

# Senate Calendar

TUESDAY, MARCH 8, 2022

SENATE CONVENES AT: 9:30 A.M.

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**ACTION CALENDAR**

**CONSIDERATION POSTPONED UNTIL MARCH 22, 2022**

**GOVERNOR'S VETO**

**S. 79.**

An act relating to improving rental housing health and safety.

**Pending question (to be voted by call of the roll):** Shall the bill pass, notwithstanding the Governor's refusal to approve the bill? (Two-thirds of the members present required to override the Governor's veto.)

(For text of the Governor's Veto Message, see Senate Journal for June 24, 2021, page 1454)

**UNFINISHED BUSINESS OF JANUARY 4, 2022**

**GOVERNOR'S VETO**

**S. 107.**

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

**Pending question (to be voted by call of the roll):** Shall the bill pass, notwithstanding the Governor's refusal to approve the bill? (Two-thirds of the members present required to override the Governor's veto.)

The text of the Communication from His Excellency, The Governor, whereby he *vetoed* and returned unsigned **Senate Bill No. S. 107** to the Senate is as follows:

**Text of Communication from Governor**

"May 20, 2021

The Honorable John Bloomer, Jr.  
Secretary of the Senate  
115 State House  
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.107, *An act relating to confidential information concerning the initial arrest and charge of a juvenile*, without my signature, because of concerns with the policy to automatically raise the age of accountability for

crimes, and afford young adults protections meant for juveniles, without adequate tools or systems in place.

Three years ago, I signed legislation intended to give young adults who had become involved in the criminal justice system certain protections meant for juveniles. At the time, I was assured that, prior to the automatic increases in age prescribed in the bill, plans would be in place to provide access to the rehabilitation, services, housing and other supports needed to both hold these young adults accountable and help them stay out of the criminal justice system in the future.

This has not yet been the case. In addition to ongoing housing challenges, programs designed and implemented for children under 18 are often not appropriate for those over 18. Disturbingly, there are also reports of some young adults being used – and actively recruited – by older criminals, like drug traffickers, to commit crimes because of reduced risk of incarceration, potentially putting the young people we are trying to protect deeper into the criminal culture and at greater risk.

I want to be clear: I’m not blaming the Legislature or the Judiciary for these gaps. All three branches of government need to bring more focus to this issue if we are going to provide the combination of accountability, tools and services needed to ensure justice and give young offenders a second chance.

For these reasons, I believe we need to take a step back and assess Vermont’s “raise the age” policy, the gaps that exist in our systems and the unintended consequences of a piecemeal approach on the health and safety of our communities, victims and the offenders we are attempting to help. I see S.107 as deepening this piecemeal approach.

I also remain concerned with the lack of clarity in S.107 regarding the disparity in the public records law between the Department of Public Safety and the Department of Motor Vehicles.

Based on the objections outlined above, I am returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution. I believe this presents an opportunity to start a much-needed conversation about the status of our juvenile justice initiatives and make course corrections where necessary, in the interest of public safety and the young Vermonters we all agree need an opportunity to get back on the right path.

Sincerely,

/s/Philip B. Scott  
Governor

PBS/kp”

**Text of bill as passed by Senate and House**

The text of the bill as passed by the Senate and House of Representatives is as follows:

**S.107** An act relating to confidential information concerning the initial arrest and charge of a juvenile

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

\* \* \* Exemption; records of arrest or charge of a juvenile \* \* \*

Sec. 1. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS; EXEMPTIONS

\* \* \*

(c) The following public records are exempt from public inspection and copying:

\* \* \*

(5)(A) Records dealing with the detection and investigation of crime, but only to the extent that the production of such records:

\* \* \*

(B)(i) Notwithstanding subdivision (A) of this subdivision (5), records relating to management and direction of a law enforcement agency; records reflecting the initial arrest of a person, including any ticket, citation, or complaint issued for a traffic violation, as that term is defined in 23 V.S.A. § 2302; and records reflecting the charge of a person shall be public.

(ii) A public agency shall not release any information within a record reflecting the initial arrest or charge of a person under 19 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 years of age in order to protect the health and safety of any person.

\* \* \*

\* \* \* Effective July 1, 2022 \* \* \*

Sec. 2. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS; EXEMPTIONS

\* \* \*

(c) The following public records are exempt from public inspection and copying:

\* \* \*

(5)(A) Records dealing with the detection and investigation of crime, but only to the extent that the production of such records:

\* \* \*

(B)(i) Notwithstanding subdivision (A) of this subdivision (5), records relating to management and direction of a law enforcement agency; records reflecting the initial arrest of a person, including any ticket, citation, or complaint issued for a traffic violation, as that term is defined in 23 V.S.A. § 2302; and records reflecting the charge of a person shall be public.

(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.

\* \* \*

### Sec. 3. APPLICATION OF PUBLIC RECORDS ACT EXEMPTION REVIEW

Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption amended in Sec. 1 shall continue in effect and shall not be reviewed for repeal.

\* \* \* Custodian of records relating to a person  
under court jurisdiction \* \* \*

Sec. 4. 33 V.S.A. § 5117 is amended to read:

### § 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

(a)(1) Except as otherwise provided, court and law enforcement reports and files concerning a person subject to the jurisdiction of the court shall be maintained separate from the records and files of other persons. Unless a charge of delinquency is transferred for criminal prosecution under chapter 52 of this title or the court otherwise orders in the interests of the child, such records and files shall not be open to public inspection nor their contents disclosed to the public by any person. However, upon a finding that a child is a delinquent child by reason of commission of a delinquent act ~~which~~ that would have been a felony if committed by an adult, the court, upon request of the victim, shall make the child's name available to the victim of the

delinquent act. If the victim is incompetent or deceased, the child's name shall be released, upon request, to the victim's guardian or next of kin.

(2) When a person is subject to the jurisdiction of the court, the court shall become the sole records custodian for purposes of responding to any request for court or law enforcement records concerning the person. A public agency shall direct any request for these records to the courts for response.

(3) When a person is subject to the jurisdiction of the Criminal Division of the Superior Court pursuant to chapter 52 or 52A of this title, the Criminal Division of the Superior Court shall become the sole records custodian for purposes of responding to any request for court or law enforcement records concerning the person. A public agency shall direct any request for these records to the courts for response.

\* \* \*

\* \* \* Effective Dates \* \* \*

#### Sec. 5. EFFECTIVE DATES

This act shall take effect on July 1, 2021, except that Sec. 2 (2022 amendment to 1 V.S.A. § 317(c)(5)(B)(ii) (public records; exemptions; records relating to the initial arrest and charge of a person)) shall take effect on July 1, 2022.

### UNFINISHED BUSINESS OF FEBRUARY 24, 2022

#### GOVERNOR'S VETO

##### S. 30.

An act relating to prohibiting possession of firearms within hospital buildings.

**Pending question (to be voted by call of the roll):** Shall the bill pass, notwithstanding the Governor's refusal to approve the bill? (Two-thirds of the members present required to override the Governor's veto.)

The text of the Communication from His Excellency, The Governor, whereby he *vetoed* and returned unsigned **Senate Bill No. S. 30** to the Senate is as follows:

#### Text of Communication from Governor

“February 22, 2022

The Honorable John Bloomer, Jr.  
Secretary of the Senate  
115 State House  
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning S. 30, *An act relating to prohibiting possession of firearms within hospital buildings* without my signature.

In 2018, I called for and signed the most comprehensive gun safety measures in our state's history. We established universal background check requirements; authorized extreme risk protection orders (i.e., "red flag" laws), providing tools to prevent someone from having a gun if there is credible evidence they may harm themselves or others; strengthened the ability of law enforcement to seize firearms from those accused of domestic violence; enhanced age requirements; and prohibited the sale and possession of bump stocks and large capacity magazines. This was a comprehensive, and historic, set of policies that take reasonable steps to help keep firearms out of the hands of people who should not have them. It's my belief that we need to give these new provisions more time to be fully understood and utilized, and that the Legislature should focus on educating Vermonters on these changes – and on addressing Vermont's mental health crisis – before additional gun laws are passed.

However, as I've also said, I'm open to a discussion about improving existing law to address the so-called "Charleston Loophole" and I'm offering a path forward below. This refers to a provision in federal law that provides automatic approval to someone who is buying a gun if a federal background check through the National Instant Criminal Background Check System (also known as NICS) doesn't produce a "red light" (i.e., reporting they are ineligible) within three business days.

S. 30 increases that timeframe from three days to an unlimited amount of time without acknowledging that an application expires in 30 days. So instead of holding the federal government accountable to complete the background check in a timely manner, it shifts all the burden away from government – where responsibility was intentionally placed in federal law – entirely onto the citizen. Law abiding citizens who become the victims of a government administrative error must themselves gather all applicable law enforcement and court records and try to understand and navigate a complex maze of federal bureaucratic process to try to rectify their "yellow" status.

For these reasons, I believe going from three to effectively 30 days is excessive and unreasonable for law-abiding citizens who wish to purchase a firearm for their own personal safety or for other lawful and constitutionally protected purposes.



However, I'm willing to work with the Legislature to find a path forward that gives the federal government more time to fulfill its obligations to complete background checks, without denying law-abiding citizens of their right to a fair and reasonable process.

A more reasonable standard would be to increase the current three-day waiting period to seven business days to allow the federal government additional time to resolve issues and make a final determination.

Given this bill's effective date of July 1, 2022, the Legislature has ample time to address my concerns and send me a bill I can sign.

Based on the objections outlined above I'm returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

/s/Philip B. Scott

Philip B. Scott

Governor

PBS/kp”

#### **Text of bill as passed by Senate and House**

The text of the bill as passed by the Senate and House of Representatives is as follows:

**S. 30** An act relating to prohibiting possession of firearms within hospital buildings

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

Sec. 1. 13 V.S.A. § 4023 is added to read:

§ 4023. POSSESSION OF FIREARMS IN HOSPITAL BUILDINGS  
PROHIBITED

(a) A person shall not knowingly possess a firearm while within a hospital building.

(b) A person who violates this section shall be fined not more than \$250.00.

(c) This section shall not apply to a firearm possessed by a federal law enforcement officer or a law enforcement officer certified as a law enforcement officer by the Vermont Criminal Justice Training Council pursuant to 20 V.S.A. § 2358, for legitimate law enforcement purposes.

(d) Notice of the provisions of this section shall be posted conspicuously at each public entrance to each hospital.

(e) As used in this section:

(1) "Firearm" has the same meaning as in subsection 4017(d) of this title.

(2) "Hospital" has the same meaning as in 18 V.S.A. § 1902.

Sec. 2. 13 V.S.A. § 4019 is amended to read:

§ 4019. FIREARMS TRANSFERS; BACKGROUND CHECKS

(a) As used in this section:

\* \* \*

(4) "Licensed dealer" means a person issued a license as a dealer in firearms pursuant to 18 U.S.C. § 923(a).

(5) "Proposed transferee" means an unlicensed person to whom a proposed transferor intends to transfer a firearm.

(6) "Proposed transferor" means an unlicensed person who intends to transfer a firearm to another unlicensed person.

(7) "Transfer" means to transfer ownership of a firearm by means of sale, trade, or gift.

(8) "Unlicensed person" means a person who has not been issued a license as a dealer, importer, or manufacturer in firearms pursuant to 18 U.S.C. § 923(a).

(b)(1) Except as provided in subsection (e) of this section, an unlicensed person shall not transfer a firearm to another unlicensed person unless:

(A) the proposed transferor and the proposed transferee physically appear together with the firearm before a licensed dealer and request that the licensed dealer facilitate the transfer; and

(B) the licensed dealer agrees to facilitate the transfer.

(2) A person shall not, in connection with the transfer or attempted transfer of a firearm pursuant to this section, knowingly make a false statement or exhibit a false identification intended to deceive a licensed dealer with respect to any fact material to the transfer.

\* \* \*

(d) A person shall not transfer a firearm to another person if:

(1) the transfer requires a background check under this section or under federal law; and

(2) the licensed dealer facilitating the transfer has not been provided with a unique identification number for the transfer by the National Instant Criminal Background Check System.

~~(d)~~(e)(1) An unlicensed person who transfers a firearm to another unlicensed person in violation of subdivision (b)(1) of this section shall be imprisoned not more than one year or fined not more than \$500.00, or both.

(2) A person who violates subdivision (b)(2) or subsection (d) of this section shall be imprisoned not more than one year or fined not more than \$500.00, or both.

~~(e)~~(f) This section shall not apply to:

(1) the transfer of a firearm by or to a law enforcement agency;

(2) the transfer of a firearm by or to a law enforcement officer or member of the U.S. Armed Forces acting within the course of his or her official duties;

(3) the transfer of a firearm from one immediate family member to another immediate family member; or

(4) a person who transfers the firearm to another person in order to prevent imminent harm to any person, provided that this subdivision shall only apply while the risk of imminent harm exists.

~~(f)~~(g) A licensed dealer who facilitates a firearm transfer pursuant to this section shall be immune from any civil or criminal liability for any actions taken or omissions made when facilitating the transfer in reliance on the provisions of this section. This subsection shall not apply to reckless or intentional misconduct by a licensed dealer.

Sec. 3. 13 V.S.A. § 4057 is amended to read:

§ 4057. PROCEDURE

(a) Except as otherwise specified, proceedings commenced under this subchapter shall be in accordance with the Vermont Rules for Family Proceedings and shall be in addition to any other available civil or criminal remedies.

\* \* \*

(d)(1) For purposes of a petition filed pursuant to this subchapter, a health care provider may notify a law enforcement officer when the provider believes in good faith that disclosure of the information is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public.

(2) As used in this subsection:

(A) “Health care provider” has the same meaning as in 18 V.S.A. § 9402.

(B) “Necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public” includes circumstances when the health care provider reasonably believes that the patient poses an extreme risk of causing harm to themselves or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the patient’s custody or control.

Sec. 4. 13 V.S.A. § 4062 is added to read:

§ 4062. ANNUAL REPORTING; OFFICE OF COURT ADMINISTRATOR  
AND AGENCY OF HUMAN SERVICES

(a) On or before September 1, 2022 and annually thereafter, the Court Administrator, with the assistance of the Agency of Human Services, shall report data on the use of extreme risk protection orders during the previous year to the Senate and House Committees on Judiciary.

(b) The reports required by this section shall include the following data for the previous year:

(1) the number of extreme risk protection order petitions filed and the number of orders issued;

(2) geographical data indicating the county where the petition was filed;  
and

(3) follow-up information describing whether the order was renewed or terminated pursuant to section 4055 of this title and whether the subject of the order was charged with violating it under section 4058 of this title.

(c) The Agency of Human Services shall include in the reports required by this section an analysis of the impact of extreme risk prevention orders on Vermont suicide rates, including any relevant data relied on or utilized by the Agency for purposes of providing the information required by 2017 Acts and Resolves No. 34, An act relating to evaluation of suicide profiles.

Sec. 5. 13 V.S.A. § 4021 is amended to read:

§ 4021. LARGE CAPACITY AMMUNITION FEEDING DEVICES

(a) A person shall not manufacture, possess, transfer, offer for sale, purchase, or receive or import into this State a large capacity ammunition feeding device. As used in this subsection, “import” ~~shall~~ does not include the transportation back into this State of a large capacity ammunition feeding device by the same person who transported the device out of State if the person possessed the device on or before the effective date of this section.

\* \* \*

(d)(1) This section shall not apply to any large capacity ammunition feeding device:

\* \* \*

(F) transported by a resident of another state into this State for the exclusive purpose of use in an organized shooting competition sponsored by an entity registered with the Secretary of State if the device is lawfully possessed under the laws of another state.

\* \* \*

Sec. 6. 15 V.S.A. § 1104 is amended to read:

§ 1104. EMERGENCY RELIEF

(a) In accordance with the Vermont Rules of Civil Procedure, temporary orders under this chapter may be issued ex parte, without notice to the defendant, upon motion and findings by the court that the defendant has abused the plaintiff or the plaintiff’s children, or both. The plaintiff shall submit an affidavit in support of the order. A minor 16 years of age or older, or a minor of any age who is in a dating relationship as defined in subdivision 1101(2) of this chapter, may seek relief on his or her own behalf. Relief under this section shall be limited as follows:

(1) Upon a finding that there is an immediate danger of further abuse, an order may be granted requiring the defendant:

(A) to refrain from abusing the plaintiff or his or her children, or both, or from cruelly treating as defined in 13 V.S.A. § 352 or 352a or killing any animal owned, possessed, leased, kept, or held as a pet by either party or by a minor child residing in the household;

(B) to refrain from interfering with the plaintiff’s personal liberty or the personal liberty of the plaintiff’s children, or both;

(C) to refrain from coming within a fixed distance of the plaintiff, the plaintiff's children, the plaintiff's residence, or the plaintiff's place of employment; ~~and~~

(D) to refrain from contacting the plaintiff or the plaintiff's children, or both, in any way, whether directly, indirectly, or through a third party, with the purpose of making contact with the plaintiff, including in writing or by telephone, e-mail, or other electronic communication; or

(E) to immediately relinquish, until the expiration of the order, all firearms that are in the defendant's possession, ownership, or control and to refrain from acquiring or possessing any firearms while the order is in effect.

(2) Upon a finding that the plaintiff, ~~his or her~~ or the plaintiff's children, or both, have been forced from the household and will be without shelter unless the defendant is ordered to vacate the premises, the court may order the defendant to vacate immediately the household and may order sole possession of the premises to the plaintiff.

(3) Upon a finding that there is immediate danger of physical or emotional harm to minor children, the court may award temporary custody of these minor children to the plaintiff or to other persons.

\* \* \*

#### Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

### **NEW BUSINESS**

#### **Third Reading**

#### **S. 261.**

An act relating to municipal retention of property tax collections.

#### **J.R.S. 43.**

Joint resolution authorizing the Commissioner of Forests, Parks and Recreation to exchange quit claim deeds with the Vermont Land Trust and the Nature Conservancy in order to confirm the boundary between the Long Trail State Forest and the land co-owned by the Vermont Land Trust and the Nature Conservancy in the Towns of Eden and Belvidere.

**Second Reading**  
**Favorable with Recommendation of Amendment**

**S. 173.**

An act relating to the State House Oversight Committee.

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

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 2 V.S.A. chapter 19 is amended to read:

CHAPTER 19. LEGISLATIVE ADVISORY COMMITTEE ON THE  
STATE HOUSE

§ 651. LEGISLATIVE ADVISORY COMMITTEE ON THE STATE  
HOUSE

- (a) The Legislative Advisory Committee on the State House is created.
- (b) The Committee shall be composed of ~~13~~ 12 members:
  - (1) ~~four~~ three members of the House of Representatives, appointed biennially by the Speaker of the House;
  - (2) ~~four~~ three members of the Senate, appointed biennially by the Committee on Committees;
  - (3) the Chair of the Board of Trustees of the Friends of the Vermont State House;
  - (4) the Director of the Vermont Historical Society;
  - (5) the Director of the Vermont Council on the Arts;
  - (6) the Commissioner of Buildings and General Services or designee;
- ~~and~~
- (7) the State Curator; and
- (8) the Sergeant at Arms.
- (c) The Committee shall biennially elect a chair from among its legislative members. A quorum shall consist of seven members.

(d) The Committee shall meet ~~at the State House~~ at least one time when the General Assembly is in session and at least one time when the General Assembly is not in session or at the call of the Chair. The Commissioner of Buildings and General Services shall keep minutes of the meetings and maintain a file thereof.

(e) The Committee shall have the assistance of the Office of Legislative Counsel and the Office of Legislative Operations.

#### § 652. PER DIEM AND EXPENSES; LEGISLATIVE MEMBERS

For meetings held during adjournment of the General Assembly, the legislative members of the Committee shall be entitled to per diem compensation and expense reimbursement as provided in subsection 406(a) of this title.

#### § 653. FUNCTIONS

(a)(1) ~~The Legislative Advisory Committee on the State House shall be consulted on~~ oversee all activities relating to the ~~acquisition~~ collections and care of paintings and historic artifacts and furnishings; and shall be consulted on the refurbishing, renovation, preservation, and expansion of the building and its interior.

(2) ~~The Legislative Advisory Committee on the State House shall develop~~ approve a plan for the ~~acquisition~~ collections or commission of artwork for the State House collection that represents Vermont's diverse people and history, including diversity of gender, race, ethnicity, sexuality, and disability status.

(b) The Sergeant at Arms and the Commissioner of Buildings and General Services, in discharging responsibilities under subdivision 62(a)(6) of this title and 29 V.S.A. §§ 154(a) and 154a, respectively, shall consider the recommendations of the Committee. ~~The Committee's recommendations shall be advisory only.~~

(c)(1) The Committee may establish permanent or ad hoc subcommittees as needed to carry out its duties.

(2) A collections subcommittee of the Committee shall, in coordination with experts, develop a collections policy for recommendation to the Committee.

(d) The Chair of the Committee, the Sergeant at Arms, the State Curator, and the President of the Friends of the Vermont State House shall execute a memorandum of understanding to coordinate the policies, oversight, and care of the State House artwork collection.



Sec. 2. 2 V.S.A. § 62 is amended to read:

§ 62. LEGISLATIVE DUTIES

(a) The Sergeant at Arms shall:

(1) execute orders of either house, the Joint Legislative Management Committee, the Committee on Joint Rules, or the House or Senate Committee on Rules;

(2) maintain order among spectators and take measures to prevent interruption of either house or any committee thereof;

(3) arrange for special meetings and conferences at the State House;

(4) provide for the distribution of mail to all legislators;

(5) schedule the time for the use of rooms for committee meetings and hearings;

(6) ~~maintain the State House and its furnishings in a good state of repair and provide security for all furniture, draperies, rugs, desks, and other furnishings kept in the State House, in consultation with the State Curator;~~

(7) provide for the establishment of a cafeteria and supervise its operation;

(8) provide security for the State House, pursuant to the responsibilities set forth in 29 V.S.A. § 171; and

(9) perform such other duties for the benefit of the legislators as may be required by any duly authorized committee thereof.

(b) He or she or any person in his or her employ shall not accept any compensation or gift for his or her services other than his or her salary. If he or she or any person in his or her employ violates this provision, he or she shall be fined \$25.00.

(c) The Sergeant at Arms shall not be responsible for structural repairs, capital improvements, or ~~building for maintenance for the~~ or curating the historic State House and its collections (as the term maintenance is defined in 29 V.S.A. § 159) or for the use, upkeep, or maintenance of the State House grounds.

(d) The Sergeant at Arms and employees of the Sergeant at Arms shall seek guidance from and operate in accordance with policies adopted by the Joint Legislative Management Committee.

Sec. 3. 29 V.S.A. § 154a is amended to read:

§ 154a. STATE CURATOR

(a) Creation. The position of State Curator is created within the Department of Buildings and General Services.

(b) Duties. The State Curator's responsibilities shall include:

(1) oversight of the ~~general historic preservation of the State House, including maintaining the historical integrity of the State House and works of art in the State House~~ its collections of art, decorative arts, and furnishings;

(2) interpretation of the State House to the visiting public through exhibits, publications, ~~and tours, and other means of communication; and~~

(3) acquisition, management, and care of State collections of art and historic furnishings, provided that any works of art for the State House are acquired pursuant to the requirements of 2 V.S.A. § 653(a); ~~and~~

(4) oversight and management of the State's historic and contemporary art and collections in State buildings and on State property.

(c) ~~Acquisition Collections~~ policy. In ~~coordination with the Legislative Advisory Committee on the State House, and in~~ accordance with the plan developed pursuant to 2 V.S.A. § 653, and upon approval of the Legislative Advisory Committee on the State House, the State Curator shall adopt ~~an acquisition a collections~~ a collections policy that ensures that the acquisition of art for the State House reflects a diversity of artistic media and artists; and celebrates the natural history of the State; and the diversity of the people and stories of Vermont throughout the history of the State.

(d) Interpretive plan. In coordination with the Friends of the Vermont State House and the Vermont Historical Society, the State Curator shall create an interpretive plan that tells the stories of the State House art collection through accessible written, multimedia, and oral means. The plan shall include appropriate and inclusive training of State House volunteers and staff.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

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

An act relating to the State House art collections.

(Committee vote: 5-0-0)

**Reported favorably with recommendation of amendment by Senator Sears for the Committee on Appropriations.**

The Committee recommends that the bill be amended as recommended by the Committee on Government Operations with the following amendments thereto:

First: In Sec. 1, 2 V.S.A. § 651, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d) The Committee shall meet ~~at the State House~~ at least one time when the General Assembly is in session ~~and at least one time when~~. When the General Assembly is not in session or at the call of the Chair, the Committee shall meet at least one time, but the Committee and any subcommittees shall not cumulatively meet more than six times per year; provided, however, that the Committee and any subcommittees of the Committee may meet more often with the approval of the Speaker of the House and the President Pro Tempore of the Senate. The Commissioner of Buildings and General Services shall keep minutes of the meetings and maintain a file thereof.

Second: In Sec. 1, § 653, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d) The Sergeant at Arms, the State Curator, the President of the Friends of the Vermont State House, and the Chair of the Joint Legislative Management Committee shall execute a memorandum of understanding to coordinate the policies, oversight, and care of the State House artwork collection.

(Committee vote: 5-0-2)

**NOTICE CALENDAR**

**Second Reading**

**Favorable with Recommendation of Amendment**

**S. 139.**

An act relating to public schools' team mascots.

**Reported favorably with recommendation of amendment by Senator Campion for the Committee on Education.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly to ensure that all Vermont schools provide positive and inclusive learning environments for all students by eliminating the use of discriminatory school branding, which undermines the educational experiences of members of all communities and perpetuates negative stereotypes. All Vermont students should feel safe and welcome while enrolled in a Vermont school.

Sec. 2. 16 V.S.A. § 568 is added to read:

§ 568. SCHOOL BRANDING

(a) Definitions. As used in this section:

(1) “School” means a public school or an independent school approved under section 166 of this title.

(2) “School board” means the board of directors or other governing body of an educational institution when referring to an independent school.

(3) “School branding” means any name, symbol, or image used by a school as a mascot, nickname, logo, letterhead, team name, slogan, motto, or other identifier.

(b) Model policy.

(1) The Secretary of Education, in consultation with stakeholder groups including the Vermont School Boards Association, shall develop and, from time to time, update a model nondiscriminatory school branding policy. The policy shall prohibit school branding that directly or indirectly references or stereotypes the likeness, features, symbols, traditions, or other characteristics that are specific to either:

(A) the race, creed, color, national origin, sexual orientation, or gender identity of any person or group of persons; or

(B) any person, group of persons, or organization associated with the repression of others.

(2) The policy shall provide a process for an individual to file a complaint that an element of school branding is in violation of the policy. Complaints shall be determined first by the school board of the district and, if the individual is unsatisfied with the decision of the board, may be appealed to the Secretary of Education.

(3) The policy shall also require school boards to review the district’s school branding to ensure compliance with the policy after any school branding changes or updates to the policy.

(c) School branding policy adoption. Each school board shall develop, adopt, and ensure implementation of, and make available in the manner described under subdivision 563(1) of this title, a nondiscriminatory school branding policy that shall be at least as comprehensive as the model policy developed by the Secretary. Any school board that fails to adopt such a policy shall be presumed to have adopted the most current model policy published by the Secretary.

### Sec. 3. IMPLEMENTATION

(a) The Agency of Education shall adopt the model policy required in Sec. 2 of this act not later than August 1, 2022.

(b) School boards, as defined in Sec. 2 of this act, shall adopt and implement school branding policies as required by section 1 of this act not later than January 1, 2023.

(c) School boards shall review the district's school branding in place at the time the policy is adopted to ensure compliance with the policy.

(d) A school may use materials that feature school branding that does not comply with the policy after January 1, 2023, if the materials were purchased before January 1, 2023, and if the school selects new school branding by May 1, 2023, to take effect in the 2023-24 school year.

### Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

(Committee vote: 5-1-0)

## S. 148.

An act relating to environmental justice in Vermont.

**Reported favorably with recommendation of amendment by Senator Bray for the Committee on Natural Resources and Energy.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

### Sec. 1. FINDINGS

The General Assembly finds that:

(1) According to American Journal of Public Health studies published in 2014 and 2018 and affirmed by decades of research, Black, Indigenous, and Persons of Color (BIPOC) and individuals with low income are disproportionately exposed to environmental hazards and unsafe housing, facing higher levels of air and water pollution, mold, lead, and pests.

(2) The cumulative impacts of environmental harms disproportionately and adversely impact the health of BIPOC and communities with low income, with climate change functioning as a threat multiplier. These disproportionate adverse impacts are exacerbated by lack of access to affordable energy, healthy food, green spaces, and other environmental benefits.

(3) Since 1994, Executive Order 12898 has required federal agencies to make achieving environmental justice part of their mission by identifying and addressing disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and populations with low incomes in the United States.

(4) According to the Centers for Disease Control and Prevention, 30 percent of Vermont towns with high town household poverty have limited access to grocery stores. In addition, a study conducted at the University of Vermont showed that in Vermont, BIPOC individuals were twice as likely to have trouble affording fresh food and to go hungry in a month than white individuals.

(5) Inadequate transportation impedes job access, narrowing the scope of jobs available to individuals with low income and potentially impacting job performance.

(6) In 2020, the Center for American Progress found that 76 percent of BIPOC individuals in Vermont live in “nature deprived” census tracts with a higher proportion of natural areas lost to human activities than the Vermont median. In contrast, 27 percent of white individuals live in these areas.

(7) The U.S. Centers for Disease Control and Prevention states that systemic health and social inequities disproportionately increases the risk of racial and ethnic minority groups becoming infected by and dying from COVID-19.

(8) According to the Vermont Department of Health, inequities in access to and quality of health care, employment, and housing have contributed to disproportionately high rates of COVID-19 among BIPOC Vermonters.

(9) An analysis by University of Vermont researchers found that mobile homes are more likely than permanent structures to be located in a flood hazard area. During Tropical Storm Irene, mobile parks and over 561 mobile homes in Vermont were damaged or destroyed. Mobile homes make up 7.2 percent of all housing units in Vermont and were approximately 40 percent of sites affected by Tropical Storm Irene.

(10) A University of Vermont study reports that BIPOC individuals were seven times more likely to have gone without heat in the past year, over two times more likely to have trouble affording electricity, and seven times less likely to own a solar panel than white Vermonters.

(11) The U.S. Environmental Protection Agency recognized Vermont's deficiencies in addressing environmental justice concerns related to legacy mining and mobile home park habitability, providing grants for these projects in 1998 and 2005.

(12) Vermont State agencies receiving federal funds are subject to the antidiscrimination requirements of Title VI of the Civil Rights Act of 1964.

(13) In response to the documented inadequacy of state and federal environmental and land use laws to protect vulnerable communities, increasing numbers of states have adopted formal environmental justice laws and policies.

(14) At least 17 states have developed mapping tools to identify environmentally overburdened communities and environmental health disparities.

(15) The State of Vermont does not currently have a State-managed mapping tool that clearly identifies environmentally overburdened communities.

(16) The 1991 Principles of Environmental Justice adopted by The First National People of Color Environmental Leadership Summit demand the right of all individuals to participate as equal partners at every level of decision making, including needs assessment, planning, implementation, enforcement, and evaluation.

(17) Article VII of the Vermont Constitution establishes the government as a vehicle for the common benefit, protection, and security of Vermonters and not for the particular emolument or advantage of any single set of persons who are only a part of that community. This, coupled with Article I's guarantee of equal rights to enjoying life, liberty, and safety, and Article IV's assurance of timely justice for all, encourages political officials to identify how particular communities may be unequally burdened or receive unequal protection under the law due to race, income, or geographic location.

(18) On January 27, 2021, President Biden signed Executive Order 14008, "Tackling the Climate Crisis at Home and Abroad," that created a government-wide "Justice40 Initiative" that aims to deliver 40 percent of the overall benefits of federal investments related to climate, natural disasters, environment, clean energy, clean transportation, housing, water and wastewater infrastructure, and legacy pollution reduction to "disadvantaged

communities” that have been historically marginalized and overburdened by pollution and underinvestment.

(19) According to American Community Survey data from 2016–2019, at least 51 percent of census block groups in Vermont (or 52 percent of Vermont’s population) meet the Justice40 Initiative federal guidelines of a disadvantaged community.

(20) Lack of a clear environmental justice policy has resulted in a piecemeal approach to understanding and addressing environmental justice in Vermont and creates a barrier to establishing clear definitions, metrics, and strategies to ensure meaningful engagement and more equitable distribution of environmental benefits and burdens.

(21) It is the State of Vermont’s responsibility to pursue environmental justice for its residents and to ensure that its agencies do not contribute to unfair distribution of environmental benefits to or environmental burdens on low-income, limited-English proficient, and BIPOC communities.

Sec. 2. 3 V.S.A. chapter 72 is added to read:

#### CHAPTER 72. ENVIRONMENTAL JUSTICE

##### § 6001. DEFINITIONS

As used in this chapter:

(1) “Environmental benefits” means the assets and services that enhance the capability of communities and individuals to function and flourish in society, such as access to a healthy environment and clean natural resources, including air, water, land, green spaces, constructed playgrounds, and other outdoor recreational facilities and venues; affordable clean renewable energy sources; public transportation; fulfilling and dignified green jobs; healthy homes and buildings; health care; nutritious food; Indigenous food and cultural resources; environmental enforcement, and training and funding disbursed or administered by governmental agencies.

(2) “Environmental burdens” means any significant impact to clean air, water, and land, including any destruction, damage, or impairment of natural resources resulting from intentional or reasonably foreseeable causes. Examples of environmental burdens include climate change; air and water pollution; improper sewage disposal; improper handling of solid wastes and other noxious substances; excessive noise; activities that limit access to green spaces, nutritious food, Indigenous food or cultural resources, or constructed outdoor playgrounds and other recreational facilities and venues; inadequate remediation of pollution; reduction of groundwater levels; increased flooding or stormwater flows; home and building health hazards, including lead paint,



lead plumbing, asbestos, and mold; and damage to inland waterways and waterbodies, wetlands, forests, green spaces, or constructed playgrounds or other outdoor recreational facilities and venues from private, industrial, commercial, and government operations or other activity that contaminates or alters the quality of the environment and poses a risk to public health.

(3) “Environmental justice” means all individuals are afforded equitable access to and distribution of environmental benefits; equitable distribution of environmental burdens; fair and equitable treatment and meaningful participation in decision-making processes; and the development, implementation, and enforcement of environmental laws, regulations, and policies. Environmental justice recognizes the particular needs of individuals of every race, color, income, class, ability status, gender identity, sexual orientation, national origin, ethnicity or ancestry, religious belief, or English language proficiency level. Environmental justice redresses structural and institutional racism, colonialism, and other systems of oppression that result in the marginalization, degradation, disinvestment, and neglect of Black, Indigenous, and Persons of Color. Environmental justice requires prioritizing resources for community revitalization, ecological restoration, resilience planning, and a just recovery to communities most impacted by environmental burdens and natural disasters.

(4) “Environmental justice population” means any census block group in which:

(A) the annual median household income is not more than 80 percent of the State median household income;

(B) Persons of Color and Indigenous Peoples comprise at least six percent or more of the population; or

(C) at least one percent or more of households have limited English proficiency.

(5) “Limited English proficiency” means that a household does not have an adult who speaks English “very well” as defined by the U.S. Census Bureau.

(6) “Meaningful participation” means that all individuals have the opportunity to participate in energy, climate change, and environmental decision making, including needs assessments, planning, implementation, permitting, compliance and enforcement, and evaluation. Meaningful participation also integrates diverse knowledge systems, histories, traditions, languages, and cultures of Indigenous communities in decision-making processes. It requires that communities are enabled and administratively

assisted to participate fully through education and training. Meaningful participation requires the State to operate in a transparent manner with regard to opportunities for community input and also encourages the development of environmental, energy, and climate change stewardship.

§ 6002. ENVIRONMENTAL JUSTICE STATE POLICY

(a) It is the policy of the State of Vermont that no segment of the population of the State should, because of its racial, cultural, or economic makeup, bear a disproportionate share of environmental burdens or be denied an equitable share of environmental benefits. It is further the policy of the State of Vermont to provide the opportunity for the meaningful participation of all individuals, with particular attention to environmental justice populations, in the development, implementation, or enforcement of any law, regulation, or policy.

(b) The following State agencies, departments, and bodies shall consider cumulative environmental burdens, as defined by rule pursuant to subsection 6003(a) of this title, and access to environmental benefits when making decisions about the environment, energy, climate, and public health projects; facilities and infrastructure; and associated funding: the Agencies of Natural Resources, of Transportation, of Commerce and Community Development, of Agriculture, Food and Markets, and of Education; the Public Utility Commission; the Natural Resources Board; and the Departments of Health, of Public Safety, and of Public Service.

(c) On or before July 1, 2025, every State agency shall create and adopt a community engagement plan that describes how the agency will engage with environmental justice populations as it evaluates new and existing activities and programs. Community engagement plans shall align with the core principles developed by the Interagency Environmental Justice Committee pursuant to subdivision 6004(c)(3)(B) of this title and take into consideration the recommendations of the Environmental Justice Advisory Council pursuant to subdivision 6004(c)(2)(B) of this title. Each plan shall describe how the agency plans to facilitate equitable participation and support meaningful and direct involvement of environmental justice populations in compliance with Title VI of the Civil Rights Act of 1964.

(d) Every State agency shall submit annual summaries to the Environmental Justice Advisory Council established pursuant to subdivision 6004(a)(1)(A) of this title, detailing all complaints alleging environmental justice issues or Title VI violations and any agency action taken to resolve such complaints. Agencies shall consider the recommendations of the Advisory Council pursuant to subdivision 6004(c)(2)(E) of this title and

substantively respond in writing if an agency chooses not to implement any of the recommendations, within 90 days after receipt of the recommendations.

(e) The Agency of Natural Resources, in consultation with the Environmental Justice Advisory Council and the Interagency Environmental Justice Committee, shall review the definition of “environmental justice population” at least every five years and recommend revisions to the General Assembly to ensure the definition achieves the Environmental Justice State Policy.

(f) On or before July 1, 2023, the Agency of Natural Resources, in consultation with the Interagency Environmental Justice Committee and the Environmental Justice Advisory Council, shall issue guidance on how the agencies, departments, and bodies listed in subsection (b) of this section shall determine which investments provide environmental benefits to environmental justice populations. A draft version of the guidance shall be released for a 60-day public comment period before being finalized.

(g)(1) On or before January 15, 2024, all agencies, departments, and bodies listed in subsection (b) of this section shall, in accordance with the Agency of Natural Resources’s guidance document developed pursuant to subsection (f) of this section, review the past three years and generate baseline spending reports that include:

(A) where investments were made, if any, and which geographic areas, at the municipal level and census block group, where practicable, received environmental benefits from those investments; and

(B) the percentage of overall environmental benefits from those investments provided to environmental justice populations.

(2) The agencies, departments, and bodies shall publicly post the baseline spending reports on their respective websites.

(h) On or before July 1, 2024, the agencies, departments, and bodies listed in subsection (b) of this section shall direct investments to environmental justice populations with a goal that at least 55 percent of the overall benefits from those investments go to environmental justice populations.

(i)(1) On or before July 1, 2025, and annually thereafter, all agencies, departments, and bodies listed in subsection (b) of this section shall issue annual spending reports that include:

(A) where investments were made and which geographic areas, at the municipal level and census block group, where practicable, received environmental benefits from those investments; and

(B) the percentage of overall environmental benefits from those investments provided to environmental justice populations.

(2) The agencies, departments, and bodies shall publicly post the annual spending reports on their respective websites.

(j) On or before December 15, 2025, the Agency of Natural Resources shall submit a report to the General Assembly describing whether the baseline spending reports completed pursuant to subsection (g) of this section indicate if any municipalities or portions of municipalities are routinely underserved with respect to environmental benefits, taking into consideration whether those areas receive, averaged across three years, a significantly lower percentage of environmental benefits from State investments as compared to other municipalities or portions of municipalities in the State. This report shall include a recommendation as to whether a statutory definition of “underserved community” and any other revisions to this chapter are necessary to best carry out the Environmental Justice State Policy.

#### § 6003. RULEMAKING

(a) On or before July 1, 2024, the Agency of Natural Resources, in consultation with the Environmental Justice Advisory Council and the Interagency Environmental Justice Committee, shall adopt rules to:

(1) define cumulative environmental burdens;

(2) implement consideration of cumulative environmental burdens within the Agency of Natural Resources; and

(3) inform how the public and the State agencies, departments, and bodies specified in subsection 6002(b) of this title implement the consideration of cumulative environmental burdens and use the environmental justice mapping tool.

(b) On or before July 1, 2025 and as appropriate thereafter, the Agencies of Natural Resources, of Transportation, of Commerce and Community Development, of Agriculture, Food and Markets, and of Education; the Public Utility Commission; the Natural Resources Board; and the Departments of Health, of Public Safety, and of Public Service, in consultation with the Environmental Justice Advisory Council, shall adopt or amend policies and procedures, plans, guidance, and rules, where applicable, to implement this chapter.

(c)(1) Prior to drafting new rules required by this chapter, agencies shall consult with the Environmental Justice Advisory Council to discuss the scope and proposed content of rules to be developed. Agencies shall also submit draft rulemaking concepts to the Advisory Council for review and comment.

Any proposed rule and draft Administrative Procedure Act filing forms shall be provided to the Advisory Council not less than 45 days prior to submitting the proposed rule or rules to the Interagency Committee on Administrative Rules (ICAR).

(2) The Advisory Council shall vote and record individual members' support or objection to any proposed rule before it is submitted to ICAR. The Advisory Council shall submit the results of their vote to both ICAR and the Legislative Committee on Administrative Rules (LCAR).

§ 6004. ENVIRONMENTAL JUSTICE ADVISORY COUNCIL AND INTERAGENCY ENVIRONMENTAL JUSTICE COMMITTEE

(a) Advisory Council and Interagency Committee.

(1) There is created:

(A) the Environmental Justice Advisory Council (Advisory Council) to provide independent advice and recommendations to State agencies and the General Assembly on matters relating to environmental justice, including the integration of environmental justice principles into State programs, policies, regulations, legislation, and activities; and

(B) the Interagency Environmental Justice Committee (Interagency Committee) to guide and coordinate State agency implementation of the Environmental Justice State Policy and provide recommendations to the General Assembly for amending the definitions and protections set forth in this chapter.

(2) Appointments to the groups created in this subsection shall be made on or before December 15, 2022.

(3) Both the Advisory Council and the Interagency Committee shall consider and incorporate the Guiding Principles for a Just Transition developed by the Just Transitions Subcommittee of the Vermont Climate Council in their work.

(b) Meetings. The Advisory Council and Interagency Committee shall each meet at least nine times per year, with at least four meetings occurring jointly.

(c) Duties.

(1) The Advisory Council and the Interagency Committee shall jointly:

(A) consider and recommend to the General Assembly, on or before December 1, 2023, amendments to the terminology, thresholds, and criteria of the definition of environmental justice populations, including whether to

include populations more likely to be at higher risk for poor health outcomes in response to environmental burdens; and

(B) examine existing data and studies on environmental justice and consult with State, federal, and local agencies and affected communities regarding the impact of current statutes, regulations, and policies on the achievement of environmental justice.

(2) The Advisory Council shall:

(A) advise State agencies on environmental justice issues and on how to incorporate environmental justice into agency procedures and decision making as required under subsection 6002(b) of this title and evaluate the potential for environmental burdens or disproportionate impacts on environmental justice populations as a result of State actions and the potential for environmental benefits to environmental justice populations;

(B) advise State agencies in the development of community engagement plans;

(C) advise State agencies on the use of the environmental justice mapping tool established pursuant to section 6005 of this title and on the enhancement of meaningful participation, reduction of environmental burdens, and equitable distribution of environmental benefits;

(D) review and provide feedback to the relevant State agency, pursuant to subsection 6003(c) of this title, on any proposed rules for implementing this chapter;

(E) receive and review annual State agency summaries of complaints alleging environmental justice issues, including Title VI complaints, and suggest options or alternatives to State agencies for the resolution of systemic issues raised in or by the complaints; and

(F) have the ability to accept funds from the federal government, a political subdivision of the State, an individual, a foundation, or a corporation and may use the funds for purposes that are consistent with this chapter, including reimbursing members for their time.

(3) The Interagency Committee shall:

(A) consult with the Agency of Natural Resources in the development of the guidance document required by in subsection 6002(f) of this title on how to determine which investments provide environmental benefits to environmental justice populations; and

(B) on or before July 1, 2023, develop, in consultation with the Agency of Natural Resources and the Environmental Justice Advisory Council, a set of core principles to guide and coordinate the development of the State agency community engagement plans required under subsection 6002(c) of this title.

(d) Membership.

(1) Advisory Council. Each member of the Advisory Council shall be well informed regarding environmental justice principles and committed to achieving environmental justice in Vermont and working collaboratively with other members of the Council. To the greatest extent practicable, Advisory Council members shall represent diversity in race, ethnicity, age, gender, urban and rural areas, and different regions of the State. The Advisory Council shall consist of the following 17 members, with more than 50 percent residing in environmental justice populations:

(A) the Director of Racial Equity or designee;

(B) one representative of municipal government, appointed by the Committee on Committees;

(C) two representatives who reside in a census block group that is designated as an environmental justice population, one appointed by the Committee on Committees and one appointed by the Speaker of the House;

(D) two representatives of social justice organizations, one appointed by the Committee on Committees and one appointed by the Speaker of the House;

(E) two representatives of organizations working on food security issues, one appointed by the Committee on Committees and one appointed by the Speaker of the House;

(F) two representatives of mobile home park issues, one appointed by the Committee on Committees and one appointed by the Speaker of the House;

(G) two representatives of a State-recognized Native American Indian tribe, recommended and appointed by the Vermont Commission on Native American Affairs;

(H) two representatives of immigrant communities in Vermont, one appointed by the Committee on Committees and one appointed by the Speaker of the House;

(I) one representative of a statewide environmental organization, appointed by the Speaker of the House;

(J) the Executive Director of the Vermont Housing and Conservation Board or designee; and

(K) the Chair of the Natural Resources Conservation Council or designee.

(2) Interagency Committee. The Interagency Committee shall consist of the following 12 members:

(A) the Secretary of Administration or designee;

(B) the Secretary of Natural Resources or designee;

(C) the Secretary of Transportation or designee;

(D) the Commissioner of Housing and Community Development or designee;

(E) the Secretary of Agriculture, Food and Markets or designee;

(F) the Secretary of Education or designee;

(G) the Commissioner of Health or designee;

(H) the Director of Emergency Management or designee;

(I) the Commissioner of Public Service or designee;

(J) the Chair of Public Utility Commission or designee;

(K) the Chair of the Natural Resources Board or designee; and

(L) the Director of Racial Equity or designee.

(3) The Advisory Council and the Interagency Committee may each elect two co-chairs and may hold public hearings.

(4) After initial appointments, all appointed members of the Advisory Council shall serve six-year terms and serve until a successor is appointed. The initial terms shall be staggered so that a third of the appointed members shall serve a two-year term, another third of the appointed members shall serve a four-year term, and the remaining members shall be appointed to a six-year term.

(5) Vacancies of the Advisory Council shall be appointed in the same manner as original appointments.

(6) The Advisory Council shall have the administrative, technical, and legal assistance of the Agency of Natural Resources.



(7) Members of the Advisory Council who are neither State nor municipal employees shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010. Members may accept funds from the federal government, a political subdivision of the State, or a 501(c)(3) charitable organization and may expend funds for purposes that are consistent with this chapter. Any Council member who receives funds pursuant to this subdivision shall report to the Secretary of Natural Resources and disclose the source of the funds, the amount received, and the general purpose for which they were used. The Secretary shall post this disclosure information on its website or on the Advisory Council's own website if such a website exists.

#### § 6005. ENVIRONMENTAL JUSTICE MAPPING TOOL

(a) In consultation with the Environmental Justice Advisory Council and the Interagency Environmental Justice Committee, the Agency of Natural Resources shall determine indices and criteria to be included in a State mapping tool to depict environmental justice populations and measure environmental burdens at the smallest geographic level practicable. The Agency of Natural Resources shall maintain the mapping tool.

(b) The Agency of Natural Resources may cooperate and contract with other states or private organizations when developing the mapping tool. The mapping tool may incorporate federal environmental justice mapping tools, such as EJSCREEN, as well as existing State mapping tools such as the Vermont Social Vulnerability Index.

(c) On or before January 1, 2024, the mapping tool shall be available for use by the public as well as by the State government.

#### Sec. 3. ANNUAL REPORT

Beginning on January 15, 2024, the agencies, departments, and bodies listed in 3 V.S.A. § 6002(b) shall issue and publicly post an annual report summarizing all actions taken to incorporate environmental justice into the Agency's or Department's policies or determinations, rulemaking, permit proceedings, or project review.

#### Sec. 4. APPROPRIATION; POSITIONS

(a) There is appropriated the sum of \$3,000,000.00 in fiscal year 2023 from the General Fund. This sum shall be used to carry out the requirements of this act by hiring the staff described in subsection (b) of this section, for the cost of developing the mapping tool required in 3 V.S.A. § 6005 and the per diem payments described in 3 V.S.A. § 6004.

(b) The following positions are created for the purpose performing the environmental justice work required by this act:

(1) 10 permanent exempt positions at the Agency of Natural Resources, including two permanent exempt analysts to support the development of the mapping tool;

(2) six permanent exempt positions at the Natural Resources Board;

(3) 1.5 permanent exempt positions at the Agency of Commerce and Community Development; and

(4) 2.5 permanent exempt positions at the Department of Public Service.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

### S. 181.

An act relating to authorizing miscellaneous regulatory authority for municipal governments.

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

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Ordinance Authority Subject to Permissive Referendum \* \* \*

Sec. 1. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

(1) To set off portions of public highways of the municipality for sidewalks and bicycle paths and to regulate their installation and use.

\* \* \*

(4) To regulate the operation and use of vehicles of every kind including the power: to erect traffic signs and signals; to regulate the speed of vehicles subject to 23 V.S.A. chapter 13, subchapter 12; to implement traffic-calming devices, to regulate or exclude the parking of all vehicles; and to provide for waiver of the right of appearance and arraignment in court by persons charged with parking violations by payment of specified fines within a stated period of time.

\* \* \*

(6) To regulate the location, installation, maintenance, repair, and removal of utility poles, wires and conduits, water pipes or mains, storm drains, or gas mains and sewers, upon, under, or above public highways or public property of the municipality.

\* \* \*

(13) To compel the cleaning or repair of any premises that in the judgment of the legislative body is dangerous to the health or safety of the public and to establish standards for the maintenance of all premises within the municipality to protect the health and safety of the public or to prevent injury to other properties in the vicinity.

\* \* \*

(24) Upon the determination by a municipal building inspector, health officer, or fire marshal that a building within the boundaries of the town, city, or incorporated village is uninhabitable or blighted, to recover all expenses incident to the maintenance of the uninhabitable or blighted building with the expenses to constitute a lien on the property in the same manner and to the same extent as taxes assessed on the grand list, and all procedures and remedies for the collection of taxes shall apply to the collection of those expenses; provided, however, that the town, city, or incorporated village has adopted rules to determine the habitability of a building, including provisions for notice in accordance with 32 V.S.A. § 5252(3) to the building's owner prior to incurring expenses and including provisions for an administrative appeals process.

\* \* \*

Sec. 2. 10 V.S.A. § 1420 is amended to read:

§ 1420. VESSELS; ABANDONMENT PROHIBITED; REMOVAL AND DISPOSITION OF ABANDONED VESSELS

\* \* \*

(c) Abandonment of vessels prohibited.

(1) Civil violation. A person shall not abandon a vessel on public waters or immediately adjacent land. A person who violates this subdivision shall be subject to civil enforcement under chapters 201 and 211 of this title and, in any such enforcement action, the Secretary or municipality may obtain an order to recover costs specified in subdivision (d)(1) of this section incurred by the Agency of Natural Resources or the municipality.

\* \* \*

(d)(1)(A) Removal of abandoned vessel. Upon request from a law enforcement officer or at ~~his or her~~ the Secretary's own initiative, the Secretary shall promptly cause the removal and safe storage of a vessel that is abandoned as described in subdivision (a)(1) of this section, unless the vessel is to be removed by a federal agency. If removal is requested by a law enforcement officer, the Secretary shall make reasonable efforts to determine if the vessel qualifies as abandoned. In addition, the Secretary shall have the authority to take actions as may be necessary to eliminate risks to public health or safety caused by the condition of the vessel.

(B) A municipality shall have the authority granted to the Secretary in subdivision (A) of this subdivision (d)(1) and may remove a damaged and leaking vessel from public waters, provided that:

(i) the municipality reports the presence of the abandoned vessel to the Secretary; and

(ii) the municipality reports the presence of the abandoned vessel to the owner of the vessel, if possible.

(C) A municipality shall have the authority to issue civil penalties and impound a vessel when exercising the authority granted pursuant to subdivision (B) of this subdivision (d)(1).

\* \* \*

\* \* \* Municipal Authority Subject to Voter Approval \* \* \*

Sec. 3. 17 V.S.A. § 2645a is added to read:

§ 2645a. CHARTERED MUNICIPALITIES; VOTE TO SUSPEND  
CHARTER AUTHORITY AND RELY ON GENERAL  
MUNICIPAL LAW

(a) A municipality may propose to suspend for 3 years specific authority granted in the municipality's charter and instead use later-enacted general municipal authority granted to all Vermont municipalities by the General Assembly, provided that the proposal is approved by the voters at any annual or special meeting warned for that purpose.

(b) The proposal may be made by the legislative body of the municipality or by petition of five percent of the voters of the municipality. The proposal shall specifically identify and contain the later-enacted general law that the municipality proposes to use in lieu of the charter provision.

(c) If the proposal is approved by a majority of voters at an annual or special meeting warned for that purpose, then the municipal clerk shall certify the results of the vote to the House and Senate Committees on Government Operations.

(d) Annually on or before November 15, the Office of Legislative Counsel shall prepare a list of the charter provisions that are subject to a repeal review pursuant to this section.

Sec. 4. 17 V.S.A. § 2646a is added to read:

§ 2646a. TOWN OFFICERS; TOWN VOTE TO ALLOW ELECTION OF NONRESIDENTS

(a)(1) Notwithstanding section 2646 of this subchapter, a municipality may propose to allow nonresidents to be elected or appointed town officers, except for members of the legislative body of the municipality. For all of the municipality's boards, commissions, and other public bodies, the majority of the members of the municipal bodies shall be residents of the municipality.

(2) The proposal must be approved by the voters at any annual or special meeting warned for that purpose.

(b) The proposal may be made by the legislative body of the municipality or by petition of five percent of the voters of the municipality. The proposal shall identify the town office that may be filled by a nonresident.

Sec. 5. 17 V.S.A. § 2651a is amended to read:

§ 2651a. CONSTABLES; APPOINTMENT; REMOVAL; ELIMINATION OF OFFICE

\* \* \*

(d)(1) A town may vote at an annual meeting to eliminate the office of constable.

(2) If a town votes to eliminate the office of constable, the selectboard shall appoint a town officer to discharge the constable's duties, if any, subject to 24 V.S.A. § 1936a. The town officer shall proceed in the discharge of the constable's duties in the same manner and be subject to the same liabilities as are established by law for constables.

(3) A vote to eliminate the office of constable shall remain in effect until rescinded by majority vote of the registered voters present and voting at an annual meeting warned for that purpose.

(4) The term of office of any constable in office on the date a town votes to eliminate that office shall expire on the 45th day after the vote or on the date upon which the selectboard appoints a law enforcement officer under this subsection, whichever occurs first.

Sec. 6. 17 V.S.A. § 2668 is added to read:

§ 2668. RECALL OF LOCAL OFFICIALS

(a) Any elected municipal officer may be removed from office subject to the procedure for voter-initiated petition contained in this section.

(b) A petition for a vote on the question of recalling an elected municipal officer shall be signed by not less than 25 percent of the active registered voters of the municipality and presented to the legislative body or the clerk of the municipality.

(c) When a petition is submitted in accordance with subsection (b) of this section, the legislative body shall call a special meeting within 60 days from the date of receipt of the petition or include an article in the warning for the next annual meeting of the municipality if the annual meeting falls within the 60-day period, to determine whether the voters will remove the elected municipal officer.

(d) When the petition is approved by the voters at the special or annual meeting, the elected municipal officer named in the petition shall cease to hold the office.

(e) A vacancy resulting from the recall of an elected municipal officer shall be filled pursuant to 24 V.S.A. chapter 33, subchapter 6.

(f) A recall petition shall not be brought against an individual elected municipal officer more than once within any 12-month period.

Sec. 7. 24 V.S.A. § 138 is amended to read:

§ 138. LOCAL OPTION TAXES

~~(a) Local option taxes are authorized under this section for the purpose of affording municipalities an alternative method of raising municipal revenues to facilitate the transition and reduce the dislocations in those municipalities that may be caused by reforms to the method of financing public education under the Equal Educational Opportunity Act of 1997. Accordingly:~~

~~(1) the local option taxes authorized under this section may be imposed by a municipality;~~

~~(2) a municipality opting to impose a local option tax may do so prior to July 1, 1998 to be effective beginning January 1, 1999, and anytime after December 1, 1998 a local option tax shall be effective beginning on the next tax quarter following 90 days' notice to the Department of Taxes of the imposition; and~~

~~(3) a local option tax may only be adopted by a municipality in which:~~

~~(A) the education property tax rate in 1997 was less than \$1.10 per \$100.00 of equalized education property value; or~~

~~(B) the equalized grand list value of personal property, business machinery, inventory, and equipment is at least ten percent of the equalized education grand list as reported in the 1998 Annual Report of the Division of Property Valuation and Review; or~~

~~(C) the combined education tax rate of the municipality will increase by 20 percent or more in fiscal year 1999 or in fiscal year 2000 over the rate of the combined education property tax in the previous fiscal year. [Repealed.]~~

(b) If the legislative body of a municipality by a majority vote recommends, the voters of a municipality may, at an annual or special meeting warned for that purpose, by a majority vote of those present and voting, assess any or all of the following:

- (1) a one percent sales tax;
- (2) a one percent meals and alcoholic beverages tax;
- (3) a one percent rooms tax.

\* \* \*

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

§ 4460. APPROPRIATE MUNICIPAL PANELS

\* \* \*

(c) In the case of an urban municipality or of a rural town where the planning commission does not serve as the board of adjustment or the development review board, members of the board of adjustment or the development review board shall be appointed by the legislative body, the number and terms of office of which shall be determined by the legislative body subject to the provisions of subsection ~~(a)~~(b) of this section. The municipal legislative body may appoint alternates to a planning commission, a board of adjustment, or a development review board for a term to be determined by the legislative body. Alternates may be assigned by the legislative body to serve on the planning commission, the board of adjustment, or the development review board in situations when one or more members of the board are disqualified or are otherwise unable to serve. Vacancies shall be filled by the legislative body for the unexpired terms and upon the expiration of such terms. Each member of a board of adjustment or a development review board may be removed for cause by the legislative body upon written charges and after public hearing. If a development review board is created, provisions of this subsection regarding removal of members of the board of adjustment shall not apply.

\* \* \*

(f) Notwithstanding subsections (b) and (c) of this section, a municipality may vote at an annual or special meeting to change the number of members that may be appointed to a board of adjustment or development review board.

(1) The proposal to change the number of members serving on a board may be brought by the legislative body or by petition of five percent of the voters of the municipality.

(2) If the number of members on a board is reduced, the legislative body shall determine which of the appointed members shall remain in office.

\* \* \* Authority of Legislative Body without Voter Approval \* \* \*

Sec. 9. 18 V.S.A. § 5361 is amended to read:

§ 5361. APPROPRIATIONS AND REGULATIONS BY TOWNS

A town may vote sums of money necessary for purchasing, holding, improving, and keeping in repair suitable grounds and other conveniences for burying the dead. The selectboard may make necessary regulations concerning public burial grounds and for fencing and keeping the same in proper order.

Sec. 10. 23 V.S.A. § 1007 is amended to read:

§ 1007. LOCAL SPEED LIMITS

(a)(1) The legislative body of a municipality may establish, on the basis of an engineering and traffic investigation, a speed limit on all or a part of any city, town, or village highway within its jurisdiction, which:

(A) is not more than 50 miles per hour; however, after considering neighborhood character, abutting land use, bicycle and pedestrian use, and physical characteristics of the highways, the legislative body of a municipality may vote to set the maximum speed limit, without an engineering and traffic investigation, at not more than 50 miles per hour nor less than 35 miles per hour, on all or a portion of unpaved town highways within its boundaries, unless otherwise posted in accordance with the provisions of this section; or

(B) is not less than ~~25~~ 15 miles per hour.

\* \* \*

Sec. 11. 24 V.S.A. § 961 is amended to read:

§ 961. VACANCY OR SUSPENSION OF OFFICER'S DUTIES

\* \* \*

(e) When a member of a municipal legislative body fails to attend within a one-year period the minimum number of meetings established by the legislative body in an annual attendance policy, the legislative body may deem



the member's office vacant. The legislative body shall afford the member the opportunity to demonstrate that the absences were due to a reasonable basis established in the attendance policy. An annual attendance policy may only be established by unanimous resolution of the legislative body and shall be renewed by the legislative body annually.

Sec. 12. 18 V.S.A. § 5361 is amended to read:

§ 5361. APPROPRIATIONS AND REGULATIONS BY TOWNS

A town may vote sums of money necessary for purchasing, holding, improving, and keeping in repair suitable grounds and other conveniences for burying the dead. The selectboard may make necessary regulations concerning public burial grounds and for fencing and keeping the same in proper order.

Sec. 13. 24 V.S.A. § 4414 is amended to read:

§ 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

(a) Any of the following types of regulations may be adopted by a municipality in its bylaws in conformance with the plan and for the purposes established in section 4302 of this title.

\* \* \*

(b) A municipality may adopt a bylaw that:

(1) prohibits the initiation of construction under a zoning permit unless and until all required municipal permits have been issued; or

(2) establishes an application process for a zoning or subdivision permit, under which an applicant may submit a permit application for municipal review, and the municipality may condition the issuance of a final permit upon the issuance of all other required municipal permits.

\* \* \* Emergency Provisions for the Operation of Government \* \* \*

Sec. 14. 1 V.S.A. § 312a is added to read:

§ 312a. MEETINGS OF PUBLIC BODIES; STATE OF EMERGENCY

(a) As used in this section:

(1) “Affected public body” means a public body:

(A) whose regular meeting location is located in an area affected by a hazard; and

(B) that cannot meet in a designated physical meeting location due to a declared state of emergency pursuant to 20 V.S.A. chapter 1.

(2) “Hazard” means an “all-hazards” as defined in 20 V.S.A. § 2(1).

(b) Notwithstanding subdivisions 312(a)(2)(D) and (c)(2) of this title, during a declared state of emergency under 20 V.S.A. chapter 1:

(1) A quorum or more of an affected public body may attend a regular, special, or emergency meeting by electronic or other means without designating a physical meeting location where the public may attend.

(2) The members and staff of an affected public body shall not be required to be physically present at a designated meeting location.

(3) An affected public body of a municipality may post any meeting agenda or notice of a special meeting in two publicly accessible designated electronic locations in lieu of the two designated public places in the municipality, or in a combination of a designated electronic location and a designated public place.

(c) When an affected public body meets electronically under subsection (b) of this section, the affected public body shall:

(1) use technology that permits the attendance and participation of the public through electronic or other means;

(2) whenever feasible, allow the public to access the meeting by telephone; and

(3) post information that enables the public to directly access and participate in meetings electronically and shall include this information in the published agenda for each meeting.

(d) Unless unusual circumstances make it impossible for them to do so, the legislative body of each municipality and each school board shall record any meetings held pursuant to this section.

(e) An affected public body of a municipality shall continue to post notices and agendas in or near the municipal clerk's office pursuant to subdivision 312(c)(2) of this title and shall provide a copy of each notice or agenda to the newspapers of general circulation for the municipality.

Sec. 15. 32 V.S.A. § 4404 is amended to read:

§ 4404. APPEALS FROM LISTERS AS TO GRAND LIST

\* \* \*

(c)(1) The board shall meet at the time and place so designated, and on that day and from day to day thereafter shall hear and determine such appeals until all questions and objections are heard and decided. Each property, the appraisal of which is being appealed, shall be inspected by a committee of not less than three members of the board who shall report to the board within 30

days from the hearing on the appeal and before the final decision pertaining to the property is given. If, after notice, the appellant refuses to allow an inspection of the property as required under this subsection, including the interior and exterior of any structure on the property, the appeal shall be deemed withdrawn. The board shall, within 15 days from the time of the report, certify in writing its notice of decision, with reasons, in the premises, and shall file ~~sueh~~ the notice with the town clerk who shall thereupon record the same in the book wherein the appeal was recorded and forthwith notify the appellant in writing of the action of such board, by certified mail. If the board does not substantially comply with the requirements of this subsection and if the appeal is not withdrawn by filing written notice of withdrawal with the board or deemed withdrawn as provided in this subsection, the grand list of the appellant for the year for which appeal is being made shall remain at the amount set before the appealed change was made by the listers; except, if there has been a complete reappraisal, the grand list of the appellant for the year for which appeal is being made shall be set at a value that will produce a tax liability equal to the tax liability for the preceding year. The town clerk shall immediately record the same in the book wherein the appeal was recorded and forthwith notify the appellant in writing of ~~sueh~~ the action, by certified mail. Thereupon the appraisal so determined pursuant to this subsection shall become a part of the grand list of ~~sueh~~ the person.

(2) During a declared state of emergency under 20 V.S.A. chapter 1, a board of civil authority within a municipality affected by an all-hazards event shall not be required to physically inspect any property that is the subject of an appeal. If the appellant requests in writing that the property be inspected for purposes of the appeal, a member or members of the board shall conduct the inspection through electronic means. If the appellant does not facilitate the inspection through electronic means, then the appeal shall be deemed withdrawn.

(3) As used in this subsection, "electronic means" means the transmittal of video or photographic evidence by the appellant at the direction of the board members conducting the inspection.

(d) Listers and agents to prosecute and defend suits wherein a town is interested shall not be eligible to serve as members of the board while convened to hear and determine such appeals nor shall an appellant, ~~his or her~~ the appellant's servant, agent, or attorney be eligible to serve as a member of the board while convened to hear and determine any appeals. However, listers and agents to prosecute and defend suits wherein a town is interested shall be given the opportunity to defend the appraisals in question.

Sec. 16. 32 V.S.A. § 4467 is amended to read:

§ 4467. DETERMINATION OF APPEAL

(a) Upon appeal to the Director or the court, the hearing officer or court shall proceed de novo and determine the correct valuation of the property as promptly as practicable and to determine a homestead and a housesite value if a homestead has been declared with respect to the property for the year in which the appeal is taken. The hearing officer or court shall take into account the requirements of law as to valuation, and the provisions of Chapter I, Article 9 of the Constitution of Vermont and the 14th Amendment to the Constitution of the United States.

(b) If the hearing officer or court finds that the listed value of the property subject to appeal does not correspond to the listed value of comparable properties within the town, the hearing officer or court shall set ~~said~~ the property in the list at a corresponding value. The findings and determinations of the hearing officer shall be made in writing and shall be available to the appellant.

(c)(1) If the appeal is taken to the Director, the hearing officer may inspect the property prior to making a determination, unless one of the parties requests an inspection, in which case the hearing officer shall inspect the property prior to making a determination. Within 10 days of the appeal being filed with the Director, the Director shall notify the property owner in writing of ~~his or her~~ the Director's option to request an inspection under this section.

(2) During a declared state of emergency under 20 V.S.A. chapter 1, a hearing officer shall not be required to physically inspect any property that is the subject of an appeal. If the appellant requests in writing that the property be inspected for purposes of the appeal, the hearing officer shall conduct the inspection through electronic means. If the appellant does not facilitate the inspection through electronic means, then the appeal shall be deemed withdrawn.

(3) As used in this subsection, "electronic means" means the transmittal of video or photographic evidence by the appellant at the direction of the hearing officer conducting the inspection.

Sec. 17. 24 V.S.A. § 5152 is added to read:

§ 5152. DISCONNECTIONS PROHIBITED; STATE OF EMERGENCY

(a) Notwithstanding this chapter or any provision of law to the contrary, a municipality; a person who is permitted as a public water system pursuant to 10 V.S.A. chapter 56 and who provides another person water as a part of the operation of that public water system; or a company engaged in the collecting,

sale, and distribution of water for domestic, industrial, business, or fire protection purposes that is regulated by the Public Utility Commission under 30 V.S.A. § 203(3) shall be prohibited from disconnecting any person from services during a declared state of emergency under 20 V.S.A. chapter 1, provided that:

(1) the state of emergency is declared in response to an all-hazards event that will cause financial hardship and the inability of ratepayers to pay for water or sewer services; and

(2) the all-hazards event does not require the water or sewer service provider to disconnect services to protect the health and safety of the public.

(b)(1) A violation of subsection (a) of this section by a municipality or a person who is permitted as a public water system pursuant to 10 V.S.A. chapter 56 may be enforced by the Agency of Natural Resources pursuant to 10 V.S.A. chapter 201.

(2) A violation of subsection (a) of this section by a company engaged in the collecting, sale, and distribution of water for domestic, industrial, business, or fire protection purposes that is regulated by the Public Utility Commission under 30 V.S.A. § 203(3) may be enforced by the Public Utility Commission pursuant to 30 V.S.A. § 30.

(c) A ratepayer shall remain obligated for any amounts due to a water or sewer service provider subject to this section. The ratepayer shall have a minimum of 90 days after the end of the declared state of emergency to pay the amounts due.

Sec. 18. 20 V.S.A. § 47 is added to read:

§ 47. MUNICIPAL DEADLINES, PLANS, AND LICENSES; EXTENSION

(a) During a state of emergency declared under this chapter, a municipal corporation may:

(1) extend any statutory deadline applicable to municipal corporations, provided that the deadline does not relate to a license, permit, program, or plan issued or administered by the State or federal government; and

(2) extend or waive deadlines applicable to licenses, permits, programs, or plans that are issued by the municipal corporation.

(b) During a state of emergency declared under this chapter, any expiring license, permit, program, or plan issued by a municipal corporation that is due for renewal or review shall remain valid for 90 days after the date that the declared state of emergency ends.

\* \* \* Repeal \* \* \*

Sec. 19. REPEAL

19 V.S.A. § 312 (use of town highway funds) is repealed.

\* \* \* Effective Date \* \* \*

Sec. 20. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

(Committee vote: 5-0-0)

**S. 219.**

An act relating to ensuring compliance with the U.S. and Vermont Constitutions in the use of public funds for tuition and in the dual enrollment program.

**Reported favorably with recommendation of amendment by Senator Campion for the Committee on Education.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Provision of Publicly Funded Education in Vermont \* \* \*

Sec. 1. 16 V.S.A. § 820 is added to read:

§ 820. PROVISION OF PUBLICLY FUNDED EDUCATION IN VERMONT

(a) Findings and purpose.

(1) The Vermont Constitution provides that “a competent number of schools ought to be maintained in each town unless the general assembly permits other provisions for the convenient instruction of youth.” VT Const. CH II, § 68. Interpreting this provision in *Brigham v. State*, 692 A.2d 384 (1997), the Vermont Supreme Court stated that “[t]he state may delegate to local towns and cities the authority to finance and administer the schools within their borders; it cannot, however, abdicate the basic responsibility for education by passing it on to local governments, which are themselves creations of the state.” *Id.* at 395.

(A) From this, it is evident that the State has a constitutional obligation to provide public education to its youth. Many Vermont school districts operate schools, but others do not. Vermont is a relatively sparsely populated and mountainous state that has made the operation of public schools unviable in certain regions of the State. Students who live in these regions do not have the choice of enrolling in a public school in their district; their only

choice is to enroll in a public school operated by another school district or an independent school or to be homeschooled.

(B) Therefore, in order to fulfill its constitutional requirement to provide public education to its youth, the State permits school districts that do not operate schools (nonoperating school districts) to use public funds to send their resident youth to public schools operated by other school districts or to certain independent schools. In order for an independent school to be eligible to receive public tuition, this section requires these schools to:

(i) comply with all federal and State antidiscrimination laws applicable to Vermont public schools; and

(ii) not use public tuition to support religious instruction, religious indoctrination, religious worship, or the propagation of religious views.

(2) Chapter 1, Article 3 of the Vermont Constitution, known as the “Compelled Support Clause,” provides that “no person ... can be compelled to support any place of worship ... contrary to the dictates of conscience ...”

(A) In *Chittenden Town v. Department of Education*, 38 A.2d 539 (Vt. 1999), the Vermont Supreme Court held that a school district may pay public tuition to a school with a religious mission under the Compelled Support Clause if the school has adequate safeguards against the use of such funds for religious worship or instruction or the propagation of religious views.

(B) This section sets out adequate safeguards to ensure that public tuition is not used for religious instruction, religious indoctrination, religious worship, or the propagation of religious views.

(b) Conditions for eligibility of an approved independent school to receive public tuition. An approved independent school shall be eligible to receive public tuition only if all of the following conditions are met.

(1)(A) The school has adopted and implemented policies and procedures to comply with all federal and State antidiscrimination laws applicable to Vermont public schools and makes reasonable efforts to enforce these policies and procedures. Compliance with the requirements set forth in these antidiscrimination laws includes compliance with the Vermont Public Accommodations Act, 9 V.S.A. chapter 139, the Vermont Fair Employment Practices laws, 21 V.S.A. chapter 5, subchapter 6, and all other federal and State antidiscrimination laws that apply to public schools, to the same extent that these laws apply to public schools, even if those laws by their terms do not apply to the approved independent school.

(B) The school posts and maintains on its website in a prominent place its policy to comply with all antidiscrimination laws that apply to public schools.

(2) None of the public tuition will be used to support religious instruction, religious indoctrination, religious worship, or the propagation of religious views, except for religious instruction that is designed to provide an overview of religious history and teachings and does not support religious instruction, religious indoctrination, religious worship, or the propagation of any one religion or theology over others. In this section, “indoctrination” means the process of repeating an idea or belief to someone until they accept it without criticism or question.

(3) The school receives approval from the State Board of Education to receive public tuition. In order to receive State Board approval, the school shall, in addition to satisfying any conditions required by the State Board, enter into a contract with the State Board, signed by an authorized representative acting on behalf of the school’s governing body, agreeing to comply with the eligibility requirements under subdivisions (1)–(2) of this subsection (antidiscrimination; no use of funds for religious purposes).

(c) Process for payment and school selection.

(1) The State Board of Education shall maintain a list of approved independent schools eligible to receive public tuition on its website.

(2) A school district may only pay tuition to an approved independent school eligible to receive public tuition listed on the State Board’s website. Payment of public tuition shall be made directly from the district to the school unless otherwise required by court order.

(d) Approved independent school eligible to receive public tuition. As used in this title, an “approved independent school eligible to receive public tuition” means an approved independent school that is eligible to receive public tuition under this section. An independent school meeting education quality standards under section 165 of this title or an approved independent school in Vermont functioning as an approved area career technical center under chapter 37 of this title that seeks to receive public tuition is required also to qualify as an approved independent school eligible to receive public tuition.



Sec. 1a. 16 V.S.A. § 820 is amended to read:

§ 820. PROVISION OF PUBLICLY FUNDED EDUCATION IN VERMONT

(a) Findings and purpose.

(1) The Vermont Constitution provides that “a competent number of schools ought to be maintained in each town unless the general assembly permits other provisions for the convenient instruction of youth.” VT Const. CH II, § 68. Interpreting this provision in *Brigham v. State*, 692 A.2d 384 (1997), the Vermont Supreme Court stated that “[t]he state may delegate to local towns and cities the authority to finance and administer the schools within their borders; it cannot, however, abdicate the basic responsibility for education by passing it on to local governments, which are themselves creations of the state.” *Id.* at 395.

\* \* \*

(B) Therefore, in order to fulfill its constitutional requirement to provide public education to its youth, the State permits school districts that do not operate schools (nonoperating school districts) to use public funds to send their resident youth to public schools operated by other school districts or to certain independent schools. In order for an independent school to be eligible to receive public tuition, this section requires these schools to:

(i) comply with all federal and State antidiscrimination laws applicable to Vermont public schools; ~~and~~

(ii) not use public tuition to support religious instruction, religious indoctrination, religious worship, or the propagation of religious views; ~~and~~

(iii) enroll any student with an individualized education program (IEP) who requires special education services and who is placed in the independent school as an appropriate placement and least restrictive environment for the student by the student’s individualized education program team or by the local education agency (LEA) as required under section 2973 of this title.

\* \* \*

(b) Conditions for eligibility of an approved independent school to receive public tuition. An approved independent school shall be eligible to receive public tuition only if all of the following conditions are met.

\* \* \*

(3) The school enrolls any student with an individualized education program who requires special education services and who is placed in the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education program team or by LEA as required under section 2973 of this title.

~~(3)~~(4) The school receives approval from the State Board of Education to receive public tuition. In order to receive State Board approval, the school shall, in addition to satisfying any conditions required by the State Board, enter into a contract with the State Board, signed by an authorized representative acting on behalf of the school's governing body, agreeing to comply with the eligibility requirements under subdivisions (1)~~–(2)~~(3) of this subsection (antidiscrimination; no use of funds for religious purposes; enrollment of students on an IEP).

\* \* \*

\* \* \* Unlawful Employment Practice \* \* \*

Sec. 2. 21 V.S.A. § 495 is amended to read:

§ 495. UNLAWFUL EMPLOYMENT PRACTICE

\* \* \*

~~(e) The provisions of this section prohibiting discrimination on the basis of sexual orientation and gender identity shall not be construed to prohibit or prevent any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, that is operated, supervised, or controlled by or in connection with a religious organization, from giving preference to persons of the same religion or denomination or from taking any action with respect to matters of employment that is calculated by the organization to promote the religious principles for which it is established or maintained. [Repealed.]~~

\* \* \*

\* \* \* Dual Enrollment \* \* \*

Sec. 3. 16 V.S.A. § 944 is amended to read:

§ 944. DUAL ENROLLMENT PROGRAM

\* \* \*

(b) Students.

(1) A Vermont resident who has completed grade 10 but has not received a high school diploma is eligible to participate in the Program if:

(A) ~~the student:~~

~~(i) is enrolled in:~~

~~(I) a Vermont public school, including a Vermont career technical center;~~

~~(II) a public school in another state or an approved independent school that is designated as the public secondary school for the student's district of residence; or~~

~~(III) an approved independent school in Vermont to which the student's district of residence pays publicly funded tuition on behalf of the student;~~

~~(ii) is assigned to a public school through the High School Completion Program; or~~

~~(iii) is a home study student;~~

none of the payment to the accredited postsecondary institution will be used to support religious instruction, religious indoctrination (as defined in section 820 of this title), religious worship, or the propagation of religious views, except for religious instruction that is designed to provide an overview of religious history and teachings and does not support religious instruction, religious indoctrination, religious worship, or the propagation of religious views of any one religion or theology over others; and

(B) the student is not enrolled in a recognized independent school or a school or program that is not recognized for attendance purposes under section 1121 of this title;

~~(B)(C)~~ dual enrollment is an element included within the student's personalized learning plan; and

~~(C)(D)~~ the secondary school and the postsecondary institution have determined that the student is sufficiently prepared to succeed in a dual enrollment course, which can be determined in part by the assessment tool or tools identified by the participating postsecondary institution.

\* \* \*

\* \* \* Conforming Changes \* \* \*

Sec. 4. 16 V.S.A. § 11 is amended to read:

#### § 11. CLASSIFICATIONS AND DEFINITIONS

(a) As used in this title, unless the context otherwise clearly requires:

\* \* \*

(20a) “Approved independent school eligible to receive public tuition” means an approved independent school that is also approved by the State Board of Education to receive public tuition under section 820 of this title.

\* \* \*

Sec. 5. 16 V.S.A. § 165 is amended to read:

§ 165. EDUCATION QUALITY STANDARDS; EQUAL EDUCATIONAL OPPORTUNITIES; INDEPENDENT SCHOOL MEETING EDUCATION QUALITY STANDARDS

\* \* \*

(b) Annually, the Secretary shall determine whether students in each Vermont public school are provided educational opportunities substantially equal to those provided in other public schools. If the Secretary determines that a school is not meeting the education quality standards listed in subsection (a) of this section or that the school is making insufficient progress in improving student performance in relation to the standards for student performance set forth in subdivision 164(9) of this title, ~~he or she~~ the Secretary shall describe in writing actions that a district must take in order to meet either or both sets of standards and shall provide technical assistance to the school. If the school fails to meet the standards or make sufficient progress within two years of the determination, the Secretary shall recommend to the State Board one or more of the following actions:

\* \* \*

(4) the State Board close an individual school or schools and require that the school district pay tuition to another public school or an approved independent school ~~pursuant to chapter 21 of this title~~ eligible to receive public tuition; or

\* \* \*

Sec. 6. 16 V.S.A. § 166 is amended to read:

§ 166. APPROVED AND RECOGNIZED INDEPENDENT SCHOOLS

\* \* \*

(b) Approved independent schools. On application, the State Board shall approve an independent school that offers elementary or secondary education if it finds, after opportunity for hearing, that the school provides a minimum course of study pursuant to section 906 of this title and that it substantially complies with all statutory requirements for approved independent schools and the Board’s rules for approved independent schools. ~~An independent school~~

~~that intends to accept public tuition shall be approved by the State Board only on the condition that the school agrees, notwithstanding any provision of law to the contrary, to enroll any student who requires special education services and who is placed in or referred to the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education program team or by the local education agency; provided, however, that this requirement shall not apply to an independent school that limits enrollment to students who are on an individualized education program or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to a written agreement between the local education agency and the school. Except as provided in subdivision (6) of this subsection, the Board's rules must at minimum require that the school have the resources required to meet its stated objectives, including financial capacity, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities and special services that are in accordance with any State or federal law or regulation. Approval may be granted without State Board evaluation in the case of any school accredited by a private, State, or regional agency recognized by the State Board for accrediting purposes, provided that the State Board shall determine that the school complies with all student enrollment provisions required by law.~~

\* \* \*

Sec. 7. 16 V.S.A. § 821 is amended to read:

§ 821. SCHOOL DISTRICT TO MAINTAIN PUBLIC ELEMENTARY SCHOOLS OR PAY TUITION

\* \* \*

(d) Notwithstanding subdivision (a)(1) of this section, the electorate of a school district that does not maintain an elementary school may grant general authority to the school board to pay tuition for an elementary student at an approved independent elementary school eligible to receive public tuition or an independent school meeting education quality standards pursuant to sections 823 and 828 of this chapter upon notice given by the student's parent or legal guardian before April 15 for the next academic year.

Sec. 8. 16 V.S.A. § 822 is amended to read:

§ 822. SCHOOL DISTRICT TO MAINTAIN PUBLIC HIGH SCHOOLS OR PAY TUITION

(a) Each school district shall maintain one or more approved high schools in which high school education is provided for its resident students unless:

(1) the electorate authorizes the school board to close an existing high school and to provide for the high school education of its students by paying tuition to a public high school, an approved independent high school, or an independent school meeting education quality standards, to be selected by the parents or guardians of the student, within or outside the State in accordance with sections 824 and 828 of this title; or

\* \* \*

(c)(1) A school district may both maintain a high school and furnish high school education by paying tuition:

\* \* \*

(B) to an approved independent school eligible to receive public tuition or an independent school meeting education quality standards if the school board judges that a student has unique educational needs that cannot be served within the district or at a nearby public school.

\* \* \*

Sec. 9. 16 V.S.A. § 823 is amended to read:

§ 823. ELEMENTARY TUITION

\* \* \*

(b) Unless the electorate of a school district authorizes payment of a higher amount at an annual or special meeting warned for the purpose, the tuition paid to an approved independent elementary school eligible to receive public tuition or an independent school meeting education quality standards shall not exceed the least of:

\* \* \*

Sec. 10. 16 V.S.A. § 824 is amended to read:

§ 824. HIGH SCHOOL TUITION

\* \* \*

(c) The district shall pay an amount not to exceed the average announced tuition of Vermont union high schools for the year of attendance for its students enrolled in an approved independent school eligible to receive public tuition that does not functioning function as a Vermont area career technical center, or any higher amount approved by the electorate at an annual or special meeting warned for that purpose.

Sec. 11. 16 V.S.A. § 827 is amended to read:

§ 827. DESIGNATION OF A PUBLIC HIGH SCHOOL OR AN  
APPROVED INDEPENDENT HIGH SCHOOL AS THE PUBLIC  
HIGH SCHOOL OF A SCHOOL DISTRICT

(a) A school district not maintaining an approved public high school may vote on such terms or conditions as it deems appropriate, to designate three or fewer approved independent schools eligible to receive public tuition or public high schools as the public high school or schools of the district.

\* \* \*

(c) A parent or legal guardian who is dissatisfied with the instruction provided at a designated school or who cannot obtain for ~~his or her~~ the parent's or legal guardian's child the kind of course or instruction desired there, or whose child can be better accommodated in an approved independent school eligible to receive public tuition or public high school nearer ~~his or her~~ the child's home during the next academic year, may request on or before April 15 that the school board pay tuition to another approved independent school eligible to receive public tuition or public high school selected by the parent or guardian.

\* \* \*

(e) Notwithstanding any other provision of law to the contrary:

\* \* \*

(2) unless otherwise directed by an affirmative vote of the school district, when the Wells Board approves parental requests to pay tuition to a nondesignated approved independent school eligible to receive public tuition or public school, the Board shall pay tuition in an amount not to exceed the base education amount as determined under section 4011 of this title for the fiscal year in which tuition is being paid; and

(3) unless otherwise directed by an affirmative vote of the school district, when the Strafford Board approves a parental request to pay tuition to a nondesignated approved independent school eligible to receive public tuition or public school, the Board shall pay tuition to the nondesignated school pursuant to section 824 of this title for the year in which the student is enrolled; provided, however, that it shall not pay tuition in an amount that exceeds the tuition paid to the designated school for the same academic year.

Sec. 12. 16 V.S.A. § 828 is amended to read:

§ 828. TUITION TO APPROVED SCHOOLS; AGE; APPEAL

(a) A school district shall not pay the tuition of a student except to a public school, an approved independent school eligible to receive public tuition, an independent school meeting education quality standards, a tutorial program approved by the State Board, an approved education program, or, subject to subsection (b) of this section, an independent school in another state or country approved under the laws of that state or country, ~~nor shall payment.~~ Payment of tuition on behalf of a person shall not be denied on account of age. Unless otherwise provided, a person who is aggrieved by a decision of a school board relating to eligibility for tuition payments, the amount of tuition payable, or the school ~~he or she~~ the person may attend; may appeal to the State Board, and its decision shall be final.

(b) An independent school in another state or country that is approved under the laws of that state or country is eligible to receive public tuition if all of the following conditions are met:

(1) It is located in a state that borders Vermont or in the Quebec Province of Canada, provided that an independent school that is not located in a state that borders Vermont or in the Quebec Province of Canada shall be eligible to receive public tuition if:

(A) the student is on an individual education program (IEP) and is placed at the school in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, as amended;

(B) the student is on a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended (504 Plan); or

(C) the student is determined to be disabled by the evaluation planning team or local education agency representative under State Board of Education rules.

(2)(A) The independent school has adopted and implemented policies and procedures to comply with all antidiscrimination laws applicable to public schools in the state or country where the independent school is located and makes reasonable efforts to enforce these policies and procedures. Compliance with the requirements set forth in these antidiscrimination laws includes compliance with antidiscrimination laws to the same extent as these laws apply to public schools, even if those laws by their terms do not apply to the independent school.



(B) The independent school posts and maintains on its website in a prominent place its policy to comply with all antidiscrimination laws that apply to public schools in the state or country where the independent school is located.

(3) None of the public tuition will be used to support religious instruction, religious indoctrination (as defined in section 820 of this title), religious worship, or the propagation of religious views, except for religious instruction that is designed to provide an overview of religious history and teachings and does not support religious instruction, religious indoctrination, religious worship, or the propagation of religious views of any one religion or theology over others.

(4) The independent school enters into a contract with the Vermont State Board of Education, signed by an authorized representative acting on behalf of the school's governing body, agreeing to comply with the eligibility requirements under subdivisions (2)–(3) of this subsection (antidiscrimination; no use of funds for religious purposes).

Sec. 13. 16 V.S.A. § 1073 is amended to read:

§ 1073. “LEGAL PUPIL” DEFINED; ACCESS TO SCHOOL

\* \* \*

(b) Access to school.

\* \* \*

(2) Right to enroll in a public or independent school. Notwithstanding the provisions of sections 822 and 1075 of this title, a pregnant or parenting student may enroll in any approved public school in Vermont or an adjacent state, any approved independent school eligible to receive public tuition in Vermont, or any other educational program approved by the State Board in which any other legal pupil in Vermont may enroll.

\* \* \*

Sec. 14. 16 V.S.A. § 2962 is amended to read:

§ 2962. EXTRAORDINARY SPECIAL EDUCATION REIMBURSEMENT

\* \* \*

(e) Under section 2973 of this title, a supervisory union, in its role as the local education agency, may place a student with an individualized education program under the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, with ~~certain~~ approved independent schools ~~that accept public tuition~~ eligible to receive public tuition. If the approved independent school is

entitled to special education cost reimbursement under that section, it may bill the supervisory union for excess special education costs incurred by the independent school in providing special education services to that student beyond those covered by general tuition. If those costs for that student exceed the extraordinary expenditures threshold as defined in subdivision (a)(2) of this section, the supervisory union shall be entitled to extraordinary reimbursement.

Sec. 15. 16 V.S.A. § 2973 is amended to read:

#### § 2973. INDEPENDENT SCHOOL TUITION RATES

(a)(1) Notwithstanding any provision of law to the contrary, an approved independent school ~~that accepts~~ eligible to receive public tuition shall enroll any student with an individualized education program who requires special education services and who is placed in the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education program team or by the local education agency (LEA); provided, however, that this requirement shall not apply to an independent school that limits enrollment to students who are on an individualized education program or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to a written agreement between the LEA and the school.

\* \* \*

\* \* \* Development of Standard Contract \* \* \*

#### Sec. 16. DEVELOPMENT OF STANDARD CONTRACT

(a) On or before August 1, 2022, the State Board of Education shall create and post on its website a standard form contract for use by approved independent schools eligible to receive public tuition that complies with the requirements of 16 V.S.A. § 820(b)(3) (antidiscrimination; no use of funds for religious purposes; enrollment of students on an individualized education program). The contract shall contain each of the following provisions:

(1) The State Board's authorization for the school to receive public tuition is conditioned on continued compliance by the school of this contract as well as any other conditions required by law or State Board rules.

(2)(A) The school has adopted and implemented policies and procedures to comply with all federal and State antidiscrimination laws applicable to Vermont public schools and makes reasonable efforts to enforce these policies and procedures. Compliance with the requirements set forth in these antidiscrimination laws includes compliance with the Vermont Public Accommodations Act, 9 V.S.A. chapter 139, the Vermont Fair Employment

Practices laws, 21 V.S.A. chapter 5, subchapter 6, and all other federal and State antidiscrimination laws that apply to public schools to the same extent that these laws apply to public schools, even if those laws by their terms do not apply to the school.

(B) The school has posted and shall maintain on its website in a prominent place its policy to comply with all antidiscrimination laws that apply to public schools.

(3) None of the public tuition will be used by the school to support religious instruction, religious indoctrination, religious worship, or the propagation of religious views, except for religious instruction that is designed to provide an overview of religious history and teachings and does not support religious instruction, religious indoctrination, religious worship, or the propagation of any one religion or theology over others. As used in this contract, “indoctrination” means the process of repeating an idea or belief to someone until they accept it without criticism or question.

(4) Commencing with the 2023–2024 school year and thereafter, the school shall enroll any student with an individualized education program who requires special education services and who is placed in the school as an appropriate placement and least restrictive environment for the student by the student’s individualized education program team or by the local education agency as required under 16 V.S.A. § 2973.

(b) On or before August 1, 2022, the State Board of Education shall create and post on its website a standard form contract for use by independent schools in another state or country that complies with the requirements of 16 V.S.A. § 828(b) (antidiscrimination; no use of funds for religious purposes). The contract shall contain each of the following provisions:

(1) The State Board’s authorization for the school to receive public tuition is conditioned on continued compliance by the school of this contract.

(2)(A) The independent school has adopted and implemented policies and procedures to comply with all antidiscrimination laws applicable to public schools in the state or country where the independent school is located and makes reasonable efforts to enforce these policies and procedures. Compliance with the requirements set forth in these antidiscrimination laws includes compliance with antidiscrimination laws to the same extent as these laws apply to public schools, even if those laws by their terms do not apply to the independent school.

(B) The independent school posts and maintains on its website in a prominent place its policy to comply with all antidiscrimination laws that apply to public schools in the state or country where the independent school is located.

(3) None of the public tuition will be used to support religious instruction, religious indoctrination, religious worship, or the propagation of religious views, except for religious instruction that is designed to provide an overview of religious history and teachings and does not support religious instruction, religious indoctrination, religious worship, or the propagation of religious views of any one religion or theology over others. As used in this contract, “indoctrination” means the process of repeating an idea or belief to someone until they accept it without criticism or question.

(c) A contract signed on behalf of the State Board and a school under 16 V.S.A. § 820(b)(3) or 828(b) shall contain no other conditions or requirements than those required under this section. The State Board and the school shall amend the contract as necessary to comply with applicable law, and the State Board shall amend its model contracts accordingly.

\* \* \* Transition \* \* \*

#### Sec. 17. TRANSITION

A student enrolled for the 2021–2022 school year in, or has been accepted for enrollment for the 2022–2023 school year by, an independent school in another state or country that would not be eligible to receive public tuition under 16 V.S.A. § 828 as amended by this act shall continue to be entitled to public tuition until such time as the student graduates from that school. The school shall not be required to enter into the contract with the Vermont State Board of Education under 16 V.S.A. § 828 as amended by this act.

\* \* \* Effective Dates \* \* \*

#### Sec. 18. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 1a, 6, 14, and 15 shall take effect on July 1, 2023.

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

An act relating to ensuring compliance with the U.S. and Vermont Constitutions in the use of public funds for tuition.

(Committee vote: 6-0-0)

**S. 234.**

An act relating to changes to Act 250.

**Reported favorably with recommendation of amendment by Senator Bray for the Committee on Natural Resources and Energy.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Municipal Zoning \* \* \*

Sec. 1. 24 V.S.A. § 2793e is amended to read:

§ 2793e. NEIGHBORHOOD PLANNING AREAS; DESIGNATION OF  
NEIGHBORHOOD DEVELOPMENT AREAS

(a) Purpose. This section is intended to encourage a municipality to plan for new and infill housing in the area including and immediately encircling its designated downtown, village center, new town center, or within its designated growth center in order to provide needed housing and to further support the commercial establishments in the designated center. To support this goal, this section sets out a two-component process.

\* \* \*

(b) Definitions.

(1) “Neighborhood planning area” means an automatically delineated area including and encircling a downtown, village center, or new town center designated under this chapter or within a growth center designated under this chapter. A neighborhood planning area is used for the purpose of identifying locations suitable for new and infill housing that will support a development pattern that is compact, oriented to pedestrians, and consistent with smart growth principles. To ensure a compact settlement pattern, the outer boundary of a neighborhood planning area shall be located entirely within the boundaries of the applicant municipality, unless a joint application is submitted by more than one municipality, and shall be determined:

\* \* \*

(c) Application for designation of a neighborhood development area. The State Board shall approve a neighborhood development area if the application demonstrates and includes all of the following elements:

\* \* \*

(5) The proposed neighborhood development area consists of those portions of the neighborhood planning area that are appropriate for new and infill housing, excluding identified flood hazard and fluvial erosion areas, except those areas containing preexisting development in areas suitable for infill development as defined in § 29-201 of the Vermont Flood Hazard Area and River Corridor Rule. In determining what areas are most suitable for new and infill housing, the municipality shall balance local goals for future land use, the availability of land for housing within the neighborhood planning area, and the smart growth principles. Based on those considerations, the municipality shall select an area for neighborhood development area designation that:

(A) Avoids or ~~that~~ minimizes to the extent feasible the inclusion of “important natural resources” as defined in subdivision 2791(14) of this title. If an “important natural resource” is included within a proposed neighborhood development area, the applicant shall identify the resource, explain why the resource was included, describe any anticipated disturbance to such resource, and describe why the disturbance cannot be avoided or minimized. If the neighborhood development area includes flood hazard areas or river corridors, the local bylaws shall contain provisions consistent with the Agency of Natural Resources’ rules required under 10 V.S.A. § 754(a) to ensure that new infill development within a neighborhood development area occurs outside the flood hazard area and will not cause or contribute to fluvial erosion hazards within the river corridor. If the neighborhood development area includes flood hazard areas or river corridors, local bylaws shall also contain provisions to protect river corridors outside the neighborhood development area consistent with the Agency of Natural Resources’ rules required under 10 V.S.A. § 754(a).

\* \* \*

(6) ~~The neighborhood development area is served by:~~

~~(A) municipal sewer infrastructure; or~~

~~(B) a community or alternative wastewater system approved by the Agency of Natural Resources. [Repealed.]~~

(7) The municipal bylaws allow minimum net residential densities within the neighborhood development area greater than or equal to four ~~single-family detached~~ dwelling units per acre for all identified residential uses or residential building types, exclusive of accessory dwelling units, or ~~no~~ not fewer than the average existing density of the surrounding neighborhood, whichever is greater. The methodology for calculating density shall be established in the guidelines developed by the Department pursuant to subsection 2792(d) of this title.

\* \* \*

Sec. 2. 24 V.S.A. § 2793b is amended to read:

§ 2793b. DESIGNATION OF NEW TOWN CENTER DEVELOPMENT DISTRICTS

\* \* \*

(b) Within 45 days of receipt of a completed application, the State Board shall designate a new town center development district if the State Board finds, with respect to that district, the municipality has:

\* \* \*

(2) Provided a community investment agreement that has been executed by authorized representatives of the municipal government, businesses and property owners within the district, and community groups with an articulated purpose of supporting downtown interests, and contains the following:

\* \* \*

(B) Regulations enabling ~~high~~ densities that are ~~greater~~ not less than four dwelling units, including all identified residential uses or residential building types, per acre and not less than those allowed in any other part of the municipality not within an area designated under this chapter.

\* \* \*

Sec. 3. 24 V.S.A. § 4449 is amended to read:

§ 4449. ZONING PERMIT, CERTIFICATE OF OCCUPANCY, AND MUNICIPAL LAND USE PERMIT

(a) Within any municipality in which any bylaws have been adopted:

\* \* \*

(4) No municipal land use permit issued by an appropriate municipal panel or administrative officer, as applicable, for a site plan or conditional use shall be considered abandoned or expired unless more than two years has passed since the permit approval was issued.

\* \* \* Act 250 \* \* \*

Sec. 4. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

As used in this chapter:

\* \* \*

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

\* \* \*

(iv) The construction of housing projects such as cooperatives, condominiums, or dwellings, or construction or maintenance of mobile homes or mobile home parks, with 10 or more units, constructed or maintained on a tract or tracts of land, owned or controlled by a person, within a radius of five miles of any point on any involved land and within any continuous period of five years. However:

(I) A priority housing project shall constitute a development under this subdivision (iv) only if the number of housing units in the project is:

(aa) [Repealed.]

(bb) [Repealed.]

(cc) 75 or more, in a municipality with a population of 6,000 or more but less than 10,000.

(dd) 50 or more, in a municipality with a population of 3,000 or more but less than 6,000.

(ee) ~~25 or more, in a municipality with a population of less than 3,000.~~ [Repealed.]

(ff) Notwithstanding subdivisions (cc) through (ee) of this subdivision (3)(A)(iv)(I), 10 or more if the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision (ff) if the Division for Historic Preservation has determined that the proposed demolition will have no adverse effect, will have no adverse effect if specified conditions are met, or will have an adverse effect that will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document.

\* \* \*

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

\* \* \*

(IV) Notwithstanding any other provision of this chapter to the contrary, the construction of a priority housing project funded primarily by the American Rescue Plan Act of 2021 only if the mixed income housing project to be constructed contains at least 80 percent of the housing units with a duration of affordability of not less than 30 years.



\* \* \*

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

(7) ~~“Floodway fringe” means an area that is outside a floodway and is flooded with an average frequency of once or more in each 100 years, as determined by the Secretary of Natural Resources with full consideration given to upstream impoundments and flood control projects~~ “River corridor” has the same meaning as under section 752 of this title.

\* \* \*

(27) ~~“Mixed income housing” means a housing project in which the following apply:~~

(A) ~~Owner-occupied housing. At the option of the applicant, owner-occupied housing may be characterized by either of the following:~~

~~(i) at least 15 percent of the housing units have a purchase price that at the time of first sale does not exceed 85 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency; or~~

~~(ii) at least 20 percent of the housing units have a purchase price that at the time of first sale does not exceed 90 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency meet the requirements of affordable owner-occupied housing under subdivision (29)(A) of this section, adjusted for the number of bedrooms, as established and published annually by the Vermont Housing Finance Agency.~~

~~(B) Rental housing. At least 20 percent of the housing units that are rented constitute affordable housing and have a duration of affordability of For not less than 15 years following the date that rental housing is initially placed in service, at least 20 percent of the housing units meet the requirements of affordable rental housing under subdivision (29)(B) of this section, adjusted for the number of bedrooms, as established and published annually by the Vermont Housing Finance Agency.~~

\* \* \*

Sec. 5. 10 V.S.A. § 6086 is amended to read:

§ 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

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

\* \* \*

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

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

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

\* \* \*

\* \* \* Municipal Response to Act 250 Requests \* \* \*

Sec. 6. 10 V.S.A. 6086(g) is added to read:

(g) If a municipality fails to respond to a request by the applicant within 90 days as to the impacts related to subdivision (a)(6) or (7) of this section, the application will be presumed not to have an unreasonable burden on educational, municipal, or governmental services.

\* \* \* Forest Blocks \* \* \*

Sec. 7. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

As used in this chapter:

\* \* \*

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

(44) “Forest block” means a contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may include features including recreational trails, wetlands, or other natural features that do not themselves possess tree cover and improvements constructed for farming, logging, or forestry purposes.

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

Sec. 8. 10 V.S.A. § 6086(a)(8) is amended to read:

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

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

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

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

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

(iii) a reasonably acceptable alternative site is owned or controlled by the applicant ~~which~~ that would allow the development or subdivision to fulfill its intended purpose.

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

Sec. 9. CRITERION 8(C) RULEMAKING

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

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

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

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

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

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

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

(A) appropriate ratios for compensation;

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

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

(b) The Board shall convene a working group to provide input to the rule prior to prefiling with the Interagency Committee on Administrative Rules. The Board shall convene the working group on or before June 1, 2023.

(c) The Board shall file a final proposed rule with the Secretary of State and Legislative Committee on Administrative Rules on or before June 15, 2024.

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

#### § 127. RESOURCE MAPPING

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

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

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

\* \* \* Roads \* \* \*

Sec. 11. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

As used in this chapter:

\* \* \*

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

\* \* \*

(xi) The construction of a road, roads, driveway, or driveways, which as a single road or driveway is greater than 800 feet, or which in combination is greater than 2,000 feet, to provide access to or within a tract or tracts of land of more than one acre owned or controlled by a person.

(I) For the purposes of determining jurisdiction under this subdivision (xi), any tract or tracts of land that will be provided access by the road or driveway is involved land.

(II) As used in this subdivision (xi), “road” shall include any new road or upgrade of a class 4 highway by a person other than a municipality, including a road that will be transferred to or maintained by a municipality after its construction or upgrade. For the purposes of this subdivision (II), routine maintenance of a class 4 highway or stormwater improvement required pursuant to section 1264 of this title shall not constitute an “upgrade.”

(aa) Routine maintenance shall include replacing a culvert or ditch, increasing the size or configuration of an existing drainage structure to improve resiliency, applying new stone, grading, or making repairs after adverse weather.

(bb) Routine maintenance shall not include changing the size of the road, changing the location or layout of the road, or adding pavement unless undertaken to improve the function of an existing drainage structure.

(III) For the purpose of determining the length under this subdivision (xi), the length of all roads and driveways within the tract or tracts of land constructed within any continuous period of 10 years after October 1, 2020 shall be included.

(IV) This subdivision (xi) shall not apply to:

(aa) a road constructed for a municipal, county, or State purpose; a utility corridor of an electric transmission or distribution company; or a road located entirely within a designated downtown or neighborhood development area; and

(bb) a road used primarily for farming or forestry purposes unless used for a residential purpose.

\* \* \*

\* \* \* Wood Products Manufacturers \* \* \*

Sec. 12. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

\* \* \*

(47) “Wood products manufacturer” means a manufacturer that aggregates wood products from forestry operations and adds value through processing or marketing in the wood products supply chain or directly to consumers through retail sales. “Wood products manufacturer” includes sawmills; veneer mills; pulp mills; pellet mills; producers of firewood, woodchips, mulch, and fuel wood; and log and pulp concentration yards. “Wood products manufacturer” does not include facilities that purchase, market, and resell finished goods, such as wood furniture, wood pellets, and milled lumber, without first receiving wood products from forestry operations.

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

Sec. 13. 10 V.S.A. § 6086(c) is amended to read:

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

(2) Permit conditions on a wood products manufacturer.

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

(B) If an adverse impact under subdivision (a)(1), (5), or (8) of this section would result, a permit with conditions shall allow the manufacturer to operate while mitigating these impacts. A permit with conditions that mitigate these impacts shall allow for deliveries of wood products from forestry operations to the manufacturer outside permitted hours of operation, including nights, weekends, and holidays, for the number of days demonstrated by the manufacturer as necessary to enable business operations, not to exceed 90 days per year.

(3) Permit with conditions on the delivery of wood heat fuels. A permit with conditions issued to a wood products manufacturer that produces wood chips, pellets, cord wood, or other fuel wood used for heat shall allow shipment of that fuel wood from the manufacturer to the end user outside permitted hours of operation, including nights, weekends, and holidays, from October 1 through April 30 of each year. Permits with conditions shall mitigate the undue adverse impacts while enabling the operations of the manufacturer.

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

\* \* \* One-acre towns \* \* \*

Sec. 14. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

\* \* \*

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

(i) The construction of improvements on a tract or tracts of land, owned or controlled by a person, involving more than 10 acres of land within a radius of five miles of any point on any involved land, for commercial or industrial purposes in a municipality that has adopted permanent zoning and subdivision bylaws.

(ii) The construction of improvements on a tract or tracts of land, owned or controlled by a person, involving more than one acre of land within a radius of five miles of any point on any involved land, for commercial or industrial purposes on more than one acre of land within in a municipality that has not adopted permanent zoning and subdivision bylaws.

\* \* \*

\* \* \* Reports \* \* \*

Sec. 15. REPORT; ACT 250 JURISDICTION OVER AGRICULTURAL BUSINESSES

On or before January 15, 2023, the Natural Resources Board shall submit to the General Assembly a report with recommendations on how Act 250 jurisdiction should be applied to agricultural businesses, including those located on properties already operating as farms. The report shall address the current land use planning requirements for farms and farms with accessory on-farm businesses and whether different types of businesses associated with farms and farming require different levels of review. The report may consider whether or not the location of such businesses is relevant and may consider the designation or adoption of agricultural business innovation zones with different levels of review.

Sec. 16. DESIGNATED AREA REPORT; APPROPRIATION

(a) The sum of \$150,000.00 is appropriated from the General Fund to the Department of Housing and Community Development in fiscal year 2023 for the purpose of hiring a consultant to evaluate the State designation programs established in 24 V.S.A. chapter 76A pursuant to subsection (b) of this section.

(b)(1) The Department of Housing and Community Development shall hire an independent consultant to:



(A) review and assess the State designation programs and incentives established in 24 V.S.A. chapter 76A that recognize and invest in the vitality of Vermont's compact settlement areas; and

(B) conduct statewide stakeholder outreach to support the evaluation of and future improvements to the programs, including participation by State, regional, municipal, and advocacy and non-governmental organizations.

(2) The consultant shall make recommendations on how to:

(A) objectively define and map existing compact settlements as a basis for broader recognition;

(B) improve the consistency between and among regional plans and future land use maps;

(C) modernize these programs, including consideration of program reform or consolidation;

(D) make the designation programs and associated benefits more accessible to municipalities;

(E) apply regulatory and non-regulatory benefits;

(F) strengthen designation and incentives as a platform for place-based economic development, climate-action, complete streets, and equity and efficiency of public investment and service delivery;

(G) implement the smart growth principles established by 24 V.S.A. § 2791; and

(H) achieve the goals established in 24 V.S.A. § 4302.

(3) On or before July 15, 2023, the consultant shall submit a written report to the General Assembly with its findings and any recommendations for legislative action.

\* \* \* Study Committee; Effective Date \* \* \*

#### Sec. 17. STUDY COMMITTEE; NATURAL RESOURCES BOARD STRUCTURE

(a) There is created a study committee on the structure and function of the Natural Resources Board. The group shall consist of eight members, four appointed by the Speaker of the House and four appointed by the Committee on Committees.

(b) The group shall hear from various stakeholder groups on how to enhance the administration of the Act 250 program, including considerations of:

- (1) the membership of the Board;
  - (2) the appointment process;
  - (3) grounds for removing a member from the Board;
  - (4) the responsibilities and authorities of the Board and District Commissions;
  - (5) funding of the operation of the Board, District Commissions, and the Act 250 program; and
  - (6) the handling of appeals issued by the District Commissions and the Board.
- (c) On or before December 31, 2022, the group shall report back to the General Assembly with any proposed changes to the structure and function of the Natural Resources Board.

\* \* \* Effective Dates \* \* \*

Sec. 18. EFFECTIVE DATES

This act shall take effect on July 1, 2022, except that Sec. 8 (10 V.S.A. § 6086(a)(8)) shall take effect on September 1, 2024.

(Committee vote: 4-1-0)

**S. 258.**

An act relating to amending the Required Agricultural Practices in order to address climate resiliency.

**Reported favorably with recommendation of amendment by Senator Collamore for the Committee on Agriculture.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. § 23 is added to read:

§ 23. GOOD STANDING FOR AGENCY GRANTS

(a) As used in this section, “good standing” means an applicant for a grant exclusively awarded by the Agency:

- (1) does not have an active enforcement violation that has reached a final order with the Secretary; and
- (2) is in compliance with all terms of a current grant agreement or contract with the Agency.

(b) This section shall not amend, alter, or otherwise modify the “good standing” requirements established for grant programs in chapter 215 of this title.

(c) An applicant shall not be eligible for any grant exclusively awarded by the Agency unless the applicant is in good standing with the Secretary on all grant agreements, contract awards, and enforcement proceedings at the time of the grant award.

(d) In the Secretary’s sole discretion, the Agency may waive the grant prohibition in subsection (c) of this section if the Secretary determines that:

(1) the applicant is working constructively with the Agency in good faith to resolve all issues that prevent good standing, and the applicant agrees in writing to take all necessary measures to comply with good standing requirements within a described time period;

(2) all issues that prevent an applicant’s good standing are minor and do not warrant ineligibility for the applicable grant; or

(3) the Secretary determines that waiving the good standing requirement is in the interests of justice.

(e) The good standing requirement only applies to grants exclusively awarded by the Agency. When the Agency is involved in administering other grants, the Agency may raise an applicant’s lack of good standing for the awarding entity’s consideration and review. The awarding entity may consider the applicant’s lack of compliance when determining whether to award a grant.

Sec. 2. 6 V.S.A. § 4802(8) is amended to read:

(8) “Waste” or “agricultural waste” means material originating or emanating from a farm or imported onto a farm that is determined by the Secretary or the Secretary of Natural Resources to be harmful to the waters of the State, including: sediments; minerals, including heavy metals; plant nutrients; pesticides; organic wastes, including livestock waste, animal mortalities, compost, feed, and crop debris; waste oils; pathogenic bacteria and viruses; thermal pollution; silage runoff; untreated milk house waste; and any other farm waste as the term “waste” is defined in 10 V.S.A. § 1251(12).

Sec. 3. 6 V.S.A. § 4815 is amended to read:

#### § 4815. WASTE STORAGE FACILITY

(a) No person shall construct a new waste storage facility or expand or modify a waste storage facility in existence on July 1, 2006 unless the facility meets the standard established for such facilities by the Natural Resources Conservation Service of the U.S. Department of Agriculture or an equivalent

standard. If an equivalent design standard is used, the design and construction shall be certified by the Secretary of Agriculture, Food and Markets or a licensed professional engineer operating within the scope of ~~his or her~~ the engineer's expertise.

(b) The Secretary may require the owner or operator of a waste storage facility in existence on July 1, 2006, to modify the facility to meet the standard set forth in subsection (a) of this section if the facility poses a threat to human health or the environment as established by a violation of the State groundwater protection standards. If the Secretary determines that a facility that meets the standard set forth in subsection (a) of this section poses a threat to human health or the environment, the Secretary may require the owner or operator of the facility to implement additional management measures.

~~(c) The~~ If the Secretary suspects that a waste storage facility may be contaminating groundwater, the Secretary shall pay the costs of any initial groundwater monitoring conducted to determine if whether a facility poses a threat to human health or the environment shall be paid by the Secretary. Within 21 days ~~of~~ after a determination under this subsection that a facility poses a threat to human health or the environment because of apparent violation of the Groundwater Protection Standards, the Secretary of Agriculture, Food and Markets shall notify the Department of Health and the Secretary of Natural Resources of the location of the facility and the name of its owner or operator.

~~(e)(d)~~ As used in this section, "waste storage facility" means an impoundment made for the purpose of storing agricultural waste by constructing an embankment, excavating a pit or dugout, fabricating an inground and aboveground structure, or any combination thereof.

Sec. 4. 6 V.S.A. § 4817 is amended to read:

#### § 4817. MANAGEMENT OF NON-SEWAGE WASTE

(a) As used in this section:

(1) "Non-sewage waste" means any waste other than sewage that may contain organisms pathogenic to human beings but does not mean stormwater runoff.

(2) "Sewage" means waste containing human fecal coliform and other potential pathogenic organisms from sanitary waste and used water from any building, including carriage water and shower and wash water. "Sewage" shall does not mean stormwater runoff as that term is defined in 10 V.S.A. § 1264.

(b) The Secretary may require a person transporting or arranging for the transport of non-sewage waste to a farm for deposit in a manure pit or for use as an input in a methane digester to obtain approval from the Secretary prior to transporting the non-sewage waste to the farm. The Secretary may require a person to report to the Secretary at a designated time one or more of the following:

(1) the composition of the material transported to the farm, including the source of the material; and

(2) the volume of the material transported to a farm.

(c) After receipt of a report required under subsection (b) of this section, the Secretary may prohibit the import of non-sewage waste onto a farm upon a determination that the import of the material would violate the nutrient management plan for the farm or otherwise present a threat to water quality.

Sec. 5. 6 V.S.A. § 4827 is amended to read:

~~§ 4827. NUTRIENT MANAGEMENT PLANNING; INCENTIVE GRANTS~~

~~(a) A farm developing or implementing a nutrient management plan under chapter 215 of this title or federal regulations may apply to the Secretary of Agriculture, Food and Markets for financial assistance. The financial assistance shall be in the form of incentive grants. Annually, after consultation with the Natural Resources Conservation Service of the U.S. Department of Agriculture, natural resources conservation districts, the University of Vermont Extension Service and others, the Secretary shall determine the average cost of developing and implementing a nutrient management plan in Vermont. The dollar amount of an incentive grant awarded under this section shall be equal to the average cost of developing a nutrient management plan as determined by the Secretary or the cost of complying with the nutrient management planning requirements of chapter 215 of this title or federal regulations, whichever is less.~~

~~(b) Application for a State assistance grant shall be made in a manner prescribed by the Secretary and shall include, at a minimum:~~

~~(1) an estimated cost of developing and implementing a nutrient management plan for the applicant;~~

~~(2) the amount of incentive grant requested; and~~

~~(3) a schedule for development and implementation of the nutrient management plan.~~

~~(c) The Secretary annually shall prepare a list of farms ranked, regardless of size, in priority order that have applied for an incentive grant under this~~

~~section. The priority list shall be established according to factors that the Secretary determines are relevant to protect the quality of waters of the State, including:~~

~~(1) the proximity of a farm to a water listed as impaired for agricultural runoff, pathogens, phosphorus, or sediment by the Agency of Natural Resources;~~

~~(2) the proximity of a farm to an unimpaired water of the State;~~

~~(3) the proximity of a drinking water well to land where a farm applies manure; and~~

~~(4) the risk of discharge to waters of the State from the land application of manure by a farm.~~

~~(d) Assistance in accordance with this section shall be provided from State funds appropriated to the Agency of Agriculture, Food and Markets for integrated crop management.~~

~~(e) If the Secretary or the applicable U.S. Department of Agriculture conservation programs lack adequate funds necessary for the financial assistance required by subsection (a) of this section, the requirement to develop and implement a nutrient management plan under State statute or State regulation shall be suspended until adequate funding becomes available. Suspension of a State-required nutrient management plan does not relieve an owner or operator of a farm permitted under section 4858 or 4851 of this title of the remaining requirements of a State permit, including discharge standards, groundwater protection, and land application of manure. This subsection does not apply to farms permitted under 10 V.S.A. § 1263.~~

~~(f) The Secretary may enter into grants with natural resources conservation districts, the University of Vermont Extension Service, and other persons and organizations to aid in the implementation of the incentive grants program under subsection (a) of this section and to assist farmers in the development and implementation of nutrient management plans. [Repealed.]~~

Sec. 6. 6 V.S.A. § 4828 is amended to read:

#### § 4828. CAPITAL EQUIPMENT ASSISTANCE PROGRAM

(a) It is the purpose of this section to provide assistance to purchase or use innovative equipment that will aid in the reduction of surface runoff of agricultural wastes to State waters, improve water quality of State waters, reduce odors from manure application, separate phosphorus from manure, decrease greenhouse gas emissions, and reduce costs to farmers.

(b) The capital equipment assistance program is created in the Agency of Agriculture, Food and Markets to provide State financial assistance for the purchase of new or innovative equipment to ~~improve manure application, separation of phosphorus from manure, or nutrient management plan implementation~~ achieve the purposes of this section.

(c) Assistance under this section shall in each fiscal year be allocated according to the following priorities and as further defined by the Secretary. Priority shall be given to capital equipment to be used on multiple farms; equipment to be used for phosphorus reduction, separation, or treatment; and projects managed by nonprofit organizations that are located in descending order within the boundaries of:

- (1) the Lake Champlain Basin;
- (2) the Lake Memphremagog Basin;
- (3) the Connecticut River Basin; and
- (4) the Hudson River Basin.

(d) An applicant for a State grant under this section to purchase or implement phosphorus reduction, separation, or treatment technology or equipment shall pay 10 percent of the total eligible project cost. The dollar amount of a State grant to purchase or implement phosphorus reduction, separation, or treatment technology or equipment shall be equal to the total eligible project cost, less 10 percent of the total as paid by the applicant, and shall not exceed \$300,000.00.

Sec. 7. 6 V.S.A. § 4832 is amended to read:

#### § 4832. FARM AGRONOMIC PRACTICES PROGRAM

(a) The Farm Agronomic Practices Assistance Program is created in the Agency of Agriculture, Food and Markets to provide the farms of Vermont with State financial assistance for the implementation, including through education, training, or instruction, of soil-based practices that improve soil quality and nutrient retention, increase crop production, minimize erosion potential, and reduce agricultural waste discharges. The following practices may be eligible for assistance to farms under the grant program:

- (1) conservation crop rotation;
- (2) cover cropping;
- (3) strip cropping;
- (4) cross-slope tillage;

(5) zone or no-tillage;

(6) pre-sidedress nitrate tests; and

~~(7) annual maintenance of a nutrient management plan that is no longer receiving funding under a State or federal contract, provided the maximum assistance provided to a farmer under this subdivision shall be \$2,000.00 per year;~~

~~(8) educational and instructional activities to inform the farmers and citizens of Vermont of:~~

~~(A) the impact on Vermont waters of agricultural waste discharges;~~  
and

~~(B) the federal and State requirements for controlling agricultural waste discharges;~~

~~(9) implementing alternative manure application techniques; and~~

~~(10) additional soil erosion reduction practices~~ soil-based practices that improve soil quality and nutrient retention, increase crop production, minimize erosion potential, and reduce agricultural waste discharges.

~~(b) Funding available under section 4827 of this title for nutrient management planning may be used to fund practices under this section.~~

Sec. 8. 6 V.S.A. § 4852 is amended to read:

§ 4852. RULES

The Secretary may adopt rules pursuant to 3 V.S.A. chapter 25 concerning program administration, program enforcement, appeals and standards for waste management and waste storage, setbacks or siting criteria for new construction or expansion, groundwater contamination, odor, noise, traffic, insects, flies, and other pests in order to implement this subchapter. The siting criteria adopted by the Secretary by rule shall be consistent with the standards for the quality of State waters and standards for ~~acceptable~~ required agricultural practices pursuant to subchapter 2 of this chapter. The groundwater contamination rules adopted by the Secretary shall include a process under which the agency shall receive, investigate, and respond to a complaint that a farm has contaminated the drinking water or groundwater of a property owner.



Sec. 9. EXTENSION OF TASK FORCE TO REVITALIZE THE VERMONT DAIRY INDUSTRY

(a) Notwithstanding 2020 Acts and Resolves No. 129, Sec. 31(c)(6), the Task Force to Revitalize the Vermont Dairy Industry shall continue to exist and retain the authority granted to it in 2020 Acts and Resolves No. 129, Sec. 31 until February 1, 2023.

(b)(1) For attendance of a meeting of the Task Force to Revitalize the Vermont Dairy Industry during adjournment of the General Assembly between the effective date of this act and February 1, 2023, a legislative member of the Task Force shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than 10 meetings. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Task Force that are not legislative members shall be entitled to both per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than 10 meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 10. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to agricultural water quality, enforcement, and dairy farming.

(Committee vote: 5-0-0)

**S. 283.**

An act relating to miscellaneous changes to education laws.

**Reported favorably with recommendation of amendment by Senator Chittenden for the Committee on Education.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Community College of Vermont In-State Tuition for Refugees \* \* \*

Sec. 1. 16 V.S.A. § 2185 is amended to read:

§ 2185. DETERMINATION OF RESIDENCY FOR TUITION PURPOSES

(a) The Board of Trustees shall adopt policies related to residency for tuition purposes, consistent with State and federal requirements.

(b) Any member of the U.S. Armed Forces on active duty who is transferred to Vermont for duty other than for the purpose of education shall, upon transfer and for the period of active duty served in Vermont, be considered a resident for in-state tuition purposes at the start of the next semester or academic period.

(c) For determination of residency for tuition to the Community College of Vermont, a person who resides in Vermont shall be considered a resident for in-state tuition purposes, beginning at the start of the next semester or academic period after arrival in Vermont, if that person:

(1) qualifies as a refugee pursuant to 8 U.S.C. 1101(a)(42);

(2) is granted parole to enter the United States pursuant to 8 U.S.C. 1182(d)(5); or

(3) is issued a special immigrant visa pursuant to the Afghan Allies Protection Act of 2008, as amended.

\* \* \* Suspension or Expulsion of Students \* \* \*

Sec. 2. 16 V.S.A. § 1162 is amended to read:

#### § 1162. SUSPENSION OR EXPULSION OF STUDENTS

(a) A superintendent or principal may, pursuant to policies adopted by the school board that are consistent with State Board rules, suspend a student for up to 10 school days or, with the approval of the board of the school district, expel a student for up to the remainder of the school year or up to 90 school days, whichever is longer, for misconduct:

(1) on school property, on a school bus, or at a school-sponsored activity when the misconduct makes the continued presence of the student harmful to the welfare of the school;

(2) not on school property, on a school bus, or at a school-sponsored activity where direct harm to the welfare of the school can be demonstrated; or

(3) not on school property, on a school bus, or at a school-sponsored activity where the misconduct can be shown to pose a clear and substantial interference with another student's equal access to educational programs.

(b) Nothing contained in this section shall prevent a superintendent or principal, subject to subsequent due process procedures, from removing immediately from a school a student who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process of the school, or from expelling a student who brings a weapon to school pursuant to section 1166 of this title.

(c) Principals, superintendents, and school boards are authorized and encouraged to provide alternative education services or programs to students during any period of suspension or expulsion authorized under this section.

(d) Notwithstanding anything to the contrary in this chapter, a student enrolled in a public school, approved independent school, or prequalified private prekindergarten program who is under eight years of age shall not be suspended or expelled from the school; provided, however, that the school may suspend or expel the student if the student poses an imminent threat of harm or danger to others in the school.

Sec. 3. REPORT AND RECOMMENDATIONS ON SUSPENSION,  
EXPULSION, AND EXCLUSIONARY PRACTICES IN EARLY  
CHILDHOOD EDUCATION SETTINGS

The Building Bright Futures Council, established in 33 V.S.A. § 4602, shall collaborate with the Agencies of Human Services and Education to define suspension, expulsion, and exclusionary practices in early childhood education settings and to establish best practices for supporting children who face such measures. The work of the Council shall include reviewing available data on exclusionary practices. On or before January 15, 2023 the Building Bright Futures Council shall issue a written report to the Senate and House Committees on Education, the Senate Committee on Health and Welfare, and the House Committee on Human Services detailing its work and findings and making recommendations for legislative action.

\* \* \* Entrance Age Threshold for Public School Kindergarten \* \* \*

Sec. 4. REPORT AND RECOMMENDATIONS ON THE IMPACT OF  
STANDARDIZING THE ENTRANCE AGE THRESHOLD FOR  
PUBLIC SCHOOL KINDERGARTEN

On or before December 15, 2022, the Agency of Education shall issue a written report to the Senate and House Committees on Education on the impact of standardizing the entrance age threshold for public school kindergarten attendance. In preparing the report, the Agency of Education shall consult with the Vermont Department for Children and Families, the Vermont Department of Health, the Vermont School Boards Association, the Vermont Principals' Association, the Vermont Superintendents Association, and the Vermont National Education Association. The report shall include any recommendations for legislative action.

\* \* \* Statewide Uniform School Calendar \* \* \*

Sec. 5. REPORT AND RECOMMENDATIONS FOR A STATEWIDE  
UNIFORM SCHOOL CALENDAR

On or before January 15, 2024, the Agency of Education shall issue a written report to the Senate and House Committees on Education with a proposed statewide uniform school calendar, created to improve high-quality learning opportunities for all Vermont students. In creating the calendar, the Agency shall consider the impact on attendance at regional career and technical education centers as well as the impact on families and educators. The uniform calendar shall include student attendance days, periods of vacation, holidays, and teacher in-service education days.

\* \* \* Remote Learning \* \* \*

Sec. 6. REPORT AND RECOMMENDATIONS FOR STATEWIDE  
REMOTE LEARNING POLICY

On or before January 15, 2023, the Agency of Education, in consultation with the State Board of Education, shall issue a written report to the Senate and House Committees on Education with recommendations for a statewide remote learning policy that incorporates remote learning into the requirements for student attendance, school days, and cumulative instructional hours. The report shall define remote learning and recommend statewide quality standards to ensure substantially equal access to quality basic education. The report shall also include any recommendations for legislative action.

\* \* \* Effective Date \* \* \*

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 6-0-0)

**Favorable with Proposal of Amendment**

**H. 444.**

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

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

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

By striking out Sec. 2, 24 App. V.S.A. chapter 1, in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. 24 App. V.S.A. chapter 1 is amended to read:

CHAPTER 1. CITY OF BARRE

\* \* \*

§ 104. GENERAL CORPORATE POWERS

\* \* \*

(d) The City of Barre shall fly only the City, State, United States, and POW/MIA flags.

§ 105. ORDINANCES - SUBJECT MATTER

(a) The general grant of ordinance promulgating authority in section 104 shall include the authority:

\* \* \*

(7) To adopt and enforce ordinances relating to the mediation of landlord tenant issues by the Housing Board of Review Notwithstanding any contrary provision of 23 V.S.A. § 1007, to adopt and enforce ordinances establishing a speed limit of less than 25 miles per hour on specified City streets, or sections thereof, within City boundaries as may be required for the safety and general welfare of the City.

\* \* \*

§ 111. BONDING OF CITY OFFICIALS

The Mayor, councilors, members of the Police Department, City Manager, ~~First Constable~~ Finance Director, Superintendent of Public Works, Tax Collector, and Clerk and Treasurer shall annually be bonded by the City for the faithful discharge of their respective duties, as provided by State statute, and the expense of said bonds to be paid by the City.

\* \* \*

§ 205. OFFICERS ELECTED

(a)(1) The legal voters shall elect biennially a Mayor, ~~a First Constable~~, and one person to serve as Clerk and Treasurer.

\* \* \*

Subchapter 4. City Officials

\* \* \*

ARTICLE 8. CONSTABLE [Repealed.]

\* \* \*

§ 418. DUTIES

~~The City Constable shall have the same powers and be under the same duties and liabilities as are prescribed by State statutes for constables of towns. [Repealed.]~~

\* \* \*

(Committee vote: 3-2-0)

(For House amendments, see House Journal for May 18, 2021, pages 1191-1193)

**H. 701.**

An act relating to cannabis license fees.

**Reported favorably with recommendation of proposal of amendment by Senator Pearson for the Committee on Finance.**

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

First: By striking out Sec. 7, 7 V.S.A. § 910, in its entirety and inserting in lieu thereof a new Sec. 7 to read as follows:

Sec. 7. 7 V.S.A. §§ 910 and 911 are added to read:

§ 910. CANNABIS ESTABLISHMENT FEE SCHEDULE

The following fees shall apply to each person or product licensed by the Board:

(1) Cultivators.

(A) Outdoor cultivators.

(i) Outdoor cultivator tier 1. Outdoor cultivators with up to 1,000 square feet of plant canopy or fewer than 125 cannabis plants in an outdoor cultivation space shall be assessed an annual licensing fee of \$750.00.

(ii) Outdoor cultivator tier 2. Outdoor cultivators with up to 2,500 square feet of plant canopy in an outdoor cultivation space shall be assessed an annual licensing fee of \$1,875.00.

(iii) Outdoor cultivator tier 3. Outdoor cultivators with up to 5,000 square feet of plant canopy in an outdoor cultivation space shall be assessed an annual licensing fee of \$4,000.00.

(iv) Outdoor cultivator tier 4. Outdoor cultivators with up to 10,000 square feet of plant canopy in an outdoor cultivation space shall be assessed an annual licensing fee of \$8,000.00.

(v) Outdoor cultivator tier 5. Outdoor cultivators with up to 20,000 square feet of plant canopy in an outdoor cultivation space shall be assessed an annual licensing fee of \$18,000.00.

(vi) Outdoor cultivator tier 6. Outdoor cultivators with up to 37,500 square feet of plant canopy in an outdoor cultivation space shall be assessed an annual licensing fee of \$34,000.00.

(B) Indoor cultivators.

(i) Indoor cultivator tier 1. Indoor cultivators with up to 1,000 square feet of plant canopy in an indoor cultivation space shall be assessed an annual licensing fee of \$1,500.00.

(ii) Indoor cultivator tier 2. Indoor cultivators with up to 2,500 square feet of plant canopy in an indoor cultivation space shall be assessed an annual licensing fee of \$3,750.00.

(iii) Indoor cultivator tier 3. Indoor cultivators with up to 5,000 square feet of plant canopy in an indoor cultivation space shall be assessed an annual licensing fee of \$8,000.00.

(iv) Indoor cultivator tier 4. Indoor cultivators with up to 10,000 square feet of plant canopy in an indoor cultivation space shall be assessed an annual licensing fee of \$16,000.00.

(v) Indoor cultivator tier 5. Indoor cultivators with up to 15,000 square feet of plant canopy in an indoor cultivation space shall be assessed an annual licensing fee of \$36,000.00.

(vi) Indoor cultivator tier 6. Indoor cultivators with up to 25,000 square feet of plant canopy in an indoor cultivation space shall be assessed an annual licensing fee of \$75,000.00.

(C) Mixed cultivator tiers.

(i) Mixed cultivator tier 1. Mixed cultivators with the following at the same licensed premises shall be assessed an annual licensing fee of \$2,250.00: up to 1,000 square feet of plant canopy in an indoor cultivation space and up to 125 cannabis plants in an outdoor cultivation space.

(ii) Mixed cultivator tier 2. Mixed cultivators with the following at the same licensed premises shall be assessed an annual licensing fee of \$5,625.00: up to 2,500 square feet of plant canopy in an indoor cultivation

space and up to 312 cannabis plants in an outdoor cultivation space.

(iii) Mixed cultivator tier 3. Mixed cultivators with the following at the same licensed premises shall be assessed an annual licensing fee of \$5,500.00: up to 1,000 square feet of plant canopy in an indoor cultivation space and up to 625 cannabis plants in an outdoor cultivation space.

(iv) Mixed cultivator tier 4. Mixed cultivators with the following at the same licensed premises shall be assessed an annual licensing fee of \$9,500.00: up to 1,000 square feet of plant canopy in an indoor cultivation space and up to 1,250 cannabis plants in an outdoor cultivation space.

(v) Mixed cultivator tier 5. Mixed cultivators with the following at the same licensed premises shall be assessed an annual licensing fee of \$19,500.00: up to 1,000 square feet of plant canopy in an indoor cultivation space and up to 2,500 cannabis plants in an outdoor cultivation space.

(2) Wholesalers. Wholesalers shall be assessed an annual licensing fee of \$4,000.00.

(3) Manufacturers.

(A) Manufacturer tier 1. Manufacturers that process and manufacture cannabis in order to produce cannabis products without using solvent-based extraction and not more than \$10,000.00 per year in cannabis products based on the manufacturer's total annual sales in cannabis products shall be assessed an annual licensing fee of \$750.00.

(B) Manufacturer tier 2. Manufacturers that process and manufacture cannabis in order to produce cannabis products without using solvent-based extraction shall be assessed an annual licensing fee of \$2,500.00.

(C) Manufacturer tier 3. Manufacturers that process and manufacture cannabis in order to produce cannabis products using all allowable methods of extraction, including solvent-based extraction, shall be assessed an annual licensing fee of \$15,000.00.

(4) Retailers. Retailers that sell cannabis and cannabis products to consumers shall be assessed an annual licensing fee of \$10,000.00.

(5) Testing laboratories. Testing laboratories shall be assessed an annual licensing fee of \$1,500.00.

(6) Integrated licensees. Integrated licensees shall be assessed an annual licensing fee of \$100,000.00.

(7) Employees. Cannabis establishments licensed by the Board shall be assessed an annual licensing fee of \$50.00 for each employee.



(8) Products. Retailers and integrated licensees shall be assessed an annual product licensing fee of \$50.00 for every type of cannabis and cannabis product that is sold in accordance with this chapter.

(9) Local licensing fees. Cannabis establishments licensed by the Board shall be assessed an annual local licensing fee of \$100.00 in addition to each fee assessed under subdivisions (1)–(6) of this section. Local licensing fees shall be distributed to the municipality in which the cannabis establishment is located pursuant to section 846(c) of this title.

(10) One-time fees.

(A) All applicants for a cannabis establishment license shall be assessed an initial one-time application fee of \$1,000.00.

(B) An applicant may choose to be assessed an initial one-time intent-to-apply fee of \$500.00. If the applicant subsequently seeks a license within one year after paying the intent-to-apply fee, the initial one-time application fee of \$1,000.00 shall be reduced by \$500.00.

#### § 911. FEE WAIVER AND REDUCTION; SOCIAL EQUITY APPLICANTS

The Cannabis Control Board may, in its discretion and pursuant to adopted rule or readily accessible policy, or both, reduce or waive cannabis establishment application and licensing fees for social equity applicants as defined by the Board, including individuals from communities that historically have been disproportionately impacted by cannabis prohibition and individuals directly and personally impacted by cannabis prohibition.

Second: By striking out Sec. 10, effective date, and its reader assistance heading in their entirety and inserting in lieu thereof a new Sec. 10 and reader assistance heading to read as follows:

\* \* \* Effective Dates \* \* \*

#### Sec. 10. EFFECTIVE DATES

(a) Secs. 8 and 9 (medical cannabis; 7 V.S.A. §§ 955(b) and 977) shall take effect on July 1, 2022.

(b) All other sections shall take effect on passage.

(Committee vote: 7-0-0)

(No House amendments)

## 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.

Heather J. Gray of Queechee – Superior Court Judge – By Sen. Nitka for the Committee on Judiciary. (2/25/22)

Justin Patrick Jiron of Underhill – Superior Court Judge – By Sen. Baruth for the Committee on Judiciary. (2/25/22)

Howard A. Kalfus of Colchester – Superior Court Judge – By Sen. Benning for the Committee on Judiciary. (2/25/22)

## 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 #3087** – \$663,538 to the VT Department of Financial Regulation from the Centers for Medicare and Medicaid Services. Funds will be used to analyze Vermont’s current health insurance options to ensure coverage is accessible to all Vermonters, and to develop an action plan if necessary. Includes one (1) limited-service position, Grant Manager and Health Policy Analyst, funded through 9/14/2023.

***[NOTE: The Department of Financial Regulation signed an RFP with an actuarial firm to start looking at the benchmark in September 2021. The work being performed now is planned on being paid for with grant funds.]***

*[Received February 10, 2022]*

**JFO #3088** – \$896,945 to the VT Judiciary from the U.S. Office of Justice Programs. Funds will be used to support The Chittenden County Family Treatment Docket which opened for referrals in March 2021. The initial limited launch was intended to capture what areas require additional technical assistance from our national best practice standards partner, Children and Family Futures. Funding is needed to sustain operation and expand service to a

larger number of at-risk families. Includes one (1) limited-service position, Treatment Court Coordinator, funded through 09/2024.

*[Received February 10, 2022]*

**JFO #3089** - \$6,589,481 to the VT Agency of Human Services, Dept of Disabilities, Aging and Independent Living from U.S. Dept of Education. Funds to establish a system and to provide support for 500 Vermonters with disabilities to achieve credentials leading to high-wage employment. Includes eight (8) limited-service positions: one (1) Project Director; six (6) VR Counselor/Career Navigator; one (1) Assistive Technology Specialist funded through 9/30/2026.

*[Received February 17, 2022, expedited review requested February 17, 2022]*

**JFO #3090** –Three (3) limited-service positions: Military Project Manager. Positions needed to replace Federal personnel reductions in project management and program management staffing levels. VT Military confirms the positions are fully funded through the Master Cooperative Agreement through 9/30/24.

*[Received February 17, 2022]*

**JFO #3091** - \$60,528 to the VT Department of Public Safety from the National Governor’s Association to fund the Agency of Digital Services staff to assist the Department of Public Safety with IT concerns specific to improving multi-agency information sharing and governance.

*[Received February 17, 2022]*

## **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 11, 2022**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by Friday March 11, 2022.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 18, 2022**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

**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).**