

Senate Calendar

WEDNESDAY, MARCH 16, 2022

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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 MARCH 9, 2022

Second Reading

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)

UNFINISHED BUSINESS OF MARCH 11, 2022

Second Reading

Favorable with Recommendation of Amendment

S. 140.

An act relating to prohibiting civil arrests at courthouses.

Reported favorably with recommendation of amendment by Senator Baruth for the Committee on Judiciary.

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. 12 V.S.A. § 3701 is added to read:

§ 3701. PROHIBITION ON CIVIL ARRESTS AT COURTHOUSES

(a) Prohibition. Any person or family or household member of the person who is attending a court proceeding in good faith as a party, juror, attorney, or witness shall be privileged from civil arrest while traveling to, entering, remaining at, or returning from the court proceeding.

(b) Exceptions. Subsection (a) of this section shall not apply to:

(1) an arrest pursuant to a judicially issued warrant or a court order;

(2) an arrest for contempt of the court where the proceeding is occurring; or

(3) an arrest to maintain order or safety in the court where the proceeding is occurring.

(c) Remedies.

(1) A person who violates this section by knowingly and willfully executing or assisting with an arrest prohibited by subsection (a) of this section shall be subject to civil contempt proceedings pursuant to chapter 5 of this title and may be liable in a civil action for false imprisonment.

(2) A person who is arrested in violation of subsection (a) of this section may bring a civil action against the violator for damages; injunctive, equitable, or declaratory relief; punitive damages; and reasonable costs and attorney's fees.

(3) The Office of the Attorney General may bring a civil action on behalf of the State of Vermont for appropriate injunctive, equitable, or declaratory relief if there is reasonable cause to believe that a violation of subsection (a) of this section has occurred or will occur.

(4) No action under this subsection shall be brought against the Judiciary or any of its members or employees for actions taken to maintain order or safety in the courts.

(d) Definitions. As used in this section:

(1) "Civil arrest" means an arrest for purposes of obtaining a person's presence or attendance at a civil proceeding, including an immigration proceeding.

(2) "Household member" has the same meaning as in 15 V.S.A. § 1101.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

S. 163.

An act relating to State court jurisdiction for special immigrant juvenile status.

Reported favorably with recommendation of amendment by Senator White for the Committee on Judiciary.

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. 14 V.S.A. chapter 111, subchapter 14 is amended to read:

Subchapter 14. ~~Special Immigration Status~~ Vulnerable Noncitizen Children
§ 3098. ~~SPECIAL IMMIGRATION JUVENILE STATUS; JURISDICTION~~
~~AND FINDINGS-VULNERABLE NONCITIZEN CHILDREN~~

(a) Definitions. As used in this subchapter:

(1) "Child" or "children" means an unmarried individual or individuals who have not yet attained 21 years of age and who are not a U.S. citizen or citizens.

(2) “Court” means any court that has jurisdiction over an unmarried individual or individuals who have not yet attained 21 years of age and who are not a U.S. citizen or citizens, including the Probate Division and the Family Division of the Superior Court.

(3) “Dependent on the court” means subject to the jurisdiction of a court competent to make decisions concerning the protection, well-being, care and custody of a child for findings, orders, or referrals to support the health, safety, and welfare of a child or to remedy the effects on a child of abuse, abandonment, or other similar circumstances.

(4) “Noncitizen” means any person who is not a U.S. citizen.

(5) “Similar circumstances” means a condition or conditions that have an effect on a child comparable to abuse, neglect, or abandonment, including the death of a parent.

(6) “Vulnerable” means there is reasonable cause to suspect that a child’s health, safety, or welfare is in jeopardy due to abuse, neglect, abandonment, or similar circumstances and that return to the child’s or the child’s parent’s country of origin or country of last habitual residence would not be in the best interests of the child.

(b) Jurisdiction. The A court has reviewing a petition under this section shall have jurisdiction under Vermont law to make judicial determinations regarding the custody and care of children within the meaning of the federal Immigration and Nationality Act (8 U.S.C. § 1101(a)(27)(J) and 8 C.F.R. § 204.11). The court is authorized to make the findings necessary to enable a child to petition the U.S. Citizenship and Immigration Service for classification as a special immigrant juvenile pursuant to 8 U.S.C. § 1101(a)(27)(J).

(b)(c)(1) If an order is requested from the court making the necessary findings regarding special immigrant juvenile status as described in subsection (a) of this section, the court shall issue an order if there is evidence to support those findings, which may include a declaration by the child who is the subject of the petition. The order issued by the court shall include all of the following findings: Procedure for petition. A vulnerable noncitizen child, or a person interested in the welfare of a vulnerable noncitizen child, may petition the court for special findings to protect the child and obtain relief from the underlying abandonment, abuse, neglect, or similar circumstances. The court shall review the petition, including any supporting affidavits and other evidence presented, and issue findings of fact that determine whether the vulnerable noncitizen child:

~~(A) The child was either of the following:~~

~~(i) Declared Is a dependent of the court.~~

~~(ii) Legally or legally committed to or placed under the custody of a State agency or department or an individual or entity appointed by the court. The court shall indicate the date on which the dependency, commitment, or custody was ordered.~~

~~(B) That reunification of the child with one or both of the child's parents was determined not to be viable because of Has suffered from abuse, neglect, abandonment, or a similar basis pursuant to Vermont law circumstances. The court shall indicate the date on which reunification was determined not to be viable.~~

~~(C) May not be viably reunified with one or both parents due to abuse, neglect, abandonment, or a similar circumstance.~~

~~(D) That it is not in the best interests of the child to be returned to the child's or his or her parent's previous country of nationality or country of last habitual residence.~~

(2) Additional findings. If requested by a party, the court may make additional findings that are supported by evidence and Vermont law.

(3) Health, safety, and welfare considerations. The health, safety, and welfare of the child must be of paramount concern when the court considers the best interests of the child. In making the determination whether it is in the best interests of the child to be returned to the child's or his or her child's parent's previous country of nationality or country of last habitual residence, the court shall consider whether present or past living conditions will adversely affect the child's physical, mental, or emotional health.

(4) Guardianships. For purposes of this section, the term child or minor shall include a person who is less than 21 years of age and who consents to the appointment or continuation of a guardian after 18 years of age.

(d) Notice. If the identity or location of the vulnerable noncitizen child's parents is unknown or if the parents reside outside the United States, the court may serve notice using any alternative method of service the court determines is appropriate or waive service.

(e) Expeditious adjudication. When it is in the best interests of the vulnerable noncitizen child, a court shall hear, adjudicate, and issue findings of fact on any petition for special findings under this section as soon as it is administratively feasible and prior to the vulnerable noncitizen child attaining 21 years of age.

(f) Referral for services or protection. A vulnerable noncitizen child who is the subject of a petition for special findings under this section may be referred for psychiatric, psychological, educational, occupational, medical, dental, or social services or for protection against human trafficking or domestic violence; provided, however, that a child's participation in any referred service is voluntary.

(g) Additional available remedies under Vermont law; similar findings of fact.

(1) This section shall not limit a vulnerable noncitizen child from petitioning for special findings for a petition under any other provision of law or from any other rights and remedies available to the child under any other provision of law.

(2) This section shall not limit the court from issuing similar findings of fact to those described in this section in any other proceeding concerning the vulnerable noncitizen child.

(h) Construction. This section shall be liberally construed to its legislative purpose.

(e)(i) In any judicial proceedings in response to a request that the court make the findings necessary to support a petition for classification as a special immigrant juvenile, information regarding the child's immigration status, nationality, or place of birth that is not otherwise protected by State laws shall remain confidential. This information shall also be exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except that the information shall be available for inspection by the court, the child who is the subject of the proceeding, the parties, the attorneys for the parties, the child's counsel, and the child's guardian.

~~(d) As used in this section, "court" means the Probate Division and the Family Division of the Superior Court.~~

Sec. 2. 33 V.S.A. § 5126 is added to read:

§ 5126. RETENTION OF JURISDICTION OVER CERTAIN
VULNERABLE NONCITIZEN CHILDREN

(a) Definitions. As used in this section:

(1) "Child" means an unmarried individual who has not yet attained 21 years of age and who is not a U.S. citizen.

(2) "Noncitizen" means any person who is not a U.S. citizen.

(3) “Vulnerable” means there is reasonable cause to suspect that a child’s health, safety, or welfare is in jeopardy due to abuse, neglect, abandonment, or similar circumstances and that return to the child’s or the child’s parent’s country of origin or country of last habitual residence would not be in the best interests of the child.

(b) Jurisdiction. The Family Division of the Superior Court may retain jurisdiction over a noncitizen child who has not yet attained 21 years of age for the sole purpose of adjudicating a petition for special findings and making judicial determinations regarding the custody and care of the child consistent with this section. Nothing in this section is intended to expand the scope of the court’s jurisdiction to order a youth into the custody of the Commissioner for Children and Families pursuant to this chapter.

(c) Procedure for petition to make special findings for vulnerable noncitizen children.

(1) A vulnerable noncitizen child, or a person interested in the welfare of the vulnerable noncitizen child, may petition the court for special findings to protect the child and obtain relief from the underlying abandonment, abuse, neglect, or similar circumstance.

(2) In accordance with the procedure set forth in 14 V.S.A. § 3098, the court shall review the petition, including any supporting affidavits and other evidence presented; issue findings of fact; and make relevant conclusions of law consistent with section 5101 of this chapter.

(d) Expedious adjudication. When it is consistent with the purposes as set forth in section 5101 of this chapter, the court shall hear, adjudicate, and issue findings of fact and conclusions of law on any petition for special findings under this section as soon as it is administratively feasible and prior to the vulnerable noncitizen child attaining 21 years of age.

(e) Additional available remedies under Vermont law; similar findings of fact.

(1) This section shall not limit a child from petitioning for special findings for a petition under any other provision of law or from petitioning for any other rights and remedies available to the child under any other provision of law.

(2) This section shall not limit the court from issuing similar findings of fact or conclusions of law to those described in this section in any other proceeding concerning the vulnerable noncitizen child.

(f) In any judicial proceedings in response to a request that the court make the findings necessary to support a petition under this section, information regarding the child's immigration status, nationality, or place of birth that is not otherwise protected by State laws shall remain confidential. This information shall also be exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except that the information shall be available for inspection by the court, the child who is the subject of the proceeding, the parties, the attorneys for the parties, the child's counsel, and the child's guardian.

Sec. 3. 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 State court petitions for vulnerable noncitizen youth.

(Committee vote: 5-0-0)

UNFINISHED BUSINESS OF MARCH 15, 2022

Third Reading

S. 188.

An act relating to regulating licensed small cannabis cultivation as farming.

S. 247.

An act relating to prohibiting discrimination based on genetic information.

Second Reading

Favorable with Recommendation of Amendment

S. 171.

An act relating to adoption of a State code of ethics.

Reported favorably with recommendation of amendment by Senator Pollina 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. 3 V.S.A. chapter 31, subchapter 1 is amended to read:

Subchapter 1. General Provisions; State Code of Ethics

§ 1201. DEFINITIONS

As used in this chapter:

(1) “Candidate” and “candidate’s committee” shall have the same meanings as in 17 V.S.A. § 2901.

(2) “Commission” means the State Ethics Commission established under subchapter 3 of this chapter.

(3) “Confidential information” means information that is exempt from public inspection and copying under 1 V.S.A. § 315 et seq. or is otherwise designated by law as confidential.

(4) “Domestic partner” means an individual in an enduring domestic relationship of a spousal nature with the Executive officer or the public servant, provided the individual and Executive officer or public servant:

(A) have shared a residence for at least six consecutive months;

(B) are at least 18 years of age;

(C) are not married to or considered a domestic partner of another individual;

(D) are not related by blood closer than would bar marriage under State law; and

(E) have agreed between themselves to be responsible for each other’s welfare.

~~(3)~~(5) “Executive officer” means:

(A) a State officer; or

(B) under the Office of the Governor, an agency secretary or deputy or a department commissioner or deputy.

~~(4)~~(A) ~~“Gift” means anything of value, tangible or intangible, that is bestowed for less than adequate consideration.~~

~~(B) “Gift” does not mean printed educational material such as books, reports, pamphlets, or periodicals.~~

~~(5)~~(6) “Governmental conduct regulated by law” means conduct by an individual in regard to the operation of State government that is restricted or prohibited by law and includes:

(A) bribery pursuant to 13 V.S.A. § 1102;

(B) neglect of duty by public officers pursuant to 13 V.S.A. § 3006 and by members of boards and commissions pursuant to 13 V.S.A. § 3007;

(C) taking illegal fees pursuant to 13 V.S.A. § 3010;

(D) false claims against government pursuant to 13 V.S.A. § 3016;

(E) owning or being financially interested in an entity subject to a department's supervision pursuant to section 204 of this title;

(F) failing to devote time to duties of office pursuant to section 205 of this title;

(G) engaging in retaliatory action due to a State employee's involvement in a protected activity pursuant to chapter 27, subchapter 4A of this title;

(H) a former legislator or former Executive officer serving as a lobbyist pursuant to 2 V.S.A. § 266(b); and

(I) a former Executive officer serving as an advocate pursuant to section 267 of this title.

(7) "Immediate family" means an individual's spouse, domestic partner, or civil union partner; child or foster child; sibling; parent; or such relations by marriage or by civil union or domestic partnership; or an individual claimed as a dependent for federal income tax purposes.

~~(6)~~(8) "Lobbyist" shall and "lobbying firm" have the same meaning meanings as in 2 V.S.A. § 261.

(9) "Person" means any individual, group, business entity, association, or organization.

~~(7)~~(10) "Political committee" and "political party" shall have the same meanings as in 17 V.S.A. § 2901.

~~(8)~~(11) "State officer" means the Governor, Lieutenant Governor, Treasurer, Secretary of State, Auditor of Accounts, or Attorney General.

§ 1202. STATE CODE OF ETHICS; APPLICABILITY

~~The Ethics Commission, in consultation with the Department of Human Resources, shall create and maintain the State Code of Ethics that sets forth general principles of governmental ethical conduct.~~

Applicability.

(1) Unless excluded under this section, the Code of Ethics applies to all individuals elected or appointed to serve as officers of the State, all individuals elected or appointed to serve as members of the General Assembly, all State employees, all individuals appointed to serve on State boards and commissions, and individuals who in any other way are authorized to act or speak on behalf of the State. This code refers to them all as "public servants."

(2) The Code of Ethics established by this section does not prohibit branches of State government, agencies, or departments from adopting additional personnel policies regarding ethical conduct not covered by this Code of Ethics or provisions that exceed the requirements of this Code of Ethics. Nothing herein shall be interpreted to require a lawyer or judicial officer to violate their respective professional codes of conduct.

(3) The application of this Code of Ethics does not in any way abrogate or alter the sole authority of each house of the General Assembly to judge the elections and qualifications of its own members under Chapter II, Sections 14 and 19 of the Vermont Constitution.

(4) The application of this Code of Ethics does not in any way abrogate or alter the Vermont Supreme Court's constitutional authority under Chapter II, Section 30 of the Vermont Constitution.

§ 1203. CONFLICT OF INTEREST; APPEARANCE OF CONFLICT OF INTEREST

(a) Conflict of interest; appearance of conflict of interest.

(1) In the public servant's official capacity, the public servant shall avoid any conflict of interest or the appearance of a conflict of interest. The appearance of a conflict shall be determined from the perspective of a reasonable individual with knowledge of the relevant facts.

(2) Except as otherwise provided in subsections (b) and (c) of this section, when confronted with a conflict of interest, a public servant shall recuse themselves from the matter and not take further action.

(3) As used in this section, "conflict of interest" means a direct or indirect interest of a public servant or such an interest, known to the public servant, of a member of the public servant's immediate family or household, or of a business associate, in the outcome of a particular matter pending before the public servant or the public servant's public body, or that is in conflict with the proper discharge of the public servant's duties. "Conflict of interest" does not include any interest that is not greater than that of other individuals generally affected by the outcome of a matter.

(b) Course of action.

(1) Legislative Branch. A member of the General Assembly shall comply with Legislative Branch rules and policies regarding the course of action a public servant may take when confronted with a conflict of interest, or the appearance of a conflict of interest, that is related to core legislative functions or duties.

(2) Judicial Branch. A judicial officer shall comply with the Vermont Code of Judicial Conduct regarding the course of action a judicial officer may take when confronted with a conflict of interest, or the appearance of a conflict of interest, that falls under the Code of Judicial Conduct, including in situations where a conflict of interest, or the appearance of a conflict of interest, falls under both the Vermont Code of Judicial Conduct and the Code of Ethics.

(3) Government attorneys. A public servant who is a licensed attorney shall comply with the Vermont Rules of Professional Conduct regarding the course of action the attorney may take when confronted with a conflict of interest, or the appearance of a conflict of interest, that falls under the Vermont Rules of Professional Conduct, including situations where a conflict of interest, or the appearance of a conflict of interest, falls under both the Vermont Rules of Professional Conduct and the Code of Ethics.

(4) Public servants; other. Any public servant facing a conflict of interest not covered by subdivisions (1)–(3) of this subsection shall comply with requirements prescribed in this subdivision. Each time a public servant is confronted with a conflict of interest, other than that for which the public servant’s action is solely ministerial or clerical, the public servant shall either make a public statement, which may consist of a statement made to the public servant’s immediate supervisor, recusing themselves from the matter or, if the public servant chooses to proceed with the matter, prepare a written statement regarding the nature of the conflict. A public servant may request either guidance or an advisory opinion from the State Ethics Commission in making an initial determination whether a conflict of interest exists, or whether good cause to proceed exists as set forth in subsection (c) of this section. Once recused, a public servant shall not in any way participate in or act to influence a decision regarding the matter. If the public servant chooses to proceed with the matter, the public servant’s prepared written statement shall:

(A) describe the matter requiring action;

(B) disclose the nature of the potential conflict or actual conflict of interest;

(C) explain why good cause, as set forth in subsection (c) of this section, exists so that the public servant can take action in the matter fairly, objectively, and in the public interest;

(D) include sufficient detail so that the matter may be understood by the public; and

(E) be filed in accordance with the policies and procedures set forth by the agency or entity governing the matter in question, including any requirement that the statement be made public.

(c) Good cause. As used in this section, “good cause to proceed” may include any of the following:

- (1) the identified conflict or potential conflict is de minimis in nature;
- (2) the conflict is amorphous, intangible, or otherwise speculative; or
- (3) the public servant cannot legally or practically delegate the matter.

(d) Confidential information. Nothing in this section shall require a public servant to disclose confidential information or information that is otherwise privileged under law.

§ 1203a. DIRECTING UNETHICAL CONDUCT

A public servant shall not direct another person to act in a manner that would be unethical for the public servant or the other person to act. A public servant who has a conflict of interest shall not direct others to act to the public servant’s benefit where such action would be a violation of the Code of Ethics if the public servant were to perform the act.

§ 1203b. APPEARANCE OF UNETHICAL CONDUCT

A public servant shall avoid any actions creating the appearance that the public servant is violating the Code of Ethics. Whether particular circumstances create an appearance that the Code of Ethics have been violated shall be determined from the perspective of a reasonable individual with knowledge of the relevant facts.

§ 1203c. PREFERENTIAL TREATMENT

A public servant in the course of conducting State business shall act impartially, showing no favor toward or prejudice against any person. A public servant shall not give or represent an ability to give preference or special treatment to any person because of the person’s wealth, position, or status or because of any personal relationship with the public servant. When permitted by law and written policy or rule, a public servant may give preference to designated persons.

§ 1203d. MISUSE OF POSITION

A public servant shall not use the public servant’s official position for personal or financial gain.

§ 1203e. MISUSE OF INFORMATION

A public servant shall not use nonpublic government information or confidential information acquired during the course of State service for personal or financial gain or for the personal or financial gain of any other person.

§ 1203f. MISUSE OF GOVERNMENT RESOURCES

A public servant shall not make use of State materials, funds, property, personnel, facilities, or equipment, or permit another person to do so, for any purpose other than for official State business unless the use is expressly permitted or required by law or by a written agency, departmental, or institutional policy or rule. A public servant shall not engage in or direct another person to engage in work other than the performance of official duties during working hours, except as permitted or required by law or by written agency, departmental, or institutional policy or rule.

§ 1203g. GIFTS

(a) Gift limitations and exceptions. A public servant shall not solicit or accept a gift unless permitted under this section. For purposes of this subchapter, "gift" means anything of value, tangible or intangible, that is given for less than adequate consideration. A public servant may accept:

(1) A devise or inheritance. A public servant may accept a devise or inheritance.

(2) Gifts to the State. A public servant may accept goods or services that are provided to a State agency for use on State agency property or for use by the public servant while serving in an official capacity.

(3) Ceremonial awards. A public servant may accept a certificate, plaque, or other ceremonial award, provided the cost does not exceed the limit established pursuant to subsection (b) of this section.

(4) Rebates, discounts, and promotions. A public servant may accept a rebate, discount, or promotional item that is available to the general public or to a definable subset of the general public.

(5) Printed or recorded material. A public servant may accept printed or recorded informational or educational material germane to State action or functions.

(6) Food or beverages. A public servant may accept food or beverages, or both, under the following circumstances:

(A) The food or beverage, or both, is consumed on an occasion or occasions at which the person paying, directly or indirectly, for the food or beverage or the person's representative is in attendance, provided the cost does not exceed the limit established pursuant to subsection (b) of this section.

(B) The food or beverage, or both, is incidental to the performance of a legitimate State function.

(C) The food or beverage, or both, is provided at a charitable, cultural, political, or civic event at which the public servant participates in the public servant's official capacity.

(7) Admission fees and tickets. A public servant may accept tickets or admission to a charitable, cultural, political, or civic event at which a public servant participates in the public servant's official capacity, provided such tickets or admission is provided by the primary sponsoring entity.

(8) Private employment gifts. A public servant may accept anything of value provided by an employer of the public servant, provided such benefits are customarily and ordinarily provided to others in similar circumstances.

(9) Public-servant-to-public-servant gifts. A public servant may accept a gift from another public servant under the following circumstances:

(A) If the recipient is not in a supervisor-supervisee relationship with the giver, the public servant may accept a gift for a holiday or occasion of significance.

(B) If the recipient is in a supervisor-supervisee relationship, the public servant may accept a gift for a holiday or occasion of significance, provided the value does not exceed the limit established pursuant to subsection (b) of this section.

(10) Training or education. A public servant may accept attendance to training or similar events determined to be in the interest of the public servant's agency or department.

(11) Gifts of de minimis value. A public servant may accept an unsolicited gift having a de minimis market value as established pursuant to subsection (b) of this section.

(12) Personal gifts. A public servant may accept gifts clearly motivated by an outside relationship, family relationship, or personal friendship rather than the position of the public servant. Relevant factors in making such a determination include the history and nature of the relationship and whether the individual, family member, or a friend personally pays for the gift.

(13) Loans. A public servant may accept a commercially reasonable loan made on terms not more favorable than loans made in the ordinary course of business.

(14) Gifts otherwise permitted and legal. A public servant may accept a gift that is otherwise expressly permitted under State law.

(b) Gift valuation. For purposes of this subchapter, the value or cost limit for gifts described in subsection (a) of this section shall be:

(1) Beginning on July 1, 2022:

(A) Ceremonial awards: Less than \$100.00.

(B) Food or beverages, or both: Less than \$100.00 in the aggregate per recipient, per source, in a calendar year.

(C) A supervisor-supervisee relationship gift: Less than \$100.00 for any single gift, and the value of all gifts does not exceed \$200.00 in the aggregate per year.

(D) De minimis gift: \$50.00 or less per source per occasion, provided that the aggregate market value of individual gifts received from any one person does not exceed \$150.00 in a calendar year.

(2) On or after July 1, 2026, the State Ethics Commission may increase the value or cost limit set in subdivision (1) of this subsection, provided:

(A) the State Ethics Commission presents its proposed increase to the House and Senate Committees on Government Operations at least 180 days prior to proposed implementation and after consultation with the Department of Human Resources and the Judicial Branch;

(B) the cost or value limit is not increased more than once in a five-year period; and

(C) the increased cost or value limit is posted on the State Ethics Commission website and the Commission sends a notice of increase to public servants not less than 60 days prior to the increase's effective date.

§ 1203h. UNAUTHORIZED COMMITMENTS

A public servant shall not make unauthorized commitments or promises of any kind purporting to bind State government.

§ 1203i. EMPLOYMENT RESTRICTIONS

(a) Outside employment. A public servant shall not seek or engage in outside employment or activities that are inconsistent, incompatible, or in conflict with the public servant's official duties.

(b) Post-government employment.

(1) Executive officers. Executive officers shall comply with the post-government employment restrictions prescribed in section 267 of this title and 2 V.S.A. § 266(b) and (c).

(2) Legislators. Legislators shall comply with the post-government employment restrictions prescribed in 2 V.S.A. § 266(b).

(3) Legislative Branch employees. Except as permitted in subdivision (4) of this subsection, for one year after leaving office, a former Legislative Branch employee may not, for compensation, appear before the General Assembly or its subparts, or the office in which the employee served in at the time of leaving service, to advocate for anyone other than the State, concerning any matter in which the State has a direct and substantial interest.

(4) Contracting exception. The limitations in subdivisions (1) through (3) of this subsection do not apply to individuals providing information or services to the State pursuant to contracts of the State unless the public servant is otherwise prohibited from doing so by State or federal law.

(5) Representation restrictions. After leaving State service or employment, a public servant shall not knowingly, with the intent to advocate for an outcome of an investigation, application, ruling, license, contract, claim, rulemaking, charge, arrest, or quasi-judicial or judicial proceeding, communicate with or appear before the State on matters involving specific parties in which the employee participated personally and substantially during government service and in which the State is a party or has a direct and substantial interest.

§ 1203j. COMPLIANCE WITH LAWS, RULES, AND POLICIES

A public servant shall comply with applicable State and federal laws and regulations, including anti-discrimination and equal opportunity laws, and comply with applicable governmental codes of conduct. A public servant shall comply with any other applicable rules or policies established by executive order, agency rule, or policy.

§ 1204. WHISTLEBLOWER PROTECTIONS FOR ETHICS
COMPLAINTS

Consistent with section 971–978 of this title, a public servant shall be free to disclose waste, fraud, abuse of authority, violations of law, or violations of this or other applicable codes regarding ethical conduct to the State Ethics Commission without fear of reprisal, intimidation, or retaliation.

§ 1205. MANDATORY ETHICS EDUCATION AND TRAINING

Within the first 120 days of public service, a public servant shall engage in ethics training, which may be in person or online. Completion of ethics training shall be documented by the department where the public servant is employed. A public servant shall participate in continuing ethics education, which may be in person or online, at least once every three years thereafter. Approved continuing ethics education providers are the State Ethics Commission, the Department of Human Resources – Center for Achievement in Public Service (CAPS), the Vermont House of Representatives Ethics Panel for the House of Representatives, the Vermont Senate Ethics Panel for the Senate, the Vermont Judiciary, and any education providers approved by the State Ethics Commission. Copies of State Code of Ethics training materials by ethics education providers shall be provided to the State Ethics Commission in advance of the training. On request, the State Ethics Commission may collaborate with or assist ethics education providers.

Sec. 2. REPEAL

3 V.S.A. § 1211(e) is repealed.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

(Committee vote: 5-0-0)

S. 178.

An act relating to supermajority verdicts in civil trials.

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

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. 12 V.S.A. § 1950 is added to read:

§ 1950. VERDICT; EIGHTY PERCENT SUPERMAJORITY REQUIRED

Unless the parties stipulate otherwise, a verdict or finding agreed to by at least eighty percent of the total number of jurors serving on a jury in a civil trial shall be taken as the verdict or finding of the jury.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

(Committee vote: 3-2-0)

S. 269.

An act relating to extending the Energy Savings Account Partnership Pilot Program.

Reported favorably with recommendation of amendment by Senator Brock for the Committee on Finance.

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. 2018 Acts and Resolves No. 150, Sec. 2 is amended to read:

Sec. 2. ENERGY SAVINGS ACCOUNT PARTNERSHIP PILOT

(a) Definitions. As used in this section:

* * *

(b) ESA Partnership Pilot; establishment. On or before July 1, 2019, the Commission by rule or order shall establish a ~~three-year~~ pilot program for customers to self-direct the use of their Customer EEC Funds, working with EVT. The total amount of Customer EEC Funds available in the pilot program each year shall not exceed \$2 million. The pilot program established under this section shall be an expansion of the ESA option under which:

(1) Notwithstanding any contrary provision of 30 V.S.A. § 209(d)(3)(B), the customer shall continue to pay its EEC and be able to receive an amount equal to 100 percent of its ESA account balance to pay for the full cost of projects that are eligible under subdivision (3) of this subsection; for technical assistance and other services from Efficiency Vermont; and for evaluation, measurement, and verification activity conducted by the Department or EVT.

(2) The customer may receive payments in advance of project completion from EVT based on the energy management plan submitted under subsection (e) of this section, estimated project costs, and projected energy savings. However, a customer shall not receive advance payments from EVT that exceed the amount of Customer EEC Funds the customer has already paid.

(3) Notwithstanding any contrary provision of 30 V.S.A. § 209, the Customer EEC Funds may be used for one or more of the following: electric energy efficiency, thermal energy and process-fuel efficiency for unregulated fuels, energy productivity measures, demand management, and energy storage that provides benefits to the customer and its interconnecting utility. In addition, for a customer who is a manufacturer and whose purchases of regulated fuel exceeded 600,000 thousand cubic feet (MCF) in 2017, the Funds may be used for thermal energy and process-fuel efficiency for

regulated fuels, and any regulated fuel savings attributable to investment of Customer EEC Funds through the pilot program shall be counted towards EVT's performance indicators. EVT may allocate the cost of the pilot across regulated and unregulated fuel funding sources in a manner that avoids or reduces the need to adjust savings goals approved by the Commission.

(4) The pilot created pursuant to this section shall be extended an additional 18 months, until December 31, 2023. The Commission shall allow the current participants in the pilot to decline to participate in this extension by submitting written notice to the Commission on or before June 30, 2022. The extension shall allow pilot participants to spend or contract to spend pilot funds accrued prior to January 1, 2024 but shall not allow participants to accrue additional pilot funds. The Commission shall consider requests and shall approve all reasonable extension requests.

(5) The participants selected for the pilot may request an additional extension until December 31, 2026. The Commission shall consider requests and shall approve all reasonable extension requests.

* * *

(e) Energy management plans. Working with EVT, each customer selected for the ESA Partnership Pilot shall develop an energy management plan for the ~~three-year~~ period of the pilot with projects to be implemented, energy savings targets, and a timeline for projects and investments. A copy of each plan shall be submitted to the Commission, the Department, and ACCD.

* * *

(i) Annual reports. On or before each November 1 from 2020 through ~~2022~~ 2025, the EVT and the selected customers jointly shall submit written progress reports to the Commission, the Department, and the standing committees of jurisdiction that include projects under the ESA Partnership Pilot and their associated energy and cost savings. A customer's projects under the pilot and the associated data and results shall be made public through this report. However, a customer may request that the Commission order customer-specific data to be used in preparing a report under this subsection be kept confidential if the data would qualify for exemption from disclosure under 1 V.S.A. § 317. If the Commission issues such an order, the data subject to the order shall be disclosed only in accordance with a protective agreement approved by the Commission and signed by the recipient of the data, unless a court directs otherwise.

(j) Evaluation; recommendation. On completion of the ESA Partnership Pilot, the Commission shall conduct or shall have a third party conduct an independent evaluation of the ESA Partnership Pilot.

* * *

(3) After considering the results of that evaluation, the Commission shall submit a written recommendation to the standing committees of jurisdiction on whether to continue the program conducted under this section and, if so, under what recommended conditions and revisions, if any. The Commission shall submit this recommendation to the General Assembly on or before ~~January 15, 2023~~ July 1, 2027.

Sec. 2. ESA PARTNERSHIP PILOT WORKING GROUP

(a) On or before August 1, 2022, the Department of Public Service shall convene the Energy Savings Account Partnership Pilot Program Working Group. The Working Group shall include the participants in the Energy Savings Account program created pursuant to 30 V.S.A. § 209(d)(3)(B), the participants in the Energy Savings Account Partnership Pilot Program, Efficiency Vermont, and the Secretary of Commerce and Community Development or designee.

(b) On or before January 15, 2023, the Energy Savings Account Partnership Pilot Program Working Group shall report to the General Assembly with recommended changes to the Energy Savings Account program rules.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 6-1-0)

House Proposal of Amendment

S. 53

An act relating to exempting feminine hygiene products from the Vermont Sales and Use Tax.

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

First: Before Sec. 1, exemption statutory purpose, by inserting a reader assistance heading to read as follows:

* * * Sales and Use Tax; Feminine Hygiene Products * * *

Second: By striking out Sec. 3, effective date, in its entirety and inserting in lieu thereof:

* * * Corporate Income Tax * * *

Sec. 3. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

~~The following definitions shall apply throughout this chapter unless the context requires otherwise~~ As used in this chapter:

* * *

(22) “Affiliated group” means a group of two or more corporations in which more than 50 percent of the voting stock of each member corporation is directly or indirectly owned by a common owner or owners, either corporate or noncorporate, or by one or more of the member corporations, but shall exclude ~~overseas business organizations or~~ foreign corporations and corporations taxable under 8 V.S.A. § 6014.

(23) “Unitary business” means one or more related business organizations engaged in business activity both within and outside the State among which there exists a unity of ownership, operation, and use; or an interdependence in their functions.

(24) ~~“Overseas business organization” means a business organization that ordinarily has 80 percent or more of its payroll and property outside the 50 states and the District of Columbia.~~ [Repealed.]

* * *

Sec. 4. 32 V.S.A. § 5832(2)(C)–(E) are amended to read:

(C) For C corporations with Vermont gross receipts from ~~\$0–\$2,000,000.00~~ \$100,000.00, the greater of the amount determined under subdivision (1) of this section or ~~\$300.00~~ \$250.00; or

(D) For C corporations with Vermont gross receipts from \$100,001.00–\$1,000,000.00, the greater of the amount determined under subdivision (1) of this section or \$500.00; or

(E) For C corporations with Vermont gross receipts from \$1,000,001.00–\$5,000,000.00, the greater of the amount determined under subdivision (1) of this section or \$2,000.00; or

(F) For C corporations with Vermont gross receipts from ~~\$2,000,001.00–\$5,000,000.00~~ \$5,000,001.00–\$300,000,000.00, the greater of the amount determined under subdivision (1) of this section or ~~\$500.00~~ \$6,000.00; or

~~(E)(G)~~ For C corporations with Vermont gross receipts greater than \$5,000,000.00 \$300,000,000.00, the greater of the amount determined under subdivision (1) of this section or ~~\$750.00~~ \$100,000.00.

Sec. 5. 32 V.S.A. § 5833 is amended to read:

§ 5833. ALLOCATION AND APPORTIONMENT OF INCOME

(a) If the income of a taxable corporation is derived from any trade, business, or activity conducted entirely within this State, the Vermont net income of the corporation shall be allocated to this State in full. If the income of a taxable corporation is derived from any trade, business, or activity conducted both within and outside this State, the amount of the corporation's Vermont net income that shall be apportioned to this State, so as to allocate to this State a fair and equitable portion of that income, shall be determined by multiplying that Vermont net income by ~~the arithmetic average of the following factors, with the sales factor described in subdivision (3) of this subsection double-weighted:~~

~~(1) The average of the value of all the real and tangible property within this State (A) at the beginning of the taxable year and (B) at the end of the taxable year (but the Commissioner may require the use of the average of such value on the 15th or other day of each month, in cases where he or she determines that such computation is necessary to more accurately reflect the average value of property within Vermont during the taxable year), expressed as a percentage of all such property both within and outside this State;~~

~~(2) The total wages, salaries, and other personal service compensation paid during the taxable year to employees within this State, expressed as a percentage of all such compensation paid whether within or outside this State;~~

~~(3) The the amount of gross sales, or charges for services performed, within this State, expressed as a percentage of such sales or charges whether within or outside this State.~~

~~(A)(1)~~ Sales of tangible personal property are made in this State if;

(i) the property is delivered or shipped to a purchaser, other than the U.S. government, who takes possession within this State, regardless of f.o.b. point or other conditions of sale; ~~or~~

~~(ii) the property is shipped from an office, store, warehouse, factory, or other place of storage in this State; and~~

~~(I) the purchaser is the U.S. government; or~~

~~(II) the corporation is not taxable in the State in which the purchaser takes possession.~~

~~(B)~~(2) Sales, other than the sale of tangible personal property, are in this State if the taxpayer's market for the sales is in this State. The taxpayer's market for sales is in this State:

~~(i)~~(A) in the case of sale, rental, lease, or license of real property, if and to the extent the property is located in this State;

~~(ii)~~(B) in the case of rental, lease, or license of tangible personal property, if and to the extent the property is located in this State;

~~(iii)~~(C) in the case of sale of a service, if and to the extent the service is delivered to a location in this State; and

~~(iv)~~(D) in the case of intangible property:

~~(i)~~(i) that is rented, leased, or licensed, if and to the extent the property is used in this State, provided that intangible property utilized in marketing a good or service to a consumer is "used in this State" if that good or service is purchased by a consumer who is in this State; and

~~(ii)~~(ii) that is sold, if and to the extent the property is used in this State, provided that:

~~(aa)~~(I) a contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area is "used in this State" if the geographic area includes all or part of this State;

~~(bb)~~(II) receipts from intangible property sales that are contingent on the productivity, use, or disposition of the intangible property shall be treated as receipts from the rental, lease, or licensing of such intangible property under subdivision ~~(iv)~~(I)(D)(i) of this subdivision ~~(B)~~(2); and

~~(cc)~~(III) all other receipts from a sale of intangible property shall be excluded from the numerator and denominator of the receipts factor.

~~(C)~~(3) If the state or states of assignment under subdivision ~~(B)~~(2) of this subsection cannot be determined, the state or states of assignment shall be reasonably approximated.

~~(D)~~(4) If the taxpayer is not taxable in a state to which a receipt is assigned under subdivision ~~(B)~~(2) or ~~(C)~~(3) of this subsection, or if the state of assignment cannot be determined under subdivision ~~(B)~~(2) of this subsection or reasonably approximated under subdivision ~~(C)~~(3) of this subsection, such receipt shall be excluded from the denominator of the receipts factor.

~~(E)~~(5) The Commissioner of Taxes shall adopt regulations as necessary to carry out the purposes of this section.

(6) A taxable corporation subject to apportionment under this section shall report to the Commissioner of Taxes:

(A) the average of the value of all the real and tangible property within this State at the beginning of the taxable year and at the end of the taxable year, provided the Commissioner may require the use of the average of such value on the 15th or other day of each month in cases where the Commissioner determines that such computation is necessary to more accurately reflect the average value of property within Vermont during the taxable year, expressed as a percentage of all such property both within and outside this State; and

(B) the total wages, salaries, and other personal service compensation paid to employees within this State during the taxable year, expressed as a percentage of all such compensation paid, whether within or outside this State.

* * *

Sec. 6. 32 V.S.A. § 5862(d) is amended to read:

(d) A taxable corporation which that is part of an affiliated group engaged in a unitary business shall be treated as a single taxpayer and shall file a group return containing the combined net income of the affiliated group and such other informational returns as the Commissioner shall require by rule. A unitary combined return shall include the income and apportionment factors of any taxable corporation incorporated in the United States or formed under the laws of any state, the District of Columbia, or any territory or possession of the United States and in a unitary relationship with the taxpayer. The income, gain, or losses from members of a combined group shall be combined to the extent allowed under the Internal Revenue Code for consolidated filing as if the combined group was a consolidated filing group, provided that a state tax credit shall not be combined and shall be limited to the member to which the credit is attributed.

Sec. 7. TRANSITION FROM JOYCE TO FINNIGAN METHOD

(a) For taxable years beginning on and after January 1, 2022, for purposes of determining whether sales are in Vermont and are included in the numerator of the sales apportionment factor, if the activities of any member of a unitary group create nexus with this State, then sales of tangible personal property into Vermont from outside the State by all members of the unitary group shall be included in the Vermont sales factor numerator.

(b) For taxable years beginning on January 1, 2022 and before January 1, 2023:

(1) If any member of a unitary group is taxable in another state, then sales of tangible personal property from a Vermont location into that state by any member of the unitary group shall be excluded from the Vermont sales factor numerator.

(2) If no member of a unitary group is taxable in another state, then sales of tangible personal property from a Vermont location into that state by all members of the unitary group shall be included in the Vermont sales factor numerator.

Sec. 8. RULEMAKING; REPORT

The Department of Taxes shall adopt rules relating to the unitary combined reporting requirements imposed under this act. The rules required under this section shall include a change from the *Joyce* to the *Finnigan* approach to applying Vermont jurisdiction to corporations within a unitary group. The Department shall report to the House Committee on Ways and Means and the Senate Committee on Finance, on or before January 15, 2023, on the Department's proposed rules and any recommendations for legislation with respect to unitary combined reporting.

* * * Sales and Use Tax; Prewritten Computer Software * * *

Sec. 9. 32 V.S.A. § 9701(60) is added to read:

(60) "Vendor-hosted prewritten computer software" means prewritten computer software that is accessed through the Internet or a vendor-hosted server or platform, including where possession of the software is maintained by the vendor or a third party, regardless of:

(A) the method of delivery or transfer, including whether any downloading occurs;

(B) whether the access is permanent or temporary; and

(C) whether the charge for the right of access and for the service is on a per use, per user, per license, subscription, or some other basis.

Sec. 10. 32 V.S.A. § 9771 is amended to read:

§ 9771. IMPOSITION OF SALES TAX

Except as otherwise provided in this chapter, there is imposed a tax on retail sales in this State. The tax shall be paid at the rate of six percent of the sales price charged for but in no case shall any one transaction be taxed under more than one of the following:

* * *

(7) tangible personal property to an advertising agency for its use in providing advertising services or creating advertising materials for transfer in conjunction with the delivery of advertising service; ~~or~~

(8) specified digital products transferred electronically to an end user regardless of whether for permanent use or less than permanent use and regardless of whether or not conditioned upon continued payment from the purchaser; or

(9) vendor-hosted prewritten computer software and the right to access and use vendor-hosted prewritten computer software to perform data processing services.

Sec. 11. 32 V.S.A. § 9773 is amended to read:

§ 9773. IMPOSITION OF COMPENSATING USE TAX

Unless property or telecommunications service has already been or will be subject to the sales tax under this chapter, there is imposed on every person a use tax at the rate of six percent for the use within this State, except as otherwise exempted under this chapter:

* * *

(4) specified digital products transferred electronically to an end user; ~~and~~

(5) telecommunications service except coin-operated telephone service, private telephone service, paging service, private communications service, or value-added non-voice data service; and

(6) vendor-hosted prewritten computer software and the right to access and use vendor-hosted prewritten computer software to perform data processing services.

Sec. 12. REPEAL

2015 Acts and Resolves No. 51, Sec. G.8 (prewritten software accessed remotely) is repealed.

* * * Fees * * *

Sec. 13. 9 V.S.A. § 5302(f) is amended to read:

(f) Investment companies subject to 15 U.S.C. § 80a-1 et seq. shall pay to the Commissioner an initial notice filing fee of \$2,000.00 and an annual renewal fee of ~~\$1,500.00~~ \$1,750.00 for each portfolio or class of investment company securities for which a notice filing is submitted.

* * * Income Tax; Military Retirement Exclusion * * *

Sec. 14. 32 V.S.A. § 5811(21)(B) is amended to read:

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

* * *

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and

(iv) the portion of federally taxable benefits received under the federal Social Security Act that is required to be excluded under section 5830e of this chapter; and

(v) [Reserved.]

(vi) the first \$10,000.00 of federally taxable U.S. military retirement pay; and

* * *

Sec. 15. 32 V.S.A. § 5813(y) is added to read:

(y) The statutory purpose of the exclusion of the first \$10,000.00 of federally taxable U.S. military retirement pay in subdivision 5811(21)(B)(vi) of this title is to recognize the military service of Vermonters who derive part of their income from military retirement pay.

* * * Effective Dates * * *

Sec. 16. EFFECTIVE DATES

This act shall take effect on July 1, 2021, except:

(1) Secs. 3 (80/20 rule definitions), 4 (minimum corporate income tax), 5 (single sales factor and repeal of throwback), and 6–7 (Finnigan method and 80/20 rule) shall take effect on January 1, 2022 and apply to taxable years beginning on and after January 1, 2022.

(2) Secs. 9–12 (prewritten computer software) shall take effect on June 1, 2022.

(3) Notwithstanding 1 V.S.A. § 214, Secs. 14–15 (military retirement exemption) shall take effect on January 1, 2021 and shall apply to taxable years beginning on and after January 1, 2021.

Third: That after passage the title of the bill be amended to read: “An act relating to tax changes affecting corporations, menstrual products, military retirement income, and prewritten computer software, and investment security company fees”

Reported favorably with further proposal of amendment by Senator Cummings for the Committee on Finance.

The Committee recommends that the Senate concur in the House proposal of amendment with further proposal of amendment as follows:

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

* * * Corporate Income Tax * * *

Sec. 1. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

~~The following definitions shall apply throughout~~ As used in this chapter unless the context requires otherwise:

* * *

(22) “Affiliated group” means a group of two or more corporations in which more than 50 percent of the voting stock of each member corporation is directly or indirectly owned by a common owner or owners, either corporate or noncorporate, or by one or more of the member corporations, but shall exclude ~~overseas business organizations or~~ foreign corporations and corporations taxable under 8 V.S.A. § 6014.

(23) “Unitary business” means one or more related business organizations engaged in business activity both within and outside the State among which there exists a unity of ownership, operation, and use; or an interdependence in their functions.

(24) ~~“Overseas business organization” means a business organization that ordinarily has 80 percent or more of its payroll and property outside the 50 states and the District of Columbia. [Repealed.]~~

* * *

Sec. 2. 32 V.S.A. § 5833(a)(3)(A) is amended to read:

(A) Sales of tangible personal property are made in this State if:

(i) the property is delivered or shipped to a purchaser, other than the U.S. government, who takes possession within this State, regardless of f.o.b. point or other conditions of sale; ~~or~~

~~(ii) the property is shipped from an office, store, warehouse, factory, or other place of storage in this State; and~~

~~(I) the purchaser is the U.S. government; or~~

~~(II) the corporation is not taxable in the State in which the purchaser takes possession.~~

Sec. 3. 32 V.S.A. § 5862(d) is amended to read:

(d) A taxable corporation that is part of an affiliated group engaged in a unitary business shall be treated as a single taxpayer and shall file a group return containing the combined net income of the affiliated group and such other informational returns as the Commissioner shall require by rule. A unitary combined return shall include the income and apportionment factors of any taxable corporation incorporated in the United States or formed under the laws of any state, the District of Columbia, or any territory or possession of the United States and in a unitary relationship with the taxpayer. The income, gain, or losses from members of a combined group shall be combined to the extent allowed under the Internal Revenue Code for consolidated filing as if the combined group was a consolidated filing group, provided that a state tax credit shall not be combined and shall be limited to the member to which the credit is attributed.

Sec. 4. TRANSITION FROM JOYCE TO FINNIGAN METHOD

(a) For taxable years beginning on and after January 1, 2023, for purposes of determining whether sales are in Vermont and are included in the numerator of the sales apportionment factor, if the activities of any member of a unitary group create nexus with this State, then sales of tangible personal property into Vermont from outside the State by all members of the unitary group shall be included in the Vermont sales factor numerator.

(b) For taxable years beginning on January 1, 2023 and before January 1, 2024:

(1) If any member of a unitary group is taxable in another state, then sales of tangible personal property from a Vermont location into that state by any member of the unitary group shall be excluded from the Vermont sales factor numerator.

(2) If no member of a unitary group is taxable in another state, then sales of tangible personal property from a Vermont location into that state by all members of the unitary group shall be included in the Vermont sales factor numerator.

Sec. 5. RULEMAKING; REPORT

The Department of Taxes shall adopt rules relating to the unitary combined reporting requirements imposed under this act. The rules required under this section shall include a change from the Joyce to the Finnigan approach to applying Vermont jurisdiction to corporations within a unitary group. The Department shall report to the House Committee on Ways and Means and the Senate Committee on Finance on or before January 15, 2024 on the Department’s proposed rules and any recommendations for legislation with respect to unitary combined reporting.

* * * Personal Income Tax; Retirement Income Exemptions * * *

Sec. 6. 32 V.S.A. § 5811(21) is amended to read:

(21) “Taxable income” means, in the case of an individual, federal adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

* * *

(B) decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

* * *

(iv) the portion of certain retirement income and federally taxable benefits received under the federal Social Security Act that is required to be excluded under section 5830e of this chapter; ~~and~~

* * *

(vi) U.S. military survivor benefit income received by the surviving spouse of a deceased service member; and

* * *

Sec. 7. 32 V.S.A. § 5813 is amended to read:

§ 5813. STATUTORY PURPOSES

* * *

(w) The statutory purpose of the partial exemption of certain retirement income and federally taxable benefits under the Social Security Act in section 5830e of this title is to lessen the tax burden on Vermonters with low to moderate income who derive part of their income from certain retirement income and Social Security benefits.

* * *

(y) The statutory purpose of the exemption for U.S. military survivor benefit income in subdivision 5811(21)(B)(vi) of this title is to recognize the military service of Vermonters.

Sec. 8. 32 V.S.A. § 5830e is amended to read:

§ 5830e. RETIREMENT INCOME; SOCIAL SECURITY INCOME

(a) Social Security income. The portion of federally taxable Social Security benefits excluded from taxable income under subdivision 5811(21)(B)(iv) of this chapter shall be as follows:

* * *

(b) Civil Service Retirement System income. The portion of income received from the Civil Service Retirement System excluded from taxable income under subdivision 5811(21)(B)(iv) shall be subject to the limitations under subsection (e) of this section and shall be determined as follows:

(1) For taxpayers whose filing status is single, married filing separately, head of household, or surviving spouse:

(A) If the federal adjusted gross income of the taxpayer is less than or equal to \$45,000.00, the first \$10,000.00 of income received from the Civil Service Retirement System shall be excluded.

(B) If the federal adjusted gross income of the taxpayer is greater than \$45,000.00 but less than \$55,000.00, the percentage of the first \$10,000.00 of income received from the Civil Service Retirement System to be excluded shall be proportional to the amount of the taxpayer's federal adjusted gross income over \$45,000.00, determined by:

(i) subtracting the federal adjusted gross income of the taxpayer from \$55,000.00;

(ii) dividing the value under subdivision (i) of this subdivision (B) by \$10,000.00; and

(iii) multiplying the value under subdivision (ii) of this subdivision (B) by the income received from the Civil Service Retirement System.

(C) If the federal adjusted gross income of the taxpayer is equal to or greater than \$55,000.00, no amount of the income received from the Civil Service Retirement System shall be excluded under this section.

(2) For taxpayers whose filing status is married filing jointly:

(A) If the federal adjusted gross income of the taxpayer is less than or equal to \$60,000.00, the first \$10,000.00 of income received from the Civil Service Retirement System shall be excluded.

(B) If the federal adjusted gross income of the taxpayer is greater than \$60,000.00 but less than \$70,000.00, the percentage of the first \$10,000.00 of income received from the Civil Service Retirement System to be excluded shall be proportional to the amount of the taxpayer's federal adjusted gross income over \$60,000.00, determined by:

(i) subtracting the federal adjusted gross income of the taxpayer from \$70,000.00;

(ii) dividing the value under subdivision (i) of this subdivision (B) by \$10,000.00; and

(iii) multiplying the value under subdivision (ii) of this subdivision (B) by the income received from the Civil Service Retirement System.

(C) If the federal adjusted gross income of the taxpayer is equal to or greater than \$70,000.00, no amount of the income received from the Civil Service Retirement System shall be excluded under this section.

(c) Other contributory retirement systems; earnings not covered by Social Security. Other retirement income, except U.S. military retirement income pursuant to subsection (d) of this section, received by a taxpayer of this State shall be excluded pursuant to subsection (b) of this section as though the income were received from the Civil Service Retirement System and shall be subject to the limitations under subsection (e) of this section, provided that:

(1) the income is received from a contributory annuity, pension, endowment, or retirement system of:

(A) the U.S. government or a political subdivision or instrumentality of the U.S. government;

(B) this State or a political subdivision or instrumentality of this State; or

(C) another state or a political subdivision or instrumentality of another state; and

(2) the contributory system from which the income is received was based on earnings that were not covered by the Social Security Act.

(d) U.S. military retirement income. U.S. military retirement income received by a taxpayer of this State shall be excluded pursuant to subsection (b) of this section as though the income were received from the Civil Service Retirement System and shall be subject to the limitations under subsection (e) of this section.

(e) A taxpayer of this State who is eligible during the taxable year for the Social Security income exclusion under subsection (a) of this section and any of the exclusions under subsections (b)–(d) of this section shall elect either one of the exclusions for which the taxpayer is eligible under subsections (b)–(d) of this section or the Social Security income exclusion under subsection (a) of this section, but not both, for the taxable year.

* * * Sales and Use Tax; Exemption; Menstrual Products * * *

Sec. 9. 32 V.S.A. § 9706(oo) is amended to read:

(oo) The statutory purpose of the exemption for ~~feminine hygiene~~ menstrual products in subdivision 9741(56) of this title is to limit the cost of goods that are necessary for the health and welfare of Vermonters.

Sec. 10. 32 V.S.A. § 9741(56) is amended to read:

(56) ~~Feminine hygiene~~ Menstrual products. As used in this subdivision, “~~feminine hygiene~~ menstrual products” means tampons, panty liners, menstrual cups, ~~sanitary~~ menstrual napkins, and other similar tangible personal property designed for ~~feminine hygiene~~ use in connection with the human menstrual cycle but does not include “grooming and hygiene products” as defined in this chapter.

* * * Effective Dates * * *

Sec. 11. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Secs. 1–5 (corporate income tax) shall take effect on January 1, 2023 and shall apply to taxable years beginning on and after January 1, 2023.

(2) Notwithstanding 1 V.S.A. § 214, Secs. 6–8 (retirement income exemptions) shall take effect retroactively on January 1, 2022 and shall apply to taxable years beginning on and after January 1, 2022.

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

An act relating to changes to Vermont’s corporate income tax, personal income tax, and sales and use tax.

(Committee vote: 7-0-0)

Amendment to proposal of amendment of the Committee on Finance to be offered by Senator Cummings

Senator Cummings moves to amend the proposal of amendment of the Committee on Finance in Sec. 4, transition from Joyce to Finnigan method, by striking out the subsection (a) designation and by striking out subsection (b) in its entirety

NEW BUSINESS

Second Reading

Favorable

S. 90.

An act relating to establishing an amyotrophic lateral sclerosis registry.

Reported favorably by Senator Terenzini for the Committee on Health and Welfare.

(Committee vote: 4-1-0)

Favorable with Recommendation of Amendment

S. 127.

An act relating to a pilot project for a Department of Corrections report to assist the court setting conditions of probation.

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

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. 28 V.S.A. § 724 is amended to read:

§ 724. TERMS AND CONDITIONS OF COMMUNITY SUPERVISION
FURLOUGH

* * *

(c) Appeal.

(1) An offender whose community supervision furlough status is revoked or interrupted for ~~90~~ 180 days or longer for a technical violation shall have the right to appeal the Department's determination to the Civil Division of the Superior Court in accordance with Rule 74 of the Vermont Rules of Civil Procedure. The appeal shall be based on a de novo review of the record. The appellant may offer testimony, and, in its discretion for good cause shown, the court may accept additional evidence to supplement the record. If

additional evidence is accepted by the court, the Department, through the Office of the Vermont Attorney General, shall have the opportunity to present rebuttal evidence, including testimony, for the court's consideration. The notice of appeal filed pursuant to Rule 74 shall include a certification that the court has subject matter jurisdiction. The Department shall file an objection to subject matter jurisdiction within 14 days, which shall stay the filing of the record on appeal until the court issues an order on the Department's objection. The appellant shall have the burden of proving by a preponderance of the evidence that the Department abused its discretion in imposing a furlough revocation or interruption for 90 180 days or longer pursuant to subsection (d) of this section.

(2) An appeal filed pursuant to this subsection shall be limited to determine whether the decision to interrupt or revoke an offender's community supervision furlough status was an abuse of discretion by the Department based on the criteria set forth in subdivision (d)(2) of this section. The length of interruption or revocation may be a consideration in the abuse of discretion determination.

(3) An appeal filed pursuant to this subsection shall be brought in the unit of the Superior Court in which the offender resided at the time that the offender's furlough status was revoked or interrupted or the unit in which the offender is detained after the offender's furlough status was revoked or interrupted. If an appeal is filed pursuant to this subsection in a unit lacking proper venue, the court, on its own motion or on timely motion of a party to the appeal, may transfer the appeal to a unit having proper venue.

(d) Technical violations.

(1) As used in this section, "technical violation" means a violation of conditions of furlough that does not constitute a new crime.

(2) It shall be abuse of the Department's discretion to revoke furlough or interrupt furlough status for 90 180 days or longer for a technical violation, unless:

(A) the offender's risk to reoffend can no longer be adequately controlled in the community, and no other method to control noncompliance is suitable; or

(B) the violation or pattern of violations indicate the offender poses a danger to others ~~or to the community or poses a threat to abscond or escape from furlough;~~ or

(C) the Commissioner has issued a warrant for the arrest of an offender because the offender absconded from furlough.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

S. 161.

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

Reported favorably with recommendation of amendment by Senator Bray for the Committee on Finance.

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. 30 V.S.A. § 8009 is amended to read:

§ 8009. BASELOAD RENEWABLE POWER PORTFOLIO
REQUIREMENT

* * *

(b) Notwithstanding subsection 8004(a) and subdivision 8005(c)(1) of this title, commencing November 1, 2012, each Vermont retail electricity provider shall purchase the provider's pro rata share of the baseload renewable power portfolio requirement, which shall be based on the total Vermont retail kWh sales of all such providers for the previous calendar year. The obligation created by this subsection shall cease on November 1, ~~2024~~ 2025.

* * *

Sec. 2. 2021 Acts and Resolves No. 39, Sec. 2 is amended to read:

Sec. 2. PUBLIC UTILITY COMMISSION ORDER EXTENSION

All decisions and orders of the former Public Service Board and the Public Utility Commission in the matter Investigation into the Establishment of a Standard-Offer Price for Baseload Renewable Power under the Sustainably Priced Energy Enterprise Development (SPEED) Program, Docket No. 7782, shall remain in full force and effect through October 31, ~~2024~~ 2025. For years 2023 ~~and~~, 2024, ~~and the period from January 1, 2025 to October 31, 2025,~~ the purchase price shall be the levelized value determined in Docket No. 7782.

Sec. 3. 2021 Acts and Resolves No. 39, Sec. 3 is amended to read:

Sec. 3. BASELOAD RENEWABLE POWER PORTFOLIO
REQUIREMENT; COLOCATION REPORT

On or before January 15, ~~2023~~2024, the owner of the baseload renewable power plant subject to 30 V.S.A. § 8009(b) shall report to the General Assembly on whether a project utilizing the excess thermal energy generated by the plant has been developed and is operational, or when a project utilizing the excess thermal energy generated by the plant will be operational.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 7-0-0)

S. 162.

An act relating to the collective bargaining rights of teachers.

Reported favorably with recommendation of amendment by Senator Perchlik 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. 16 V.S.A. § 1752 is amended to read:

§ 1752. GROUNDS AND PROCEDURES FOR SUSPENSION AND
DISMISSAL

(a) A teacher under contract to teach in a public school who fails, without just cause, to complete the term for which the teacher contracted to teach, shall be disqualified to teach in any public school for the remainder of the school year.

(b) The provisions of subsections (c) and (d) of this section regarding the nonrenewal, suspension, and dismissal of teachers shall not apply to a teacher employed under the terms of a collective bargaining agreement under chapter 57 of this title that provides the teacher just cause rights. The decision to nonrenew, suspend without pay, or dismiss a teacher shall be made by the school board.

~~(b)(c)~~ Unless otherwise negotiated, a A teacher under contract to teach in a public school whose contract is not to be renewed for the ensuing year shall be notified in writing, setting forth the grounds therefor, ~~no~~ not later than April 15. If the teacher so notified desires a hearing, the teacher shall so request in writing to the clerk of the school board. The teacher shall have the

right to a hearing before the school directors within 15 days, may present witnesses and written evidence, and may be represented by counsel. A hearing shall be in executive session unless the teacher making the appeal requests or agrees in writing that it be open to the public. The school board shall affirm, modify, or reverse the nonrenewal and shall issue its decision in writing within five days. In the case of a probationary teacher who has received two written performance evaluations per year of probationary service, a decision of the board shall be final. The standard for nonrenewal of a contract shall be:

(1) In the case of a nonprobationary teacher, just and sufficient cause.

(2) In the case of a probationary teacher, any reason other than those prohibited by law. However, the standard for nonrenewal for a probationary teacher's contract shall be just and sufficient cause if the teacher has not received at least two written performance evaluations per year of probationary service. A probationary teacher is a person who has been employed as a teacher in Vermont public schools for less than two school years.

(e)(d) The following provisions shall apply to the suspension or dismissal of a teacher:

(1) A superintendent may suspend a teacher under contract on the grounds of incompetence, conduct unbecoming a teacher, failure to attend to duties, or failure to carry out reasonable orders and directions of the superintendent and school board.

~~(d)~~(2) The suspension shall be in writing and shall set forth the grounds therefor. Copies shall be delivered to the teacher, ~~and~~ to the chair, and to the clerk of the board of school directors. Thereafter, performance under the teacher's contract shall be suspended, but ~~he or she~~ the teacher shall be paid pro rata to the time of ~~his or her~~ dismissal by the board.

~~(e)~~(3) The teacher so suspended shall have the right to appeal to the board of school directors of the district for review of the decision. Filing a written notice of appeal with the clerk of the school board within seven days ~~of~~ after the effective date of the suspension shall initiate the appeal. The clerk of the board shall forthwith forward a copy of the notice of appeal to the superintendent and send to the teacher an acknowledgment of receipt of the appeal.

~~(f)~~(4) The school board to which the appeal is directed shall hear the appeal within 10 days ~~of~~ after receipt of notification. The teacher and the superintendent shall be advised by the clerk of the board of the time and place of hearing by written notice at least three days before the date of hearing.

~~(g)~~(5) All parties shall be entitled to counsel at every stage of the proceedings established by this section. Hearings shall be in executive session, unless the teacher making an appeal requests or agrees in writing that they be open to the public. A teacher making an appeal may waive in writing ~~his or her~~ the right to a hearing.

~~(h)~~(6) Upon hearing, or if no appeal is taken, the school board shall affirm or reverse the suspension or take such other action, including dismissal, as may appear just. If the suspension, or the dismissal, is reversed, the teacher shall not suffer any loss of pay, retirement benefits, or any other benefits to which ~~he or she~~ the teacher would otherwise have been entitled.

~~(i)~~(7) The decision of the school board shall be in writing and filed with the clerk of the school board not later than five days after the hearing or after the time for taking an appeal has expired. The clerk shall within three days notify the superintendent and the teacher in writing of the decision.

~~(j)~~(e) No court action shall lie on the part of a teacher against any school district for breach of contract by reason of suspension or dismissal unless the procedures described in this section have been followed by ~~said~~ the teacher.

~~(k)~~(f) Every teacher's contract shall be deemed to contain the provisions of this section, and any provision in the contract inconsistent with this section shall be considered of no force or effect.

Sec. 2. 16 V.S.A. § 1986 is added to read:

§ 1986. NONINTERFERENCE WITH RIGHT TO TESTIFY

(a) Subject to subsection (b) of this section, no teacher, administrator, or other employee of a school district or supervisory union shall be subject to discipline by the school district or supervisory union for testifying before the General Assembly or a committee of the General Assembly or before the State Board of Education.

(b) A teacher, administrator, or other employee of a school district or supervisory union who testifies before the General Assembly or a committee of the General Assembly or before the State Board of Education shall not divulge information that is confidential to the school district or supervisory union or to its students or staff and may be disciplined by the individual's employer for divulging such confidential information.

(c) A teacher, administrator, or other employee of a school district or supervisory union who testifies before the General Assembly or a committee of the General Assembly or before the State Board of Education shall, unless authorized by the individual's employer to testify on the employer's behalf, state for the record that the individual is not testifying on behalf of the individual's employer.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 6-0-0)

S. 201.

An act relating to the use of leghold traps.

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. DEPARTMENT OF FISH AND WILDLIFE; BEST MANAGEMENT PRACTICES FOR TRAPPING

(a) On or before January 15, 2023, the Commissioner of Fish and Wildlife shall submit to the Senate Committee on Natural Resources and Energy, the House Committee on Natural Resources, Fish, and Wildlife, and the Fish and Wildlife Board recommended best management practices (BMPs) for trapping that propose criteria and equipment designed to modernize trapping and improve the welfare of animals subject to trapping programs. The BMPs shall be based on investigation and research conducted by scientists and experts at the Department of Fish and Wildlife and shall use the "Best Management Practices for Trapping in the United States" issued by the Association of Fish and Wildlife Agencies as the minimum standards for BMP development. The BMPs shall include recommended:

(1) trapping devices and components of trapping devices that are more humane than currently authorized devices and are designed to minimize injury to a captured animal;

(2) criteria for adjusting or maintaining trapping devices so that they operate correctly and humanely;

(3) trapping techniques, including the appropriate size and type of a trap for target animals, use of lures or other attractants, and trap safety;

(4) requirements for the location of traps, including the placing of traps for purposes other than nuisance trapping at a safe distance, from public trails, class 4 roads, playgrounds, parks, and other public locations where persons may reasonably be expected to recreate; and

(5) criteria for when live, captured animals should be released or dispatched.

(b) The report required under subsection (a) of this section shall include a recommendation from the Commissioner of Fish and Wildlife for funding the replacement of currently authorized trapping devices with trapping devices that are compliant with the recommended BMPs. The Commissioner's recommendation shall include alternatives financed with public funding, private funding, or some combination of public and private funding.

(c) In developing the BMPs required under subsection (a) of this section, the Commissioner shall provide an opportunity for public review and comment and shall hold at least one public hearing regarding the proposed BMPs.

(d) As used in this section, "trapping" means to take or attempt to take furbearing animals with traps including the dispatching of lawfully trapped furbearing animals.

Sec. 2. 10 V.S.A. § 4861 is amended to read:

§ 4861. FUR-BEARING ANIMALS, TAKING, POSSESSION

(a) Fur-bearing animals shall not be taken except in accordance with the provisions of this part, and of rules of the Board. The fur or skins of fur-bearing animals may be possessed at any time unless otherwise provided by this part, rules of the Board, or orders of the Commissioner.

(b) On or before January 1, 2024, the Fish and Wildlife Board shall revise the rules regulating the trapping of fur-bearing animals in the State. The revised rules shall be at least as stringent as best management practices for trapping recommended by the Department of Fish and Wildlife to the General Assembly.

Sec. 3. 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 best management practices for trapping.

(Committee vote: 5-0-0)

S. 250.

An act relating to enhanced administrative and judicial accountability of law enforcement officers.

Reported favorably with recommendation of amendment by Senator Ram Hinsdale 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. 20 V.S.A. § 2366 is amended to read:

§ 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL
POLICING POLICY; ~~RACE~~ DATA COLLECTION

* * *

(e)(1) On or before September 1, ~~2014~~ 2022, every State, county, and municipal law enforcement agency shall collect all data concerning law enforcement encounters, including roadside stop data consisting of the following:

- (A) the age, gender, and race of the driver;
- (B) the grounds for the stop;
- (C) the grounds for the search and the type of search conducted, if any;
- (D) the evidence located, if any;
- (E) the outcome of the stop, including whether physical force was employed or threatened during the stop, and if so, the type of force employed and whether the force resulted in bodily injury or death, and whether:
 - (i) a written warning was issued;
 - (ii) a citation for a civil violation was issued;
 - (iii) a citation or arrest for a misdemeanor or a felony occurred; or
 - (iv) no subsequent action was taken.

(2) Law enforcement agencies shall work with the Executive Director of Racial Equity, the Criminal Justice Council, and a vendor chosen by the Council with the goals of collecting uniform data, adopting uniform storage methods and periods, and ensuring that data can be analyzed. Roadside stop data, as well as reports and analysis of roadside stop data, shall be public.

(3) On or before ~~September~~ July 1, 2016 2023 and annually thereafter, law enforcement agencies shall provide all data collected by the agency, including the data collected under this subsection, to the Executive Director of Racial Equity and the vendor chosen by the Criminal Justice Council under subdivision (2) of this subsection or, in the event the vendor is unable to continue receiving data under this section, to the Council. Law enforcement agencies shall provide the data collected under this subsection in an electronic format specified by the receiving entity.

(4) The data provided pursuant to subdivision (3) of this subsection shall be posted electronically in a manner that is analyzable and accessible to the public on the receiving agency's website and clear and understandable. ~~The receiving agency shall also report the data annually to the General Assembly.~~

(5) Annually, on or before July 1, all law enforcement agencies shall report the data collected pursuant to subdivision (3) of this subsection to the House and Senate Committees on Government Operations and on Judiciary. The report shall detail how the data is collected, how the data is accessible, how the data is used by the law enforcement agency, a review of the data to determine if additional data criteria is needed, and any recommendations to improve data collection and use.

(6) As used in this subsection, "physical force" shall refer to the force employed by a law enforcement officer to compel a person's compliance with the officer's instructions that constitutes a greater amount of force than handcuffing a compliant person.

* * *

Sec. 2. 20 V.S.A. § 2370 is added to read:

§ 2370. LAW ENFORCEMENT OFFICER INFORMATION DATABASE

(a) Purpose. The purpose of this section is to create a law enforcement officer information database that catalogues potential impeachment information concerning law enforcement agency witnesses or affiants and enables a prosecutor to disclose such information consistently and appropriately under the obligations of *Giglio v. United States*, 405 U.S. 150 (1972), and its progeny.

(b) Database. The Vermont Criminal Justice Council shall maintain a database cataloging any potential impeachment information concerning a law enforcement officer. Potential impeachment information may include:

(1) any finding of misconduct that reflects upon the truthfulness or possible bias of the law enforcement officer, including a finding of a lack of candor during a criminal, civil, or administrative inquiry or proceeding;

(2) any past or pending criminal charge brought against the law enforcement officer;

(3) any allegation of misconduct bearing upon truthfulness, bias, or integrity that is the subject of a pending investigation;

(4) any prior findings by a judge that a law enforcement officer testified untruthfully, made a knowing false statement in writing, engaged in an unlawful search or seizure, illegally obtained a confession, or engaged in other misconduct;

(5) any misconduct finding or pending misconduct allegation that either casts a substantial doubt upon the accuracy of a law enforcement officer as a witness, including testimony, that a prosecutor intends to rely on to prove an element of any crime charged, or that might have a significant bearing on the admissibility of prosecution evidence;

(6) information that may be used to suggest that the law enforcement officer is biased for or against a defendant; or

(7) information that reflects that the law enforcement officer's ability to perceive and recall truth is impaired.

(c) Duty to report. A law enforcement agency's executive officer or designee shall report any information required to be cataloged under this section to the Council within 10 business days after discovering the information.

(d) Accessibility. The database shall be accessible to the State's Attorney of any county of this State or designee and the Attorney General of this State or designee for the purpose of complying with the disclosure obligations of *Giglio v. United States*, 405 U.S. 150 (1972), and its progeny. This database shall not be accessible to anyone not listed in this subsection.

(e) Confidentiality. The database, documents, materials, or other information in possession or control of the Council that are obtained by or reported to the Council under this section shall be confidential by law and privileged, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. The Council is authorized to use the database, or related documents, materials, or other information, in furtherance of the Council's official duties. Unless otherwise authorized by law, the Council shall not disclose the database or make related documents, materials, or other information public without the prior written consent of the law enforcement agency and the law enforcement officer. Neither the Council nor any person who received documents, materials, or other information shared under this section shall be required to testify in any

private civil action concerning the database or any confidential documents, materials, or information subject to this section. Nothing in the section shall exempt the Council, a State's Attorney, or the Attorney General from disclosing public records pursuant to 1 V.S.A. chapter 5, subchapter 3.

Sec. 3. 13 V.S.A. § 5585 is amended to read:

§ 5585. ELECTRONIC RECORDING OF A CUSTODIAL INTERROGATION

(a) As used in this section:

(1) "Custodial interrogation" means any interrogation:

(A) involving questioning by a law enforcement officer that is reasonably likely to elicit an incriminating response from the subject; and

(B) in which a reasonable person in the subject's position would consider ~~himself or herself~~ the person to be in custody, starting from the moment a person should have been advised of ~~his or her~~ the person's Miranda rights and ending when the questioning has concluded.

* * *

(b)(1) A custodial interrogation that occurs in a place of detention concerning the investigation of a felony violation of ~~chapter 53 (homicide) or 72 (sexual assault)~~ of this title shall be electronically recorded in its entirety.

(2) In consideration of best practices, law enforcement shall strive to record simultaneously both the interrogator and the person being interrogated.

(c)(1) The following are exceptions to the recording requirement in subsection (b) of this section:

(A) exigent circumstances;

(B) a person's refusal to be electronically recorded;

(C) interrogations conducted by other jurisdictions;

(D) a reasonable belief that the person being interrogated did not commit a felony violation of ~~chapter 53 (homicide) or 72 (sexual assault)~~ of this title and, therefore, an electronic recording of the interrogation was not required;

(E) the safety of a person or protection of ~~his or her~~ the person's identity; and

(F) equipment malfunction.

* * *

Sec. 4. STUDY ON DECEPTIVE AND COERCIVE METHODS OF LAW ENFORCEMENT INTERROGATION; REPORT

(a) The Joint Legislative Justice Oversight Committee shall in its discretion select an organization to submit a written report studying the use of deceptive and coercive interrogation tactics employed by law enforcement in the State of Vermont. In particular, the report shall study and provide recommendations:

(1) concerning when providing false facts about evidence to a suspect during an interview conducted after the commission of a crime results in an involuntary confession or admission to the crime;

(2) regarding when confessions or admissions to crimes procured by providing a defendant with false facts should be inadmissible;

(3) concerning the appropriate age and circumstances to prohibit coercive techniques in cases involving juveniles;

(4) concerning the use of the interrogation and interviewing techniques, including the Reid Technique of Investigative Interviews and Advanced Interrogation Techniques, by law enforcement; and

(5) regarding legislation, initiatives, or programs for the General Assembly and law enforcement to consider to improve current practices.

(b) In preparation of the report, the Committee shall have the administrative, technical, and legal assistance of its selected entity, the Vermont Criminal Justice Council, the Council of State Governments, and any other stakeholders interested in assisting with the report.

Sec. 5. EFFECTIVE DATES

(a) Sec. 2 (law enforcement database) shall take effect on January 1, 2023.

(b) All other sections shall take effect on July 1, 2022.

(Committee vote: 4-1-0)

S. 254.

An act relating to creating a private right of action against law enforcement officers for violating rights established under Vermont law.

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

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. 12 V.S.A. chapter 190 is added to read:

CHAPTER 190. VIOLATIONS OF ARTICLE 11 OF THE VERMONT
CONSTITUTION BY LAW ENFORCEMENT

§ 5607. STANDARD TO RECOVER DAMAGES

(a) It is the intent of the General Assembly to codify the principle established by the Vermont Supreme Court in *Zullo v. State*, 2019 VT 1 as a burden that a plaintiff must prove to obtain damages in an action brought against any Vermont law enforcement agency for a violation of Article 11 of the Constitution of the State of Vermont.

(b) As used in this chapter, “law enforcement agency” has the same meaning as in 20 V.S.A. § 2351a.

§ 5608. RECORD OF CASE DISPOSITION

Each law enforcement agency shall maintain a record of all final judgments and settlements paid by the law enforcement agency for claims made pursuant to this chapter and attach a copy of the complaint to each record. All judgments, settlements, and their underlying complaints are subject to public disclosure unless an exemption applies pursuant to 1 V.S.A. § 317. Any record disclosed shall include the name of the law enforcement agency and the monetary amount paid pursuant to the judgment or settlement.

Sec. 2. REPORT ON ACCESS TO CIVIL JUSTICE REMEDIES AND LAW
ENFORCEMENT QUALIFIED IMMUNITY IN VERMONT

(a) On or before November 15, 2022, the Office of Legislative Counsel shall submit a written report to the Senate Committee on Judiciary, the House Committee on Judiciary, and the Joint Legislative Justice Oversight Committee concerning the impact of the doctrine of qualified immunity on access to civil justice remedies for people wrongfully harmed by bad-faith policing and violations of civil rights in the State of Vermont. In particular, the report shall identify:

(1) the origins of the doctrine of qualified immunity and its present interpretation by the State courts of Vermont;

(2) existing constitutional, statutory, and common law causes of action for redressing the alleged misconduct of Vermont law enforcement under Vermont law;

(3) existing immunities from suit concerning allegations of Vermont law enforcement misconduct under Vermont law;

(4) existing defenses to liability concerning allegations of Vermont law enforcement misconduct under Vermont law;

(5) existing statutory and common law limitations on damages concerning allegations of Vermont law enforcement misconduct under Vermont law; and

(6) the applicability of the doctrine of qualified immunity to all certified law enforcement officers.

(b) In the preparation of the report, the Office of Legislative Counsel shall have the administrative, technical, and legal assistance of the Office of the Vermont Attorney General, the Office of the Vermont Defender General, the Center for Justice Reform at Vermont Law School, and other stakeholders interested in assisting with the report.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

(Committee vote: 3-2-0)

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)

Reported favorably by Senator Starr for the Committee on Appropriations.

(Committee vote: 5-0-2)

S. 281.

An act relating to hunting coyotes with dogs.

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. 10 V.S.A. §§ 5008 and 5009 are added to read:

§ 5008. HUNTING COYOTE WITH AID OF DOGS; PERMIT

(a) No person shall pursue coyote with the aid of dogs, either for training or taking purposes, without a permit issued by the Commissioner.

(1) The Commissioner may deny any permit at the Commissioner's discretion. The Commissioner shall not issue more than 100 permits annually.

(2) The number of permits that the Commissioner issues to nonresidents in any given year shall not exceed 10 percent of the number of permits issued to residents in the preceding year. The Commissioner shall establish a process and standards for determining which nonresidents are to receive a permit, including who will receive a permit if there are more nonresident applicants than nonresident permits.

(3) A nonresident may train dogs to pursue coyote only while the training season is in effect in the nonresident's home state and subject to the requirements of this part and rules adopted under this part.

(b)(1) The Commissioner shall issue permits under this section to a resident for a fee of \$50.00.

(2) The application fee for a nonresident permit issued under this section shall be \$10.00, and the fee for a nonresident permit issued under this section shall be \$200.00 for a successful applicant.

§ 5009. PURSUING COYOTE WITH AID OF DOGS; LANDOWNER PERMISSION

(a) A person shall not release a dog onto land posted in accordance with section 5201 of this title for the purpose of pursuing coyote with the aid of dogs unless the dog owner or handler of the hunting dog has obtained a courtesy permission card from the landowner or landowner's agent allowing the pursuit of coyote with the aid of dogs on the land.

(b) A person shall not release onto land a dog for the purpose of pursuing coyote with the aid of dogs if in the previous 365 days a dog had been previously found on the land, and the dog owner, a handler of the dog, or a person participating in the hunt has been personally informed by law enforcement that hunting dogs are not permitted on the property.

(c)(1) For a first offense, a person who violates this section shall have committed a minor fish and wildlife violation and shall be assessed a five-point violation under subdivision 4502(b)(1) of this title.

(2) For a second or subsequent violation of this section, a person shall be assessed a 10-point violation under subdivision 4502(b)(2) of this title and shall be fined under section 4515 of this title.

Sec. 2. MORATORIUM ON HUNTING COYOTE WITH AID OF DOGS

(a) A person shall not pursue coyote with the aid of dogs, either for the training of dogs or for the taking of coyote, except that a person may pursue coyote with the aid of dogs in defense of a person or property if the person pursuing coyote with the aid of dogs:

(1) is the landowner; or

(2) has obtained a courtesy permission card from the landowner or landowner's agent allowing the release of a dog onto the land for the purpose of pursuing coyote with the aid of dogs.

(b) This section shall be repealed on the effective date of the Fish and Wildlife Board rules required by Sec. 3 of this act.

Sec. 3. FISH AND WILDLIFE BOARD RULES; PURSUING COYOTE WITH THE AID OF DOGS

(a) The General Assembly through the rules required under this section intends to reduce conflicts between landowners and persons pursuing coyote with the aid of dogs by reducing the frequency that dogs or persons pursuing coyote enter onto land that is posted against hunting or land where pursuit of coyote with dogs is not authorized. In addition, the General Assembly intends that the rules required under this section support the humane taking of coyote, the management of the population in concert with sound ecological principles, and the development of reasonable and effective means of control.

(b) The Fish and Wildlife Board shall adopt a rule regarding the pursuit of coyote with the aid of dogs, either for the training of dogs or for the taking of coyote. The rule shall include at least the following provisions:

(1) a limit on the number of dogs that may be used to pursue coyote;

(2) a prohibition on the substitution of any new dog for another dog during pursuit of a coyote;

(3) the legal method of taking coyote pursued with the aid of dogs, such as rifle, muzzle loader, crossbow, or bow and arrow;

(4) a definition of control to minimize the likelihood that dogs pursuing coyote enter onto land that is posted against hunting or onto land where pursuit of coyote with dogs is not authorized;

(5) provisions to encourage persons pursuing coyote with the aid of dogs to seek landowner permission before entering or releasing dogs onto land that is not posted in accordance with 10 V.S.A. § 5201; and

(6) required reporting of every coyote killed during pursuit with the aid of dogs.

(c) The Board shall consider whether to include within the rule required by this section provisions related to seasonal restrictions and baiting.

Sec. 4. EFFECTIVE DATES

(a) This section and Secs. 2 (moratorium on pursuing coyote with aid of dogs) and 3 (Fish and Wildlife Board Rules) shall take effect on passage.

(b) Sec. 1 (permit requirement and prohibition on pursuing coyote with aid of dogs) shall take effect on the effective date of the Fish and Wildlife Board rules required under Sec. 3 of this act.

(Committee vote: 5-0-0)

NOTICE CALENDAR

GOVERNOR'S VETO

H. 361.

An act relating to approval of amendments to the charter of the Town of Brattleboro.

Pending question (to be voted by call of the roll): Shall the bill pass in concurrence, 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 **House Bill No. H. 361** to the House is as follows:

Text of Communication from Governor

“February 28, 2022

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.361, *An Act Relating to Approval of Amendments to the Charter of the Town of Brattleboro*, without my signature.

While I applaud 16- and 17-year-old Vermonters who take an interest in the issues affecting their communities, their state and their country, I do not support lowering the voting age in Brattleboro.

First, given how inconsistent Vermont law already is on the age of adulthood, this proposal will only worsen the problem. For example, the Legislature has repeatedly raised the age of accountability to reduce the consequences when young adults commit criminal offenses. They have argued this approach is justified because these offenders are not mature enough to contemplate the full range of risks and impacts of their actions.

Testimony given by leaders from Columbia University’s Justice Lab, who said Vermont should raise the upper age of juvenile jurisdiction for most crimes, (including some violent crimes) described adolescents and what they called “emerging adults” as more volatile; more susceptible to peer influence; greater risk-takers; and less future-oriented than adults. This view was cited by the Legislature as justification to expand the definition of “child” to those 18

to 22 for purposes of criminal accountability. “Youthful offenders” up to age 22 may now avoid criminal responsibility for their crimes.

Second, if the Legislature is interested in expanding voting access to school-aged children, they should debate this policy change on a statewide basis. I do not support creating a patchwork of core election laws and policies that are different from town to town. The fundamentals of voting should be universal and implemented statewide.

For these reasons, I am returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

I understand this is a well-intended local issue. I urge the Legislature to take up a thorough and meaningful debate on Vermont’s age of majority and come up with consistent, statewide policy for both voting and criminal justice.

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:

H.361 An act relating to approval of amendments to the charter of the Town of Brattleboro

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

Sec. 1. CHARTER AMENDMENT APPROVAL

The General Assembly approves the amendments to the charter of the Town of Brattleboro as set forth in this act. Voters approved proposals of amendment on March 5, 2019.

Sec. 2. 24 App. V.S.A. chapter 107 is amended to read:

CHAPTER 107. TOWN OF BRATTLEBORO

* * *

§ 2.1. DEFINITIONS

* * *

(c) “Youth voter” means any person who is 16 to 18 years of age and is otherwise qualified to vote in Town elections pursuant to 17 V.S.A. chapter 43, subchapter 1.

§ 2.2. ELECTED OFFICERS

On the first Tuesday in March, the voters and youth voters of the Town shall elect by Australian ballot the following:

* * *

(3) ~~A Board of five school directors, elected at large, of whom two shall serve for one year and three shall serve for three years. [Repealed.]~~

(4) ~~Union High School directors, who shall be elected for terms and in numbers as required by State law. [Repealed.]~~

* * *

§ 2.3. MANNER OF ELECTION

(a) Representative Town Meeting members: Representative Town Meeting members shall be elected by Australian ballot on the first Tuesday in March of each year. Voters and youth voters in each district shall elect, for staggered terms, three members for every 180 voters or major fraction thereof. Members shall serve for three years, except that a member elected to fill a vacancy shall serve for the remainder of the term. The manner of elections is fully prescribed in 1959 Acts and Resolves No. 302 ~~of the Acts of 1959~~.

* * *

§ 2.3a. EARLY VOTING

(a)(1) A voter choosing to vote early by Australian ballot in the Town Clerk's office shall vote in the same manner as those voting on election day provided that the voter completes a "Request for Early Voter Absentee Ballot and Certification" form stating the following:

* * *

(4) As authorized for certain Town elections pursuant to this charter, a youth voter who will be at least 16 years of age on the day of the Town election and chooses to vote early shall vote in the same manner as a youth voter on election day, provided that the youth voter completes an early voting form required by the Town Clerk.

* * *

§ 2.4. REPRESENTATIVE TOWN MEETING

(a) Description:

* * *

(2) The Representative Town Meeting consists of up to 140 elected voters and youth voters. It is a guiding body for the Town and a source of ideas, proposals, and comments, elected by district as defined by the Board of Civil Authority. It exercises exclusively all powers vested in the voters of the Town. In addition to the elected members, the following shall be members ex officio: the members of the Selectboard, the School Directors, the Treasurer, the Clerk, the Moderator, and those State Senators and State Representatives who reside in Brattleboro. Representative Town Meeting shall act upon all articles on the Town meeting warning except those ~~which~~ that relate to the election of officers, referenda, and other matters voted upon by Australian ballot.

* * *

§ 2.5. SELECTBOARD

The Selectboard is a legislative body of five persons elected at large by the voters and youth voters of the Town. The Selectboard directs the affairs of the Town within areas specified in subchapter 4 of this charter.

* * *

§ 4.1. COMPOSITION; ELIGIBILITY; ELECTIONS; TERMS

(a) The Selectboard shall be elected at large by the voters and youth voters of the Town from among their number, and newly elected Selectboard members' terms shall begin on the first Monday following the final adjournment of the annual Representative Town Meeting.

* * *

§ 10.3. ELECTION OF TOWN MEETING MEMBERS; CERTIFICATION OF VOTERS; TOWN MEETING MEMBERSHIP; NOTICE; QUALIFICATION; RESPONSIBILITIES

(a)(1) At the first election of Town Meeting members to be held on the first Tuesday in March after the acceptance of this subchapter, the qualified voters of each district shall elect three Town Meeting members for every 180 voters or major fraction thereof, subject to the provisions of subsection (c) of this section. The first one-third elected in each district, in order of the number of votes received, shall serve for three years; the second one-third in ~~such~~ the order of election shall serve for two years; and the remaining one-third in ~~such~~ the order of election shall be elected to serve for one year. In the event of a tie vote the term of such members shall be designated by lot, and the presiding officer of the district shall certify ~~such~~ the designation. All Town Meeting members shall serve for terms commencing on the day of their election.

(2) Annually thereafter, on the first Tuesday in March, the voters and youth voters of each district shall in like manner elect for the term of three years one Town Meeting member for every 180 voters or major fraction thereof, and shall also in like manner fill for the unexpired term or terms any vacancy or vacancies then existing in the number of Town Meeting members in such district, subject to the provisions of subsection (c) of this section.

* * *

(e) Every Town Meeting member shall be a qualified voter or youth voter in the Town and living in the district from which he or she is chosen at the time of his or her election.

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Committee Bill for Second Reading

S. 287.

An act relating to improving student equity by adjusting the school funding formula and providing education quality and funding oversight.

By the Committee on Finance. (Senator Cummings for the Committee.)

Second Reading

Favorable

S. 72.

An act relating to the Interstate Compact on the Placement of Children.

Reported favorably by Senator Lyons for the Committee on Health and Welfare.

(Committee vote: 5-0-0)

Reported favorably by Senator Sears for the Committee on Appropriations.

(Committee vote: 6-0-1)

Favorable with Recommendation of Amendment

S. 91.

An act relating to Parent Child Center Network.

Reported favorably with recommendation of amendment by Senator Hardy for the Committee on Health and Welfare.

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. 33 V.S.A. chapter 37 is amended to read:

CHAPTER 37. ~~PARENT-CHILD~~ PARENT CHILD CENTER PROGRAM NETWORK

§ 3701. ~~PARENT-CHILD~~ PARENT CHILD CENTER PROGRAM NETWORK; ELIGIBILITY

(a) ~~For purposes of As used in~~ this chapter, “parent-child-center”:

(1) “Concrete supports” means community services and resources to address the immediate needs of the family or contribute to the long-term well-being of the family, or both.

(2) “Parent child center” means a community-based organization established for the purpose of providing prevention and early intervention services such as parenting education, support, training, referral, and related services to prospective parents and families with young children including those whose children are medically, socially, or educationally at risk that serves as a central hub and lead provider of primary prevention services for families with young children on behalf of the State.

(3) “Parent Child Center Network” means an Agency of Human Services’ community partner composed of designated parent child centers that ensures accountability and collaboration among designated parent child centers.

(4) “Secretary” means the Secretary of Human Services or designee.

(b) ~~The Secretary of Human Services shall:~~

(1) ~~upon applications made annually, award grants to eligible parent-child centers; and~~

(2) establish, by rule, a formula for determining the amount of grants awarded under this chapter and minimum eligibility standards for such awards
The Parent Child Center Network may recommend to the Secretary of Human Services one or more new parent child centers for designation. Upon receipt

of the Network's recommendations, the Secretary shall review each parent child center recommended for designation to ensure it meets the criteria set forth in subsection (c) of this section. A parent child center recommended by the Network and determined to meet the criteria in subsection (c) of this section by the Secretary shall be deemed a designated parent child center.

(c) In order to be eligible for a grant under this chapter, a parent-child center designation pursuant to subsection (b) of this section, a parent child center shall:

(1) Receive some funding from one or more private, local, or federal source. Contributions in kind, whether material, commodities, transportation, or office space, may be used to satisfy the contribution requirement of this subdivision.

(2) Qualify for tax exempt status under the provisions of Section 501(c) of the Internal Revenue Code.

(3) Have parent representation on its board of directors.

(4) Represent a designated geographic catchment area.

(5) Complete a peer review every three years, which shall be conducted by the Parent Child Center Network.

(6) Provide each of the eight core services set forth in subsection (d) of this section.

(7) Indicate an intention to participate in the Parent Child Center Network as a member.

(8) Work to achieve population-level quality of life outcomes related to children and families pursuant to 3 V.S.A. § 2311.

~~(d) A parent-child-center funded under this chapter shall:~~

~~(1) provide leadership in the coordination of services for families with other community service providers;~~

~~(2) provide such financial or programmatic information as may be necessary to enable the Secretary of Human Services to evaluate the services provided through grant funds, the effect of such services on consumers of these services, and an accounting of the expenditure of grant funds; and~~

~~(3) participate in an annual peer review process conducted by the parent-child-center network and the Agency of Human Services~~ designated parent child center shall provide, either directly or indirectly through formal community partnerships, the following eight core services:

- (1) home visits;
- (2) early childhood services;
- (3) parent education;
- (4) playgroups;
- (5) parent support groups;
- (6) concrete supports;
- (7) community development; and
- (8) resources and referrals.

(e) Any parent child center in existence on January 1, 2021 shall be deemed to meet the designation criteria in subsection (c) of this section.

§ 3702. FUNDING

(a) The Secretary of Human Services shall annually disperse a joint appropriation for all parent child center services to the Parent Child Center Network, which shall distribute funding to each designated parent child center. Notwithstanding subsection (c) of this section, any increases to base funding shall be based on increased community need, the provision of additional services, or the designation of a new parent child center.

(b) The Parent Child Center Network shall work in partnership with the Agency of Human Services to develop appropriate measures of accountability and to provide any financial or programmatic information as may be necessary to enable the Secretary to evaluate the services provided through grant funds, the effect of services on consumers, and an accounting of the expenditure of grant funds.

(c) The Agency of Human Services' budget presentation to the House Committees on Appropriations and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare shall indicate the appropriation needed were the Agency to employ an annual inflation factor for the Parent Child Center Network using the Employment Cost Index for total compensation for private industry workers in New England as published by the U.S. Bureau of Labor Statistics for the 12-month period ending in September of the most recent calendar year.

Sec. 2. APPROPRIATION

In fiscal year 2023, a \$1,500,000.00 appropriation shall be added to the existing parent child center grant of \$3,350,000.00 for a total base appropriation of \$4,850,000.00 to be appropriated to the Department for Children and Families for distribution to the Parent Child Center Network. In addition, in fiscal year 2023, \$3,700,000.00 in one-time funding is appropriated to the Department for Children and Families for distribution to the Parent Child Center Network.

Sec. 3. 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 Parent Child Center Network.

(Committee vote: 5-0-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare with the following amendments thereto:

First: In Sec. 1, 33 V.S.A. chapter 37, § 3702, by striking out subsection (c) in its entirety.

Second: By striking out Sec. 2, appropriation, in its entirety and renumbering the remaining section to be numerically correct.

(Committee vote: 6-0-1)

S. 155.

An act relating to the creation of the Agency of Public Safety.

Reported favorably with recommendation of amendment by Senator White 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:

* * * Creation of Agency * * *

Sec. 1. 3 V.S.A. chapter 72 is added to read:

CHAPTER 72. AGENCY OF PUBLIC SAFETY

Subchapter 1. General Provisions

§ 5201. DEFINITIONS

(1) “Agency” means the Agency of Public Safety.

(2) “Commissioner” means the head of a department responsible to the Secretary for the administration of the department.

(3) “Department” means a major component of the Agency.

(4) “Director” means the head of a division of the Agency.

(5) “Division” means a major component of a department engaged in furnishing services to the public or to units of government at levels other than the State level.

(6) “Secretary” means the head of the Agency, a member of the Governor’s Cabinet, who is responsible to the Governor for the administration of the Agency.

§ 5202. CREATION OF AGENCY

(a) There is hereby created the Agency of Public Safety for the purpose of ensuring the coordination of all State public safety resources, including reducing redundancies; increasing efficiencies; and standardizing policies, training, and data collection.

(b) The Agency of Public Safety shall consist of the following:

(1) the Department of Fire Safety and Emergency Management, including:

(A) the Division of Emergency Management;

(B) the Division of Fire Safety; and

(C) the Office of Training;

(2) the Department of Law Enforcement, including the Division of the Vermont State Police;

(3) the Division of Support Services; and

(4) the Office of Community Collaboration and Empowerment.

(c) The Agency shall provide administrative support to the following boards, commissions, and councils:

(1) the Fire Service Training Council;

(2) the Law Enforcement Advisory Board;

(3) the State Police Advisory Commission;

(4) the Search and Rescue Council;

- (5) the Animal Cruelty Investigation Advisory Board;
- (6) the Electricians Licensing Board;
- (7) the Elevator Safety Review Board;
- (8) the State Emergency Response Commission;
- (9) the Plumbers Examining Board;
- (10) the Vermont Access Board; and
- (11) the Enhanced 911 Board.

§ 5203. ADVISORY CAPACITY

(a) Except as otherwise provided in this chapter, all boards and commissions that are a part of or are attached to the Agency pursuant to this chapter shall be advisory only, and the powers and duties of the boards and commissions, including administrative, policymaking, and regulatory functions, shall vest in and be exercised by the Secretary of the Agency.

(b) Notwithstanding subsection (a) of this section, boards of registration attached to this Agency shall retain and exercise all existing authority with respect to licensing and maintenance of the standards of the persons registered.

§ 5204. PERSONNEL DESIGNATION

The Secretary, Deputy Secretary, commissioners, deputy commissioners, attorneys, and all members of boards, committees, commissions, or councils attached to the Agency are exempt from the classified State service. Division director positions may be exempt from the classified service or may be within the classified service. Except as authorized by section 311 of this title or otherwise by law, all other positions shall be within the classified service.

Subchapter 2. Secretary

§ 5221. APPOINTMENT AND DUTIES

(a) The Agency shall be under the direction and supervision of the Secretary, who shall be appointed by the Governor with the advice and consent of the Senate and shall serve at the pleasure of the Governor.

(b) The Secretary shall oversee the activities of the Division of Support Services and the Office of Community Collaboration and Empowerment. The Secretary shall supervise the Commissioner of Fire Safety and Emergency Management and the Commissioner of Law Enforcement.

§ 5222. BUDGET AND REPORT

The Secretary shall be responsible to the Governor and shall plan, coordinate, and direct the functions vested in the Agency.

§ 5223. DEPUTY SECRETARY

(a) The Secretary, with the approval of the Governor, may appoint a deputy to serve at the Secretary's pleasure and to perform such duties as the Secretary may prescribe. The Deputy shall be exempt from the classified service. The appointment shall be in writing and shall be filed in the Office of the Secretary of State.

(b) The Deputy Secretary shall discharge the duties and responsibilities of the Secretary in the Secretary's absence. In case a vacancy occurs in the office of the Secretary, the Deputy shall assume and discharge the duties of office until the vacancy is filled.

§ 5224. ADVISORY COUNCILS OR COMMITTEES

The Secretary, with the approval of the Governor, may create such advisory councils or committees as the Secretary deems necessary within the Agency and appoint their members for terms not exceeding the Governor's term.

§ 5225. TRANSFER OF PERSONNEL AND APPROPRIATIONS

(a) The Secretary, with the approval of the Governor, may transfer classified positions between State departments and other components of the Agency, subject to personnel laws and rules.

(b) Notwithstanding subsection (a) of this section, members from different divisions of the Department of Law Enforcement shall not be reassigned or transferred outside their division unless the member requests a transfer and the Commissioner approves the transfer.

(c) The Secretary, with the approval of the Governor, may transfer appropriations or parts thereof between departments and other components in the Agency, consistent with the purposes for which the appropriation was made.

Subchapter 3. Commissioners and Directors

§ 5251. COMMISSIONERS; DEPUTY COMMISSIONERS;
APPOINTMENT; TERM

The Secretary, with the approval of the Governor, shall appoint a commissioner of each department, who shall be the chief executive and administrative officer and shall serve at the pleasure of the Secretary.

§ 5252. MANDATORY DUTIES

(a) The Commissioner shall exercise the powers and perform the duties required for the effective administration of the Department.

(b) The Commissioner, with the approval of the Governor, shall so organize and arrange the Department as will best and most efficiently promote its work and carry out the objectives of this chapter. The Commissioner may formulate, put into effect, alter, and repeal rules for the administration of the Department.

(c) In addition to other duties imposed by law, the Commissioner shall:

(1) administer the laws assigned to the Department;

(2) coordinate and integrate the work of the divisions; and

(3) supervise and control all staff functions.

§ 5253. PERMISSIVE DUTIES; APPROVAL OF SECRETARY

(a) The Commissioner may, with the approval of the Secretary:

(1) transfer classified positions within or between divisions subject to State personnel laws and rules;

(2) cooperate with the appropriate federal agencies and administer federal funds in support of programs within the Department;

(3) submit plans and reports, and in other respects comply with federal law and regulations that pertain to programs administered by the Department;

(4) make rules and policies consistent with law for the internal administration of the Department and its programs;

(5) appoint a deputy commissioner;

(6) provide training and instructions for any employees of the Department, at the expense of the Department, in educational institutions or other places; and

(7) organize, reorganize, transfer, or abolish divisions, staff functions, or sections within the Department.

(b) The Commissioner of the Department of Law Enforcement, with the approval of the Secretary, may:

(1) designate or change the rank or grade to be held by a member in accordance with the rules adopted by the Commissioner;

(2) assign or transfer members within a division to serve at such stations and to perform such duties as the Commissioner shall designate; and

(3) determine what certified law enforcement officers other than State Police officers shall give bonds and prescribe the conditions and amount.

(c) Notwithstanding anything to the contrary in this chapter, the divisions within the Department of Law Enforcement shall not be abolished or transferred and members from different divisions of the Department of Law Enforcement shall not be reassigned or transferred outside their division unless the member requests a transfer and the Commissioner approves the transfer.

§ 5254. DIRECTORS

(a) A director shall administer each division within the Agency. The commissioners, with the approval of the Secretary, shall appoint the directors for divisions that are part of a department, and the Secretary shall appoint any other directors whose appointment is not otherwise governed by law. Each division and its officers shall be under the direction and control of the appointing authority except with regard to the quasi-judicial acts or duties vested in them by law.

(b) No rule or policy may be issued by a director of a division without the approval of the appointing authority.

Subchapter 4. Departments, Divisions, and Boards

§ 5281. DEPARTMENT OF LAW ENFORCEMENT

The Department of Law Enforcement is created within the Agency of Public Safety.

§ 5282. DEPARTMENT OF FIRE SAFETY AND EMERGENCY MANAGEMENT

The Department of Fire Safety and Emergency Management is created within the Agency of Public Safety. The Commissioner of Fire Safety and Emergency Management, as Fire Marshal, shall be responsible for enforcing the laws pertaining to the investigation of fires, the prevention of fires, the promotion of fire safety, and the delivery of fire service training.

§ 5283. DIVISION OF SUPPORT SERVICES

(a) The Division of Support Services is created within the Agency of Public Safety. It shall be administered by the Deputy Secretary of the Agency.

(b) The Division of Support Services shall provide the following services to the Agency, including the following components assigned to it for administrative support:

(1) personnel administration;

- (2) financing and accounting activities;
- (3) coordination of filing and records maintenance activities;
- (4) provision of facilities, office space, and equipment and the care thereof;
- (5) requisitioning from the Department of Buildings and General Services of the Agency of Administration supplies, equipment, and other requirements;
- (6) management improvement services;
- (7) training, including diversity, equity, and inclusion training;
- (8) communications, including dispatch and radio technology;
- (9) fleet services;
- (10) information systems and technology, including the Vermont Crime Information Center and the Sex Offender Registry;
- (11) grant management; and
- (12) other administrative functions assigned to it by the Secretary.

(c) Other provisions of the law notwithstanding, all administrative service functions delegated to other components of the Agency shall be performed within the Agency by the Division of Support Services.

§ 5284. OFFICE OF COMMUNITY COLLABORATION AND EMPOWERMENT

(a) Creation. The Office of Community Collaboration and Empowerment is created within the Agency of Public Safety. It shall be administered by the Deputy Secretary of the Agency.

(b) Duties; responsibilities. The Office of Community Collaboration and Empowerment shall:

- (1) create and execute a process to engage public safety stakeholders in the development of key Agency policies with broad stakeholder interest;
- (2) create and maintain a variety of mechanisms for community feedback and engagement regarding the operations of the public safety system;
- (3) maintain a list of relevant public safety stakeholders;
- (4) create a system to periodically review all Agency policies that includes the use of the Equity Impact Assessment Tool;

(5) define the relationship between the Office of Community Collaboration and Empowerment and the other offices, divisions, and departments within the Agency; and

(6) establish organizational structures that allow for meaningful community participation.

(c) Report. On or before November 1, 2023, and every two years thereafter, the Office of Community Collaboration and Empowerment shall report to the House and Senate Committees on Government Operations and on Judiciary, and to the list of stakeholders identified pursuant to subdivision (3) of subsection (b) of this section, on the Office's progress and implementation on the duties and responsibilities identified in subsection (b) of this section.

* * * Transfer of Funds, Equipment, and Positions * * *

Sec. 2. PROVISIONS FOR THE TRANSITION OF THE ENHANCED 911 BOARD

(a) All financial assets and liabilities of the Enhanced 911 Board, including all appropriations associated with the positions transferred pursuant to subsection (b) of this section, are transferred to the Agency of Public Safety.

(b) All authorized positions and equipment, supplies, and inventory of the Enhanced 911 Board are transferred to the Agency of Public Safety.

(c) The Enhanced 911 Board shall have the administrative, technical, and legal assistance of the Agency of Public Safety.

(d) The rules of the Enhanced 911 Board shall become a subtitle under the rules of the Agency of Public Safety.

* * * General Transition Provisions * * *

Sec. 3. TRANSITION; GENERALLY

The Secretary of Public Safety shall coordinate with the Secretary of Administration; the Commissioner of Finance and Management; the Commissioner of Human Resources; the Executive Director of the Criminal Justice Council; the Chair of the Criminal Justice Council; the Executive Director of the Enhanced 911 Board; the Secretary of the Agency of Transportation; and the Commissioners of the Departments of Motor Vehicles, of Fish and Wildlife, of Liquor and Lottery, and their directors of enforcement as necessary to enable the organizational modernization and most efficient operation of State law enforcement divisions and resources.

* * * Statutory Changes for the Enhanced 911 Board * * *

Sec. 4. 30 V.S.A. § 7052 is amended to read:

§ 7052. VERMONT ENHANCED 911 BOARD

* * *

(e) ~~The Board shall appoint, subject to the approval of the Governor, advise the Secretary on and assist the Secretary with the selection of the Executive Director who shall hold office at the pleasure of the Board. He or she~~ The Executive Director shall perform such duties as may be assigned by the Board. The Executive Director is entitled to compensation, as established by law, and reimbursement for the expenses within the amounts available by appropriation. The Executive Director may, with the approval of the Board, hire employees, agents, and consultants and prescribe their duties. The Executive Director shall submit a budget to the Secretary. The Executive Director shall not be under the direction and control of the Secretary except with regard to the budget and other administrative functions given to the Director or the Board by law.

Sec. 5. 30 V.S.A. § 7053 is amended to read:

§ 7053. BOARD; RESPONSIBILITIES AND POWERS

(a) The Board shall be the single governmental agency responsible for statewide Enhanced 911 pursuant to chapter 87 of this title and 3 V.S.A. chapter 72. To the extent feasible, the Board shall consult with the Agency of Human Services, the ~~Department~~ Agency of Public Safety, the Department of Public Service, and local community service providers on the development of policies, system design, standards, and procedures. The Board shall develop designs, standards, and procedures and shall adopt rules on the following:

(1) The technical and operational standards for public safety answering points.

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

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

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

* * *

* * * Statutory Changes for Department of Public Safety Becoming
Agency * * *

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

§ 1. ADMINISTRATION AND ENFORCEMENT OF TITLE

The Commissioner of Motor Vehicles and the Commissioner of ~~Public Safety~~ Law Enforcement shall cooperate in carrying out all the statutes and rules adopted to implement the provisions of this title to achieve the most efficient and economical administration. In case of disagreement as to division of work, the Governor shall decide.

Sec. 7. 23 V.S.A. § 1600 is amended to read:

§ 1600. DEFINITION

Notwithstanding subdivision 4(4) of this title, as used in this chapter, "Commissioner" means the Commissioner of the Agency of Public Safety, Department of Law Enforcement.

Sec. 8. 3 V.S.A. § 2101 is amended to read:

§ 2101. CREATION

A cabinet is created in the Executive Branch of government ~~which that~~ shall consist of the Secretaries of such agencies as are created by law, as well as such Commissioners of the departments created by law as the Governor, in the Governor's discretion, shall appoint to be a member of the Cabinet.

Sec. 9. 20 V.S.A. § 3 is amended to read:

§ 3. VERMONT EMERGENCY MANAGEMENT DIVISION

(a) There is hereby created within the ~~Department of Public Safety~~ Agency of Public Safety, Department of Fire Safety and Emergency Management, a division to be known as the Vermont Emergency Management Division.

* * *

Sec. 10. 20 V.S.A. § 1871 is amended to read:

§ 1871. ~~DEPARTMENT OF PUBLIC SAFETY; COMMISSIONER~~
CONTRACTING

(a) ~~The Department of Public Safety, created by 3 V.S.A. § 212, shall include a Commissioner of Public Safety.~~

(b) ~~The head of the Department shall be the Commissioner of Public Safety, who shall be a citizen of the United States and shall be selected on the basis of training, experience, and qualifications. The Commissioner shall be~~

~~appointed by the Governor, with the advice and consent of the Senate.~~

~~(e)(a)~~ The Commissioner of ~~Public Safety~~ Law Enforcement may contract for security and related traffic control, and receive reimbursement for reasonable costs that shall include costs associated with providing personnel, benefits, equipment, vehicles, insurances, and related expenses. These reimbursements shall be credited to a special fund established pursuant to 32 V.S.A. chapter 7, subchapter 5, and be available to offset costs of providing those services.

~~(e)(b)~~ The Commissioner of ~~Public Safety~~ Law Enforcement shall collect fees for the termination of alarms at State Police facilities and for response to false alarms.

~~(e)(c)~~ Termination Fees.

(1) The termination fee for a single dedicated circuit alarm at a State Police facility ~~will~~ shall be \$250.00 per user per year.

(2) An alarm company or monitoring service that is authorized to install a ~~multi-unit~~ multiunit alarm panel at a State Police facility ~~will~~ shall be assessed a fee of \$25.00 per alarm with a minimum fee of \$250.00 per panel per year.

(3) An individual or business who programs a tape dialer or other automatic notification device to transmit a voice message to a State Police facility, informing the police of a burglary or other emergency, must register such dialer with the State Police facility and ~~will~~ shall be assessed a registration fee of \$50.00 per year. The fee includes an onsite inspection by a member of the State Police.

(4) If State Police respond to an alarm and it is found that the alarm was transmitted by an unregistered tape dialer or similar notification device, a registration fee of \$50.00 ~~will~~ shall be assessed subsequent to that response. Unpaid registration fees are considered to be alarms in default and handled in accordance with the provisions of the section on response terminations.

~~(f)(d)~~ ~~False Alarms~~ alarms.

(1) A false alarm is notification given to the State Police by electronic or telephonic means that an emergency situation exists, when an emergency or other circumstance that could be perceived as an emergency does not exist and to which the State Police have responded.

(2) Alarm periods shall be based on the calendar year, January 1 through December 31.

(3) The first false alarm in an alarm period shall be at no cost. The second false alarm in the alarm period shall be assessed at \$50.00 and each successive false alarm in the same alarm period shall be assessed at \$75.00.

~~(g)~~(e) Response Terminations terminations.

(1) Alarm fees that have been assessed and not paid for a period of 60 days from the date of the last billing are considered alarms in default and the State Police station commander, with the concurrence of the State Police troop commander, may notify the alarm holder that the State Police will no longer respond to alarms at that location as long as the alarm holder is in default.

(2) When in the opinion of the station commander, with the concurrence with the troop commander, there exists a chronic false alarm problem that the alarm holder appears not to have taken reasonable measures to correct, the station commander may send notification that the State Police will no longer respond to alarms at that location until the problem is corrected even if the alarm holder is not in default on fees assessed.

~~(h)~~(f) Appeal. An alarm holder may appeal a decision of the station commander to the troop commander.

~~(i)~~(g) The Commissioner of Public Safety Law Enforcement may enter into contractual arrangements to perform dispatching functions for State, municipal, or other emergency services.

~~(j)~~(h) Charges collected under subsections ~~(e)~~(c), ~~(f)~~(d), and ~~(i)~~(g) of this section shall be credited to the Vermont Law Telecommunications Special Fund and shall be available to the Department to offset the costs of providing the services.

Sec. 11. 20 V.S.A. § 1872 is amended to read:

§ 1872. DUTIES OF COMMISSIONER GENERALLY

The Commissioner shall be the chief enforcement officer of all the statutes and rules pertaining to the law of the road and the display of lights on vehicles. In addition, the Commissioner shall supervise and direct the activities of the State Police and of the Vermont Crime Information Center and, as Fire Marshal, be responsible for enforcing the laws pertaining to the investigation of fires, the prevention of fires, the promotion of fire safety, and the delivery of fire service training.

Sec. 12. 20 V.S.A. § 1874 is amended to read:

§ 1874. ORGANIZATION OF DEPARTMENT BY COMMISSIONER

(a) The Commissioner of Law Enforcement, with the approval of the Governor and the Secretary, shall so organize and arrange the Department of Law Enforcement as will best and most efficiently promote its work and carry out the objectives of this chapter and 3 V.S.A. chapter 72. To that end, the Commissioner may, with the Governor's approval, create, rearrange, and abolish divisions; establish grades, ranks, and positions to be held by members; and formulate, put into effect, alter, and repeal rules for the administration of the Department to the extent permitted by law.

* * *

Sec. 13. 20 V.S.A. § 1883 is amended to read:

§ 1883. STATE LAW ENFORCEMENT; MEMORANDUM OF UNDERSTANDING

(a) ~~The Commissioner of Public Safety~~ In anticipation of consolidating all certified law enforcement resources into the Agency of Public Safety, the Secretary of Public Safety shall develop and execute a memorandum of understanding with the Commissioners of Fish and Wildlife, of Motor Vehicles, and of Liquor and Lottery and their respective directors of law enforcement. The memorandum of understanding shall ~~be reviewed at least every two years and shall~~ at a minimum address:

(1) ~~Maximizing~~ Consolidating collective resources by and reducing or eliminating redundancies and implementing a methodology that will enhance overall coordination and communication and standardize training and policies while supporting the mission of individual enforcement ~~agencies~~ divisions.

(2) Providing for an overall statewide law enforcement strategic plan supported by quarterly planning and implementation strategy sessions to improve efficiencies and coordination on an operational level and ensure ~~interagency~~ cooperation and collaboration of programs funded through grants. The strategic plan should identify clear goals and performance measures that demonstrate results, as well as specific strategic plans for individual enforcement ~~agencies~~ divisions.

(3) ~~Creating a task force concept that will provide for the sharing and disseminating of information and recommendations involving various levels of statewide law enforcement throughout Vermont that will benefit all law enforcement agencies as well as citizens.~~

~~(4)~~(3) Developing an integrated and coordinated approach to ~~multi-agency special teams~~ with the goal of creating a force multiplier, ~~where feasible to be coordinated through the Agency of Public Safety, Department of Law Enforcement.~~ These ~~teams will be coordinated by the Vermont State Police during training and deployments.~~

(5)(4) Providing for the ~~Commissioner~~ Secretary of Public Safety, with the approval of the Governor and in ~~consultation with the Commissioners of Motor Vehicles, of Fish and Wildlife, and of Liquor and Lottery~~ accordance with the State Emergency Management Plan, to assume the role of lead coordinator of statewide law enforcement units in the event of elevated alerts, critical incidents, and ~~all hazard~~ all-hazards events. The lead coordinator shall maintain control until in ~~his or her~~ the lead coordinator's judgment the event no longer requires coordinated action to ensure the public safety.

* * *

Sec. 14. 20 V.S.A. chapter 113, subchapter 2 is amended to read:

Subchapter 2. State Police Certified Law Enforcement Officers

§ 1911. EXAMINATIONS; APPOINTMENT; PROMOTION; PROBATION

The Commissioner shall devise and administer examinations designed to test the qualifications of applicants for positions as ~~State Police~~ certified law enforcement officers assigned to the Department of Law Enforcement and only those applicants shall be appointed or promoted who meet the prescribed standards and qualifications. Where certified law enforcement officer positions support the work of agencies or departments outside the Agency of Public Safety, the Commissioner shall consult the agencies or departments concerning the qualifications for the positions. All ~~State Police~~ certified law enforcement officers assigned to the Department of Law Enforcement shall be on probation for one year from the date of first appointment. Such examinations shall be with the advice of the Department of Human Resources.

§ 1912. BOND AND OATH

State Police Certified law enforcement officers assigned to the Department of Law Enforcement shall give bond to the State, at the expense of the State, in such penal sum as the Commissioner shall require, conditioned for the faithful performance of their duties. State Police Certified law enforcement officers assigned to the Department of Law Enforcement and auxiliary State police shall take the oath of office prescribed for sheriffs before the Commissioner or any person designated under 12 V.S.A. § 5852 to administer oaths.

§ 1913. UNIFORMS AND EQUIPMENT

Within the appropriation for the Department, the Commissioner shall provide the ~~State Police~~ certified law enforcement officers assigned to the Department of Law Enforcement, and such other members as ~~he or she~~ the Commissioner may designate, with uniforms and all members with the equipment necessary in the performance of their respective duties, which shall remain the property of the State. The Commissioner shall consult with agencies and departments that are supported by certified law enforcement officers assigned to the Department of Law Enforcement on the uniforms and equipment necessary for those positions. The Commissioner may sell such equipment as may become unfit for use, and all monies received from the sale shall be paid into the State Treasury and credited to the ~~Department's~~ Agency's appropriation. The Commissioner shall keep an inventory and shall charge against each member all property of the Department issued to ~~him or her~~ the member, and if the Commissioner ~~shall determine~~ determines that a loss or destruction was due to the carelessness or neglect of the member, the value of the property shall be deducted from ~~his or her~~ the member's pay.

§ 1914. POWERS AND IMMUNITIES

The Commissioner of ~~Public Safety~~ Law Enforcement and the ~~State Police~~ all certified law enforcement officers assigned to the Department of Law Enforcement shall be peace officers and shall have the same powers with respect to criminal matters and the enforcement of the law relating to criminal matters as sheriffs, constables, and local police have in their respective jurisdictions, and shall have all the immunities and matters of defense now available or hereafter made available to sheriffs, constables, and local police in a suit brought against them in consequence of acts done in the course of their employment. ~~State Police~~ Certified law enforcement officers assigned to the Department of Law Enforcement shall be informing or complaining officers with the same powers possessed by sheriffs, deputy sheriffs, constables, or police officers of a city or incorporated village as provided in 13 V.S.A. § 5507.

* * *

Sec. 15. 20 V.S.A. § 1933 is amended to read:

§ 1933. DNA SAMPLE REQUIRED

* * *

(c) A person serving a sentence for a designated crime not confined to a correctional facility shall have ~~his or her~~ DNA samples collected or taken at a place and time designated by the Commissioner of Corrections, the

Commissioner of ~~Public Safety~~ Law Enforcement, or a court if the person has not previously submitted a DNA sample in connection with the designated crime for which ~~he or she~~ the person is serving the sentence.

Sec. 16. 20 V.S.A. § 2352 is amended to read:

§ 2352. COUNCIL MEMBERSHIP

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

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

* * *

Sec. 17. REPEALS

3 V.S.A. § 212(18) (the Department of Public Safety) is repealed.

* * * Conforming Revisions * * *

Sec. 18. CONFORMING REVISIONS

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Counsel shall make the following revisions throughout the statutes as needed for consistency with this act, provided the revisions have no other effect on the meaning of the affected statutes:

(1) replace “Department of Public Safety” with “Department of Law Enforcement”; and

(2) revisions that are substantially similar to those described in subdivision (1) of this section.

* * * Reporting * * *

Sec. 19. CREATION OF AGENCY OF PUBLIC SAFETY; REPORTS

(a) On or before November 15, 2022, the Secretary of the Agency of Public Safety shall report to the Governor, the leadership of the General Assembly, and the House and Senate Committees on Government Operations and on Judiciary on the status of the organizational transition and recommend any legislative changes needed to continue the orderly and efficient organizational transition of the Agency of Public Safety.

(b) On or before October 15, 2023, the Secretary of the Agency of Public Safety shall study the effectiveness, efficiency, and delivery of State public safety law enforcement services and shall report to the Governor and the General Assembly on the feasibility and advisability of transferring the operations of the Department of Motor Vehicles certified law enforcement officers, Department of Fish and Wildlife certified law enforcement officers,

Department of Liquor and Lottery certified law enforcement officers, the Capitol Police, and the Department of Labor relating to VOSHA, Project WorkSAFE, and Passenger Tramway Safety to the Agency of Public Safety.

(c) On or before November 15, 2023, the Secretary of the Agency of Public Safety shall report to the Governor, the leadership of the General Assembly, and the House and Senate Committees on Government Operations and on Judiciary on the status of the organizational transition and recommend any legislative changes needed to continue an orderly and efficient organizational transition.

Sec. 20. UNIFICATION OF ANIMAL WELFARE AND RELATED PUBLIC SAFETY FUNCTIONS; REPORT

(a) On or before January 15, 2023, the Department of Public Safety, in consultation with the Agency of Agriculture and any other State agency, division, or department where domestic animal welfare functions reside, shall report to the House and Senate Committees on Government Operations with a plan to unify the domestic animal welfare and related public safety functions across State government. The report, which shall include draft legislation to enact the plan, shall focus on the intersection of existing domestic animal welfare functions and the role of the Department of Public Safety and shall include:

(1) an inventory of all existing domestic animal welfare and related public safety functions across all agencies, including citations to existing statutes;

(2) an inventory of all personnel, with job descriptions, responsible for carrying out the functions in the inventory required by subdivision (1) of this subsection (a);

(3) a recommended location and position in State government with responsibility for all State domestic animal welfare and related public safety functions, including enforcement;

(4) a recommendation on whether to move all domestic animal welfare and related public safety functions to a single agency or to maintain a multiagency approach to be coordinated by the position recommended in subdivision (3) of this subsection (a); and

(5) a plan to ensure that domestic animals transported into the State from other jurisdictions meet health and safety standards, and that the businesses that import domestic animals into the State are registered or licensed, or both, and meet health and safety standards.

(b) The Department shall engage with the animal welfare coalition consisting of the Animal Cruelty Investigative Advisory Board, the Vermont Humane Federation, and the Animal Welfare Regulations Coalition as needed to comply with this section.

* * * Effective Dates * * *

Sec. 21. EFFECTIVE DATES

(a) This section and Sec. 3 (transition; generally), Secs. 6–17 (conforming statutory revisions), and Secs. 18–20 (conforming changes; reporting) shall take effect on July 1, 2022.

(b) Sec. 1 (agency creation) shall take effect on July 1, 2022, except that in Sec. 1, 3 V.S.A. § 5202(c)(11) (E-911 board) shall take effect on July 1, 2023.

(c) Secs. 2 and 4–5 (transition and conforming statutory revisions for the E-911 Board) shall take effect on July 1, 2023.

(Committee vote: 4-0-1)

Reported favorably by Senator Sears for the Committee on Appropriations.

The Committee recommends that the bill be amended as recommended by the Committee on Government Operations and when so amended ought to pass.

(Committee vote: 6-0-1)

S. 214.

An act relating to valuation of time-share projects.

Reported favorably with recommendation of amendment by Senator Hardy for the Committee on Finance.

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. 32 V.S.A. § 5412(e) is amended to read:

(e) A reduction made under this section shall be an amount equal to the loss in education grand list value multiplied by the tax rate applicable to the subject property in the year the request is submitted. However, the total amount for all reductions made under this section in one year shall not exceed ~~\$100,000.00~~ \$1,000,000.00. If total reductions for a calendar year would exceed this amount, the Director shall instead prorate the reductions proportionally among all municipalities eligible for a reduction so that total reductions equal ~~\$100,000.00~~ \$1,000,000.00.

Sec. 2. 32 V.S.A. § 5413 is added to read:

§ 5413. STATE APPRAISAL AND LITIGATION ASSISTANCE PROGRAM

(a) A State appraisal and litigation assistance program shall be created within the Division of Property Valuation and Review of the Department of Taxes to assist municipalities with the valuation of complex commercial, utility, or other unique properties within a municipality's jurisdiction and to assist with any appeals arising from those valuations. The Commissioner of Taxes may contract with one or more commercial appraisers to provide State appraisal and litigation assistance to municipalities under this section. The Commissioner may adopt rules to administer the provisions of this section.

(b) The Commissioner shall:

(1) determine the conditions for a property to be eligible for State assistance, including the grand list value or category of the property or other relevant factors as determined by the Commissioner; and

(2) provide a process by which a municipality may apply for assistance under this section for one or more properties.

(c) Any municipality assisted under this section shall be considered to have followed best practices pursuant to subdivision 5412(a)(1)(D) of this title.

Sec. 3. COST ESTIMATE; NEW STATE PROGRAM

On or before January 15, 2023, the Commissioner of Taxes shall submit a cost estimate for the creation of a new State appraisal and litigation assistance program within the Division of Property Valuation and Review of the Department of Taxes to the House Committees on Appropriations and on Ways and Means and the Senate Committees on Appropriations and on Finance. The cost estimate under this section shall include the upfront and ongoing operating costs required to create, implement, and maintain a new program, including contracting with one or more commercial appraisers to provide State assistance to municipalities.

Sec. 4. 32 V.S.A. § 4461(a) is amended to read:

(a) A taxpayer or the selectboard members of a town aggrieved by a decision of the board of civil authority under subchapter 1 of this chapter may appeal the decision of the board to either the Director or the Superior Court of the county in which the property is located. The appeal to the Superior Court shall be heard without a jury. The appeal to either the Director or the Superior Court shall be commenced by filing a notice of appeal pursuant to Rule 74 of the Vermont Rules of Civil Procedure within 30 days after entry of the

decision of the board of civil authority. The date of mailing of notice of the board's decision by the town clerk to the taxpayer shall be deemed the date of entry of the board's decision. The town clerk shall transmit a copy of the notice to the Director or to the Superior Court as indicated in the notice and shall record or attach a copy of the notice in the grand list book. The entry fee for an appeal to the Director is \$70.00; provided, however, that the Director may waive, reduce, or refund the entry fee in cases of hardship or to join appeals regarding the same parcel. If, in the opinion of the Director, an appeal under this subsection involves a complex or unique property or valuation that would be best adjudicated by the Superior Court, the Director may decline to assign a property valuation hearing officer pursuant to section 4465 of this title and shall forward the appeal to the Superior Court where it shall be heard. An appeal forwarded by the Director under this subsection shall be considered timely filed in the Superior Court if it was timely appealed to the Director.

Sec. 5. 32 V.S.A. § 4465 is amended to read:

§ 4465. APPOINTMENT OF PROPERTY VALUATION HEARING OFFICER; OATH; PAY

When an appeal to the Director is not withdrawn or forwarded by the Director to Superior Court pursuant to subsection 4461(a) of this title, the Director shall refer the appeal in writing to a person not employed by the Director, appointed by the Director as hearing officer. The Director shall have the right to remove a hearing officer for inefficiency, malfeasance in office, or other cause. In like manner, the Director shall appoint a hearing officer to fill any vacancy created by resignation, removal, or other cause. Before entering into their duties, persons appointed as hearing officers shall take and subscribe the oath of the office prescribed in the Constitution, which oath shall be filed with the Director. The Director shall pay each hearing officer a sum not to exceed \$150.00 per diem for each day wherein hearings are held, together with reasonable expenses as the Director may determine. A hearing officer may subpoena witnesses, records, and documents in the manner provided by law for serving subpoenas in civil actions and may administer oaths to witnesses.

Sec. 6. 32 V.S.A. § 4041a(a) is amended to read:

~~(a) A municipality shall be paid \$8.50 per grand list parcel per year from the Education Fund to be used only for reappraisal and costs related to reappraisal of its grand list properties and for maintenance of the grand list. [Repealed.]~~

Sec. 7. 32 V.S.A. § 5405(f) is amended to read:

(f) Within the limits of the resources available for that purpose, the Commissioner may employ such individuals, whether on a permanent, temporary, or contractual basis, as shall be necessary, in the judgment of the Commissioner, to aid in the performance of duties under this section. The Commissioner shall pay each municipality the sum of ~~\$1.00~~ \$12.00 per grand list parcel in the municipality for services provided to the Commissioner in connection with the performance of duties under this section, for preparation of the municipality's education property tax grand list, and for reappraisal and costs related to reappraisal of the municipality's education property tax grand list properties. Each municipality shall deposit payments received under this subsection into a special fund that shall be used to support the preparation of the municipality's education property tax grand list and reappraisals.

Sec. 8. REPORT; TIME-SHARE PROJECT VALUATION

On or before January 15, 2023, the Commissioner of Taxes shall submit a report to the House Committee on Ways and Means and the Senate Committee on Finance proposing options for addressing the complexities of valuing time-share projects in this State. The report under this section shall include a review of other states' time-share project valuation laws and an evaluation of the feasibility of applying those formulas in Vermont. The report shall propose any recommendations for legislative changes to clarify the valuation of time-share projects.

Sec. 9. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Sec. 1 (refund for reduction in grand list value) shall take effect on January 1, 2023 and shall apply to municipal requests for reduction submitted on or after January 1, 2023 for a final appeal or court action resolved within the previous calendar year, beginning with the 2022 calendar year.

(2) Sec. 2 (State appraisal and litigation assistance program) shall take effect on July 1, 2023, provided the General Assembly has, on or before July 1, 2023, appropriated funding to cover the Department of Taxes' operating costs required to create, implement, and maintain a new State appraisal and litigation assistance program.

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

An act relating to valuation for purposes of the education property tax.

(Committee vote: 7-0-0)

Reported favorably by Senator Westman for the Committee on Appropriations.

The Committee recommends that the bill be amended as recommended by the Committee on Finance and when so amended ought to pass.

(Committee vote: 6-0-1)

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 only 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) Notwithstanding 21 V.S.A. § 495(e) (Unlawful Employment Practice), which permits religious organizations, under limited circumstances, to discriminate on the basis of sexual orientation or gender identity with

respect to matters of employment, approved independent schools eligible to receive public tuition shall not discriminate on the basis of sexual orientation or gender identity with respect to matters of employment.

(C) 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. As used in this section, “indoctrination” means to instruct in a body of doctrine or principles.

(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.

(e) No private right of action. No private right of action is created by this section against an approved independent school eligible to receive public tuition for noncompliance with subsection (b) of this section or noncompliance

with the contract between the school and the State Board of Education required under that subsection. The State Board is authorized to use its powers under subdivision 166(b)(5) of this title to revoke, suspend, or impose conditions on the eligibility of an approved independent school to receive public tuition for noncompliance with these requirements. The State Board shall establish and maintain a process to receive, investigate, and resolve allegations of noncompliance with these requirements in a manner that provides due process for the person or persons making the allegation and the approved independent school against which the allegation is made.

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).

* * *

* * * Dual Enrollment * * *

Sec. 2. 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. 3. 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:

* * *

(36) “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. 4. 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. 5. 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. 6. 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. 7. 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. 8. 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. 9. 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. 10. 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. 11. 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. 12. 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. 13. 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. 14. 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. 15. 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) Notwithstanding subsection (e) of 21 V.S.A. § 495 (Unlawful Employment Practice), which permits religious organizations, under limited circumstances, to discriminate on the basis of sexual orientation or gender identity with respect to matters of employment, the school shall not discriminate on the basis of sexual orientation or gender identity with respect to matters of employment.

(C) 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 to instruct in a body of doctrine or principles.

(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 to instruct in a body of doctrine or principles.

(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. 16. TRANSITION

(a) 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.

(b) Notwithstanding the provisions of this act, an approved independent school or out-of-state independent school that enrolled a student on public tuition for the 2021–2022 school year shall be entitled to that tuition payment for that school year, and school districts are authorized to make that payment or reimburse a parent or guardian who made that payment to the school.

* * * Effective Dates * * *

Sec. 17. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 1a (16 V.S.A. § 820), 5 (16 V.S.A. § 166), 13 (16 V.S.A. § 2962), and 14 (16 V.S.A. § 2973) 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)

Reported favorably by Senator Baruth for the Committee on Appropriations.

The Committee recommends that the bill be amended as recommended by the Committee on Education and when so amended ought to pass.

(Committee vote: 6-0-1)

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)~~ (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 pre-filing 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.

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* * * 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)

Reported without recommendation by Senator Bray for the Committee on Finance.

The Committee reports the same without recommendation.

(Committee voted: 7-0-0)

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.

Justin Patrick Jiron of Underhill – Superior Court Judge – By Sen. Baruth 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 #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).