

Senate Calendar

THURSDAY, APRIL 21, 2022

SENATE CONVENES AT: 1:00 P.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

CONSIDERATION POSTPONED UNTIL APRIL 21, 2022

Third Reading

H. 159 An act relating to community and economic development and workforce revitalization.....	2812
Amendment - Sens. Sirotkin and Brock	2812

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.....	2815
---	------

Pending question: Shall the bill pass, notwithstanding the Governor's refusal to approve the bill?

Text of the veto message.....	2816
Bill as passed by Senate and House.....	2817

UNFINISHED BUSINESS OF APRIL 20, 2022

GOVERNOR'S VETO

S. 79 An act relating to improving rental housing health and safety.....	2820
---	------

Pending question: Shall the bill pass, notwithstanding the Governor's refusal to approve the bill?

Text of the veto message.....	2820
Bill as passed by Senate and House.....	2822

UNFINISHED BUSINESS OF APRIL 15, 2022

House Proposal of Amendment

S. 265 An act relating to expanding criminal threatening to include threats to third persons.....	2844
--	------

UNFINISHED BUSINESS OF APRIL 20, 2022

Third Reading

S.R. 16 Senate resolution urging the United States Postal Service to improve immediately the reliability and timeliness of its deliveries and requesting that Congress take any necessary legislative actions to effectuate this objective..... 2846

Second Reading

Favorable with Proposal of Amendment

H. 548 An act relating to miscellaneous cannabis establishment procedures
Judiciary Report - Sen. Sears 2846

NEW BUSINESS

Third Reading

H. 534 An act relating to sealing criminal history records.....2853

Second Reading

Favorable

H. 399 An act relating to incarceration terms for criminal defendants who are primary caretakers of dependent children
Judiciary Report - Sen. Benning 2853

H. 411 An act relating to the retrieval and use of covered animals
Natural Resources and Energy Report - Sen. Bray 2854

Favorable with Proposal of Amendment

H. 736 An act relating to the Transportation Program and miscellaneous changes to laws related to transportation
Transportation Report - Sen. Mazza 2854
Finance Report - Sen. Brock 2894
Appropriations Report - Sen. Kitchel 2894
Amendment - Sens. Perchlik, et al 2895

House Proposal of Amendment

S. 254 An act relating to recovering damages for Article 11 violations by law enforcement and a report on qualified immunity..... 2896

NOTICE CALENDAR

Second Reading

Favorable with Proposal of Amendment

H. 505 An act relating to reclassification of penalties for unlawfully possessing, dispensing, and selling a regulated drug Judiciary Report - Sen. Baruth	2897
H. 517 An act relating to the Vermont National Guard Tuition Benefit Program Education Report - Sen. Chittenden	2901
H. 711 An act relating to the creation of the Opioid Settlement Advisory Committee and the Opioid Abatement Special Fund Health and Welfare Report - Sen. Lyons	2908
Appropriations Report - Sen. Kitchel	2909
Amendment - Sens. Lyons, et al	2909

CONCURRENT RESOLUTIONS FOR NOTICE

H.C.R. 144 - 149 (For text of Resolutions, see Addendum to House Calendar for April 21, 2022).....	2909
---	------

ORDERS OF THE DAY

ACTION CALENDAR

CONSIDERATION POSTPONED UNTIL APRIL 21, 2022

Third Reading

H. 159.

An act relating to community and economic development and workforce revitalization.

Pending Question: Shall the Senate proposal of amendment be amended as moved by Senators Sirotkin and Brock?

Proposal of amendment to H. 159 to be offered by Senators Sirotkin and Brock before Third Reading

Senators Sirotkin and Brock moves that the Senate propose to the House to amend the bill as follows:

First: By adding a reader assistance heading and three new sections to be Secs. 17a–17c to read as follows:

* * * SALT Deduction Cap Workaround * * *

Sec. 17a. 32 V.S.A. chapter 151, subchapter 10C is added to read:

Subchapter 10C. Elective Pass-Through Entity Business Income Tax

§ 5921a. DEFINITIONS

As used in this subchapter:

(1) “Distributive proceeds” means the net income, dividends, royalties, interest, rents, guaranteed payments, and gains of a pass-through entity derived from or connected with sources within the State.

(2) “Member” means a member of a limited liability company; a partner in a general, limited, or limited liability partnership; or a shareholder of an S corporation, provided the member is a natural person.

(3) “Pass-through entity” means a limited liability company, a partnership, or an S corporation.

(4) “Pass-through entity business income tax” means the tax imposed under this subchapter.

(5) “Share of distributive proceeds” means the portion of distributive proceeds attributable to a member of a pass-through entity during a taxable year.

(6) “Taxed at the business entity level” means taxed pursuant to an election made under this subchapter.

§ 5921b. PASS-THROUGH ENTITY BUSINESS INCOME TAX;
ELECTION

(a) A pass-through entity may elect to be liable for and pay a pass-through entity business income tax during the taxable year, provided:

(1) at least one member of the entity is liable for income tax under this chapter on that member’s share of distributive proceeds of the pass-through entity during a taxable year;

(2) each member of the pass-through entity is a natural person and no member is a C corporation or a pass-through entity; and

(3) consent is given by:

(A) each member of the electing entity who is a member at the time the election is filed; or

(B) any officer, manager, or member of the electing entity who is authorized, under law or the entity’s organizational documents, to make the election and who represents having such authority under penalties of perjury.

(b) The tax imposed on a pass-through entity under this section shall be equal to the sum of each member’s share of taxable distributive proceeds attributable to the pass-through entity for the taxable year, multiplied by the second-highest marginal tax rate in section 5822 of this title.

(c) The election under this section shall be made annually, on or before the due date for filing the entity’s return as established by the Commissioner, and shall not apply retroactively. An election made under this section shall be binding on all members of the pass-through entity for the year in which the election is made. If the members decide to revoke an election, that revocation shall occur on or before the due date for filing the entity’s return.

(d) Each pass-through entity that makes an election for a taxable year under this section shall annually report to each of its members the member’s share of distributive proceeds for the taxable year.

(e) Each pass-through entity that makes an election for a taxable year under this section shall file an entity tax return and make payments on or before the 15th day of the third month following the close of each entity’s taxable year as

determined for federal income tax purposes. A pass-through entity shall make estimated entity tax payments as provided under subchapter 5 of this chapter.

§ 5921c. REFUNDABLE INCOME TAX CREDIT; INDIVIDUAL MEMBERS OF PASS-THROUGH ENTITIES

An individual taxpayer of this State shall be entitled to a refundable credit against the income tax paid under this chapter for the taxable year, provided the individual is a member of a pass-through entity that elects under section 5921b of this title to be liable for and pay the pass-through entity business income tax during the taxable year. For each pass-through entity of which the individual is a member, the amount of the credit shall equal 90 percent of the individual's pro rata share of the tax paid under section 5921b of this title for the taxable year, and that credit shall be available to the member during the same taxable year. The credit under this section shall be available after the application of all other credits allowed by law and claimed by the individual during the taxable year.

Sec. 17b. 32 V.S.A. § 5825 is amended to read:

§ 5825. CREDIT FOR TAXES PAID TO OTHER STATES AND PROVINCES

* * *

(c) The credit claimed under this section shall include an amount of the tax paid to another state that imposes a tax on the distributive proceeds of a pass-through entity, provided the other state's tax is substantially similar to the pass-through entity business income tax imposed under subchapter 10C of this chapter. The nonrefundable credit under this subsection shall equal 90 percent of the taxpayer's pro rata share of tax paid to another state, provided the amount of the credit does not exceed the amount of pass-through entity business income tax owed under subchapter 10C of this chapter. As used in this subsection, "distributive proceeds" and "pass-through entity" shall have the same meanings as under section 5921a of this title.

Sec. 17c. CONSENSUS ESTIMATE; REPORT TO JOINT FISCAL COMMITTEE AND EMERGENCY BOARD

The Commissioner of Taxes, in consultation with the Joint Fiscal Office, shall conduct a fiscal analysis and reach a consensus estimate of the revenue impact to this State of the elective pass-through entity business income tax and credits created under this act. On or before July 25, 2022, the Commissioner of Taxes shall submit a written report to the Joint Fiscal Committee and the Emergency Board detailing the consensus estimate conducted under this section. Based on the consensus estimate, the Commissioner's report shall

provide a recommendation in favor of or against implementing the tax and credits created under this act in taxable year 2022. The Commissioner shall make a favorable recommendation if:

(1) the consensus estimate under subsection (a) of this section demonstrates that the tax and credits created under this act are projected to have a neutral or positive impact on the revenues of this State; and

(2) the Commissioner determines that implementation of the tax and credits created under this act for the calendar year 2023 income tax filing season (taxable year 2022) will not impose undue administrative burden on the Department of Taxes.

Second: In Sec. 21, effective dates, by inserting a new subsection (g) to read as follows:

(g) Secs. 17a and 17b (SALT deduction cap work-around) shall take effect:

(1) notwithstanding 1 V.S.A. § 214, retroactively on January 1, 2022 and shall apply to taxable years beginning on and after January 1, 2022, provided the Commissioner's recommendation required pursuant to Sec. 17c is in favor of implementing the tax and credits created under this act; or

(2) on January 1, 2023 and shall apply to taxable years beginning on and after January 1, 2023.

And by relettering the remaining subsections to be alphabetically correct.

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 APRIL 20, 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.)

The text of the Communication from His Excellency, The Governor, whereby he *vetoed* and returned unsigned **Senate Bill No. S. 79** to the Senate is as follows:

Text of Communication from Governor

“July 2, 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.79, *An Act Relating to Improving Rental Housing and Safety*, without my signature because I believe this bill would reduce the number of housing options for Vermonters at a time when we are grappling with a critical housing shortage. While we all want safe housing and lodging options for Vermonters and visitors, in my opinion this bill does not accomplish this shared goal.

As you well know, I have repeatedly advocated for improving Vermont’s aging long-term rental housing stock, which is why we used pandemic emergency housing relief and other funds to initiate innovative housing programs like the Vermont Rental Housing Investment Program and the Vermont Homeownership Revolving Loan Fund. Fortunately, these programs can move forward despite this veto with the dedicated funding included in the Fiscal Year 2022 appropriations bill.

Most agree we suffer from a critical housing shortage for middle income, low income and homeless Vermonters, but the solution is not more regulation. Instead, we need to invest in new and rehabilitated housing in every corner of our state. We need to lower costs to make housing more affordable and we need to ease complicated and duplicative permitting requirements while we

have the funding to grow and improve our housing stock. This is what I have proposed since my first year as governor and I will continue to do so.

S.79 targets all rental units in all types of buildings and dwellings with few exceptions. I believe this will discourage everyday Vermonters from offering their homes, rooms or summer cabins for rent, not as a primary business but as a means to supplement their income so they can pay their mortgage as well as their property taxes.

Adding additional restrictions, costs and hoops to jump through will not only reduce the number of long-term rentals, but also short-term lodging options when we have a surge in tourists, including foliage and ski seasons. Tourists and visitors having more lodging options when deciding where to stay makes Vermont more competitive and helps our economy.

I am willing to work with the Legislature to modernize our statewide life safety inspection model and initiate a long-term rental registry if we include the following provisions:

- First, I would support a rental housing registry for only those buildings which exceed two dwelling units available for rental for more than 120 days per year. This will ensure we are differentiating between those renting a unit merely to support household expenses, and more professional landlords operating a rental business.
- Second, the health safety inspection obligations transferred in S.79 to the Division of Fire Safety are an expansion of DFS fire safety inspection obligations to include health inspections. This also expands the responsibility for health code inspections from a local “complaint-based” system to the mandatory statewide inspection authority of DFS. Further, S.79 takes away the existing discretion of DFS to determine if a violation merits shutting a residence down for rental. Under S.79, one uncorrected health or safety violation will make a unit unavailable. There must be a commonsense risk consideration added.

I also believe we need more thorough consideration of timelines, resource needs, regulatory flexibility for DFS, training needs for local health officials and impacts on rental housing resources before transferring total oversight to DFS. The bill currently includes five new positions to carry out much of this work. Truly fulfilling the bill’s mandate would require an even more costly expansion of the bureaucracy in the future, which I could not support. Perhaps Senator Brock’s amendment could be considered a bridge to longer-term modernization.

- Third, I ask the Legislature to continue to support the Vermont Rental Housing Investment Program and the Vermont Homeownership Revolving Loan Fund, which, again, will move forward with funding from the FY22 budget.
- Finally, I also believe we must work together on Act 250 reforms and permitting, especially in light of our unprecedented housing investments. My Administration will make themselves available at any time over the summer and fall to discuss potential paths forward.

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

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.79 An act relating to improving rental housing health and safety

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

* * * Department of Public Safety; Authority for Rental Housing
 Health and Safety * * *

Sec. 1. 20 V.S.A. chapter 173 is amended to read:

CHAPTER 173. PREVENTION AND INVESTIGATION OF FIRES;
 PUBLIC BUILDINGS; HEALTH AND SAFETY; ENERGY STANDARDS

* * *

Subchapter 2. Division of Fire Safety; Public Buildings; Building Codes;
 Rental Housing Health and Safety; Building Energy Standards

* * *

§ 2729. GENERAL PROVISIONS; FIRE SAFETY; CARBON MONOXIDE

(a) A person shall not build or cause to be built any structure that is unsafe or likely to be unsafe to other persons or property in case of fire or generation and leakage of carbon monoxide.

(b) A person shall not maintain, keep or operate any premises or any part thereof, or cause or permit to be maintained, kept, or operated, any premises or part thereof, under his or her control or ownership in a manner that causes or is likely to cause harm to other persons or property in case of fire or generation and leakage of carbon monoxide.

(c) On premises under a person's control, excluding single family owner-occupied houses and premises, that person shall observe rules adopted under this subchapter for the prevention of fires and carbon monoxide leakage that may cause harm to other persons or property.

(d) Any condominium or multiple unit dwelling using a common roof, or row houses so-called, or other residential buildings in which people sleep, including hotels, motels, and tourist homes, excluding single family owner-occupied houses and premises, whether the units are owned or leased or rented, shall be subject to the rules adopted under this subchapter and shall be provided with one or more carbon monoxide detectors, as defined in 9 V.S.A. § 2881(3), properly installed according to the manufacturer's requirements.

§ 2730. DEFINITIONS

(a) As used in this subchapter, "public building" means:

* * *

(D) a building in which people rent accommodations, whether overnight or for a longer term, including "rental housing" as defined in subsection (f) of this section;

* * *

(2) Use of any portion of a building in a manner described in this subsection shall make the entire building a "public building" for purposes of this subsection. For purposes of this subsection, a "person" does not include an individual who is directly related to the employer and who resides in the employment-related building.

(b) The term "public building" does not include:

(1) An owner-occupied single family residence, unless used for a purpose described in subsection (a) of this section.

* * *

~~(4) A single family residence with an accessory dwelling unit as permitted under 24 V.S.A. § 4406(4)(D). [Repealed.]~~

* * *

(f) “Rental housing” means housing that is leased or offered for lease and includes a “dwelling unit” as defined in 9 V.S.A. § 4451 and a “short-term rental” as defined in 18 V.S.A. § 4301.

§ 2731. RULES; INSPECTIONS; VARIANCES

(a) Rules.

(1) The Commissioner is authorized to adopt rules regarding the construction, health, safety, sanitation, and fitness for habitation of buildings, maintenance and operation of premises, and prevention of fires and removal of fire hazards, and to prescribe standards necessary to protect the public, employees, and property against harm arising out of or likely to arise out of fire.

* * *

(b) Inspections.

(1) The Commissioner shall conduct inspections of premises to ensure that the rules adopted under this subchapter are being observed and may establish priorities for enforcing these rules and standards based on the relative risks to persons and property ~~from fire~~ of particular types of premises.

(2) The Commissioner may also conduct inspections to ensure that buildings are constructed in accordance with approved plans and drawings.

(3) When conducting an inspection of rental housing, the Commissioner shall:

(A) issue a written inspection report on the unit or building that:

(i) contains findings of fact that serve as the basis of one or more violations;

(ii) specifies the requirements and timelines necessary to correct a violation;

(iii) provides notice that the landlord is prohibited from renting the affected unit to a new tenant until the violation is corrected; and

(iv) provides notice in plain language that the landlord or agents of the landlord must have access to the rental unit to make repairs as ordered by the Commissioner consistent with the access provisions in 9 V.S.A. § 4460;

(B) provide a copy of the inspection report to the landlord, to the person who requested the inspection, and to any tenants who are affected by a violation:

(i) electronically, if the Department has an electronic mailing address for the person; or

(ii) by first-class mail, if the Department does not have an electronic mailing address for the person;

(C) if an entire building is affected by a violation, provide a notice of inspection directly to the individual tenants, and may also post the notice in a common area, that specifies:

(i) the date of the inspection;

(ii) that violations were found and must be corrected by a certain date;

(iii) how to obtain a copy of the inspection electronically or by first-class mail; and

(iv) if the notice is posted in a common area, that the notice shall not be removed until authorized by the Commissioner;

(D) make the inspection report available as a public record.

* * *

§ 2733. ORDERS TO REPAIR, REHABILITATE, OR REMOVE STRUCTURE

(a)(1) Whenever the ~~commissioner~~ Commissioner finds that premises or any part of them does not meet the standards adopted under this subchapter, the ~~commissioner~~ Commissioner may order it repaired or rehabilitated.

(2) If ~~it~~ the premises is not repaired or rehabilitated within a reasonable time as specified by the ~~commissioner~~ Commissioner in his or her order, the ~~commissioner~~ Commissioner may order the premises or part of them closed, if by doing so the public safety will not be imperiled; otherwise he or she shall order demolition and removal of the structure, or fencing of the premises.

(3) Whenever a violation of the rules is deemed to be imminently hazardous to persons or property, the ~~commissioner~~ Commissioner shall order the violation corrected immediately.

(4) If the violation is not corrected, the ~~commissioner~~ Commissioner may ~~then~~ order the premises or part of them immediately closed and to remain closed until the violation is corrected.

(b) Whenever a structure, by reason of age, neglect, want of repair, action of the elements, destruction, either partial or total by fire or other casualty or other cause, is so dilapidated, ruinous, decayed, filthy, unstable, or dangerous

as to constitute a material menace or damage in any way to adjacent property, or to the public, and has so remained for a period of not less than one week, the ~~commissioner~~ Commissioner may order such structure demolished and removed.

(c) Orders issued under this section shall be served by certified mail with return receipt requested or in the discretion of the ~~commissioner~~ Commissioner, shall be served in the same manner as summonses are served under the Vermont Rules of Civil Procedure promulgated by the ~~supreme court~~ Supreme Court, to all persons who have a recorded interest in the property recorded in the place where land records for the property are recorded, and to all persons who will be temporarily or permanently displaced by the order, including owners, tenants, mortgagees, attaching creditors, lien holders, and public utilities or water companies serving the premises.

§ 2734. PENALTIES

(a)(1) A person who violates any provision of this subchapter or any order or rule issued pursuant thereto shall be fined not more than \$10,000.00.

(2) The ~~state's attorney~~ State's Attorney of the county in which such violation occurs shall prosecute the violation and may commence a proceeding in the ~~superior court~~ Superior Court to compel compliance with such order or rule, and such court may make orders and decrees therein by way of writ of injunction or otherwise.

(b)(1) A person who fails to comply with a lawful order issued under authority of this subchapter in case of sudden emergency shall be fined not more than \$20,000.00.

(2) A person who fails to comply with an order requiring notice shall be fined \$200.00 for each day's neglect commencing with the effective date of such order or the date such order is finally determined if an appeal has been filed.

(c)(1) The ~~commissioner~~ Commissioner may, after notice and opportunity for hearing, assess an administrative penalty of not more than \$1,000.00 for each violation of this subchapter or any rule adopted under this subchapter.

(2) Penalties assessed pursuant to this subsection shall be based on the severity of the violation.

(3) An election by the ~~commissioner~~ Commissioner to proceed under this subsection shall not limit or restrict the ~~commissioner's~~ Commissioner's authority under subsection (a) of this section.

(d) Violation of any rule adopted under this subchapter shall be prima facie evidence of negligence in any civil action for damage or injury which that is the result of the violation.

* * *

§ 2736. MUNICIPAL ENFORCEMENT

(a)(1) The legislative body of a municipality may appoint one or more trained and qualified officials and may establish procedures to enforce rules and standards adopted under subsection 2731(a) of this title.

(2) After considering the type of buildings within the municipality, if the ~~commissioner~~ Commissioner determines that the training, qualifications, and procedures are sufficient, he or she may assign responsibility to the municipality for enforcement of some or all of these rules and standards.

(3) The ~~commissioner~~ Commissioner may also assign responsibility for enforcement of the rules of the access board adopted under section 2902 of this title.

(4) The ~~commissioner~~ Commissioner shall provide continuing review, consultation, and assistance as may be necessary.

(5) The assignment of responsibility may be revoked by the ~~commissioner~~ Commissioner after notice and an opportunity for hearing if the ~~commissioner~~ Commissioner determines that the training, qualifications, or procedures are insufficient.

(6) The assignment of responsibility shall not affect the ~~commissioner's~~ Commissioner's authority under this subchapter.

(b) If a municipality assumes responsibility under subsection (a) of this section for performing any functions that would be subject to a fee established under subsection 2731(a) of this title, the municipality may establish and collect reasonable fees for its own use, and no fee shall be charged for the benefit of the ~~state~~ State.

(c)(1) Subject to rules adopted under section 2731 of this title, municipal officials appointed under this section may enter any premises in order to carry out the responsibilities of this section.

(2) The officials may order the repair, rehabilitation, closing, demolition, or removal of any premises to the same extent as the ~~commissioner~~ Commissioner may under section 2732 of this title.

(d) Upon a determination by the ~~commissioner~~ Commissioner that a municipality has established sufficient procedures for granting variances and exemptions, such variances and exemptions may be granted to the same extent authorized under subsection 2731(b) of this title.

(e) The results of all activities conducted by municipal officials under this section shall be reported to the ~~commissioner~~ Commissioner periodically upon request.

(f) Nothing in this section shall be interpreted to decrease the authority of municipal officials under other laws, including laws concerning building codes and laws concerning housing codes.

* * *

§ 2738. FIRE PREVENTION AND BUILDING INSPECTION SPECIAL FUND

(a) The fire prevention and building inspection special fund revenues shall be from the following sources:

(1) fees relating to construction and inspection of public building and fire prevention inspections under section 2731 of this title;

(2) fees relating to boilers and pressure vessels under section 2883 of this title;

(3) fees relating to electrical installations and inspections and the licensing of electricians under 26 V.S.A. §§ 891-915;

(4) fees relating to cigarette certification under section 2757 of this title; and

(5) fees relating to plumbing installations and inspections and the licensing of plumbers under 26 V.S.A. §§ 2171-2199.

(b) Fees collected under subsection (a) of this section shall be available to the ~~department of public safety~~ Department of Public Safety to offset the costs of the ~~division of fire safety~~ Division of Fire Safety.

(c) The ~~commissioner of finance and management~~ Commissioner of Finance and Management may anticipate receipts to this fund and issue warrants based thereon.

* * *

* * * State Rental Housing Registry; Registration Requirement * * *

Sec. 2. 3 V.S.A. § 2478 is added to read:

§ 2478. STATE RENTAL HOUSING REGISTRY; HOUSING DATA

(a) The Department of Housing and Community Development, in coordination with the Division of Fire Safety, the Department of Health, the Enhanced 911 Board, and the Department of Taxes, shall create and maintain a registry of the rental housing in this State, which includes a “dwelling unit” as defined in 9 V.S.A. § 4451 and a “short-term rental” as defined in 18 V.S.A. § 4301.

(b) The Department of Housing and Community Development shall require for each unit that is registered the following data:

(1) the name and mailing address of the owner, landlord, and property manager of the unit, as applicable;

(2) the phone number and electronic mail address of the owner, landlord, and property manager of the unit, as available;

(3) location of the unit;

(4) year built;

(5) type of rental unit;

(6) number of units in the building;

(7) school property account number;

(8) accessibility of the unit; and

(9) any other information the Department deems appropriate.

(c) Upon request of the Department of Housing and Community Development, and at least annually, a municipal, district, or other local government entity that operates a rental housing health and safety program that requires registration of a rental housing unit and a fee for inclusion on the registry shall provide to the Department the data for each unit that is required pursuant to subsection (b) of this section.

(d)(1) The data the Department collects pursuant to this section is exempt from public inspection and copying pursuant to 1 V.S.A. § 317(c)(1), and the Department shall not disclose such data except as provided in subdivision (2) of this subsection.

(2) The Department:

(A) may disclose data it collects pursuant to this section to other State, municipal, or regional government entities; to nonprofit organizations; or to other persons for the purposes of protecting public health and safety;

(B) shall not disclose data it collects pursuant to this section for a commercial purpose; and

(C) shall require, as a condition of receiving data collected pursuant to this section, that a person to whom the Department discloses the data takes necessary steps to protect the privacy of persons whom the data concerns, to protect the data from further disclosure and to comply with subdivision (B) of this subsection (d).

Sec. 3. 3 V.S.A. § 2479 is added to read:

§ 2479. RENTAL HOUSING REGISTRATION

(a) Registration. Except as otherwise provided in subsection (b) of this section, annually, on or before March 1, the owner of each unit of rental housing that in the previous year was leased or offered for lease as a dwelling unit, as defined in 9 V.S.A. § 4451, or was a “short-term rental,” as defined in 18 V.S.A. § 4301, shall:

(1) register with the Department of Housing and Community Development and provide the information required by subsection 2478(b) of this title; and

(2) pay to the Department an annual registration fee of \$35.00 per unit.

(b) Exceptions.

(1) Unit registered with another program.

(A) The registration requirement imposed in subdivision (a)(1) of this section does not apply to a unit that is currently registered with a municipal, district, or other local government rental housing health and safety program that requires the owner to register the unit and provide the data required in subsection 2478(b) of this title.

(B) The fee requirement imposed in subdivision (a)(2) of this section does not apply to a unit that is currently registered with a municipal, district, or other local government rental housing health and safety program that requires the owner to register the unit and provide the data required in subsection 2478(b) of this title and for which program the owner is required to pay a registration fee.

(2) Mobile homes.

(A) The registration requirement imposed in subdivision (a)(1) of this section does not apply to a mobile home lot within a mobile home park if:

(i) the owner has registered the lot with the Department of Housing and Community Development; and

(ii) the owner does not own a mobile home on the lot.

(B) An owner of a mobile home lot within a mobile home park who has registered the lot with the Department and who owns a mobile home on the lot that is available for rent or rented shall register the property with the Department pursuant to subdivision (a)(1) of this section and pay a fee equal to the fee required by subdivision (a)(2) of this section less any fee paid within the previous 12 months pursuant to 10 V.S.A. § 6254(c).

(C) An owner of a mobile home who rents the mobile home, whether or not located in a mobile home park, shall register pursuant to this section.

(3) Unit not offered to general public. The registration and fee requirements imposed in subsection (a) of this section do not apply to a unit that an owner provides to another person, whether or not for consideration, if, and only to the extent that, the owner does not otherwise make the unit available for lease to the general public, and includes:

(A) housing provided to a member of the owner's family or personal acquaintances;

(B) housing provided to a person who is not related to a member of the owner's household and who occupies the housing as part of a nonprofit homesharing program; and

(C) housing provided to a person who provides personal care to the owner or a member of the owner's household.

(4) Housing provided as a benefit of farm employment. The registration and fee requirements imposed in subsection (a) of this section do not apply to a unit of housing that is provided as a benefit of farm employment, as defined in 9 V.S.A. § 4469a(a)(3).

(c) Rental Housing Safety Special Fund. The Department of Housing and Community Development shall maintain the fees collected pursuant to this section in a special fund entitled the Rental Housing Safety Special Fund, the proceeds of which the Department shall use:

(1) to hire authorized staff to administer the registry and registration requirements imposed in this section and in section 2478 of this title; and

(2) to provide funding to the Department of Public Safety to hire authorized staff to conduct inspections and regulate rental housing pursuant to 20 V.S.A. chapter 173, subchapter 2.

* * * Penalty for Failure to Register * * *

Sec. 3a. 3 V.S.A. § 2479(d) is added to read:

(d) Penalty. The Department shall impose an administrative penalty of not more than \$200.00 per unit for an owner of rental housing who knowingly fails to register or pay the fee required pursuant to this section.

* * * Registration; Prospective Repeal * * *

Sec. 3b. REPEAL

3 V.S.A. § 2479(b)(4) (exemption for housing provided as a benefit of farm employment) is repealed.

* * * Positions Authorized * * *

Sec. 4. DEPARTMENT OF PUBLIC SAFETY; POSITIONS

(a) The Department of Public Safety is authorized to create five full-time, classified Inspector positions in order to conduct rental housing health and safety inspections and enforcement pursuant to 20 V.S.A. chapter 173, subchapter 2.

(b) In fiscal year 2022, the amount of \$100,000.00 is appropriated from the General Fund to the Department of Public Safety as one-time startup funding to hire one or more Inspector positions authorized pursuant to subsection (a) of this section.

(c) The Department may hire additional Inspectors authorized by this section to the extent funds become available from the Rental Housing Safety Special Fund created and maintained pursuant to 3 V.S.A. § 2479.

Sec. 5. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT; POSITIONS

(a) The Department of Housing and Community Development is authorized to create one full-time classified position and one half-time classified position to administer and enforce the registry requirements created in 3 V.S.A. § 2478.

(b) In fiscal year 2022, the amount of \$300,000.00 is appropriated from the General Fund to the Department of Housing and Community Development as one-time startup funding to hire one or more of the positions authorized pursuant to subsection (a) of this section.

(c) The Department may hire additional staff authorized by this section to the extent funds become available from the Rental Housing Safety Special Fund created and maintained pursuant to 3 V.S.A. § 2479.

* * * Conforming Changes to Current Law Governing the Department of Health, State Board of Health, and Local Health Officials * * *

Sec. 6. 18 V.S.A. chapter 11 is amended to read:

CHAPTER 11. LOCAL HEALTH OFFICIALS

* * *

§ 602a. DUTIES OF LOCAL HEALTH OFFICERS

(a) A local health officer, within his or her jurisdiction, shall:

(1) ~~upon request of a landlord or tenant, or upon receipt of information regarding a condition that may be a public health hazard, conduct an investigation;~~

(2) enforce the provisions of this title, the rules promulgated, and permits issued thereunder;

(3) prevent, remove, or destroy any public health hazard; or mitigate any significant public health risk in accordance with the provisions of this title;

(4) in consultation with the Department, take the steps necessary to enforce all orders issued pursuant to chapter 3 of this title; and

(5) have the authority to assist the Division of Fire Safety in inspecting rental housing pursuant to 20 V.S.A. chapter 173, subchapter 2, provided that if the local health officer inspects a rental property without an inspector from the Division, the officer shall issue an inspection report in compliance with 20 V.S.A § 2731(b).

(b) Upon discovery of violation or a public health hazard or public health risk that involves a public water system, a food or lodging establishment, or any other matter regulated by Department rule, the local health officer shall immediately notify the Division of Environmental Health. Upon discovery of any other violation, public health hazard, or public health risk, the local health officer shall notify the Division of Environmental Health within 48 hours of discovery of such violation or hazard and of any action taken by the officer.

~~§ 603. RENTAL HOUSING SAFETY; INSPECTION REPORTS~~

~~(a)(1) When conducting an investigation of rental housing, a local health officer shall issue a written inspection report on the rental property using the protocols for implementing the Rental Housing Health Code of the Department~~

~~or the municipality, in the case of a municipality that has established a code enforcement office.~~

~~(2) A written inspection report shall:~~

~~(A) contain findings of fact that serve as the basis of one or more violations;~~

~~(B) specify the requirements and timelines necessary to correct a violation;~~

~~(C) provide notice that the landlord is prohibited from renting the affected unit to a new tenant until the violation is corrected; and~~

~~(D) provide notice in plain language that the landlord and agents of the landlord must have access to the rental unit to make repairs as ordered by the health officer consistent with the access provisions in 9 V.S.A. § 4460.~~

~~(3) A local health officer shall:~~

~~(A) provide a copy of the inspection report to the landlord and any tenants affected by a violation by delivering the report electronically, in person, by first class mail, or by leaving a copy at each unit affected by the deficiency; and~~

~~(B)(i) if a municipality has established a code enforcement office, provide information on each inspection according to a schedule and in a format adopted by the Department in consultation with municipalities that have established code enforcement offices; or~~

~~(ii) if a municipality has not established a code enforcement office, provide information on each inspection to the Department within seven days of issuing the report using an electronic system designed for that purpose, or within 14 days by mail if the municipality is unable to utilize the electronic system.~~

~~(4) If an entire property is affected by a violation, the local health officer shall post a copy of the inspection report in a common area of the property and include a prominent notice that the report shall not be removed until authorized by the local health officer.~~

~~(5) A municipality shall make an inspection report available as a public record.~~

~~(b)(1) A local health officer may impose a civil penalty of not more than \$200.00 per day for each violation that is not corrected by the date provided in the written inspection report, or when a unit is re-rented to a new tenant prior to the correction of a violation.~~

~~(2)(A) If the cumulative amount of penalties imposed pursuant to this subsection is \$800.00 or less, the local health officer, Department of Health, or State's Attorney may bring a civil enforcement action in the Judicial Bureau pursuant to 4 V.S.A. chapter 29.~~

~~(B) The waiver penalty for a violation in an action brought pursuant to this subsection is 50 percent of the full penalty amount.~~

~~(3) If the cumulative amount of penalties imposed pursuant to this subsection is more than \$800.00, or if injunctive relief is sought, the local health officer, Department of Health, or State's Attorney may commence an action in the Civil Division of the Superior Court for the county in which a violation occurred.~~

~~(c) If a local health officer fails to conduct an investigation pursuant to section 602a of this title or fails to issue an inspection report pursuant to this section, a landlord or tenant may request that the Department, at its discretion, conduct an investigation or contact the local board of health to take action.~~

[Repealed.]

* * *

* * * Transition Provisions * * *

Sec. 7. RENTAL HOUSING HEALTH AND SAFETY; TRANSITION PROVISIONS

(a) Notwithstanding any provision of law to the contrary:

(1) Until the Commissioner of Public Safety adopts rules governing rental housing health and safety pursuant to 20 V.S.A. § 2731, the Department of Health, local officials authorized by law, and the Department of Public Safety have concurrent authority to enforce the Vermont Rental Housing Health Code adopted by the Department of Health pursuant to 18 V.S.A. § 102, 3 V.S.A. § 3003(a), and 3 V.S.A. § 801(b)(11).

(2) The Commissioner of Public Safety may immediately adopt a rule incorporating the Rental Housing Health Code without following the procedures otherwise required for general rulemaking in 3 V.S.A. chapter 25.

(3) Except as provided in subdivision (2) of this subsection, the Commissioner of Public Safety shall comply with the requirements for general rulemaking in 3 V.S.A. chapter 25 when adopting rules governing rental housing health and safety.

(b) Upon the adoption of rules governing rental housing health and safety pursuant to the authority in 20 V.S.A. § 2731:

(1) the Department of Public Safety is the State government entity with primary authority to enforce State laws governing rental housing health and safety;

(2) the Department of Public Safety and local officials have concurrent authority to enforce State and local laws governing rental housing health and safety pursuant to 18 V.S.A. chapter 11; 20 V.S.A. chapter 173, subchapter 2; 24 V.S.A. chapters 83 and 123; and applicable municipal law; and

(3) the Department of Health, the State Board of Health, and local health officials have concurrent authority to enforce State and local laws governing public health hazards and public health risks, as those terms are defined in 18 V.S.A. § 2, pursuant to 18 V.S.A. chapters 1, 3, and 11.

* * * Vermont Housing Investments * * *

Sec. 8. VERMONT RENTAL HOUSING INVESTMENT PROGRAM;

PURPOSE

(a) Recognizing that Vermont's rental housing stock is some of the oldest in the country and that much of it needs to be updated to meet code requirements and other standards, the Vermont Rental Housing Investment Program is intended to incentivize private apartment owners to make significant improvements to both housing quality and weatherization by providing grants and forgivable loans that are matched in part by the property owner.

(b) The Program seeks to take the lessons learned from the successful Re-housing Recovery Program established with funds provided by the Federal CARES Act and implement them in a State-funded program.

Sec. 9. 10 V.S.A. chapter 29, subchapter 3 is added to read:

Subchapter 3. Housing; Investments

§ 699. VERMONT RENTAL HOUSING INVESTMENT PROGRAM

(a) Creation of program.

(1) The Department of Housing and Community Development shall design and implement the Vermont Rental Housing Investment Program through which the Department shall award funding to statewide or regional nonprofit housing organizations, or both, to provide competitive grants and forgivable loans to private landlords for the rehabilitation, including weatherization, of eligible rental housing units.

(2) The Department shall develop statewide standards for the Program, including factors that partner organizations shall use to evaluate applications and award grants and forgivable loans.

(b) Eligible rental housing units. The following units are eligible for a grant or forgivable loan through the Program:

(1) Non-code compliant. The unit does not comply with the requirements of applicable building, housing, or health laws.

(2) New accessory dwelling. The unit will be a newly created accessory dwelling unit that meets the requirements of 24 V.S.A. § 4412(1)(E).

(c) Administration. The Department shall require a housing organization that receives funding under the Program to adopt:

(1) a standard application form that describes the application process and includes instructions and examples to help landlords apply;

(2) an award process that ensures equitable selection of landlords, subject to a housing organization's exercise of discretion based on the factors adopted by the Department pursuant to subsection (a) of this section; and

(3) a grant and loan management system that ensures accountability for funds awarded.

(d) Program requirements applicable to grants and forgivable loans.

(1) A grant or loan shall not exceed \$30,000.00 per unit.

(2) A landlord shall contribute matching funds or in-kind services that equal or exceed 20 percent of the value of the grant or loan.

(3) A project may include a weatherization component.

(4) A project shall comply with applicable building, housing, and health laws.

(5) The terms and conditions of a grant or loan agreement apply to the original recipient and to a successor in interest for the period the grant or loan agreement is in effect.

(6) The identity of a recipient and the amount of a grant or forgivable loan are public records that shall be available for public copying and inspection and the Department shall publish this information at least monthly on its website.

(e) Program requirements applicable to grants. For a grant awarded under the Program, the following requirements apply for a minimum period of five years:

(1) A landlord shall coordinate with nonprofit housing partners and local coordinated entry organizations to identify potential tenants.

(2)(A) Except as provided in subdivision (2)(B) of this subsection (e), a landlord shall lease the unit to a household that is exiting homelessness.

(B) If, upon petition of the landlord, the Department or the housing organization that issued the grant determines that a household exiting homelessness is not available to lease the unit, then the landlord shall lease the unit:

(i) to a household with an income equal to or less than 80 percent of area median income; or

(ii) if such a household is unavailable, to another household with the approval of the Department or housing organization.

(3)(A) A landlord shall accept any housing vouchers that are available to pay all, or a portion of, the tenant's rent and utilities.

(B) If no housing voucher or federal or State subsidy is available, the total cost of rent for the unit, including utilities not covered by rent payments, shall not exceed the applicable fair market rent established by the Department of Housing and Urban Development.

(4)(A) A landlord may convert a grant to a forgivable loan upon approval of the Department and the housing organization that approved the grant.

(B) A landlord who converts a grant to a forgivable loan shall receive a 10 percent credit for loan forgiveness for each year in which the landlord participates in the grant program.

(f) Requirements applicable to forgivable loans. For a forgivable loan awarded under the Program, the following requirements apply for a minimum period of 10 years:

(1)(A) A landlord shall accept any housing vouchers that are available to pay all, or a portion of, the tenant's rent and utilities.

(B) If no housing voucher or federal or State subsidy is available, the cost of rent for the unit, including utilities not covered by rent payments, shall not exceed the applicable fair market rent established by the Department of Housing and Urban Development.

(2) The Department shall forgive 10 percent of the amount of a forgivable loan for each year a landlord participates in the loan program.

(g) Lien priority. A lien for a grant converted to a loan or for a forgivable loan issued pursuant to this section is subordinate to:

(1) a lien on the property in existence at the time the lien for rehabilitation and weatherization of the rental housing unit is filed in the land records; and

(2) a first mortgage on the property that is refinanced and recorded after the lien for rehabilitation and weatherization of the rental housing unit is filed in the land records.

Sec. 10. REPORT

On or before February 15, 2022, the Department of Housing and Community Development shall report to the General Assembly concerning the design, implementation, and outcomes of the Vermont Housing Investment Program, including findings and any recommendations related to the amount of grant awards.

Sec. 11. VERMONT HOMEOWNERSHIP REVOLVING LOAN FUND; PURPOSE

(a) The purpose of the Vermont Homeownership Revolving Loan Fund created in Sec. 12 of this act is to provide no-interest loans to increase access to homeownership.

(b) The Program is intended to assist Vermonters who otherwise may be unable to purchase a home or who may be unable to afford the costs to rehabilitate, weatherize, or otherwise make necessary improvements to a home they purchase.

(c) The Program is also intended to place a special focus on increasing the homeownership rates of households identifying as Black, Indigenous, or Persons of Color, who are systematically disenfranchised from financing real estate through traditional banking and have therefore been generationally dispossessed of the ability to develop lasting wealth.

Sec. 12. 10 V.S.A. § 699a is added to read:

§ 699a. VERMONT HOMEOWNERSHIP REVOLVING LOAN FUND

(a) Creation of Program. The Department of Housing and Community Development shall design and implement the Vermont Homeownership Revolving Loan Fund, through which the Department shall provide funding to statewide or regional nonprofit housing organizations, or both, to issue no-interest loans to first-time homebuyers.

(b) Eligible housing units. The following units are eligible for a loan through the Program:

(1) Existing structure. The unit is an existing single-family dwelling, a multifamily dwelling with not more than four units, a mobile home, or a condominium.

(2) Accessory dwelling. The unit is an accessory dwelling unit that meets the requirements of 24 V.S.A. § 4412(1)(E).

(c) Eligible applicants; priorities.

(1) To be eligible for a loan through the Program, an applicant shall:

(A) be a first-time homebuyer in Vermont;

(B) have a household income of not more than 120 percent of the area median income; and

(C) occupy the dwelling, or a unit within the dwelling, as his or her full-time residence.

(2) A housing organization may give priority to an applicant whose employer provides down payment assistance or funding for rehabilitation costs.

(d) Administration. The Department shall require a housing organization that receives funding under the Program to adopt:

(1) a standard application form that describes the application process and includes instructions and examples to help homebuyers apply;

(2) an award process that ensures equitable selection of homebuyers; and

(3) a loan management system that ensures accountability for funds awarded.

(e) Outreach. Recognizing that Black, Indigenous, and Persons of Color have historically not had access to capital for homeownership purchases and have been systemically discriminated against in the housing market, the Department, working with Vermont chapters of the NAACP, AALV, USCRI, the Executive Director of Racial Equity, the Vermont Commission on Native American Affairs, local racial justice organizations, the Vermont Housing Finance Agency, and the nonprofit homeownership centers, shall develop a plan of active outreach and implementation to ensure that program opportunities are effectively communicated, and that funds are equitably awarded, to communities of Vermonters who have historically suffered housing discrimination.

(f) Program requirements.

(1) A loan issued through the Program:

(A) shall not exceed a standard limit set by the Department, which shall not exceed \$50,000.00;

(B) shall be zero interest, and payments shall be suspended while the homebuyer occupies the home; and

(C) shall become due in full upon the sale or transfer of the home or upon refinancing with approval by the Department and the housing organization that issued the loan.

(2) A rehabilitation project that is funded by a loan through the Program may include a weatherization component and shall comply with applicable building, housing, and health laws.

(3) A homebuyer may use not more than 25 percent of a loan for down payment and closing costs and fees.

(4) A homebuyer shall repay a loan.

(g) Revolving loan fund. The Department shall use the amounts from loans that are repaid to provide additional funding through the Program.

(h) Lien priority. A lien for a loan issued pursuant to this section is subordinate to:

(1) a lien on the property in existence at the time the lien for the loan is filed in the land records; and

(2) a first mortgage on the property that is refinanced and recorded after the lien for the loan is filed in the land records.

Sec. 13. DUTIES CONTINGENT ON FUNDING

The duties of the Department of Housing and Community Development specified in Secs. 10 and 12 of this act are contingent upon available funding.

Sec. 14. REPORT

On or before February 15, 2022, the Department of Housing and Community Development shall report to the General Assembly concerning the design, implementation, and outcomes of the Vermont Homeownership Revolving Loan Fund created in Sec. 12 of this act, including findings and any recommendations related to the amount of loans.

* * * Allocation of Appropriations * * *

Sec. 15. ALLOCATION OF APPROPRIATIONS

(a) Of the amounts appropriated from the General Fund to the Department of Housing and Community Development in H.439, the Department shall allocate \$1,000,000.00 to provide loans through the Vermont Homeownership Revolving Loan Fund created in 10 V.S.A. § 699a.

(b) The Agency of Commerce and Community Development shall use the \$5,000,000.00 appropriated to it in Sec. G.400(a)(2) of H.439 to provide grants and loans through the Vermont Rental Housing Investment Program created in 10 V.S.A. § 699.

* * * Eviction Moratorium * * *

Sec. 16. 2020 Acts and Resolves No. 101, Sec. 1(b)(4) is amended to read:

(4) limit a court's ability to act in an emergency pursuant to Administrative Order 49, issued by the Vermont Supreme Court, as amended, which may include an action that involves criminal activity, illegal drug activity, or acts of violence, or other circumstances that seriously threaten the health or safety of other residents including in response to an action for ejection on an emergency basis pursuant to subsection (i) of this section.

Sec. 17. 2020 Acts and Resolves No. 101, Sec. 1(i) is added to read:

(i) Action for ejection on an emergency basis.

(1) Notwithstanding any provision of this section to the contrary, a court may allow an ejection action to proceed on an emergency basis pursuant to Vermont Rule of Civil Procedure 65, which may include an action that involves the following circumstances:

(A) criminal activity, illegal drug activity, acts of violence, or other circumstances that seriously threaten the health or safety of other residents, including a tenant tampering with, disabling, or removing smoke or carbon monoxide detectors;

(B) the landlord needs to occupy the rental premises;

(C) the tenant is not participating or does not qualify for the Vermont Emergency Rental Assistance Program; or

(D) continuation of the tenancy would cause other immediate or irreparable injury, loss, or damage to the property, the landlord, or other residents.

(2) Upon a plaintiff's motion to proceed under this subsection (i) supported by an affidavit, the court shall determine whether the plaintiff has alleged sufficient facts to warrant a hearing concerning emergency circumstances as provided in subdivision (1) of this subsection (i), and if so, the court shall:

(A) issue any necessary preliminary orders;

(B) schedule a hearing;

(C) allow the plaintiff to serve the defendant with the motion, affidavit, complaint, any preliminary orders, and a notice of hearing; and

(D) after hearing, issue any necessary orders, which may include issuance of a writ of possession.

* * * Effective Dates * * *

Sec. 18. EFFECTIVE DATES

(a) This section and the following sections shall take effect on passage:

(1) Sec. 1 (DPS authority for rental housing health and safety).

(2) Sec. 2 (rental housing registry).

(3) Sec. 6 (conforming changes to Department of Health statutes).

(4) Sec. 7 (DPS rulemaking authority and transition provisions).

(5) Secs. 16–17 (amendment to eviction moratorium).

(b) The following sections take effect on July 1, 2021:

(1) Sec. 4 (DPS positions).

(2) Sec. 5 (DHCD positions).

(3) Secs. 8–10 (Vermont Housing Investment Program).

(4) Secs. 11–14 (Vermont Homeownership Revolving Loan Fund).

(5) Sec. 15 (allocation of appropriations).

(c) Sec. 3 (rental housing registration) shall take effect on January 1, 2022.

(d) Sec. 3a (administrative penalty for failure to register) shall take effect on January 1, 2023.

(e) Sec. 3b (repeal of registration exemption for housing provided as a benefit of farm employment) shall take effect on January 1, 2024.

UNFINISHED BUSINESS OF APRIL 15, 2022

House Proposal of Amendment

S. 265

An act relating to expanding criminal threatening to include threats to third persons.

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

Sec. 1. 13 V.S.A. § 1702 is amended to read:

§ 1702. CRIMINAL THREATENING

(a) A person shall not by words or conduct knowingly:

(1) threaten another person or a group of particular persons; and

(2) as a result of the threat, place the other person in reasonable apprehension of death, ~~or serious bodily injury, or sexual assault to the other person, a person in the group of particular persons, or any other person.~~

(b) A person who violates subsection (a) of this section shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(c) A person who violates subsection (a) of this section with the intent to prevent another person from reporting to the Department for Children and Families the suspected abuse or neglect of a child shall be imprisoned not more than two years or fined not more than ~~\$1,000.00~~ \$2,000.00, or both.

(d) A person who violates subsection (a) of this section by making a threat that places any person in reasonable apprehension that death, serious bodily injury, or sexual assault will occur at a public or private school; postsecondary education institution; place of worship; polling place during election activities; the Vermont State House; or any federal, State, or municipal building shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(e) A person who violates subsection (a) of this section with the intent to terrify, intimidate, or unlawfully influence a person to prevent that person from complying with State laws or rules, State court or administrative orders, or State executive orders shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(f) A person who violates subsection (a) of this section with the intent to terrify, intimidate, or unlawfully influence the conduct of a candidate for public office, a public servant, an election official, or a public employee in any decision, opinion, recommendation, vote, or other exercise of discretion taken

in capacity as a candidate for public office, a public servant, an election official, or a public employee, or with the intent to retaliate against a candidate for public office, a public servant, an election official, or a public employee for any previous action taken in capacity as a candidate for public office, a public servant, an election official, or a public employee, shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(g) As used in this section:

(1) “Serious bodily injury” ~~shall have~~ has the same meaning as in section 1021 of this title.

(2) “Threat” and “threaten” ~~shall do~~ do not include constitutionally protected activity.

(3) “Candidate” has the same meaning as in 17 V.S.A. § 2103.

(4) “Election official” has the same meaning as in 17 V.S.A. § 2455.

(5) “Public employee” means a classified employee within the Legislative, Executive, or Judicial Branch of the State and any of its political subdivisions and any employee within a county or local government and any of the county’s or local government’s political subdivisions.

(6) “Public servant” has the same meaning as in 17 V.S.A. § 2103.

(7) “Polling place” has the same meaning as described in 17 V.S.A. chapter 51, subchapter 4.

(8) “Sexual assault” has the same meaning as sexual assault as described in section 3252 of this title.

~~(e)(h)~~ Any person charged under this section who is ~~under 18 years of age younger than the age identified in 33 V.S.A. § 5201(d)~~ shall be ~~adjudicated as a juvenile delinquent~~ subject to a juvenile proceeding.

~~(f) It shall be an affirmative defense to a charge under this section that the person did not have the ability to carry out the threat. The burden shall be on the defendant to prove the affirmative defense by a preponderance of the evidence.~~

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

UNFINISHED BUSINESS OF APRIL 20, 2022

Third Reading

S.R. 16.

Senate resolution urging the United States Postal Service to improve immediately the reliability and timeliness of its deliveries and requesting that Congress take any necessary legislative actions to effectuate this objective.

Second Reading

Favorable with Proposal of Amendment

H. 548.

An act relating to miscellaneous cannabis establishment procedures.

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

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

Sec. 1. 7 V.S.A. § 861 is amended to read:

§ 861. DEFINITIONS

As used in this chapter:

* * *

(16) “Child-deterrent packaging” means tear-resistant packaging that can be sealed in a manner that would deter children under five years of age from easily accessing the contents of the package within a reasonable time and not difficult for normal adults to use properly.

(17) “Child-resistant packaging” means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance in the container within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging that all children under five years of age cannot open or obtain a toxic or harmful amount of the substance in the container within a reasonable time.

~~(17)~~(18) “Controls,” “is controlled by,” and “under common control” mean the power to direct, or cause the direction or management and policies of a person, whether through the direct or beneficial ownership of voting securities, by contract, or otherwise. A person who directly or beneficially owns 10 percent or more equity interest, or the equivalent thereof, of another person shall be deemed to control the person.

~~(18)~~(19) “Dispensary” means a business organization licensed pursuant to chapter 37 of this title or 18 V.S.A. chapter 86.

~~(19)~~(20) “Enclosed, locked facility” means a building, room, greenhouse, outdoor fenced-in area, or other location that is enclosed on all sides and prevents cannabis from easily being viewed by the public. The facility shall be equipped with locks or other security devices that permit access only by:

(A) Employees, agents, or owners of the cultivator, all of whom shall be 21 years of age or older.

(B) Government employees performing their official duties.

(C) Contractors performing labor that does not include cannabis cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the cultivator when they are in areas where cannabis is being grown, processed, packaged, or stored.

(D) Registered employees of other cultivators, members of the media, elected officials, and other individuals 21 years of age or older visiting the facility, provided they are accompanied by an employee, agent, or owner of the cultivator.

~~(20)~~(21) “Flavored oil cannabis product” means any oil cannabis product that contains an additive to give it a characterizing flavor.

~~(21)~~(22) “Integrated licensee” means a person licensed by the Board to engage in the activities of a cultivator, wholesaler, product manufacturer, retailer, and testing laboratory in accordance with this chapter.

~~(22)~~(23) “Municipality” means a town, city, or incorporated village.

(24) “Owner” means a natural person who controls, or shares control of, a Cannabis Establishment.

~~(23)~~(25) “Person” shall include any natural person; corporation; municipality; the State of Vermont or any department, agency, or subdivision of the State; and any partnership, unincorporated association, or other legal entity.

~~(24)~~(26) “Plant canopy” means the square footage dedicated to live plant production and does not include areas such as office space or areas used for the storage of fertilizers, pesticides, or other products.

~~(25)~~(27) “Principal” means ~~an individual vested with the authority to conduct, manage, or supervise the business affairs of a person, and may include the president, vice president, secretary, treasurer, manager, or similar executive officer of a business; a director of a corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; and a partner of a partnership~~ one of the following:

(A) the president, vice president, secretary, treasurer, manager, or similar officer of a corporation as provided for by 11A V.S.A. § 8.40, nonprofit corporation as provided for by 11B V.S.A. § 8.40, mutual benefit enterprise as provided for by 11C V.S.A. § 822, cooperative as provided for by 11 V.S.A. § 1013, or worker cooperative corporation as provided for by 11 V.S.A. § 1089;

(B) a director of a corporation as provided for by 11A V.S.A. § 8.01, nonprofit corporation as provided for by 11B V.S.A. § 8.01, mutual benefit enterprise as provided for by 11C V.S.A. § 801, cooperative as provided for by 11 V.S.A. § 1006, or worker cooperative corporation as provided for by 11 V.S.A. § 1089;

(C) a member of a member-managed limited liability company as provided for by 11 V.S.A. § 4054;

(D) manager of a manager-managed limited liability company as provided for by 11 V.S.A. § 4054; or

(E) a partner of a partnership as provided for by 11 V.S.A. § 3212 or a general partner of a limited partnership as provided for by 11 V.S.A. chapter 23.

~~(26)~~(28) “Small cultivator” means a cultivator with a plant canopy or space for cultivating plants for breeding stock of not more than 1,000 square feet.

Sec. 2. 7 V.S.A. § 862a is added to read:

§ 862a. SYNTHETIC AND HEMP-DERIVED CANNABINOIDS

The Board shall have the authority to regulate synthetic cannabinoids and hemp-derived cannabinoids, including delta-8 and delta-10 tetrahydrocannabinol.

Sec. 3. 7 V.S.A. § 868 is amended to read:

§ 868. PROHIBITED PRODUCTS

(a) The following are prohibited products and may not be cultivated, produced, or sold pursuant to a license issued under this chapter:

(1) cannabis flower with greater than 30 percent tetrahydrocannabinol;

(2) ~~solid concentrate cannabis products with greater than 60 percent tetrahydrocannabinol;~~

(3) ~~oil cannabis products except for those that are sold prepackaged for use with battery-powered devices;~~

(4) flavored oil cannabis products sold prepackaged for use with battery-powered devices and any cannabis flower that contains characterizing flavor that is not naturally occurring in the cannabis;

(5)(3) cannabis products that contain delta-9 tetrahydrocannabinol and nicotine or alcoholic beverages; and

(6)(4) any cannabis, cannabis products, or packaging of such items that are designed to make the product more appealing to persons under 21 years of age.

Sec. 4. 7 V.S.A. § 881 is amended to read:

§ 881. RULEMAKING; CANNABIS ESTABLISHMENTS

(a) The Board shall adopt rules to implement and administer this chapter in accordance with subdivisions (1)–(7) of this subsection.

(1) Rules concerning any cannabis establishment shall include:

* * *

(I) regulation of additives to cannabis and cannabis products, including ~~those cannabidiol derived from hemp and substances~~ that are toxic or designed to make the product more addictive, more appealing to persons under 21 years of age, or to mislead consumers;

* * *

(3) Rules concerning product manufacturers shall include:

(A) requirements that a single package of a cannabis product shall not contain more than 50 milligrams of THC, except in the case of:

(i) cannabis products that are not consumable, including topical preparations; and

(ii) solid concentrates, oils, and tinctures; and

(iii) cannabis products sold to a dispensary pursuant to 18 V.S.A. chapter 86 and regulations issued pursuant to that chapter;

* * *

(5) Rules concerning retailers shall include:

* * *

(C) requirements that if the retailer sells hemp or hemp products, the hemp and hemp products are clearly labeled as such ~~and displayed separately from cannabis and cannabis products;~~

(D) requirements for opaque, child-resistant packaging of ~~cannabis and cannabis products~~ and child-deterrent packaging for cannabis at point of sale to customer; and

* * *

Sec. 5. 7 V.S.A. § 883 is amended to read:

§ 883. CRIMINAL BACKGROUND RECORD CHECKS; APPLICANTS

(a) The Board shall obtain from the Vermont Crime Information Center a copy of a ~~license applicant's~~ fingerprint-based Vermont criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation for each license applicant, principal of an applicant, and person who controls an applicant who is a natural person.

(b) The Board shall adopt rules that set forth standards for determining whether an applicant should be denied a cannabis establishment license because of his or her criminal history record based on factors that demonstrate whether the applicant presently poses a threat to public safety or the proper functioning of the regulated market. Nonviolent drug offenses shall not automatically disqualify an applicant.

(c) Notwithstanding subsection (a) of this section, the Board may accept third-party criminal background checks submitted by an applicant for a cannabis establishment license or renewal in lieu of obtaining the records from the Vermont Crime Information Center a copy of the person's Vermont fingerprint-based criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation. Any such third-party background check shall:

(1) be conducted by a third-party consumer reporting agency or background screening company that is in compliance with the federal Fair Credit Reporting Act; and

(2) include a multistate and multi-jurisdiction criminal record locator.

Sec. 6. 7 V.S.A. § 884 is amended to read:

§ 884. CANNABIS ESTABLISHMENT IDENTIFICATION CARD

(a) Every owner, principal, and employee of a cannabis establishment shall obtain an identification card issued by the Board. A person may apply for an identification card prior to obtaining employment with a licensee. An employee identification card shall authorize the person to work for any licensee.

(b)(1)(A) Prior to issuing the identification card to an owner or principal of a cannabis establishment, the Board shall obtain from the Vermont Crime Information Center a copy of the person's Vermont fingerprint-based criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation.

(B) Prior to issuing the identification card to an employee of a cannabis establishment, the Board shall obtain a copy of a fingerprint-based identity history summary record from the Federal Bureau of Investigation.

(2) The Board shall adopt rules that set forth standards for determining whether a person should be denied a cannabis establishment identification card because of his or her criminal history record based on factors that demonstrate whether the applicant presently poses a threat to public safety or the proper functioning of the regulated market. Nonviolent drug offenses shall not automatically disqualify an applicant.

(c) Once an identification card application has been submitted, a person may serve as an employee of a cannabis establishment pending the background check, provided the person is supervised in his or her duties by someone who is a cardholder. The Board shall issue a temporary permit to the person for this purpose, which shall expire upon the issuance of the identification card or disqualification of the person in accordance with this section.

(d) An identification card shall expire one year after its issuance or, in the case of owners and principals, upon the expiration of the cannabis establishment's license, whichever occurs first.

Sec. 7. 7 V.S.A. § 901(d)(3) is amended to read:

(3)(A) Except as provided in ~~subdivision~~ subdivisions (B) and (C) of this subdivision (3), an applicant and its affiliates may obtain a maximum of one type of each type of license as provided in subdivisions (1)(A)–(E) of this subsection (d). Each license shall permit only one location of the establishment.

(B) An applicant and its affiliates that ~~are control~~ a dispensary registered pursuant to ~~18 V.S.A. chapter 86 on April 1, 2022~~ may obtain one integrated license provided in subdivision (1)(F) of this subsection (d) or a maximum of one of each type of license provided in subdivisions (1)(A)–(E) of this subsection (d). An integrated licensee may not hold a separate cultivator, wholesaler, product manufacturer, retailer, or testing laboratory license, and no applicant or its affiliates that control a dispensary shall hold more than one integrated license. An integrated license shall permit only one location for each of the types of activities permitted by the license: cultivation, wholesale operations, product manufacturing, retail sales, and testing.

(C) An applicant and its affiliates may obtain multiple testing laboratory licenses.

Sec. 8. PURPOSE; LEGISLATIVE INTENT

The purpose of the amendment to 7 V.S.A. § 901(d)(3)(B) in Sec. 7 of this act is solely to make the language consistent with the defined terms used throughout 7 V.S.A. chapter 33. The amendment should not be construed to alter the meaning of the provision as it was originally enacted in 2019 Acts and Resolves No. 164, Sec. 7.

Sec. 9. 7 V.S.A. § 907 is amended to read:

§ 907. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

(1) purchase cannabis from a licensed cultivator, wholesaler, or integrated licensee, and cannabis products from a licensed wholesaler, product manufacturer, integrated licensee, and dispensary; and

(2) transport, possess, package, and sell cannabis and cannabis products to the public for consumption off the registered premises.

* * *

(e) ~~Internet ordering and delivery~~ Delivery of cannabis to customers ~~are~~ is prohibited.

Sec. 10. 7 V.S.A. § 909(c) is added to read:

(c) An integrated licensee shall comply with the provisions of subsection 908(f) of this title and have its cannabis or cannabis products tested by an independent licensed testing laboratory.

Sec. 11. 18 V.S.A. § 4230h is amended to read:

§ 4230h. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE
PROHIBITED

(a) No person shall manufacture concentrated cannabis by chemical extraction or chemical synthesis using butane or hexane ~~unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety pursuant to chapter 86 of this title.~~

* * *

Sec. 12. 2019 Acts and Resolves No. 164, Sec. 8(a)(1) is amended to read:

(a)(1) The cannabis plant, cannabis product, and useable cannabis possession limits for a registered dispensary set forth in 18 V.S.A. chapter 86 shall no longer apply on and after February 1, 2022. A dispensary shall be permitted to cultivate cannabis and manufacture cannabis products for the purpose of transferring or selling such products to an integrated licensee on or after April 1, 2022 until October 1, 2022 and engaging in the activities permitted by 7 V.S.A. chapter 33.

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 16, 2022, pages 613-616)

NEW BUSINESS

Third Reading

H. 534.

An act relating to sealing criminal history records.

Second Reading

Favorable

H. 399.

An act relating to incarceration terms for criminal defendants who are primary caretakers of dependent children.

Reported favorably by Senator Benning for the Committee on Judiciary.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 16, 2022, page 584)

H. 411.

An act relating to the retrieval and use of covered animals.

Reported favorably by Senator Bray for the Committee on Natural Resources and Energy.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of February 17, 2022, pages 315-317)

Favorable with Proposal of Amendment

H. 736.

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

Reported favorably with recommendation of proposal of amendment by Senator Mazza for the Committee on Transportation.

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

* * * Transportation Program Adopted as Amended; Definitions * * *

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

(a) The Agency of Transportation’s Proposed Fiscal Year 2023 Transportation Program appended to the Agency of Transportation’s proposed fiscal year 2023 budget, as amended by this act, is adopted to the extent federal, State, and local funds are available.

(b) As used in this act, unless otherwise indicated:

(1) “Agency” means the Agency of Transportation.

(2) “Candidate project” means a project approved by the General Assembly that is not anticipated to have significant expenditures for preliminary engineering or right-of-way expenditures, or both, during the budget year and funding for construction is not anticipated within a predictable time frame.

(3) “Development and evaluation (D&E) project” means a project approved by the General Assembly that is anticipated to have preliminary engineering expenditures or right-of-way expenditures, or both, during the budget year and that the Agency is committed to delivering to construction on a timeline driven by priority and available funding.

(4) “Electric vehicle supply equipment (EVSE)” has the same meaning as in 30 V.S.A. § 201.

(5) “Front-of-book project” means a project approved by the General Assembly that is anticipated to have construction expenditures during the budget year or the following three years, or both, with expected expenditures shown over four years.

(6) “Level 3 charger,” “level 3 EVSE,” or “direct-current fast charger (DCFC),” means EVSE that uses dedicated direct current (DC) to provide energy to a plug-in electric vehicle.

(7) “Secretary” means the Secretary of Transportation.

(8) “TIB funds” means monies deposited in the Transportation Infrastructure Bond Fund in accordance with 19 V.S.A. § 11f.

(9) The table heading “As Proposed” means the Proposed Transportation Program referenced in subsection (a) of this section; the table heading “As Amended” means the amendments as made by this act; the table heading “Change” means the difference obtained by subtracting the “As Proposed” figure from the “As Amended” figure; and the terms “change” or “changes” in the text refer to the project- and program-specific amendments, the aggregate sum of which equals the net “Change” in the applicable table heading.

* * * Summary of Transportation Investments * * *

Sec. 2. FISCAL YEAR 2023 TRANSPORTATION INVESTMENTS
INTENDED TO REDUCE TRANSPORTATION-RELATED
GREENHOUSE GAS EMISSIONS, REDUCE FOSSIL FUEL
USE, AND SAVE VERMONT HOUSEHOLDS MONEY

This act includes the State’s fiscal year 2023 transportation investments intended to reduce transportation-related greenhouse gas emissions, reduce fossil fuel use, and save Vermont households money in furtherance of the policies articulated in 19 V.S.A. § 10b and the goals of the Comprehensive Energy Plan and to satisfy the Executive and Legislative Branches’ commitments to the Paris Agreement climate goals. In fiscal year 2023, these efforts will include the following:

(1) Park and Ride Program. This act provides for a fiscal year expenditure of \$4,043,060.00, which will fund one construction project to create a new park and ride facility; the design of one additional park and ride facility scheduled for construction in future fiscal years; the design of improvements to one additional park and ride facility; and paving projects for existing park and ride facilities. This year's Park and Ride Program will create 254 new State-owned spaces. Specific additions and improvements include:

- (A) Berlin (Exit 6)—design for 62 spaces;
- (B) Manchester—design for 50 new spaces; and
- (C) Williston—construction of 142 new spaces.

(2) Bike and Pedestrian Facilities Program. This act, in concert with 2020 Acts and Resolves No. 139, Sec. 12(b)(1), provides for a fiscal year expenditure, including local match, of \$19,793,776.00, which will fund 29 bike and pedestrian construction projects and 18 bike and pedestrian design, right-of-way, or design and right-of way projects for construction in future fiscal years. The construction projects include the creation, improvement, or rehabilitation of walkways, sidewalks, shared-use paths, bike paths, and cycling lanes. In addition to completing the Lamoille Valley Rail Trail, which will run from Swanton to St. Johnsbury, projects are funded in Arlington, Bennington, Brattleboro, Bristol, Burlington, Chester, Colchester, Coventry, Dover, Enosburg Falls, Fairfax, Hardwick, Hartford, Hartland, Hinesburg, Lyndon, Manchester, Middlebury, Middlesex, Montpelier, Montpelier-Berlin, Moretown, New Haven, Pawlet, Plainfield, Poultney, Proctor, Richford, Roxbury, Royalton, Rutland City, Shelburne, South Burlington, Springfield, St. Albans City, Swanton, Vergennes, Waterbury, and Winooski. This act also provides State funding for some of Local Motion's operation costs to run the Bike Ferry on the Colchester Causeway, which is part of the Island Line Trail; funding for the small-scale municipal bicycle and pedestrian grant program for projects to be selected during the fiscal year; funding for projects funded through the Safe Routes to School program; and funding for education and outreach to K–8 schools to encourage higher levels of walking and bicycling to school.

(3) Transportation Alternatives Program. This act provides for a fiscal year expenditure of \$5,665,880.00, including local funds, which will fund 18 transportation alternatives construction projects and 24 transportation alternatives design, right-of-way, or design and right-of-way projects. Of these 42 projects, 12 involve environmental mitigation related to clean water or stormwater concerns, or both clean water and stormwater concerns, and 23 involve bicycle and pedestrian facilities. Projects are funded in Bennington,

Berlin, Brandon, Bridgewater, Bridport, Brighton, Burlington, Castleton, Chester, Colchester, Derby, Duxbury, Enosburg, Essex, Fair Haven, Fairfax, Franklin, Hartford, Hyde Park, Jericho, Montgomery, Newfane, Norwich, Pittsford, Proctor, Rutland Town, South Burlington, St. Johnsbury, Vergennes, Warren, West Rutland, Williston, Wilmington, and Winooski.

(4) Public Transit Program. This act authorizes \$50,239,278.00 in funding for public transit uses throughout the State, which is a 9.6 percent increase over fiscal year 2022 levels, a 21.8 percent increase over fiscal year 2021 levels, and a 30 percent increase over fiscal year 2020 levels. Included in the authorization are:

(A) Go! Vermont, with an authorization of \$873,000.00. This authorization supports transportation demand management (TDM) strategies, including the State's Trip Planner and commuter services, to promote the use of carpools and vanpools.

(B) Vermont Kidney Association Grant, with an authorization of \$50,000.00. This authorization supports the transit needs of Vermonters in need of dialysis services.

(C) Mobility and Transportation Innovation (MTI) Grant Program, with an authorization of \$1,500,000.00, through Sec. 15 of this act. This authorization continues to support projects that improve both mobility and access to services for transit-dependent Vermonters, reduce the use of single-occupancy vehicles, and reduce greenhouse gas emissions. Not less than \$1,250,000.00 of this authorization shall go towards microtransit projects.

(D) One-time public transit monies, with an authorization of \$1,200,000.00, through Sec. 16 of this act. This authorization will allow public transit providers to, as practicable, provide zero-fare public transit on routes other than commuter and LINK Express and restore service to pre-COVID-19 levels.

(5) Rail Program. This act authorizes \$35,363,182.00, including local funds, for intercity passenger rail service and rail infrastructure throughout the State, including the return of New York City–Burlington passenger rail service.

(6) Transformation of the State Vehicle Fleet. The Department of Buildings and General Services, which manages the State Vehicle Fleet, currently has 18 plug-in hybrid electric vehicles and 11 battery electric vehicles in the State Vehicle Fleet. In fiscal year 2023, the Commissioner of Buildings and General Services will continue to purchase and lease vehicles for State use in accordance with 29 V.S.A. § 903(g), which requires, to the

maximum extent practicable, that the Commissioner purchase or lease hybrid or plug-in electric vehicles, as defined in 23 V.S.A. § 4(85), with not less than 75 percent of the vehicles purchased or leased be hybrid or plug-in electric vehicles.

(7) Electric vehicle supply equipment. In furtherance of the State's goal to increase the presence of EVSE in Vermont:

(A) Sec. 3 of this act authorizes up to \$6,250,000.00 to install level 3 EVSE along the State highway network and to cover capped administrative costs.

(B) Sec. 4 of this act amends a State goal to have a level 3 EVSE charging port available to the public within one driving mile, down from five miles, of every exit of the Dwight D. Eisenhower National System of Interstate and Defense Highways within the State and 25 driving miles, down from 50 miles, of another level 3 EVSE charging port available to the public along a State highway.

(C) The fiscal year 2023 budget authorizes up to \$10,000,000.00 to install EVSE at multiunit dwellings, workplaces, and public venues and attractions, such as parks, State parks and access areas, downtowns, museums, and ski mountains, and to cover capped administrative costs.

(8) Vehicle incentive programs and expansion of the PEV market.

(A) Incentive Program for New PEVs. Sec. 5(a) of this act authorizes \$12,000,000.00 for PEV purchase and lease incentives under the Incentive Program for New PEVs, which is the State's program to incentivize the purchase and lease of new PEVs, and capped administrative costs.

(B) MileageSmart. Sec. 5(b) of this act authorizes up to \$3,000,000.00 for purchase incentives under MileageSmart, which is the State's used high-fuel-efficiency vehicle incentive program, and capped administrative costs.

(C) Replace Your Ride Program. Sec. 5(c) of this act authorizes \$3,000,000.00 for incentives under Replace Your Ride, which will be the State's program to incentivize Vermonters to remove older low-efficiency vehicles from operation and switch to modes of transportation that produce fewer greenhouse gas emissions, and capped administrative costs.

(D) Drive Electric Vermont. Sec. 5(d) of this act authorizes up to \$2,000,000.00 for the Agency to continue and expand the Agency's public-private partnership with Drive Electric Vermont to support the expansion of the PEV market in the State.

(9) Carbon Reduction Program. Sec. 18 of this act requires the Agency of Transportation to consult with the Vermont Climate Council and ensure that within the Agency of Transportation’s Proposed Transportation Program for fiscal years 2024, 2025, and 2026 all federal monies that are proposed by the State for expenditure under the Carbon Reduction Program are allocated toward projects that align with the recommendations of the Climate Action Plan (CAP) issued under 10 V.S.A. § 592.

(10) Vermont State Standards. Sec. 19 of this act requires the Agency to develop a plan for updating the Vermont State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation on Freeways, Roads, and Streets to create context sensitive, multimodal projects that support smart growth.

(11) Bicycle and Pedestrian Planning Integration Program. Sec. 25 of this act requires the Agency to establish a program to support the continued development and buildout of bicycle and pedestrian infrastructure.

(12) Sustainable building components. Secs. 55–57 of this act establish the Agency’s statement of policy on the use of sustainable building components.

* * * Electric Vehicle Supply Equipment (EVSE) Infrastructure * * *
* * * Investments in EVSE * * *

Sec. 3. INVESTMENTS IN ELECTRIC VEHICLE SUPPLY EQUIPMENT INFRASTRUCTURE

(a) State highway network. The Agency of Transportation is authorized to spend up to \$6,250,000.00 as appropriated in the fiscal year 2023 budget to install level 3 EVSE along the State highway network consistent with the goals established in 2021 Acts and Resolves No. 55, Sec. 30, as amended by Sec. 4 of this act. This authorization shall be used by the Agency for one or more of the following:

(1) to purchase and install level 3 EVSE;

(2) to provide grants for persons to purchase and install level 3 EVSE;

or

(3) to enter into a public-private partnership for the purchase and installation of level 3 EVSE.

(b) Purpose. The purpose of the expenditures authorized in subsection (a) of this section is to respond to negative economic impacts to the tourism, travel, and hospitality industries caused by the COVID-19 public health emergency.

(c) Administrative costs. Unless prohibited by federal or State law, the Agency may use up to 15 percent of the authorization in subsection (a) of this section for any administrative costs associated with installing level 3 EVSE along the State highway network.

(d) Carryforward; deployment in fiscal year 2023.

(1) Notwithstanding any other provision of law and subject to the approval of the Secretary of Administration, appropriations to support the authorizations under this section remaining unexpended on June 30, 2023 shall be carried forward and designated for the same expenditures in the subsequent fiscal year.

(2) Every reasonable effort shall be made to obligate and deploy the monies authorized for expenditure under this section in fiscal year 2023 in order to achieve a pace of EVSE deployment necessary to meet the emissions reduction requirements of 10 V.S.A. § 578(a) and the recommendations of the Climate Action Plan (CAP) issued under 10 V.S.A. § 592.

(e) Outreach and marketing. The Agency of Transportation shall ensure that there is sufficient outreach and marketing, including the use of translation and interpretation services, of any EVSE grant program or public-private partnership implemented or entered into pursuant to subsection (a) of this section and such costs shall be considered administrative costs for purposes of subsection (c) of this section.

* * * EVSE Goals * * *

Sec. 4. 2021 Acts and Resolves No. 55, Sec. 30 is amended to read:

Sec. 30. EVSE NETWORK IN VERMONT; REPORT OF ANNUAL
MAP

(a) It shall be the goal of the State to have, as practicable, a level 3 EVSE charging port available to the public within:

(1) ~~five miles~~ one driving mile of every exit of the Dwight D. Eisenhower National System of Interstate and Defense Highways within the State; and

(2) ~~50~~ 25 driving miles of another level 3 EVSE charging port available to the public along a State highway, as defined in 19 V.S.A. § 1(20).

(b) Notwithstanding 2 V.S.A. § 20(d), the Agency of Transportation shall file an up-to-date map showing the locations of all level 3 EVSE available to the public within the State with the House and Senate Committees on Transportation not later than January 15 each year until the goal identified in subsection (a) of this section is met.

* * * Vehicle Incentive Programs * * *

Sec. 5. VEHICLE INCENTIVE PROGRAMS

(a) Incentive Program for New PEVs. The Agency is authorized to spend up to \$12,000,000.00 as appropriated in the fiscal year 2023 budget on the Incentive Program for New PEVs established in 2019 Acts and Resolves No. 59, Sec. 34, as amended.

(b) MileageSmart. The Agency is authorized to spend up to \$3,000,000.00 as appropriated in the fiscal year 2023 budget on MileageSmart as established in 2019 Acts and Resolves No. 59, Sec. 34, as amended.

(c) Replace Your Ride Program. The Agency is authorized to spend up to \$3,000,000.00 as appropriated in the fiscal year 2023 budget on the Replace Your Ride Program established in 2021 Acts and Resolves No. 55, Sec. 27, as amended.

(d) Public-private partnership. The Agency is authorized to spend up to \$2,000,000.00 as appropriated in the fiscal year 2023 budget on the Agency's existing partnership with Drive Electric Vermont, which shall support the expansion of the PEV market in the State through the provision of stakeholder coordination, policy engagement, consumer education and outreach, infrastructure development, and technical assistance.

(e) Administrative costs. The Agency may use up to 15 percent of any single authorization in subsections (a)–(c) of this section for any costs associated with administering and promoting the vehicle incentive programs.

(f) Carryforward; deployment in fiscal year 2023.

(1) Notwithstanding any other provision of law and subject to the approval of the Secretary of Administration, appropriations to support the authorizations under this section remaining unexpended on June 30, 2023 shall be carried forward and designated for the same expenditures in the subsequent fiscal year.

(2) Every reasonable effort shall be made to obligate and deploy the monies authorized for expenditure under this section in fiscal year 2023 in order to achieve a pace of plug-in electric vehicle deployment necessary to meet the emissions reduction requirements of 10 V.S.A. § 578(a) and the recommendations of the Climate Action Plan (CAP) issued under 10 V.S.A. § 592.

(g) Outreach and marketing. The Agency, in consultation with Drive Electric Vermont and the Vermont Vehicle and Automotive Distributors Association, shall ensure that there is sufficient outreach and marketing,

including the use of translation and interpretation services, of the Incentive Program for New PEVs, MileageSmart, and Replace Your Ride so that Vermonters who are eligible under one or more of the incentive programs can easily learn how to secure as many incentives as are available and such costs shall be considered administrative costs for purposes of subsection (e) of this section.

Sec. 6. 2019 Acts and Resolves No. 59, Sec. 34(b), as amended by 2020 Acts and Resolves No. 121, Sec. 14, 2020 Acts and Resolves No. 154, Sec. G.112, 2021 Acts and Resolves No. 3, Sec. 56, and 2021 Acts and Resolves No. 55, Sec. 19 is further amended to read:

(b) Electric vehicle incentive program. An incentive program for Vermont residents to purchase and lease new PEVs shall structure PEV purchase and lease incentive payments by income to help Vermonters benefit from electric driving, including Vermont's most vulnerable. The program shall be known as the Incentive Program for New PEVs. Specifically, the Incentive Program for New PEVs shall:

* * *

(5) apply to:

(A) manufactured PEVs PHEVs with a Base Manufacturer's Suggested Retail Price (MSRP) of \$40,000.00 or less;

(B) manufactured BEVs with a Base MSRP of \$45,000.00 or less;
and

(C) manufactured PEVs with any Base MSRP that will be issued a special registration plate by the Commissioner of Motor Vehicles pursuant to 23 V.S.A. § 304a or will predominately be used to provide accessible transportation for the incentive recipient or a member of the incentive recipient's household, provided that the incentive recipient or the member of the incentive recipient's household has a removable windshield placard issued by the Commissioner of Motor Vehicles pursuant to 23 V.S.A. § 304a; and

* * *

* * * Vermont Association of Snow Travelers Authorizations * * *

Sec. 7. VERMONT ASSOCIATION OF SNOW TRAVELERS (VAST)
AUTHORIZATIONS

(a) The Agency of Transportation, through the Department of Motor Vehicles, is authorized to spend:

(1) \$50,000.00 in one-time General Fund monies, as appropriated in the fiscal year 2023 budget, in grants to the Vermont Association of Snow Travelers (VAST) to support the Law Enforcement and Safety Program; and

(2) \$750,000.00 in one-time General Fund monies, as appropriated in the fiscal year 2023 budget, in grants to VAST to support the Equipment Grant-in-Aid Program.

(b) VAST shall ensure that the Equipment Grant-in-Aid Program maximizes the geographic distribution and utilization of equipment purchased in whole or in part with the monies authorized in subdivision (a)(2) of this section by implementing grant scoring criteria that awards equipment grants to applicants that have worked with neighboring clubs to groom at least 60 miles of trails and the equipment to be replaced is at least 15 years old.

* * * Bridge Formula Program; Off-System Bridges * * *

Sec. 8. BRIDGE FORMULA PROGRAM; OFF-SYSTEM BRIDGES;
REPEAL

(a) Findings. The General Assembly finds that:

(1) the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (IIJA) provides Vermont with \$225,000,000.00 in Bridge Formula Program funding for federal fiscal years 2022 through 2026;

(2) the Bridge Formula Program funds are to be used for the preservation and replacement of bridges;

(3) as part of the Bridge Formula Program, states are required to allocate a minimum of 15 percent of the funding to address off-system bridge needs, where off-system bridges are those that are located along roadways off the federal aid system;

(4) in Vermont, roadways off the federal aid system are primarily owned and maintained by municipalities; and

(5) under the IIJA, the federal share of funding for municipally owned off-system bridges is 100 percent.

(b) Priority implementation. In order to implement and allocate the Bridge Formula Program funding, the Agency of Transportation is directed to simultaneously:

(1)(A) Fund at 100 percent federal share the construction phase of all off-system bridges in the Fiscal Year 2023 Transportation Program for Town Highway Bridges that:

(i) were not authorized for federal funds for the construction phase of the pending project prior to the Fiscal Year 2023 Transportation Program; and

(ii) are either listed as a front-of-book project or development and evaluation (D&E) project in the Fiscal Year 2023 Transportation Program.

(B) The engineering (PE) and right-of-way (ROW) phases of projects to be funded at 100 percent federal share under subdivision (A) of this subdivision (1) shall continue to be funded at 80 percent federal, 10 percent State, and 10 percent municipal.

(2)(A) In the Fiscal Year 2023 through 2029 Transportation Programs, fund the construction phase of off-system covered bridges and off-system historic truss bridges within the Transportation Programs for Town Highway Bridges based on the prioritization of covered bridges and historic truss bridges under the prioritization process outlined in 19 V.S.A. § 10g(l) at 100 percent federal share.

(B) The engineering (PE) and right-of-way (ROW) phases of projects to be funded at 100 percent federal share under subdivision (A) of this subdivision (2) shall continue to be funded at 80 percent federal, 10 percent State, and 10 percent municipal.

(c) Secondary implementation. Should funding through the federal Bridge Formula Program remain available following the implementation delineated under subsection (b) of this section, town highway bridges shall be advanced based on the prioritization process outlined in 19 V.S.A. § 10g(l).

(d) Repeal. This section is repealed on October 1, 2029, at the conclusion of the authorized implementation period for the IIJA.

Sec. 9. TOWN HIGHWAY BRIDGE PROGRAM

(a) Within the Agency of Transportation's Proposed Fiscal Year 2023 Transportation Program for Town Highway Bridges, authorized spending for the construction phase of the following projects is amended to be 100 percent federal pursuant to Sec. 8(b)(1)(A) and (2)(A) of this act:

- (1) Clarendon BO 1443(55);
- (2) Hartford BO 1444(60);
- (3) Ludlow Village BO 1443(52);
- (4) Poultney BO 1443(53);
- (5) Stowe BO 1446(37);

(6) Stowe BO 1446(39);

(7) Statewide Preservation Easement Paint Program; and

(8) Statewide Rehabilitation of Covered Bridges.

(b) Within the Agency of Transportation's Proposed Fiscal Year 2023 Transportation Program for Town Highway Bridges, authorized spending is amended as follows:

<u>FY23</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	350,000	350,000	0
PE	4,294,487	4,294,487	0
ROW	355,000	355,000	0
Construction	25,314,700	25,314,700	0
Total	30,314,187	30,314,187	0
<u>Sources of funds</u>			
TIB	2,402,455	2,402,455	0
State	1,919,899	1,230,817	-689,082
Federal	24,251,350	25,529,514	1,278,164
Local	1,740,483	1,151,401	-589,082
Total	30,314,187	30,314,187	0

(c) Within the Agency of Transportation's Proposed Fiscal Year 2023 Transportation Program, the following covered bridges projects are added to the candidate list for Town Highway Bridges:

(1) Belvidere (Bridge No. 12 on Town Highway 3);

(2) Charlotte (Bridge No. 27 on Town Highway 9);

(3) Chelsea (Bridge No. 46 on Town Highway 68);

(4) Hartland (Bridge No. 22 on Town Highway 15);

(5) Lyndon (Bridge No. 33 on Town Highway 58);

(6) Northfield (Bridge No. 10 on Town Highway 3);

(7) Northfield (Bridge No. 11 on Town Highway 3);

(8) Northfield (Bridge No. 15 on Town Highway 3);

(9) Troy (Bridge No. 8 on Town Highway 12); and

(10) Weathersfield (Bridge No. 83 on Town Highway 65).

(d) Within the Agency of Transportation's Proposed Fiscal Year 2023 Transportation Program, the following metal truss bridges projects are added to the candidate list for Town Highway Bridges:

- (1) Berlin (Bridge No. 27 on Town Highway 61);
- (2) Bridgewater (Bridge No. 26 on Town Highway 34);
- (3) Enosburg (Bridge No. 45 on Town Highway 42);
- (4) Lincoln (Bridge No. 46 on Town Highway 6);
- (5) Moretown (Bridge No. 42 on Town Highway 39);
- (6) Newfane (Bridge No. 49 on Town Highway 26);
- (7) Northfield (Bridge No. 65 on Town Highway 57);
- (8) Royalton (Bridge No. 30 on Town Highway 6); and
- (9) Sheldon (Bridge No. 20 on Town Highway 22).

* * * Amendments to Fiscal Year 2023 Authorizations * * *

Sec. 10. PROGRAM DEVELOPMENT

Within the Agency of Transportation's Proposed Fiscal Year 2023 Transportation Program for Program Development Administration, authorized spending is amended as follows:

<u>FY23</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Person. Svcs.	23,753,701	23,753,701	0
Operat. Exp.	9,039,403	8,985,192	-54,211
Grants	286,000	286,000	0
Total	33,079,104	33,024,893	-54,211
<u>Sources of funds</u>			
State	25,074,132	25,019,921	-54,211
Federal	7,929,972	7,929,972	0
Inter Unit	75,000	75,000	0
Total	33,079,104	33,024,893	-54,211

Sec. 11. TOWN HIGHWAY AID

Within the Agency of Transportation's Proposed Fiscal Year 2023 Transportation Program for Town Highway Aid, authorized spending is amended as follows:

<u>FY23</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	27,783,413	27,837,624	54,211
Total	27,783,413	27,837,624	54,211
<u>Sources of funds</u>			
State	27,783,413	27,837,624	54,211
Total	27,783,413	27,837,624	54,211

Sec. 12. POLICY AND PLANNING

Within the Agency of Transportation’s Proposed Fiscal Year 2023 Transportation Program for Policy and Planning, authorized spending is amended as follows:

<u>FY23</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Person. Svcs.	4,767,663	4,767,663	0
Operat. Exp.	1,035,700	1,035,700	0
Grants	7,389,725	10,784,247	3,394,522
Total	13,193,088	16,587,610	3,394,522
<u>Sources of funds</u>			
State	3,217,573	3,217,573	0
Federal	9,920,240	13,314,762	3,394,522
Inter Unit	55,275	55,275	0
Total	13,193,088	16,587,610	3,394,522

Sec. 13. TOWN HIGHWAY STRUCTURES AND TOWN HIGHWAY CLASS 2 ROADWAY

(a) Town highway structures. The Agency shall carry forward not less than \$866,500.00 of unexpended fiscal year 2022 appropriations and designate those monies for grant awards under the town highway structures program so as to meet the statutory minimum grant award totals required under 19 V.S.A. § 306(e) in fiscal year 2023.

(b) Town highway class 2 roadway. The Agency shall carry forward not less than \$951,250.00 of unexpended fiscal year 2022 appropriations and designate those monies for grant awards under the town highway class 2 roadway program so as to meet the statutory minimum grant award totals required under 19 V.S.A. § 306(h) in fiscal year 2023.

Sec. 14. ONE-TIME APPROPRIATION; DMV IT PROJECT

Within the Agency of Transportation’s Proposed Fiscal Year 2023 Transportation Program, in one-time appropriations, the number “20,250,000” is struck out for “All Exp,” “Total,” “Transportation Fund,” and “Total” and replaced with the number “0” so as to indicate that there is no appropriation to the Department of Motor Vehicles for the DMV Core System Modernization Phase II project, and a note is added to read as follows: “The fiscal year 2023 budget bill appropriates \$20,250,000 from the American Rescue Plan Act (ARPA) – Coronavirus State Fiscal Recovery Funds to the Agency of Digital Services for the DMV Core System Modernization Phase II project.”

* * * Mobility and Transportation Innovation Grant Program * * *

Sec. 15. MOBILITY AND TRANSPORTATION INNOVATION GRANT PROGRAM

(a) Project addition. The following project is added to the Agency of Transportation’s Proposed Fiscal Year 2023 Transportation Program for Public Transit: Mobility and Transportation Innovation (MTI) Grant Program.

(b) Authorization. Spending authority for Mobility and Transportation Innovation (MTI) Grant Program is authorized as follows:

<u>FY23</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	0	1,500,000	1,500,000
Total	0	1,500,000	1,500,000
<u>Sources of funds</u>			
State	0	500,000	500,000
General Fund	0	1,000,000	1,000,000
Total	0	1,500,000	1,500,000

(c) Implementation. The Agency of Transportation shall continue to administer the Mobility and Transportation Innovation (MTI) Grant Program, which was created pursuant to 2020 Acts and Resolves No. 121, Sec. 16. The Program shall continue to support projects that improve both mobility and access to services for transit-dependent Vermonters, reduce the use of single-occupancy vehicles, and reduce greenhouse gas emissions. Not less than \$1,250,000.00 of this authorization shall go towards microtransit projects.

* * * Public Transit; Zero Fare; Level of Service * * *

Sec. 16. ONE-TIME PUBLIC TRANSIT MONIES

(a) Project addition. The following project is added to the Agency of Transportation’s Proposed Fiscal Year 2023 Transportation Program for Public Transit: Increased One-Time Monies for Public Transit for Fiscal Year 2023.

(b) Authorization. Spending authority for Increased One-Time Monies for Public Transit for Fiscal Year 2023 is authorized as follows:

<u>FY23</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	0	1,200,000	1,200,000
Total	0	1,200,000	1,200,000
<u>Sources of funds</u>			
General Fund	0	1,200,000	1,200,000
Total	0	1,200,000	1,200,000

(c) Implementation. Transit agencies that are eligible to receive grant funds pursuant to 49 U.S.C. § 5307 or 5311, or both, in the State shall, as practicable and in the sole discretion of the transit agencies, do the following during fiscal year 2023:

(1) operate routes other than commuter and LINK Express on a zero-fare basis; and

(2) provide service at pre-COVID-19 levels.

(d) Report. On or before January 31, 2023, the Agency of Transportation shall file a written report with the House and Senate Committees on Transportation that:

(1) shows changes in public transit ridership, by county and type of service, in fiscal years 2020, 2021, and 2022 and in fiscal year 2023 through the end of the second quarter; and

(2) estimates the amount of funding needed to provide zero-fare service on transit operated by public transit agencies that are eligible to receive grant funds pursuant to 49 U.S.C. § 5307 or 5311, or both, broken out by county and type of service in fiscal year 2024.

* * * Burlington International Airport Study Committee; Report * * *

Sec. 17. BURLINGTON INTERNATIONAL AIRPORT STUDY
COMMITTEE; REPORT

(a) Project addition. The following project is added to the Agency of Transportation’s Proposed Fiscal Year 2023 Transportation Program for Aviation: Burlington International Airport Study.

(b) Authorization.

(1) Spending authority for the Burlington International Airport Study is authorized as follows:

<u>FY23</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	0	150,000	150,000
Total	0	150,000	150,000
<u>Sources of funds</u>			
State	0	150,000	150,000
Total	0	150,000	150,000

(2) Spending authority for South Burlington AV-FY18-001 is amended as follows:

<u>FY23</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Const	12,650,000	12,650,000	0
Total	12,650,000	12,650,000	0
<u>Sources of funds</u>			
State	500,000	350,000	-150,000
Federal	11,385,000	11,385,000	0
Local	765,000	915,000	150,000
Total	12,650,000	12,650,000	0

(3) The note for the Agency of Transportation’s Proposed Fiscal Year 2023 Transportation Program for Aviation is amended to read as follows: “Appropriation excludes \$11,385,000 of FAA Funds and \$915,000 of Local Funds (South Burlington AV-FY18-001, BTV Match).”

(c) Creation. There is created the Burlington International Airport Study Committee to examine the existing governance structure and alternatives to the existing governance structure of the Burlington International Airport (Airport) and to report the Committee’s findings and recommendations.

(d) Membership. The Committee shall be composed of the following nine voting members and two nonvoting members:

(1) one voting member appointed by the Governor;

(2) one voting member designated by the mayor of the City of Burlington;

(3) one voting member designated by the city council of the City of Burlington;

(4) one voting member designated by the city council of the City of South Burlington;

(5) one voting member designated by the mayor of the City of Winooski;

(6) one voting member designated by the Chittenden County Regional Planning Commission to represent individuals, such as Black, Indigenous, and Persons of Color (BIPOC), immigrants, individuals with low income, and individuals residing in “disadvantaged communities” as defined in federal Executive Order 14008, “Tackling the Climate Crisis at Home and Abroad,” adversely affected by the Airport;

(7) one voting member designated by the Chittenden County Regional Planning Commission to represent the general aviation organizations at the Airport;

(8) the Secretary of Transportation or designee, who shall be a voting member;

(9) one voting member designated by the President and CEO of the Lake Champlain Regional Chamber of Commerce;

(10) the current, including acting or interim, Director of Aviation for the Airport or designee, who shall be a nonvoting member of the Committee; and

(11) the Director of the Chittenden County Regional Planning Commission or designee, who shall be a nonvoting member of the Committee.

(e) Assistance; consultant.

(1) The Committee shall have the administrative, technical, and legal assistance of the Agency of Transportation, which shall contract with an independent third-party consultant with expertise in airport governance and may contract with an additional person to serve as a neutral facilitator for the Committee if such assistance cannot be provided by an employee or employees of the Agency of Transportation.

(2) The Agency of Transportation shall work with the Committee to prepare a request for information and a request for proposal for the retention of the independent third-party consultant that is contracted with pursuant to subdivision (1) of this subsection.

(f) Powers and duties. The Committee, with the assistance of the consultant retained as required under subsection (e) of this section, shall:

(1) review prior reports and recommendations prepared on the governance structure of the Airport, including the January 1, 2020 memorandum from Eileen Blackwood, Burlington City Attorney to Mayor Miro Weinberger and the City Council regarding Burlington International Airport and Regional Governance Questions; the June 10, 2013 Burlington International Airport, Airport Strategic Planning Committee Recommendations (Airport Strategic Planning Committee Recommendations); and the December 1985 Final Report of the Burlington Airport Study Group;

(2) examine the advantages and disadvantages of each of the options identified in the Airport Strategic Planning Committee Recommendations;

(3) examine the advantages and disadvantages of any additional governance structure options for the Airport recommended by the consultant or identified by a majority of the voting members of the Committee as warranting study;

(4) identify any other issue relating to the governance of the Airport that a majority of the voting members of the Committee determine warrants study; and

(5) make recommendations on the governance structure of the Airport as supported by a majority of the voting members of the Committee.

(g) Report; recommendations. On or before January 15, 2024, the Committee shall submit a written report to the General Assembly with its findings and recommendations. Any recommendations from the Committee shall address how to ensure that there are not negative financial impacts on the City of Burlington.

(h) Meetings.

(1) The Secretary of Transportation or designee shall call the first meeting of the Committee to occur on or before September 30, 2022.

(2) The Committee shall select a chair from among its voting members at the first meeting.

(3) A majority of the voting membership of the Committee shall constitute a quorum.

(4) The Committee shall cease to exist on January 16, 2024.

(i) Compensation and reimbursement. Members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings.

* * * Future Transportation Programs * * *

* * * Carbon Reduction Program * * *

Sec. 18. PROPOSED FISCAL YEAR 2024 TRANSPORTATION PROGRAM

The Agency of Transportation shall consult with the Vermont Climate Council and ensure that within the Agency of Transportation's Proposed Transportation Program for fiscal years 2024, 2025, and 2026 all federal monies that are proposed by the State for expenditure under the Carbon Reduction Program, codified at 23 U.S.C. § 175, are allocated toward projects

that align with the recommendations of the Climate Action Plan (CAP) issued under 10 V.S.A. § 592.

* * * Plan to Update Vermont State Standards * * *

Sec. 19. PLAN TO UPDATE VERMONT STATE STANDARDS

(a) The Agency shall develop a plan for updating the Vermont State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation on Freeways, Roads, and Streets (C.V.R. 14-010-019) (Vermont State Standards) to create context sensitive, multimodal projects that support smart growth as recommended in the Revising the Vermont State Standards (VSS) M2D2: Multimodal Development and Delivery Work Plan, March 2015 (State Standards Work Plan), prepared in accordance with 2014 Acts and Resolves No. 167, Sec. 26.

(b) As recommended in the State Standards Work Plan, the Agency of Transportation shall also prepare a plan to update documents, standards, guidance, and procedures related to the Vermont State Standards.

(c) The Agency shall budget for the plan to update the Vermont State Standards and related documents in the Proposed Fiscal Year 2024 Transportation Program.

(d) The Agency shall make staff available to the House and Senate Committees on Transportation for an oral presentation on the plan to update the Vermont State Standards and corresponding budget beginning on January 15, 2023.

* * * Transportation Alternatives Grant Program * * *

Sec. 20. 19 V.S.A. § 38 is amended to read:

§ 38. TRANSPORTATION ALTERNATIVES GRANT PROGRAM

(a), (b) [Repealed.]

(c) The Transportation Alternatives Grant Program is created. The Grant Program shall be administered by the Agency; and shall be funded in the amount provided for in 23 U.S.C. § 133(h), less the funds set aside for the Recreational Trails Program. Awards shall be made to eligible entities as defined under 23 U.S.C. § 133(h), and awards under the Grant Program shall be limited to the activities authorized under federal law and shall not exceed \$300,000.00 per grant allocation.

(d) Eligible entities awarded a grant must provide all funds required to match federal funds awarded for a Transportation Alternatives project. All grant awards shall be decided and awarded by the Agency.

* * *

~~(f)(1) In fiscal years 2018 and 2019, all Grant Program funds shall be reserved for municipalities for environmental mitigation projects relating to stormwater and highways, including eligible salt and sand shed projects.~~

~~(2) In fiscal years 2020 and 2021, Grant Program funds shall be awarded for any eligible activity and in accordance with the priorities established in subdivision (4) of this subsection.~~

(3) In fiscal year ~~2022~~ 2024 and thereafter, ~~\$1,100,000.00~~ 50 percent of Grant Program funds, or such lesser sum if all eligible applications amount to less than ~~\$1,100,000.00~~ 50 percent of Grant Program funds, shall be reserved for municipalities for environmental mitigation projects relating to stormwater and highways, including eligible salt and sand shed projects, and the balance of Grant Program funds shall be awarded for any eligible activity and in accordance with the priorities established in subdivision (2) of this subsection.

~~(4)(2) Regarding Grant Program funds awarded in fiscal years 2020 and 2021, and the balance of Grant Program funds not reserved for environmental mitigation projects in fiscal year 2022 and thereafter, in~~ In evaluating applications for Transportation Alternatives grants, the Agency shall give preferential weighting to projects involving as a primary feature a bicycle or pedestrian facility. The degree of preferential weighting and the circumstantial factors sufficient to overcome the weighting shall be in the complete discretion of the Agency.

* * *

* * * Amendments to the 2021 Transportation Bill * * *

* * * Electric Bicycle Incentives Administrative Costs * * *

Sec. 21. 2021 Acts and Resolves No. 55, Sec. 2(8)(D) and (E) are amended to read:

(D) Replace Your Ride Program. Sec. 27 of this act creates a new program to be known as the Replace Your Ride Program, which will be the State's program to incentivize Vermonters to remove older low-efficiency vehicles from operation and switch to modes of transportation that produce fewer greenhouse gas emissions, and authorizes up to ~~\$1,500,000.00~~ \$1,495,000.00 for incentives under the Program and capped startup and administrative costs.

(E) Electric bicycle incentives. Sec. 28 of this act authorizes up to ~~\$50,000.00~~ \$55,000.00 for ~~\$200.00~~ incentives for the purchase of an electric bicycle and capped administrative costs.

Sec. 22. 2021 Acts and Resolves No. 55, Sec. 27(d) is amended to read:

(d) Authorization. In fiscal year 2022, the Agency is authorized to spend up to ~~\$1,500,000.00~~ \$1,495,000.00 in one-time Transportation Fund monies on the Replace Your Ride Program established under this section, with up to ~~\$300,000.00~~ \$295,000.00 of that ~~\$1,500,000.00~~ \$1,495,000.00 available for startup costs, outreach education, and costs associated with developing and administering the Replace Your Ride Program.

Sec. 23. 2021 Acts and Resolves No. 55, Sec. 28(b) is amended to read:

(b) Authorization.

(1) In fiscal year 2022, the Agency is authorized to spend up to \$50,000.00 in one-time Transportation Fund monies on the electric bicycle incentives and up to \$5,000.00 on the costs associated with developing and administering the electric bicycle incentives.

(2) If less than \$5,000.00 is expended on administrative costs associated with developing and administering the electric bicycle incentives under subdivision (1) of this subsection, then the balance of that \$5,000.00 shall only be authorized for startup costs, outreach education, and costs associated with developing and administering the Replace Your Ride Program in addition to the authorization in Sec. 27(d) of this act.

* * * EVSE Grant Program * * *

Sec. 24. 2021 Acts and Resolves No. 55, Sec. 29 is amended to read:

Sec. 29. GRANT PROGRAMS FOR ~~LEVEL 2 CHARGERS~~ EVSE IN MULTI-UNIT MULTIUNIT DWELLINGS; REPORT

(a) As used in this section:

* * *

(2) “~~Multi-unit~~ Multiunit affordable housing” means a ~~multi-unit~~ multiunit dwelling where:

* * *

(3) “~~Multi-unit~~ Multiunit dwelling” means a housing project, such as cooperatives, condominiums, dwellings, or mobile home parks, with 10 or more units constructed or maintained on a tract or tracts of land.

(4) “~~Multi-unit~~ Multiunit dwelling owned by a nonprofit” means a ~~multi-unit~~ multiunit dwelling owned by a person that has nonprofit status under Section 501(c)(3) of the U.S. Internal Revenue Code, as amended, and is registered as a nonprofit corporation with the Office of the Secretary of State.

(5) “Electric vehicle supply equipment (EVSE)” includes both level 1 chargers, which connect directly into a standard 120-volt AC outlet and supply an average output of 1.3 to 2.4 kilowatts and are also known as level 1 EVSE, and level 2 chargers, which have a single-phase input voltage range from 208 to 240 volts AC and a maximum output current less than or equal to 80 amperes AC and are also known as level 2 EVSE.

(b) The Agency of Transportation shall establish and administer, through a memorandum of understanding with the Department of Housing and Community Development, a pilot program to support the continued buildout of electric vehicle supply equipment at ~~multi-unit~~ multiunit affordable housing and ~~multi-unit~~ multiunit dwellings owned by a nonprofit and build upon the existing VW EVSE Grant Program that the Department of Housing and Community Development has been administering on behalf of the Department of Environmental Conservation.

* * *

(d) Pilot program funding shall be awarded with consideration of broad geographic distribution as well as service models ranging from restricted private parking to publicly accessible parking so as to examine multiple strategies to increase access to EVSE.

* * *

(f) If the Agency of Transportation, in consultation with the interagency team, determines that programmatic funding remains available following the first round of grant awards, then the pilot program shall be opened up and made available to any ~~multi-unit~~ multiunit dwelling.

* * *

* * * Bicycle and Pedestrian Planning Integration Program * * *

Sec. 25. BICYCLE AND PEDESTRIAN PLANNING INTEGRATION PROGRAM

(a) Establishment. The Agency of Transportation shall establish a program to support the continued development and buildout of bicycle and pedestrian infrastructure. The purpose of the program is to do at least one of the following:

(1) ensure alignment and integration of municipal and State bicycle and pedestrian infrastructure deployment and to provide a framework for municipal prioritization of bicycle and pedestrian projects that can be integrated into the VTrans Project Selection and Project Prioritization (VPSP2) process as projects are evaluated for funding through State-sponsored

programs, including the Bike and Pedestrian Program, the Transportation Alternatives Program, and the Downtown Transportation Fund; or

(2) integrate bicycle and pedestrian elements into Agency-developed projects.

(b) Consultation and implementation. The Agency shall work with the State's Regional Planning Commissions (RPCs) in implementing the program by providing funding through the Transportation Planning Initiative (TPI) Program for RPCs to develop prioritized municipal bicycle and pedestrian plans or to assist member municipalities in developing prioritized municipal bicycle and pedestrian plans.

* * * Transportation Board * * *

Sec. 26. 5 V.S.A. chapter 3 is redesignated to read:

CHAPTER 3. PROCEEDINGS BY THE BOARD; APPEAL TO SUPERIOR COURT JUDICIAL REVIEW

Sec. 27. 5 V.S.A. § 37 is amended to read:

§ 37. MEMBERS; TERMS; RETIREMENT; APPEAL

(a) When a Board member who hears all or a substantial part of a case retires from office before the case is completed, ~~he or she~~ that individual shall remain a member of the Board for the purpose of concluding and deciding the case, and signing the findings, orders, decrees, and judgments of the case. A retiring chair shall also remain a member for the purpose of certifying questions of law if appeal is taken.

(b) A case shall be deemed completed when the Board enters a final order even though ~~the order is appealed to a Superior Court and judicial review is sought pursuant to 19 V.S.A. § 5(c) or~~ the case remanded to the Board. Upon remand, the Board then in office may consider relevant evidence, including any part of the transcript of testimony in the proceedings prior to appeal.

Sec. 28. 5 V.S.A. § 40 is amended to read:

§ 40. PLEADINGS; RULES OF PRACTICE; FINDINGS OF FACT

(a) The forms, pleadings, and rules of practice and procedure before the Board shall be prescribed by the Board.

(b) The Board shall hear all matters within its jurisdiction and make findings of fact. It shall state its rulings of law when required. Upon ~~appeal to a Superior Court~~ judicial review pursuant to 19 V.S.A. § 5(c), the Board's findings of fact shall be accepted unless clearly erroneous.

Sec. 29. 5 V.S.A. §§ 43 and 44 are amended to read:

§ 43. ~~REVIEW BY SUPERIOR COURT~~ JUDICIAL REVIEW

A party to a cause who feels aggrieved by the final order, judgment, or decree of the Board may ~~appeal to a Superior Court under Rule 74 of the Vermont Rules of Civil Procedure~~ seek judicial review pursuant to 19 V.S.A. § 5(c). However, the Board, before final judgment, may permit an interlocutory appeal to be taken by any party pursuant to a Superior Court 19 V.S.A. § 5(c) for determination of questions of law in the same manner as the Supreme Court may by rule provide for appeals before final judgment from a Superior Court. Notwithstanding the provisions of the Vermont Rules of Civil Procedure or the Vermont Rules of Appellate Procedure, neither the time for filing a notice of appeal nor the filing of a notice of appeal, as provided in this section, shall operate as a stay of enforcement of an order of the Board unless the Board or ~~a Superior~~ the Supreme Court grants a stay under the provisions of section 44 of this ~~title~~ chapter.

§ 44. POWERS OF SUPERIOR THE SUPREME COURT

~~A Superior~~ Upon appeal to the Supreme Court, the Court may reverse or affirm the judgments, orders, or decrees of the Transportation Board and may remand a cause to it with mandates, as law or equity shall require; and the Board shall enter its judgment, order, or decree in accordance with these mandates. Appeals to the ~~Superior~~ Supreme Court shall not have the effect of vacating any judgment, order, or decree of the Board, but the ~~Superior~~ Supreme Court, upon notice to interested parties, may suspend execution of a Board judgment under a decree as justice and equity require unless otherwise specifically provided by law.

Sec. 30. 5 V.S.A. § 207(d) is amended to read:

(d) The application for a certificate of approval of the site selected shall be in writing and substantially describe the property involved and the general purposes for which it is to be acquired and the manner in which the acquisition is asserted to serve the public interest. The application shall designate the names of all owners or persons known to be interested in lands adjoining the property and their residences, if known, and shall contain such further matter as the Board by rule shall determine. The application shall be supported by documentation showing that the proposed facility has received municipal approval. After evaluating the application, the Board shall issue its order giving notice of the time and place of hearing on the application. The applicant shall give notice of the proceedings to all persons owning or interested in adjoining lands by delivery of a true copy of the application and order for hearing by registered or certified mail to the last known address of

each of the persons; the notice to be mailed at least 12 days prior to the date of the hearing. Notice of the hearing and a general statement of the purpose shall be published at least once in a newspaper of common circulation in the town where the property described in the application is situated at least two days before the date of the hearing, and a similar notice shall be posted in a public place at least 12 days before the hearing. Upon compliance by the applicant with the foregoing provisions for notice, the Board shall hear the applicant and all parties interested on the question of approval of the site or sites and shall consider and determine whether in the public interest the application ought to be granted. Whenever the Board makes an order granting or denying a certificate of approval of an airport, or a restricted landing area, approval to use or operate an airport or a restricted landing area or other air navigation facility, an aggrieved person may ~~have the decision reviewed on the record by the Superior Court pursuant to Rule 74 of the Vermont Rules of Civil Procedure~~ seek judicial review pursuant to 19 V.S.A. § 5(c).

Sec. 31. 5 V.S.A. § 652 is amended to read:

§ 652. SUPERIOR COURT JUDICIAL REVIEW

The Secretary of Transportation or the legislative body of a municipality, as defined in 24 V.S.A. § 2001, or the committee representing two or more municipalities, when authorized by vote of their legislative bodies, may proceed in Superior Court as provided in 19 V.S.A. chapter 5, except as otherwise provided in this subchapter.

Sec. 32. 5 V.S.A. § 3639 is amended to read:

§ 3639. FARM CROSSINGS AND CATTLE GUARDS; CONSTRUCTION AND MAINTENANCE; JUDICIAL REVIEW

(a) A person ~~or corporation~~ owning or operating a railroad shall construct and maintain farm crossings of the road for the use of the proprietors of lands adjoining the railroad, and cattle guards at all farm and road crossings sufficient to prevent cattle and animals from getting on the railroad. A farm crossing may be temporarily or permanently closed or discontinued by mutual agreement between all parties having an interest therein. If no such mutual agreement can be reached by such interested parties, then a person ~~or corporation~~ owning or operating a railroad and desiring to close any farm crossing shall make application to the Transportation Board. The Board shall thereupon give notice to all parties interested, in such manner as the Board may direct, of hearing on the application, the hearing to be in the county where such crossing is located. After the hearing, a person ~~or corporation~~ owning or operating a railroad shall not close such farm crossing without the approval of the Transportation Board. A person aggrieved by the closing of a farm

crossing after January 1, 1955 by a person ~~or corporation~~ owning or operating a railroad may notify the Transportation Board by registered or certified mail of the closing, and thereupon the Board shall conduct a hearing. Notice and place of hearing shall be as set forth in this subsection. The Transportation Board may require the reopening of any such crossing and make such other order as is permitted in section 3649 of this title. At any such hearing, the burden of proof shall rest with the person or persons effecting or seeking to effect the closing of such farm crossing. Any person aggrieved by ~~an~~ the final order of the Transportation Board, who was a party to the proceedings, may, in accordance with Rule 74 of the Vermont Rules of Civil Procedure, appeal to the Superior Court, whereupon such cause shall be tried as an original action brought under the provisions of 12 V.S.A. § 402 seek judicial review pursuant to 19 V.S.A. § 5(c).

(b) A person ~~or railroad corporation~~ closing any farm crossing in violation of a provision of this section or failing to comply with any such order shall be fined not less than \$50.00 nor more than \$500.00, and any person aggrieved by such violation may recover ~~his or her~~ the person's damages in an action on this statute.

Sec. 33. 5 V.S.A. § 3788 is amended to read:

§ 3788. ORDERS OF BOARD; APPEALS JUDICIAL REVIEW

The order of the Board relating to any matter upon which it may act under the authority of this chapter shall be communicated in writing to the petitioners and to all persons to whom notice of the hearing on such petition was given. Any person aggrieved by such order, who was a party to such proceedings, ~~may appeal from such order to the Superior Court in accordance with Rule 74 of the Vermont Rules of Civil Procedure~~ seek judicial review pursuant to 19 V.S.A. § 5(c).

Sec. 34. 9 V.S.A. § 4100b is amended to read:

§ 4100b. ENFORCEMENT; TRANSPORTATION BOARD

(a) The Transportation Board established in 19 V.S.A. § 3 shall enforce the provisions of this chapter.

* * *

(h) Within 20 days after any order or decision of the Board authorized under this chapter, any party to the proceeding may apply for a rehearing with respect to any matter determined in the proceeding or covered or included in the order or decision. The application for rehearing shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable. No appeal from any order or decision of the Board

shall be taken unless the appellant makes an application for rehearing as provided in this subsection, and when the application for rehearing has been made, no ground not set forth in the application shall be urged, relied on, or given any consideration by the Board unless the Board for good cause shown allows the appellant to specify additional grounds. Any party to the proceeding may appeal the final order, including all interlocutory orders or decisions, pursuant to the Superior Court 19 V.S.A. § 5(c) within 30 days after the date the Board rules on the application for reconsideration of the final order or decision. All findings of the Board upon all questions of fact properly before the court shall be prima facie lawful and reasonable. The order or decision appealed from shall not be set aside or vacated except for errors of law. No additional evidence shall be heard or taken by the ~~Superior~~ Supreme Court on appeals from orders or decisions by the Board authorized under this title.

(i) In cases where the Board finds that a violation of this chapter has occurred or there has been a failure to show good cause under section 4089 or 4098 of this title, the ~~Superior Court~~ Board, upon petition, shall determine reasonable attorney's fees and costs and award them to the prevailing party.

Sec. 35. 19 V.S.A. § 5 is amended to read:

§ 5. TRANSPORTATION BOARD; POWERS AND DUTIES

(a) General duties and responsibilities; exceptions. The regulatory and quasi-judicial functions relating to transportation shall be vested in the Board, except that the duties and responsibilities of the Commissioner of Motor Vehicles in Titles 23 and 32, including all quasi-judicial powers, shall continue to be vested in the Commissioner.

(b) Naming transportation facilities.

(1) Except as otherwise authorized by law, the Board is the sole authority responsible for naming transportation facilities owned, controlled, or maintained by the State, including highways and the bridges thereon, airports, rail facilities, rest areas, and welcome centers. The Board shall exercise its naming authority only upon petition of the legislative body of a municipality of the State, of the head of an Executive Branch agency or department of the State, or of 50 Vermont residents.

(2) The Board shall hold a public hearing for each facility requested to be named. The Board shall adopt rules governing notice and conduct of hearings, the standards to be applied in rendering decisions under this subsection, and any other matter necessary for the just disposition of naming requests. The Board shall issue a decision, which shall be subject to review on

the record by a Superior Court pursuant to Rule 74 of the Vermont Rules of Civil Procedure subsection (c) of this section. The Board may delegate the responsibility to hold a hearing to a hearing officer or a single Board member, subject to the procedure of subsection (c) of this section, but shall not be bound by 3 V.S.A. chapter 25 in carrying out its duties under this subsection.

(c) Hearing examiners; report of findings; final orders; judicial review. The Board may delegate the responsibility to hear quasi-judicial matters, and other matters as it may deem appropriate, to a hearing examiner or a single Board member, to hear a case and make findings in accordance with 3 V.S.A. chapter 25, except that highway condemnation proceedings shall be conducted pursuant to the provisions of chapter 5 of this title. A hearing examiner or single Board member so appointed shall report the findings of fact in writing to the Board. Any order resulting from those findings shall be rendered only by a majority of the Board. Final orders of the Board issued pursuant to section 20 of this title (small claims against the Agency) may be reviewed on the record by a Superior Court pursuant to Rule 74 of the Vermont Rules of Civil Procedure. All other final orders of the Board may be reviewed on the record by the Supreme Court.

(d) Specific duties and responsibilities. The Board shall:

* * *

(e) Offices and assistance. Suitable offices and office equipment shall be provided by the State for the Board at Montpelier. The Board may employ clerical or other employees and assistants whom it deems necessary in the performance of its duties and in the investigation of matters within its jurisdiction.

(f) Jurisdiction; subpoenas; witness fees. The Board shall have the power to determine and adjudicate all matters over which it is given jurisdiction. It may render judgments and make orders and decrees. Whenever the Board is sitting in a quasi-judicial capacity, it may issue subpoenas for the testimony of witnesses or the production of evidence. The fees for travel and attendance of witnesses shall be the same as for witnesses and officers appearing before a Civil Division of the Superior Court.

(g) Reports to the General Assembly. From time to time, the Board may report to the General Assembly with suggestions of amendment to existing law or of new legislation as it deems necessary and any information concerning the companies, matters, and things under the jurisdiction of the Board and Agency that, in its opinion, will be of interest to the General Assembly.

(h) Appeals from the Agency to the Board. Unless otherwise provided by law, when an appeal is allowed from the Agency to the Board, the appeal shall be taken by filing a notice of appeal with the Secretary within 30 days of the date of the Agency decision from which the appeal is taken. The Secretary shall promptly forward the notice of appeal to the Board, together with the Agency's record of decision.

* * * Repeal of 5 V.S.A. Chapter 5 * * *

Sec. 36. REPEAL

5 V.S.A. chapter 5 (assessments to support Agency of Transportation and Transportation Board) is repealed.

* * * On-Premises Signs * * *

Sec. 37. 10 V.S.A. § 493 is amended to read:

§ 493. ON-PREMISES SIGNS

Owners or occupants of real property may erect and maintain on the property, on-premises signs advertising the sale or lease of the property or activities being conducted on the property. Those signs shall be subject to the regulations set forth below.

(1) On-premises signs may be erected or maintained, with a total area of not more than 150 square feet, advertising activities being conducted on the same premises. However, this limitation does not apply to signs existing on May 1, 1971, or attached to or part of the building in which the activities are being carried on. An on-premises sign shall not be located more than 1,500 feet from a main entrance from the highway to the activity or premises advertised. The 1,500-foot distance shall be measured along the centerline of the highway or highways between the sign and a main entrance or a straight line, but only if the difference in elevation between the on-premises sign and a main entrance is more than 100 feet. A main entrance shall be a principal, private roadway or driveway that leads from a public highway to the advertised activity. For the purposes of this subdivision, premises shall not include land that is separated from the activity by a public highway, or other intervening land use not related to the advertised activity. Undeveloped land or farmland shall not be considered as an intervening land use.

* * *

* * * Right-of-Way Permits; 1111 Permits; Municipal
Site Plan Review * * *

Sec. 38. 19 V.S.A. § 1112 is amended to read:

§ 1112. DEFINITIONS; FEES

(a) As used in this section:

* * *

(4) “Subsurface stormwater system” means a stormwater system, as defined in 10 V.S.A. § 1264(b)(15), that is beneath the surface.

(b) The Secretary shall collect the following fees for each application for the following types of permits issued pursuant to section 1111 of this title:

* * *

(2) utility installations, including each direct connection to the State highway subsurface stormwater system: \$100.00

* * *

Sec. 39. 24 V.S.A. § 4416(b) is amended to read:

(b) Whenever a proposed site plan involves access to a State highway or other work in the State highway right-of-way such as excavation, grading, paving, or utility installation, the application for site plan approval shall include a letter from the Agency of Transportation confirming that the Agency has reviewed the proposed site plan and determined whether a permit is required under 19 V.S.A. § 1111. If the Agency determines that a permit for the proposed site plan is required under 19 V.S.A. § 1111, then the letter from the Agency ~~shall~~ may set out ~~any~~ conditions that the Agency proposes to attach to the permit required under 19 V.S.A. § 1111.

* * * Smugglers’ Notch Motor Vehicle Limitations * * *

Sec. 40. 23 V.S.A. § 1006b is amended to read:

§ 1006b. SMUGGLERS’ NOTCH; WINTER CLOSURE OF VERMONT
ROUTE 108; ~~COMMERCIAL~~ VEHICLE OPERATION
PROHIBITED

(a) Winter closure. The Agency of Transportation may close the Smugglers’ Notch segment of Vermont Route 108 during periods of winter weather.

(b) Vehicle operation prohibition.

(1) ~~As used in this subsection, “commercial vehicle” means truck-~~

~~tractor-semitrailer combinations and truck-tractor-trailer combinations.~~

~~(2) Commercial Single-frame motor vehicles over 40 feet in length and tractor units with one or more attached trailers over 45 feet in total length are prohibited from operating on the Smugglers' Notch segment of Vermont Route 108.~~

~~(3)(2) Either the The employer of the operator of a commercial vehicle who violates this subsection, or the operator's employer, shall be subject to a civil penalty of \$1,000.00.—If or, if the violation results in substantially impeding the flow of traffic on Vermont Route 108, the penalty shall be a civil penalty of \$2,000.00. For a second or subsequent conviction within a three-year period, the applicable penalty or penalties shall be doubled.~~

~~(3) The prohibition in subdivision (1) of this subsection shall not apply to law enforcement, fire, emergency medical services, and search and rescue vehicles involved in training or responding to real-world incidents.~~

~~(c) Required signage. The Agency shall erect signs conforming to the standards established by section 1025 of this title to indicate the closures and restrictions authorized under this section.~~

~~* * * Municipal Restrictions; Covered Bridges;
Damages and Expenses * * *~~

Sec. 41. 19 V.S.A. § 313 is amended to read:

§ 313. ~~RESTRICTING USE OF COVERED BRIDGES~~

~~The Agency and the selectmen of the town where a covered bridge is located or, if parts of such a bridge are located in more than one town, the selectmen of the towns acting jointly, may restrict the use of the bridge to vehicles that are within limits as to weight, height, and width as they shall establish. The limitation shall be plainly posted at the approaches to the bridge at approximately 100 feet from each end of the bridge, and at intersections as may be required to enable operators of restricted vehicles to proceed by the most direct alternate unrestricted route.—Posting shall be by means of permanent signs of a standard size of at least 24 inches by 24 inches, and with lettering not less than three inches high. [Repealed.]~~

Sec. 42. 19 V.S.A. § 315 is amended to read:

§ 315. ~~PENALTIES~~

~~A person who operates a vehicle exceeding the limit prescribed on a bridge thus restricted shall be fined not more than \$200.00 for the first offense and not more than \$300.00 for each subsequent offense. [Repealed.]~~

Sec. 43. 23 V.S.A. § 1396 is redesignated to read:

§ 1396. SPECIAL WEIGHT LIMITS FOR BRIDGES AND HIGHWAYS

Sec. 44. 23 V.S.A. § 1397 is redesignated to read:

§ 1397. WEIGHT LIMIT SIGNS

Sec. 45. 23 V.S.A. § 1397a is added to read:

§ 1397a. SPECIAL LIMITS FOR COVERED BRIDGES

The legislative body of a municipality where a covered bridge is located or, if parts of such a bridge are located in more than one municipality, the legislative bodies of the municipalities where a covered bridge is located acting jointly may, after consultation with the Agency of Transportation, restrict the use of the bridge to vehicles that are within limits as to one or more of the following, as they shall establish: weight, height, or width. Any limitation shall be permanently posted by the municipality, with signs that conform to the standards established by section 1025 of this title, approximately 100 feet from the approaches to the bridge and at intersections as may be required to enable operators of restricted vehicles to proceed by the most direct alternate unrestricted route.

Sec. 46. 23 V.S.A. § 1398 is amended to read:

§ 1398. CERTIFIED STATEMENT TO BE FILED

A certified statement shall be filed with the clerk in each ~~town, village, or city~~ municipality in which ~~the a~~ posting occurs, as provided in ~~section~~ sections 1397 and 1397a of this title subchapter, stating ~~occurs that~~ states the location of the highway or bridge posted, the legal load limit ~~or limits~~ to which ~~such the~~ highway or bridge is restricted, and the date of posting. If ~~such a~~ restriction is removed at any time by the Secretary of Transportation, ~~selectboard, trustees, or city council, or legislative body of the municipality, or both,~~ a similar certified statement of the removal shall be filed with the clerk of the ~~town, village, or city as the case may be~~ municipality.

Sec. 47. 23 V.S.A. § 1399(b) is amended to read:

(b) Nothing contained in sections 1391–1398 of this title subchapter shall restrict the weight of:

(1) Snow plows, road machines, oilers, traction engines, tractors, rollers, power shovels, dump wagons, trucks, or other construction or maintenance equipment when used by any town, incorporated village, city, or the State in the construction or the maintenance of any highway, provided that such construction or maintenance is performed by persons employed by or

under contract with such town, incorporated village, city, or the State for this purpose. However, any operation of motorized highway building equipment or road making appliances used in construction work contracted by a town, incorporated village, city, or the State shall be unrestricted as to weight only within a construction area.

(2) Municipal and volunteer fire apparatus and law enforcement motor vehicles.

(3) Heavy-duty tow and recovery vehicles on the Dwight D. Eisenhower System of Interstate and Defense Highways.

Sec. 48. 23 V.S.A. § 1400d is amended to read:

§ 1400d. AGRICULTURAL SERVICE VEHICLES

(a) An agricultural service vehicle, as defined in subdivision 4(71) of this title, shall be exempt from the provisions of sections 1400 and 1400a and subsection 1434(c) of this ~~title~~ subchapter if the gross weight does not exceed 60,000 pounds.

(b) Municipalities shall not be liable for injuries or damages to agricultural service vehicles or their operators that result from crossing a posted bridge with an agricultural service vehicle that weighs more than the posted weight limit.

Sec. 49. 23 V.S.A. § 1434 is amended to read:

§ 1434. OPERATION IN EXCESS OF WEIGHT, HEIGHT, OR WIDTH LIMITS; PENALTIES

(a) General limits. The operation of a vehicle on a public highway in excess of the legal height, width, or length limits as prescribed in section 1431 or 1432 of this ~~title~~ subchapter without first obtaining a permit to operate the vehicle, whether or not a permit is available, shall be a traffic violation, as defined in section 2302 of this title. ~~A violation shall be, and~~ punishable by a civil penalty of \$300.00 for a first offense, \$600.00 for a second offense within a two-year period, and \$800.00 for a third or subsequent offense within a two-year period.

(b) Permit limits. The operation of a vehicle on a public highway in excess of the legal height, width, or length limits as prescribed in section 1431 or 1432 of this ~~title~~ subchapter in violation of the terms of a permit issued in conformance with section 1400 of this ~~title~~ subchapter shall be a traffic violation, as defined in section 2302 of this title, ~~and shall be~~ punishable by a civil penalty of \$300.00 for a first offense, \$600.00 for a second offense within a two-year period, and \$800.00 for a third or subsequent offense within a two-year period.

(c) Covered bridges. The operation of a vehicle on a public highway in excess of the legal limits designated for a covered bridge under section 1397a of this subchapter or applicable under subdivisions 1392(1) and (2) of this subchapter shall be a traffic violation, as defined in section 2302 of this title, and punishable by a civil penalty of \$1,000.00 or, if the violation results in substantially impeding the flow of traffic, \$2,000.00. For a second or subsequent conviction within a three-year period, the applicable penalty shall be doubled.

(d) Refusal to issue a permit. In the case of a violation under subsection (a) of this section, the Commissioner may refuse to issue a permit to the violator under section 1400 of this title subchapter for a period not to exceed three months, if the owner or lessee commits four or more violations within a two-year period. If the holder of a permit commits four or more violations under subsection (b) of this section within a two-year period, the Commissioner may suspend, for a period not to exceed three months, any permit issued to the violator under section 1400 of this title subchapter. For the purposes of this section, the owner or lessee of the vehicle shall be considered the holder of, or applicant for, the permit.

Sec. 50. 23 V.S.A. § 1492 is amended to read:

§ 1492. LIABILITY FOR DAMAGE DEFINED; LIMITATIONS

The owner, driver, operator, or mover of any motor truck, tractor, trailer, wagon, cart, carriage, or other object or contrivance ~~which~~ that is moved or operated on any highway in violation of any of the provisions of sections ~~1098, 1145~~ 1083, 1092, 1302, 1305, and 1431 ~~and subsection 1434(c) of this title, subchapter; such portion of section 1144~~ sections 1003 and 1081 of this title ~~subchapter~~ as pertains to trucks and buses; and such portion of section 1391 of this title ~~subchapter~~ as relates to weight in relation to tire surface; shall be liable to the State or municipal corporation in which the act is committed for damages to a public highway or bridge occasioned by such moving or operating, to be recovered in a civil action, in the name of the State or municipal corporation, or in an action on the bond provided in this chapter in connection with the issuance of permits, provided the action is brought within two years after such act is committed.

Sec. 51. 23 V.S.A. § 1112 is amended to read:

§ 1112. CLOSED HIGHWAYS

(a) Except by the written permit of the authority responsible for the closing, a person shall not drive any vehicle over any highway across which there is a barrier or a sign indicating that the highway is closed to public travel.

* * *

~~(c) A municipal, county, or State entity that deploys police, fire, ambulance, rescue, or other emergency services in order to aid a stranded operator of a vehicle, or to move a disabled vehicle, operated on a closed highway in violation of this section, may recover from the operator in a civil action the cost of providing the services, if at the time of the violation a sign satisfying the requirements of subsection (b) of this section was installed. [Repealed.]~~

Sec. 52. 24 V.S.A. § 2296a is added to read:

§ 2296a. RIGHT TO RECOVER EXPENSES FOR EMERGENCY SERVICES

A municipal, county, or State entity that deploys police, fire, ambulance, rescue, or other services to aid an operator of a vehicle who is stranded due to a violation of 23 V.S.A. § 1006b, 1112, or 1434(c) or to move a vehicle that is disabled due to a violation of 23 V.S.A. § 1006b, 1112, or 1434(c) may recover in civil action the costs of providing services from the operator or the operator's employer, provided that the operator was acting during or incidental to the operator's scope of employment.

* * * Municipal Weight Limits; Filing of Restrictions * * *

Sec. 53. 23 V.S.A. § 1400b is amended to read:

§ 1400b. FILING OF RESTRICTIONS, PUBLICATION

(a) Any municipality that has enacted special weight limits that are other than State legal limits for highways or bridges within its jurisdiction shall file a complete copy of the limitations with the Department of Motor Vehicles ~~not later than February 10 of each year.~~ The information filed shall contain a concise listing of each highway or bridge posted, the time of the year the restrictions apply, weight limitations in effect on that highway or bridge, and the name, address, and telephone number of the principal person or persons responsible for issuing the local permit. Additions or deletions to the listing may be made from time to time, as required, by filing with the Department.

(b) Any special municipal weight limits on highways or bridges shall be unenforceable unless they are on file with the Department of Motor Vehicles within three working days of the date of posting. It shall be the responsibility of the municipality to keep records documenting the time and date a highway or bridge is posted, and to keep current restrictions on file with the Department. The Department may prescribe the format that is to be used when filing restrictions under this section.

* * *

* * * Use of Sustainable Building Components * * *

Sec. 54. FINDINGS

The General Assembly finds:

(1) With the passage of the Universal Recycling Law, the State of Vermont committed to providing convenient and efficient recycling services to all Vermonters.

(2) Efficient recycling systems save energy, conserve natural resources, and reduce greenhouse gas emissions.

(3) Recycled glass can currently be used in the following ways:

(A) as an aggregate to substitute for virgin or manufactured sand;

(B) ground and used as a pozzolan, which can be a partial substitute for Portland Cement in a concrete-mix design; or

(C) converted into a building component.

(4) Mining sand is a practice that is known to have an adverse effect on the environment.

(5) Fly ash, which is a pozzolan, is the byproduct of the burning of coal, and ground granulated blast-furnace slag, which is also a pozzolan, is the byproduct of steel manufacturing.

(6) The Agency of Transportation is already, pursuant to 2020 Acts and Resolves No. 121, Sec. 21, encouraged to, wherever practicable, use pozzolans and alternatives to Portland Cement as part of the concrete-mix design for all transportation infrastructure projects.

(7) Reusing recycled glass as a substitute for virgin or manufactured sand conserves natural resources by reducing the need to mine or manufacture sand.

(8) Using materials recycled in Vermont as a partial substitute for aggregate and non-aggregate components in maintenance, construction, and improvement projects could reduce greenhouse gas emissions and the State's carbon footprint by eliminating the need to transport recycled glass out of State for further processing.

(9) Using materials recycled in Vermont as a partial substitute for aggregate and non-aggregate components in maintenance, construction, and improvements projects could provide an economic benefit to the local recycling industry.

(10) There will continue to be advances in the availability and use of sustainable building components, such as recycled materials and manufacturing byproducts, in maintenance, construction, and improvement projects.

Sec. 55. 19 V.S.A. § 10c(m) is amended to read:

~~(m) Recycled asphalt pavement (RAP) shall be used on all Agency paving projects to the extent sources of quality RAP are available consistent with producing quality hot mix asphalt. To that extent, the Agency shall define paving project specifications and contract bid documents to allow the use of up to 50 percent RAP. The Agency shall compare the cost-benefit of the State's retaining the RAP versus the contractor's retaining the RAP, and the Agency shall report to the House and Senate Committees on Transportation on the results of the comparison in the 2009 and 2010 legislative sessions. [Repealed.]~~

Sec. 56. 19 V.S.A. § 10m is added to read:

§ 10m. STATEMENT OF POLICY; SUSTAINABLE BUILDING COMPONENTS; ANNUAL REPORT

(a) Policy. It shall be the State's policy to use sustainable building components, including recycled materials and manufacturing byproducts, in all maintenance, construction, and improvement projects within the State's Transportation Program to the extent that sources of quality sustainable building components are available and the use is consistent with producing transportation assets with a demonstrated evidence of long-term durability.

(b) Specifications. The Agency shall define its performance and related specifications and contract bid documents to allow and, as practicable, encourage the use of sustainable building components.

(c) Recycled asphalt pavement. Recycled asphalt pavement (RAP) shall be used on all Agency paving projects to the extent sources of RAP of a quality comparable to hot mix asphalt is available. The Agency shall define paving project specifications and contract bid documents to allow for the use of up to 50 percent RAP.

(d) Research and testing. The Agency is encouraged to continue researching, testing, and, wherever practicable, using sustainable building components, pozzolans, and alternatives to Portland Cement as part of the construction specifications for all transportation infrastructure projects.

(e) Annual report. The Agency, in consultation with the Recycled Materials Working Group, shall, during each session of the General Assembly, provide an oral report to the House and Senate Committees on Transportation on the use of sustainable building components in maintenance, construction, and improvement projects within the State's Transportation Program.

* * * Fees for State Electric Vehicle Supply Equipment; Sunset * * *

Sec. 57. 2019 Acts and Resolves No. 59, Sec. 38 is amended to read:

Sec. 38. ELECTRIC VEHICLE SUPPLY EQUIPMENT FEES REPEAL

32 V.S.A. § 604 (electric vehicle supply equipment fees) is repealed on July 1, 2022 2025.

Sec. 58. 32 V.S.A. § 604 is amended to read:

§ 604. ELECTRIC VEHICLE SUPPLY EQUIPMENT FEES

(a) Notwithstanding any other provision of this subchapter, any agency or department that owns or controls electric vehicle supply equipment (EVSE), as defined in 30 V.S.A. § 201, may establish, set, and adjust fees for the use of that ~~electric vehicle supply equipment~~ EVSE. The agency or department may establish fees for electric vehicle charging at less than its costs, to cover its costs, or equal to the retail rate charged for the use of ~~electric vehicle supply equipment~~ EVSE available to the public. Fees collected under this section shall be deposited in the same fund or account within a fund from which the electric operating expense for the ~~electric vehicle supply equipment~~ EVSE originated.

(b) The Agency of Transportation and the Department of Buildings and General Services shall make staff available to standing committees of the General Assembly beginning on January 15 each year to give an oral presentation that provides an update on the State's efforts to collect fees for the use of EVSE that is owned or controlled by the State pursuant to subsection (a) of this section and shall make available as part of that presentation a copy of any applicable fee schedules, along with an explanation as to whether or not the fee schedule accounts for expenses associated with the EVSE, including electricity costs.

* * * Relinquishment of Vermont Route 207 Extension
in the Town of St. Albans * * *

Sec. 59. 2012 Acts and Resolves No. 153, Sec. 23(a) is amended to read:

(a) Pursuant to 19 V.S.A. § 15(a)(2), the ~~general assembly~~ General Assembly approves the ~~secretary of transportation~~ Secretary of Transportation to enter into an agreement with the ~~town~~ Town of St. Albans to relinquish to

the town's ~~Town's~~ jurisdiction a segment of state ~~State~~ highway right-of-way in the town ~~Town~~ of St. Albans, which has not been constructed to be a traveled road, and which was to be known as the Vermont Route 207 Extension. This authority shall expire on June 30, ~~2022~~ 2032. The segment authorized to be relinquished measures approximately 1.7 acres, is approximately 160 feet in width, and starts at a point 200 feet west of the intersection of the U.S. Route 7/Vermont Route 207 centerline of highway project S0297(2), and continues westerly for 463 feet.

* * * Codified Law Technical Corrections * * *

Sec. 60. REPEAL

19 V.S.A. § 22 (fine applicable for a violation of the since repealed 19 V.S.A. § 21(c)) is repealed.

Sec. 61. 19 V.S.A. § 11a(b) is amended to read:

~~(b) In fiscal year 2017, of the funds appropriated to the Department of Public Safety pursuant to subsection (a) of this section, the amount of \$1,680,000.00 is allocated exclusively for the purchase, outfitting, assignment, and disposal of State Police vehicles. In fiscal year 2018 and in succeeding fiscal years, of the funds appropriated to the Department of Public Safety pursuant to subsection (a) of this section, the amount of \$2,100,000.00 is allocated exclusively for the purchase, outfitting, assignment, and disposal of State Police vehicles. Any unexpended and unencumbered funds remaining in this allocation at the close of a fiscal year shall revert to the Transportation Fund. The Department of Public Safety may periodically recommend to the General Assembly that this allocation be adjusted to reflect market conditions for the vehicles and equipment.~~

Sec. 62. 19 V.S.A. § 996(a) is amended to read:

(a) The Agency of Transportation shall work with municipal representatives to revise the Agency of Transportation's Town Road and Bridge Standards in order to incorporate a suite of practical and cost-effective best management practices, as approved by the Agency of Natural Resources, for the construction, maintenance, and repair of all existing and future State and town highways. These best management practices shall address activities that have a potential for causing pollutants to enter the groundwater and waters of the State, including stormwater runoff and direct discharges to State waters. The best management practices shall not supersede any requirements for stormwater management already set forth in 10 V.S.A. §§ 1264 and 1264a that apply to State and town highways. ~~The Agency of Transportation shall report to the House and Senate committees on Transportation, the house committee~~

~~on fish, wildlife and water resources, and the Senate Committee on Natural Resources and Energy by January 15, 2011, on the best management practices to be incorporated into the Agency of Transportation's Town Road and Bridge Standards.~~

* * * Effective Dates * * *

Sec. 63. EFFECTIVE DATES

(a) This section and Secs. 57 (amendment to sunset of 32 V.S.A. § 604) and 59 (extension of authority to relinquish State highway right-of-way for Vermont Route 207 Extension) shall take effect on passage.

(b) Notwithstanding 1 V.S.A. § 214, Secs. 21–24 (amendments to the 2021 Transportation Bill) shall take effect retroactively on July 1, 2021.

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

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 24, 2022, pages 956-958)

Reported favorably by Senator Brock for the Committee on Finance.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Transportation.

(Committee vote: 6-0-1)

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

The Committee recommends that the bill be amended as recommended by the Committee on Transportation with the following amendment thereto:

In Sec. 17, Burlington International Airport Study Committee; report, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Authorization.

(1) Spending authority for the Burlington International Airport Study is authorized as follows:

<u>FY23</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	0	150,000	150,000
Total	0	150,000	150,000
<u>Sources of funds</u>			
State	0	15,000	15,000
Federal	0	135,000	135,000
Total	0	150,000	150,000

(2) Spending authority for South Burlington AV-FY18-001 is amended as follows:

<u>FY23</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Const	12,650,000	12,500,000	-150,000
Total	12,650,000	12,500,000	-150,000
<u>Sources of funds</u>			
State	500,000	485,000	-15,000
Federal	11,385,000	11,250,000	-135,000
Local	765,000	765,000	0
Total	12,650,000	12,500,000	-150,000

(3) The City of Burlington, which is the sponsor of the Burlington International Airport, and the Agency of Transportation shall work together to secure a grant from the Federal Aviation Administration to cover the \$135,000.00 in federal monies authorized for expenditure under subdivision (1) of this subsection for the Burlington International Airport Study.

(Committee vote: 6-0-1)

Amendments to proposal of amendment of the Committee on Transportation to H. 736 to be offered by Senators Perchlik, Mazza, Chittenden, Ingalls and Kitchel

Senators Perchlik, Mazza, Chittenden, Ingalls and Kitchel move to amend the proposal of amendment of the Committee on Transportation as follows:

First: By striking out the section heading for Sec. 18, proposed fiscal year 2024 Transportation Program, in its entirety and inserting in lieu thereof a new section heading to read as follows:

Sec. 18. FUTURE FISCAL YEAR TRANSPORTATION PROGRAMS;
CARBON REDUCTION PROGRAM

Second: In Sec. 40, 23 V.S.A. § 1006b, by striking out redesignated subdivision (b)(2) in its entirety and inserting in lieu thereof a new subdivision (b)(2) to read as follows:

(3)(2) ~~Either the The employer of an operator of a commercial vehicle who is operating a vehicle in the scope of employment and violates this subsection; or the operator's employer; or the operator of a vehicle who is operating a vehicle for personal purposes and violates this subsection~~ shall be subject to a civil penalty of \$1,000.00. ~~If or, if the violation results in substantially impeding the flow of traffic on Vermont Route 108, the penalty shall be a civil penalty of \$2,000.00.~~ For a second or subsequent conviction within a three-year period, the applicable penalty or penalties shall be doubled.

Third: In Sec. 49, 23 V.S.A. § 1434, in subsection (c), by striking out the words “on a public highway” preceding the words “in excess of the legal limits”

House Proposal of Amendment

S. 254

An act relating to recovering damages for Article 11 violations by law enforcement and a report on qualified immunity.

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

Sec. 1. 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 legal analysis 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 in the State of Vermont and the U.S. Court of Appeals for the Second Circuit. In particular, the analysis shall identify:

(1) the origins of the doctrine of qualified immunity and its present interpretation and application 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;

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

(7) the level of specificity necessary for a statute to be considered clearly established law pursuant to a qualified immunity analysis under Vermont law;

(8) the difference between remedies available pursuant to a direct private right of action based on self-executing provisions of the Vermont Constitution and remedies available in an action pursuant to 42 U.S.C § 1983; and

(9) a survey of states that maintain a central database of all final judgments and settlements paid by a law enforcement agency for allegations of law enforcement officer misconduct.

(b) The written analysis shall be confined to legal analysis and shall not make any policy recommendations.

(c) In the preparation of the legal analysis, 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. 2. 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 a report on qualified immunity.

NOTICE CALENDAR

Second Reading

Favorable with Proposal of Amendment

H. 505.

An act relating to reclassification of penalties for unlawfully possessing, dispensing, and selling a regulated drug.

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

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

Sec. 1. 18 V.S.A. § 4230 is amended to read:

§ 4230. CANNABIS

* * *

~~(d) Cannabis-infused~~ Cannabis-infused products. Only the portion of a cannabis-infused product that is attributable to cannabis shall count toward the possession limits of this section. ~~The weight of cannabis that is attributable to cannabis-infused products shall be determined according to methods set forth in rule by the Department of Public Safety in accordance with chapter 86 of this title (therapeutic use of cannabis).~~

Sec. 2. 18 V.S.A. § 4231 is amended to read:

§ 4231. COCAINE

* * *

(c) Trafficking.

~~(1) Trafficking.~~ A person knowingly and unlawfully possessing cocaine in an amount consisting of 150 grams or more of one or more preparations, compounds, mixtures, or substances containing cocaine with the intent to sell or dispense the cocaine shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses cocaine in an amount consisting of 150 grams or more of one or more preparations, compounds, mixtures, or substances containing cocaine intends to sell or dispense the cocaine. The amount of possessed cocaine under this subdivision to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be ~~no~~ not less than 400 grams in the aggregate.

~~(2) A person knowingly and unlawfully possessing crack cocaine in an amount consisting of 60 grams or more of one or more preparations, compounds, mixtures, or substances containing crack cocaine with the intent to sell or dispense the crack cocaine shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses crack cocaine in an amount consisting of 60 grams or more of one or more preparations, compounds, mixtures, or substances containing crack cocaine intends to sell or dispense the crack cocaine. [Repealed.]~~

Sec. 3. 13 V.S.A. § 5453 is added to read:

§ 5453. DRUG USE STANDARDS ADVISORY BOARD

(a) There is hereby created the Drug Use Standards Advisory Board established within the Vermont Sentencing Commission composed of experts in the fields of general and mental health care, substance use disorder treatment, and drug user communities.

(b) The primary objective of the Board shall be to determine, for each regulated and unregulated drug, the benchmark personal use dosage and the benchmark personal use supply. The benchmarks determined pursuant to this subsection shall be determined with a goal of preventing and reducing the criminalization of personal drug use. The Board may provide additional recommendations to the Commission and the General Assembly regarding how to transition from a criminal justice approach to a public health approach to addressing drug possession.

(c)(1) The Board shall be convened and chaired by the Deputy Commissioner of Alcohol and Drug Abuse Programs. After receiving nominations from harm reduction service providers, the Deputy Commissioner shall appoint three consumer representatives to the Board who have lived experience in drug use and consumption practices. The Deputy Commissioner, after consulting with the three consumer representatives, shall strive for geographic diversity in appointing the remaining Board members as follows:

(A) two representatives from harm reduction service providers;

(B) an expert on medication-assisted treatment programs;

(C) an expert on human behavior and addiction;

(D) an expert on substance use disorder treatment;

(E) an expert on legal reform from the Vermont Law School Center for Justice Reform;

(F) an academic researcher specializing in drug use or drug policy;

and

(G) a representative of law enforcement.

(2) The Chief Prevention Officer shall be a nonvoting member of the Board.

(d) The Board shall have the administrative assistance of the Division of Alcohol and Drug Abuse Programs.

(e) Members of the Board shall be entitled to per diems pursuant to 32 V.S.A. § 1010 for not more than three meetings to develop initial recommendations required by subsection (f) of this section and once annually thereafter.

(f) On or before September 1, 2022, the Board shall provide to the Commission and the General Assembly:

(1) the recommended quantities for both the benchmark personal use dosage and benchmark personal use supply for each category of regulated drug listed in 18 V.S.A. § 4201(29); and

(2) a recommendation as to whether 18 V.S.A. § 4233 (heroin) and 18 V.S.A. § 4233a (fentanyl) should be combined into one statute.

(g) On or before December 1, 2022, based on the benchmark personal use dosage and benchmark personal use supply recommendations of the Board, the Commission shall make recommendations to the General Assembly regarding adjustments in the amounts for possession, dispensing, and sale of regulated drugs under this chapter and a proposal for combining the heroin and fentanyl statutes if recommended by the Board.

(h) Starting in 2023, the Board shall convene at least one time per year to review benchmarks established pursuant to this section and recommend any necessary amendments to the Commission and the General Assembly.

(i) As used in this section:

(1) “Benchmark personal use dosage” means the quantity of a drug commonly consumed over a 24-hour period for any therapeutic, medicinal, or recreational purpose.

(2) “Benchmark personal use supply” means the quantity of a drug commonly possessed for consumption by an individual for any therapeutic, medicinal, or recreational purpose.

Sec. 4. SUNSET OF DRUG USE STANDARDS ADVISORY BOARD

13 V.S.A. § 5453 (Drug Use Standards Advisory Board) is repealed on July 1, 2027.

Sec. 5. 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 creation of the Drug Use Standards Advisory Board within the Vermont Sentencing Commission.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 18, 2022, pages 718-739 and March 22, 2022 pages 788-789)

H. 517.

An act relating to the Vermont National Guard Tuition Benefit Program.

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

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

* * * Vermont National Guard Tuition Benefit Program * * *

Sec. 1. 16 V.S.A. § 2857 is amended to read:

§ 2857. VERMONT NATIONAL GUARD TUITION BENEFIT PROGRAM

(a) Program creation. The Vermont National Guard Tuition Benefit Program (Program) is created, under which a member of the Vermont National Guard (member) who meets the eligibility requirements in subsection (c) of this section is entitled to the following tuition benefit for up to full-time attendance:

(1) For courses at ~~either campus of the Northern Vermont University (NVU), the Vermont Technical College (VTC), the University of Vermont and State Agricultural College (UVM), or at the Community College of Vermont (CCV)~~ any Vermont State College institution or the University of Vermont and State Agricultural College (UVM), the benefit shall be the in-state residence tuition rate for the relevant institution.

(2) For courses at ~~a Vermont State College, other than NVU, VTC, or CCV, or at any eligible Vermont private postsecondary institution,~~ the benefit shall be the in-state tuition rate charged by ~~NVU~~ UVM.

(3) For courses at an eligible training institution offering nondegree, certificate training, or continuing education programs, the benefit shall be the lower of the institution's standard tuition or the in-state tuition rate charged by ~~NVU~~ UVM.

* * *

(c) Eligibility.

(1) To be eligible for the Program, an individual, whether a resident or nonresident, shall satisfy all of the following requirements:

~~(1)~~(A) be an active member of the Vermont National Guard;

~~(2)~~(B) have successfully completed basic training;

~~(3)(C)~~ be enrolled at UVM, a Vermont State College, or any other college or university located in Vermont in a program that leads to an undergraduate certificate or degree or at an eligible training institution in a program that leads to a certificate or other credential recognized by VSAC;

~~(4)(D)~~ have not previously earned an undergraduate bachelor's degree;

~~(5)(E)~~ continually demonstrate satisfactory academic progress as determined by criteria established by the Vermont National Guard and VSAC, in consultation with the educational institution at which the individual is enrolled under the Program;

~~(6)(F)~~ have used available post-September 11, 2001 tuition benefits and other federally funded military tuition assistance; provided, however, that this subdivision shall not apply to:

~~(A)(i)~~ tuition benefits and other federally funded military tuition assistance for which the individual has not yet earned the full amount of the benefit or tuition;

~~(B)(ii)~~ Montgomery GI Bill benefits;

~~(C)(iii)~~ post-September 11, 2001 educational program housing allowances;

~~(D)(iv)~~ federal educational entitlements;

~~(E)(v)~~ National Guard scholarship grants;

~~(F)(vi)~~ loans under section 2856 of this title; and

~~(G)(vii)~~ other nontuition benefits; and

~~(7)(G)~~ have submitted a statement of good standing to VSAC signed by the individual's commanding officer within 30 days prior to the beginning of each semester.

(2) An individual may receive more than one undergraduate certificate or other credential recognized by VSAC under the Program, provided that the cost of all certificates and credentials received by the individual under the Program does not exceed the full-time in-state tuition rate charged by UVM for completion of an undergraduate baccalaureate degree.

* * *

Sec. 2. VERMONT NATIONAL GUARD TUITION BENEFIT
PROGRAM EXTENSION; MASTER'S DEGREE OR A SECOND
BACCALAUREATE DEGREE; PILOT

(a) The provisions of this section shall apply notwithstanding 16 V.S.A. § 2857.

(b) A National Guard member shall be eligible to pursue a second undergraduate baccalaureate degree under the Vermont National Guard Tuition Benefit Program, whether a resident or nonresident, if the individual received a first undergraduate baccalaureate degree that was not funded under the Program or any other State funding source designed exclusively for members of the Vermont National Guard.

(c)(1) A National Guard member shall be eligible to pursue a graduate degree under the Program, whether a resident or nonresident, if the individual agrees in the promissory note under 16 V.S.A. § 2857(b) to, upon receipt of the graduate degree and until the individual's service commitment under 16 V.S.A. § 2857(d) is satisfied, be employed full time in Vermont or, if unemployed, be actively seeking full-time employment in Vermont.

(2) An individual may pursue a graduate degree under the Program even if the individual has received an undergraduate baccalaureate degree under the Program.

(3) The Office of the Vermont Adjutant and Inspector General may terminate the tuition benefit provided to an individual who has earned a graduate degree under the Program for failure to satisfy the work requirement under subdivision (1) this subsection.

Sec. 3. REPEAL

Sec. 2 of this act is repealed on July 1, 2025.

* * * Education of Military Families * * *

Sec. 4. 16 V.S.A. § 1073 is amended to read:

§ 1073. "LEGAL PUPIL" DEFINED; ACCESS TO SCHOOL

* * *

(d) If one or both of a child's parents or guardians are being relocated to the State under military orders, a school district shall allow registration of the student by mail, telephone, or electronically and shall not require the parent or legal guardian of the student or the student themselves to physically appear at a location within the district to register the student. Proof of required residency shall not be required at the time of the remote registration but shall be required within 10 days of the student's attendance in the school district.

Sec. 5. 16 V.S.A. § 2185 is amended to read:

§ 2185. DETERMINATION OF RESIDENCY FOR TUITION PURPOSES

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

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

(c) The spouse and dependent child of any person who is a member of the U.S. Armed Forces and stationed in this State pursuant to military orders shall be entitled to be considered, upon taking up a residence in the State, a resident for in-state tuition purposes at the start of the next semester or academic period. The spouse or dependent child shall not lose classification as an in-state student if the spouse or dependent child continues to reside in the State and the member of the U.S. Armed Forces is transferred on military orders or retires. The spouse or dependent child shall lose this classification as an in-state student under this subsection if the spouse or dependent child no longer resides in the State and shall regain this classification upon again taking up a residency in the State only if the member of the U.S. Armed Forces is stationed in this State pursuant to military orders.

Sec. 6. 16 V.S.A. § 2282a is amended to read:

§ 2282a. DETERMINATION OF RESIDENCY FOR TUITION PURPOSES

(a) Enrollment at an institution for higher learning, or presence within the State for the purposes of attending an institution of higher learning, shall not by itself constitute residence for in-state tuition purposes or for the purpose of eligibility for assistance from the Vermont Student Assistance Corporation.

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

(c) The spouse and dependent child of any person who is a member of the U.S. Armed Forces and stationed in this State pursuant to military orders shall be entitled to be considered, upon taking up a residence in the State, a resident for in-state tuition purposes at the start of the next semester or academic period. The spouse or dependent child shall not lose classification as an in-state student if the spouse or dependent child continues to reside in the State and the member of the U.S. Armed Forces is transferred on military orders or retires. The spouse or dependent child shall lose this classification as an in-state student under this subsection if the spouse or dependent child no longer resides in the State and shall regain this classification upon again taking up a residency in the State only if the member of the U.S. Armed Forces is stationed in this State pursuant to military orders.

* * * Purple Star School Programs * * *

Sec. 7. 16 V.S.A. § 568 is added to read:

§ 568. PURPLE STAR CAMPUS DESIGNATION

(a) As used in this section, “military-connected student” means a student who is a dependent of a current or former member of:

(1) the U.S. military serving in the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard on active duty;

(2) the Vermont National Guard;

(3) a reserve force of the U.S. Armed Forces; or

(4) a member of a military or reserve force described in subdivision (1), (2), or (3) of this subsection who was killed in the line of duty.

(b) The Agency of Education shall designate a school district as a Purple Star Campus if the school district applies and qualifies for the designation under this section.

(c) To qualify as a Purple Star Campus, a school district shall:

(1) designate a staff member as a military liaison, whose duties include:

(A) identifying military-connected students enrolled in the district’s schools;

(B) serving as the point of contact between the school district and military-connected students and their families;

(C) determining appropriate school services available to military-connected students; and

(D) assisting in coordinating school programs relevant to military-connected students;

(2) maintain within the school district an Internet website with an easily accessible web page that includes resources for military-connected students and their families, including information regarding:

(A) relocation to, enrollment at, registration at, and transferring records to the school district;

(B) academic planning, course sequences, and advanced classes available at the school district; and

(C) counseling and other support services available for military-connected students enrolled in the school district;

(3) maintain a transition program led by students, where appropriate, that assists military-connected students in transitioning into the school district;

(4) offer professional development for staff members on issues related to military-connected students; and

(5) offer at least one of the following initiatives:

(A) a resolution showing support for military-connected students and their families;

(B) recognition of the Month of the Military Child or Military Family Month with relevant events hosted by the school district; or

(C) a partnership with a local military installation that provides opportunities for active duty military members to volunteer with the school district, speak at an assembly, or host a field trip.

(d) To comply with the requirements under subdivisions (c)(2), (4), or (5) of this section, a school district may partner with a third party to provide those services and initiatives.

* * * Eligibility for Election to Serve as Adjutant and Inspector General * * *

Sec. 8. 2 V.S.A. § 10 is amended to read:

§ 10. ELECTION OF STATE AND JUDICIAL OFFICERS

(a) At 10 o'clock and 30 minutes, forenoon, on the seventh Thursday after their biennial meeting and organization, the Senate and House of Representatives shall meet in joint assembly and proceed therein to elect the State officers, except judicial officers, whose election by the Constitution and laws devolves in the first instance upon them in joint assembly, including the Sergeant at Arms, ~~the Adjutant and Inspector General~~, and legislative trustees of the University of Vermont and State Agricultural College. In case election of all such officers shall not be made on that day, they shall meet in joint assembly at 10 o'clock and 30 minutes, forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed in such election, until all such officers are elected.

* * *

(c) At 10 o'clock and 30 minutes, forenoon, on the seventh Thursday of the second year of the biennial session, the Senate and House of Representatives shall meet in joint assembly and proceed therein to elect the ~~legislative trustees of the Vermont State Colleges Corporation~~ State Officers, whose election by the Constitution and laws devolves in the first instance upon them in joint assembly, including the legislative trustees of the Vermont State Colleges

Corporation and the Adjutant and Inspector General. In case election of all such ~~legislative trustees~~ officers shall not be made on that day, they shall meet in joint assembly at 10 o'clock and 30 minutes, forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed in such election, until all such ~~legislative trustees~~ officers are elected.

Sec. 9. 20 V.S.A. § 363 is amended to read:

§ 363. OFFICERS GENERALLY

(a)(1) The General Assembly shall biennially elect an Adjutant and Inspector General for a term of two years.

* * *

(3) In order to be eligible for election to serve as Adjutant and Inspector General, an individual shall:

(A) have attained the rank of Colonel (O-6) or above;

(B) be a current member of the U.S. Army, the U.S. Air Force, the U.S. Army Reserve, the U.S. Air Force Reserve, the Army National Guard, or the Air National Guard or be eligible to return to active service in the Army National Guard or the Air National Guard;

(C) be a graduate of a Senior Service College; and

(D) be eligible for federal recognition.

* * *

Sec. 10. CURRENT TERM OF ADJUTANT AND INSPECTOR GENERAL

Notwithstanding any provision of law to the contrary, the term of the Adjutant and Inspector General in office on the effective date of this act shall end on March 1, 2024.

* * * Effective Date * * *

Sec. 11. 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 educational benefits for members of the military and their families and eligibility for election to serve as Adjutant and Inspector General.

(Committee vote: 5-0-1)

(For House amendments, see House Journal for March 9, 2022, pages 484-486 and March 10, 2022, pages 492-494)

H. 711.

An act relating to the creation of the Opioid Settlement Advisory Committee and the Opioid Abatement Special Fund.

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

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

First: In Sec. 1, 18 V.S.A. chapter 93, section 4772, subsection (c), in the second sentence by striking out “Substance Misuse Advisory Council” and inserting in lieu thereof Substance Misuse Oversight Prevention and Advisory Council

Second: In Sec. 1, 18 V.S.A. chapter 93, section 4774, subsection (a), by striking out subdivisions (1) and (2) in their entireties and inserting in lieu thereof the following:

(a)(1) There is created the Opioid Abatement Special Fund, a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5 and administered by the Department of Health. The Opioid Abatement Special Fund shall consist of all abatement account fund monies disbursed to the Department from the national settlement fund administrator, the national opioid abatement trust, the supplemental opioid abatement fund, or any other settlement funds that must be utilized exclusively for opioid prevention, intervention, treatment, recovery, and harm reduction services.

(2) The Department shall include a spending plan, informed by the recommendations of the Opioid Settlement Advisory Committee established pursuant to section 4772 of this subchapter, as part of its annual budget submission, and once approved, the Department shall request to have the funds formally released from the national settlement fund administrator, the national opioid abatement trust, the supplemental opioid abatement fund, or any other settlement funds that must be utilized exclusively for opioid prevention, intervention, treatment, recovery, and harm reduction services. The Department shall disburse monies from the Opioid Abatement Special Fund pursuant to 32 V.S.A. chapter 7, subchapter 3.

Third: By striking out Sec. 2, sunset; Opioid Settlement Advisory Committee, in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. SUNSET; OPIOID SETTLEMENT ADVISORY COMMITTEE

The Opioid Settlement Advisory Committee shall cease to exist upon written certification by the Chair of the Opioid Settlement Advisory Committee to the Governor, the Speaker of the House, and the President Pro Tempore that Vermont's share of monies from the national settlement fund administrator, the national opioid abatement trust, the supplemental opioid abatement fund, or any other settlement funds that must be utilized exclusively for opioid prevention, intervention, treatment, recovery, and harm reduction services has been fully expended.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 17, 2022, pages 704-713)

Reported favorably by Senator Kitchel for the Committee on Appropriations.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Health and Welfare.

(Committee vote: 5-0-2)

Amendments to proposal of amendment of the Committee on Health and Welfare to H. 711 to be offered by Senators Lyons, Cummings, Hardy, Hooker and Terenzini

Senators Lyons, Cummings, Hardy, Hooker and Terenzini move to amend the proposal of amendment of the Committee on Health and Welfare in Sec. 1, 18 V.S.A. chapter 93, section 4774, subsection (a), in both subdivisions (1) and (2), and in Sec. 2, sunset; Opioid Settlement Advisory Committee, by striking out the phrase "national settlement fund administrator" and inserting in lieu thereof national abatement account fund

CONCURRENT RESOLUTIONS FOR NOTICE

Concurrent Resolutions For Notice Under Joint Rule 16

The following joint concurrent resolutions have been introduced for approval by the Senate and House. They will be adopted by the Senate unless a Senator requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration should be communicated to the Secretary's Office.

H.C.R. 144 - 149 (For text of Resolutions, see Addendum to House Calendar for April 21, 2022)

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.

Shirley Jefferson of South Royalton – Member, State Police Advisory Commission – By Sen. Clarkson for the Committee on Government Operations. (4/19/22)

Mary Jean Wasik of Pittsford – Member, Human Services Board – By Sen. Terenzini for the Committee on Health and Welfare. (4/19/22)

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 #3092 - \$420,000 to the VT Agency of Natural Resources, Dept of Environmental Conservation from the Environmental Protection Agency. The grant is for improved drinking water in underserved areas and will support construction of replacement drinking water infrastructure for the town of Milton's Mobile Home Cooperative.

[Received March 23, 2022]

JFO #3093 - \$1,000,000.00 to the VT Agency of Commerce and Community Development from the U.S. Economic Development Administration. Funds for the use of Statewide Economic Recovery Planning.

[Received March 23, 2022]

JFO #3094 – 11 (eleven) limited-service positions to the VT Agency of Human Services, Dept for Children and Families, to administer and support emergency and transitional housing programs. Positions funded through previously approved grant [#3034](#) (U.S. Emergency Assistance Rental Program) and funded through 9/30/2025.

[Received 3/23/2022, expedited review approved on 3/29/2022]

JFO #3095 - \$1,859,890 to the VT Department of Public Safety from the Federal Emergency Management Agency. Funding for flooding that occurred in Bennington and Windham counties between 7/29/21 and 7/30/21.

[Received March 23, 2022]

JFO #3096 – Ten (10) limited-service positions to the Agency of Human Services, Department of Health to support the Public Health Emergency Response Supplemental Award for response to the Covid-19 pandemic. Funded by previously approved JFO grant #2070. Positions funded through 6/30/2023.

[Received April 11, 2022]

JFO #3097 – Two (2) limited-service positions to the Vermont Agency of Human Services, Department of Health funded through a Substance Abuse Block grant supplement which was part of the American Recovery Act funding. Positions to help relieve the increase of substance abuse due to isolation during the Covid-19 pandemic. One (1) Substance Use Information Specialist, and one (1) Public Health Analyst funded through 9/30/2025.

[Received April 11, 2022]