine document issued by U.S. Customs and Border Protection or any successor federal agency or is registered in accordance with this chapter.

(b) Annually or biennially, the owner of each motorboat required to be registered by this State shall file an application for a number with the Commissioner of Motor Vehicles on forms approved by him or her. The application shall be signed by the owner of the motorboat and shall be accompanied by an annual fee of \$31.00, or a biennial fee of \$57.00, for a motorboat in class A; by an annual fee of \$49.00, or a biennial fee of \$93.00, for a motorboat in class 1; by an annual fee of \$80.00, or a biennial fee of \$155.00, for a motorboat in class 2; by an annual fee of \$153.00, or a biennial fee of \$303.00, for a motorboat in class 3. Upon receipt of the application in approved form, the Commissioner shall enter the application upon the records of the Department of Motor Vehicles and issue to the applicant a registration certificate stating the number awarded to the motorboat and the name and address of the owner. The owner shall paint on or attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules of the Commissioner in order that it may be clearly visible. The registration shall be void one year from the first day of the month following the month of issue in the case of annual registrations, or void two years from the first day of the month following the month of issue in the case of biennial registrations. A ~~vessel~~ motorboat of less than 10 horsepower used as a tender to a registered ~~vessel~~ motorboat shall be deemed registered, at no additional cost, and shall have painted or attached to both sides of the bow, the same registration number as the registered ~~vessel~~ motorboat with the number "1" after the number. The number shall be maintained in legible condition. The registration certificate shall be pocket size and shall be available at all times for inspection on the motorboat for which issued, whenever the motorboat is in operation. A duplicate registration may be obtained upon payment of a fee of \$3.00 to the Commissioner. Registration fees shall be allocated in accordance with section 3319 of this title.

(c) A person engaged in the business of selling or exchanging motorboats, as defined in subdivision 4(8) of this title, of a type otherwise required to be registered by this subchapter shall register and obtain registration certificates for use as described under subdivision (1) of this subsection, subject to the requirements of chapter 7 of this title. A manufacturer of motorboats may register and obtain registration certificates under this section.

* * *

(4) The Commissioner shall issue a registration certificate of number for each identifying number awarded to the dealer in the manner described in subsection (a) of this section, except that a ~~boat~~ motorboat shall not be described in the certificate. A dealer's registration certificate expires one year from the first day of the month of issuance.

* * *

§ 3305a. PRIVILEGE TO OPERATE A VESSEL; SUSPENSION OF PRIVILEGE; MINIMUM AGE FOR OPERATION OF A MOTORBOAT

(a) ~~A person~~ An individual who meets the applicable requirements of this subchapter shall have the privilege to operate a vessel on the public waters of this State, as those waters are defined in 10 V.S.A. § 1422.

(b) ~~A person~~ An individual whose privilege to operate a vessel has been suspended shall not operate, attempt to operate, or be in actual physical control of a vessel on the public waters of this State until the privilege to operate a vessel has been reinstated by the Commissioner of Motor Vehicles.

(c) ~~A person~~ An individual ~~under the age of 12 years of age~~ shall not operate a motorboat powered by more than six horsepower on the public waters of this State.

§ 3305b. BOATING SAFETY EDUCATION; RULES

(a) When required. ~~A person~~ An individual born after January 1, 1974 shall not operate a motorboat on the public waters of this State without first obtaining a certificate of boating education.

(b) Possession of certificate. ~~A person~~ An individual who is required to have a certificate of boating education shall:

(1) Possess the certificate when operating a motorboat on the public waters of the State.

(2) Show the certificate on the demand of an enforcement officer wearing insignia identifying him or her as such or operating a law enforcement ~~motorboat or vessel~~. However, ~~no person~~ an individual charged with violating this subsection shall not be convicted if the ~~person~~ individual produces a certificate that was valid at the time the violation occurred in court; to the officer; or to a State's Attorney ~~a certificate that was valid at the time the violation occurred~~.

(c) Exemptions. The following ~~persons~~ individuals are exempt from the requirements of this section:

(1) ~~a person~~ an individual who is licensed by the U.S. Coast Guard to operate a vessel for commercial purposes;

(2) ~~a person~~ an individual operating a vessel motorboat on a body of water located on private property; and

(3) any other ~~person~~ individual exempted by rules of the Department of Public Safety.

* * *

(f) Persons offering courses. The following persons may offer the course of instruction in boating safety education if approved by the Department of Public Safety:

(1) the Department of Public Safety;

(2) the U.S. Coast Guard Auxiliary;

(3) the U.S. Power Squadrons;

(4) a political subdivision;

(5) a municipal corporation;

(6) a State agency;

(7) a public or nonpublic school; and

(8) any group, firm, association, or person.

(g) Issuance of certificate. The Department of Public Safety or its designee shall issue a certificate of boating safety education to ~~a person~~ an individual who:

* * *

(h) Education materials. Upon request, the Department of Public Safety shall provide, without charge, boating safety education materials to ~~persons~~ individuals who plan to take the boating safety equivalency examination.

(i) Lifetime issuance. Once issued, the certificate of boating safety education is valid for the lifetime of the ~~person~~ individual to whom it was issued and may not be revoked by the Department of Public Safety or a court of law.

* * *

§ 3306. LIGHTS AND EQUIPMENT

(a) Every vessel shall carry and show the following lights, in the intensity prescribed under 33 C.F.R. § 83.22, as amended, when underway between sunset and sunrise and during other periods of restricted visibility:

~~(1) manually propelled boats, a lantern capable of showing a white light which shall be temporarily displayed in sufficient time to prevent collision;~~

~~(2) motorboats less than 26 feet in length, a white light aft showing all around, visible for at least two miles, a light in the forepart of the boat, lower than the white light aft, showing green to starboard and red to port, visible for at least one mile;~~

~~(3) motorboats 26 feet or longer, a white light aft showing all around, visible for at least two miles, and a light in the forepart of the boat showing red to port and green to starboard, visible at least one mile;~~

~~(4) boats propelled by sail, a white light showing all around visible for at least two miles, and a white light in the forepart of the boat, lower than the white light aft, showing red to port and green to starboard;~~

~~(5) any Unpowered vessels.~~

(A) A sailing vessel shall exhibit:

(i) sidelights; and

(ii) a sternlight.

(B) A sailing vessel may, in addition to the lights prescribed in subdivision (A) of this subdivision (1), exhibit at or near the top of the mast, where they can best be seen, two all-round lights in a vertical line, the upper being red and the lower being green.

(C) Notwithstanding subdivision (A) of this subdivision (1), on a sailing vessel of less than 20 meters in length, the lights prescribed in subdivision (A) of this subdivision (1) may be combined in a single light and exhibited at or near the top of the mast, where it can best be seen, but may not also have exhibited two all-round lights in a vertical line, as permitted in subdivision (B) of this subdivision (1).

(D) Notwithstanding subdivision (A) of this subdivision (1), a sailing vessel of less than seven meters in length shall, if practicable, exhibit the lights prescribed in subdivision (1) of this subsection (a) but, if not practicable, shall exhibit or have onboard an all-round white light that shall be exhibited in sufficient time to prevent collision.

(E) A vessel under oars or one or more paddles may exhibit the lights prescribed in subdivision (1) of this subsection (a), but, if such lights are not exhibited, the vessel shall exhibit or have onboard an all-round white light that shall be exhibited in sufficient time to prevent collision.

(2) Motorboats.

(A) A motorboat, including one that is also proceeding under sail, shall exhibit:

(i) a masthead light forward;

(ii) a second masthead light abaft of and higher than the light required under subdivision (i) of this subdivision (A) if the vessel is 50 meters or more in length;

(iii) sidelights; and

(iv) a sternlight.

(B) A motorboat that is also proceeding under sail shall exhibit forward, where it can best be seen, a conical shape, apex downward.

(3) Lights approved by the U.S. Coast Guard. Any light or combination of lights approved by the U.S. Coast Guard for inland waters shall be considered legal for Vermont waters.

(b)(1) Personal flotation devices. Each vessel, except sailboards, shall, consistent with federal regulations, carry for each individual aboard at least one wearable U.S. Coast Guard-approved personal flotation device consistent with federal regulations that is in good and serviceable condition for each individual aboard and capable of being used in accordance with the U.S. Coast Guard approval label.

(2) Vessels; individuals less than 12 years of age. In addition to the provisions of this subsection, a ~~person~~ an individual under 12 years of age aboard a vessel, while under way and the individual is on an open deck, shall wear a ~~Type I, II, or III~~ properly secured wearable U.S. Coast Guard-approved personal flotation device as intended by the manufacturer.

(3) Sailboards; individuals less than 16 years of age. An individual under 16 years of age aboard a sailboard shall wear a ~~Type I, II, or III~~ properly secured wearable U.S. Coast Guard-approved personal flotation device as intended by the manufacturer.

(4) Inspected commercial vessels. U.S. Coast Guard-inspected commercial vessels shall be exempt from the provisions of this subsection.

(c) ~~Every motorboat and auxiliary powered sailboats, except a motorboat that is less than 26 feet in length, that has an outboard motor and of an open construction, and is not carrying passengers for hire shall carry on board, fully charged and in good condition, U.S. Coast Guard-approved hand portable fire extinguishers as follows:~~ Every motorboat less than 26 feet in length, motor and of an open construction, and is not carrying passengers for hire shall carry on board, fully charged and in good condition, U.S. Coast Guard-approved hand portable fire extinguishers as follows:

(1) ~~Motorboats and auxiliary powered sailboats with no fixed fire extinguisher system in the machinery space and that are:~~

- (A) less than 26 feet in length, one extinguisher;
- (B) 26 feet or longer, but less than 40 feet, two extinguishers;
- (C) 40 feet or longer, three extinguishers.

(2) ~~Motorboats and auxiliary powered sailboats with a fixed fire extinguisher system in the machinery space and that are:~~

- (A) 26 feet or longer but less than 40 feet, one extinguisher;
- (B) 40 feet or longer, two extinguishers.

(d) ~~The extinguishers referred to by this section are class B-I or 5-B extinguishers described in 46 C.F.R. § 25.30, but one class B-II or 20-B extinguisher described in that regulation may be substituted for two class B-I or 5-B extinguishers.~~ The extinguishers referred to by this section are class B-I or 5-B extinguishers described in 46 C.F.R. § 25.30, but one class B-II or 20-B extinguisher described in that regulation may be substituted for two class B-I or 5-B extinguishers.

(e) Every marine toilet on board any vessel operated on the waters of the State shall also incorporate or be equipped with a holding tank. Any holding tank or marine toilet designed so as to provide for an optional means of discharge to the waters on which the vessel is operating shall have the discharge openings sealed shut and any discharge lines, pipes, or hoses shall be disconnected and stored while the vessel is in the waters of this State.

* * *

Sec. 14. 23 V.S.A. § 3307(a) is amended to read:

(a) A motorboat is not required to have a Vermont number under this chapter if it is:

* * *

(3) ~~A motorboat owned by the United States, a state or subdivision of the United States, or a state and not rented, leased, or used by any person other than an employee of the government used principally for governmental purposes and that is clearly identifiable as such, provided that the state or subdivision has jurisdiction over the motorboat and follows the guidance of 33 C.F.R. § 173.19. However, the boat shall have the name of the government or department of the government owning it printed on each side of the bow.~~ A motorboat owned by the United States, a state or subdivision of the United States, or a state and not rented, leased, or used by any person other than an employee of the government used principally for governmental purposes and that is clearly identifiable as such, provided that the state or subdivision has jurisdiction over the motorboat and follows the guidance of 33 C.F.R. § 173.19. However, the boat shall have the name of the government or department of the government owning it printed on each side of the bow.

(4) A ~~ship's~~ vessel's lifeboat.

* * *

(6) A motorboat that has a valid marine document issued by U.S. Customs and Border Protection or any successor federal agency.

Sec. 15. 23 V.S.A. § 3307a is amended to read:

§ 3307a. ~~DOCUMENTED BOAT~~ MOTORBOAT VALIDATION STICKER

(a) Annual validation required.

(1) An owner of a ~~vessel, as defined in subdivision 3302(6) of this title,~~ motorboat that has been registered in another state under a federally approved numbering system, or that has a valid document issued by the U.S. Coast Guard, U.S. Customs and Border Protection, or any other federal agency, and that is used in the waters of the State for at least ~~30~~ 60 days in any calendar year shall apply annually to the Commissioner of Motor Vehicles for validation of the out-of-state or federal registration of that ~~vessel~~ motorboat.

(2) The Commissioner shall issue a validation sticker to any ~~person~~ owner who submits an application and pays a fee as required by subsection (b) of this section provided that the out-of-state or federal registration is valid and that the requirements of section 3322 of this title are met.

(3) A validation sticker issued under this section shall be valid through December 31 of the year in which it is issued.

(b) Application; fee. The owner of the ~~vessel~~ motorboat shall:

(1) submit an application, on a form that the Commissioner requires, signed by every owner of the motorboat to the Commissioner ~~on the form that the Commissioner requires and be signed by every owner of the vessel;~~ and

(2) pay to the Commissioner an application fee in the same amount as would be paid if the ~~vessel~~ motorboat was being registered under subsection 3305(b) of this title.

(c) Sale of ~~vessel~~ motorboat. Within 30 days after the sale or other transfer of a ~~vessel~~ motorboat that is or should be validated under this section:

(1) the transferor shall give notice of the transfer to the Commissioner on a form that the Commissioner requires; and

(2) if the transferee intends to continue to use the ~~vessel~~ motorboat on the waters of the State for at least 30 days in any calendar year, he or she shall submit an application for validation and pay the fee as required by subsection (b) of this section.

(d) Display of sticker. The validation sticker shall be displayed on or about the forward half of the ~~vessel~~ motorboat.

(e) Operation without sticker prohibited. Unless the ~~vessel~~ motorboat that is subject to the validation requirement of this section displays a current validation sticker:

(1) ~~a person~~ an individual may not operate the ~~vessel~~ motorboat on the waters of the State; and

(2) the owner may not knowingly permit the ~~vessel~~ motorboat to be operated on the waters of the State.

Sec. 16. 23 V.S.A. § 3310(a) is amended to read:

(a) The Commissioner of Forests, Parks and Recreation or a municipality in administering a swimming beach or waterfront program may designate a swimming area in front of the beach or land that the State or a municipality owns or controls and may make rules pertaining to the area. The rules may provide that no ~~person~~ individual, except a lifeguard on duty and other authorized personnel, may operate ~~any boat, canoe, or water vehicle~~ a vessel, seaplane, racing shell, or rowing scull of any sort within the designated swimming area.

Sec. 17. 23 V.S.A. § 3311(c) is amended to read:

(c) Distance requirements.

(1) An individual shall not operate any vessel, seaplane, racing shell, or rowing scull, except a sailboard or a police or emergency vessel, within 200 feet of the shoreline, ~~a person~~ an individual in the water, a canoe, rowboat, or other vessel, an anchored or moored vessel containing any individual, or anchorages or docks, except at a speed of less than five miles per hour that does not create a wake.

(2) An individual shall not operate any vessel, seaplane, racing shell, or rowing scull, except a nonmotorized canoe, a nonmotorized rowboat, or a police or emergency vessel, within 200 feet of a divers-down flag.

(3) Nothing in this subsection shall prohibit rendering assistance to another ~~person~~ individual, picking up ~~a person~~ an individual in the water, necessary mooring or landing, or leaving shore, or operating in any other place where obstruction, other than the shoreline, would prevent abiding by this statute.

(4) An individual shall not operate a vessel, except at speeds of less than five miles per hour, within 200 feet of a designated swimming area.

Sec. 18. 23 V.S.A. § 3311(h) is amended to read:

(h) Power of law enforcement officers; authority to stop and board. A law enforcement officer may stop and board any ~~motorized vessel~~ motorboat afloat on public waters of the State at any time to:

(1) inspect its documents;

(2) inspect the licenses and permits of the operator of the ~~vessel~~ motorboat; or

(3) conduct a safety inspection for required equipment.

Sec. 19. 23 V.S.A. §§ 3312, 3312a, and 3313 are amended to read:

§ 3312. OPERATIONS RULES AS BETWEEN VESSELS

(a) When two ~~boats~~ motorboats are approaching each other “head on” or in a manner so as to involve risk of collision, each ~~boat~~ motorboat shall bear to the right and pass the other ~~boat~~ motorboat on its left side.

(b) When ~~boats~~ two vessels approach each other obliquely or at right angles, the ~~boat~~ vessel approaching on the right side ~~has the right of way~~ should maintain its course and speed.

(c) ~~One boat~~ A vessel may overtake another vessel on either side but ~~shall grant the right of way to the overtaken boat~~ must be prepared to take early and substantial action to avoid collision. The vessel being overtaken should maintain its course and speed.

* * *

§ 3312a. OPERATION OF PERSONAL WATERCRAFT

(a) ~~A person under the age of 16~~ An individual less than 16 years of age shall not operate a personal watercraft.

(b) All ~~persons~~ individuals operating or riding on a personal watercraft shall wear a ~~Type I, II, or III~~ properly secured wearable U.S. Coast Guard-approved personal flotation device as intended by the manufacturer.

(c) Personal watercraft shall not be operated at any time between sunset and sunrise.

(d) Every ~~person~~ individual operating a personal watercraft equipped by the manufacturer with a lanyard type engine cut-off switch shall attach the lanyard to his or her wrist, clothing, or personal flotation device as appropriate for the specific craft.

§ 3313. COLLISIONS, ~~ACCIDENTS~~ CRASHES, AND CASUALTIES

(a) The operator of a vessel involved in a collision, ~~accident~~ crash, or other casualty, so far as he or she can do so without serious danger to his or her own vessel, crew, and passengers, shall render to other ~~persons~~ individuals affected by the collision, ~~accident~~ crash, or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, ~~accident~~ crash, or other casualty. Also, he or she shall give his or her name, address, and identification of his or her vessel in writing to any ~~person~~ individual injured and to the owner of any property damaged in the collision, ~~accident~~ crash, or other casualty.

(b) If a collision, ~~accident~~ crash, or other casualty involving a vessel results in death or injury to a ~~person~~ an individual or damage to property in excess of ~~\$100.00~~ \$2,000.00, the operator shall file with the Commissioner of Motor Vehicles within 36 hours a full description of the collision, ~~accident~~ crash, or other casualty, including such information as the Commissioner may, by rule, require.

Sec. 20. 23 V.S.A. § 3316(a) is amended to read:

(a) The Commissioner of Public Safety may authorize the holding of public regattas, motorboat or other ~~boat~~ vessel races, marine parades, tournaments, water skiing events, exhibitions, or triathlons on any waters of this State and any associated public roads. He or she shall adopt and may, from time to time, amend rules concerning the safety of motorboats and other vessels and ~~persons~~ individuals on these vessels, either observers or participants, and of ~~persons~~ individuals swimming, cycling, or running in or observing an event. Whenever a public regatta, motorboat or other ~~boat~~ vessel race, marine parade, tournament, water skiing event, exhibition, or triathlon is proposed to be held, the person in charge shall, at least 15 days prior to the event, file an application with the Department of Public Safety for permission to hold the regatta, motorboat or other ~~boat~~ vessel race, marine parade, tournament, water skiing event, exhibition, or triathlon. A copy of such application shall be sent to the municipality and organized lake association where the event is to be held 15 days in advance of the event to allow for comment. The application shall set forth the date, time, and location where it is proposed to hold the regatta, motorboat or other ~~boat~~ vessel race, marine parade, tournament, water skiing event, exhibition, or triathlon and it shall not be conducted without authorization of the Department of Public Safety in writing, except that this provision shall not apply to unscheduled ~~boat~~ vessel races to which the public has not been invited.

Sec. 21. 23 V.S.A. §§ 3320 and 3321 are amended to read:

§ 3320. ~~MOTOR PROPELLED BOATS~~ MOTORBOATS ON DUFRESNE DAM WATERS PROHIBITED

(a) The use and operation of ~~motor propelled boats~~ motorboats on the waters impounded by the Dufresne Dam, so-called, on the Battenkill River in the town of Manchester is prohibited.

* * *

§ 3321. ~~MOTOR PROPELLED BOATS~~ MOTORBOATS IN SOUTH POND PROHIBITED

(a) The use and operation of ~~motor propelled boats~~ motorboats on the waters of South Pond in the town of Marlboro is prohibited.

* * *

Sec. 22. 23 V.S.A. § 3801 is amended to read:

§ 3801. DEFINITIONS

* * *

(8) ~~“Motorboat” means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion, but shall not include a vessel that has a valid marine document issued by U.S. Customs and Border Protection or any successor federal agency. [Repealed.]~~

* * *

(11) “Owner” means a person, other than a lienholder, having property in or title to a vessel, snowmobile, or all-terrain vehicle. The term includes a person entitled to use or possess a vessel, snowmobile, or all-terrain vehicle subject to an interest in another person, which is reserved or created by agreement and securing payment of performance of an obligation, but it does not include a lessee under a lease not intended as security.

* * *

(19) “Vessel” means every description of ~~motorboat~~ watercraft capable of being used as a means of transportation on water that is equipped with machinery capable of propelling the watercraft, whether or not such machinery is the principal source of propulsion, but shall not include a watercraft that has a valid marine document issued by U.S. Customs and Border Protection or any successor federal agency.

* * *

* * * Replacing Accident with Crash Throughout Title 23 * * *

Sec. 23. REPLACEMENTS

When preparing the Vermont Statutes Annotated for publication in 2021, the Office of Legislative Counsel shall replace the words “accident” with “crash” and “accidents” with “crashes” and the phrase “an accident” with “a crash” in the following statutory sections: 23 V.S.A. §§ 102(a)(3) and (4), 108, 326, 364a(b), 454(a)(4), 603(a)(2), 607a(a), 704(3), 731(a), 750(b)(8) and (d)(8), 802(c) and (i), 804(d)(1), 809(a), 810, 843, 921, 941(f) and (g), 1001(a)(4), 1046(b)(2), 1128(b) and (c), 1201(c), 1202(d)(6)(B) and (f), 1203(g), 1603a, 1603b, 2502(a)(5)(D) and (b), 3206(b)(19), 3207(f), 3211, 3305(c)(1)(D), 3317(c), 3506(b)(13), 3511, 4102, and 4103(16)(E).

Sec. 24. 23 V.S.A. § 114(a)(7) and (8) are amended to read:

- | | |
|--|---------|
| (7) Certified copy individual accident crash report | \$12.00 |
| (8) Certified copy police accident crash report | \$18.00 |

Sec. 25. 23 V.S.A. § 4108(d)(1)(E) is amended to read:

(E) has not had any conviction for a violation, other than a parking violation, of military, state, or local law relating to motor vehicle traffic control arising in connection with any ~~traffic accident~~ crash, and has no record of ~~an accident~~ a crash in which he or she was at fault; and

Sec. 26. 23 V.S.A. § 4121(b)(2)(E) and (F) are amended to read:

(E) has not had any conviction for a violation of state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any ~~traffic accident~~ crash;

(F) has not been convicted of any motor vehicle traffic violation that resulted in ~~an accident~~ a crash; and

* * * Incorrect Capitalization * * *

Sec. 27. 23 V.S.A. § 4103(16)(E) is amended to read:

(E) A violation of any ~~State~~ state law or local ordinance relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any individual.

Sec. 28. 23 V.S.A. § 4116(a)(3) is amended to read:

(3) using a motor vehicle in the commission of any offense under ~~State~~ state or federal law that is punishable by imprisonment for a term exceeding one year;

Sec. 29. 23 V.S.A. § 4116(c)(2) is amended to read:

(2) any offense under ~~State~~ state or federal law that is punishable by imprisonment for a term exceeding one year involving the manufacture, distribution, or dispensing of a regulated drug, or possession with intent to manufacture, distribute, or dispense a regulated drug where the person used a motor vehicle in the commission of the offense; or

Sec. 30. 23 V.S.A. § 4116a(e) is amended to read:

(e) An individual's privilege to operate a commercial motor vehicle in the State of Vermont shall be suspended for life if the individual uses a commercial motor vehicle in the commission of any offense under ~~State~~ state or federal law that is punishable by imprisonment for a term exceeding one year, involving the manufacture, distribution, or dispensing of a regulated drug, or possession with intent to manufacture, distribute, or dispense a regulated drug, and for which the individual was convicted.

* * * Commercial Driver's Licenses * * *

Sec. 31. 23 V.S.A. § 4108(b) is amended to read:

(b) The Commissioner shall not issue a commercial driver's license or commercial learner's permit to any individual:

* * *

(3) Unless Vermont is the state of domicile of the individual and the individual has passed a knowledge and skills test for driving a commercial motor vehicle that complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R. Part 383, subparts F, G, and H, as may be amended, and has satisfied all other requirements of 49 C.F.R. Part 380 and 49 U.S.C. ~~ch.~~ Chapter 313, as may be amended, and the ~~Commercial Motor Vehicle Safety~~ Anti-Drug Abuse Act of 1986, Title XII of Pub. L. No. 99-570, Title XII (Commercial Motor Vehicle Safety Act of 1986), as may be amended, in addition to other requirements imposed by ~~state~~ State law or federal regulation. The tests shall be prescribed and conducted by the Commissioner.

* * * Records Inspection * * *

Sec. 32. 23 V.S.A. § 3836(a) is amended to read:

(a) Each person who purchases or in any manner acquires a vessel, snowmobile, or all-terrain vehicle as salvage shall keep and maintain for a period of not less than five years such records as may be prescribed by the Commissioner that are reasonably necessary to substantiate the information contained in the application required by sections ~~3840~~ 3833 and ~~3842~~ 3835 of

this title. These records shall include parts and accessories obtained and used for the repair or rebuilding, or both, of a vessel, snowmobile, or all-terrain vehicle, and such financial records that will allow the Commissioner to determine if the person qualifies to become or remain licensed as a “salvage dealer.”

* * * Enforcement in 1998 * * *

Sec. 33. REPEAL

23 V.S.A. § 1220 (drunken driving enforcement in fiscal year 1998) is repealed.

* * * Signal Lamps * * *

Sec. 34. 23 V.S.A. § 1252 is amended to read:

§ 1252. ISSUANCE OF PERMITS FOR SIRENS OR COLORED LAMPS,
OR BOTH; USE OF AMBER LAMPS

(a) When satisfied as to the condition and use of the vehicle, the Commissioner shall issue and may revoke, for cause, permits for sirens ~~or~~ and colored signal lamps in the following manner:

(1)(A) Sirens ~~or~~, blue signal lamps, or blue and white signal lamps, or a combination ~~of these~~ thereof, may be authorized for all law enforcement vehicles owned or leased by a law enforcement agency, a certified law enforcement officer, or the Vermont Criminal Justice Council.

(B) A red signal lamp or an amber signal lamp, or a combination thereof, may be authorized for all law enforcement vehicles owned or leased by a law enforcement agency, a certified law enforcement officer, or the Vermont Criminal Justice Council, provided that the Commissioner shall require the lamp or lamps be mounted so as to be visible primarily from the rear of the vehicle.

(C) If the applicant is a constable, the application shall be accompanied by a certification by the town clerk that the applicant is the duly elected or appointed constable and attesting that the town has not voted to limit the constable’s authority to engage in enforcement activities under 24 V.S.A. § 1936a.

(2)(A) Sirens and red or red and white signal lamps may be authorized for all ambulances, ~~fire apparatus~~ and other emergency medical service (EMS) vehicles, vehicles owned or leased by a fire department, vehicles used solely in rescue operations, or vehicles owned or leased by, or provided to, volunteer firefighters and voluntary rescue squad members, including a vehicle owned by a volunteer’s employer when the volunteer has the written authorization of the employer to use the vehicle for emergency fire or rescue activities.

(B) A blue signal lamp or an amber signal lamp, or a combination thereof, may be authorized for all EMS vehicles or vehicles owned or leased by a fire department, provided that the Commissioner shall require the lamp or lamps be mounted so as to be visible primarily from the rear of the vehicle.

~~(3) No vehicle may be authorized a permit for more than one of the combinations described in subdivisions (1) and (2) of this subsection. [Repealed.]~~

(4) No motor vehicle, other than one owned by the applicant, shall be issued a permit until the Commissioner has recorded the information regarding both the owner of the vehicle and the applicant for the permit.

(5) Upon application to the Commissioner, the Commissioner may issue a single permit for all the vehicles owned or leased by the applicant.

(6) Sirens and red or red and white signal lamps, or sirens and blue or blue and white signal lamps, may be authorized for restored emergency or enforcement vehicles used for exhibition purposes. Sirens and lamps authorized under this subdivision may only be activated during an exhibition, such as a car show or parade.

(b) Amber signal lamps shall be used on road maintenance vehicles, service vehicles, and wreckers and shall be used on all registered snow removal equipment when in use removing snow on public highways, and the amber lamps shall be mounted so as to be visible from all sides of the motor vehicle. ~~A vehicle equipped with an amber signal lamp may not be issued a permit for the installation and use of a siren.~~

Sec. 35. 23 V.S.A. § 1255 is amended to read:

§ 1255. EXCEPTIONS

(a) The provisions of section 1251 of this title shall not apply to directional signal lamps of a type approved by the Commissioner ~~of Motor Vehicles.~~

(b) All persons with motor vehicles equipped as provided in subdivisions 1252(a)(1) and (2) of this title shall use the sirens or colored signal lamps, or both, only in the direct performance of their official duties. When any person other than a law enforcement officer is operating a motor vehicle equipped as provided in subdivision 1252(a)(1) of this title, the colored signal ~~lamp~~ lamps shall be either removed, covered, or hooded. When any person other than an authorized ~~ambulance~~ emergency medical service vehicle operator, firefighter, or authorized operator of vehicles used in rescue ~~operation~~ operations is operating a motor vehicle equipped as provided in subdivision 1252(a)(2) of this title, the colored signal lamps shall be either removed, covered, or hooded unless the operator holds a senior operator license.

* * * All-Terrain Vehicles * * *

Sec. 36. 23 V.S.A. § 3502(a) is amended to read:

(a)(1) Except as otherwise provided in this section, an individual shall not operate an ATV on the VASA Trail System, on State land designated by the Secretary pursuant to subdivision 3506(b)(4) of this title, or along any highway that is not adjacent to the property of the operator unless the ATV:

(A) is registered pursuant to this title or in accordance with subsection (e) of this section; and

(B) displays a valid VASA Trail Access Decal (TAD).

(2) Notwithstanding subdivision (1) of this subsection, neither registration nor display of a TAD is required to operate an ATV:

* * *

~~(E) On frozen bodies of water as designated by the Agency of Natural Resources under the provisions of 10 V.S.A. § 2607. Notwithstanding subdivision 3506(b)(16) of this title, protective headgear is not required when an ATV is operated on a frozen body of water pursuant to this subdivision. [Repealed.]~~

* * *

(4) Notwithstanding subdivision (1) of this subsection and subdivision 3506(b)(16) of this title, neither the display of a TAD nor the use of protective headgear is required to operate an ATV on frozen bodies of water as designated by the Agency of Natural Resources under the provisions of 10 V.S.A. § 2607.

Sec. 37. 23 V.S.A. § 3506(b) is amended to read:

(b) An ATV shall not be operated:

* * *

(16) Unless At locations where the ATV must be registered in order to be lawfully operated under section 3502 of this title unless the operator and all passengers wear:

(A) properly secured protective headgear, of a type approved by the Commissioner and as intended by the manufacturer, if the ATV is operated at locations where the ATV must be registered in order to be lawfully operated under section 3502 of this title that is used as intended by the manufacturer of the headgear and conforms to the Federal Motor Vehicle Safety Standards contained in 49 C.F.R. § 571.218, as amended, and any applicable regulations promulgated by the U.S. Secretary of Transportation; or

(B) properly secured protective headgear that is used as intended by the manufacturer of the headgear and conforms to ASTM International or National Operating Committee on Standards for Athletic Equipment safety standards, provided that the ATV is equipped with manufacturer-installed rollover protection and safety belts that have not been removed or modified in a way that reduces their effectiveness.

* * * Effective Dates * * *

Sec. 38. EFFECTIVE DATES

(a) This section (effective dates) shall take effect on passage.

(b) Notwithstanding 1 V.S.A. § 214, Sec. 5 (certificate of title; 23 V.S.A. § 2015(c)) shall take effective retroactively on April 1, 2020.

(c) Notwithstanding 1 V.S.A. § 214, Secs. 1 (display of number plates; 23 V.S.A. § 511) and 2 (temporary plate; 23 V.S.A. § 518) shall take effect retroactively on September 8, 2020.

(d) All other sections shall take effect on July 1, 2021.

S. 102

An act relating to the regulation of agricultural inputs for farming.

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

* * * Compost Foraging; Farming * * *

Sec. 1. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

~~As used in~~ As used in this chapter:

* * *

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

* * *

(D) The word “development” does not include:

(i) The construction of improvements for farming, logging, or forestry purposes below the elevation of 2,500 feet.

* * *

(vii) The construction of improvements below the elevation of 2,500 feet for the on-site storage, preparation, and sale of compost, provided that one of the following applies:

* * *

(III) The compost is principally used on the farm where it was produced.

* * *

(22) “Farming” means:

(A) the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or

(B) the raising, feeding, or management of livestock, poultry, fish, or bees; or

(C) the operation of greenhouses; or

(D) the production of maple syrup; or

(E) the on-site storage, preparation, and sale of agricultural products principally produced on the farm; or

(F) the on-site storage, preparation, production, and sale of fuel or power from agricultural products or wastes principally produced on the farm; or

(G) the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines; or

(H) the importation of 2,000 cubic yards per year or less of food residuals or food processing residuals onto a farm for the production of compost, provided that:

(i) the compost is principally used on the farm where it is produced; or

(ii) the compost is produced on a small farm that raises or manages poultry.

* * *

(38) “Farm” means, for the purposes of subdivision (22)(H) of this section, a parcel or parcels of land owned, leased, or managed by a person and devoted primarily to farming that meets the threshold criteria as established under the Required Agricultural Practices.

(39) “Food processing residuals” means the remaining organic material from a food processing plant and may include whey and other dairy, cheese making, and ice cream residuals or residuals from any food manufacturing process excluding livestock or poultry slaughtering and rendering operations.

“Food processing residuals” does not include food residuals from markets, groceries, or restaurants.

(40) “Food residuals” has the same meaning as in section 6602 of this title.

(41) “Principally used” means, for the purposes of subdivision (3)(D)(vii)(III) and (22)(H) of this section, that more than 50 percent, either by volume or weight, of the compost produced on the farm is physically and permanently incorporated into the native soils on the farm as a soil enhancement and is not removed or sold at any time thereafter.

(42) “Small farm” has the same meaning as in 6 V.S.A. § 4871.

Sec. 2. Section 2 of the Agency of Agriculture, Food and Markets, Vermont Required Agricultural Practices Rule for the Agricultural Nonpoint Source Pollution Control Program is amended to read:

Section 2. Definitions

* * *

2.16 Farming means:

(a) the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural, viticultural, and orchard crops; or

(b) the raising, feeding, or management of livestock, poultry, fish, or bees; or

(c) the operation of greenhouses; or

(d) the production of maple syrup; or

(e) the on-site storage, preparation, and sale of agricultural products principally produced on the farm; or

(f) the on-site storage, preparation, production, and sale of fuel or power from agricultural products or wastes principally produced on the farm; or

(g) the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines; or

(h) the importation of 2,000 cubic yards per year or less of food residuals or food processing residuals onto a farm for the production of compost, provided that:

(1) the compost is principally used on the farm where it is produced; or

(2) the compost is produced on a small farm that raises or manages poultry.

* * *

2.44 “Food residual” means source separated and uncontaminated material that is derived from processing or discarding of food and that is recyclable, in a manner consistent with 10 V.S.A. § 6605k. Food residual may include preconsumer and postconsumer food scraps. “Food residual” does not mean meat and meat-related products when the food residuals are composted by a resident on site.

2.45 “Principally used” means that more than 50 percent, either by volume or weight, of the compost produced on the farm is physically and permanently incorporated into the native soils on the farm as a soil enhancement and is not removed or sold at any time thereafter.

Sec. 3. 6 V.S.A. chapter 218 is added to read:

CHAPTER 218. AGRICULTURAL RESIDUALS MANAGEMENT

§ 5131. PURPOSE

The purpose of this chapter is to establish a program for the management of residual wastes generated, imported to, or managed on a farm for farming in Vermont.

§ 5132. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Agriculture, Food and Markets.

(2) “Compost” means a stable humus-like material produced by the controlled biological decomposition of organic matter through active management but shall not mean sewage, septage, or materials derived from sewage or septage.

(3) “Farm” means a parcel or parcels of land owned, leased, or managed by a person and devoted primarily to farming that meets the threshold criteria for regulation under the Required Agricultural Practices.

(4) “Farming” has the same meaning as in 10 V.S.A. § 6001(22).

(5) “Food processing residuals” means the remaining organic material from a food processing plant and may include whey and other dairy, cheese making, and ice cream residuals or residuals from any food manufacturing process excluding livestock or poultry slaughtering and rendering operations. “Food processing residuals” do not include food residuals from markets, groceries, or restaurants.

(6) “Food residuals” means source separated and uncontaminated material that is derived from processing or discarding of food and that is recyclable or compostable. “Food residuals” may include preconsumer and postconsumer food scraps. “Food residuals” include meat and meat-related products when the disposition of the products is managed on a farm.

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

(8) “Source separation” has the same meaning as in 10 V.S.A. § 6602.

§ 5133. FOOD RESIDUALS; RULEMAKING

(a) The Secretary shall regulate the importation of food residuals or food processing residuals onto a farm.

(b)(1) The Secretary shall adopt by rule requirements for the management of food residuals and food processing residuals on a farm. The rules may include requirements regarding:

(A) the proper composting of food residuals or food processing residuals;

(B) destruction of pathogens in food residuals, food processing residuals, or compost;

(C) prevention of public health threat from food residuals, food processing residuals, or compost;

(D) protection of natural resources or the environment; and

(E) prevention of objectionable odors, noise, vectors, or other nuisance conditions.

(2) The Secretary may adopt the rules required by this section as part of the Required Agricultural Practices or as independent rules under this chapter.

(3) The rules shall prohibit a farm from initiating the production of compost from food residuals or food processing residuals imported onto the farm on or after July 1, 2021 within a downtown, village center, new town center, neighborhood development area, or growth center designated under 24 V.S.A. chapter 76a, unless the municipality has expressly allowed composting in the designated area under the municipal zoning or subdivision bylaws or in an approved municipal plan.

(4) The rules adopted under this section shall be designed to reduce odor, noise, vectors, and other nuisance conditions on farms and to protect the public health and the environment in a manner that is equal to or better than the rules for compost facilities in the Agency of Natural Resources’ Vermont Solid Waste Management Rules, as amended.

(c) A farm producing compost under 10 V.S.A. § 6001(22)(H) shall be regulated under this chapter and shall not require a certification or other approval from the Agency of Natural Resources under 10 V.S.A. chapter 159.

Sec. 4. 10 V.S.A. § 6605 is amended to read:

§ 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

(a)(1) No person shall construct, substantially alter, or operate any solid waste management facility without first obtaining certification from the Secretary for such facility, site, or activity, except for sludge or septage treatment or storage facilities located within the fenced area of a domestic wastewater treatment plant permitted under chapter 47 of this title. This exemption for sludge or septage treatment or storage facilities shall exist only if:

* * *

(2) Certification shall be valid for a period not to exceed 10 years.

* * *

(n) A farm producing compost under subdivision 6001(22)(H) is exempt from the requirements of this section.

Sec. 5. 10 V.S.A. § 6605h is amended to read:

§ 6605h. COMPOSTING REGISTRATION

Notwithstanding sections 6605, 6605f, and 6611 of this title, the Secretary may, by rule, authorize a person engaged in the production or management of compost at a small scale composting facility to register with the Secretary instead of obtaining a facility certification under section 6605 or 6605c of this title. This section shall not apply to a farm producing compost under subdivision 6001(22)(H) of this title.

Sec. 6. 10 V.S.A. § 6605j is amended to read:

§ 6605j. ACCEPTED COMPOSTING PRACTICES

(a) The Secretary, in consultation with the Secretary of Agriculture, Food and Markets, shall adopt by rule, pursuant to 3 V.S.A. chapter 25, and shall implement and enforce accepted composting practices for the management of composting in the State. These accepted composting practices shall address:

(1) standards for the construction, alteration, or operation of a composting facility;

(2) standards for facility operation, including acceptable quantities of product or inputs, vector management, odors, noise, traffic, litter control, contaminant management, operator training and qualifications, recordkeeping, and reporting;

(3) standards for siting of composting facilities, including siting and operation of compost storage areas, compost bagging areas, and roads and parking areas;

(4) standards for the composting process, including rotation, management of compost piles, compost pile size, and monitoring of compost operations;

(5) standards for management of runoff from compost facilities, including liquids management from the feedstock area, active composting areas, curing area, and compost storage area; the use of swales or stormwater management around or within a compost facility; vegetative buffer requirements; and run-off management from tipping areas;

(6) specified areas of the State unsuitable for the siting of commercial composting that utilizes post-consumer food residuals or animal mortalities, such as designated downtowns, village centers, village growth areas, or areas of existing residential density; and

(7) definitions of “small-scale composting facility,” “medium-scale composting facility,” and “de minimis composting exempt from regulation.”

(b) A person operating a small scale composting facility ~~or operating a composting facility on a farm~~ who follows the accepted composting practices shall not be required to obtain a discharge permit under section 1263 or 1264 of this title, a solid waste facility certification under chapter 159 of this title, or an air emissions permit under chapter 23 of this title unless a permit is required by federal law or the Secretary of Natural Resources determines that a permit is necessary to protect public health or the environment.

~~(c) The Secretary of Natural Resources shall coordinate with the Secretary of Agriculture, Food and Markets in implementing and enforcing the accepted composting practices. The Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources may, after opportunity for public review and comment, develop a memorandum of understanding for implementation and enforcement of the accepted composting practices. [Repealed.]~~

(d) The Secretary shall not regulate under this section a farm producing compost under subdivision 6001(22)(H) of this title.

Sec. 7. APPLICATION OF SOLID WASTE MANAGEMENT RULES

Prior to adoption of rules under 6 V.S.A. § 5133, the Secretary of Agriculture, Food and Markets shall require a person producing compost on a farm under 10 V.S.A. § 6001(22)(H) to comply with Sections 6–1101 through 6–1111 of the Agency of Natural Resources’ Vermont Solid Waste Management Rules. After adoption of rules under 6 V.S.A. § 5133, Sections 6-1101 through 6-1111 of the Agency of Natural Resources’ Vermont Solid Waste Management Rules shall not apply to a person producing compost on a farm under 10 V.S.A. § 6001(22)(H).

Sec. 8. REPORT ON IMPORTATION OF FOOD RESIDUALS FOR FARMING

On or before January 15, 2022 and annually thereafter, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committees on Agriculture and on Natural Resources and Energy and the House Committees on Agriculture and Forestry and on Natural Resources, Fish, and Wildlife a report regarding importation of food residuals for composting under 10 V.S.A. § 6001(22)(H). The report shall include:

(1) an inventory of the operators of farms that are producing compost under 10 V.S.A. § 6001(22)(H), including the estimated volume of food residuals imported onto farms;

(2) a status report on the rulemaking required under 6 V.S.A. § 5133 and any subsequent amendment to those rules;

(3) an accounting of any complaints regarding or enforcement actions brought against a farm producing compost under 10 V.S.A. § 6001(22)(H); and

(4) any additional information that the Secretary determines is relevant to the administration of compost production under 10 V.S.A. § 6001(22)(H).

Sec. 8a. RULEMAKING; IMPLEMENTATION

The Secretary of Agriculture, Food and Markets shall initiate the rulemaking required under 6 V.S.A. § 5133 on or before January 1, 2022. The Secretary of Agriculture, Food and Markets shall file under 3 V.S.A. § 841 a final proposal of the rules required under 6 V.S.A. § 5133 on or before January 1, 2023.

* * * Dosage Form Animal Health Products; Feed Supplements * * *

Sec. 9. 6 V.S.A. chapter 26 is amended to read:

CHAPTER 26. COMMERCIAL FEEDS

* * *

§ 323. DEFINITIONS

~~When~~ As used in this chapter:

(1) “Dosage form animal health product” means any product intended to affect the structure or function of the animal’s body or enhance or support the health or well-being of livestock, poultry, dogs, cats, or other domestic animals that does not provide nutritional benefit, does not require a prescription from a licensed veterinarian, is not intended for cosmetic purposes, or is exempted by the Secretary by rule. “Dosage form animal health product” shall not include a product regulated by the U.S. Food and Drug Administration as a drug.

(2) “Brand name” means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed, feed supplement, dosage form animal health product, or a distributor or registrant and distinguishing it from that of others.

~~(2)~~(3) “Commercial feed” means all materials except whole seeds unmixed or physically altered entire unmixed seeds, when not adulterated within the meaning of subsection 327(a) of this title, ~~which~~ that are distributed for use as feed or for mixing in feed. The Secretary by regulation may exempt from this definition, or from specific provisions of this chapter, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds, or substances are not intermixed or mixed with other materials; and are not adulterated within the meaning of subsection 327(a) of this title.

~~(3)~~(4) “Customer-formula feed” means commercial feed that consists of a mixture of commercial feeds or feed ingredients each batch of which is manufactured according to the specific instructions of the final purchaser.

~~(4)~~(5) “Distribute” means to offer for sale, sell, exchange, or barter commercial feed, feed supplements, or dosage form animal health products or to supply, furnish, or otherwise provide commercial feed, feed supplements, or dosage form animal health products through any means, including sales outlets, catalogues, the telephone, the Internet, or any electronic means.

~~(5)~~(6) “Distributor” means any person who distributes commercial feeds, feed supplements, or dosage form animal health products.

~~(6)~~(7) “Drug” means any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in domestic animals other than humans and substances other than feed intended to affect the structure or any function of the animal body.

~~(7)~~(8) “Feed ingredient” means each of the constituent materials making up a commercial feed.

(9) “Feed supplement” means a material used with another to improve the nutritive balance or performance of the total and intended to be fed undiluted as a supplement to other feeds or offered free choice with other parts of the ration separately available or further diluted and mixed to produce a complete feed.

~~(8)~~(10) “Label” means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed, feed supplement, or dosage form animal health product is distributed, or on the invoice or delivery slip with which a commercial feed, feed supplement, or dosage form animal health product is distributed.

~~(9)~~(11) “Labeling” means all labels and other written, printed, or graphic matter upon a commercial feed, feed supplement, or dosage form animal health product or any of its containers, or the wrapper accompanying the commercial feed, feed supplement, or dosage form animal health product or advertisements, brochures, posters, electronic media, the Internet, and television and radio announcements used in promoting the sale of the commercial feed, feed supplement, or dosage form animal health product.

~~(10)~~(12) “Manufacture” means to produce, grind, mix, or blend, or further process a commercial feed, feed supplement, or dosage form animal health product for distribution.

~~(11)~~(13) “Mineral feed” means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.

~~(12)~~(14) “Official sample” means a sample of feed taken by the Secretary in accordance with the provisions of subdivision 330(3) of this title.

~~(13)~~(15) “Percent” or “percentages” means percentages by weights.

~~(14)~~(16) “Permitted analytical variances” means those allowances for the inherent variability in sampling and laboratory analysis.

~~(15)~~(17) “Pet” means any domesticated animal normally maintained in or near the household of the owner.

~~(16)~~(18) “Pet food” means any commercial feed prepared and distributed for consumption by pets.

~~(17)~~(19) “Product” means the name of the commercial feed ~~which, feed supplement, or dosage form animal health product that~~ identifies it as to kind, class, or specific use.

~~(18)~~(20) “Specialty pet” means any domesticated animal pet normally maintained in a cage or tank.

~~(19)~~(21) “Specialty pet food” means any commercial feed prepared and distributed for consumption by specialty pets.

~~(20)~~(22) “Ton” means a net weight of 2,000 pounds avoirdupois.

§ 324. REGISTRATION AND FEES

(a) No person shall manufacture or distribute a commercial feed, feed supplement, or dosage form animal health product in this State unless that person has first filed with the ~~Vermont~~ Agency of Agriculture, Food and Markets, in a form and manner to be prescribed by rules by the Secretary:

- (1) the name of the manufacturer or distributor;
- (2) the manufacturer’s or distributor’s place of business;
- (3) the location of each manufacturing or distribution facility; and
- (4) any other information that the Secretary considers to be necessary.

(b) A person shall not distribute in this State a commercial feed, feed supplement, or dosage form animal health product that has not been registered pursuant to the provisions of this chapter. Application shall be in a form and manner to be prescribed by rule of the Secretary. The Secretary shall have the authority to determine whether a product subject to an application shall be registered as a commercial feed, feed supplement, or dosage form animal health product.

~~(c)~~(1) The application for registration of a commercial feed or feed supplement shall be accompanied by a registration fee of \$105.00 per product. The registration fees, along with any surcharges collected under subsection ~~(e)~~(d) of this section, shall be deposited in the special fund created by subsection 364~~(e)~~(f) of this title. Funds deposited in this account shall be restricted to implementing and administering the provisions of this title and any other provisions of the law relating to fertilizer, lime, or seeds. If the Secretary so requests, the application for registration shall be accompanied by a label or other printed matter describing the product.

(2) The application for registration of a dosage form animal health product shall be accompanied by a registration fee of \$35.00 per product. The registration fees, along with any surcharges collected under subsection (d) of this section, shall be deposited in the special fund created by subsection 364(f) of this title. Funds deposited in this account shall be restricted to implementing and administering the provisions of this title and any other provisions of the law relating to items registered under this chapter. If the Secretary so requests, the application for registration shall be accompanied by a label or other printed matter describing the product.

~~(e)~~(d) No person shall distribute in this State any commercial feed, feed supplement, or dosage form animal health product required to be registered under this chapter upon which the Secretary has placed a withdrawal from distribution order because of nonregistration. A surcharge of \$10.00, in addition to the registration fee required by subsection ~~(b)~~(c) of this section, shall accompany the application for registration of each product upon which a withdrawal from distribution order has been placed for reason of nonregistration, and must be received before removal of the withdrawal from distribution order.

~~(d)~~(e) No person shall distribute a commercial feed product in the State that is labeled as bait or feed for white-tailed deer.

§ 325. LABELING

(a) A commercial feed or feed supplement, except a customer-formula feed, shall be accompanied by a label bearing the following information:

- (1) the net weight;
- (2) the product name and the brand name, if any, under which the commercial feed or feed supplement is distributed;
- (3) the guaranteed analysis as required by rule in section 329 of this title;
- (4) the common, usual name or collective term of each ingredient used in the manufacture of the commercial feed or feed supplement in descending order;
- (5) the name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed or feed supplement;
- (6) adequate directions for use for all commercial feeds or feed supplements containing drugs and for ~~such~~ other feeds as the Secretary may require by rule as necessary for their safe and effective use; and

(7) precautionary statements required to ~~assure~~ ensure the safe and effective use of the commercial feed or feed supplement.

(b) A dosage form animal health product shall be accompanied by a label bearing the following information:

(1) the net weight or count;

(2) the product name and the brand name, if any, under which the dosage form animal health product is distributed;

(3) the established name of each active ingredient and the amount of active ingredient per serving in descending order;

(4) the established name of each inactive ingredient in alphabetical order or in descending order by predominance of the ingredient;

(5) the name, city, and town of the manufacturer or the person responsible for distributing the dosage form animal health product or an e-mail address for the manufacturer or distributor;

(6) adequate directions for use of the dosage form animal health product;

(7) precautionary statements and warnings required to ensure the safe and effective use of the dosage form animal health product; and

(8) structure-function claim stating the intended use of the dosage form animal health product.

(c) Customer-formula feed shall be accompanied by a label, invoice, delivery slip, or other shipping document, bearing the following information:

(1) name and address of the manufacturer;

(2) name and address of the purchaser;

(3) date of delivery;

(4) the name of each commercial feed and each other ingredient used in the mixture;

(5) adequate directions for use for all customer-formula feeds containing drugs and for such other feeds as the Secretary may require by rule to ~~assure~~ ensure their safe and effective use;

(6) the direction for use and precautionary statements;

(7) when a drug-containing product is used:

(A) the purpose of the medication or a claim statement; and

(B) the established name of each active drug ingredient and the level of each drug used in the final mixture; and

(8) the guaranteed analysis as required by rule pursuant to section 329 of this title.

~~(e)~~(d) For purposes of labeling customer-formula feeds, the guaranteed analysis is not required when:

(1) one or more of the ingredients are provided to the manufacturer by the final purchaser; or

(2) the manufacturer uses a guaranteed analysis provided by the final purchaser as part of the specific instructions for blending a customer-formula feed.

§ 326. MISBRANDING

A commercial feed, feed supplement, or dosage form animal health product shall be deemed to be misbranded if:

(1) its labeling is false or misleading in any particular;

(2) it is distributed under the name of another commercial feed, feed supplement, or dosage form animal health product;

(3) it is not labeled as required in section 325 of this title;

(4) it purports to be or is represented as a commercial feed, or if it purports to contain or is represented as containing a commercial feed ingredient, unless the commercial feed or feed ingredient conforms to the definition, if any, prescribed by rule of the Commissioner; or

(5) information required to appear on the label in a conspicuous manner cannot be easily identified or understood under customary conditions of purchase and use.

§ 327. ADULTERATION

(a) A commercial feed including whole seeds shall be deemed to be adulterated if it bears or contains any poisonous or deleterious substance ~~which~~ that may render it injurious to human or animal health, but in case the substance is not an added substance, the commercial feed shall not be considered adulterated under this subsection if the quantity of the substance in the commercial feed does not ordinarily render it injurious to health.

(b) Any other commercial feed, feed supplement, or dosage form animal health product shall be deemed to be adulterated if:

(1) any valuable constituent has been in whole or in part omitted or abstracted therefrom or any less valuable substance substituted therefor;

(2) its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling;

(3) if use of the product may result in contamination of a raw agricultural product;

(4) it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice and rules promulgated by the Secretary to assure that the drug meets the requirement of this chapter as to safety and has the identity and strength and meets the quality and purity characteristics ~~which~~ that it purports or is represented to possess; or

~~(4)~~(5) it contains viable weed seeds in amounts exceeding the limits that the Secretary shall establish by rule.

§ 328. TONNAGE REPORTING

~~(a) Every person who registers a commercial feed pursuant to the provisions of this chapter shall report to the Agency of Agriculture, Food and Markets annually the total amount of combined feed is distributed within the State and which is intended for use within the State. The report shall be made on forms and in a manner to be prescribed by the Secretary for calendar years 2016 and 2017.~~

~~(b) This reporting requirement shall not apply to pet foods, within the meaning of subdivisions 323(16) and (19) of this title, and shall not apply to feeds intended for use outside the State. [Repealed.]~~

§ 329. RULES

(a) The Secretary is authorized to adopt rules establishing procedures or standards, or both, for product registration, labeling, adulteration, reporting, inspection, sampling, guarantees, product analysis, or other conditions necessary for the implementation and enforcement of this chapter. Where appropriate, the rules shall be consistent with the model rules developed by the Association of American Feed Control Officials and regulations adopted by the federal Food, Drug and Cosmetic Act, 21 U.S.C. § 301 et seq.

(b) The official definitions of feed ingredients and official feed terms adopted by the Association of American Feed Control Officials and published in the official publication of that organization, together with any regulation promulgated pursuant to the authority of the federal Food, Drug and Cosmetic Act, 21 U.S.C. § 301 et seq., relevant to the subject matter of this chapter, are

hereby adopted as rules under this chapter, together with all subsequent amendments. The Secretary may, by rule, amend or repeal any rule adopted under this subsection.

(c) A person shall not manufacture or distribute raw milk as a commercial feed, feed supplement, or dosage form animal health product in the State for any species unless all of the following conditions are satisfied:

(1) the raw milk shall be decharacterized using a sufficient method to render it distinguishable from products packaged for human consumption;

(2) raw animal feed, feed supplements, dosage form animal health products, or pet food products shall be packaged in containers that are labeled “not for human consumption”;

(3) raw animal feed, feed supplements, dosage form animal health products, or pet food products shall not be stored or placed for retail sale with, or in the vicinity of, milk or milk products intended for human consumption; and

(4) notwithstanding any rule adopted under subsection (b) of this section to the contrary of the provisions of this subsection, the manufacture and distribution of raw animal feed, feed supplements, dosage form animal health products, or pet food products shall comply with the requirements of this chapter.

§ 330. INSPECTION; SAMPLING; ANALYSIS

(a) For the purpose of enforcing this chapter and determining whether or not an operation may be subject to these provisions, the Secretary upon presenting appropriate credentials is authorized:

(1) to enter any premises during normal business hours where commercial feeds, feed supplements, or dosage form animal health products are manufactured, processed, packed, or held for distribution and to stop and enter any vehicle being used to transport or hold feeds;

(2) to inspect factories, warehouses, establishments, vehicles, equipment, finished and unfinished materials, containers, and labeling;

(3) to sample commercial feed ~~and~~, feed ingredients, feed supplements, or dosage form animal health products.

(b) Sampling and analysis shall be conducted in accordance with methods published by the Association of Official Analytical Chemists or in accordance with other generally recognized methods. The results of all analyses of official samples shall be forwarded by the Secretary to the correspondent named in the registration form and to the purchaser. When the inspection and analysis of an

official sample indicates that a commercial feed, feed supplement, or dosage form animal health product has been adulterated or misbranded and upon request within 30 days following receipt of the analysis, the Secretary shall furnish to the registrant a portion of the sample concerned.

§ 331. PRODUCT DEFICIENCY; SHORT WEIGHT

(a) No registrant may produce, package, distribute, or possess any commercial feed, feed supplement, or dosage form animal health product that is short weight or deficient in either guaranteed ingredients or guaranteed analysis. The Secretary by rule shall establish permitted analytical variances that shall be used to determine whether a commercial feed, feed supplement, or dosage form animal health product is deficient.

(b) The Secretary is authorized to assess administrative penalties for any product found to be short weight or deficient in guaranteed analysis. In assessing these penalties, the Secretary shall give consideration to the appropriateness of the penalty with respect to the size of the business being assessed, the gravity of the violation, the good faith of the registrant, and the overall history of prior violations. Administrative penalties shall be paid to the Secretary for deposit and use in the revolving account established by subsection 364(e)(f) of this title. Penalties shall be assessed in the following manner:

(1) any registrant who is found to have violated this section for a particular product for the first time during any calendar year shall receive an administrative penalty of not more than \$150.00;

(2) any registrant who is found to have violated this section with regard to the same product for the second time during the same calendar year shall receive an administrative penalty of not more than \$300.00; and

(3) any registrant who is found to have violated this section with regard to the same product on three or more occasions during the same calendar year shall receive an administrative penalty of not more than \$500.00.

(c) In assessing a penalty under this section, the Secretary shall issue a written notice of penalty to the registrant setting forth in a short and plain statement the alleged violation and the proposed fine. The notice shall state that the penalty will become final 14 days from the date the notice of penalty is issued unless the registrant requests a hearing before the Secretary.

(d) Any registrant aggrieved by a decision of the Secretary may appeal questions of law to a Superior Court within 30 days of the final decision of the Secretary. The Secretary may enforce a final administrative penalty by filing an action in any District or Superior Court.

§ 332. DETAINED COMMERCIAL FEEDS, FEED SUPPLEMENTS, OR DOSAGE FORM ANIMAL HEALTH PRODUCTS

(a) ~~“Withdrawal from distribution”~~ Withdrawal from distribution orders. When the Secretary has reasonable cause to believe any lot of commercial feed, feed supplement, or dosage form animal health product is being distributed in violation of any of the provisions of this chapter or any of the rules under this chapter, he or she may issue and enforce a written or printed “~~withdrawal from distribution~~” order, warning the distributor not to dispose of the lot of commercial feed, feed supplement, or dosage form animal health product in any manner until written permission is given by the Secretary or the court. The Secretary shall release the lot of commercial feed, feed supplement, or dosage animal health product withdrawn when this chapter and rules have been complied with. If compliance is not obtained within 30 days, the Secretary may begin, or upon request of the distributor or registrant shall begin, proceedings for condemnation.

(b) ~~“Condemnation and confiscation.”~~ Any lot of commercial feed, feed supplement, or dosage form animal health product not in compliance with this chapter and rules shall be subject to seizure on complaint of the Secretary to a court of competent jurisdiction in the area in which the commercial feed is located. In the event the court finds the commercial feed, feed supplement, or dosage form animal health product to be in violation of this chapter and orders the condemnation of the commercial feed, feed supplement, or dosage form animal health product, it shall be disposed of in any manner consistent with the quality of the commercial feed, feed supplement, or dosage form animal health product and the laws of the State, provided that in no instance shall the disposition of the commercial feed, feed supplement, or dosage form animal health product be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the commercial feed, feed supplement, or dosage form animal health product or for permission to process or relabel the commercial feed, feed supplement, or dosage form animal health product to bring it into compliance with this chapter.

* * *

§ 336. ADMINISTRATIVE PENALTY

Consistent with chapter 1 of this title, the Secretary may assess an administrative penalty upon determining that a person has violated a rule issued under this chapter or has violated this chapter in the following manner:

(1) Distributed a feed, feed supplement, or dosage form animal health product without first obtaining the appropriate product registration.

(2) Distributed a commercial feed, feed supplement, or dosage form animal health product without appropriate labeling.

(3) Violated a cease and desist order.

(4) Failed to meet the product guarantee on the label or for the custom formula feed.

(5) Distributed a commercial feed which, feed supplement, or dosage form animal health product that is adulterated as defined in section 327 of this chapter.

* * * Plant Amendments; Plant Biostimulants; Soil Amendments * * *

Sec. 10. 6 V.S.A. chapter 28 is amended to read:

CHAPTER 28. FERTILIZER AND LIME

§ 361. TITLE

This chapter shall be known as the “Fertilizer and Lime Law of 1986.”

§ 362. ENFORCING OFFICIAL

This chapter shall be administered by the Secretary of Agriculture, Food and Markets, or his or her designee, hereafter referred to as the Secretary.

§ 363. DEFINITIONS

As used in this chapter:

(1) “Agricultural lime” or “agricultural liming material” or “lime” means ~~and includes~~:

(A) all products ~~whose~~ with calcium and magnesium compounds that are capable of neutralizing soil acidity and ~~which~~ that are intended, sold, or offered for sale for agricultural or plant propagation purposes;

(B) limestone consisting essentially of calcium carbonate or a combination of calcium carbonate with magnesium carbonate capable of neutralizing soil acidity; or

(C) industrial waste or industrial by-products ~~which~~ that contain calcium, calcium and magnesium, or calcium, magnesium, and potassium in forms that are capable of neutralizing soil acidity and which are intended, sold, or offered for sale for agricultural purposes. For the purposes of this chapter, the terms “agricultural lime,” “lime,” and “agricultural liming material” shall have the same meaning.

(2) “Brand” means a term, design, or trademark used in connection with one or more grades or formulas of fertilizer, plant amendment, plant biostimulant, soil amendment, or lime.

(3) “Distribute” means to import, consign, manufacture, produce, compound, mix, or blend fertilizer or to offer for sale, sell, barter, or otherwise supply ~~or apply~~ a fertilizer, a plant amendment, a plant biostimulant, a soil amendment, or lime in this State. “Distribute” shall include online sales.

(4) “Distributor” means any person who distributes fertilizer, plant amendments, plant biostimulants, soil amendments, or lime.

(5) “Exceptional quality biosolid” means a product derived in whole or in part from domestic wastes that have been subjected to and meet the requirements of the following:

(A) a pathogen reduction process established in 40 C.F.R. § 503.32(a)(3), (4), (7), or (8);

(B) one of the vector attraction reduction standards established in 40 C.F.R. part 503.33;

(C) the contaminant concentration limits in Vermont Solid Waste Rules § 6-1303(a)(1); and

(D) if derived from a composting process, Vermont Solid Waste Rules § 6-1303(a)(4).

~~(5)~~(6) “Fertilizer” means any substance containing one or more recognized plant nutrients that is used for its plant nutrient content and that is designed for use or claimed to have value in promoting plant growth or health, except unprocessed animal or vegetable manures and other products exempted by the Secretary.

(A) A fertilizer material is a substance that either:

(i) contains important quantities of at least one of the primary plant nutrients: nitrogen, phosphorus, or potassium;

(ii) has 85 percent or more of its plant nutrient content present in the form of a single chemical compound; or

(iii) is derived from a plant or chemical residue or by-product or natural material deposit ~~which~~ that has been processed in such a way that its content of plant nutrients has not been materially changed except by purification and concentration.

(B) A mixed fertilizer is a fertilizer containing any combination or mixture of fertilizer materials.

(C) A specialty fertilizer is a fertilizer distributed for nonfarm use.

(D) A bulk fertilizer is a fertilizer distributed in a nonpackaged form.

(7) “Formulation” means a material or mixture of materials prepared according to a particular formula.

~~(6)~~(8) “Grade” means the percentage of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or potash stated in whole numbers in the same terms, order, or percentages as in the guaranteed analysis. Specialty fertilizers and fertilizer materials may be guaranteed in fractional terms. Any grade expressed in fractional terms which that is not preceded by a whole number shall be preceded by zero.

~~(7)~~(9) “Guaranteed analysis” means:

(A) in reference to fertilizer, the minimum percentages of plant nutrients claimed by the manufacturer or producer of the product in the following order and form: nitrogen, phosphorus, and potash; and

(B) in reference to agricultural lime or agricultural liming material, the minimum percentages of calcium oxide and magnesium oxide or calcium carbonate and the calcium carbonate equivalent, or both, as claimed by the manufacturer or producer of the product.

~~(8)~~(10) “Label” means the display of all written, printed, or graphic matter upon the immediate container, or a statement accompanying a fertilizer, plant amendment, plant biostimulant, soil amendment, or lime.

~~(9)~~(11) “Labeling” means all written, printed, or graphic material upon or accompanying any ~~lime or~~ fertilizer, plant amendment, plant biostimulant, soil amendment, or lime including advertisements, brochures, posters, and television and radio announcements used in promoting the sale of the ~~lime or~~ fertilizer, plant amendment, plant biostimulant, soil amendment, or lime.

~~(10)~~(12) “Official sample” means any sample of fertilizer, plant amendment, plant biostimulant, soil amendment, or lime taken by the Secretary.

(13) “Plant amendment” means any substance applied to plants or seeds that is intended to improve growth, yield, product quality, reproduction, flavor or other favorable characteristics of plants, except for fertilizer, soil amendments, agricultural liming materials, animal and vegetable manures, pesticides, plant regulators, and other materials exempted by rule adopted under this chapter.

(14) “Plant biostimulant” means a substance or microorganism that, when applied to seeds, plants, or the rhizosphere, stimulates natural processes to enhance or benefit nutrient uptake, nutrient efficiency, tolerance to abiotic stress, or crop quality and yield except for fertilizers, soil amendments, plant amendments, or pesticides. The Secretary may modify the definition of “plant biostimulant” by rule or procedure in order to maintain consistency with U.S. Department of Agriculture requirements.

~~(11)~~(15) “Percent” or “percentage” means the percentage by weight.

~~(12)~~(16) “Primary nutrient” includes nitrogen, available phosphoric acid or phosphorus, and soluble potash or potassium.

~~(13)~~(17) “Product” means the name of the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime which that identifies it as to kind, class, or specific use.

~~(14)~~(18) “Registrant” means the person who registers fertilizers a fertilizer, plant amendment, plant biostimulant, soil amendment, or lime under the provisions of this chapter.

(19) “Soil amendment” means a substance or mixture of substance that is intended to improve the physical, chemical, biological, or other characteristics of the soil, except fertilizers, agricultural liming materials, unprocessed animal manures, unprocessed vegetable manures, pesticides, plant biostimulants, and other materials exempted by rule. A compost product from a facility under the jurisdiction of the Agency of Natural Resources’ Solid Waste Management Rules or exceptional quality biosolids shall not be regulated as a soil amendment under this chapter, unless marketed and distributed for the use in the production of an agricultural commodity.

~~(15)~~(20) “Ton” means a net weight of 2,000 pounds avoirdupois.

~~(16)~~(21) “Use” includes all purposes for which a fertilizer, plant amendment, plant biostimulant, soil amendment, or lime is applied.

~~(17)~~(22) “Weight” means the weight of undried material as offered for sale.

§ 364. REGISTRATION

(a) Each brand or grade or formula of fertilizer, plant amendment, plant biostimulant, or soil amendment shall be registered in the name of the person whose name appears upon the label before being distributed in this State. The application for registration shall be submitted to the Secretary on a form furnished by the Agency of Agriculture, Food and Markets and shall be accompanied by a fee of \$20.00 per nutrient or recognized plant food element

~~to a maximum of \$140.00 per brand or grade~~ \$85.00 per grade or formulation registered. Upon approval by the Secretary, a copy of the registration shall be furnished to the applicant. All registrations expire on December 31 of each year. The application shall include the following information:

- (1) the brand and grade or formulation;
- (2) the guaranteed analysis if applicable; and
- (3) the name and address of the registrant.

(b) A distributor shall not be required to register any fertilizer ~~which, plant amendment, plant biostimulant, or soil amendment~~ that is already registered under this chapter by another person, provided there is no change in the label for the fertilizer, plant amendment, plant biostimulant, or soil amendment.

(c) A distributor shall not be required to register each grade of fertilizer formulated or each formulation of soil amendment according to specifications ~~which~~ that are furnished by a consumer prior to mixing, but shall be required to label the fertilizer or soil amendment as provided in subsection 365(b) of this title.

(d) The Secretary may request additional proof of testing of products prior to registration for guaranteed analyses or adulterants.

(e) Each separately identified agricultural lime product shall be registered before being distributed in this State. Registration shall be performed in the same manner as fertilizer registration except that each application shall be accompanied by a fee of \$50.00 per product.

~~(e)~~(f) The registration and tonnage fees, along with any deficiency penalties collected pursuant to sections 331 and 372 of this title, shall be deposited in a special fund. Funds deposited in this fund shall be restricted to implementing and administering the provisions of this title and any other provisions of law relating to feeds and seeds.

§ 365. LABELS

(a)(1) Any fertilizer or agricultural lime distributed in this State in containers shall have placed on or affixed to the container a label setting forth in clearly legible and conspicuous form the following information:

- (A) net weight;
- (B) brand and grade, provided that grade shall not be required when no primary nutrients are claimed;
- (C) guaranteed analysis; and

(D) name and address of the registrant.

(2) For bulk shipments, this information in written or printed form shall accompany delivery and be supplied to the purchaser at the time of delivery.

(b) A fertilizer or lime formulated according to specifications furnished by a consumer prior to mixing shall be labeled to show: the net weight, the guaranteed analysis or name, analysis and weight of each ingredient used in the mixture, and the name and address of the distributor and purchaser.

(c)(1) If the Secretary finds that a requirement for expressing calcium and magnesium in elemental form would not impose an economic hardship on distributors and users of agricultural liming materials by reason of conflicting label requirements among states, he or she may require by rule that the minimum percent of calcium oxide and magnesium oxide or calcium carbonate and magnesium carbonate, or both, shall be expressed in the following terms:

Total Calcium (Ca) percent

Total Magnesium (Mg) percent

~~(2) Under this rule, an affected person shall be given a reasonable time to come into compliance.~~

(d)(1) Any plant amendment, plant biostimulant, or soil amendment distributed in this State in containers shall have placed on or affixed to the container a label setting forth in clearly legible and conspicuous form the following information:

(A) net weight or volume;

(B) brand name;

(C) purpose of product;

(D) directions for application;

(E) guaranteed analysis; and

(F) name and address of the registrant.

(2) For bulk shipments of fertilizer, plant amendments, plant biostimulants, soil amendments, or lime, the information required under this subsection shall accompany delivery in written or printed form and shall be supplied to the purchaser at the time of delivery.

(3) Under this a rule adopted under this subsection, an affected person shall be given a reasonable time to come into compliance.

§ 366. TONNAGE FEES

(a) A person distributing fertilizer to a nonregistrant consumer in the State annually shall pay the following fees to the Secretary:

- (1) a \$150.00 minimum tonnage fee;
- (2) \$0.50 per ton of agricultural fertilizer distributed; and
- (3) \$30.00 per ton of nonagricultural fertilizer distributed.

(b) Persons distributing fertilizer shall report annually on or before January 15 for the previous year ending December 31 to the Secretary revealing the amounts of each grade of fertilizer and the form in which the fertilizer was distributed within this State. Each report shall be accompanied with payment and written permission allowing the Secretary to examine the person's books for the purpose of verifying tonnage reports.

(c) No information concerning tonnage sales furnished to the Secretary under this section shall be disclosed in such a way as to divulge the details of the business operation to any person unless it is necessary for the enforcement of the provisions of this chapter.

(d) Persons distributing a plant amendment, plant biostimulant, or soil amendment in the State shall report annually on or before January 15 for the previous year ending December 31 to the Secretary revealing the amounts of each formulation of plant amendment, plant biostimulant, or soil amendment and the form in which the plant amendment, plant biostimulant, or soil amendment was distributed within this State. Each report shall include a written authorization allowing the Secretary to examine the person's books for the purpose of verifying tonnage reports. Plant amendments, plant biostimulants, and soil amendments are exempt from tonnage fees.

(e) Agricultural limes, including agricultural lime mixed with wood ash, are exempt from the tonnage fees required in this section.

(f) Lime and wood ash mixtures may be registered as agricultural liming materials and guaranteed for potassium or potash, provided that the wood ash totals less than 50 percent of the mixture.

(g)(1) All fees collected under subdivisions (a)(1) and (2) of this section shall be deposited in the special fund created by subsection 364(e)(f) of this title and used in accordance with its provisions.

(2) All fees collected under subdivision (a)(3) of this section shall be deposited in the Agricultural Water Quality Special Fund created under section 4803 of this title.

(h) [Repealed.]

§ 367. INSPECTION; SAMPLING; ANALYSIS

For the purpose of enforcing this chapter and determining whether or not fertilizers, plant amendments, plant biostimulants, soil amendments, and limes lime distributed in this State endanger the health and safety of Vermont citizens, the Secretary upon presenting appropriate credentials is authorized:

(1) To enter any public or private premises except domiciles during regular business hours and stop and enter any vehicle being used to transport or hold fertilizer, a plant amendment, a plant biostimulant, a soil amendment, or lime.

(2) To inspect blending plants, warehouses, establishments, vehicles, equipment, finished or unfinished materials, containers, labeling, and records relating to distribution, storage, or use.

(3) To sample and analyze any fertilizer, plant amendment, plant biostimulant, soil amendment, or lime. The methods of sampling and analysis shall be those adopted by the Association of Official Analytical Chemists. In cases not covered by this method or in cases where methods are available in which improved applicability has been demonstrated, the Secretary may authorize and adopt methods which reflect sound analytical procedures.

(4) To develop any reasonable means necessary to monitor and adopt rules for the use of fertilizers and agricultural limes, plant amendments, plant biostimulants, soil amendments, and lime on Vermont soils where monitoring indicates environmental or health problems. In addition, the Secretary may develop and adopt rules for the proper storage of fertilizers and limes, plant amendments, plant biostimulants, soil amendments, and lime held for distribution or sale.

§ 368. MISBRANDING

(a) No person shall distribute a misbranded fertilizer, plant amendment, plant biostimulant, soil amendment, or agricultural lime. A fertilizer, plant amendment, plant biostimulant, or soil amendment shall be deemed to be misbranded if:

(1) its labeling is false or misleading in any particular;

(2) it is distributed under the name of another fertilizer product, plant amendment, plant biostimulant, or soil amendment;

(3) it contains unsubstantiated claims;

(4) it is not labeled as required in section 365 of this title and in accordance with rules adopted under this chapter; or

(4)(5) it is labeled, or represented, to contain a plant nutrient ~~which~~ that does not conform to the standard of identity established by rule. In adopting ~~these rules~~ under this chapter, the Secretary shall give consideration to definitions recommended by the Association of American Plant Food Control Officials.

(b) An agricultural lime shall be deemed to be misbranded if:

(1) its labeling is false or misleading in any particular; or

(2) it is not labeled as required by section 365 of this title and in accordance with rules adopted under this chapter.

§ 369. ADULTERATION

No person shall distribute an adulterated lime, plant amendment, plant biostimulant, soil amendment, or fertilizer product. A fertilizer, plant amendment, plant biostimulant, soil amendment, or lime shall be deemed to be adulterated if:

(1) it contains any deleterious or harmful ingredient in an amount sufficient to render it injurious to beneficial plant life when applied in accordance with directions for use on the label, or if uses of the product may result in contamination or condemnation of a raw agricultural commodity by use, or if adequate warning statements or directions for use ~~which~~ that may be necessary to protect plant life are not shown on the label;

(2) its composition falls below or differs from that which it is purported to possess by its labeling;

(3) it contains crop seed or weed seed; or

(4) it contains heavy metals, radioactive substances, or synthetic organics in amounts sufficient to render it injurious to livestock or human health when applied in accordance with directions for use on the label, or if adequate warning statements or directions for use ~~which~~ that may be necessary to protect livestock or human health are not shown on the label.

§ 370. PUBLICATION; CONSUMER INFORMATION REGARDING FERTILIZER USE ON NONAGRICULTURAL TURF OF FERTILIZER, PLANT AMENDMENTS, PLANT BIOSTIMULANTS, AND SOIL AMENDMENTS

(a) The Secretary shall publish on an annual basis:

(1) information concerning the distribution of fertilizers, plant amendments, plant biostimulants, soil amendments, and limes; and

(2) results of analyses based on official samples of fertilizers, plant amendments, plant biostimulants, soil amendments, and lime distributed within the State as compared with guaranteed analyses required pursuant to the terms of this chapter.

(b)(1) The Secretary, in consultation with the University of Vermont Extension, fertilizer industry representatives, lake groups, and other interested or affected parties, shall produce information for distribution to the general public with respect to the following:

(A) problems faced by the waters of the State because of discharges of phosphorus;

(B) an explanation of the extent to which phosphorus exists naturally in the soil;

(C) voluntary best management practices for the use of fertilizers containing phosphorus on nonagricultural turf; and

(D) best management practices for residential sources of phosphorus.

(2) The Secretary shall develop the information required under this subsection and make it available to the general public in the manner deemed most effective, which may include:

(A) conspicuous posting at the point of retail sale of fertilizer containing phosphorus, according to recommendations for how that conspicuous posting may best take place;

(B) public service announcements by means of electronic media;

(C) other methods deemed by the Secretary to be likely to be effective.

~~(3) The Secretary shall develop proposed criteria for evaluating the effectiveness of the information program and shall present them to legislative committees on natural resources and energy and on agriculture by no later than January 1, 2007. By no later than July 1, 2007, the Secretary shall hold one or more public information meetings to obtain the input of the public on a draft assessment of the effectiveness of this section in increasing the use of best management practices in the use of fertilizers on nonagricultural turf. By no later than December 1, 2008, the Secretary shall provide those legislative committees with a final assessment of the effectiveness of this subsection, which shall include an analysis of the extent to which the information developed under this subsection has been effectively provided to and relied~~

~~upon by retail customers who purchase fertilizers containing phosphorus and shall include any recommendations for making the program more effective. [Repealed.]~~

§ 371. RULES; ~~ENFORCEMENT~~

The Secretary is authorized to adopt rules pursuant to 3 V.S.A. chapter 25 as may be necessary to implement the intent of this chapter and to enforce those rules.

* * *

§ 374. SHORT WEIGHT

(a) If any fertilizer, plant amendment, plant biostimulant, soil amendment, or agricultural liming material is found to be short in net weight, the registrant of the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime shall pay a penalty of three times the value of the actual shortage to the affected party.

(b) Each registrant shall be offered an opportunity for a hearing before the Secretary. Penalty payments shall be made within 30 days after notice of the Secretary's decision to assess a penalty. Proof of payment to the consumer shall be promptly forwarded to the Secretary by the registrant.

(c) If the consumer cannot be found, the amount of the penalty payments shall be paid to the Secretary who shall deposit the payment into the revolving account established by subsection 364(e)(f) of this title.

(d) This section is not an exclusive cause of action and persons affected may utilize any other right of action available under law.

§ 375. CANCELLATION OF REGISTRATION

The Secretary is authorized to cancel or suspend the registration of any fertilizer, plant amendment, plant biostimulant, soil amendment, or ~~liming material~~ lime or refuse a registration application if he or she finds that the provisions of this chapter or the rules adopted under this chapter have been violated, provided that no registration shall be revoked or refused without a hearing before the Secretary.

§ 376. DETAINED FERTILIZER AND LIME

(a) "Withdrawal from distribution" orders. When the Secretary has reasonable cause to believe any lot of fertilizer, plant amendment, plant biostimulant, soil amendment, or lime is being distributed in violation of any of the provisions of this chapter or any of the rules under this chapter, he or she may issue and enforce a written or printed "withdrawal from distribution"

order, warning the distributor not to dispose of the lot of fertilizer, plant amendment, plant biostimulant, soil amendment, or lime in any manner until written permission is given by the Secretary or the court. The Secretary shall release the lot of fertilizer, plant amendment, plant biostimulant, soil amendment, or lime withdrawn when this chapter and rules have been complied with. If compliance is not obtained within 30 days, the Secretary may begin, or upon request of the distributor or registrant shall begin, proceedings for condemnation.

(b) “Condemnation and confiscation.” Any lot of fertilizer, plant amendment, plant biostimulant, soil amendment, or lime not in compliance with this chapter and rules shall be subject to seizure on complaint of the Secretary to a court of competent jurisdiction in the area in which the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime is located. In the event the court finds the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime to be in violation of this chapter and orders the condemnation of the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime, it shall be disposed of in any manner consistent with the quality of the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime and the laws of the State, provided that in no instance shall disposition of the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime or for permission to process or relabel the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime to bring it into compliance with this chapter.

* * *

§ 379. EXCHANGES BETWEEN MANUFACTURERS

Nothing in this chapter shall be construed to restrict or impair sales or exchanges of fertilizers, plant amendments, plant biostimulants, or soil amendments to each other by importers, manufacturers, or manipulators who mix fertilizer materials, plant amendments, plant biostimulants, or soil amendments for sale, or to prevent the free and unrestricted shipments of fertilizer, plant amendments, plant biostimulants, or soil amendments to manufacturers or manipulators who have registered their brands as required by provisions of this chapter.

§ 380. ADMINISTRATIVE PENALTY

Consistent with chapter 1 of this title, the Secretary may assess an administrative penalty upon determining that a person has violated a rule issued under this chapter or has violated this chapter in the following manner:

(1) distributed a specialty fertilizer, plant amendment, plant biostimulant, soil amendment, or lime without first obtaining the appropriate product registration;

(2) distributed a fertilizer, plant amendment, plant biostimulant, soil amendment, or lime without appropriate labeling;

(3) failed to report or to accurately report the amount and form of each grade of fertilizer distributed in Vermont on an annual basis;

(4) failed to report or to accurately report the amount and form of each formulation of plant amendment, plant biostimulant, or soil amendment;

(5) failed to pay the appropriate tonnage fee; or

(5)(6) violated a cease and desist order.

§ 381. GOLF COURSES; NUTRIENT MANAGEMENT PLAN

~~Beginning July 1, 2012, as~~ As a condition of the permit issued to golf courses under chapter 87 of this title and ~~regulations~~ rules adopted thereunder, a golf course shall be required to submit to the Secretary of Agriculture, Food and Markets a nutrient management plan for the use and application of fertilizer to grasses or other lands owned or controlled by the golf course. The nutrient management plan shall ensure that the golf course applies fertilizer according to the agronomic rates for the site-specific conditions of the golf course.

Sec. 10a. 6 V.S.A. § 372(d) is amended to read:

(d) If the consumer cannot be found, the amount of the penalty payments shall be paid to the Secretary who shall deposit the payment into the revolving account established by subsection 364(e)(f) of this title.

Sec. 10b. 6 V.S.A. § 570(c) is amended to read:

(c) The registration fees collected under this section shall be deposited in the special fund created by subsection 364(e)(f) of this title and shall be used for the administration of the requirements of this chapter.

Sec. 10c. 6 V.S.A. § 648(e) is amended to read:

(e) All fees shall be deposited in the special fund created by subsection 364(e)(f) of this title and used in accordance with its provisions.

* * * Effective Dates * * *

Sec. 11. EFFECTIVE DATES

(a) This section and Secs. 1–8a (compost foraging; farming) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2021.

S. 107

An act relating to confidential information concerning the initial arrest and charge of a juvenile.

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

In Sec. 2, 1 V.S.A. § 317, in subsection (c), in subdivision (5)(B), by striking out subdivision (ii) in its entirety and inserting in lieu thereof a new subdivision (ii) to read:

(ii) A public agency shall not release any information within a record reflecting the initial arrest or charge of a person under ~~19~~ 20 years of age that would reveal the identity of the person. However, a public agency may disclose identifying information relating to the initial arrest of a person under ~~19~~ 20 years of age in order to protect the health and safety of any person.

NOTICE CALENDAR

Second Reading

Favorable

H. 227.

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

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

(Committee vote: 4-1-0)

(For House amendments, see House Journal of March 16, 2021, pages 326-330.)

Favorable with Proposal of Amendment

H. 289.

An act relating to professions and occupations regulated by the Office of Professional Regulation.

Reported favorably with recommendation of proposal of amendment by Senator Clarkson for the Committee on Government Operations.

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

First: By striking out Sec. 1, 3 V.S.A. § 122, in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

The Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a director who shall be ~~appointed by the Secretary of State and shall be an exempt employee~~ qualified by education and professional experience to perform the duties of the position. The Director of the Office of Professional Regulation shall be a classified position with the Office of the Secretary of State. The following boards or professions are attached to the Office of Professional Regulation:

* * *

(2) ~~Board of Barbers and Cosmetology~~ Cosmetologists

* * *

(6) ~~Board of Funeral Service~~

* * *

(18) ~~Board of Private Investigative and Security Services~~

* * *

(50) Well Drillers

Second: By striking out Sec. 15, effective date, and its reader assistance heading in their entirety, and inserting in lieu thereof a new reader assistance heading and seven new sections to be Secs. 15–21 to read as follows:

* * * Mixed Martial Arts * * *

Sec. 15. 26 V.S.A. chapter 107 is added to read:

CHAPTER 107. BOXING AND MIXED MARTIAL ARTS

Subchapter 1. Boxing

* * *

Subchapter 2. Mixed Martial Arts

§ 6025. DEFINITIONS

As used in this subchapter:

(1) “Contestant” means an individual who competes in a mixed martial arts match, including an exhibition. “Contestant” includes both amateur and professional mixed martial arts competitors.

(2) “Director” means the Director of the Vermont Office of Professional Regulation.

(3) “Event” or “mixed martial arts event” means a mixed martial arts match or two or more mixed martial arts matches held at the same location on the same or consecutive dates.

(4) “Exhibition” means an engagement in which the contestants show or display their skills without necessarily striving to win.

(5) “Match” or “mixed martial arts match” means any occurrence in which a mixed martial arts contestant competes against another mixed martial arts contestant using mixed martial arts. “Match” or “mixed martial arts match” includes amateur matches and exhibitions.

(6) “Mixed martial arts” means unarmed combat involving the use, subject to any applicable limits set forth in this subchapter and in any rules adopted in accordance with this subchapter, of a combination of techniques, including grappling, kicking, and striking, from different disciplines of martial arts. Mixed martial arts includes kickboxing, pankration, Muay Thai, and extreme martial arts. Mixed martial arts does not include boxing.

(7) “Office” means the Vermont Office of Professional Regulation.

(8) “Participant” means individuals who participate, directly or indirectly, in mixed martial arts matches, including managers, referees, match makers, seconds, corners, and judges. “Participant” does not include spectators and audience members.

(9) “Promoter” means any person, club, corporation, or association and, in the case of a corporate promoter, includes any officer, director, employee, or stockholder thereof, who produces, arranges, or stages any mixed martial arts match.

§ 6026. JURISDICTION OF OFFICE

(a) The Office shall have and exercise sole discretion, management, control, and supervision over all mixed martial arts events taking place within the State. No mixed martial arts event shall take place within the State except in accordance with the provisions of this subchapter and the rules adopted by the Office.

(b) Every license issued under this subchapter shall be subject to the rules adopted pursuant to this subchapter.

§ 6027. DIRECTOR; POWERS; DUTIES

(a) In addition to the powers and duties of the Director, as established in this subchapter and in 3 V.S.A. chapter 5, subchapter 3, the Director shall have the following powers and duties:

(1) provide information to applicants for obtaining a license;

(2) receive applications for licenses; grant licenses to applicants qualified under this subchapter and in accordance with rules adopted pursuant to this subchapter; renew licenses; and deny, revoke, suspend, reinstate, or condition licenses as directed by an Administrative Law Officer;

(3) administer the inspection of facilities where a mixed martial arts event is to be held and the records associated with the event;

(4) administer fees collected under this subchapter;

(5) collect taxes and bonds in accordance with this subchapter and any rules adopted pursuant this subchapter;

(6) explain appeal procedures to licensees and applicants and complaint procedures to the public; and

(7) refer all disciplinary matters to an Administrative Law Officer.

(b) The Director, in consultation with the advisors appointed in accordance with this subchapter, shall adopt rules necessary to perform the Director's duties under this subchapter and shall establish safety standards for the protection of contestants, participants, promoters, and the public. The rules adopted by the Director in accordance with this subchapter shall, at a minimum, include the following:

(1) rules for the conduct and holding of amateur and professional mixed martial arts events;

(2) requirements and qualifications to be eligible for licenses for anyone involved, indirectly or directly, in a mixed martial arts event, including promoters, contestants, and participants, and to be eligible for event licenses;

(3) requirements for the collection, retention, and remission of bonds provided by promoters as a condition of licensure or of an event permit;

(4) requirements for promoter reports to the Office, including reports following a mixed martial arts event and for promoter payment of the event tax;

(5) requirements for medical examinations of participants and contestants to be performed prior to licensure and renewal;

(6) requirements for medical examinations of contestants and participants before, during, and after mixed martial arts matches or events;

(7) exemptions for certain mixed martial arts events;

(8) requirements for the inspection of facilities where a mixed martial arts event is to be held and of associated records; and

(9) all other requirements necessary for the safe conduct of mixed martial arts matches and events.

§ 6028. ADVISORS

(a) The Secretary of State shall appoint two individuals to serve as advisors in matters related to mixed martial arts regulation. Both advisors shall be an individual with at least three years' experience in mixed martial arts as a promoter, participant, or contestant. The advisor appointees shall be appointed for staggered five-year terms and shall serve at the pleasure of the Secretary.

(b) The Director shall seek the advice of the advisors appointed under this section in carrying out the provisions of this subchapter. The advisors shall be entitled to compensation and necessary expenses in the amount provided in 32 V.S.A. § 1010 for attendance at any meeting called by the Director for this purpose.

§ 6029. AMATEUR EVENTS; EXEMPTION FOR SCHOOLS; EXEMPTIONS

(a) All amateur mixed martial arts events shall be regulated by the Office in accordance with this subchapter and rules adopted under this subchapter except for amateur mixed martial events conducted by a school, college, or university.

(b) The Director may, by rules adopted in accordance with this subchapter, exempt from the application of these rules mixed martial arts events in which there is minimal or no contact between contestants, for which there is no remuneration for participation, and for which no tickets are sold or admission fees charged.

§ 6030. CONTESTANTS; LICENSING; EXAMINATION

(a) Contestant license.

(1) No individual shall participate as a contestant in a mixed martial arts event, which includes a sole match, in the State without first having obtained a license from the Office.

(2) Every contestant licensed in accordance with this subchapter shall be subject to the rules adopted by the Director.

(3) A fee may be assessed for a contestant license in accordance with section 6033 of this subchapter.

(4) An individual who wants to be licensed under this subsection shall apply for a contestant license in the manner specified by the Director in rules adopted in accordance with this subchapter, accompanied by payment of the required fee.

(5) Licenses shall be renewed every year on a date set by the Director in rules adopted in accordance with this subchapter. Licenses shall be subject to the provisions of this subchapter and to all rules adopted in accordance with this subchapter.

(b) Medical examination; report.

(1) Each contestant shall be examined by a physician, who is licensed under 26 V.S.A. chapter 23 or 26 V.S.A. chapter 33, at the time and in accordance with rules adopted by the Director in accordance with this subchapter.

(2) No contestant shall be granted a license or permitted to renew a license without first submitting a report from a physician, who is licensed under 26 V.S.A. chapter 23 or 26 V.S.A. chapter 33 and who performed an examination in accordance with rules adopted under this subchapter, certifying the contestant is in appropriate physical condition to engage in a mixed martial arts event. Reports from an examining physician shall be submitted directly to the Office by the examining physician and shall contain such information as required by the Director in rules adopted in accordance with this subchapter. The examining physician shall provide an assessment in the report of the contestant's physical condition to engage in a mixed martial arts match.

(3) No contestant shall participate in a mixed martial arts match unless:

(A) the contestant has been examined not more than twelve hours before the match by a physician licensed under 26 V.S.A. chapter 23 or 26 V.S.A. chapter 33 and who performed the medical examination in accordance with rules adopted under this subchapter; and

(B) the physician who performed the examination certifies in writing to the referee of the match that the contestant is in appropriate physical condition to engage in a mixed martial arts match.

(4) Fees for the pre-match examination shall be paid by the promoter of the match. In addition to providing the certification to the referee on the day of the event, the contestant shall submit the certification of the examining physician to the Office within 48 hours following the mixed martial arts match for which the physician provided the examination.

§ 6031. PROMOTERS

(a) Promoter license.

(1) No person shall hold or conduct a mixed martial arts event, which includes a sole match, in the State without first having obtained a license from the Office.

(2) A person who wants to be licensed under this subsection shall apply for a promoter license in the manner specified by the Director in rules adopted in accordance with this subchapter, accompanied by payment of the required fee.

(3) Licenses shall be renewed every two years on a date set by the Director in rules adopted in accordance with this subchapter. Licenses shall be subject to the provisions of this subchapter and to all rules adopted in accordance with this subchapter.

(4) In addition to the bond required under this subchapter, a fee may be assessed for a promoter license in accordance with section 6033 of this subchapter.

(5) Before any promoter license is granted or renewed, the applicant shall execute and file with the Office a bond to the State in the amount of \$10,000.00, to be conditioned upon the faithful performance by the applicant of the provisions of this subchapter and the payment of the taxes imposed under this subchapter. The bond shall be in a form with sureties satisfactory to the Office. No promoter license shall be renewed unless this bond has been renewed and filed with the Board.

(b) Event license.

(1) No mixed martial arts event, including a sole match, shall be held by any promoter licensed under this subchapter unless the promoter has obtained from the Office an event license to hold the event at least two weeks prior to the first day of the event. The application to the Office for an event license shall be in such form, with such information, and at such place as the Office may, by rules adopted in accordance with this subchapter, prescribe.

(2) A fee may be assessed for this match or event license in accordance with section 6033 of this subchapter. The Office may charge a separate event license fee for each day of an event.

(3) No event license shall be granted to any promoter who is not licensed in the State; whose license is suspended, disciplined, or revoked in any state or jurisdiction; or who is delinquent in paying a tax that has been assessed pursuant to section 6039 of this subchapter.

(4) No event license shall be granted until the Office performs an inspection of the facilities where the mixed martial arts event is to be held and of records associated with the event.

(5) No event license shall be renewed. A separate event license shall be obtained for each event, including a for a sole match.

§ 6032. PARTICIPANTS

(a) No individual shall participate, either directly or indirectly, as a participant in a mixed martial arts event, including a sole match, in the State without first having obtained a license from the Office.

(b) A fee may be assessed for a participant license in accordance with section 6033 of this subchapter.

(c) Every participant licensed in accordance with this subchapter shall be subject to the rules adopted by the Director.

(1) An individual who wants to be licensed under this section shall apply for a participant license in the manner specified by the Director in rules adopted in accordance with this subchapter, accompanied by payment of the required fee.

(2) Licenses shall be renewed every two years on a date set by the Director in rules adopted in accordance with this subchapter. Licensees shall be subject to the provisions of this subchapter and to all rules adopted in accordance with this subchapter.

§ 6033. FEES

Applicants and persons regulated by this subchapter shall be subject to the following fees:

(1) Application:

(A) Promoter license \$500.00

(B) Event license \$250.00

(C) Contestant license \$25.00

(D) Participant license \$25.00

(2) Biennial renewal for managers, seconds, referees, and judges \$25.00

(3) Biennial renewal for promoters \$500.00

(4) Annual renewal for contestants \$25.00

(5) Late fees set pursuant to 3 V.S.A. § 127(d)(1).

§ 6034. RENEWAL

(a) General provisions. A licensee shall apply to renew the license prior to the expiration of the current license. The Director shall send a reminder to licensees prior to the expiration of their licenses. The Office may charge, in addition to the license fee, a late fee to licensees who do not apply to renew a license until after the license is expired.

(b) Renewal deadlines.

(1) Licenses for participants and promoters shall be renewed every two years upon payment of the required fees and in accordance with rules adopted under this subchapter.

(2) Licenses for contestants shall be renewed every year upon payment of the required fees and in accordance with rules adopted under this subchapter.

§ 6035. MEDICAL INSURANCE

(a) Promoters licensed in accordance with this subchapter shall carry medical insurance covering all contestants who participate in an event, including a sole match, conducted by the promoter.

(b) The cost of the medical insurance, including deductibles and premiums, shall be borne by the promoter.

(c) The promoter shall obtain medical insurance coverage in an amount to be determined by the Director in rules adopted in accordance with this subchapter that shall cover the expenses for the treatment of any injuries the contestant may suffer as a result of a mixed martial arts event.

(d) The medical insurance coverage shall extend for at least six months following the date of the mixed martial arts event.

(e) No mixed martial arts event shall be approved in the State unless the promoter is in full compliance with the requirements of this section concerning medical insurance coverage.

§ 6036. MEDICAL EXAM

The Director shall adopt rules for medical examination of contestants and participants, as needed, including examinations before, during, and after a match or event and as a condition of licensure under this subchapter.

§ 6037. REFEREES

(a) No mixed martial arts event, including a sole match, shall take place in Vermont without a referee present and overseeing the event in accordance with rules adopted under this subchapter.

(b) The sole arbiter in the ring in a mixed martial arts match shall be the referee, licensed as a participant in Vermont, who shall govern the match in accordance with the rules adopted by the Director under this subchapter. The referee shall have full power to stop the match whenever the referee deems it advisable because of the physical condition of a contestant, when one of the contestants is clearly outclassed by an opponent, or for other reasonable cause.

§ 6038. MEDICAL ASSISTANCE AT EVENTS

(a) Physician. Every promoter shall have in attendance at every mixed martial arts match at least one physician, who is licensed under 26 V.S.A. chapter 23 or 26 V.S.A. chapter 33. The physician shall perform medical examinations of the contestants not more than twelve hours before the beginning of the match and shall certify in writing to the referee whether or not the contestant is in appropriate physical condition to engage in a mixed martial arts match.

(b) Ambulance. Every promoter shall have at every mixed martial arts match an ambulance containing the standard medical equipment necessary to treat cerebral injuries. If the ambulance leaves an event, no other mixed martial arts match may commence or resume until the ambulance returns. The promoter shall stop or delay a match until an ambulance is present.

(c) Upon the recommendation of the physician present during a mixed martial arts event, a contestant shall be required to undergo an ophthalmological and neurological examination after each match in accordance with rules adopted under this subchapter.

(1) The cost of such an examination shall be borne by the promoter of the event.

(2) The physician shall provide a certified writing of the examination findings to the referee and the contestant.

(3) Within 48 hours after receiving the examination, the contestant shall submit the physician's certified writing to the Office.

(4) If the physician, after an examination in accordance with this section and rules adopted under this subchapter, certifies that the contestant is not in a physical condition to engage in a mixed martial arts match, the contestant shall not be permitted to engage in another match until a subsequent examination is

conducted in accordance with rules adopted under this subchapter and a physician certifies that the contestant is in an appropriate physical condition to engage in a mixed martial arts match. The physician providing the subsequent examination does not need to be the same physician who provided the examination at the mixed martial arts match.

§ 6039. TAX; POST-EVENT REPORT BY PROMOTER

(a) Every promoter shall, not later than seven days after the conclusion of a mixed martial arts event, submit a post-event report to the Office in accordance with rules adopted pursuant to this subchapter. The report shall include the exact number of tickets to the event sold, the amount of gross and net receipts from the event, and any other facts as the Director may by rule require. The promoter shall report on tickets sold to an entire event not to an individual match within an event.

(b) Every promoter shall, not later than seven days after the conclusion of a mixed martial arts event, pay to the Office by certified check a tax of five percent of the receipts from tickets, admission fees, and sponsorships after all costs from the event and any other State and federal taxes thereon have been paid. The promoter shall pay the tax on the receipts from the entire event. This tax shall be deposited in the Professional Regulation Fee Fund and used to carry out the provisions of this subchapter.

(c) If the report required under this section and the accompanying tax are not paid within the seven days required, the Office may examine, or cause to be examined, the books and records of the promoter and any corporation on behalf of which the promoter held the event.

§ 6040. UNPROFESSIONAL CONDUCT

(a) All persons. All persons licensed under this subchapter are subject to 3 V.S.A. chapter 5, subchapter 3, including the unprofessional conduct items established under 3 V.S.A. § 129a.

(b) Contestants. In addition to the items set forth in 3 V.S.A. § 129a, it shall be unprofessional conduct for a contestant to do any of the following:

(1) engage in a mixed martial arts match after a physician, licensed under 26 V.S.A. chapter 23 or 26 V.S.A. chapter 33, certifies, following an annual examination or an examination before, during, or within seven days after a match and carried out in accordance with this subchapter and rules adopted in accordance with this subchapter, that the contestant is not in a physical condition to engage in a mixed martial arts match;

(2) engage in a mixed martial arts match when suspended or prohibited from competing in a mixed martial arts match by any entity that regulates mixed martial arts;

(3) engage in a mixed martial arts match when the contestant's license to engage in mixed martial arts, as a contestant, promoter, or participant, is suspended in any other state or jurisdiction;

(4) engage in a mixed martial arts match less than 30 days after competing as a contestant in another mixed martial arts match;

(5) engage in a mixed martial arts match less than 60 days after having been knocked out in a mixed martial arts match or less than 30 days after having been technically knocked out in a mixed martial arts match; or

(6) any other activity as established by the Director in rules adopted in accordance with this subchapter.

(c) Promoters. In addition to the items set forth in 3 V.S.A. § 129a, it shall be unprofessional conduct for a promoter to do any of the following:

(1) fail to submit a required report or information to the Office within the time period and with the information, taxes, and fees required under this subchapter and in accordance with rules adopted pursuant to this subchapter;

(2) directly or indirectly have any financial interest in an individual competing in a mixed martial arts match arranged by the promoter;

(3) engage a contestant who is suspended or prohibited from competing in mixed martial arts matches by any state or jurisdiction to compete in a match held by the promoter;

(4) conduct a mixed martial arts match with no ambulance present;

(5) conduct a mixed martial arts match with no physician present;

(6) conduct a mixed martial arts match without a referee present; or

(7) any other activity as established by the Director in rules adopted in accordance with this subchapter.

(d) Participants. In addition to the items set forth in 3 V.S.A. § 129a, it shall be unprofessional conduct for a participant to do any of the following:

(1) for a referee, to unreasonably fail to comply with the rules adopted by the Director in accordance with this subchapter for the conduct of a mixed martial arts match;

(2) for a referee, match-maker, or judge, to directly or indirectly have any financial interest in an individual competing in a mixed martial arts match at which the referee, match-maker, or judge is acting as a judge, match-maker, or referee; or

(3) any other activity as established by the Director in rules adopted in accordance with this subchapter.

§ 6041. INSPECTIONS

The Director or designee may inspect facilities, including the ring, where a mixed martial arts match is to be held, before or during any match or event, and the records required for each licensee and the event or match in accordance with this subchapter and rules adopted pursuant to this subchapter. The Director or designee may suspend an event license immediately for failure to comply with this subchapter or with any rules adopted in accordance with this subchapter.

§ 6042. AGE

No individual under 18 years of age shall engage in a mixed martial arts event, including a sole match, in which money, a prize or purse, or other form of monetary compensation is offered or given to any contestant.

§ 6043. INJUNCTION

The Director may, in addition to other remedies available under law, bring an action in a court of this State to enjoin a person from continuing any violation of this subchapter or doing any acts in furtherance thereof and for any other relief that the court deems appropriate.

* * * Boxing * * *

Sec. 16. REDESIGNATIONS; BOXING

(a) 31 V.S.A. chapter 21 is redesignated as 26 V.S.A. chapter 107, subchapter 1.

(b) 31 V.S.A. §§ 1101–1113 are redesignated as 26 V.S.A. §§ 6001–6013, respectively.

Sec. 17. CONFORMING CHANGES

When preparing the Vermont States Annotated for publication, the Office of Legislative Counsel shall revise any cross-references to 31 V.S.A. chapter 21 and its sections as redesignated and codified in Sec. 16 of this act.

* * * Endorsement Process * * *

Sec. 18. 3 V.S.A. § 136a is amended to read:

§ 136a. UNIFORM PROCESS FOR ENDORSEMENT FROM OTHER STATES

(a) ~~Except~~ Notwithstanding any statute or rule to the contrary and except as provided in subsection (b) of this section, all professions attached to the Office shall have an endorsement process that requires not more than three years of practice in good standing in another jurisdiction within the United States, regardless of whether that jurisdiction has licensing requirements substantially similar to those of this State.

(b) Any profession determining that three years of demonstrated practice in another jurisdiction is not adequately protective of the public shall provide its rationale to the Director, who may propose any necessary statutory or rule amendments in order to implement more restrictive requirements for endorsement.

(c) The Director may issue to an endorsement applicant a waiver of the profession's practice requirement if there is a showing that the waiver follows State policy and the public is adequately protected.

* * * Home Health Nursing * * *

Sec. 19. 2020 Acts and Resolves No. 90, as amended by 2020 Acts and Resolves No. 140, Sec. 13, and 2021 Acts and Resolves No. 6, Sec. 1, is further amended to read:

* * * Supporting Health Care and Human Service

Provider Sustainability * * *

Sec. 1. AGENCY OF HUMAN SERVICES; HEALTH CARE AND HUMAN SERVICE PROVIDER SUSTAINABILITY

* * *

* * * Regulation of Professions * * *

* * *

Sec. 17. OFFICE OF PROFESSIONAL REGULATION; BOARD OF MEDICAL PRACTICE; OUT-OF-STATE HEALTH CARE PROFESSIONALS

(a) Notwithstanding any provision of Vermont's professional licensure statutes or rules to the contrary, through March 31, 2022, a health care professional, including a mental health professional, who holds a valid license,

certificate, or registration to provide health care services in any other U.S. jurisdiction shall be deemed to be licensed, certified, or registered to provide health care services, including mental health services, to a patient located in Vermont using telehealth;² as a volunteer member of the Medical Reserve Corps;³ or as part of the staff of a licensed facility, other health care facility as defined in 18 V.S.A. § 9432, or federally qualified health center, provided the health care professional:

(1) is licensed, certified, or registered in good standing in the other U.S. jurisdiction or jurisdictions in which the health care professional holds a license, certificate, or registration;

(2) is not subject to any professional disciplinary proceedings in any other U.S. jurisdiction; and

(3) is not affirmatively barred from practice in Vermont for reasons of fraud or abuse, patient care, or public safety.

(b) A health care professional who plans to provide health care services in Vermont as a volunteer member of the Medical Reserve Corps or as part of the staff of a licensed facility, other health care facility as defined in 18 V.S.A. § 9432, or federally qualified health center shall submit or have submitted on the individual's behalf the individual's name, contact information, and the location or locations at which the individual will be practicing to:

(1) the Board of Medical Practice for medical doctors, physician assistants, and podiatrists; or

(2) the Office of Professional Regulation for all other health care professions.

(c) A health care professional who delivers health care services in Vermont pursuant to subsection (a) of this section shall be subject to the imputed jurisdiction of the Board of Medical Practice or the Office of Professional Regulation, as applicable based on the health care professional's profession, in accordance with Sec. 19 of this act.

(d)(1) This section shall remain in effect through March 31, 2022, provided the health care professional remains licensed, certified, or registered in good standing.

(2) The Board of Medical Practice and Office of Professional Regulation shall provide appropriate notice of the March 31, 2022 expiration date of this section to:

(A) health care professionals providing health care services in Vermont under this section;

(B) the Medical Reserve Corps; and

(C) health care facilities and federally qualified health centers at which health care professionals are providing services under this section.

Sec. 18. INACTIVE LICENSEES; BOARD OF MEDICAL PRACTICE;
OFFICE OF PROFESSIONAL REGULATION

(a)(1) Through March 31, 2022, a former health care professional, including a mental health professional, whose Vermont license, certificate, or registration became inactive not more than three years earlier and was in good standing at the time it became inactive may provide health care services, including mental health services, to a patient located in Vermont using telehealth; as a volunteer member of the Medical Reserve Corps; or as part of the staff of a licensed facility, other health care facility as defined in 18 V.S.A. § 9432, or federally qualified health center after submitting, or having submitted on the individual's behalf, to the Board of Medical Practice or Office of Professional Regulation, as applicable, the individual's name, contact information, and the location or locations at which the individual will be practicing.

(2) A former health care professional who returns to the Vermont health care workforce pursuant to this subsection shall be subject to the regulatory jurisdiction of the Board of Medical Practice or the Office of Professional Regulation, as applicable.

(3) The Board of Medical Practice and Office of Professional Regulation shall provide appropriate notice of the March 31, 2022 expiration date of this section to:

(A) health care professionals providing health care services under this section;

(B) the Medical Reserve Corps; and

(C) health care facilities and federally qualified health centers at which health care professionals are providing services under this section.

(b) Through March 31, 2022, the Board of Medical Practice and the Office of Professional Regulation may permit former health care professionals, including mental health professionals, whose Vermont license, certificate, or registration became inactive more than three but less than 10 years earlier and was in good standing at the time it became inactive to return to the health care workforce on a temporary basis to provide health care services, including mental health services, to patients in Vermont. The Board of Medical Practice and Office of Professional Regulation may issue temporary licenses to these individuals at no charge and may impose limitations on the scope of practice

of returning health care professionals as the Board or Office deems appropriate.

* * *

Sec. 20. 3 V.S.A. § 129a is amended to read:

§ 129a. UNPROFESSIONAL CONDUCT

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items or any combination of items, whether the conduct at issue was committed within or outside the State, shall constitute unprofessional conduct:

* * *

(10) Conviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession. If an individual has a conviction of concern, the board or hearing officer shall consider the following in determining whether to deny or discipline a license, certification, or registration to the individual based on the following factors:

(A) the nature and seriousness of the conviction;

(B) the amount of time since the commission of the crime;

(C) the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession; and

(D) evidence of rehabilitation or treatment.

* * *

* * * Effective Dates * * *

Sec. 21. EFFECTIVE DATES

This act shall take effect on passage except that Secs. 2–7 and Secs. 13–17 shall take effect on July 1, 2021.

(Committee vote: 5-0-0)

(No House amendments.)

H. 360.

An act relating to accelerated community broadband deployment.

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

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

* * * Legislative Findings and Intent * * *

Sec. 1. FINDINGS AND INTENT

(a) The General Assembly finds that:

(1) For over a decade, Vermont has pursued many approaches and strategies designed to ensure that every Vermonter has access to reliable, affordable, high-speed broadband.

(2) In 2018, through Acts and Resolves No. 169, the General Assembly found that broadband is essential for supporting economic and educational opportunities, strengthening health and public safety networks, and reinforcing freedom of expression and democratic, social, and civic engagement.

(3) We further found in Act No. 169 that the lack of a thriving competitive market in Vermont, particularly in isolated locations, disadvantages the ability of consumers and businesses to protect their interests sufficiently, and we recognized that the State may exercise its traditional role in protecting consumers.

(4) In 2019, through Acts and Resolves No. 79, the General Assembly found that despite the FCC's "light-touch" regulatory approach under Title I of the Communications Act of 1934, rather than "utility-style" regulation under Title II, existing broadband providers are not providing adequate service to many rural areas where fewer potential customers reduce the profitability necessary to justify network expansion.

(5) Accordingly, reaching the last mile will require a grassroots approach founded on input from and support of local communities. Existing broadband grant programs do not offer the scale to solve this problem, and traditional capital sources typically shy away from businesses with limited revenue history and little equity or collateral.

(6) To this end, public investment in programs and personnel that provide local communities with much-needed resources and technical assistance is required.

(7) In 2020, the COVID-19 public health emergency served as an accelerant to the socioeconomic disparities between the connected and the unconnected in our State. Vermonters who cannot access or cannot afford broadband, many of whom are geographically isolated, face challenges with respect to distance learning; remote working; accessing telehealth services; and accessing government programs and services, including our institutions of democracy, such as the court system.

(8) Indeed, the ongoing public health emergency has highlighted the extent to which robust and resilient broadband networks are critical to our economic future as a whole and provide a foundation for our educational, health care, public health and safety, and democratic institutions.

(9) Broadband infrastructure is critical infrastructure fundamental to accessing other critical services in sectors such as energy, public safety, government, healthcare, education, and commerce.

(10) The goal of universal broadband needs to be elevated as a top priority of the State to meet the economic, health, safety, educational, and social needs of Vermonters.

(11) While private broadband providers have brought broadband services to many households, businesses, and locations in Vermont, significant gaps remain.

(12) When existing broadband providers fail to achieve the goal of providing reliable, high-quality, universal broadband, it is imperative for the State to support and facilitate the construction of broadband infrastructure through financial and other means.

(13) Communications union districts (CUDs) were created by the State to coordinate and implement creative and innovative solutions in their respective territories, particularly where existing providers are not providing adequate service that meets the needs of their residents and businesses while ensuring public accountability.

(14) CUDs are thus positioned to be the unofficial “provider of last resort” for broadband and ensure public accountability for serving all Vermonters within their respective service territories. Yet CUDs have limited access to financial capital necessary for expansion of broadband to unserved and underserved areas of the State.

(15) All Vermont electric ratepayers are supporting the rollout of clean energy technologies, however not all ratepayers are able to access those technologies because they do not have access to adequate broadband. Equity in the energy sector requires universal broadband.

(16) The Department of Public Service simultaneously plays a regulatory role in the telecommunications market while also supporting the development of CUDs in an unregulated competitive broadband market.

(17) To ensure universal broadband in Vermont, there is a need for greater coordination of grassroots broadband solutions both among the CUDs themselves and also with respect to their other potential partners, such as electric distribution utilities, nonprofit organizations, the federal government, and private broadband providers.

(18) In addition to broadband access, it is imperative for the State to address the critical issues of broadband affordability and adoption.

(19) The Department of Public Service estimates that 82 percent of Vermont addresses (254,000 locations) lack access to 100 Mbps symmetrical service. The total cost to provide 100 Mbps symmetrical service to each of these locations is approximately \$1,000,000,000.00. This figure is based on estimates in the Magellan Advisors' report commissioned by the Department, and it includes estimates of both fixed and variable capital costs for fiber to the premise infrastructure (Feasibility Study of Electric Companies Offering Broadband in Vermont, dated December 31, 2019).

(b) Therefore, this act is intended to protect the public interest by:

(1) ensuring broadband availability to all Vermonters and Vermont addresses;

(2) ensuring public accountability for maintaining and upgrading critical broadband infrastructure;

(3) increasing the reliability of the electric grid and ensuring equal access to clean energy services among all electric ratepayers;

(4) protecting Vermonters' privacy and unrestricted access to the Internet;

(5) alleviating the inherent tension the Department of Public Service currently experiences as a result of its dual roles as both regulator and community project developer;

(6) directing public resources to the development of public broadband assets intended to provide universal access;

(7) developing favorable taxing, financing, and regulatory mechanisms to support communications union districts; and

(8) providing time-limited leadership for coordinating the buildout of Vermont's communications union districts and their partners and for developing financing mechanisms to fully support that buildout through a newly created State entity, the Vermont Community Broadband Authority, designed specifically to effectuate these purposes.

* * * Vermont Community Broadband Board * * *

Sec. 2. 30 V.S.A. chapter 91A is added to read:

CHAPTER 91A: VERMONT COMMUNITY BROADBAND BOARD

§ 8081. PURPOSE

In recognition of the historic level of broadband funding currently available to the State and the critical need for broadband access and adoption, it is the purpose of this chapter to establish the Vermont Community Broadband Fund to support policies and programs designed to accelerate community efforts that advance the State's goal of achieving universal access to reliable, high-quality, affordable, fixed broadband and to establish the Vermont Community Broadband Board to coordinate, facilitate, support, and accelerate the development and implementation of universal community broadband solutions.

§ 8082. DEFINITIONS

As used in this chapter:

(1) "Board" means the Vermont Community Broadband Board.

(2) "Broadband service" or "broadband" means a mass-market retail service by wire or radio in Vermont that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service.

(3) "Community" means a contiguous geographic area of the State, without regard to municipal boundaries or size of geographic area, that contains unserved and underserved locations.

(4) "Department" means the Department of Public Service.

(5) "Eligible provider" means a:

(A) communications union district; or

(B) small communications carrier.

(6) "Fund" means the Vermont Community Broadband Fund established by this chapter.

(7) “Internet service provider” means a business that provides broadband Internet access service to any person in Vermont.

(8) “Location” means an E-911 business or residential address connected to the electric power grid.

(9) “Served” means a location that has access to broadband service capable of speeds of at least 25 Mbps download and 3 Mbps upload.

(10) “Small communications carrier” means a carrier:

(A) a carrier that has elected to be regulated under subsection 227d(a) of this title; or

(B) an Internet service provider that operates in not more than three counties.

(11) “Underserved” means a location that only has access to broadband service capable of speeds of at least 4 Mbps download and 1 Mbps upload but less than 25 Mbps download and 3 Mbps upload.

(12) “Universal service plan” means a plan for providing each unserved and underserved location in a community, communications union district, or service territory of a small telecommunications carrier access to broadband service capable of speeds of at least 100 Mbps download and 100 Mbps upload.

(13) “Unserved” means a location that only has access to broadband capable of speeds of less than 4 Mbps download and 1 Mbps upload.

§ 8083. VERMONT COMMUNITY BROADBAND FUND

(a) There is created a special fund in the State Treasury to be known as the “Vermont Community Broadband Fund.” Expenditures from the Fund shall be made only to implement and effectuate the policies, purposes, and programs established in this chapter. The Fund shall be composed of any monies from time to time appropriated to the Fund by the General Assembly or received from any other source, private or public, subject to the provisions of 32 V.S.A. § 5. Unexpended balances and any earnings shall remain in the Fund for use in accord with the purposes of this chapter.

(b) Authorized expenditures from the Fund include:

(1) grants pursuant to the Broadband Preconstruction Grant Program established in section 8085 of this chapter;

(2) grants pursuant to the Broadband Construction Grant Program established in section 8086 of this chapter;

(3) funding for communications workforce training and development, in consultation with the Commissioner of Labor, to the extent such funds are not available from other funding sources;

(4) administrative expenses of grant recipients in an amount determined by the Board, subject to applicable federal law and guidance; and

(5) Up to \$1,500,000.00 to fund the operational expenses of the Board and the Department to the extent the Department's expenses are not reimbursable under its annual budget funded by the gross receipts tax.

§ 8084. MANAGEMENT OF THE FUND

(a) Vermont Community Broadband Board. (1) There is created within the Department of Public Service the Vermont Community Broadband Board. The Board shall have approval authority with respect to budget development, program design, grant awards, and all other funding allocations pursuant to this chapter.

(2) The Board shall consist of three members as follows:

(A) one member appointed by the Governor who shall not be an employee or officer of the State at the time of the appointment and who shall have expertise in the area of finance and who shall serve as the Chair;

(B) one member appointed by the Speaker of the House who shall not be a member of the General Assembly at the time of the appointment and who shall have expertise in the area of broadband deployment in rural, high-cost areas; and

(C) one member appointed by the Senate Committee on Committees who shall not be a member of the General Assembly at the time of the appointment and who shall have expertise in the area of communications and electric utility law and policy.

(3) The members may not be persons with a financial interest in or owners, employees, or members of a governing board of an Internet service provider or a communications union district; however, this provision shall not be construed to disqualify a member who has ownership in a mutual fund, exchange-traded fund, pension plan, or similar entity that owns shares in such enterprises as part of a broadly diversified portfolio. Members shall serve terms of three years beginning on February 1 of the year of appointment; however, the member first appointed by the Governor shall serve an initial term of four years, the member first appointed by the Speaker of the House shall serve an initial term of three years, and the member first appointed by the Committee on Committees shall serve an initial term of two years. A vacancy shall be filled by the respective appointing authority for the balance of the

unexpired term. A member may be reappointed. A member may be removed for cause only.

(4) At its initial organizational meeting, and annually thereafter at the first meeting following February 1, the Board shall elect from among its members a vice chair. The Board may elect officers as it may determine. Meetings shall be held at the call of the Chair or at the request of two members. A majority of sitting members shall constitute a quorum, and action taken by the Board under the provisions of this chapter may be authorized by a majority of the members present and voting at any regular or special meeting.

(5) Members are entitled to a per diem in the amount of \$250.00 for each day spent in the performance of their duties and each member shall be reimbursed for his or her reasonable expenses incurred in carrying out his or her duties under this chapter.

(6) The Board shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including the power to:

(A) coordinate and facilitate community broadband efforts;

(B) provide resources to communications union districts in the form of administrative and technical support;

(C) provide grants for the preconstruction and construction costs of broadband projects;

(D) facilitate partnerships between communications union districts and their potential partners;

(E) develop policies or recommend to the General Assembly programs that promote a strong communications workforce in Vermont;

(F) develop policies or recommend to the General Assembly programs that promote access to affordable broadband service plans;

(G) consult with the Vermont Economic Development Board and the Vermont Municipal Bond Bank with regard to financing community broadband projects;

(H) identify and publish State, federal, nonprofit, and any other broadband funding opportunities;

(I) provide input to the Department of Public Service on the development of the State's Telecommunications Plan; and

(J) do any and all things necessary or convenient to effectuate the purposes and provisions of this chapter and to carry out its purposes and exercise the powers given and granted in this chapter.

(7) The Department shall provide the Board with administrative services.

(8) All meetings of the Board shall be open to the public and conducted in accordance with the Vermont Open Meeting Law. All records of the Board are subject to the Vermont Public Records Act. Any records or information produced or acquired by the Board that are trade secrets or confidential business information shall be exempt from public inspection and copying pursuant to 1 V.S.A. § 317(c)(9).

(b) Executive Director. (1) The Vermont Community Broadband Fund shall have an Executive Director who shall be appointed by the Governor with the advice and consent of the Senate. The Executive Director shall be an employee of the Department of Public Service. The Executive Director shall be overseen and managed by the Board and shall serve as its chief administrative officer. The Executive Director shall direct and supervise the Board's administrative affairs and technical activities in accordance with Board policies. In addition to any other duties necessary for carrying out the purposes of this chapter, the Executive Director shall:

(A) work with the Board in developing and implementing the programs established by this chapter;

(B) approve all accounts of the Board, including accounts for salaries, per diems, and allowable expenses of any employee or consultant thereof and expenses incidental to the operation of the Board;

(C) make recommendations to the Board for grant awards or other forms of financial or technical assistance authorized by this chapter;

(D) make an annual report to the Board documenting the actions of the Board and such other reports as the Board may request; and

(E) perform such other duties as may be directed by the Board in the carrying out of the purposes and provisions of this chapter.

(2) The Executive Director may retain or employ technical experts and other officers, agents, employees, and contractors as are necessary to give effect to the purposes of this chapter, including in the areas of finance, network planning, engineering and technical design, and grant writing, and may fix their qualifications, duties, and compensation. The Executive Director shall oversee and manage the Rural Broadband Technical Assistance Specialist. The Executive Director is authorized to hire up to three additional full-time

employees pursuant to this subdivision who shall be part of the classified service created in 3 V.S.A. chapter 13.

(c) Administration. The Fund shall be administered by the Department. The Department is authorized to expend monies from the Fund in accordance with this chapter. The Commissioner shall make all decisions necessary to implement this chapter and administer the Fund except those decisions committed to the Board under this section. The Department shall ensure an open public process in the administration of the Fund for the purposes established in this chapter.

(d) Grant administration redesignation. The Board shall be redesignated as the responsible entity for administering the \$1,000,000.00 grant award to the Department of Public Service by the Northern Border Regional Commission for the purpose of supporting communications union districts. Any position funded by the grant shall be overseen and managed by the Board in a manner that is consistent with grant terms and conditions.

§ 8085. BROADBAND PRECONSTRUCTION GRANT PROGRAM

(a) There is established the Community Broadband Preconstruction Grant Program to be administered by the Board. The purpose of the Program is to provide grants to communications union districts for preconstruction costs related to broadband projects that are part of a universal service plan.

(b) As used in this section, “preconstruction costs” include expenses for feasibility studies, business planning, pole data surveys, engineering and design, and make-ready work associated with the construction of broadband networks, including consultant, legal, and administrative expenses, and any other costs deemed appropriate by the Board.

(c) To ensure an equitable distribution of funds under this Program and to encourage collaborative work among communications union districts, grant awards shall be scalable and shall be commensurate with the size of a broadband project as determined by the project’s service area, road mileage, the number of unserved or underserved locations, or any other metric deemed appropriate by the Board. In addition, the Board may develop standards for the disbursement of grant funds in a manner that both supports the efficient and timely use of funds and also ensures accountability.

§ 8086. BROADBAND CONSTRUCTION GRANT PROGRAM

(a) There is established the Broadband Construction Grant Program to finance the broadband projects of eligible providers that are part of a universal service plan.

(b) In evaluating grant proposals under this chapter, the Board shall give priority to broadband projects that:

(1) leverage existing private resources and assets, with a high priority given to partnerships between a communications union district and a distribution utility;

(2) demonstrate project readiness;

(3) provide broadband service that complies with the consumer protection and net neutrality standards established in 3 V.S.A. § 348;

(4) support low-income or disadvantaged communities;

(5) promote geographic diversity of fund allocations;

(6) provide consumers with affordable service options; and

(7) include public broadband assets that can be shared by multiple service providers and that can support a variety of public purposes.

(c) The Board shall establish policies and standard grant terms and conditions that:

(1) reflect payment schedules that ensure maximum accountability;

(2) adopt an industry-accepted engineering standard that promotes network reliability, resiliency, and interoperability;

(3) establish standards for recouping grant funds and transferring ownership of grant-funded network assets to the State if a grantee materially fails to comply with the terms and conditions of a grant;

(4) prohibit the sale or transfer of grant-funded network assets without the prior written approval of the Board;

(5) ensure project completion within a reasonable period of time and consistent with applicable federal law and guidance; and

(6) comply with Administrative Bulletin No. 5, the Agency of Administration's policy for grant issuance and monitoring and Administrative Bulletin 3.5 the Agency of Administration's policy for procurement and contracting procedures, as appropriate, and any other requirements of federal law and guidance, if applicable.

(d) Before the Board awards a grant under this section, it shall determine that the applicant has produced a viable business plan for its proposed broadband project, which takes into consideration network engineering and design, labor needs and availability, supply-chain contingencies for equipment and materials, make-ready work, and any other relevant capital and operational expenses.

(e) Before the Board awards a grant under this Program to a provider who is not a communications union district, the Board shall make a reasonable effort to determine that the carrier's universal service plan does not conflict with or undermine the deployment plans of an existing communications union district.

(f) The Board may provide a grant to a project that enables the provision of broadband service in a geographic area currently served, provided that:

(1) the project is the most cost-effective method for providing broadband service to nearby unserved and underserved locations; and

(2) before awarding the grant, the Board makes a reasonable effort to distinguish served and unserved or underserved locations within the geographic area, including recognition and consideration of known or probable service extensions or upgrades.

(g) The Board may award a grant to an Internet service provider to finance a broadband project, such as a line extension or upgrade, that is not part of a universal service plan if it finds that the project will provide unserved and underserved locations with broadband service capable of speeds of at least 25 Mbps download and 3 Mbps upload on or before December 31, 2021 and is in a geographic area that is not part of a communications union district.

(h) It is the intent of the General Assembly that a broadband project financed under this Program demonstrates an economically sustainable business model that ultimately will be eligible for financing in the private or municipal bond market.

§ 8087. CENTRALIZED RESOURCES FOR COMMUNICATIONS UNION DISTRICTS

(a) The Board shall provide centralized resources and technical and administrative support to communications union districts with respect to the planning, development, and implementation of broadband projects.

(b) In carrying out the purpose of this section, the Board shall:

(1) develop standardized forms, contracts, network business and design models, and templates for use by any communications union district;

(2) assist communications union districts with identifying and negotiating with potential partners, including with respect to the development of a memorandum of understanding or other form of legally-binding commitment pertaining to a broadband project;

(3) when authorized by one or more communications union districts, apply for grants, loans, permits, licenses, certificates, or approvals, or enter into contractual arrangements for goods or services on behalf of or jointly with a communications union district or districts;

(4) assist communications union districts with pursuing route identification for fiber-optic infrastructure and with obtaining pole surveys and negotiating pole attachments;

(5) assist communications union districts with completing grant and loan applications for funding opportunities that exist outside this chapter; and

(6) assist communications union districts with obtaining access to fiber-optic networks owned by the State or by an electric transmission or distribution utility, where appropriate.

§ 8088. INTERAGENCY COOPERATION AND ASSISTANCE

Other departments and agencies of the State government, including the E-911 Board, shall assist and cooperate with the Board and shall make available to it information and data as needed to assist the Board in carrying out its duties. The Secretary of Administration shall establish protocols and agreements among the Board and departments and agencies of the State for this purpose. Nothing in this section shall be construed to waive any privilege or protection otherwise afforded to the data and information under exemption to the Public Records Act or under other laws due solely to the fact that the information or data is shared with the Board pursuant to this section.

§ 8089. ANNUAL REPORT

(a) Notwithstanding 2 V.S.A. § 20(d), on or before January 15 of each year, the Board shall submit a report of its activities pursuant to this chapter for the preceding year to the Senate Committees on Finance and on Natural Resources and Energy, the House Committee on Energy and Technology, and the Joint Information Technology Oversight Committee. The report shall include an operating and financial statement covering the Board's operations during the year, including a summary of all grant awards and contracts and agreements entered into by the Board. In addition, the report shall include a description of the progress each start-up communications union district has made in achieving long-term financial sustainability that is not dependent upon public funding, an update on its efforts to secure additional federal funds for broadband deployment, and progress made towards meeting the State's goal of ensuring every E-911 location has access to broadband capable of delivering a minimum of 100 Mbps symmetrical service as required in subdivision 202c(b)(10) of this title.

(b) As part of its first annual report, the Board shall include recommended legislation for policies and programs not authorized under this chapter but consistent with its purpose or for any other policies and programs it deems appropriate. The report shall include recommendations concerning increased access to and use of fiber-optic networks owned by the State or by an electric transmission or distribution utility in furtherance of the goals of this chapter. In addition, and with input from relevant stakeholders, the Board shall make recommendations on whether and to what extent authorized expenditures under the Fund should be expanded to include:

(1) funding for equipment replacement in the Department of Libraries' FiberConnect Network;

(2) funding for building-wide Wi-Fi installations at multi-unit affordable housing owned by nonprofits and housing authorities for the purpose of providing free broadband service to the residents thereof;

(3) funding for digital inclusion efforts, such as subsidized customer equipment installations and broadband service, grants for long-term affordability planning; and outreach and digital literacy training;

(4) funding for co-worker spaces;

(5) additional funding for communications workforce development initiatives; and

(6) funding for any other broadband programs or initiatives.

§ 8089a. SUNSET; TRANSFER PLAN

(a) The Fund and Board shall cease to exist on July 1, 2029.

(b) As part of its annual report submitted on or before January 15, 2029, the Board shall develop a plan for transferring its assets, liabilities, and legal and contractual obligations to another appropriate State entity. The Board may include in its report a recommendation regarding the continued existence of the Board beyond its statutory sunset date.

Sec. 3. ORGANIZATIONAL MEETING; SPACE ALLOCATION

(a) Within 60 days following the effective date of this act, the Vermont Community Broadband Board shall hold its initial organizational meeting and the Governor shall appoint an Executive Director.

(b) Within 60 days following the effective date of this act, the Commissioner of Buildings and General Services shall allocate space for the Vermont Community Broadband Board.

Sec. 4. REPEALS

The following provisions of law are repealed:

(1) 2019 Acts and Resolves No. 79, Sec. 10 (Broadband Innovation Grant Program); and

(2) 2020 Acts and Resolves No. 154, Sec. B1105.2 (amending the Broadband Innovation Grant Program).

Sec. 5. POSITIONS

(a) The position of Rural Broadband Technical Assistance Specialist shall be subject to the oversight and management of the Executive Director of the Vermont Community Broadband Board upon his or her appointment. The position shall remain in the classified service created in 3 V.S.A. chapter 13.

(b) The Commissioner is authorized to hire one full-time employee to provide administrative services for the Board. This position shall be part of the classified service created in 3 V.S.A. Chapter 13. The Commissioner is authorized to hire one full-time attorney to provide legal services for the Board. This position shall be an exempt position and shall be subject to the oversight and management of the Executive Director of the Vermont Community Broadband Board upon his or her appointment. The salaries and benefits for these two positions shall constitute expenses that are to be reimbursed to the Department from the Fund pursuant to 30 V.S.A. § 8083(b)(10).

Sec. 6. INTERIM GRANTS; DEPARTMENT OF PUBLIC SERVICE

Notwithstanding any other provision of law to the contrary, to ensure the expeditious disbursement of available funds prior to the organization of the Vermont Community Broadband Board, the Department is authorized to allocate and disburse up to a total of \$20,000,000.00, or up to \$25,000,000.00 if an additional \$5,000,000.00 is approved by the Joint Fiscal Committee, under the Broadband Preconstruction Grant Program and the Broadband Construction Grant Program on or before December 31, 2021 or until the Board is operational, whichever occurs first.

* * * Transfer of Fiber-optic Assets * * *

Sec. 7. TRANSFER OF FIBER-OPTIC ASSETS

On or before September 30, 2021, the Department of Public Service shall transfer ownership of its fiber-optic assets to the communications union district in which those assets are located. The transfer shall include the transfer of rights and obligations under any existing contracts or lease agreements with third parties regarding the maintenance or use of the fiber-optic assets. In

addition, the transfer shall include a requirement that, upon the dissolution of a communications union district, any such fiber assets shall become the property of the State to be managed by the Department of Public Service. A communications union district may refuse to accept the transfer of assets authorized by this section, in which case the assets shall remain the property of the Department of Public Service. Nothing in this section shall preclude the Department from transferring fiber-optic assets to a communications union district that initially declined to accept such assets prior to September 30, 2021.

* * * Telecommunications and Connectivity Advisory Board * * *

Sec. 8. 30 V.S.A. § 202f is amended to read:

§ 202f. TELECOMMUNICATIONS AND CONNECTIVITY ADVISORY BOARD

(a) There is created the Telecommunications and Connectivity Advisory Board for the purpose of making recommendations to the Commissioner of Public Service regarding his or her telecommunications responsibilities and duties as provided in this section. The Connectivity Advisory Board shall consist of eight members selected as follows:

- (1) the State Treasurer or designee;
- (2) the Secretary of Commerce and Community Development or designee;
- (3) five at-large members appointed by the Governor, who shall not be employees or officers of the State at the time of appointment; and
- (4) the Secretary of Transportation or designee.

(b) A quorum of the Connectivity Advisory Board shall consist of four voting members. No action of the Board shall be considered valid unless the action is supported by a majority vote of the members present and voting and then only if at least four members vote in favor of the action. The Governor shall select, from among the at-large members, a chair and vice chair.

(c) In making appointments of at-large members, the Governor shall give consideration to citizens of the State with knowledge of telecommunications technology, telecommunications regulatory law, transportation rights-of-way and infrastructure, finance, environmental permitting, and expertise regarding the delivery of telecommunications services in rural, high-cost areas. However, the five at-large members may not be persons with a financial interest in or owners or employees of an enterprise that provides broadband or cellular service or that is seeking in-kind or financial support from the

Department of Public Service. The conflict of interest provision in this subsection shall not be construed to disqualify a member who has ownership in a mutual fund, exchange traded fund, pension plan, or similar entity that owns shares in such enterprises as part of a broadly diversified portfolio. The at-large members shall serve terms of two years beginning on February 1 in odd-numbered years and until their successors are appointed and qualified. However, three of the five at-large members first appointed by the Governor shall serve an initial term of three years. Vacancies shall be filled for the balance of the unexpired term. A member may be reappointed for up to three consecutive terms. Upon completion of a term of service for any reason, including the term's expiration or a member's resignation, and for one year from the date of such completion, a former Board member shall not advocate before the Connectivity Board, Department of Public Service, or the Public Utility Commission on behalf of an enterprise that provides broadband or cellular service.

(d) Except for those members otherwise regularly employed by the State, the compensation of the Board's members is that provided by 32 V.S.A. § 1010(a). All members of the Board, including those members otherwise regularly employed by the State, shall receive their actual and necessary expenses when away from home or office upon their official duties.

(e) In performing its duties, the Connectivity Advisory Board may use the legal and technical resources of the Department of Public Service. The Department of Public Service shall provide the Board with administrative services.

(f) The Connectivity Advisory Board shall:

~~(1) have review and nonbinding approval authority with respect to the awarding of grants under the Connectivity Initiative. The Commissioner shall have sole authority to make the final decision on grant awards, as provided in subsection (g) of this section.~~

~~(2) function in an advisory capacity to the Commissioner on the development of State telecommunications policy and planning, including the action plan required under subdivision 202e(b)(6) of this chapter and the State Telecommunications Plan; and~~

~~(3) annually advise the Commissioner on the development of requests for proposals under the Connectivity Initiative.~~

~~(4) annually provide the Commissioner with recommendations for the apportionment of funds to the High-Cost Program and the Connectivity Initiative.~~

~~(5)~~(2) annually provide the Commissioner with recommendations on the appropriate Internet access speeds for publicly funded telecommunications and connectivity broadband projects.

~~(g)~~ The Commissioner shall make an initial determination as to whether a proposal submitted under the Connectivity Initiative meets the criteria of the request for proposals. The Commissioner shall then provide the Connectivity Advisory Board a list of all eligible proposals and recommendations. The Connectivity Advisory Board shall review the recommendations of the Commissioner and may review any proposal submitted, as it deems necessary, and either approve or disapprove each recommendation and may make new recommendations for the Commissioner's final consideration. The Commissioner shall have final decision-making authority with respect to the awarding of grants under the Connectivity Initiative. If the Commissioner does not accept a recommendation of the Board, he or she shall provide the Board with a written explanation for such decision.

~~(h)~~ On November 15, 2019, and annually thereafter, the Commissioner shall submit to the Connectivity Advisory Board an accounting of monies in the Connectivity Fund and anticipated revenue for the next year.

~~(i)~~(h) The Chair shall call the first meeting of the Connectivity Advisory Board. The Chair or a majority of Board members may call a Board meeting. The Board may meet up to six times a year.

~~(j)~~(i) At least annually, the Connectivity Advisory Board and the Commissioner or designee shall jointly hold a public meeting to review and discuss the status of State telecommunications policy and planning, the Telecommunications Plan, the Connectivity Fund, the Connectivity Initiative, the High-Cost Program, and any other matters they deem necessary to fulfill their obligations under this section.

~~(k)~~(j) Information and materials submitted by a telecommunications service provider concerning confidential financial or proprietary information shall be exempt from public inspection and copying under the Public Records Act, nor shall any information that would identify a provider who has submitted a proposal under the Connectivity Initiative be disclosed without the consent of the provider, unless a grant award has been made to that provider. Nothing in this subsection shall be construed to prohibit the publication of statistical information, determinations, reports, opinions, or other information ~~so long as~~ provided the data are disclosed in a form that cannot identify or be associated with a particular telecommunications service provider.

* * * VEDA; Broadband Expansion Loan Program; Lending Capacity * * *

Sec. 9. 10 V.S.A. § 280ee is amended to read:

§ 280ee. BROADBAND EXPANSION LOAN PROGRAM

(a) Creation. There is established within the Authority the Vermont Broadband Expansion Loan Program (~~the Program~~), the purpose of which is to enable the Authority to make loans that expand broadband service to unserved and underserved Vermonters as part of a plan to achieve universal broadband coverage in a community or communications union district.

(b) Intent. It is understood that loans under the Program may be high-risk loans to likely start-up businesses and therefore losses in the Program may be higher than the Authority's historical loss rate. Loans shall be underwritten by the Authority utilizing underwriting parameters that acknowledge the higher risk nature of these loans. The Authority shall not make a loan unless the Authority has a reasonable expectation of the long-term viability of the business. The Program is intended to provide start-up loans until such time as the borrower can refinance the loans through, for example, the municipal revenue bond market.

(c)(1) Requirements. The Authority shall make loans for start-up and expansion ~~that enable Internet service providers to expand broadband availability of broadband projects~~ in unserved and underserved locations as part of a plan to achieve universal broadband coverage in a community or communications union district.

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

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

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

(i) communications union districts;

(ii) Internet service providers working in conjunction with a communications union district to expand broadband service to unserved and underserved locations as part of a plan to achieve universal broadband coverage in the district; and

(iii) Internet service providers working in conjunction with a municipality that was not part of a communications union district prior to December 1, 2020 to expand broadband service to unserved and underserved

locations as part of a plan to achieve universal broadband coverage in such municipality;

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

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

~~(E)~~(D) a maximum of \$10,800,000.00 in Authority loans may be ~~made~~ outstanding under the Program commencing on June 20, 2019; ~~and~~

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

(F) not more than one-sixth of the total allowable loans under this Program shall be available to eligible borrowers under subdivision (2)(B)(iii) of this subsection (c).

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

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

Sec. 10. 10 V.S.A. § 280ff is amended to read:

§ 280ff. FUNDING

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

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

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

~~(2) Upon termination of the Program, any remaining funds held by the Authority and not used for the Program shall be repaid to the State. This is a revolving loan program.~~

~~(3)~~(2) The accumulated total of the appropriation shall not exceed \$8,500,000.00 over the life of the Program.

~~(4)~~(3) The Authority shall absorb its historical loan loss reserve rate before any State funds are expended.

~~(5)~~(4) Additionally, the Authority shall absorb up to \$3,000,000.00 in Program losses shared with the State on a pro rata basis.

* * * CUDs; Public Records Act; Trade Secret Exemption; Intent * * *

Sec. 11. 30 V.S.A. § 3084 is added to read:

§ 3084. CONFIDENTIALITY; LEGISLATIVE INTENT

The purpose of this section is to clarify that any records or information produced or acquired by a district that are trade secrets or confidential business information shall be exempt from public inspection and copying pursuant to 1 V.S.A. § 317(c)(9). Such records or information shall be available for public inspection after project completion.

* * * Property Tax Exemption; Broadband Infrastructure * * *

Sec. 12. 32 V.S.A. § 3802 is amended to read:

§ 3802. PROPERTY TAX

The following property shall be exempt from taxation:

* * *

(19) Real and personal property, except land, owned by an electric distribution utility that comprises broadband infrastructure, including structures, machinery, lines, poles, wires, and fixtures, provided the infrastructure is leased to a communications union district or to an Internet service provider working in conjunction with a communications union district, and is primarily for the purpose of providing broadband service capable of speeds of at least 100 Mbps symmetrical. This exemption applies only to broadband infrastructure constructed on or after July 1, 2021.

Sec. 13. 32 V.S.A. § 3800(n) is added to read:

(n) The statutory purpose of the exemptions for broadband infrastructure in

subdivision 3802(19) of this title is to lower the cost of broadband deployment in unserved and underserved areas of Vermont.

Sec. 14. 32 V.S.A. § 3602a is amended to read:

§ 3602a. FACILITIES USED IN THE GENERATION, TRANSMISSION,
OR DISTRIBUTION OF ELECTRIC POWER

All structures, machinery, poles, wires, and fixtures of all kinds and descriptions used in the generation, transmission, or distribution of electric power that are so fitted and attached as to be part of the works or facilities used to generate, transmit, or distribute electric power shall be set in the grand list as real estate. Nothing in this section shall alter the scope of the ~~exemption in subdivision~~ exemptions in subdivisions 3803(2) and 3802(19) of this title, nor shall it alter the taxation of municipally owned improvements accorded by section 3659 of this title.

Sec. 15. 32 V.S.A. § 3620 is amended to read:

§ 3620. ELECTRIC UTILITY POLES, LINES, AND FIXTURES

Electric utility poles, lines, and fixtures owned by nonmunicipal utilities shall be taxed at appraisal value as defined by section 3481 of this title, except as provided under subdivision 3802(19) of this title.

* * * Communications Workforce Development * * *

Sec. 16. BROADBAND OCCUPATIONAL NEEDS SURVEY

(a) The Commissioner of Labor shall conduct an occupational needs survey to determine workforce needs in the communications sector specific to broadband buildout and maintenance. In conducting this survey, the Commissioner shall solicit input from employers and subcontractors throughout the State. The Department of Public Service and communications union districts shall assist the Department of Labor in identifying employers with workforce needs connected to this act. The purpose of the survey is to identify current and future employment opportunities and the prerequisite skills needed for widespread worker recruitment and building a talent pipeline to support the goals of this act.

(b) The Commissioner shall report his or her findings and recommendations to the relevant legislative committees of jurisdiction on or before January 15, 2022.

(c) Employers who do not participate in supplying information for this report will not be eligible for grant funding under this act.

Sec. 17. FTTX; INCUMBENT TRAINING PROGRAM

Vermont Technical College, in consultation with the Vermont Department of Labor, shall establish an incumbent training program for communications installers and technicians. The goal of the program is to provide skills upgrades for existing employees. Up to \$40,000.00 is appropriated from the Vermont Department of Labor's fiscal year 2022 Training Fund to support this training program.

Sec. 18. BROADBAND INSTALLER APPRENTICESHIP PROGRAM

The Commissioner of Labor, working with broadband employers, shall establish a federally registered apprenticeship program that meets one or more occupational needs related to the installation and maintenance of broadband networks.

* * * Easements; Private Property; Fiber * * *

Sec. 19. UTILITY POLES IN EASMENTS ACROSS PRIVATE PROPERTY

Utility easements and State rules regarding utility rights of way and pole attachments shall include as an authorized utility use the installation of fiber for purposes of providing broadband service to the public. Such use of the utility easement and right of way serves the public good and facilitates the construction of broadband networks as contemplated in this act.

Sec. 20. APPROPRIATION

In fiscal year 2022, the sum of \$100,000,000.00 is appropriated from the American Rescue Plan Act of 2021 State Fiscal Relief Fund to the Vermont Community Broadband Fund to be expended in a manner consistent with 30 V.S.A. § chapter 91A.

* * * Legislative Priorities for Federal Funds * * *

Sec. 21. LEGISLATIVE PRIORITIES; FEDERAL FUNDS

With respect to federal funds potentially available to the State of Vermont in fiscal years 2021 and 2022, the General Assembly establishes as a high priority providing support for community efforts that advance the State's goal of achieving universal access to reliable, high-quality, affordable broadband consistent with the policies, purposes, and programs established under 30 V.S.A. chapter 91A, concerning the Vermont Community Broadband Board established in Sec. 2 of this act.

* * * Effective Dates * * *

Sec. 22. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Secs. 12-15 (property tax exemption for broadband infrastructure) shall take effect on July 1, 2021; and

(2) Sec. 4 (repeal of the Broadband Innovation Grant Program) and Sec. 8 (Telecommunications and Connectivity Advisory Board) shall take effect on January 1, 2022.

(Committee vote: 7-0-0)

(For House amendments, see House Journal for March 23, 2021, pages 406-408.)

H. 420.

An act relating to miscellaneous agricultural subjects.

Reported favorably with recommendation of proposal of amendment by Senator Pearson for the Committee on Agriculture.

The Committee recommends that the Senate propose to the House to amend the bill by adding under the reader assistance for Personal and Itinerant Slaughter Secs. 1a and 1b to read:

Sec. 1a. 6 V.S.A. § 3311a(c) is amended to read:

(c) The requirement for a license under section 3306 of this title or for inspection under this chapter shall not apply to the slaughter of livestock that occurs in a manner that meets all of the following requirements:

(1) A person or persons purchases livestock from a farmer who raised the livestock.

(2) The farmer is registered with the Secretary, on a form provided by the Secretary, as selling livestock for slaughter under this subsection.

(3) The individual or individuals who purchased the livestock performs the act of slaughtering the livestock, as the owner of the livestock.

(4) The act of slaughter occurs, after approval from the farmer who sold the livestock, on a site on the farm where the livestock was purchased.

(5) The slaughter is conducted under sanitary conditions.

(6) The farmer who sold the livestock to the individual or individuals does not assist in the slaughter of the livestock.

(7) Not more than the following number of livestock per year are slaughtered under this subsection:

- (A) ~~15~~ 30 swine;
- (B) ~~five~~ 10 cattle;
- (C) ~~40~~ 80 sheep or goats; or

(D) any combination of swine, cattle, sheep, or goats, provided that not more than ~~6,000~~ 12,000 pounds of the live weight of livestock are slaughtered per year.

(8) The farmer who sold the livestock to the individual or individuals maintains a record of each slaughter conducted under this subsection and reports quarterly to the Secretary, on a form provided by the Secretary, on or before April 15 for the calendar quarter ending March 31, on or before July 15 for the calendar quarter ending June 30, on or before October 15 for the calendar quarter ending September 30, and on or before January 15 for the calendar quarter ending December 31. If a farmer fails to report slaughter activity conducted under this subsection, the Secretary, in addition to any enforcement action available under this chapter or chapter 1 of this title, may suspend the authority of the farmer to sell animals to an individual or individuals for slaughter under this subsection.

(9) The slaughtered livestock may be halved or quartered by the individual or individuals who purchased the livestock but solely for the purpose of transport from the farm.

(10) The livestock is slaughtered according to a humane method, as that term is defined in subdivision 3131(6) of this title.

Sec. 1b. OFFICE OF LEGISLATIVE COUNSEL REPORT ON
LIVESTOCK SLAUGHTER UNDER ANIMAL SHARE
CONTRACTS

The Office of Legislative Counsel, in consultation with the Agency of Agriculture, Food and Markets and other interested parties, shall review federal and State law regarding whether the State may exempt the slaughter of livestock and provision of meat under an animal share contract from the license and inspection requirements of 6 V.S.A. chapter 204. On or before December 1, 2021, the Office of Legislative Counsel shall submit its findings to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry. The findings shall include proposed draft legislation.

(Committee vote: 5-0-0)

(No House amendments.)

Reported favorably by Senator Starr for the Committee on Appropriations.

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

(Committee vote: 6-0-1)

CONCURRENT RESOLUTIONS FOR NOTICE

Concurrent Resolutions For Notice Under Joint Rule 16

The following joint concurrent resolutions have been introduced for approval by the Senate and House. They will be adopted by the Senate unless a Senator requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration should be communicated to the Secretary's Office.

H.C.R. 58 - 63 (For text of Resolutions, see Addendum to House Calendar for May 6, 2021)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

Cory G. Gustafson of Montpelier – Commissioner, Department of Vermont Health Access – By Sen. Cummings for the Committee on Health and Welfare. (4/6/21)

Julia S. Moore of Middlesex – Secretary, Agency of Natural Resources – By Sen. Bray for the Committee on Natural Resources and Energy. (4/21/21)

Louis Porter of Adamant – Commissioner, Department of Fish and Wildlife – By Sen. Westman for the Committee on Natural Resources and Energy. (4/27/21)

Diane Snelling of Hinesburg – Chair, Natural Resources Board – By Sen. McCormack for the Committee on Natural Resources and Energy. (4/27/21)

Michael C. Snyder of Stowe – Commissioner, Department of Forests, Parks and Recreation – By Sen. Westman for the Committee on natural Resources and Energy. (4/27/21)

JFO NOTICE

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3):

JFO #3045 - 48 (forty-eight) limited-service positions to carry out the ongoing work for an effective public health response to COVID-19. *[NOTE: Positions to be funded through ongoing CDC grants #2254 (Immunization) and #2478 (Epidemiology and Laboratory Capacity) previously approved in 2006 and 2010, respectively.]*

[JFO received 4/13/2021]

JFO #3046 – One (1) limited service position, Grants Program Manager, to the VT Dept. of Economic Development to provide management, oversight and technical assistance to grantees. This position is funded through the Norther Border Regional Commission Capacity Grants through previously approved JFO Grant #2971. Position is for one year with expected approval for a second year.

[JFO received 4/21/2021]

JFO #3047 – \$1,000,000 to the VT Department of Public Service from the Norther Border Regional Commission. Funds will be used to build out infrastructure and expand broadband throughout Vermont. This grant includes a \$1.75M match as follows: \$1.5M from Act 154 (2020), \$60,000K from Act 79 (2019) and the rest from an existing position – Rural Broadband Technical Assistant.

[JFO received 4/21/2021]

FOR INFORMATION ONLY

CROSSOVER DATES

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 12, 2021**, 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 12, 2021.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 19, 2021**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

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

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