

# Senate Calendar

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THURSDAY, APRIL 28, 2022

SENATE CONVENES AT: 10:00 A.M.

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**ACTION CALENDAR**

**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 25, 2022**

**Second Reading**

**Favorable with Proposal of Amendment**

**H. 553.**

An act relating to eligibility of domestic partners for reimbursement from the Victims Compensation Program.

**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 in Sec. 1, 13 V.S.A. § 5351, subdivision (2), by striking out “prohibited from legally marrying one another by 15 V.S.A. § 1a” and inserting in lieu thereof not be related by blood closer than would bar marriage under State law

(Committee vote: 4-1-0)

(For House amendments, see House Journal for March 23, 2022, pages 862-863)

**Reported favorably by Senator Sears 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 Judiciary.

(Committee vote: 5-1-1)

**H. 661.**

An act relating to licensure of mental health professionals.

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

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

First: In Sec. 8, mental health professional licensure; study, in subdivision (b)(4), following “organizations” by inserting and a representative of Vermont Care Partners

Second: By striking out Sec. 10, effective date, and its reader assistance heading in their entirety and inserting in lieu thereof two new sections with reader assistance headings to be Secs. 10–11 to read as follows:

\* \* \* Position Created \* \* \*

Sec. 10. CREATION OF POSITION WITHIN THE OFFICE OF  
SECRETARY OF STATE; OFFICE OF PROFESSIONAL  
REGULATION

There is created within the Secretary of State's office one new classified Licensing Board Administrator position in the Office of Professional Regulation.

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

Sec. 11. EFFECTIVE DATES

This act shall take effect on July 1, 2022, except that Secs. 1-7 (continuing education units) shall take effect on July 1, 2023.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 23, 2022, pages 863-875)

**Reported favorably by Senator Starr for the Committee on Appropriations.**

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

(Committee vote: 6-0-1)

**H. 720.**

An act relating to the system of care for individuals with developmental disabilities.

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

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

\* \* \* Legislative Intent \* \* \*

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that:

(1) Individuals who qualify for developmental services and who meet a funding priority as outlined in the State system of care plan for developmental services receive full and complete information in plain language regarding their options and services.

(2) Individuals with developmental disabilities, their family members, allies, and advocates be respected and active participants in systems change activities, including payment reform, development of resources to comply with the federal home- and community-based services regulations, and development of additional residential service options. Information provided to stakeholders shall be in plain language.

\* \* \* System of Care Plan \* \* \*

Sec. 2. 18 V.S.A. § 8725 is amended to read:

§ 8725. SYSTEM OF CARE PLAN

(a) Every three years, the Department shall adopt a plan for the nature, extent, allocation, and timing of services consistent with the principles of service set forth in section 8724 of this title that will be provided to people with developmental disabilities and their families. ~~Each plan shall include the following categories, which shall be adopted by rule pursuant to 3 V.S.A. chapter 25:~~

- ~~(1) priorities for continuation of existing programs or development of new programs;~~
- ~~(2) criteria for receiving services or funding;~~
- ~~(3) type of services provided; and~~
- ~~(4) a process for evaluating and assessing the success of programs.~~

\* \* \*

~~(c) No~~ Not later than 60 days before adopting the proposed plan, the Commissioner shall submit it to the Advisory Board established in section 8733 of this title, for advice and recommendations, ~~except that the Commissioner shall submit those categories within the plan subject to 3 V.S.A. chapter 25 to the Advisory Board at least 30 days prior to filing the proposed plan in accordance with the Vermont Administrative Procedure Act. The Advisory Board shall provide the Commissioner with written comments on the proposed plan. It may also submit public comments pursuant to 3 V.S.A. chapter 25.~~

\* \* \*

(f) If the Department requires an extension to complete the system of care plan, it shall submit a written request indicating the anticipated completion date to the House Committee on Human Services and to the Senate Committee on Health and Welfare at least two months prior to the expiration of the existing system of care plan. The request for an extension may be granted

upon the approval of both the Chairs of the House Committee on Human Services and the Senate Committee on Health and Welfare.

\* \* \* Quality Services Reviews \* \* \*

Sec. 3. 18 V.S.A. chapter 204A is amended to read:

CHAPTER 204A. SUPPORTING INDIVIDUALS WITH  
DEVELOPMENTAL DISABILITIES ACT

Subchapter 1. Developmental Disabilities Act

\* \* \*

§ 8723. DEPARTMENT OF DISABILITIES, AGING, AND  
INDEPENDENT LIVING; DUTIES

The Department shall plan, coordinate, administer, monitor, and evaluate State and federally funded services for people with developmental disabilities and their families within Vermont. The Department shall be responsible for coordinating the efforts of all agencies and services, government and private, on a statewide basis in order to promote and improve the lives of individuals with developmental disabilities. Within the limits of available resources, the Department shall:

(1) promote the principles stated in section 8724 of this title and shall carry out all functions, powers, and duties required by this ~~chapter~~ subchapter by collaborating and consulting with people with developmental disabilities, their families, guardians, community resources, organizations, and people who provide services throughout the State;

\* \* \*

§ 8724. PRINCIPLES OF SERVICE

Services provided to people with developmental disabilities and their families shall foster and adhere to the following principles:

\* \* \*

(11) Trained staff. In order to ~~assure~~ ensure that the goals of this ~~chapter~~ subchapter are attained, all individuals who provide services to people with developmental disabilities and their families must receive training as required by section 8731 of this title.

\* \* \*

§ 8727. COMPLAINTS; APPEALS

(a) Notice. The Department or agency or program funded by the Department shall provide notice:

(1) To an applicant or the applicant's guardian, as applicable, of the rights provided under this ~~chapter~~ subchapter, State and federal law, and any other available rights of appeal for violations of any of those rights.

\* \* \*

§ 8733. ADVISORY BOARD

\* \* \*

(e) Members shall be entitled to reimbursement for necessary and actual expenses incurred in performance of their duties under this ~~chapter~~ subchapter.

Subchapter 2. Supports for Individuals with Developmental Disabilities

§ 8741. QUALITY SERVICES REVIEWS

The Department shall perform at least annual on-site quality assurance and improvement visits to the designated and specialized service agencies and other contracted agencies. The Department shall, at a minimum, assess the quality of services provided, including health and safety, in accordance with personalized service plans for the individuals served.

\* \* \* Creation of New Position \* \* \*

Sec. 4. DEPARTMENT OF DISABILITIES, AGING, AND INDEPENDENT LIVING; RESIDENTIAL PROGRAM DEVELOPER

(a) There is created a limited-service position of the Residential Program Developer within the Department of Disabilities, Aging, and Independent Living for the purposes of:

(1) expanding housing and residential services options for individuals with developmental disabilities, in accordance with federal home- and community-based services regulations;

(2) assisting individuals with developmental disabilities and their families navigate publicly and privately funded housing and residential services options;

(3) investigating public and private funding opportunities for residential program development for individuals with developmental disabilities;

(4) working with individuals with developmental disabilities, their families, and allies to identify potential models for residential services;

(5) developing requests for proposals and identifying at least three pilot planning grants for different regions of the State focused on the needs identified in those regions; and

(6) working with appropriate designated and specialized service agencies or other providers to implement selected pilots.

(b) In fiscal year 2023, \$102,000.00 is appropriated to the Department of Disabilities, Aging, and Independent Living from the Global Commitment Federal Medical Assistance Percentage (FMAP) home- and community-based services monies to fund the Residential Program Developer position established in subsection (a) of this section.

\* \* \* Housing and Residential Service Pilot Planning Grants \* \* \*

Sec. 5. DEPARTMENT OF DISABILITIES, AGING, AND INDEPENDENT LIVING; DEVELOPMENT OF HOUSING AND RESIDENTIAL SERVICES PILOT PLANNING GRANTS

(a) The Department of Disabilities, Aging, and Independent Living shall work with the Vermont Developmental Disabilities Council and a statewide self-advocacy group to review housing models in other states for the purpose of informing the pilot planning grants developed pursuant to subsection (b) of this section.

(b)(1) In fiscal year 2023, \$500,000.00 is appropriated to the Department of Disabilities, Aging, and Independent Living from the Global Commitment Federal Medical Assistance Percentage (FMAP) home- and community-based services monies to develop housing and residential service pilot planning grants in at least three regions of the State, in partnership with designated and specialized service agencies, for individuals with developmental disabilities and their families. The Department shall consult with the Vermont Housing and Conservation Board and other housing providers to prioritize successful housing projects for adults with developmental disabilities. The Department shall issue a request for proposals seeking entities to develop regional pilot planning grants with not more than one grant per designated agency catchment area.

(2) The pilot planning grants shall:

(A) reflect the diversity of needs expressed by individuals with developmental disabilities and their families, including individuals with high support needs who require 24-hour care and those with specific communication needs;

(B) be consistent with the federal home- and community-based services regulations;

(C) include new service-supported housing models; and

(D) include a vision statement, the number of and description of the support needs of individuals with developmental disabilities anticipated to be served, a draft budget, and an implementation plan.

(c)(1) The Department shall convene a steering committee to provide advice and guidance as it develops and selects the pilot planning grants required pursuant to this section.

(2) The steering committee shall be composed of the following members:

(A) three individuals with a developmental disability, appointed by the Green Mountain Self Advocates;

(B) two family members of individuals with a developmental disability, appointed by the Vermont Family Network;

(C) two advocates who are either individuals with a developmental disability or a family member of an individual with a developmental disability, appointed by the State Program Standing Committee and the Advisory Board established pursuant to 18 V.S.A. § 8733; and

(D) two representatives of the designated and specialized service agencies, appointed by Vermont Care Partners.

(3)(A) The steering committee shall have the technical, legal, and administrative assistance of the Department.

(B) The steering committee shall cease to exist on January 1, 2024.

(4) Information provided for the steering committee's consideration shall be in plain language.

(5) Members of the steering committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than eight meetings. These payments shall be made from monies appropriated to the Department.

(d) On or before April 15, 2023, the Department shall submit a report to the House Committee on Human Services and to the Senate Committee on Health and Welfare describing the pilot planning grant selection process, the implementation plan, and any resources necessary for implementation of selected pilots.

\* \* \* Payment Reform and Conflict-Free Case Management \* \* \*

Sec. 6. PAYMENT REFORM AND CONFLICT-FREE CASE  
MANAGEMENT

(a) At a minimum, the following shall be included in the payment reform process impacting individuals with developmental disabilities, their families, and designated and specialized service agencies:

(1) in addition to any standardized assessment utilized by the Department of Disabilities, Aging, and Independent Living, a process for consideration of additional information relevant to the life circumstances of service recipients or applicants;

(2) in addition to any standardized rates or rate ranges developed by the Department, a process for consideration of budgets to reflect the individualized support needs of service recipients or applicants; and

(3) a process for evaluating the fiscal and service impact on individual service recipients and the designated and specialized service agencies.

(b)(1) Prior to implementing the federally required conflict-free case management system, the Department shall seek and consider input from a variety of stakeholders, including individuals with developmental disabilities, their families, designated and specialized service agencies, and other providers and advocates.

(2) As part of the changes necessary to come into federal compliance, consideration shall be given to performing initial clinical eligibility and service planning within the Department.

(c) On or before February 1, 2023, the Department shall present any proposed policy changes related to payment reform and conflict-free case management to the House Committee on Human Services and the Senate Committee on Health and Welfare and seek and consider input from the Committees.

\* \* \* HCBS Spending Plan Amendment \* \* \*

Sec. 7. HOME- AND COMMUNITY-BASED SERVICE SPENDING PLAN  
AMENDMENT

The Agency of Human Services shall seek to amend its federal Home- and Community-Based Service Spending Plan to enable the Department of Disabilities, Aging, and Independent Living to use Global Commitment Federal Medical Assistance Percentage (FMAP) home- and community-based services monies to fund the new Residential Program Developer position created in Sec. 4 of this act and the pilot planning grants in Sec. 5 of this act.



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

Sec. 8. EFFECTIVE DATES

This section and Sec. 2 (system of care plan) shall take effect on passage, and the remaining sections shall take effect on July 1, 2022.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 18, 2022, page 749)

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

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

First: By striking out Sec. 3, 18 V.S.A. chapter 204A, and its reader assistance heading in their entirety and inserting in lieu thereof the following:

Sec. 3. [Deleted.]

Second: In Sec. 4, Department of Disabilities, Aging, and Independent Living; residential program developer, in subsection (b), by striking out “appropriated” and inserting in lieu thereof allocated

Third: In Sec. 5, Department of Disabilities, Aging, and Independent Living; development of housing and residential services pilot planning grants, subsection (b), subdivision (1), in the first sentence, by striking out “appropriated” and inserting in lieu thereof allocated

(Committee vote: 6-0-1)

**House Proposal of Amendment to Senate Proposal of Amendment**

**H. 447**

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

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

First: In Sec. 2, 24 App. V.S.A. chapter 149, in section 3, in subdivision (b)(1), by striking out subdivision (B) in its entirety and inserting in lieu thereof a new subdivision (B) to read as follows:

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

Second: In Sec. 2, 24 App. V.S.A. chapter 149, in section 11, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

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

## UNFINISHED BUSINESS OF APRIL 26, 2022

### Second Reading

#### Favorable

#### H. 287.

An act relating to patient financial assistance policies and medical debt protection.

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

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 17, 2022, pages 638-645)

## NEW BUSINESS

### Third Reading

#### H. 517.

An act relating to the Vermont National Guard Tuition Benefit Program.

#### H. 739.

An act relating to capital construction and State bonding budget adjustment.

**Proposal of amendment to H. 739 to be offered by Senators Perchlik, Chittenden, Clarkson, Hardy, Hooker, MacDonald, Pearson, Pollina and Ram Hinsdale before Third Reading**

Senators Perchlik, Chittenden, Clarkson, Hardy, Hooker, MacDonald, Pearson, Pollina and Ram Hinsdale move to amend the Senate proposal of amendment by striking out Sec. 17, 2021 Acts and Resolves No. 50, Sec. 25b, in its entirety and inserting in lieu thereof the following:

Sec. 17. 2021 Acts and Resolves No. 50, Sec. 25b is added to read:

Sec. 25b. STATE BUILDINGS; HEATING SYSTEMS; DEPARTMENTS OF BUILDINGS AND GENERAL SERVICES AND OF FORESTS, PARKS AND RECREATION; AGENCY OF TRANSPORTATION

(a) Definitions. As used in this section:

(1) “Fossil fuel space heating system” is any space heating system that is not a non-fossil fuel space heating system.

(2) “Non-fossil fuel space heating system” means a space heating system that is not designed to utilize fossil fuels or that exclusively utilizes renewable liquid fuel.

(b) Replacement system.

(1) Space heating system. Except as provided in subsection (c) of this section, beginning in fiscal year 2024, the Department of Buildings and General Services; the Department of Forests, Parks and Recreation; and the Agency of Transportation shall only install non-fossil fuel space heating systems as the primary heating source in buildings owned or controlled by each Department or Agency, respectively.

(2) Exemption. For any building owned or controlled by each Department or Agency, the Commissioner of Buildings and General Services; the Commissioner of Forests, Parks and Recreation; or the Secretary of Transportation, respectively, may provide a written exemption to the replacement required in subdivision (1) of this subsection if the Commissioner or Secretary determines that it is financially impracticable to install a non-fossil fuel space heating system as a primary heating source.

(c) Backup systems. Notwithstanding subsection (b) of this section, for any building owned or controlled by each Department or Agency, respectively, after a non-fossil fuel space heating system is installed as a primary heating source, if a non-fossil fuel backup space heating system is not available, the Commissioner or Secretary, respectively, may continue to use fossil fuel space heating systems as backup heating or as supplemental heating during peak heating periods.

(d) Report. On or before January 15 each year, the Commissioner of Buildings and General Services; the Commissioner of Forests, Parks and Recreation; and the Secretary of Transportation shall, for any building owned or controlled by each Department or Agency, respectively, report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions with the basis of each exemption provided pursuant to subdivision

(b)(2) of this section, and any fossil fuel space heating systems installed, in the previous calendar year. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

## **Second Reading**

### **Favorable with Proposal of Amendment**

#### **H. 464.**

An act relating to miscellaneous changes to the Reach Up Program.

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

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

First: By striking out Sec. 8, 33 V.S.A. § 1114, in its entirety and inserting in lieu thereof a new Sec. 8 and a Sec. 8a to read as follows:

Sec. 8. 33 V.S.A. § 1114 is amended to read:

§ 1114. DEFERMENTS, MODIFICATIONS, AND REFERRAL

\* \* \*

(b) The work requirements shall be either modified or deferred for:

\* \* \*

(5) A participant who is needed in the home on a full- or part-time basis in order to care for an ill or disabled parent, spouse, or child. In granting deferments, the Department shall fully consider the participant's preference as to the number of hours the participant is able to leave home to participate in work activities. ~~A deferral or modification of the work requirement exceeding 60 days due to the existence of illness or disability pursuant to this subdivision shall be confirmed by the independent medical review of one or more physicians, physician assistants, advanced practice registered nurses, or other health care providers designated by the Secretary of Human Services prior to receipt of continued financial assistance under the Reach Up program.~~

\* \* \*

(d) Absent an apparent condition or claimed physical, emotional, or mental condition, participants are presumed to be able-to-work. A participant shall have the burden of demonstrating the existence of the condition asserted as the basis for a deferral or modification of the work requirement. ~~A deferral or modification of the work requirement exceeding 60 days due to the existence of conditions rendering the participant unable-to-work shall be confirmed by~~

~~the independent medical review of one or more physicians, physician assistants, advanced practice registered nurses, or other health care providers designated by the Secretary of Human Services prior to receipt of continued financial assistance under the Reach Up program.~~

~~\* \* \*~~

Sec. 8a. 33 V.S.A. § 1114 is amended to read:

§ 1114. DEFERMENTS, MODIFICATIONS, AND REFERRAL

~~(a) The Commissioner shall establish by rule criteria, standards, and procedures for granting deferments from or modifications to the work requirements established in section 1113 of this title, in accordance with the provisions of this section and for referring individuals with disabilities to the Office of Vocational Rehabilitation.~~

~~(b) The work requirements shall be either modified or deferred for:~~

~~(1) A participant for whom no unsubsidized or subsidized job or other equivalent supervised work activity recognized by the Commissioner by rule is available.~~

~~(2) A participant for whom support services that are essential to employment and other work activities and identified in the family development plan cannot be arranged. Such services shall include case management, education and job training, child care, and transportation.~~

~~(3) A primary caretaker parent in a two-parent family in which one parent is able to work part-time or unable to work, a single parent, or a caretaker who is caring for a child who has not attained 24 months of age for no more than 24 months of the parent's or caretaker's lifetime receipt of financial assistance. To qualify for such deferment, a parent or caretaker of a child older than the age of six months but younger than 24 months shall cooperate in the development of and participate in a family development plan.~~

~~(4) An individual who has exhausted the 24 months of deferment provided for in subdivision (3) of this subsection and who is caring for a child who is not yet 13 weeks of age or a primary caretaker parent in a family with two parents who are able to work if the primary caretaker is caring for a child under 13 weeks of age and is otherwise subject to a work requirement because the other parent in the family is being sanctioned in accordance with section 1116 of this title.~~

~~(5) A participant who is needed in the home on a full or part-time basis in order to care for an ill or disabled parent, spouse, or child. In granting deferments, the Department shall fully consider the participant's preference as~~

to the number of hours the participant is able to leave home to participate in work activities.

~~(6) A participant who is under 20 years of age, who is a single head of household or married, and who maintains satisfactory attendance at secondary school or the equivalent during the month, or participates in education directly related to employment for an average of 20 or more hours per week during the month.~~

~~(7) A participant who has attained 20 years of age and who is engaged in at least 15 hours per week of classes and related learning activities for the purpose of attaining a high school diploma or General Educational Development (GED) certificate or completing a literacy program approved by the Department; provided that the participant is making satisfactory progress toward the attainment of the diploma or certificate; and provided further that a deferment or modification granted for this purpose does not exceed 18 months.~~

~~(8) A participant who is enrolled in, attending, and making satisfactory progress toward the completion of a full-time vocational training program that has a normal duration of no more than two years and who is within 12 months of expected completion of such program. Such deferment or modification shall continue until he or she has completed the program, he or she is no longer attending the program, or the 12-month expected completion period has ended, whichever occurs first.~~

~~(9) A participant for whom, due to the effects of domestic violence, fulfillment of the work requirement can be reasonably anticipated to result in serious physical or emotional harm to the participant that significantly impairs his or her capacity either to fulfill the work requirement or to care for his or her child adequately, or can be reasonably anticipated to result in serious physical or emotional harm to the child.~~

~~(10) Any other participant designated by the Commissioner in accordance with criteria established by rule.~~

~~(e) A participant who is able to work part-time or is unable to work shall be referred for assessment of the individual's skills and strengths, accommodations and support services, and vocational and other services in accordance with the provisions of his or her family development plan. The work requirement hours shall reflect the individual's ability to work. Participants with disabilities that do not meet the standards used to determine disability under Title XVI of the Social Security Act shall participate in rehabilitation, education, or training programs as appropriate. A participant who qualifies for a deferment or modification and who is able to work part-time shall have his or her work requirement hours modified or deferred. In~~

~~granting deferments, the Department shall fully consider the participant's estimation of the number of hours the participant is able to work.~~

~~(d) Absent an apparent condition or claimed physical, emotional, or mental condition, participants are presumed to be able to work. A participant shall have the burden of demonstrating the existence of the condition asserted as the basis for a deferral or modification of the work requirement.~~

~~(e) Deferments and modifications granted pursuant to this section shall continue for as long as the grounds for the deferment or modification exist or until expiration of a related time period specified in subsection (b) of this section, whichever occurs first.~~

~~(f) As used in this section, "health care provider" means a person, partnership, or corporation, other than a facility or institution, licensed or certified or authorized by law to provide professional health care service in this State to an individual during that individual's medical care, treatment, or confinement. The program participation requirements established in section 1113 of this chapter shall be deferred when:~~

~~(1) a participating adult is 60 years of age or older;~~

~~(2) a participating adult is caring for a child under six weeks of age;~~

~~(3) a participating adult for whom, due to the effects of domestic violence, engaging in the program participation requirements can be reasonably anticipated to result in serious physical or emotional harm to the participating adult or participating adult's child; or~~

~~(4) any other participant designated by the Commissioner in accordance with criteria established by the Commissioner in rule pursuant to 3 V.S.A. chapter 25.~~

Second: In Sec. 12, effective dates, after "This section", by inserting the following:

, Sec. 8 (deferments, modifications, and referral),

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 22, 2022, pages 789-805)

**Reported favorably by Senator Westman 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: 6-0-1)

**H. 715.**

An act relating to the Clean Heat Standard.

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

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. FINDINGS

The General Assembly finds:

(1) All of the legislative findings made in 2020 Acts and Resolves No. 153, Sec. 2, the Vermont Global Warming Solutions Act of 2020, remain true and are incorporated by reference here.

(2) Under the Vermont Global Warming Solutions Act of 2020 and 10 V.S.A. § 578, Vermont has a legal obligation to reduce greenhouse gas emissions to specific levels by 2025, 2030, and 2050.

(3) The Vermont Climate Council was established under the Vermont Global Warming Solutions Act of 2020 and was tasked with, among other things, recommending necessary legislation to reduce greenhouse gas emissions. The Initial Vermont Climate Action Plan calls for the General Assembly to adopt legislation authorizing the Public Utility Commission to administer the Clean Heat Standard consistent with the recommendations of the Energy Action Network's Clean Heat Standard Working Group.

(4) As required by the Vermont Global Warming Solutions Act of 2020, the Vermont Climate Council published the Initial Vermont Climate Action Plan on December 1, 2021. As noted in that plan, over one-third of Vermont's greenhouse gas emissions come from the thermal sector. Approximately 72 percent of Vermont's thermal energy use is fossil-based, including 43 percent from the combustion of fossil gas and propane and 29 percent from the burning of heating oil.



(5) To meet the greenhouse gas emission reductions required by the Vermont Global Warming Solutions Act of 2020, Vermont needs to transition away from its current carbon-intensive building heating practices to lower-carbon alternatives. It also needs to do this equitably, recognizing economic effects on energy users, especially energy-burdened users; on the workforce currently providing these services; and on the overall economy.

Sec. 2. 30 V.S.A. chapter 94 is added to read:

#### CHAPTER 94. CLEAN HEAT STANDARD

##### § 8121. CLEAN HEAT STANDARD

(a) The Clean Heat Standard is established. Under this program, obligated parties shall reduce greenhouse gas emissions attributable to the Vermont thermal sector by retiring required amounts of clean heat credits to meet the thermal sector portion of the greenhouse gas emission reduction obligations of the Global Warming Solutions Act.

(b) By rule or order, the Commission shall establish or adopt a system of tradeable clean heat credits earned from the delivery of clean heat measures that reduce greenhouse gas emissions.

(c) An obligated party may obtain the required amount of clean heat credits through delivery of eligible clean heat measures, through contracts for delivery of eligible clean heat measures, through the market purchase of clean heat credits, or through delivery of eligible clean heat measures by a designated statewide default delivery agent.

(d) The Public Utility Commission shall adopt rules and may issue orders to design and implement the Clean Heat Standard.

##### § 8122. DEFINITIONS

As used in this chapter:

(1) “Clean heat credit” means a tradeable, non-tangible commodity that represents the amount of greenhouse gas reduction caused by a clean heat measure. The Commission shall establish a system of recognition for clean heat credits pursuant to this chapter.

(2) “Clean heat measure” means fuel and technologies delivered and installed to end-use customers in Vermont that reduce greenhouse gas emissions. Clean heat measures shall not include switching from one fossil fuel use to another fossil fuel use. The Commission may adopt a list of acceptable actions that qualify as clean heat measures.

(3) “Commission” means the Public Utility Commission.

(4) “Default delivery agent” means the entity designated by the Commission to provide services that generate tradeable clean heat credits.

(5) “Entity” means any individual, trustee, agency, partnership, association, corporation, company, municipality, political subdivision, or any other form of organization.

(6) “Heating fuel” means fossil-based heating fuel, including oil, propane, natural gas, coal, and kerosene.

(7) “Obligated party” means:

(A) a regulated natural gas utility serving customers in Vermont; or

(B) for other heating fuels, the entity that makes the first sale of the heating fuel into or in the State for consumption within the State.

(8) “Thermal sector” has the same meaning as the “Residential, Commercial and Industrial Fuel Use” sector as used in the Vermont Greenhouse Gas Emissions Inventory and Forecast.

#### § 8123. CLEAN HEAT STANDARD COMPLIANCE

(a) Required amounts.

(1) The Commission shall establish the number of clean heat credits that each obligated party is required to retire each calendar year. The size of the annual requirement shall be set at a pace sufficient for Vermont’s thermal sector to achieve lifecycle carbon dioxide equivalent (CO<sub>2</sub>e) emission reductions consistent with the requirements of 10 V.S.A. § 578(a) expressed as lifecycle greenhouse gas emissions pursuant to subsection 8124(d) of this title.

(2) Annual requirements shall be expressed as a percent of each obligated party’s contribution to the thermal sector’s lifecycle CO<sub>2</sub>e emissions in the previous year with the annual percentages being the same for all parties. To ensure understanding among obligated parties, the Commission shall, in a timely manner, publicly provide a description of the annual requirements in plain terms.

(3) The Commission may adjust the annual requirements for good cause after notice and opportunity for public process. Good cause may include a shortage of clean heat credits or undue adverse financial impacts on particular customers or demographic segments. Any downward adjustment shall be allowed for only a short, temporary period.

(4) To support the ability of the obligated parties to plan for the future, the Commission shall establish annual clean heat credit requirements for 10 years with the required amounts being updated so 10 years’ worth of

requirements are always available. Every three years, the Commission shall extend the requirements three years, shall assess emission reductions actually achieved in the thermal sector, and, if necessary, revise the pace of clean heat credit requirements for future years to ensure that the thermal sector portion of the emission reduction requirements of 10 V.S.A. § 578(a) for 2030 and 2050 will be achieved.

(b) Annual registration.

(1) Each entity that sells heating fuel into or in Vermont shall register annually with the Commission by an annual deadline established by the Commission. The form and information required in the registration shall be determined by the Commission and shall include all data necessary to establish annual requirements under this chapter. The Commission shall use the information provided in the registration to determine whether the entity shall be considered an obligated party and the amount of its annual requirement.

(2) At a minimum, the Commission shall require registration information to include legal name, doing business as name if applicable, municipality, state, type of heating fuel sold, and the volume of sales of heating fuels into or in the State for final sale or consumption in the State in the calendar year immediately preceding the calendar year in which the entity is registering with the Commission.

(3) Each year, and not later than 30 days following the annual registration deadline established by the Commission, the Commission shall share complete registration information of obligated parties with the Agency of Natural Resources and the Department of Public Service for purposes of conducting the Vermont Greenhouse Gas Emissions Inventory and Forecast and meeting the requirements of 10 V.S.A. § 591(b)(3).

(4) The Commission shall maintain, and update annually, a list of registered entities on its website that contains the required registration information, except that the public list shall not include heating fuel volumes reported.

(5) For any entity not registered, the first registration form shall be due 30 days after the first sale of heating fuel to a location in Vermont.

(6) Clean heat requirements shall transfer to entities that acquire an obligated party.

(c) Early action credits. Beginning on January 1, 2022, clean heat measures that are installed and provide emission reductions are creditable and therefore count towards the future clean heat credit requirements of an obligated party. Upon the establishment of the clean heat credit system, entities may register credits for actions taken starting in 2022.

(d) Equitable distribution of clean heat measures.

(1) The Clean Heat Standard shall be designed and implemented to enhance social equity by minimizing adverse impacts to low-income and moderate-income customers and those households with the highest energy burdens. The design shall ensure all customers have an equitable opportunity to participate in, and benefit from, clean heat measures regardless of heating fuel used, income level, geographic location, or homeownership status.

(2) A substantial portion of clean heat credits retired by each obligated party shall be sourced from clean heat measures delivered to low-income and moderate-income customers. The portion of each obligated party's required amount needed to satisfy the annual Clean Heat Standard requirement shall be at least 16 percent from low-income customers and 16 percent from moderate-income customers. The definitions of low-income customer and moderate-income customer shall be set by the Commission in consultation with the Equity Advisory Group and in alignment with other existing definitions.

(3) The Commission may consider frontloading the credit requirements for low-income and moderate-income customers so that the greatest proportion of clean heat measures reach low-income and moderate-income Vermonters in the earlier years.

(4) In order to best serve low-income and moderate-income customers, the Commission shall have authority to change these portions and the criteria used to define low-income and moderate-income customers for good cause, after notice and opportunity for public process.

(5) In determining whether to exceed the minimum percentages of clean heat measures that must be delivered to low-income and moderate-income customers, the Commission shall take into account participation in other government-sponsored low-income and moderate-income weatherization programs.

(6) A clean heat measure delivered to a customer qualifying for a government-sponsored, low-income energy subsidy shall qualify for clean heat credits required by subdivision (2) of this subsection.

(e) Credit banking. The Commission shall allow an obligated party that has met its annual requirement in a given year to retain clean heat credits in excess of that amount for future sale or application to the obligated party's annual requirements in future compliance periods as determined by the Commission.

(f) Default delivery agent.

(1) An obligated party may meet its annual requirement through a designated default delivery agent appointed by the Commission. The default delivery agent shall deliver creditable clean heat measures to Vermont homes and businesses when:

(A) an obligated party chooses to assign its annual requirement to the default delivery agent; or

(B) an obligated party fails to produce or acquire its required amount of clean heat credits.

(2) The Commission shall designate the default delivery agent. The default delivery agent shall be a single statewide entity capable of providing a variety of clean heat measures and contracted for a multiyear period through a competitive procurement process. The entity selected as the default delivery agent may also be a market participant but shall not be an obligated party.

(3) By rule or order, the Commission shall adopt annually the cost per clean heat credit to be paid to the default delivery agent by an obligated party that chooses this option. In adjusting the default delivery agent credit cost, the Commission shall consider the default delivery agent's anticipated costs to deliver clean heat measures and costs borne by customers, among other factors determined by the Commission. Changes to the cost of credits shall take effect not less than 180 days after adopted.

(4) All funds received from noncompliance payments pursuant to subdivision (g)(2) of this section shall be used by the default delivery agent to provide clean heat measures to low-income customers.

(g) Enforcement.

(1) The Commission shall have the authority to enforce the requirements of this chapter and any rules or orders adopted to implement the provisions of this chapter. The Commission may use its existing authority under this title. As part of an enforcement order, the Commission may order penalties and injunctive relief.

(2) The Commission may order an obligated party that fails to retire the number of clean heat credits required in a given year, including the required amounts from low-income and moderate-income customers, to make a noncompliance payment to the default delivery agent. The per-credit amount of the noncompliance payment shall be three times the amount established by the Commission under subsection (f) of this section for timely per-credit payments to the default delivery agent.

(3) Any statements or other representations made by obligated parties related to compliance with the Clean Heat Standard are subject to the Commission’s enforcement authority, including the power to investigate and assess penalties, under this title.

(h) Records. The Commission shall establish requirements for the types of records to be submitted by obligated parties, a record retention schedule for required records, and a process for verification of records and data submitted in compliance with the requirements of this chapter.

(i) Reports.

(1) For purposes of this subsection, “standing committees” means the House Committees on Energy and Technology and on Natural Resources, Fish, and Wildlife and the Senate Committees on Finance and on Natural Resources and Energy.

(2) After the adoption of the rules implementing this chapter, the Commission shall submit a written report to the standing committees detailing the efforts undertaken to establish the Clean Heat Standard pursuant to this chapter.

(3) On or before August 31 of each year following the year in which the rules are first adopted under this section, the Commission shall submit to the standing committees a written report detailing the implementation and operation of the Clean Heat Standard. This report shall include an assessment on the equitable adoption of clean heat measures required by subsection (d) of this section, along with recommendations to increase participation for the households with the highest energy burdens. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

#### § 8124. TRADEABLE CLEAN HEAT CREDITS

(a) By rule or order, the Commission shall establish or adopt a system of tradeable clean heat credits that may be earned by reducing greenhouse gas emissions through the delivery of clean heat measures. While credit denominations may be in simple terms for public understanding and ease of use, the underlying value shall be based on units of carbon dioxide equivalent (CO<sub>2</sub>e). The system shall provide a process for the recognition, approval, and monitoring of the clean heat credits. The Department of Public Service shall perform the verification of clean heat credit claims and submit results of the verification and evaluation to the Commission annually.

(b) Clean heat credits shall be based on the lifecycle CO2e emission reductions that result from the delivery of eligible clean heat measures to end-use customer locations into or in Vermont. For clean heat measures that are installed, the value of the clean heat credits in each year shall be the lifecycle CO2e emissions of the heating fuel avoided by the installation of the measure, minus the lifecycle CO2e emissions of the energy that is used instead. Eligible clean heat measures delivered to or installed in Vermont shall include:

- (1) thermal energy efficiency improvements and weatherization;
- (2) the supply of sustainably sourced biofuels;
- (3) renewable natural gas;
- (4) green hydrogen;
- (5) cold-climate heat pumps and efficient electric appliances providing thermal end uses;
- (6) advanced wood heating; and
- (7) renewable energy-based district heating services.

(c) For pipeline renewable natural gas and other renewably generated natural gas substitutes to be eligible, an obligated party shall purchase renewable natural gas and its associated renewable attributes and demonstrate that it has secured a contractual pathway for the physical delivery of the gas from the point of injection into the pipeline to the obligated party's delivery system.

(d) To promote certainty for obligated parties and clean heat providers, the Commission shall, by rule or order, establish a schedule of lifecycle emission rates for heating fuels and eligible clean heat measures. The schedule shall be based on transparent and accurate emissions accounting adapting the Argonne National Laboratory GREET Model, Intergovernmental Panel on Climate Change (IPCC) modeling, or an alternative of comparable analytical rigor to achieve the thermal sector greenhouse gas emissions reductions necessary in order to meet the sector's share of the requirements of 10 V.S.A. § 578(a), to accurately account for emissions from biogenic and geologic sources, and to deter substantial unintended harmful consequences. The schedule may be amended based upon changes in technology or evidence on emissions, but clean heat credits previously awarded shall not be adjusted retroactively.

(e) Clean heat credits shall be "time stamped" for the year in which the clean heat measure is delivered as well as each subsequent year during which the measure produces emission reductions. Only clean heat credits with the current year time stamp, and credits banked from previous years, shall be eligible to satisfy the current year obligation.

(f) Clean heat credits can be earned only in proportion to the deemed or measured thermal sector greenhouse gas emission reductions achieved by a clean heat measure delivered in Vermont. Other emissions offsets, wherever located, shall not be eligible measures.

(g)(1) All eligible clean heat measures that are delivered in Vermont shall be eligible for clean heat credits and may be retired and count towards an obligated party's emission reduction obligations, regardless of who creates or delivers them and regardless of whether their creation or delivery was required by other State policies and programs. This includes individual initiatives, emission reductions resulting from the State's energy efficiency programs, the low-income weatherization program, and the Renewable Energy Standard Tier 3 program.

(2) The Commission shall determine whether the total value of a clean heat credit for an installed measure shall be claimed in the year it is installed or whether the annual value of that credit shall be applied each year of the measure's life.

(3) The Commission shall determine whether to require a certain portion of clean heat credits be acquired each year from weatherization projects in order to further the State's building efficiency goals. The Commission shall recommend legislative changes, if needed, to accomplish this.

(h)(1) The Commission shall create a registration system to lower administrative barriers to individuals and businesses seeking to register qualified actions eligible to earn clean heat credits and to facilitate the transfer of credits to obligated parties. The Commission may hire a third-party consultant to evaluate, develop, implement, maintain, and support a database or other means for tracking clean heat credits and compliance with the annual requirements of obligated parties.

(2) The system shall require entities to submit the following information to receive the credit: the location of the clean heat measure, whether the customer or tenant has a low or moderate income, the type of property where the clean heat measure was installed or sold, the type of clean heat measure, and any other information as required by the Commission.

(i) Nothing in this chapter shall limit the authority of the Secretary of Natural Resources to compile and publish the Vermont Greenhouse Gas Emissions Inventory and Forecast in accordance with 10 V.S.A. § 582.



§ 8125. CLEAN HEAT STANDARD TECHNICAL ADVISORY GROUP

(a) The Commission shall establish the Clean Heat Standard Technical Advisory Group (TAG) to assist the Commission in the ongoing management of the Clean Heat Standard. Its duties shall include:

(1) establishing and revising the lifecycle carbon dioxide equivalent (CO<sub>2</sub>e) emissions accounting methodology to be used to determine each obligated party's annual requirement pursuant to subdivision 8123(a)(2) of this chapter;

(2) establishing and revising the clean heat credit value for different clean heat measures;

(3) periodically assessing and reporting to the Commission on the sustainability of the production of clean heat measures by considering factors including greenhouse gas emissions; carbon sequestration and storage; human health; land use changes; ecological and biodiversity impacts; groundwater and surface water impacts; air, water, and soil pollution; and impacts on food costs;

(4) setting the lifespan length of clean heat measures for the purpose of calculating credit values;

(5) establishing credit values for each year over a clean heat measure's life, including adjustments to account for increasing interactions between clean heat measures over time so as to not double-count emission reductions;

(6) facilitating the program's coordination with other energy programs;

(7) calculating the impact of the cost of clean heat credits and the cost savings associated with delivered clean heat measures on per-unit heating fuel prices;

(8) coordinating with the Agency of Natural Resources to ensure that greenhouse gas emissions reductions achieved in another sector through the implementation of the Clean Heat Standard are not double-counted in the Vermont Greenhouse Gas Emissions Inventory and Forecast produced by the Agency of Natural Resources;

(9) advising the Commission on the periodic assessment and revision requirement established in subdivision 8123(a)(4) of this chapter; and

(10) any other matters referred to the TAG by the Commission.

(b) Members of the TAG shall be appointed by the Commission and shall include the Department of Public Service, the Agency of Natural Resources, and parties who have, or whose representatives have, expertise in one or more of the following areas: technical and analytical expertise in measuring

lifecycle greenhouse gas emissions; energy modeling and data analysis; clean heat measures and energy technologies; sustainability and non-greenhouse gas emissions strategies designed to reduce and avoid impacts to the environment; delivery of heating fuels in cold climates; and climate change mitigation policy and law. The Commission shall accept and review motions to join the TAG from interested parties who have, or whose representatives have, expertise in one or more of the areas listed in this subsection. Members who are not otherwise compensated by their employer shall be entitled to per diem compensation and reimbursement for expenses under 32 V.S.A. § 1010.

(c) The Commission shall hire a third-party consultant responsible for developing clean heat measure characterizations and relevant assumptions, including CO<sub>2</sub>e lifecycle emissions analyses. The TAG shall provide input and feedback on the consultant's work.

(d) Emission analyses and associated assumptions developed by the consultant shall be reviewed and approved annually by the Commission. In reviewing the consultant's work, the Commission shall provide a public comment period on the work. The Commission may approve or adjust the consultant's work as it deems necessary based on its review and the public comments received.

#### § 8126. CLEAN HEAT STANDARD EQUITY ADVISORY GROUP

(a) The Commission shall establish the Clean Heat Standard Equity Advisory Group to assist the Commission in developing and implementing the Clean Heat Standard in a manner that ensures an equitable share of clean heat measures are delivered to low-income and moderate-income Vermonters, and that low-income and moderate-income Vermonters who are not early participants in clean heat measures are not negatively impacted in their ability to afford heating fuel. Its duties shall include:

(1) providing feedback to the Commission on strategies for engaging low-income and moderate-income Vermonters in the public process around development of the Clean Heat Standard;

(2) supporting the Commission in assessing whether customers are equitably served by clean heat measures and how to increase equity in this area;

(3) identifying actions needed to provide better service to and mitigate the fuel price impacts calculated in section 8125 of this title on low-income and moderate-income customers;

(4) assisting the Commission in defining low-income and moderate-income customers;

(5) recommending any additional programs, incentives, or funding needed to support low-income and moderate-income customers, and organizations that provide social services to Vermonters, in affording heating fuel and other heating expenses;

(6) providing feedback to the Commission on the impact of the Clean Heat Standard on the everyday experience of low-income and moderate-income Vermonters; and

(7) providing information to the Commission on the challenges renters face in being equitably served by clean heat measures and recommendations to ensure that renters have equitable access to clean heat measures.

(b) The Clean Heat Standard Equity Advisory Group shall consist of up to 10 members appointed by the Commission and at a minimum shall include at least one representative from each of the following groups: the Department of Public Service; the Department for Children and Families Office of Economic Opportunity; community action agencies; Efficiency Vermont; individuals with socioeconomically, racially, and geographically diverse backgrounds; renters and rental property owners; and a member of the Vermont Fuel Dealers Association. Members who are not otherwise compensated by their employer shall be entitled to per diem compensation and reimbursement for expenses under 32 V.S.A. § 1010.

#### § 8127. SEVERABILITY

If any provision of this chapter or its application to any person or circumstance is held invalid or in violation of the Constitution or laws of the United States or in violation of the Constitution or laws of Vermont, the invalidity or the violation shall not affect other provisions of this chapter that can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are severable.

#### § 8128. INTENT

It is the intent of the General Assembly that the Clean Heat Standard be designed and implemented in a manner that achieves Vermont's thermal sector greenhouse gas emissions reductions necessary to meet the requirements of 10 V.S.A. § 578(a), minimizes costs to customers, and recognizes that affordable heating is essential for Vermonters. It shall minimize adverse impacts to low-income and moderate-income customers and those households with the highest energy burdens.

### Sec. 3. PUBLIC UTILITY COMMISSION IMPLEMENTATION

#### (a) Commencement.

(1) On or before August 31, 2022, the Public Utility Commission shall commence a proceeding to implement Sec. 2 (Clean Heat Standard) of this act.

(2) On or before October 1, 2023, the Commission shall commence rulemaking to implement Sec. 2 (Clean Heat Standard) of this act. The Commission shall finally adopt these rules by July 1, 2024, unless this period is extended by the Legislative Committee on Administrative Rules.

(b) Facilitator. On or before October 1, 2022, the Commission shall hire a third-party consultant to design and conduct public engagement. The Commission may use funds appropriated under this act on hiring the consultant.

(c) Public engagement process. Before commencing rulemaking, the Commission shall use the forms of public engagement described in this subsection to inform the design and implementation of the Clean Heat Standard. Any failure by the Commission to meet the specific procedural requirements of this section shall not affect the validity of the Commission's actions.

(1) The Commission shall hold at least six public meetings and of those meetings three shall allow members of the public to participate in person and remotely. The meetings shall be held in at least six different geographically diverse counties of the State. The meetings shall be recorded and publicly posted on the Commission's website.

(2) In order to receive focused feedback from specific constituents, the Commission, with the assistance of the consultant, shall also hold at least four meetings using deliberative polling. The facilitator shall assist the Commission in developing a format for using deliberative polling at the meetings. Each of these meetings shall focus on seeking input from a specific group, including heating fuel dealers; low-income, moderate-income, and fixed-income customers and advocates; and customers who use large amounts of heating fuel.

(3) The Commission shall hold at least two workshops to solicit the input of potentially affected parties. To reach as many potentially interested entities as possible, such as Vermont's fuel wholesalers and retail fuel suppliers, renewable energy advocacy organizations, environmental and consumer advocacy organizations, organizations that specialize in serving low- and moderate-income Vermonters, organizations that specialize in serving older Vermonters, entities that provide weatherization services, energy

transition providers, regional planning commissions, municipal energy commissions, community action agencies, environmental justice organizations, financial institutions that specialize in implementing low-income financing programs, affordable housing advocates, the Office of Economic Opportunity, and regional development corporations, the Commission shall provide notice of the workshops on its website, shall publish the notice once in a newspaper of general circulation in each county of Vermont, and shall also provide direct notice to any person that requests direct notice or to whom the Commission may consider direct notice appropriate. The Commission also shall provide an opportunity for submission of written comments, which the notice shall include.

(d) Draft proposed rules. The Commission shall publicly publish draft proposed rules and provide notice of it to the stakeholders who registered their names and e-mail addresses with the Commission during the workshops. The Commission shall provide a 30-day comment period on the draft and accept written comments from the public and stakeholders. The Commission shall incorporate necessary changes in response to the public comments before filing the proposed rules with the Secretary of State and the Legislative Committee on Rules.

(e) Advertising. The Commission shall use funding appropriated in this act on advertising the public meetings in order to provide notice to a wide variety of segments of the public.

(f) Final rules. On or before July 1, 2024, the Commission shall adopt final rules to take effect on January 1, 2025 that initially implements Sec. 2 (Clean Heat Standard) of this act. In its review of the final proposed rules, the Legislative Committee on Rules (LCAR) shall consult with the committees of jurisdiction pursuant to 3 V.S.A. § 817(c).

(g) Consultant. On or before January 15, 2023, the Commission shall contract with a consultant to assist with implementation of 30 V.S.A. § 8124 (clean heat credits).

(h) Funding. On or before January 15, 2023, the Commission shall report to the General Assembly on suggested revenue streams that may be used or created to fund the Commission's administration of the Clean Heat Standard program.

(i) Check-back reports.

(1) On or before February 15, 2023 and January 15, 2024, the Commission shall submit a written report to and hold hearings with the House Committees on Energy and Technology and on Natural Resources, Fish, and

Wildlife and the Senate Committees on Finance and on Natural Resources and Energy detailing the efforts undertaken to establish the Clean Heat Standard. The reports shall include, to the extent available, estimates of the impact of the Clean Heat Standard on customers, including impacts to customer rates and fuel bills for participating and nonparticipating customers, net impacts on total spending on energy for thermal sector end uses, fossil fuel reductions, greenhouse gas emission reductions and, if possible, impacts on economic activity and employment. In conducting this analysis, the Commission shall incorporate the social cost of carbon as established by the Vermont Climate Council, take into account the economic modeling conducted in the Vermont Pathways Analysis Report 2.0, and consider the potential costs of delaying action to achieve the requirements of 10 V.S.A. § 578(a). The modeled impacts shall estimate high-, medium-, and low-price impacts. The reports shall recommend any legislative action needed to address enforcement of the Clean Heat Standard.

(2) Based on the information regarding projected costs and benefits, the Commission shall recommend cost-containment mechanisms to be included in statute.

(3) Upon receiving the recommendations regarding cost-containment mechanisms provided by the Commission, the General Assembly shall determine whether to enact legislation adopting the Commission's recommendations.

#### Sec. 4. PUBLIC UTILITY COMMISSION AND DEPARTMENT OF PUBLIC SERVICE POSITIONS; APPROPRIATION

(a) The following new positions are created in the Public Utility Commission for the purpose of carrying out this act:

- (1) one permanent exempt Staff Attorney 3;
- (2) one permanent exempt analyst; and
- (3) one limited-service exempt analyst.

(b) The sum of \$600,000.00 is appropriated to the Public Utility Commission from the General Fund in fiscal year 2023 for the positions established in subsection (a) of this section, for the consultant required by Sec. 3 of this act, and for additional operating costs required to implement the Clean Heat Standard, including marketing and public outreach for Sec. 3 of this act.

(c) The following new positions are created in the Department of Public Service for the purpose of carrying out this act:

(1) one permanent exempt Staff Attorney; and

(2) two permanent classified program analysts.

(d) The sum of \$600,000.00 is appropriated to the Department of Public Service from the General Fund in fiscal year 2023 for the positions established in subsection (c) of this section, to retain consultants that may be required to support verification and evaluation required by 30 V.S.A. § 8124(a), and for associated operating costs related to the implementation of the Clean Heat Standard.

#### Sec. 5. SECTORAL PROPORTIONALITY REPORT

(a)(1) On or before November 15, 2023, the Agency of Natural Resources and the Department of Public Service, in consultation with the Agencies of Agriculture, Food and Markets, of Commerce and Community Development, and of Transportation and the Vermont Climate Council, shall report to the House Committees on Energy and Technology and on Natural Resources, Fish, and Wildlife and to the Senate Committees on Finance and on Natural Resources and Energy regarding:

(A) the role of individual economic sectors in achieving the greenhouse gas emission reduction requirements pursuant to 10 V.S.A. § 578(a);

(B) each economic sector's proportional contribution to greenhouse gas emissions in Vermont as inventoried pursuant to 10 V.S.A. 582; and

(C) the extent to which cost-effective, feasible, and co-beneficial reasonably available greenhouse gas emission reduction measures are available commensurate with each sector's proportional contribution and emissions reduction impact.

(2) The report shall consider the analyses performed in support of the December 1, 2021 Climate Action Plan and the 2022 Comprehensive Energy Plan. The report shall consider additional analyses, as necessary.

(b) The report shall make recommendations to the General Assembly to amend 10 V.S.A. § 578 to include sector-specific greenhouse emissions reduction requirements and, as necessary, subsector-specific greenhouse emission reduction requirements for the purposes of informing and appropriately scaling the implementation of programs and policies that achieve greenhouse gas emission reductions. As used in this section, "sector" means those established in the annual Vermont Greenhouse Gas Emissions Inventory and Forecast produced by the Agency of Natural Resources pursuant to 10 V.S.A. § 582. The recommendations shall be made in consideration of the factors established in 10 V.S.A. § 592(d).

(c) The Agency of Natural Resources and the Department of Public Service, in consultation with the Vermont Climate Council, shall submit an updated report and any corresponding recommendations in accordance with this section on July 1 of a year immediately preceding a year in which an updated Climate Action Plan is adopted pursuant to 10 V.S.A. § 592(a).

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-1-0)

(No House amendments)

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

The Committee recommends that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendments thereto:

First: In Sec. 2, 30 V.S.A. chapter 94, by adding a new section 8129 to read as follows:

§ 8129. RULEMAKING AUTHORITY

Notwithstanding any other provision of law to the contrary, the Commission shall not file proposed rules with the Secretary of State or issue any orders implementing the Clean Heat Standard without specific authorization enacted by the General Assembly.

Second: In Sec. 3, Public Utility Commission implementation, subsection (a), by striking out subdivision (2) in its entirety and inserting in lieu thereof the following:

(2) On or before October 1, 2023, the Commission shall submit to the General Assembly an interim report on the development of the Clean Heat Standard.

Third: In Sec. 3, Public Utility Commission implementation, by striking out subsection (f) in its entirety and by inserting in lieu thereof the following:

(f) Final rules.

(1) On or before January 15, 2024, the Commission shall submit to the General Assembly final proposed rules to implement the Clean Heat Standard. The Commission shall not file the final proposed rules with the Secretary of State until specific authorization is enacted by the General Assembly to do so.



(2) Notwithstanding 3 V.S.A. §§ 820, 831, 836–840, and 841(a), upon affirmative authorization enacted by the General Assembly authorizing the adoption of rules implementing the Clean Heat Standard, the Commission shall file, as the final proposed rule, the rules implementing the Clean Heat Standard approved by the General Assembly with the Secretary of State and Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841. The filing shall include everything that is required under 3 V.S.A. §§ 838(a)(1)–(5), (8)–(13), (15), and (16) and 841(b)(1).

(3) The review, adoption, and effect of the rules implementing the Clean Heat Standard shall be governed by 3 V.S.A. §§ 841(c); 842, exclusive of subdivision (b)(4); 843; 845; and 846, exclusive of subdivision (a)(3).

(4) Once adopted and effective, any amendments to the rules implementing the Clean Heat Standard shall be made in accordance with the Administrative Procedure Act, 3 V.S.A. chapter 25.

(Committee vote: 7-0-0)

**Amendments to proposal of amendment of the Committee on Natural Resources and Energy to H. 715 to be offered by Senators Bray, Campion, MacDonald, McCormack and Westman**

Senators Bray, Campion, MacDonald, McCormack and Westman move to amend the proposal of amendment of the Committee on Natural Resources and Energy as follows:

First: In Sec. 2, 30 V.S.A. chapter 94, section 8122, by adding a subsection (9) as follows:

(9) “Energy burden” means the annual spending on thermal energy as a percentage of household income.

Second: In Sec. 3, Public Utility Commission implementation, by striking out subdivision (c)(2) in its entirety and inserting in lieu thereof the following:

(2) In order to receive focused feedback from specific constituents, the Commission, with the assistance of the consultant, may also hold at least four meetings using deliberative polling or another method of receiving focused feedback from specific constituents. The facilitator shall assist the Commission in developing a format for soliciting feedback at the meetings. Each of these meetings shall focus on seeking input from a specific group, including heating fuel dealers; low-income, moderate-income, and fixed-income customers and advocates; and customers who use large amounts of heating fuel.

Third: In Sec. 3, Public Utility Commission implementation, subdivision (i)(1), by striking out the first sentence in its entirety and inserting in lieu thereof the following:

(1) On or before February 15, 2023 and January 15, 2024, the Commission shall submit a written report to and be available to provide oral testimony to the House Committees on Energy and Technology and on Natural Resources, Fish, and Wildlife and the Senate Committees on Finance and on Natural Resources and Energy detailing the efforts undertaken to establish the Clean Heat Standard.

### **H. 729.**

An act relating to miscellaneous judiciary 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:

\* \* \* Cross Reference Corrections \* \* \*

Sec. 1. 12 V.S.A. § 4853a is amended to read:

§ 4853a. PAYMENT OF RENT INTO COURT; EXPEDITED HEARING

\* \* \*

(c) Any memorandum in opposition filed by the defendant pursuant to Rule ~~78(b)~~ (7)(b)(6) of the Vermont Rules of Civil Procedure shall be accompanied by affidavit setting forth particular facts in support of the memorandum.

\* \* \*

Sec. 2. 12 V.S.A. § 4853b is amended to read:

§ 4853b. UNLAWFUL OCCUPANT; EXPEDITED HEARING

\* \* \*

(c) At any time before the hearing, the defendant may oppose the motion pursuant to Rule ~~78(b)~~ (7)(b)(6) of the Vermont Rules of Civil Procedure by filing an affidavit, a signed written statement, or a memorandum in opposition to the motion. The affidavit, signed written statement, or memorandum shall set forth particular facts to show that a genuine dispute of fact exists in relation to the motion.

\* \* \*

\* \* \* Notarization of Affidavits in Relief from Abuse Proceedings \* \* \*

Sec. 3. 15 V.S.A. § 1104 is amended to read:

§ 1104. EMERGENCY RELIEF

(a) In accordance with the Vermont Rules of Civil Procedure, temporary orders under this chapter may be issued ex parte, without notice to the defendant, upon motion and findings by the court that the defendant has abused the plaintiff or the plaintiff's children, or both. The plaintiff shall submit an affidavit in support of the order, which may be sworn to or affirmed by administration of the oath over the telephone to the applicant by an employee of the Judiciary authorized to administer oaths and shall conclude with the following statement: "I declare under the penalty of perjury pursuant to the laws of the State of Vermont that the foregoing is true and accurate. I understand that making false statements is a crime subject to a term of imprisonment or a fine, or both, as provided by 13 V.S.A. § 2904." The authorized person shall note on the affidavit the date and time that the oath was administered. A minor 16 years of age or older, or a minor of any age who is in a dating relationship as defined in subdivision 1101(2) of this chapter, may seek relief on ~~his or her~~ the minor's own behalf. Relief under this section shall be limited as follows:

\* \* \*

Sec. 4. 15 V.S.A. § 1106 is amended to read:

§ 1106. PROCEDURE

\* \* \*

(b)(1) The Court Administrator shall establish procedures to ensure access to relief after regular court hours, or on weekends and holidays. The Court Administrator is authorized to contract with public or private agencies to assist plaintiffs to seek relief and to gain access to Superior Courts. Law enforcement agencies shall assist in carrying out the intent of this section.

(2)(A) The court shall designate an authorized person to receive requests for ex parte temporary relief from abuse orders submitted after regular court hours pursuant to section 1104 of this title, including requests made by reliable electronic means according to the procedures in this subdivision.

\* \* \*

(C) The affidavit shall be sworn to or affirmed by administration of the oath over the telephone to the applicant by the authorized person, and shall conclude with the following statement: "I declare under the penalty of perjury pursuant to the laws of the State of Vermont that the foregoing is true and

accurate. I understand that ~~the penalty for perjury is imprisonment of not more than 15 years or a fine of not more than \$10,000.00, or both~~ making false statements is a crime subject to a term of imprisonment or a fine, or both, as provided by 13 V.S.A. § 2904.” The authorized person shall note on the affidavit the date and time that the oath was administered.

\* \* \*

\* \* \* Sealing Criminal History Records \* \* \*

Sec. 5. 13 V.S.A. § 7607 is amended to read:

§ 7607. EFFECT OF SEALING

(a) Order and notice. Upon entry of an order to seal, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if ~~he or she~~ the person had never been arrested, convicted, or sentenced for the offense and that its effect is to annul the record of arrest, conviction, and sentence. The court shall provide notice of the sealing to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, the Restitution Unit of the Vermont Center for Crime Victims Services, and any other entity that may have a record related to the order to seal. The VCIC shall provide notice of the sealing to the Federal Bureau of Investigation’s National Crime Information Center.

\* \* \*

Sec. 6. 13 V.S.A. § 7611 is added to read:

§ 7611. UNAUTHORIZED DISCLOSURE

A State or municipal employee or contractor or any agent of the court, including an attorney and an employee or contractor of the attorney, who in the course of their official duties knowingly discloses sealed criminal history record information without authorization shall be assessed a civil penalty of not more than \$1,000.00. Each unauthorized disclosure shall constitute a separate civil violation.

Sec. 6a. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

\* \* \*

(b) The Judicial Bureau shall have jurisdiction of the following matters:

\* \* \*

(30) Violations of 13 V.S.A. § 7611, relating to the unauthorized disclosure of sealed criminal history record information.

\* \* \*

Sec. 7. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME AND SUPERIOR COURTS

\* \* \*

(e) Prior to the filing of any postjudgment motion in the Civil, Criminal, or Environmental Division of the Superior Court, including motions to reopen civil suspensions or motions to reopen existing cases in the Probate Division of the Superior Court, there shall be paid to the clerk of the court for the benefit of the State a fee of \$90.00 except for small claims actions, estates, and motions to confirm the sale of property in foreclosure. A filing fee of \$90.00 shall be paid to the clerk of the court for a civil petition for minor settlements. The \$90.00 filing fee shall only apply for a motion to seal a criminal history record of a violation of 23 V.S.A. § 1201(a) pursuant to 13 V.S.A. § 7602(a)(1)(C), but shall not apply for any other motion to seal or expunge a criminal history record pursuant to 13 V.S.A. § 7602, 33 V.S.A. § 5119(g), or other applicable records clearance provisions.

\* \* \*

\* \* \* Correcting Title of Chief Superior Judge \* \* \*

Sec. 8. 4 V.S.A. § 21a is amended to read:

§ 21a. DUTIES OF THE ~~ADMINISTRATIVE~~ CHIEF SUPERIOR JUDGE

(a) The ~~Administrative~~ Chief Superior Judge shall assign and specially assign Superior judges, including ~~himself or herself~~ themselves, and Environmental judges to the Superior Court. All Superior judges except Environmental judges shall be subject to the requirements of rotation as ordered by the Supreme Court. Assignments made pursuant to the rotation schedule shall be subject to the approval of the Supreme Court.

(b) In making any assignment under this section, the ~~Administrative~~ Chief Superior Judge shall give consideration to the experience, temperament, and training of a judge and the needs of the court. In making an assignment to the Environmental Division, the ~~Administrative~~ Chief Superior Judge shall give consideration to experience and expertise in environmental and land use law and shall assign or specially assign judges in a manner to provide appropriate attention to all geographic areas of the State.

(c) In making any assignments to the Environmental Division under this section, the ~~Administrative~~ Chief Superior Judge shall regularly assign two judges, at least one of whom shall be an Environmental judge. An Environmental judge may be assigned to other divisions in the Superior Court

for a period of time not exceeding two years. When assigned to other divisions in the Superior Court, the Environmental judge shall have all the powers and responsibilities of a Superior judge.

Sec. 9. 4 V.S.A. § 22 is amended to read:

§ 22. DESIGNATION AND SPECIAL ASSIGNMENT OF JUDICIAL OFFICERS AND RETIRED JUDICIAL OFFICERS

(a)(1) The Chief Justice may appoint and assign a retired Justice or judge with ~~his or her~~ the Justice's or judge's consent or a Superior or Probate judge to a special assignment on the Supreme Court. The Chief Justice may appoint, and the ~~Administrative~~ Chief Superior Judge shall assign, an active or retired Justice or a retired judge, with ~~his or her~~ the Justice's or judge's consent, to any special assignment in the Superior Court or the Judicial Bureau.

(2) The ~~Administrative~~ Chief Superior Judge may appoint and assign a judge to any special assignment in the Superior Court. As used in this subdivision, a judge shall include a Superior judge, a Probate judge, a Family Division magistrate, or a judicial hearing officer.

(b) The ~~Administrative~~ Chief Superior Judge may appoint and assign a member of the Vermont Bar residing within the State of Vermont to serve temporarily as:

- (1) an acting judge in Superior Court;
- (2) an acting magistrate;
- (3) an acting Probate judge; or
- (4) an acting hearing officer to hear cases in the Judicial Bureau.

\* \* \*

(f) In making an appointment under subsection (b) of this section, the ~~Administrative~~ Chief Superior Judge shall apply the criteria and standards for judicial appointments contained in section 601 of this title.

Sec. 10. 4 V.S.A. § 36 is amended to read:

§ 36. COMPOSITION OF THE COURT

\* \* \*

(C) Use of the term “judicial officer” in subdivisions (A) and (B) of this subdivision (2) shall not be construed to expand a judicial officer’s ~~subject matter~~ subject-matter jurisdiction or conflict with the authority of the Chief Justice or ~~Administrative~~ Chief Superior Judge to make special assignments pursuant to section 22 of this title.

\* \* \*

Sec. 11. 4 V.S.A. § 38 is amended to read:

§ 38. JUDICIAL MASTERS

(a) The ~~Administrative~~ Chief Superior Judge may appoint a licensed Vermont lawyer who has been engaged in the practice of law in Vermont for at least the last five years to serve as a Judicial Master. The Judicial Master shall be an employee of the Judiciary and be subject to the Code of Judicial Conduct. A Judicial Master shall not engage in the active practice of law for remuneration while serving in this position. In making this appointment, the Administrative Judge shall apply the criteria and standards for judicial appointments contained in section 601 of this title. The Judicial Master may hear and decide the following matters as designated by the Administrative Judge:

\* \* \*

Sec. 12. 4 V.S.A. § 71 is amended to read:

§ 71. APPOINTMENT AND TERM OF SUPERIOR JUDGES

\* \* \*

(e) The Supreme Court shall designate one of the Superior judges to serve as ~~Administrative~~ Chief Superior Judge. The ~~Administrative~~ Chief Superior Judge shall serve at the pleasure of the Supreme Court.

Sec. 13. 4 V.S.A. § 73 is amended to read:

§ 73. ASSIGNMENT

(a) In accordance with the direction of the Supreme Court, the ~~Administrative~~ Chief Superior Judge shall assign the Superior judges among the units and divisions of the Superior Court. The ~~Administrative~~ Chief Superior Judge shall assign a presiding judge to each unit and may assign a judge to preside in more than one unit. In a case where a Superior judge is disqualified or unable to attend any term of court or part thereof to which ~~he or she~~ the Superior Judge has been assigned, the ~~Administrative~~ Chief Superior Judge may assign another Superior judge to act as judge at that term or part thereof for that period during which the assigned judge is disqualified or unable to attend. If during a term of the Superior Court the court in a unit is unable to complete all or part of the work before it in a reasonable time, the ~~Administrative~~ Chief Superior Judge, with the approval of the Supreme Court, may modify judge assignments to reduce delays in that unit. The court shall publish the judicial rotation schedule in electronic format and distribute it electronically to attorneys licensed in Vermont.

(b) Pursuant to section 21a of this title, the ~~Administrative~~ Chief Superior Judge shall assign Superior judges to hear and determine Family Court matters. The ~~Administrative~~ Chief Superior Judge shall ensure that such hearings are held promptly. Any contested divorce case ~~which~~ that has been pending for more than one year shall be advanced for prompt hearing upon the request of any party.

(c) As necessary to ensure the efficient operation of the Superior Court, the presiding judge of the unit may specially assign a Superior judge assigned to a division in the unit, including the presiding judge, to preside over one or more cases in a different division. As the ~~Administrative~~ Chief Superior Judge determines necessary for the operation of the Superior Court throughout the State, and with the approval of the Supreme Court, the ~~Administrative~~ Chief Superior Judge may additionally assign for a specified period of time a Superior judge to preside over a particular type of case, or over a particular type of motion or other judicial proceeding, in all or part of the units in the State.

Sec. 14. 4 V.S.A. § 111 is amended to read:

#### § 111. SUPERIOR COURT SESSIONS

(a) When the business of a Superior Court cannot otherwise be disposed of with reasonable dispatch, by direction of the ~~Administrative~~ Chief Superior Judge, there may be held additional sessions of that Superior Court simultaneously with the regular session consisting of a presiding judge and one or more assistant judges, if available.

(b) A Superior Court may be temporarily recessed or adjourned from the place designated for holding a regular term or session to another place having adequate facilities, when the regular facilities at the designated courthouse are not adequate.

(c) The ~~Administrative~~ Chief Superior Judge may assign assistant judges, with their consent, to a special assignment in a court where they have jurisdiction in another county when assistant judges of that county are unavailable or the business of the courts so requires.

Sec. 15. 4 V.S.A. § 115 is amended to read:

#### § 115. STATED TERMS OF SUPERIOR COURT

The Superior Court shall operate continuously irrespective of the term in which events occur. Terms are designated for purposes of determining the rotation schedule of Superior judges and the responsibility of a Superior judge once a term has expired. When at the expiration of a term a Superior judge is no longer assigned to a specified unit, the judge shall complete any matters



that have been heard or taken under advisement for that unit. The Administrative Chief Superior Judge, pursuant to rules of the Supreme Court, may specially assign a Superior judge to continue to preside over one or more cases even though the judge is no longer assigned to the unit of origin of the case or cases. In the absence of such a direction or of an assignment made pursuant to subsection 73(c) of this title, a judge who at the end of a term is no longer assigned to a unit shall have no further responsibility for cases in that unit.

Sec. 16. 4 V.S.A. § 272 is amended to read:

§ 272. PROBATE DISTRICTS; PROBATE JUDGES

\* \* \*

(c) The Administrative Chief Superior Judge may specially assign a Probate judge to hear a case in a geographical district other than the district for which the Probate judge was elected.

Sec. 17. 4 V.S.A. § 461a is amended to read:

§ 461a. ESSEX COUNTY; POWERS OF ASSISTANT JUDGES AND  
MAGISTRATES IN FAMILY COURT PROCEEDINGS

\* \* \*

(b) The Administrative Chief Superior Judge may appoint and may specially assign a magistrate to serve as the presiding judge in the Family Division of the Superior Court in Essex County.

\* \* \*

Sec. 18. 4 V.S.A. § 461c is amended to read:

§ 461c. POWERS OF ASSISTANT JUDGES IN DIVORCE  
PROCEEDINGS

\* \* \*

(c) Prior to hearing an uncontested domestic matter, an assistant judge shall sit with a Superior judge on domestic proceedings for a minimum of 100 hours, satisfactorily complete a minimum of 30 hours of training on subjects relevant to domestic proceedings and the Code of Judicial Conduct, and conduct a minimum of three uncontested domestic hearings with a Superior judge who shall, in ~~his or her~~ the Superior judge's sole discretion, certify to the Administrative Chief Superior Judge that the assistant judge is qualified to preside over matters under this section. Upon application of an assistant judge, some or all of these requirements may be waived by the Administrative Chief Superior Judge based on equivalent experience. The requirements set forth

herein shall only apply to assistant judges who elect to conduct uncontested final hearings in domestic cases after July 1, 2010. An assistant judge already conducting hearings under this section as of July 1, 2010 shall be deemed to have complied with these requirements.

Sec. 19. 4 V.S.A. § 906 is amended to read:

§ 906. CONFLICTING APPOINTMENTS, EXCUSE FROM ATTENDING  
BY ADMINISTRATIVE CHIEF SUPERIOR JUDGE

When an attorney is required to attend more than one trial, hearing, or other proceeding before a court or commission having judicial or quasi-judicial functions, or both, at times which conflict so that ~~he or she~~ the attorney cannot reasonably attend each appointment, the attorney may request the Administrative Chief Superior Judge to designate which appointment ~~he or she~~ the attorney shall attend. The Administrative Chief Superior Judge shall designate the appointment the attorney shall attend and shall notify the presiding magistrate of each court and commission of ~~his or her~~ the Justice's or judge's decision. The attorney shall be excused from attending at that time any proceedings other than the one designated by the Administrative Chief Superior Judge, and the other proceedings shall be rescheduled.

Sec. 20. 4 V.S.A. § 1001 is amended to read:

§ 1001. ENVIRONMENTAL DIVISION

\* \* \*

(b) Two environmental judges shall be appointed to hear matters in the Environmental Division and to hear other matters in the Superior Court when so assigned by the ~~administrative judge~~ Chief Superior Judge pursuant to subsection 21a(c) of this title.

\* \* \*

Sec. 21. 4 V.S.A. § 1104 is amended to read:

§ 1104. APPOINTMENT OF HEARING OFFICERS

The ~~Administrative~~ Chief Superior Judge shall appoint members of the Vermont Bar to serve as hearing officers to hear cases. Hearing officers shall be subject to the Code of Judicial Conduct.

Sec. 22. 4 V.S.A. § 1108 is amended to read:

§ 1108. JUDICIAL BUREAU VIOLATIONS; JURISDICTION OF  
ASSISTANT JUDGES

\* \* \*

(c) The ~~Administrative~~ Chief Superior Judge may assign or direct assignment of an assistant judge with ~~his or her~~ the assistant judge's consent to hear matters in the Judicial Bureau within the county in which the assistant judge presides or in a county other than the county in which the assistant judge presides if the assistant judge has elected to hear and decide such matters.

Sec. 23. 12 V.S.A. § 5538 is amended to read:

§ 5538. APPEALS

Any party may appeal from a small claims judgment to Superior Court. The ~~Administrative~~ Chief Superior Judge shall assign the appeal to a Superior judge who shall not have participated in any way in the decision being appealed. The appeal shall be heard and decided, based on the record made in the small claims procedure. No appeal as of right exists to the Supreme Court. On motion made to the Supreme Court by a party to the action, the Supreme Court may allow an appeal from the Superior Court.

Sec. 24. 12 V.S.A. § 5540a is amended to read:

§ 5540a. JURISDICTION OVER SMALL CLAIMS; ASSISTANT JUDGES

\* \* \*

(d) An assistant judge upon successful completion of the training under subsection (b) of this section, shall cause the Superior Court clerk to notify the Court Administrator of the assistant judge's successful completion of training. Upon receipt of such notification, small claims cases ~~which~~ that require a hearing shall first be set for hearing before an assistant judge in the Superior Court in the county and shall be heard by the assistant judge. If the assistant judge is unavailable due to illness, vacation, administrative leave, disability, or disqualification, the ~~Administrative~~ Chief Superior Judge pursuant to 4 V.S.A. § 22 may assign a judge, or appoint and assign a member of the Vermont bar to serve temporarily as an acting judge, to hear small claims cases in the county. No action filed or pending shall be heard at or transferred to any other location unless agreed to by the parties. If both assistant judges of the county elect to successfully complete training to hear these matters, the senior assistant judge shall make the assignment of cases to be heard by each assistant judge. The assistant judges, once qualified to preside in these matters, shall work with the Court Administrator's office and the ~~Administrative~~ Chief Superior Judge such that the scheduling of small claims cases before the assistant judges are at such times as to permit adequate current court personnel to be available when these cases are heard.

\* \* \*

Sec. 25. 13 V.S.A. § 5451 is amended to read:

§ 5451. CREATION OF COMMISSION

(a) The Vermont Sentencing Commission is established for the purpose of overseeing criminal sentencing practices in the State, reducing geographical disparities in sentencing, and making recommendations regarding criminal sentencing to the General Assembly.

(b) The Commission shall consist of the following members:

- (1) the Chief Justice of the Vermont Supreme Court or designee;
- (2) the Chief Superior Judge or designee, provided that the designee is a sitting or retired Vermont judge;
- (3) a ~~District~~ or Superior Court Judge with substantial criminal law experience appointed by the ~~administrative judge~~ Chief Superior Judge;
- (4) the Chair of the Senate Committee on Judiciary;
- (5) the Chair of the House Committee on Judiciary;
- (6) the Attorney General or designee;
- (7) the Defender General or designee;
- (8) the Executive Director of the Department of State's Attorneys and Sheriffs or designee;
- (9) the Appellate Defender;
- (10) a State's Attorney appointed by the Executive Director of the Department of State's Attorneys and Sheriffs;
- (11) a staff public defender with experience in juvenile defense matters appointed by the Defender General;
- (12) an attorney with substantial criminal law experience appointed by the Vermont Bar Association;
- (13) the Commissioner of Corrections or designee;
- (14) the Commissioner of Public Safety or designee;
- (15) the Executive Director of the Vermont Center for Crime Victim Services or designee;
- (16) the Executive Director of the Vermont Crime Research Group; and
- (17) one member of the public appointed by the Governor.

\* \* \*

Sec. 26. 24 V.S.A. § 139 is amended to read:

§ 139. ASSISTANT JUDGE JUDICIAL EDUCATION

The assistant judges, either collectively or through a duly authorized committee of assistant judges established by a majority vote of the assistant judges after consultation with the ~~administrative judge~~ Chief Superior Judge, shall, by majority vote:

(1) identify the training needs of assistant judges, including needs ~~which~~ that are required by law; and

(2) design, organize, and implement training for assistant judges, including training ~~which~~ that is required by law.

Sec. 27. 24 V.S.A. § 3211 is amended to read:

§ 3211. DETERMINATION OF NECESSITY

\* \* \*

(b) The Superior Court judge to whom the petition is presented shall fix the time for hearing, which shall not be more than 60 nor less than 40 days from the date the judge signs such order. Likewise, the judge shall fix the place for hearing, which shall be the county courthouse or any other place within the county in which the land in question is located. If the Superior Court judge to whom the petition is presented cannot hear the petition at the time set therefor, the judge shall call upon the ~~administrative judge~~ Chief Superior Judge to assign another Superior Court judge to hear the cause at the time and place assigned in the order.

\* \* \*

Sec. 28. 24 V.S.A. § 3605 is amended to read:

§ 3605. HEARING TO DETERMINE NECESSITY

The judge to whom such petition is presented shall fix the time for hearing, which shall not be more than 60 nor less than 30 days from the date ~~he or she~~ the judge signs such order. Likewise, ~~he or she~~ the judge shall fix the place for hearing, which shall be the county courthouse or any other convenient place within the county in which the land in question is located. If the Superior judge to whom such petition is presented cannot hear the petition at the time set therefore ~~he or she~~, the Superior judge shall call upon the ~~Administrative~~ Chief Superior Judge to assign another Superior judge to hear such cause at the time and place assigned in the order.

Sec. 29. 32 V.S.A. § 8361 is amended to read:

§ 8361. GENERAL RULES FOR APPEALS

(a) A party aggrieved, including the State represented by the State Treasurer, on or before February 15 following such an appraisal, may appeal therefrom to a Superior judge designated by the ~~administrative judge~~ Chief Superior Judge, not excluding ~~himself or herself~~ themselves, who shall hear such appeal.

\* \* \*

Sec. 30. 32 V.S.A. § 9272 is amended to read:

§ 9272. SUSPENSION AND REVOCATION OF LICENSES; APPEAL

\* \* \*

(b) Any operator aggrieved by such suspension, revocation, or refusal may appeal therefrom to any Superior judge within 10 days after written notice of such suspension, revocation, or refusal has been mailed or delivered to ~~him or her~~ the operator. Such Superior judge or another Superior judge designated by the ~~administrative judge~~ Chief Superior Judge shall hear such appeal forthwith.

\* \* \*

Sec. 31. 32 V.S.A. § 9816 is amended to read:

§ 9816. SUSPENSION OR REVOCATION OF CERTIFICATES; APPEAL

\* \* \*

(b) Any person required to collect the tax aggrieved by a suspension, revocation, or refusal may appeal therefrom to any Superior judge within 10 days after written notice of the suspension, revocation, or refusal has been mailed or delivered to ~~him or her~~ the person. The Superior judge or another Superior judge designated by the ~~administrative judge~~ Chief Superior Judge shall hear the appeal forthwith.

\* \* \*

\* \* \* Report on Collection of Racial Data in Civil Court Filings \* \* \*

Sec. 32. REPORT BY CHIEF SUPERIOR JUDGE ON COLLECTION OF RACIAL DATA IN CIVIL COURT FILINGS

On or before December 1, 2022, the Chief Superior Judge shall report to the House and Senate Committees on Judiciary on practices for the collection of racial demographic data in civil court filings. The report shall describe whether and in what manner data about the race of parties in civil court actions, including eviction and debt collection proceedings, is collected by

courts in Vermont and other jurisdictions. The report may include recommendations for future practices and strategies to collect racial demographic data for civil court filings in Vermont. A copy of the report shall be sent to the Executive Director of Racial Equity.

\* \* \* Sunset Extensions \* \* \*

Sec. 33. 2017 Acts and Resolves No. 142, Sec. 5, as amended by 2021 Acts and Resolves No. 65, Sec. 4, is further amended to read:

Sec. 5. REPEAL

13 V.S.A. §§ 5451 (creation of Vermont Sentencing Commission) and 5452 (creation of Vermont Sentencing Commission) shall be repealed on July 1, ~~2022~~ 2023.

Sec. 34. 2013 Acts and Resolves No. 69, Sec. 3, subsection (b), as amended by 2015 Acts and Resolves No. 32, Sec. 1, as further amended by 2016 Acts and Resolves No. 169, Sec. 6, 2018 Acts and Resolves No. 175, Sec. 1, and 2020 Acts and Resolves No. 134, Sec. 3 (July 1, 2022 repeal of Automated License Plate Recognition system standards), is further amended to read:

(b) Secs. 1–2 of this act, 23 V.S.A. §§ 1607 and 1608, shall be repealed on July 1, ~~2022~~ 2024.

\* \* \* Fees for Service of Civil Process and Fingerprinting \* \* \*

Sec. 35. 32 V.S.A. § 1591 is amended to read:

§ 1591. SHERIFFS AND OTHER OFFICERS

There shall be paid to sheriffs' departments and constables in civil causes and to sheriffs, deputy sheriffs, and constables for the transportation and care of prisoners, juveniles, and patients with a mental condition or psychiatric disability the following fees:

(1) Civil process:

(A) For serving each process, the fees shall be as follows:

(i) \$10.00 for each reading or copy wherein the officer is directed to make an arrest;

(ii) ~~\$50.00~~ \$75.00 upon presentation of each return of service for the service of papers relating to divorce, annulments, separations, or support complaints;

(iii) ~~\$50.00~~ \$75.00 upon presentation of each return of service for the service of papers relating to civil suits except as provided in subdivisions (1)(A)(ii) and (1)(A)(vii) of this section;

(iv) ~~\$50.00~~ \$75.00 upon presentation of each return of service for the service of a subpoena and shall be limited to that one fee for each return of service;

\* \* \*

(E) Quarterly, 15 percent of the gross civil process fees received by a sheriff's department or constable during that quarter shall be forwarded to the State Treasurer for deposit in the State's General Fund.

\* \* \*

Sec. 36. 20 V.S.A. § 2062 is amended to read:

§ 2062. FINGERPRINTING FEES

State, county, and municipal law enforcement agencies may charge a fee of not more than ~~\$25.00~~ \$35.00 for providing persons with a set of classifiable fingerprints. No fee shall be charged to retake fingerprints determined by the Vermont Crime Information Center not to be classifiable. Fees collected by the State of Vermont under this section shall be credited to the Fingerprint Fee Special Fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and shall be available to the Department of Public Safety to offset the costs of providing these services.

Sec. 37. 16 V.S.A. § 257 is amended to read:

§ 257. FEES FOR FINGERPRINTING; FINGERPRINT FEE SPECIAL FUND

State, county, and municipal law enforcement agencies may charge a fee of up to ~~\$15.00~~ \$35.00 for providing applicants or other individuals with a set of classifiable fingerprints as required by this subchapter. No fee shall be charged to retake fingerprints determined by the Vermont Crime Information Center not to be classifiable. Fees collected by the State of Vermont under this section shall be credited to the Fingerprint Fee Special Fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and shall be available to the Department of Public Safety to offset the costs of providing these services.

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

Sec. 38. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(No House amendments)



**Reported favorably by Senator Hardy 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 Judiciary.

(Committee vote: 6-0-1)

**Reported favorably by Senator Sears 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 Judiciary.

(Committee vote: 6-0-1)

**Amendments to proposal of amendment of the Committee on Judiciary to H. 729 to be offered by Senators Sears, Baruth, Benning, Nitka and White**

Senators Sears, Baruth, Benning, Nitka and White move to amend the proposal of amendment of the Committee on Judiciary as follows

By striking out Secs. 5 and 6 in their entireties and inserting in lieu thereof three new sections to be Secs. 5, 5a, and 6 to read as follows:

Sec. 5. 13 V.S.A. § 7606 is amended to read:

§ 7606. EFFECT OF EXPUNGEMENT

(a) Order and notice. Upon finding that the requirements for expungement have been met, the court shall issue an order that shall include provisions that its effect is to annul the record of the arrest, conviction, and sentence and that such person shall be treated in all respects as if ~~he or she~~ the person had never been arrested, convicted, or sentenced for the offense. The court shall provide notice of the expungement to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, the Restitution Unit of the Vermont Center for Crime Victim Services, and any other entity that may have a record related to the order to expunge. The VCIC shall provide notice of the expungement to the Federal Bureau of Investigation's National Crime Information Center.

\* \* \*

Sec. 5a. 13 V.S.A. § 7607 is amended to read:

§ 7607. EFFECT OF SEALING

(a) Order and notice. Upon entry of an order to seal, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if ~~he or she~~ the person had never been arrested, convicted, or sentenced for the offense and that its effect is to annul the record

of arrest, conviction, and sentence. The court shall provide notice of the sealing to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, the Restitution Unit of the Vermont Center for Crime Victims Services, and any other entity that may have a record related to the order to seal. The VCIC shall provide notice of the sealing to the Federal Bureau of Investigation's National Crime Information Center.

\* \* \*

(f) Upon request, the Victim's Compensation Program shall be provided with a copy, redacted of all information identifying the offender, of the affidavit for the sole purpose of verifying the expenses in a victim's compensation application submitted pursuant to section 5353 of this title.

(g) The sealing of a criminal record shall not affect the authority of the Restitution Unit to enforce a restitution order in the same manner as a civil judgment pursuant to subdivision 5362(c)(2) of this title.

Sec. 6. 13 V.S.A. § 7611 is added to read:

§ 7611. UNAUTHORIZED DISCLOSURE

A State or municipal employee or contractor or any agent of the court, including an attorney and an employee or contractor of the attorney, who knowingly accesses or discloses sealed criminal history record information without authorization shall be assessed a civil penalty of not more than \$1,000.00. Each unauthorized disclosure shall constitute a separate civil violation.

**Amendments to proposal of amendment of the Committee on Judiciary to H. 729 to be offered by Senators Sears and Baruth**

Senators Sears and Baruth move to amend the proposal of amendment of the Committee on Judiciary as follows:

By inserting a new Sec. 38 and its reader assistance heading to read as follows:

\* \* \* Statute of Limitations for Discrimination Claims \* \* \*

Sec. 38. 12 V.S.A. § 525 is added to read:

§ 525. ACTIONS BASED ON DISCRIMINATION

An action under 9 V.S.A. § 4506(a) (discrimination in public accommodations or housing) or 21 V.S.A. § 495b (employment discrimination) shall be commenced within six years after the cause of action accrues and not after.

And by renumbering the remaining section to be numerically correct.

## House Proposal of Amendment

### S. 206

An act relating to planning and support for individuals and families impacted by Alzheimer's Disease and related disorders.

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

First: By striking out Sec. 5 in its entirety and inserting a new Sec. 5 to read as follows:

#### Sec. 5. ALZHEIMER'S DISEASE COORDINATOR

On or before December 15, 2022, the Agency of Human Services shall submit a plan to the Senate Committee on Health and Welfare and to the House Committee on Human Services to fund, within existing budgets, grants, or other external funding sources, a permanent Alzheimer's Disease Coordinator position to be shared between the Departments of Health and of Disabilities, Aging, and Independent Living for the purpose of planning, public education, and coordination as informed by the recommendations of the Commission on Alzheimer's and Related Disorders established pursuant to 3 V.S.A. § 3085b, the State Plan on Aging required pursuant to 33 V.S.A. § 6206, and other relevant statewide plans on Alzheimer's disease and related disorders.

Second: By inserting a new section with reader assistance heading to be Sec. 6a to read as follows:

\* \* \* Missing Persons with Alzheimer's Disease;  
Response Communications \* \* \*

#### Sec. 6a. DEPARTMENT OF PUBLIC SAFETY; MISSING PERSONS EMERGENCY RESPONSE AND COMMUNICATIONS; REPORT

On or before November 1, 2022, the Department of Public Safety shall submit a written report to the House Committee on Human Services, the Senate Committee on Health and Welfare, and the House and Senate Committees on Government Operations with its recommendations regarding broadcasting information on missing persons with Alzheimer's Disease or related disorders or cognitive disabilities to aid in locating those individuals, including any proposals for legislative action. In forming its recommendations, the Department shall consult with interested stakeholders, including the Vermont Chapter of the Alzheimer's Association, Vermont Care Partners, and the Vermont Association on Mental Health and Addiction Recovery, and shall notify the Chairs of the House Committee on Human Services, the Senate Committee on Health and Welfare, and the House and Senate Committees on Government Operations as to the date, time, and location of stakeholder meetings.

## NOTICE CALENDAR

### Second Reading

#### Favorable

#### H. 482.

An act relating to the Petroleum Cleanup Fund.

**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 March 16, 2022, pages 619-620)

**Reported favorably by Senator Nitka for the Committee on Appropriations.**

(Committee vote: 6-0-1)

#### H. 606.

An act relating to community resilience and biodiversity protection.

**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 March 15, 2022, pages 558-662 and March 16, 2022, page 580)

**Reported favorably by Senator Nitka for the Committee on Appropriations.**

(Committee vote: 6-0-1)

#### J.R.H. 18.

Joint resolution relating to the Russian invasion of Ukraine.

**Reported favorably by Senator White for the Committee on Government Operations.**

(Committee vote: 5-0-0)

(No House amendments)

## **Favorable with Proposal of Amendment**

### **H. 279.**

An act relating to miscellaneous changes affecting the duties of the Department of Vermont Health Access.

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

The Committee recommends that the Senate propose to the House to amend the bill by striking out Sec. 4, separate individual and small group health insurance markets for plan year 2023 if federal subsidies extended, in its entirety and by renumbering Sec. 5, effective date, to be Sec. 4

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 11, 2022, pages 515-518)

**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: 6-0-1)

### **H. 410.**

An act relating to the use and oversight of artificial intelligence in State government.

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

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

Sec. 1. FINDINGS; INTENT

(a) The General Assembly finds that:

(1) The Vermont Artificial Intelligence Task Force (Task Force), established by 2018 Acts and Resolves No. 137, Sec. 1, as amended by 2019 Acts and Resolves No. 61, Sec. 20, met from September 2018 through January 2020 to investigate the field of artificial intelligence (AI) and make recommendations for State action and policies with respect to this new technology.

(2) The Task Force found that this technology presents tremendous opportunities for economic growth and improved quality of life but also presents substantial risks of loss of some jobs and invasions of privacy and other impacts to civil liberties.

(3) Large-scale technological change makes states rivals for the economic rewards, where inaction leaves states behind. States can become leaders in crafting appropriate responses to technological change that eventually produces policy and action around the country.

(4) The Task Force determined that there are steps that the State can take to maximize the opportunities and reduce the risk, but action must be taken now. The Task Force concluded that there is a role for local and State action, especially where national and international action is not occurring.

(5) The final report of the Task Force presents a series of recommendations for policies and actions consistent with the limited role of Vermont to direct the path of AI development and use in the State. The final report also concludes that Vermont can make a difference, maximize the benefits of AI, and minimize, or adapt to, the adverse consequences.

(b) It is the intent of the General Assembly to carry out the work of the Task Force by creating the Division of Artificial Intelligence within the Agency of Digital Services to implement some of the specific recommendations of the Task Force and require the Agency of Digital Services to conduct an inventory of all automated decision systems that are being developed, used, or procured by the State.

Sec. 2. 3 V.S.A. § 3303 is amended to read:

#### § 3303. REPORTING, RECORDS, AND REVIEW REQUIREMENTS

(a) Annual report and budget. The Secretary shall submit to the General Assembly, concurrent with the Governor's annual budget request required under 32 V.S.A. § 306, an annual report for information technology and cybersecurity. The report shall reflect the priorities of the Agency and shall include:

(1) performance metrics and trends, including baseline and annual measurements, for each division of the Agency;

(2) a financial report of revenues and expenditures to date for the current fiscal year;

(3) costs avoided or saved as a result of technology optimization for the previous fiscal year;

(4) an outline summary of information, including scope, schedule,

budget, and status for information technology projects with total costs of \$500,000.00 or greater;

(5) an annual update to the strategic plan prepared pursuant to subsection (c) of this section;

(6) a summary of independent reviews as required by subsection (d) of this section; ~~and~~

(7) the Agency budget submission; and

(8) an annual update to the inventory required by section 3305 of this title.

\* \* \*

Sec. 3. 3 V.S.A. § 3305 is added to read:

§ 3305. AUTOMATED DECISION SYSTEM; STATE PROCUREMENT;  
INVENTORY

(a) Definitions. As used in this section:

(1) “Algorithm” means a computerized procedure consisting of a set of steps used to accomplish a determined task.

(2) “Automated decision system” means any algorithm, including one incorporating machine learning or other artificial intelligence techniques, that uses data-based analytics to make or support government decisions, judgments, or conclusions.

(3) “Automated final decision system” means an automated decision system that makes final decisions, judgments, or conclusions without human intervention.

(4) “Automated support decision system” means an automated decision system that provides information to inform the final decision, judgment, or conclusion of a human decision maker.

(5) “State government” has the same meaning as in section 3301 of this chapter.

(b) Inventory. The Agency of Digital Services shall conduct a review and make an inventory of all automated decision systems that are being developed, employed, or procured by State government. The inventory shall include the following for each automated decision system:

(1) the automated decision system’s name and vendor;

(2) a description of the automated decision system’s general capabilities, including:

(A) reasonably foreseeable capabilities outside the scope of the agency's proposed use; and

(B) whether the automated decision system is used or may be used for independent decision-making powers and the impact of those decisions on Vermont residents;

(3) the type or types of data inputs that the technology uses; how that data is generated, collected, and processed; and the type or types of data the automated decision system is reasonably likely to generate;

(4) whether the automated decision system has been tested for bias by an independent third party, has a known bias, or is untested for bias;

(5) a description of the purpose and proposed use of the automated decision system, including:

(A) what decision or decisions it will be used to make or support;

(B) whether it is an automated final decision system or automated support decision system; and

(C) its intended benefits, including any data or research relevant to the outcome of those results;

(6) how automated decision system data is securely stored and processed and whether an agency intends to share access to the automated decision system or the data from that automated decision system with any other entity, which entity, and why; and

(7) a description of the IT fiscal impacts of the automated decision system, including:

(A) initial acquisition costs and ongoing operating costs, such as maintenance, licensing, personnel, legal compliance, use auditing, data retention, and security costs;

(B) any cost savings that would be achieved through the use of the technology; and

(C) any current or potential sources of funding, including any subsidies or free products being offered by vendors or governmental entities.

#### Sec. 4. AUTOMATED DECISION SYSTEM; STATE PROCUREMENT; INVENTORY; REPORT

On or before December 1, 2022, the Agency of Digital Services shall submit to the House Committee on Energy and Technology and the Senate Committee on Finance a report on the inventory described in 3 V.S.A. § 3305.



The report shall include recommendations for any changes to the inventory, including how it should be maintained, the frequency of updates, and remediation measures needed to address systems deemed problematic.

Sec. 5. 3 V.S.A. chapter 69 is added to read:

#### CHAPTER 69. DIVISION OF ARTIFICIAL INTELLIGENCE

##### § 5011. DEFINITION

As used in this chapter, “artificial intelligence systems” means systems capable of perceiving an environment through data acquisition and then processing and interpreting the derived information to take an action or actions or to imitate intelligent behavior given a specific goal. An artificial intelligence system can also learn and adapt its behavior by analyzing how the environment is affected by prior actions.

##### § 5012. DIVISION OF ARTIFICIAL INTELLIGENCE

(a) Creation. There is established the Division of Artificial Intelligence within the Agency of Digital Services to review all aspects of artificial intelligence systems developed, employed, or procured in State government. The Division shall be administered by the Director of Artificial Intelligence, who shall be appointed by the Secretary of Digital Services.

(b) Powers and duties. The Division shall review artificial intelligence systems developed, employed, or procured in State government, including the following:

(1) propose for adoption by the Agency of Digital Services a State code of ethics for artificial intelligence in State government, which shall be updated annually;

(2) make recommendations to the General Assembly on policies, laws, and regulations for artificial intelligence systems in State government; and

(3) review the automated decision systems inventory created by the Agency of Digital Services, including:

(A) whether any systems affect the constitutional or legal rights, duties, or privileges of any Vermont resident; and

(B) whether there are any potential liabilities or risks that the State of Vermont could incur from its implementation.

(c) Reports. Annually, on or before January 15 each year, the Division shall report to the House Committee on Energy and Technology and the Senate Committees on Finance and on Government Operations on the following:

(1) the extent of the use of artificial intelligence systems by State government and any short- or long-term actions needed to optimize that usage or mitigate their risks;

(2) the impact of using artificial intelligence systems in State government on the liberty, finances, livelihood, and privacy interests of Vermont residents;

(3) any necessary policies to:

(A) protect the privacy and interests of Vermonters from any diminution caused by employment of artificial intelligence systems by State government;

(B) ensure that Vermonters are free from unfair discrimination caused or compounded by the employment of artificial intelligence in State government;

(C) address the use or prohibition of systems that have not been tested for bias or have been shown to contain bias; and

(D) address security and training on artificial intelligence systems;  
and

(4) any other information the Division deems appropriate based on its work.

#### § 5013. ARTIFICIAL INTELLIGENCE ADVISORY COUNCIL

(a) Advisory Council. There is established the Artificial Intelligence Advisory Council to provide advice and counsel to the Director of the Division of Artificial Intelligence with regard to the Division's responsibilities to review all aspects of artificial intelligence systems developed, employed, or procured in State government. The Council, in consultation with the Director of the Division, shall also engage in public outreach and education on artificial intelligence.

(b) Members.

(1) The Advisory Council shall be composed of the following members:

(A) the Secretary of Digital Services or designee;

(B) the Secretary of Commerce and Community Development or designee;

(C) the Commissioner of Public Safety or designee;

(D) the Executive Director of the American Civil Liberties Union of Vermont or designee;

(E) one member who is an expert in constitutional and legal rights, appointed by the Chief Justice of the Supreme Court;

(F) one member with experience in the field of ethics and human rights, appointed by the Governor;

(G) one member who is an academic at a postsecondary institute, appointed by the Vermont Academy of Science and Engineering;

(H) the Commissioner of Health or designee;

(I) the Executive Director of Racial Equity or designee; and

(J) the Attorney General or designee.

(2) Chair. Members of the Advisory Council shall elect by majority vote the Chair of the Advisory Council. Members of the Advisory Council shall be appointed on or before August 1, 2022 in order to prepare as they deem necessary for the establishment of the Advisory Council, including the election of the Chair of the Advisory Council.

(3) Qualifications. Members shall be drawn from diverse backgrounds and, to the extent possible, have experience with artificial intelligence.

(c) Meetings. The Advisory Council shall meet at the call of the Chair as follows:

(1) on or before January 31, 2024, not more than 12 times; and

(2) on or after February 1, 2024, not more than monthly.

(d) Quorum. A majority of members shall constitute a quorum of the Advisory Council. Once a quorum has been established, the vote of a majority of the members present at the time of the vote shall be an act of the Advisory Council.

(e) Assistance. The Advisory Council shall have the administrative and technical support of the Agency of Digital Services.

(f) Reimbursement. Members of the Advisory Council who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010.

(g) Consultation. The Advisory Council shall consult with any relevant national bodies on artificial intelligence, including the National Artificial Intelligence Advisory Committee established by the Department of Commerce, and its applicability to Vermont.

(h) Repeal. This section shall be repealed on June 30, 2027.

Sec. 6. ARTIFICIAL INTELLIGENCE ADVISORY COUNCIL;  
IMPLEMENTATION

First meeting. The first meeting of the Artificial Intelligence Advisory Council shall be called by the Secretary of Digital Services or designee. All subsequent meetings shall be called by the Chair.

Sec. 7. DIVISION OF ARTIFICIAL INTELLIGENCE; REPORTS AND  
RECOMMENDATIONS

(a) On or before January 15, 2023, the Council shall submit a report to the House Committee on Energy and Technology and the Senate Committees on Finance and on Government Operations on the following:

(1) the State code of ethics as described in 3 V.S.A. § 5012(b)(1); and

(2) what policies the State should have for a third-party entity to disclose potential conflicts of interest prior to purchasing or using the entity's technology and how the State should evaluate those conflicts with respect to how the State intends to implement the technology.

(b) On or before January 15, 2024, the Council shall develop and submit to the House Committee on Energy and Technology and the Senate Committees on Finance and on Government Operations recommendations for a clear use and data management policy for State government, including protocols for the following:

(1) how and when an automated decision system will be deployed or used and by whom, including:

(A) the factors that will be used to determine where, when, and how the technology is deployed;

(B) whether the technology will be operated continuously or used only under specific circumstances; and

(C) when the automated decision system may be accessed, operated, or used by another entity on the agency's behalf and any applicable protocols;

(2) whether the automated decision system gives notice to an individual impacted by the automated decision system of the fact that the automated decision system is in use and what information should be provided with consideration to the following:

(A) the automated decision system's name and vendor;

(B) what decision or decisions it will be used to make or support;

(C) whether it is an automated final decision system or automated support decision system;

(D) what policies and guidelines apply to its deployment;

(E) whether a human verifies or confirms decisions made by the automated decision system; and

(F) how an individual can contest any decision made involving the automated decision system;

(3) whether the automated decision system ensures that the agency can explain the basis for its decision to any impacted individual in terms understandable to a layperson, including:

(A) by requiring the vendor to create such an explanation;

(B) whether the automated decision system is subject to appeal or immediate suspension if a legal right, duty, or privilege is impacted by the decision; and

(C) potential reversal by a human decision maker through a timely process clearly described and accessible to an individual impacted by the decision; and

(4) what policies the State should have for a third-party entity to disclose potential conflicts of interest prior to purchasing or using their technology and how the State should evaluate those conflicts with respect to how the State intends to implement the technology.

(c) On or before January 15, 2025, the Council shall submit recommendations to the House Committee on Energy and Technology and the Senate Committees on Finance and on Government Operations on the following

(1) whether the scope of the Division should be expanded to include artificial intelligence outside State government;

(2) whether there should be any changes to the structural oversight, membership, or powers and duties of the Council;

(3) whether the Council should cease to exist on a certain date; and

(4) whether there are any other additional tasks the Division should complete.

(d) As used in this section:

(1) “Automated decision system” means any algorithm, including one incorporating machine learning or other artificial intelligence techniques, that uses data-based analytics to make or support government decisions, judgments, or conclusions.

(2) “Automated final decision system” means an automated decision system that makes final decisions, judgments, or conclusions without human intervention.

(3) “Automated support decision system” means an automated decision system that provides information to inform the final decision, judgment, or conclusion of a human decision maker.

#### Sec. 8. DIVISION OF ARTIFICIAL INTELLIGENCE; POSITION

The establishment of the permanent exempt position is authorized in fiscal year 2023 in the Agency of Digital Services to manage and implement the work of the Division of Artificial Intelligence, established in 3 V.S.A. § 5012, and to serve as the State expert on artificial intelligence use and oversight within State government. This position shall be transferred and converted from existing vacant positions in the Executive Branch and shall not increase the total number of authorized State positions. The position shall be funded from existing resources within the Agency.

#### Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 11, 2022, pages 518-519)

**Reported favorably by Senator Baruth 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 Government Operations.

(Committee vote: 6-0-1)

## H. 456.

An act relating to establishing strategic goals and reporting requirements for the Vermont State Colleges.

### **Reported favorably with recommendation of proposal of amendment by Senator Hooker 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 State Colleges; Strategic Goals and Reporting \* \* \*

Sec. 1. 16 V.S.A. § 2171a is added to read:

#### § 2171a. STRATEGIC GOALS

(a) The Corporation shall establish its priorities, budget and allocate its resources, and develop its capabilities to ensure that students successfully achieve their academic goals in a manner and in an environment that provides a high-quality education and that is:

- (1) affordable;
- (2) accessible;
- (3) equitable; and
- (4) relevant to Vermont's needs.

(b) As used in this chapter:

(1) "Accessible" means each student, regardless of where the student's home campus is located, has increased access to academic opportunities, majors, and courses across the Corporation's academic system.

(2) "Affordability standard" means the extent to which affordability is being achieved for students and for the Corporation as determined jointly by the Corporation and VSAC.

(3) "Affordable" means a level of financial commitment that results from the application of the affordability standard.

(4) "Equitable" means the extent to which gaps in educational access and success are being reduced for students from economically deprived backgrounds, first-generation students, students of color, and other marginalized groups.

(5) “Relevant to Vermont’s needs” means that students graduate as informed and engaged citizens who are prepared for the world of work and for participating in a democratic society.

(6) “Total cost of attendance” has the meaning provided in 20 U.S.C. § 1087ll, as amended.

(7) “Unmet need” means the total cost of attendance minus:

(A) the Student Aid Index, as determined under 20 U.S.C. § 1087mm, as in effect on July 31, 2023; and

(B) all nonloan student financial assistance.

(8) “VSAC” means the Vermont Student Assistance Corporation.

(c) The Corporation’s Board of Trustees shall approve and maintain institutional missions that align to the strategic goals set out in subsection (a) of this section.

Sec. 2. 16 V.S.A. § 2171b is added to read:

§ 2171b. VERMONT STUDENT ASSISTANCE CORPORATION AND  
VERMONT STATE COLLEGES; REPORTING

On or before January 15, 2024 and on or before January 15 annually thereafter, VSAC, with the assistance of and in collaboration with the Corporation, shall submit a written report to the House and Senate Committees on Education containing:

(1) the Corporation’s progress in attaining affordability for full-time students enrolled with the Corporation for the first time;

(2) the Corporation’s progress in attaining affordability for all other students;

(3) the average and median amount of unmet need for full-time students enrolled with the Corporation for the first time and the average and median amount of unmet need for all other students;

(4) the average, median, annual, and cumulative student and parent debt by loan type (federal direct to student, federal direct to parent, state, or private) for students obtaining a two-year or four-year degree; and

(5) for students enrolled with the Corporation, their average:

(A) yearly continuation rate;

(B) academic progress, showing satisfactory and unsatisfactory progress; and

(C) graduation rate.



Sec. 3. REPORT

On or before July 1, 2023, the Vermont Student Assistance Corporation, in collaboration with the Agency of Education, shall submit a written report to the House and Senate Committees on Education on whether and how to implement a requirement that all high school students complete the Free Application for Federal Student Aid as a condition of graduation.

Sec. 4. 16 V.S.A. § 2171(c) is amended to read:

(c) The Corporation may acquire, hold, and dispose of property in fee or in trust, or any other estate, except as provided in subsection (d) of this section; shall have a common seal; and shall be an instrumentality of the State for the purposes set forth in this section. The State of Vermont shall support and maintain the Corporation. The sale, lease, demolition, or disposal of property by the Corporation shall comply with the applicable requirements of 32 V.S.A. § 962.

Sec. 5. REPEAL

16 V.S.A. § 2188 is repealed.

Sec. 6. AFFORDABILITY STANDARD; DETERMINATION

On or before July 1, 2023, the Vermont State Colleges and the Vermont Student Assistance Corporation shall jointly recommend to the Senate and House Committees on Education and the Senate and House Committees on Appropriations the definition of the affordability standard under Sec. 1 of this act.

\* \* \* Vermont State Colleges Corporation; Board of Trustees \* \* \*

Sec. 7. 16 V.S.A. § 2172 is amended to read:

§ 2172. TRUSTEES; APPOINTMENT; VACANCIES

(a) The Corporation shall be governed by a board of ~~15~~ 17 trustees who shall be appointed or elected as follows:

(1) Biennially, the Governor, with the advice and consent of the Senate, shall appoint trustees to serve for four-year terms expiring March 1 of the year of the biennial session. Five trustees may be in office at one time under this subdivision. In the event of any vacancy occurring between biennial sessions in an office under this subdivision, the Governor, pursuant to 3 V.S.A. § 257, shall fill the vacancy, and the term of a person so appointed shall expire on March 1 in the year of the next following biennial session.

(2)(A) ~~One trustee~~ Two trustees shall be a student trustee trustees:

(i) who ~~is~~ are matriculated ~~student~~ students at an educational institution operated by the Vermont State Colleges Corporation;

(ii) who ~~is~~ are pursuing a degree program; and

(iii) who ~~has~~ have reached the age of majority.

(B) The student ~~trustee~~ trustees shall serve a one-year ~~term~~ terms expiring on June 1. The student ~~trustee~~ trustees shall be appointed, and a vacancy may be filled, from among those eligible students applying for the position by the decision of those members of the steering committee of the Vermont State Colleges Student Association who have been elected at large to that committee by the students at their respective colleges. No student trustee may serve more than two consecutive terms.

(3) Four trustees shall be legislative trustees who are members of the General Assembly at the time of their election. Legislative trustees shall serve four-year terms expiring on March 1 of the second year of the biennial session, and they shall be elected by joint assembly of the Legislature. Vacancies for any cause shall be filled by the General Assembly at its earliest opportunity, and the term of a person so appointed shall expire on March 1 of the next even numbered year.

(4) Four trustees shall be elected by the Board of Trustees to four-year terms expiring on March 1. Vacancies for any cause shall be filled by the remaining members of the Board of Trustees, and the term of the person so appointed shall expire on the next following March 1.

(5) One trustee shall be faculty or staff employed by the Vermont State Colleges Corporation and elected by the faculty and staff to a four-year term expiring on August 1. The faculty assembly or assemblies shall oversee all trustee elections under this subdivision, which shall be open to all faculty and staff. Vacancies for any cause shall be filled through an election, and the term of the person so appointed shall expire on the next following August 1.

(b) Appointments by the Governor ~~and~~, and elections by the General Assembly, and student appointments shall be made with consideration of the geographic distribution of members to prevent an unfair focus on any single college or campus.

(c) No trustee shall be a member of the Board of Trustees of the University of Vermont.

(d)(1) The Board of Trustees, after notice and a hearing, may remove a trustee for incompetency, failure to discharge duties, malfeasance, illegal acts, or other cases inimical to the welfare of the Corporation.

(2) Gubernatorial-appointed trustees shall serve at the pleasure of the Governor pursuant to 3 V.S.A. § 2004.

(3) In the event of a vacancy occurring under this subsection, the ~~Governor or the Board~~ appointing or electing authority of the vacant position, as applicable, shall fill the vacancy pursuant to subsection (a) of this section.

Sec. 8. 16 V.S.A. § 2173 is amended to read:

§ 2173. BOARD OF TRUSTEES; ORGANIZATION

In addition to the 14 16 elected and appointed trustees, the Board of Trustees shall include as a member the Governor of Vermont. A majority of the trustees shall constitute a quorum for the transaction of business. Biennially, the Board shall elect one of its voting members to serve as its chair.

Sec. 9. TRANSITION

(a) On or before August 1, 2022, the new faculty or staff member of the Board of Trustees of the Vermont State Colleges Corporation shall be elected under Sec. 7 of this act.

(b) On or before September 15, 2022, the new student member shall be appointed under Sec. 7 of this act. The new student trustee shall serve a partial term, commencing on September 15, 2022 and ending on March 1, 2023.

\* \* \* University of Vermont and State Agricultural College; Board of Trustees \* \* \*

Sec. 10. 16 App. V.S.A. Chapter 1, § 1-2 is amended to read:

§ 1-2. BOARD OF TRUSTEES; MEMBERSHIP; TERMS OF SERVICE; PRESIDING CHAIR

The Board of Trustees of the University of Vermont and State Agricultural College shall be composed of 25 27 members, whose term of office shall be six years, except as to those who are members ex officio and to those who are student members. Three members shall be appointed by the Governor with the consent of the Senate. During the legislative session of 1955, the Governor shall appoint one member for a term of two years, one member for a term of four years, and one member for a term of six years, and it shall be the duty of the Governor during the session of the Legislature prior to expiration of the term of office of any of the members to appoint for the term of six years a successor to the member whose term is expiring. The terms of office of the ~~Trustees~~ trustees shall expire on the last day of February in the respective years of expiration, and the terms of office of their successors shall thereafter begin on March 1 and expire on the last day of February.

Nine members shall be those who have been heretofore elected by the Legislature as members of the Board of Trustees of the University of Vermont and State Agricultural College, and whose terms have not expired, and their successors, and it shall be the duty of the Legislature at its session during which the terms of office of any class of the members expire to elect three successor members for terms of six years. The terms shall commence on March 1 in the year of election. The nine Trustees trustees and their successors shall also constitute the Board of Trustees of the Vermont Agricultural College.

~~Nine~~ Ten members shall be those who have been heretofore elected on behalf of the University of Vermont as members of the Board of Trustees of the University of Vermont and State Agricultural College and whose terms have not expired, and their successors, and it shall be the duty of said ~~nine Trustees~~ ten trustees to elect successors to fill vacancies occurring among their number upon expiration of the terms of office of any of them or otherwise. The ~~nine Trustees~~ ten trustees and their successors shall also constitute the Board of Trustees of the University of Vermont.

Two members shall be students enrolled at the University of Vermont and State Agricultural College. Their terms of office shall be two years. Prior to February 1, 1978, the Associated Directors for the Appointment of the University of Vermont and State Agricultural College Student Trustees, Incorporated shall select and appoint one student for a term of one year and one student for a term of two years, both of whom shall be enrolled as full-time undergraduate or full-time graduate students. Annually thereafter, the Directors shall meet to select and appoint one student trustee for a term of two years in accordance with the provisions of this section. The Directors shall fill any vacancy occurring among the student trustee members upon the expiration of the term of office of any of them or otherwise. A student shall be eligible to serve as a ~~Trustee~~ trustee, provided the student is a full-time undergraduate or full-time graduate student matriculating in accordance with the degree qualifications and requirements established by the University of Vermont and State Agricultural College and if the student remains in that status throughout the length of the term of office. The term of office of a ~~Student Trustee~~ student trustee shall begin on March 1 following the date of appointment, and the term of office shall end the last day of February in the year of expiration. Any student elected hereunder shall have reached ~~the age of 18 years of age~~.

One member shall be faculty or staff employed by the University of Vermont and State Agricultural College and elected by the faculty and staff to a six-year term expiring on August 1. The Faculty Senate shall oversee all trustee elections under this subdivision, which shall be open to all faculty and

staff. Vacancies for any cause shall be filled through an election, and the term of the person so elected shall expire on the next following August 1.

All ~~Trustees~~ trustees so appointed and elected as hereinbefore provided, shall, together with ~~his or her Excellency~~, the Governor of the State, and the President, who shall be, ex officio, a member, constitute an entire Board of Trustees of the corporation known as the University of Vermont and State Agricultural College, who shall have the entire management and control of its property and affairs, and in all things relating thereto, except in the elections to fill vacancies, as aforesaid, shall act together jointly, as one entire Board of Trustees, provided, that all future elections or appointments to the Board of Trustees shall be made with special reference to preventing any religious denominational preponderance in the Board. The Board shall annually, at its first regular meeting after the election of new trustees, elect one of its members to serve as Chair.

#### Sec. 11. TRANSITION

On or before August 1, 2022, new members of the Board of Trustees of the University of Vermont and State Agricultural College shall be appointed or elected under Sec. 10 of this act.

#### Sec. 12. EFFECTIVE DATES

Secs. 1 and 2 shall take effect on July 1, 2023, and Secs. 3-6, 7-11 (VSC and UVM Board of Trustees), and this section shall take effect on passage.

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

An act relating to the Vermont State Colleges and the University of Vermont and State Agricultural College.

(Committee vote: 6-0-0)

(For House amendments, see House Journal for March 18, 2022, pages 742-749)

### **H. 518.**

An act relating to municipal energy resilience initiatives.

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

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. FINDINGS; MUNICIPAL ENERGY RESILIENCE

The General Assembly finds that:

(1) Vermont's municipalities own and operate more than 2,000 buildings and facilities, which are used to provide services to its citizens, including libraries; storing town vehicles; providing space for civic engagement; and connecting citizens to healthcare, education, and commercial interests.

(2) Vermont's Global Warming Solutions Act sets aggressive targets for greenhouse gas emissions reductions, and the heating of buildings provide significant opportunities for meeting these targets.

(3) The volatile cost of fossil fuel heating is often one of the largest line items in a municipal budget, which impacts the residential and commercial taxpayers in that municipality.

(4) A modest expansion to the State Energy Management Program, established in 29 V.S.A. § 168, made in 2019 can assist municipalities with responding to the greenhouse gas emissions targets set forth in the Global Warming Solutions Act.

(5) Connecting technical resources at the local, regional, and State level and expanding the State's energy management program to include municipal buildings will promote increased resilience and sustained connection to critical services for all Vermonters.

## Sec. 2. MUNICIPAL ENERGY RESILIENCE; DEPARTMENT OF BUILDINGS AND GENERAL SERVICES; ASSESSMENTS

(a) Energy resilience assessments. On or before September 1, 2022, the Department of Buildings and General Services shall issue a request for proposal for a comprehensive energy resilience assessment of covered municipal buildings and facilities.

(b) Request for proposal. The Commissioner of Buildings and General Services shall contract with an independent third party to conduct the assessment described in subsection (a) of this section. The assessment shall be completed on or before January 15, 2024.

(c) Application. A covered municipality shall submit an application to the Department of Buildings and General Services to receive an assessment of its buildings and facilities pursuant to the guidelines established in subsection (e) of this section. As part of the application process, a municipality may use the assistance of a regional planning commission to develop plans.

(d) Scope. For each covered municipality, the assessment described in subsection (a) of this section shall include a scope of work, cost, and timeline for completion for each building or facility. The assessment shall also include:

(1) recommendations for improvements that reduce the operating and maintenance costs, enhance comfort, and reduce energy intensity in a municipal building or facility, including:

(A) the improvement or replacement, or both, of heating, ventilation and air conditioning systems;

(B) the use of a renewable energy source for heating systems, provided that recommendations for the use of a heating systems that uses fossil fuels is not eligible; and

(C) improvements to the buildings or facilities thermal envelope;

(2) an evaluation on the reasonableness of battery storage and EV charging stations and recommended locations, as applicable;

(3) an evaluation of the potential for on-site renewable energy generation options and recommendation on the one most feasible, as applicable;

(4) an estimate of costs for each recommendation;

(5) an estimate of system and equipment life cycle costs and consumption data; and

(6) the potential to phase the scope of work and suggest a prioritized order of completion separate from the energy assessment scope.

(e) Administration. The Department of Buildings and General Services shall establish guidelines for a covered municipality to receive an assessment and shall require at a minimum that:

(1) the covered municipality has access to high-speed Internet as defined in the State's Telecommunication Plan set forth in 30 V.S.A. § 202c or a plan is in place by 2024 to ensure access to high-speed Internet; and

(2) any building that is assessed is compliant with the American Disabilities Act at the time the project is completed.

(f) Definition. As used in this section, "covered municipality" means a city, town, fire district or incorporated village, and all other governmental incorporated units.

### Sec. 3. MUNICIPAL ENERGY RESILIENCE GRANT PROGRAM

(a) Program established. In fiscal year 2023, there is established the Municipal Energy Resilience Grant Program to award grants to:

(1) make recommendations to municipalities on the use of more efficient heating systems; and

(2) make necessary improvements to reduce emissions by reducing fossil fuel usage and increasing efficiency in municipally owned buildings.

(b) Definition. As used in this section, “covered municipality” means a city, town, fire district or incorporated village, and all other governmental incorporated units.

(c) Administration; implementation.

(1) Grant awards. The Department of Buildings and General Services, in coordination with Efficiency Vermont, through the State Energy Management Program, shall administer the Program, which shall award grants for the following:

(A) not more than \$500,000.00 to each covered municipality for approved projects for weatherization, thermal efficiency, to supplement or replace fossil fuel heating systems with more efficient heating systems, and any other expenditures necessary for the project to be eligible for funding under federal law and guidelines; and

(B) not more than \$4,000.00 to each covered municipality to facilitate community meetings and communication about municipal energy resilience.

(2) Grant program design. The Department of Buildings and General Services, in consultation with Efficiency Vermont; the Vermont League of Cities and Towns; regional planning commissions; and experts in the field of thermal enclosure, energy efficiency, and renewable building space systems, shall design the Program. The Program shall include a streamlined and minimal application process for a municipality to apply directly to the Department of Buildings and General Services or with the assistance of a regional planning commission. The Program design shall establish:

(A) an outreach and education plan by regional planning commissions, including specific tactics to reach and support each covered municipality;

(B) an equitable system for distributing grants statewide on the basis of need according to a system of priorities, including the following ranked in priority order:



(i) a municipality with the highest energy burden community needs and lowest resources, as defined in Efficiency Vermont's 2019 Energy Burden Report;

(ii) a municipality that may not have administrative support to apply for grants;

(iii) geographic location;

(iv) community size; and

(v) whether another division of the municipality has already received a grant;

(C) guidelines for renewable and energy efficiency buildings systems resilience, durability, health, and efficiency measures and costs that will be eligible for grant funding; and

(D) eligibility criteria for covered municipalities, including written commitment by the municipality to conduct community workshops and a self-assessment.

(d) Coordination. The Department of Buildings and General Services shall coordinate with any other State entities and agencies working with covered municipalities to provide grants for the Program.

(e) Funding. The Program shall be funded by the American Rescue Plan Act State and Local Fiscal Recovery Fund.

(f) Assessment. A covered municipality is only eligible for a grant under this section if an assessment of its buildings and facilities has been conducted pursuant to Sec. 2 of this act.

#### Sec. 4. MUNICIPAL ENERGY RESILIENCE GRANT PROGRAM; APPROPRIATION

In fiscal year 2023, the amount of \$35,000,000.00 shall be appropriated from the American Rescue Plan Act (ARPA) from the State and Local Fiscal Recovery Fund to the Municipal Energy Resilience Grant Program for use as follows:

(1) The amount of \$2,400,000.00 shall be appropriated to the Department of Buildings and General Services for regional planning commissions to assist with grant and assessment applications and provide programming and technical assistance to covered municipalities. The funding to regional planning commissions shall be distributed as follows:

(A) Fifty-five percent of the funds shall be divided equally among the regional planning commissions.

(B) Forty-five percent of the funds shall be allocated according to the number of Vermont member municipalities in each regional planning commission as of July 1, 2022.

(2) The amount of \$32,600,000.00 shall be appropriated to the Department of Buildings and General Services to be used as follows:

(A) \$5,000,000.00 for hiring a contractor to conduct assessments pursuant to Sec. 2 of this act;

(B) \$1,000,000.00 for costs associated with administering the grant program; and

(C) \$26,600,000.00 for grants to covered municipalities for weatherization, thermal efficiency, and to supplement or replace less efficient heating systems.

\* \* \* Municipal Energy Loan Program \* \* \*

Sec. 5. 29 V.S.A. § 168a is added to read:

§ 168a. MUNICIPAL ENERGY LOAN PROGRAM

(a) Authority. The Department of Buildings and General Service is authorized to provide financing to municipalities through the Municipal Energy Loan Program for equipment replacement, studies, weatherization, construction of improvements affecting the use of energy resources, the implementation of energy efficiency and conservation measures, and the use of renewable resources.

(b) Loan eligibility and criteria. The Commissioner shall establish for the Program described in subsection (a) of this section:

(1) criteria to determine eligibility for funding, including repayment terms;

(2) a priority basis for the selection process that ensures equitable allocation of funds to municipalities, considering at least financial need, geographic distribution, and ability to repay; and

(3) loan conditions that ensure accountability by a municipality receiving funds.

(c) Definitions. As used in this section:

(1) “Energy efficiency improvement” has the same meaning as in section 168 of this title.

(2) “Municipality” means a city, town, fire district or incorporated village, and all other governmental incorporated units.

(3) “Renewables” has the same meaning as in 30 V.S.A. § 8002.

(4) “Resource conservation measures” has the same meaning as in section 168 of this title.

Sec. 6. 29 V.S.A. § 168b is added to read:

§ 168b. MUNICIPAL ENERGY REVOLVING FUND

(a) Creation. There is established the Municipal Energy Revolving Fund to provide financing for the Municipal Energy Loan Program established in section 168a of this title.

(b) Monies in the Fund. The Fund shall consist of:

(1) monies appropriated to the Fund and;

(2) loan repayment by municipalities

(c) Repayment terms. A municipality receiving funding shall repay the Fund through its regular operating budget according to a schedule established by the Commissioner.

(d) Fund administration.

(1) The Commissioner of Finance and Management may anticipate receipts to this Fund and issue warrants based thereon.

(2) The Commissioner of Buildings and General Services shall maintain accurate and complete records of all receipts by and expenditures from the Fund.

(3) All balances remaining at the end of a fiscal year shall be carried over to the following year.

(e) Definitions. As used in this section:

(1) “Energy efficiency improvement” has the same meaning as in section 168 of this title.

(2) “Renewables” has the same meaning as in 30 V.S.A. § 8002.

(f) Annual report. Beginning on or before January 15, 2023 and annually thereafter, the Commissioner of Buildings and General Services shall report to the House Committees on Corrections and Institutions and on Energy and Technology and the Senate Committee on Institutions on the expenditure of funds from the Municipal Energy Revolving Fund. For each fiscal year, the report shall include a summary of each project receiving funding and the municipality’s expected savings. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

Sec. 7. MUNICIPAL ENERGY REVOLVING FUND; DEPARTMENT OF BUILDINGS AND GENERAL SERVICES; FEE RECOMMENDATION

On or before January 15, 2023, the Commissioner of Buildings and General Services shall submit a recommendation to the House Committee on Ways and Means and the Senate Committee on Finance for a fee amount to be charged to pay for administrative costs associated with the Municipal Energy Revolving Fund.

Sec. 8. MUNICIPAL ENERGY REVOLVING FUND; FY 2023 APPROPRIATION; REPORT

(a) In FY 2023, to the extent permitted by federal law, the following amounts shall be transferred to the Department of Buildings and General Services from the Department of Public Service for the Municipal Energy Revolving Fund, as established in 29 V.S.A. § 168b:

(1) not more than \$800,000.00 from the Energy Efficiency Revolving Loan Fund Capitalization Grant allocated in the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 pursuant to the process set forth in 32 V.S.A. § 5; and

(2) not more than \$2,000,000.00 from the Energy Efficiency and Renewable Energy Block Grant Fund in the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 pursuant to the process set forth in 32 V.S.A. § 5.

(b) On or before January 15, 2023, the Department of Public Service shall report to the House Committee on Energy and Technology and the Senate Committee on Finance on the total grant amounts approved by the State and transferred to the Municipal Energy Revolving Fund pursuant to subsection (a) of this section.

Sec. 9. 2015 Acts and Resolves No. 58, Sec. E.112, as amended by 2019 Acts and Resolves No. 72, Sec. E.112, is further amended to read:

Sec. E.112 ENERGY EFFICIENCY; STATE BUILDINGS AND FACILITIES

\* \* \*

(b) Notwithstanding any provision of Title 30 of the Vermont Statutes Annotated, Public Service Board order, or other provision of law to the contrary:

(1) The Department and Efficiency Vermont (EVT) shall augment the Program for a preliminary period of ~~eight~~ 11 years commencing in fiscal year 2016 under which EVT shall provide the Department with support for the

Program to deliver cost-effective energy efficiency and conservation measures to State buildings and facilities, with the goal of this pilot to create a self-sustaining program at the Department, with annual savings from energy projects exceeding the annual cost to staff the Program. The Department and EVT may agree to continue conducting this augmented Program in subsequent fiscal years, after considering recommendations for improvement based on evaluation of the preliminary period.

\* \* \*

(2) In addition to the requirements of subdivision (1) of this subsection, the project shall include provision by EVT of support for personnel to implement the Program during fiscal years 2016 to ~~2023~~ 2027.

\* \* \*

(B) Under this subdivision (2), EVT shall provide up to \$290,000 during fiscal year 2016. For the remaining ~~seven~~ 10 fiscal years, EVT shall ~~provide an additional amount sufficient to support annual salary and benefit adjustments~~ make available under agreement with the Department an additional amount sufficient to support annual salary and benefit adjustments. These funds shall be received in the Facilities Operations Fund established in 29 V.S.A. § 160a; and may be spent using excess receipts authority. Efficiency Vermont and the Department may agree to adjust the funding committed to this Program based on a joint evaluation that annual energy savings generated by this Program exceed the annual cost of the staff positions.

(3) The Public Service Board shall adjust any performance measures applicable to EVT to recognize the requirements of this section.

(c) The Department and EVT shall execute a new or amended memorandum of understanding to implement this section, which shall include targets for future energy savings, a process for determining how savings targets are met, and details of EVT's commitment for personnel over ~~an eight-year~~ a 10-year time period.

(d) On or before October 1 of each year commencing in 2016 and ending in ~~2023~~ 2027, the Department and EVT shall provide a joint report on the implementation of this section.

\* \* \*

(5) The report to be submitted in 2019 ~~and, in 2023, and in 2027~~ shall contain an evaluation of the Program authorized under this section and any resulting recommendations, including recommendations related to Program continuation beyond ~~2023~~ 2027.

\* \* \*

Sec. 10. FY 2023; APPROPRIATION; DEPARTMENT OF BUILDINGS  
AND GENERAL SERVICES; REGIONAL PLANNING  
COMMISSIONS; POSITIONS

(a) Department of Buildings and General Services. Two full-time, limited-service positions are created in the Department of Buildings and General Services in fiscal year 2023 for three fiscal years to administer the municipal energy resilience assessments pursuant to Sec. 2 of this act. The positions shall be responsible for determining project eligibility; coordinating with the State Energy Management Program to recruit and coordinate auditors, engineers, and contractors; and providing financing technical assistance for municipalities implementing projects. These positions shall be funded from the amount appropriated in Sec. 4(2)(B) of this act.

(b) Department of Buildings and General Services; Municipal Energy Resilience Grant Program. Two full-time, limited-service positions are created in the Department of Buildings and General Services in fiscal year 2023 for three fiscal years to administer the Municipal Energy Resilience Grant Program created in Sec. 3 of this act. The positions shall be funded from the amount of \$1,000,000.00 for administrative costs appropriated in Sec. 4(2)(B) of this act.

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

Sec. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 17, 2022, pages 662-673)

**H. 523.**

An act relating to reducing hydrofluorocarbon emissions.

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

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

First: In Sec. 1, 10 V.S.A. § 586, subsection (b), by striking out subdivision (4)(G) in its entirety and inserting in lieu thereof the following:

(G) July 1, 2022, for refrigeration systems used in ice skating rinks;  
and

Second: In Sec. 3, 20 V.S.A. § 2731, by striking out subsection (m) in its entirety and inserting in lieu thereof the following:

(m) Refrigerants. No rule adopted under this section or any other requirement of this title shall prohibit or otherwise limit the use of a refrigerant designated as acceptable for use pursuant to and in accordance with 42 U.S.C. 7671k or 10 V.S.A. § 586, provided any equipment containing such refrigerant is listed and installed in accordance with safety standards and use conditions imposed pursuant to such designation.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 15, 2022, pages 556-558 and March 16, 2022, page 580)

#### **H. 546.**

An act relating to racial justice statistics.

**Reported favorably with recommendation of proposal of amendment by Senator White 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. 3 V.S.A. chapter 68 is amended to read:

CHAPTER 68. ~~EXECUTIVE DIRECTOR OFFICE~~ OF RACIAL EQUITY

Subchapter 1. Executive Director of Racial Equity

\* \* \*

§ 5003. DUTIES OF EXECUTIVE DIRECTOR OF RACIAL EQUITY

\* \* \*

(e) The Executive Director of Racial Equity shall oversee the Division of Racial Justice Statistics (Division) established in subchapter 2 of this chapter.

(1) The Director shall have general charge of the Division.

(2) The Director may apply for grant funding, if available, to advance or support any responsibility within the Division's jurisdiction.

(e)(f) The Director shall periodically report to the Racial Equity Advisory Panel and the Racial Disparities in the Criminal and Juvenile Justice Systems Advisory Panel on the progress toward carrying out the duties as established by this section.

(f)(g) On or before January 15, 2020, and annually thereafter, the Director shall report to the House and Senate Committees on Government Operations demonstrating the State's progress in identifying and remediating systemic racial bias within State government.

\* \* \*

## Subchapter 2. Division of Racial Justice Statistics

### § 5011. DIVISION OF RACIAL JUSTICE STATISTICS; CREATION; PURPOSE

(a) Creation. There is created within the Office of Racial Equity the Division of Racial Justice Statistics to collect and analyze data related to systemic racial bias and disparities within the criminal and juvenile justice systems.

(b) Purpose. The mission of the Division is to collect and analyze data relating to racial disparities with the intent to center racial equity throughout these efforts. The purpose of the Division is to create, promote, and advance a system and structure that provides access to appropriate data and information, ensuring that privacy interests are protected and principles of transparency and accountability are clearly expressed. The data are to be used to inform policy decisions that work toward the amelioration of racial disparities across various systems of State government.

### § 5012. DUTIES

(a) The Division shall have the following duties:

(1) Work collaboratively with, and have the assistance of, all State and local agencies and departments identified pursuant to subdivision 5013(a)(2) of this title for purposes of collecting all data related to systemic racial bias and disparities within the criminal and juvenile justice systems.

(2) Collect and analyze the data related to systemic racial bias and disparities within the criminal and juvenile justice systems.

(3) Conduct justice information sharing gap analyses.

(4) Maintain an inventory of justice technology assets and a data dictionary to identify elements and structure of databases and relationships, if any, to other databases.



(5) Develop a justice technology strategic plan, which shall be updated annually. The justice technology strategic plan shall include identification and prioritization of data needs and requirements to fulfill new or emerging data research proposals or operational enhancements.

(6) Develop interagency agreements and memorandums of understanding for data sharing and publish public use files.

(7) Report its data, analyses, and recommendations to the Racial Justice Statistics Advisory Council and the Racial Disparities in the Criminal and Juvenile Justice Systems Advisory Panel on a monthly basis.

(b) On or before January 15, 2023 and annually thereafter, the Division shall report its data, analyses, and recommendations to the House and Senate Committees on Judiciary and on Government Operations. The report may include an operational assessment of the Division's structure and staffing levels and any recommendations for necessary adjustments.

(c) To carry out its duties under this subchapter, the Division may adopt procedural and substantive rules in accordance with the provisions of chapter 25 of this title.

#### § 5013. DATA GOVERNANCE

(a) Data collection. In consultation with the Racial Disparities in the Criminal and Juvenile Justice Systems Advisory Panel and the Racial Justice Statistics Advisory Council, the Division shall establish the data to be collected to carry out the duties of this subchapter.

(1) Any data or records transmitted to or obtained by the Division that are exempt from public inspection and copying under the Public Records Act shall remain exempt and shall be kept confidential to the extent required by law. A State or local agency or department that transmits data or records to the Division shall be the sole records custodian for purposes of responding to requests for the data or records. The Division may direct any request for these data or records to the transmitting agency or department for response, provided that the Division shall respond to a Public Records Act request for nonidentifying data used by the Division for preparation of the reports required by subdivision 5012(a)(7) and subsection 5012(b) of this title.

(2) The Division shall identify which State and local agencies or departments possess the data necessary for the Division to perform the requirements and objectives of this subchapter. An agency or department identified pursuant to this subdivision shall, upon request, provide the Division with any data that the Division determines is relevant to its purpose under subsection 5011(b) of this title, provided that the Office of the Defender

General shall not be required to make any disclosures that would violate 1 V.S.A. § 317(c)(3). The Division may identify non-State entities that possess the data necessary for the Division to perform the requirements and objectives of this subchapter and have access to the data of an identified entity pursuant to a data sharing agreement or memorandum of understanding.

(3) The Division shall, pursuant to section 218 of this title, establish, maintain, and implement an active and continuing management program for its records and information, including data, with support and services provided by the Vermont State Archives and Records Administration pursuant to section 117 of this title and the Agency of Digital Services pursuant to section 3301 of this title.

(b) Data analysis. The Division shall analyze the data collected pursuant to this subchapter in order to:

(1) identify the stages of the criminal and juvenile justice systems at which racial bias and disparities are most likely to occur;

(2) organize and synthesize the data in a cohesive and logical manner so that it can be best presented and understood; and

(3) present the data to the Racial Justice Statistics Advisory Council as required under this subchapter.

(c) Data governance policy. The Division shall develop and adopt a data governance policy and shall establish:

(1) a system or systems to standardize the collection and retention of the data collected pursuant to this subchapter; and

(2) methods to permit sharing and communication of the data between the State agencies, local agencies, and external researchers, including the use of data sharing agreements.

(d) Data collection. The Division shall recommend to State and local agencies evidence-based practices and standards for the collection of racial justice data.

(e) Publicly available data.

(1) The Division shall maintain a public-facing website and dashboard that maximizes the transparency of the Division's work and ensures the ability of the public and historically impacted communities to review and understand the data collected by the Division and its analyses.

(2) The Division shall develop public use data files.

§ 5014. RACIAL JUSTICE STATISTICS ADVISORY COUNCIL

(a) Creation. The Racial Justice Statistics Advisory Council is established within the Office of Racial Equity to serve in an advisory capacity to the Division of Racial Justice Statistics. The Council shall be organized and have the duties and responsibilities as provided in this section. The Council shall have the administrative, legal, and technical support of the Agency of Administration.

(b) Membership.

(1) Appointments. The Council shall consist of seven members, as follows:

(A) an individual with substantive expertise in community-based research on racial equity, to be appointed by the Governor; and

(B)(i) six individuals who have experience with or knowledge about one or more of the following situations:

(I) facing eviction;

(II) violence, discrimination, or criminal conduct, including law enforcement misconduct;

(III) moving to Vermont as an immigrant or refugee;

(IV) effects of racial disparities and discipline policies within the educational system; or

(V) participation in treatment programs addressing mental health, substance use disorder, and reentry programs; and

(ii) appointments made pursuant to this subdivision (B) shall be made by the following entities, each of which shall appoint one member: NAACP, Vermont Racial Justice Alliance, Migrant Justice, AALV Inc., Vermont Commission on Native American Affairs, and Outright Vermont.

(2) Qualifications. Members shall be drawn from diverse backgrounds to represent the interests of communities of color and other historically disadvantaged communities throughout the State and, to the extent possible, have experience working to implement racial justice reform and represent geographically diverse areas of the State.

(3) Terms. The term of each member shall be four years. As terms of currently serving members expire, appointments of successors shall be in accord with the provisions of this section. Appointments of members to fill vacancies or expired terms shall be made by the authority that made the initial appointment to the vacated or expired term. Members shall serve until their

successors are appointed. Members shall serve not more than two consecutive terms in any capacity.

(4) Chair and terms. Members of the Council shall elect by majority vote the Chair of the Council. Members of the Council shall be appointed on or before November 1, 2022 in order to prepare as they deem necessary for the establishment of the Council, including the election of the Chair of the Council. Terms of members shall officially begin on January 1, 2023.

(c) Duties. The Council shall have the following duties and responsibilities:

(1) work with and assist the Director or designee to implement the requirements of this subchapter;

(2) advise the Director to ensure ongoing compliance with the purpose of this subchapter;

(3) evaluate the data and analyses received from the Division and make recommendations to the Division as a result of the evaluations;

(4) report monthly to on its findings and recommendations regarding the work of the Division to the Racial Disparities in the Criminal and Juvenile Justice Systems Advisory Panel; and

(5) on or before January 15, 2023 and annually thereafter, report to the House and Senate Committees on Judiciary and on Government Operations on:

(A) its findings regarding systemic racial bias and disparities within the criminal and juvenile justice systems based upon the data and analyses the Council receives from the Division pursuant to subdivision 5012(a)(7) of this subchapter; and

(B) a status report on progress made and recommendations for further action, including legislative proposals, to address systemic racial bias and disparities within the criminal and juvenile justice systems.

(d) Meetings. The Council shall meet monthly.

(e) Compensation. Each member of the Council shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

(f) This section shall be repealed on June 30, 2027.

Sec. 2. RACIAL JUSTICE STATISTICS ADVISORY COUNCIL;  
IMPLEMENTATION

(a) First meeting. The first meeting of the Racial Justice Statistics Advisory Council shall be called by the Director of Racial Equity or designee. All subsequent meetings shall be called by the Chair.

(b) Staggered terms. Notwithstanding Sec. 1 of this act, the initial terms of the Council members beginning on January 1, 2023 shall be as follows:

(1) Members appointed pursuant to 3 V.S.A. § 5014(b)(1)(A) and (b)(1)(B)(i)(I) shall be appointed to a two-year term.

(2) Members appointed pursuant to 3 V.S.A. § 5014(b)(1)(B)(i)(II) and (III) shall be appointed to a three-year term.

(3) Members appointed pursuant to 3 V.S.A. § 5014(b)(1)(B)(i)(IV) and (V) shall be appointed to a four-year term.

Sec. 3. DIVISION OF RACIAL JUSTICE STATISTICS; POSITIONS

The following new positions are created in the Division of Racial Justice Statistics:

(1) one full-time, exempt Division leader, who shall be an Information Technology Data Analyst; and

(2) two full-time, exempt Information Technology Data Analysts, at a level to be determined by the Division.

Sec. 4. APPROPRIATION

The following appropriations shall be made in fiscal year 2023:

(1) \$363,000.00 from the General Fund to the Office of Racial Equity for the Division of Racial Justice Statistics;

(2) \$3,360.00 from the General Fund to the Office of Racial Equity for per diem compensation and reimbursement of expenses under 32 V.S.A. § 1010 for members of the Racial Justice Statistics Advisory Council established by 3 V.S.A. § 5014; and

(3) \$520,300.00 from the General Fund to the Agency of Digital Services to assist and support the Division of Racial Justice Statistics in the Office of Racial Equity.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 18, 2022, pages 742-749)

**Reported favorably by Senator Baruth 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 Judiciary.

(Committee vote: 6-0-1)

**H. 551.**

An act relating to prohibiting racially and religiously restrictive covenants in deeds.

**Reported favorably with recommendation of proposal of amendment by Senator Benning 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. LEGISLATIVE INTENT

While racially and religiously restrictive covenants have been held unenforceable by courts since the U.S. Supreme Court's 1948 decision in *Shelley v. Kramer*, 344 U.S. 1 (1948), no State law currently exists to render these covenants void and to put an end to what was an invidious, historical practice of discrimination in the United States. This practice was responsible, in part, for preventing persons of racial and religious minority backgrounds from fully participating in one of the greatest expansions of wealth and prosperity in this country's history through federally backed mortgages and freely available homeownership. It is the intent of the General Assembly that this act prohibit racially and religiously restrictive covenants from ever being used in Vermont again, regardless of their enforceability, and that it ensure that existing racially and religiously restrictive covenants remain in municipal land records to preserve the historical record and maintain critical evidence of a pervasive system of discrimination that existed in Vermont and throughout the country.

Sec. 2. 27 V.S.A. § 546 is added to read:

§ 546. RACIALLY AND RELIGIOUSLY RESTRICTIVE COVENANTS IN DEEDS PROHIBITED

(a) A deed, mortgage, plat, or other recorded device recorded on or after July 1, 2022 shall not contain a covenant, easement, or any other restrictive or reversionary interest purporting to restrict the ownership or use of real property on the basis of race or religion.

(b) A covenant, easement, or any other restrictive or reversionary interest in a deed, mortgage, plat, or other recorded device purporting to restrict the ownership or use of real property on the basis of race or religion is declared contrary to the public policy of the State of Vermont and shall be void and unenforceable. This subdivision shall apply to a restrictive covenant executed at any time.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 16, 2022, pages 616-619)

**H. 572.**

An act relating to the retirement allowance for interim educators.

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

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

Sec. 1. FY 2023; RESTORATION OF SERVICE; VERMONT STATE TEACHERS' RETIREMENT SYSTEM

(a) Authority. Notwithstanding 16 V.S.A. § 1939 or any other provision of law, in fiscal year 2023, a beneficiary who retired from the System as a Group A or a Group C member may resume service, as that term is defined in 16 V.S.A. § 1931, to serve as an interim school educator for a period not to exceed one school year and receive the beneficiary's retirement allowance for the entire period that service is resumed, provided that:

(1) the beneficiary has received a retirement allowance for six months or more immediately preceding the resumption of service;

(2) the employer of the beneficiary is subject to the assessment set forth in 16 V.S.A. § 1944d on behalf of the beneficiary and remits payment to the Benefits Fund; and

(3) the employer of the beneficiary remits a one-time fee of \$2,500.00 to the State Treasurer for administrative costs associated with the beneficiary resuming service.

(b) Period of service. A person who resumes service under subsection (a) of this section shall not make any contributions to the System during the person's period of service and shall not be entitled to a retirement allowance separately computed for the period that service was resumed.

(c) Employment certification. Each superintendent who hires an interim school educator pursuant to subsection (a) of this section shall certify to the Board that the district exhausted all reasonable options to employ a qualified active educator prior to employing a beneficiary as an interim school educator.

(d) Renewal.

(1) In fiscal years 2024 and 2025, the State Treasurer is authorized to grant not more than two renewals for a one-fiscal-year period to the authority described in subsection (a) of this section. The State Treasurer shall make the determination to renew the authority not earlier than June 1 but not later than June 30 in each fiscal year and shall notify the House and Senate Committees on Government Operations of the determination.

(2) In the event the State Treasurer makes a determination to renew the authority pursuant to subdivision (1) of this subsection, a beneficiary may only resume service during each one-year renewal period if service is performed in a different interim school educator position.

(e) Repeal. This section shall be repealed on June 30, 2026.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 11, 2022, pages 518-519)

## H. 697.

An act relating to eligibility of reserve forestland for enrollment in the Use Value Appraisal Program.

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

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

First: In Sec. 2, 32 V.S.A. chapter 124, section 3752, by striking out subdivision (17) in its entirety and inserting in lieu thereof a new subdivision (17) to read as follows:



(17) “Reserve forestland” means land that is managed for the purpose of attaining old forest values and functions in accordance with minimum acceptable standards for forest management and as approved by the Commissioner of Forests, Parks and Recreation. On parcels of up to 100 acres, 50 percent or more of the enrolled parcel acres shall be composed of significant and sensitive conditions in accordance with the minimum acceptable standards established by the Commissioner. On parcels of 100 acres or more, 30 percent of the enrolled parcel acres shall be composed of significant and sensitive conditions in accordance with the minimum acceptable standards established by the Commissioner.

Second: By striking out Secs. 4, report on enrollment of reserve forestland, and 5, effective dates, in their entireties and inserting in lieu thereof three new sections to be Secs. 4–6 to read as follows:

#### Sec. 4. REPORT ON ENROLLMENT OF RESERVE FORESTLAND

On or before January 15, 2026, the Commissioner of Forests, Parks and Recreation, after consultation with the Director of Property Valuation and Review, shall report to the House Committees on Natural Resources, Fish, and Wildlife and on Ways and Means and the Senate Committees on Natural Resources and Energy and on Finance regarding enrollment of managed forestland under the Use Value Appraisal Program. The report shall include:

(1) a summary of how enrollment of managed forestland in the Use Value Appraisal Program has changed since passage of this act, including whether owners of managed forestland changed the status of enrollment of their land to reserve forestland or ecologically significant treatment areas;

(2) the number of persons enrolling land in the Use Value Appraisal Program as reserve forestland;

(3) any other information that the Commissioner determines is relevant to the ongoing enrollment of reserve forestland in the Use Value Appraisal Program, including any relevant information regarding any impacts to the overall managed forestland category;

(4) recommendations on how to promote the long-term enrollment of land in the reserve forestland category of enrolled land in order to attain old forest conditions or functions and values; and

(5) a recommendation on how to protect or conserve the functions and values of significant and sensitive acres enrolled as reserve forestland when the owner of the land wishes to amend the category or subcategory of enrollment.

Sec. 5. ANNUAL REPORT; DIVISION OF PROPERTY VALUATION  
AND REVIEW

As part of the annual report required under 32 V.S.A. § 3412, the Director of the Division of Property Valuation and Review shall include an assessment of how enrollment of managed forestland in the Use Value Appraisal Program has changed since reserve forestland was approved as eligible managed forestland, including whether owners of managed forestland changed the status of enrollment of their land to reserve forestland or ecologically significant treatment areas.

Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 1 (findings), 3 (report on enrollment of reserve forestland), 3a (implementation), 4 (report on enrollment), and 5 (Division of Property Valuation and Review report) shall take effect on passage.

(b) Sec. 2 (Use Value Appraisal Program) shall take effect on July 1, 2023.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 25, 2022, pages 424-425)

**H. 728.**

An act relating to opioid overdose response services.

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

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:

\* \* \* Operation of Syringe Service Programs \* \* \*

Sec. 1. 18 V.S.A. § 4475 is amended to read:

§ 4475. DEFINITIONS

(a)(1) The term “drug paraphernalia” means all equipment, products, devices, and materials of any kind that are used, or promoted for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a regulated drug in violation of chapter 84 of this title. “Drug paraphernalia” does not include needles and, syringes, or other harm reduction supplies

distributed or possessed as part of an organized community-based needle exchange program.

(2) “Organized community-based needle exchange program” means a program approved by the Commissioner of Health under section 4478 of this title, the purpose of which is to provide access to clean needles and syringes; ~~and which is operated by an AIDS service organization, a substance abuse treatment provider, or a licensed health care provider or facility.~~ Such programs shall be operated in a manner that is consistent with the provisions of 10 V.S.A. chapter 159 (waste management; hazardous waste); and any other applicable laws.

\* \* \*

## Sec. 2. REPORT; NEEDLE EXCHANGE PROGRAM GUIDELINES

On or before January 1, 2023, the Department of Health shall submit a written report to the House Committee on Human Services and to the Senate Committee on Health and Welfare on updates to the needle exchange program operating guidelines required pursuant to 18 V.S.A. § 4478 that reflect current practice and consideration of the feasibility and costs of designating organizations to deliver peer-operated needle exchange.

\* \* \* Prior Authorization of Medication-Assisted Treatment  
Medications for Medicaid Beneficiaries \* \* \*

Sec. 3. 33 V.S.A. § 1901k is added to read:

### § 1901k. MEDICATION-ASSISTED TREATMENT MEDICATIONS

(a) The Agency of Human Services shall provide coverage to Medicaid beneficiaries for medically necessary medication-assisted treatment for opioid use disorder when prescribed by a health care professional practicing within the scope of the professional’s license and participating in the Medicaid program.

(b) Upon approval of the Drug Utilization Review Board, the Agency shall cover at least one medication in each therapeutic class for methadone, buprenorphine, and naltrexone as listed on Medicaid’s preferred drug list without requiring prior authorization.

## Sec. 4. REPORT; PRIOR AUTHORIZATION; MEDICATION-ASSISTED TREATMENT

(a) On or before December 1, 2022, the Department of Vermont Health Access shall research the following, in consultation with individuals representing diverse professional perspectives, and submit its findings related to prior authorization for medication-assisted treatment to the Drug Utilization

Review Board and Clinical Utilization Review Board for review, consideration, and recommendations:

(1) the quantity limits and preferred medications for buprenorphine products;

(2) the feasibility and costs for adding mono-buprenorphine products as preferred medications and the current process for verifying adverse effects;

(3) how other states' Medicaid programs address prior authorization for medication-assisted treatment, including the 60-day deferral of prior authorization implemented by Oregon's Medicaid program;

(4) the appropriateness and feasibility of removing annual renewal of prior authorization;

(5) the appropriateness of creating parity between hub-and-spoke providers with regard to medication-assisted treatment quantity limits; and

(6) creating an automatic emergency 72-hour pharmacy override default.

(b) Prior to providing a recommendation to the Department, the Drug Utilization Review Board and the Clinical Utilization Review Board shall include as an agenda item at their respective meetings the Department's findings related to prior authorization required pursuant to subsection (a) of this section.

(c) On or before January 15, 2023, the Department shall submit a written report containing both the Department's initial research and findings and the Drug Utilization Review Board and the Clinical Utilization Review Board's recommendations pursuant to subsection (a) of this section to the House Committee on Human Services and to the Senate Committee on Health and Welfare.

Sec. 5. [Deleted.]

Sec. 6. [Deleted.]

Sec. 7. REPORTS; PRIOR AUTHORIZATION FOR MEDICATION-ASSISTED TREATMENT; MEDICAID

On or before February 1, 2023, 2024, and 2025, the Department of Vermont Health Access shall report to the House Committees on Health Care and on Human Services and to the Senate Committee on Health and Welfare regarding prior authorization processes for medication-assisted treatment in Vermont's Medicaid program during the previous calendar year, including:

(1) which medications required prior authorization;

(2) the reason for initiating prior authorization;

(3) how many prior authorization requests the Department received and, of these, how many were approved and denied and the reason for approval or denial;

(4) the average and longest length of time the Department took to process a prior authorization request; and

(5) how many prior authorization appeals the Department received and, of these, how many were approved and denied and the reason for approval or denial.

\* \* \* Overdose Prevention Site Working Group \* \* \*

#### Sec. 8. OVERDOSE PREVENTION SITE WORKING GROUP

(a) Creation. In recognition of the rapid increase in overdose deaths across the State, with a record number of opioid-related deaths in 2021, there is created the Overdose Prevention Site Working Group to identify the feasibility and liability of implementing overdose prevention sites in Vermont. The Working Group shall review the findings from previously completed reports on this topic and current efforts to examine and implement an overdose prevention site.

(b) Membership. The Working Group shall be composed of the following members:

(1) the Commissioner of Health or designee;

(2) the Commissioner of Public Safety or designee;

(3) a representative, appointed by the State's Attorneys Offices;

(4) two representatives, appointed by the Vermont League of Cities and Towns, from different regions of the State;

(5) two individuals with lived experience of opioid use disorder, including at least one of whom is in recovery; one member appointed by the Howard Center's Safe Recovery program; and one member appointed by the Vermont Association of Mental Health and Addiction Recovery;

(6) the Program Director from the Consortium on Substance Use;

(7) the Program Director from the Howard Center's Safe Recovery program;

(8) a primary care prescriber with experience providing medication-assisted treatment within the hub-and-spoke model, appointed by the Clinical Director of Alcohol and Drug Abuse Programs; and

(9) an emergency department physician, appointed by the Vermont Medical Society.

(c) Powers and duties. The Working Group shall:

(1) conduct an inventory of overdose prevention sites nationally;

(2) identify the feasibility, liability, and cost of both publicly funded and privately funded overdose prevention sites;

(3) make recommendations on municipal and local actions necessary to implement overdose prevention sites;

(4) make recommendations on executive and legislative actions necessary to implement overdose prevention sites, if any; and

(5) develop an actionable plan for the design, facility fit-up, and implementation of one or more overdose prevention sites in Vermont.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Department of Health.

(e) Report. On or before January 15, 2023, the Working Group shall submit a written report to the House Committee on Human Services and the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Commissioner of Health or designee shall call the first meeting of the Working Group to occur on or before July 15, 2022.

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

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

(4) The Working Group shall cease to exist on January 15, 2023.

(g) Compensation and reimbursement. Members of the Working Group shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than eight meetings. These payments shall be made from monies appropriated to the Department of Health.

(h) As used in this section, “overdose prevention site” means a facility where individuals can use previously acquired regulated drugs as defined in 18 V.S.A. § 4201.

\* \* \* Program Presentations \* \* \*

Sec. 9. MOBILE MEDICATION-ASSISTED TREATMENT

On or before February 15, 2023, the designated agencies operating mobile medication-assisted treatment services shall present information regarding their services to the House Committee on Human Services and to the Senate Committee on Health and Welfare. The Department of Health's Division of Alcohol and Drug Abuse Programs shall also present a summary of its use of federal funds for mobile medication-assisted treatment services and an assessment as to the efficacy of mobile medication-assisted treatment services at preventing overdose deaths.

Sec. 10. SUBSTANCE USE SUPPORT FOR JUSTICE INVOLVED VERMONTERS

The Departments of Health and of Corrections shall continue existing efforts to support access to medication-assisted treatment services to individuals in the custody of the Department of Corrections and those individuals transitioning out of the custody of the Department of Corrections. On or before February 15, 2023, the Departments shall jointly present to the House Committees on Corrections and Institutions and on Human Services and to the Senate Committees on Health and Welfare and on Judiciary information:

- (1) summarizing their use of federal funds for this purpose; and
- (2) regarding the provision of medication-assisted treatment services to justice-involved individuals.

Sec. 11. OVERDOSE EMERGENCY RESPONSE SUPPORT

The Agency of Human Services shall continue existing efforts to provide or facilitate connections to substance use treatment, recovery, or harm reduction services at the time of an emergency response to an overdose. On or before February 15, 2023, the Agency shall present information to the House Committee on Human Services and to the Senate Committee on Health and Welfare summarizing the use of federal funds and status of this work.

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

Sec. 12. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

(Committee vote: 4-1-0)

(For House amendments, see House Journal for March 24, 2022, pages 952-953)

**Reported favorably by Senator Westman 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: 6-0-1)

**House Proposals of Amendment**

**S. 210**

An act relating to rental housing health and safety and affordable housing.

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:

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

Sec. 1. 20 V.S.A. chapter 172 is added to read:

CHAPTER 172. RENTAL HOUSING HEALTH AND SAFETY;  
INSPECTION; REGISTRATION

§ 2676. DEFINITION

As used in this chapter, “rental housing” means:

(1) a “premises” as defined in 9 V.S.A. § 4451 that is subject to 9 V.S.A. chapter 137 (residential rental agreements); and

(2) a “short-term rental” as defined in 18 V.S.A. § 4301 and subject to 18 V.S.A. chapter 85, subchapter 7.

§ 2677. RENTAL HOUSING; RULES; INSPECTIONS; PENALTY

(a) Rules. The Commissioner of Public Safety may adopt rules to prescribe standards for the health, safety, sanitation, and fitness for habitation of rental housing that the Commissioner determines are necessary to protect the public, property owners, and property against harm.

(b) Inspections.

(1) After adopting rules pursuant to subsection (a) of this section, the Commissioner shall design and implement a complaint-driven system to conduct inspections of rental housing.

(2) When conducting an inspection, 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; and

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

(c) Penalties. If the person responsible for a violation does not comply with the requirements and timelines specified in an inspection report issued pursuant to subsection (b) of this section, the Commissioner may impose an administrative penalty that is reasonably related to the severity of the violation, not to exceed \$1,000.00 per violation.

#### § 2678. 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 shall pay to the Department of Housing and Community Development an annual registration fee of \$35.00 per unit and provide the following information:

(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) the location of the unit;

(4) the year built;

(5) the type of rental unit;

(6) the number of units in the building;

(7) the school property account number;

(8) the accessibility of the unit; and

(9) any other information the Department deems appropriate.

(b) Exceptions.

(1) Unit registered with another program.

(A) The registration requirement imposed in subsection (a) 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 (a) of this section.

(B) The fee requirement imposed in subsection (a) 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 (a) of this section and for which program the owner is required to pay a registration fee.

(2) Mobile homes.

(A) The registration requirement imposed in subsection (a) 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 subsection (a) of this section and pay a fee equal to the fee required, 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 home-sharing program; and

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

(4) Licensed lodging establishment. The registration and fee requirements imposed in subsection (a) of this section do not apply to a lodging establishment, as defined in 18 V.S.A. § 4301, that is required to be licensed by the Department of Health.

(5) Units accessory to an owner-occupied residence. The registration and fee requirements imposed in subsection (a) of this section do not apply to a property if:

(A) the property has four or fewer units; and

(B) the owner of the property occupies one of the units as a primary residence.

(6) Nonwinterized, seasonal units. The registration and fee requirements imposed in subsection (a) of this section do not apply to a seasonal unit that is unheated and unavailable for rent during the winter months.

(7) Units rented for fewer than 90 days. The registration and fee requirements imposed in subsection (a) of this section do not apply to a unit that is rented for fewer than 90 days per calendar year.

(8) 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) Administration.

(1) The Department of Housing and Community Development shall maintain the registry of rental housing data in coordination with the Department of Public Safety, the Department of Health, the Enhanced 911 Board, and the Department of Taxes.

(2) Upon request, 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 its registry shall provide to the Department of Housing and Community Development the data for each unit that is required pursuant to subsection (a) of this section.

(3)(A) 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).

(B) The Department:

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

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

(iii) shall require, as a condition of receiving data collected pursuant to this section, that a person to whom the Department discloses the data takes steps necessary to protect the privacy of persons whom the data concerns and to prevent further disclosure.

(d) Rental Housing Safety Special Fund.

(1) The Rental Housing Safety Special Fund is created pursuant to 32 V.S.A. chapter 7, subchapter 5.

(2) The Department shall maintain the fees collected pursuant to this section in the Fund, the proceeds of which the Department shall use:

(A) to hire authorized staff to administer the registry and registration requirements imposed in this section; and

(B) to provide funding to the Department of Public Safety to hire authorized staff to conduct inspections and regulate rental housing pursuant to section 2677 of this title.

\* \* \* Penalty for Failure to Register \* \* \*

Sec. 2. 20 V.S.A. § 2678(e) is added to read:

(e) Failure to register; penalty. The Department of Housing and Community Development 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. 3. REPEAL

20 V.S.A. § 2678(b)(8) (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 172.

(b) The Department may hire the Inspectors authorized by this section with funds appropriated for that purpose and to the extent additional funds become available from the Rental Housing Safety Special Fund created and maintained pursuant to 20 V.S.A. § 2678(d).

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 design and implement the registry created in, and to administer and enforce the registry requirements of, 20 V.S.A. § 2678.

(b) The Department may hire staff authorized by this section with funds appropriated for that purpose and to the extent additional funds become available from the Rental Housing Safety Special Fund created and maintained pursuant to 20 V.S.A. § 2678(d).

\* \* \* 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 Department of Public Safety in inspecting rental housing pursuant to 20 V.S.A. chapter 172, 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 § 2677(b)(2).

(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.~~

~~(e) 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. § 2677, 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. § 2677:

(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 172, 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 IMPROVEMENT 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 Improvement 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 IMPROVEMENT PROGRAM

(a) Creation of program.

(1) The Department of Housing and Community Development shall design and implement a Vermont Rental Housing Improvement 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.

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

(B) The unit will be newly created on a lot with an existing structure.

(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 \$50,000.00 per unit. In determining the amount of a grant or loan, a housing organization shall consider the number of bedrooms in the unit and whether the unit is being rehabilitated or newly created.

(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 quarterly 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 or actively working with an immigrant or refugee resettlement program.

(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, 2023, the Department of Housing and Community Development shall report to the General Assembly concerning the design, implementation, and outcomes of the Vermont Housing Improvement Program, including findings and any recommendations related to the amount of grant awards.

#### Sec. 11. APPROPRIATIONS

(a) Purpose. The purpose of the appropriations in this section are:

(1) to respond to the far-reaching public health and negative economic impacts of the COVID-19 pandemic; and

(2) to ensure that Vermonters and Vermont communities have an adequate supply of safe, affordable housing.

(b) In fiscal year 2022, the amount of \$20,400,000.00 is appropriated from the America Rescue Plan Act (ARPA) – Coronavirus State Fiscal Recovery Funds as follows:

(1) \$100,000.00 to the Department of Public Safety as one-time startup funding to hire one or more Inspector positions authorized pursuant to Sec. 4 of this act.

(2) \$300,000.00 to the Department of Housing and Community Development as one-time startup funding to hire one or more of the positions authorized pursuant to Sec. 5 of this act.

(3) \$20,000,000.00 to the Department of Housing and Community Development to implement the Vermont Rental Housing Improvement Program created in 10 V.S.A. § 699. The Department may use not more than \$1,000,000.00 of the appropriation to facilitate a statewide education and navigation system to assist homeowners with designing, financing, permitting, and constructing accessory dwelling units.

Sec. 12. 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; rental housing registration).

(2) Sec. 4 (DPS positions).

(3) Sec. 5 (DHCD positions).

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

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

(6) Secs. 8–10 (Vermont Rental Housing Improvement Program).

(8) Sec. 11 (FY 2022 ARPA appropriations).

(b) Sec. 2 (administrative penalty for failure to register rental housing) shall take effect on July 1, 2023.

(c) Sec. 3 (repeal of registration exemption for housing provided as a benefit of farm employment) shall take effect on July 1, 2025.

**S. 280**

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

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

First: In Sec. 2, 23 V.S.A. § 1209a, in subdivision (b)(1)(A)(ii), by inserting “or a regulated drug” following “other than alcohol”

Second: By striking out Sec. 10, effective dates, and its corresponding reader assistance heading in their entirety and inserting in lieu thereof the following:

\* \* \* Transportation Network Companies (TNC);  
Preemption; Sunset Extension; Report \* \* \*

Sec. 10. 23 V.S.A. § 754 is amended to read:

§ 754. PREEMPTION; SAVINGS CLAUSE

(a) Municipal ordinances, resolutions, or bylaws regulating transportation network companies are preempted to the extent they are inconsistent with the provisions of this chapter.

(b) Subsection (a) of this section shall not apply to a municipal ordinance, resolution, or bylaw regulating transportation network companies adopted by a municipality with a population of more than 35,000 residents based on the

2010 census and in effect on July 1, 2017. This subsection shall be repealed on July 1, ~~2022~~ 2025.

#### Sec. 11. TRANSPORTATION NETWORK COMPANIES (TNC) REPORT

(a) The Commissioner of Motor Vehicles, in consultation with the City of Burlington; the Vermont League of Cities and Towns; and transportation network companies (TNCs), as defined in 23 V.S.A. § 750(a)(4), doing business in Vermont, shall file a written report with recommendations on how, if at all, to amend 23 V.S.A. § 754 and, as applicable, 23 V.S.A. chapter 10 with the House Committees on Commerce and Economic Development, on Judiciary, and on Transportation and the Senate Committees on Finance, on Judiciary, and on Transportation on or before March 15, 2024.

(b) In preparing the report, the Commissioner of Motor Vehicles shall review the following related to TNCs:

(1) changes in ridership and consumer practices for calendar years 2018 to 2023, including market penetration across the State;

(2) the results of and process for audits conducted on a State or municipal level;

(3) an analysis prepared by the City of Burlington and TNCs of the differences between the State's regulatory scheme and the City of Burlington's regulatory scheme, including whether allowing those inconsistencies is or will be detrimental or beneficial to any of the following: the State, the traveling public, TNCs, the City of Burlington, or other municipalities; and

(4) significant regulatory changes on a national level.

\* \* \* Gross Weight Limits on Highways; Permit Portal; Report \* \* \*

#### Sec. 12. REPORT ON INCREASING GROSS WEIGHT LIMITS ON HIGHWAYS THROUGH SPECIAL ANNUAL PERMIT AND STATUS OF PERMIT PORTAL

(a) The Secretary of Transportation or designee, in collaboration with the Commissioner of Forests, Parks and Recreation or designee, the Executive Director of the Vermont League of Cities and Towns or designee, and the President of the Vermont Forest Products Association or designee and with the assistance of the Commissioner of Motor Vehicles or designee, shall examine adding one or more additional special annual permits to 23 V.S.A. § 1392 to allow for the operation of motor vehicles at a gross vehicle weight over 99,000 pounds and shall file a written report on the examination and any recommendations with the House and Senate Committees on Transportation on or before January 15, 2023.

(b) At a minimum, the examination shall address:

(1) allowing for a truck trailer combination or truck tractor, semi-trailer combination transporting cargo of legal dimensions that can be separated into units of legal weight without affecting the physical integrity of the load to bear a maximum of 107,000 pounds on six axles or a maximum of 117,000 pounds on seven axles by special annual permit;

(2) limitations for any additional special annual gross vehicle weight permits based on highway type, including limited access State highway, non-limited access State highway, class 1 town highway, and class 2 town highway;

(3) limitations for any additional special annual gross vehicle weight permits based on axle spacing and axle-weight provisions;

(4) reciprocity treatment for foreign trucks from a state or province that recognizes Vermont vehicles permitted at increased gross weights;

(5) permit fees for any additional special annual gross vehicle weight permits;

(6) additional penalties, including civil penalties and permit revocation, for gross vehicle weight violations; and

(7) impacts of any additional special annual gross vehicle permits on the forest economy and on the management and forest cover of Vermont's landscape.

(c) The Secretary of Transportation or designee, in consultation with the Commissioner of Motor Vehicles or designee, shall also include an update on the development and implementation of the centralized online permitting system that the Commissioner of Motor Vehicles was authorized to initiate the design and development of pursuant to 2021 Acts and Resolves No. 149, Sec. 26(a) in the report required under subsection (a) of this section.

\* \* \* Distracted Driving; Report \* \* \*

### Sec. 13. DISTRACTED DRIVING; REPORT

(a) Findings. The General Assembly finds that:

(1) Distracted driving is any activity that diverts attention from driving, including talking or texting on a portable electronic device.

(2) Sending or reading a text could take an individual's eyes off the road for five seconds or more. At 55 miles per hour, that is like an operator driving the length of an entire football field with closed eyes.

(3) In 2020, 113 individuals were convicted under 23 V.S.A. § 1095a, 1095b, or 1099 (Vermont statutes that prohibit a non-commercial driver's license holder from using a portable electronic device or texting while operating a motor vehicle).

(4) In 2020, 3,142 individuals were killed by distracted driving in the United States.

(b) Recommendations.

(1) The Vermont State Highway Safety Office, in consultation with the Departments of Motor Vehicles and of Public Safety, the Vermont Sheriffs' Association, the Vermont League of Cities and Towns, the Vermont Department of State's Attorneys and Sheriffs, the Vermont Association of Court Diversion and Pretrial Services, and the Vermont Judiciary, shall file written recommendations on how, if at all, the State should modify its approach to the education, enforcement, and conviction of the non-commercial driver's license distracted driving violations under 23 V.S.A. §§ 1095a, 1095b, and 1099 with the House and Senate Committees on Judiciary and on Transportation on or before January 15, 2023.

(2) As part of making any recommendations, the Vermont State Highway Safety Office shall review what is and what is not working to minimize distracted driving in Vermont and other states, especially amongst operators under 18 years of age, and examine:

(A) the use of monetary penalties, points, suspensions, revocations, and recalls, including escalations based on the number and location of distracted driving violations;

(B) the use of diversion programs and other mandated education; and

(C) how to balance education, enforcement, and conviction.

\* \* \* Idling; Public Outreach \* \* \*

Sec. 14. IDLING; PUBLIC OUTREACH CAMPAIGN

(a) The Department of Environmental Conservation, Air Quality and Climate Division, in consultation with the Departments of Motor Vehicles and of Public Safety, shall implement a public outreach campaign on idling that, at a minimum, addresses that:

(1) in most cases, idling violates 23 V.S.A. § 1110;

(2) unnecessary idling harms human health, pollutes the air, wastes fuel and money, and causes excess engine wear;



(3) based on estimates, if every motor vehicle in Vermont reduced unnecessary idling by just one minute per day, over the course of a year Vermonters would save over 1,000,000 gallons of fuel and over \$2,000,000.00 in fuel costs, and Vermont would reduce CO2 emissions by more than 10,000 metric tons; and

(4) while individual actions may be small, the cumulative impacts of idling are large.

(b) The public outreach campaign shall disseminate information on idling through e-mail; a dedicated web page on idling that is linked through the websites for the Agency of Natural Resources and the Departments of Environmental Conservation, of Motor Vehicles, and of Public Safety; social media platforms; community posting websites; radio; television; and printed written materials.

\* \* \* General Statement of Policy; Transportation Planning \* \* \*

Sec. 15. 19 V.S.A. § 10b is amended to read:

§ 10b. STATEMENT OF POLICY; GENERAL

(a) The Agency shall be the responsible agency of the State for the development of transportation policy. It shall develop a mission statement to reflect:

(1) that State transportation policy shall be to encompass, coordinate, and integrate all modes of transportation and to consider “complete streets” principles, which are principles of safety and accommodation of all transportation system users, regardless of age, ability, or modal preference; and

(2) the need for transportation projects that will improve the State’s economic infrastructure, as well as the use of resources in efficient, coordinated, integrated, cost-effective, and environmentally sound ways, and that will be consistent with the recommendations of the Comprehensive Energy Plan (CEP) issued under 30 V.S.A. § 202b, the recommendations of the Climate Action Plan (CAP) issued under 10 V.S.A. § 592, and any rules adopted in accordance with 10 V.S.A. § 593;

(3) the need for the Agency to lead, assist, and partner in the transformation of the transportation sector to meet the emissions reduction requirements of the Global Warming Solutions Act, codified at 10 V.S.A. § 578, and ensure that there is an environmentally clean, efficient, multimodal system that will have economic, environmental, equity, and public health benefits for all Vermonters; and

(4) the importance of transportation infrastructure resilience and strategies to construct or retrofit, or both, transportation infrastructure to prepare for and adapt to changes in the climate, add redundancy and efficiency to the transportation network, and use maintenance and operational strategies to address transportation disruptions.

(b) The Agency shall coordinate planning and education efforts with those of the Vermont Climate Change Oversight Committee Council, established under 10 V.S.A. § 591, and those of local and regional planning entities to:

(1) ~~to~~ ensure that the transportation system as a whole is integrated, that access to the transportation system as a whole is integrated, and that statewide, local, and regional conservation and efficiency opportunities and practices are integrated; and

(2) ~~to~~ support employer-led or local or regional government-led conservation, efficiency, rideshare, and bicycle programs and other innovative transportation advances, especially employer-based incentives.

(c) In developing the State's annual Transportation Program, the Agency shall, consistent with the planning goals listed in 24 V.S.A. § 4302 ~~as amended by 1988 Acts and Resolves No. 200~~ and with appropriate consideration to local, regional, and State agency plans:

(1) Develop or incorporate designs that provide integrated, safe, and efficient transportation and that are consistent with the recommendations of the CEP and the CAP.

\* \* \*

Sec. 16. 19 V.S.A. § 10i is amended to read:

§ 10i. TRANSPORTATION PLANNING PROCESS

(a) Long-range systems plan. The Agency shall establish and implement a planning process through the adoption of a long-range ~~multi-modal~~ multimodal systems plan integrating all modes of transportation. The long-range ~~multi-modal~~ multimodal systems plan shall be based upon Agency transportation policy developed under section 10b of this title;<sub>;</sub> other policies approved by the General Assembly;<sub>;</sub> Agency goals, mission, and objectives;<sub>;</sub> and demographic and travel forecasts, design standards, performance criteria, and funding availability. The long-range systems plan shall be developed with participation of the public and local and regional governmental entities and pursuant to the planning goals and processes set forth in 1988 Acts and Resolves No. 200. The plan shall be consistent with the Comprehensive Energy Plan (CEP) issued under 30 V.S.A. § 202b and the Climate Action Plan (CAP) issued under 10 V.S.A. § 592.

\* \* \*

(c) Transportation Program. The Transportation Program shall be developed in a fiscally responsible manner to accomplish the following objectives:

(1) managing, maintaining, and improving the State's existing transportation infrastructure to provide capacity, safety, and flexibility, and resiliency in the most cost-effective and efficient manner;

(2) developing an integrated transportation system that provides Vermonters with transportation choices;

(3) strengthening the economy, protecting the quality of the natural environment, and improving Vermonters' quality of life; and

(4) achieving the recommendations of the CEP and the CAP; and

(5) transforming the transportation sector to meet the State's emissions reduction requirements and ensure that there is an environmentally clean, efficient, multimodal system that will have economic, environmental, equity, and public health benefits for all Vermonters.

\* \* \*

(f) Emissions modeling.

(1) The Agency of Natural Resources shall coordinate with the Agency of Transportation to consider and incorporate relevant elements of the proposed Transportation Program and the effectiveness of those elements in reducing greenhouse gas emissions when developing and updating the Tracking and Measuring Progress Tool pursuant to 10 V.S.A. § 591(b)(3).

(2) The following shall be included in the reports required pursuant to section 10g of this chapter:

(A) the portion of the Tracking and Measuring Progress Tool related to the Transportation Program;

(B) a qualitative estimation of how effective the relevant elements of the proposed Transportation Program for the upcoming fiscal year will be in reducing greenhouse gas emissions and a quantitative estimation, based on the emission projections published in the Greenhouse Gas Inventory, if available, of how much more the greenhouse gas emissions from the transportation sector need to be reduced for the State to achieve its emissions reductions requirements; and

(C) a strategy and plan for how to reduce the greenhouse gas emissions from the transportation sector to achieve the recommendations in the CEP and the CAP during fiscal years beyond the upcoming fiscal year, with the expectation that the strategy and plan shall be used in the Agency of Transportation's ongoing planning.

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

#### Sec. 17. EFFECTIVE DATES

(a) This section and Secs. 1 (new motor vehicle arbitration; 9 V.S.A. § 4173(d)), 3 (current Total Abstinence Program participants), 8 and 9 (abandoned vehicles; 23 V.S.A. §§ 2151 and 2153(a)), and 10 (transportation network companies regulation preemption; 23 V.S.A. § 754(b)) shall take effect on passage.

(b) Sec. 2 (Total Abstinence Program; 23 V.S.A. § 1209a) shall take effect on passage and apply to all individuals participating in or in the process of applying to participate in the Total Abstinence Program as of the effective date of this section without regard to when the individual's license was reinstated under the Total Abstinence Program.

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

#### **S. 286**

An act relating to amending various public pension and other postemployment benefits

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:

\* \* \* Intent \* \* \*

Sec. 1. 32 V.S.A. § 311a is added to read:

§ 311a. PUBLIC RETIREMENT BENEFITS; UNFUNDED LIABILITY; FINDINGS; PURPOSE; INTENT

(a) Findings. The General Assembly finds:

(1) The actuarially determined employer contribution (ADEC) for the Vermont State Employees' Retirement System (VSERS) has increased by an annual growth rate of 12.1 percent between FY 2009 and FY 2023, and the funded ratio of the VSERS has declined from 94.1 percent from FY 2008 to 67.6 percent by year-end FY 2021.

(2) The ADEC for the Vermont State Teachers' Retirement System (VSTRS) has increased by an annual growth rate of 13 percent between

FY 2009 and FY 2023, and the funded ratio of the VSTRS has declined from 80.9 percent from FY 2008 to 52.9 percent by year-end FY 2021.

(3) The General Assembly has appropriated sufficient funds to fully pay the ADEC for both VSERS and VSTRS at the recommended amounts since FY 2007 and throughout the current amortization period.

(4) Since FY 2009, the accrued liabilities of VSERS and VSTRS have grown faster than the assets of each plan, resulting in a gap between the expected payout of future benefits and the assets VSERS and VSTRS have to pay out those benefits to retired State employees and teachers. This gap is also known as the unfunded liabilities for VSERS and VSTRS.

(5) In FY 2015, the General Assembly created the Retired Teachers' Health and Medical Benefits Fund, and health care premiums are paid for on a pay-as-you-go basis from this Fund.

(6) The FY 2022 State budget expense for retiree health care benefits, known as other postemployment benefits (OPEB), for State employees was approximately \$37.2 million and \$35.1 million for teachers.

(7) As of the beginning of FY 2022, the State's unfunded liabilities for health care benefits for retired State employees and teachers is \$2.75 billion.

(b) Purpose. The purpose of this section is to provide economic stability for retired State employees and teachers by maintaining the financial health of VSERS and VSTRS, while also addressing the unfunded liabilities in the State's pension and OPEB plans and the decline in the funded ratios of those retirement systems.

(c) Intent.

(1) It is the intent of the General Assembly to address the unfunded liabilities and decline in funded ratios of VSERS and VSTRS by implementing several measures, including:

(A) continuing the General Assembly's policy since FY 2007 to fully fund the actuarially determined employer contributions rates for the VSERS and VSTRS at the amounts recommended by the respective boards of each retirement system to the General Assembly each year; and

(B) beginning in FY 2024, annually funding an additional payment to the actuarially recommended unfunded liability amortization payments for VSERS and VSTRS that will increase to not more than \$15,000,000.00 each year to each retirement system and remain until the VSERS plan and the VSTRS plan respectively reach a 90 percent funded ratio.

(2) It is also the intent of the General Assembly to prefund other postemployment benefits to create more security and predictability in health care benefits for retired State employees and teachers.

\* \* \* Vermont State Employees' Retirement System \* \* \*

\* \* \* Pension Benefits \* \* \*

Sec. 2. 3 V.S.A. § 455 is amended to read:

§ 455. DEFINITIONS

(a) As used in this subchapter:

\* \* \*

(4) "Average final compensation" means:

(A) For a Group A ~~and a~~ Group F, or Group G member, the average annual earnable compensation of a member during the three consecutive fiscal years beginning July 1 and ending June 30 of creditable service affording the highest average, or during all of the years of creditable service if fewer than three years. If the member's highest three years of earnable compensation are the three years prior to separation of service and the member separates prior to the end of a fiscal year, average final compensation shall be determined by adding:

(i) The actual earnable compensation earned in the fiscal year of separation through the date of separation and the service credit to correspond with the last pay date.

(ii) The earnable compensation and service credit earned in the preceding two fiscal years.

(iii) The remaining service credit that is needed to complete the three full years, which shall be factored from the fiscal year preceding the two fiscal years described in subdivision (ii) of this subdivision (A). The earnable compensation associated with this remaining service credit shall be calculated by multiplying the annual earnable compensation reported by the remaining service credit that is needed.

\* \* \*

(C) For purposes of determining average final compensation for Group A or Group C members, a member who has accumulated unused sick leave at retirement shall be deemed to have worked the full normal working time for ~~his or her~~ the member's position for 50 percent of such leave, at ~~his or her~~ the member's full rate of compensation in effect at the date of ~~his or her~~ the member's retirement. For purposes of determining average final

compensation for Group F or Group G members, unused annual or sick leave, termination bonuses, and any other compensation for service not actually performed shall be excluded. The average final compensation for a State's Attorney and the Defender General shall be determined by the State's Attorney's or the Defender General's highest annual compensation earned during ~~his or her~~ the member's creditable service.

(D) For purposes of determining average final compensation for a member who has accrued service in more than one group plan within the System, the highest consecutive years of earnings shall be based on the formulas set forth in subdivision (A) or (B) of this subdivision (4) using the earnable compensation received while a member of the System.

(E) For Group A, C, ~~or F,~~ or G members who retire on or after July 1, 2012, an increase in compensable hours in any year used to calculate average final compensation that exceeds 120 percent of average compensable hours shall be excluded from that year when calculating average final compensation.

(F) For a Group D member:

(i) Who retires on or before June 30, 2022, the member's final salary.

(ii) Who retires on or after July 1, 2022, but who, on or before June 30, 2022, has five years or more of service as a Supreme Court Justice, a Superior judge, an Environmental judge, a District judge, or a Probate judge, or any combination thereof, and has attained 57 years of age or older, or is a Group D member on or before June 30, 2022 and has 15 years or more of creditable service, the member's final salary.

(iii) Who retires on or after July 1, 2022 and who does not meet the requirements set forth in subdivisions (i) and (ii) of this subdivision (F), the average annual earnable compensation of a member during the two consecutive fiscal years beginning on July 1 and ending on June 30 of creditable service affording the highest such average, or during all of the years in the member's creditable service if fewer than two years. If the member separates prior to the end of a fiscal year, average final compensation shall be determined by adding:

(I) The actual earnable compensation earned in the fiscal year of separation through the date of separation and the service credit to correspond with the last pay date.

(II) The earnable compensation and service credit earned in the preceding fiscal year.

(III) The remaining service credit that is needed to complete the two full years, which shall be factored from the fiscal year preceding the fiscal year described in subdivision (II) of this subdivision (F)(iii). The earnable compensation associated with this remaining service credit shall be calculated by multiplying the annual earnable compensation reported by the remaining service credit that is needed.

\* \* \*

(11) “Member” ~~shall mean~~ means any employee included in the membership of the Retirement System under section 457 of this title.

(A) “Group A members” ~~shall mean~~ means employees classified under subdivision (A) of subdivision (9) of this subsection (a).

(B) [Repealed.]

(C) “Group C members” ~~shall mean~~ means employees classified under subdivision (B) of subdivision (9) of this subsection (a) who become members as of the date of establishment, any person who is first included in the membership of the System on or after July 1, 1998, any person who was a Group B member on June 30, 1998, who was in service on that date, and any person who was a Group B member on June 30, 1998, who was absent from service on that date who returns to service on or after July 1, 1998.

(D) “Group D members” ~~shall mean~~ means Justices of the Supreme Court, Superior judges, district judges, environmental judges, and probate judges.

(E) “Group F member” ~~shall mean~~ means any person who is first included in the membership of the System on or after January 1, 1991, any person who was a Group E member on December 31, 1990, who was in service on that date, and any person who was a Group E member on December 31, 1990, who was absent from service on that date who returns to service on or after January 1, 1991.

(F) “Group G member” means the following employees who are first employed in the positions listed in this subdivision (F) on or after July 1, 2022, or who are members of the System as of June 30, 2022 and make an irrevocable election to prospectively join Group G on or before June 30, 2023, pursuant to the terms set by the Board: facility employees of the Department of Corrections, as Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community, as employees of a facility for justice-involved youth, or as Vermont State Hospital employees or as employees of its successor in interest, who provide direct patient care.



\* \* \*

(13) “Normal retirement date” shall mean means:

(A) with respect to a Group A member, the first day of the calendar month next following (i) attainment of age 65 years of age, and following completion of five years of creditable service for those members hired on or after July 1, 2004, or (ii) attainment of age 62 and completion of 20 years of creditable service, whichever is earlier;

(B) with respect to a Group C member, the first day of the calendar month next following attainment of age 55 years of age, and following completion of five years of creditable service for those members hired on or after July 1, 2004, or completion of 30 years of service, whichever is earlier;

(C) with respect to a Group D member,;

(i) for those members first appointed or elected on or before June 30, 2022, the first day of the calendar month next following attainment of age 62 years of age and completion of five years of creditable service; or

(ii) for those members first appointed or elected on or after July 1, 2022, the first day of the calendar month next following attainment of 65 years of age and completion of five years of creditable service; and

(D) with respect to a Group F member, the first day of the calendar month next following attainment of age 62 years of age, and following completion of five years of creditable service for those members hired on or after July 1, 2004, or completion of 30 years of creditable service, whichever is earlier; and with respect to a Group F member first included in the membership of the system on or after July 1, 2008, the first day of the calendar month next following attainment of age 65 years of age and following completion of five years of creditable service, or attainment of 87 points reflecting a combination of the age of the member and number of years of service, whichever is earlier.

(E) with respect to a Group G member:

(i) for facility employees of the Department of Corrections, Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community, employees of a facility for justice-involved youth, or employees of the Vermont State Hospital or its successor in interest, who provide direct patient care, who were first included in the membership of the System on or before June 30, 2008, who were employed as of June 30, 2022, and who made an irrevocable election to prospectively join Group G on or before July 1, 2023, pursuant to the terms set by the Board, the first day of the calendar month next following

the earlier of (I) 62 years of age and following completion of five years of creditable service, (II) completion of 30 years of creditable service, or (III) 55 years of age and following completion of 20 years of creditable service; or

(ii) for facility employees of the Department of Corrections, Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community, as employees of a facility for justice-involved youth, or employees of the Vermont State Hospital or its successor in interest, who provide direct patient care, who were first included in the membership of the System on or after July 1, 2008, who were employed as of June 30, 2022, and who made an irrevocable election to prospectively join Group G on or before July 1, 2023, pursuant to the terms set by the Board, the first day of the calendar month next following the earlier of (I) 65 years of age and following completion of five years of creditable service, (II) attainment of 87 points reflecting a combination of the age of the member and number of years of service, or (III) 55 years of age and following completion of 20 years of creditable service; or

(iii) for facility employees of the Department of Corrections, Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community, employees of a facility for justice-involved youth, or employees of the Vermont State Hospital or its successor in interest, who provide direct patient care, who first become a Group G member on or after July 1, 2023, the first day of the calendar month next following attainment of 55 years of age and following completion of 20 years of creditable service.

\* \* \*

Sec. 3. 3 V.S.A. § 457 is amended to read:

§ 457. MEMBERS

\* \* \*

(d) Should any Group A, C, D, ~~or F,~~ or G member who has less than five years of creditable service in any period of five consecutive years after last becoming a member be absent from service more than three years or should ~~he or she~~ the member withdraw his or her contributions, or become a beneficiary or die, ~~he or she~~ the member shall thereupon cease to be a member. However, the membership of any employee entering such classes of military or naval service of the United States as may be approved by resolution of the Retirement Board, shall be continued during such military or naval service if ~~he or she~~ the member does not withdraw his or her contributions, but no such member shall be considered in the service of the State for the purpose of the

Retirement System during such military or naval service, except as provided in subsection 458(e) of this title.

\* \* \*

Sec. 4. 3 V.S.A. § 458 is amended to read:

§ 458. CREDITABLE SERVICE; MILITARY SERVICE

\* \* \*

(b) All service of a ~~group~~ Group A, ~~group~~ Group C, ~~group~~ Group D, ~~or~~ ~~group~~ Group F, or Group G member since ~~he or she~~ the member last became a member on account of which contributions are made shall be credited as membership service.

\* \* \*

Sec. 5. 3 V.S.A. § 459 is amended to read:

§ 459. NORMAL AND EARLY RETIREMENT

(a) Normal retirement.

(1) Group A, ~~group~~ Group D, and ~~group~~ Group F, and Group G members. Any ~~group~~ Group A, ~~group~~ Group D, ~~or~~ ~~group~~ Group F, or Group G member who has reached ~~his or her~~ the member's normal retirement date may retire on a normal retirement allowance on the first day of any month after ~~his or her~~ the member's separation from service by filing an application in the manner outlined in subdivision (3) of this subsection.

(2) Group C members. Any ~~group~~ Group C member who is an officer or employee of the Department of Public Safety assigned to police and law enforcement duties, including the Commissioner of Public Safety appointed before July 1, 2000, and who has reached his or her normal retirement date may retire on a normal retirement allowance, on the first day of any month after ~~he or she~~ the member may have separated from service, by filing an application in the manner outlined in subdivision (3) of this subsection. Any ~~group~~ Group C member in service shall be retired on a normal retirement allowance on the first day of the calendar month next following attainment of ~~age 55~~ 57 years of age. Notwithstanding, it is provided that any such member who is an official appointed for a term of years may remain in service until the end of ~~his or her~~ the member's term of office or any extension thereto, resulting from reappointment.

\* \* \*

(b) Normal retirement allowance.

(1) Upon normal retirement, a ~~group~~ Group A member shall receive a normal retirement allowance ~~which that~~ shall be equal to 50 percent of ~~his or her~~ the member's average final compensation; provided, however, that if the member has not completed 30 years of creditable service at retirement, or, if earlier, the date of attainment of such age as may be applicable under the provisions of subdivision (a)(4) of this section, ~~his or her~~ the member's allowance shall be multiplied by the ratio that the number of ~~his or her~~ the member's years of creditable service at retirement, or such earlier date, bears to 30.

(2)(A) Upon normal retirement, a ~~group~~ Group C member shall receive a normal retirement allowance ~~which that~~ shall be equal to 50 percent of ~~his or her~~ the member's average final compensation; provided, however, that if the member has not completed 20 years of creditable service at retirement, or, if earlier, the date of attainment of such age as may be applicable under the provisions of subdivision (a)(4) of this section, the member's allowance shall be multiplied by the ratio that the number of ~~his or her~~ the member's years of creditable service at retirement, or such earlier date, bears to 20.

(B) For a Group C member, for each year of service that is completed on or after July 1, 2022 after attaining the later of 50 years of age or completing 20 years of service, a member's maximum normal retirement allowance shall increase by an amount equal to one and one-half percent of the member's average final compensation.

(3)(A) ~~Group D members who are Justices of the Supreme Court, Superior judges, Environmental judges, and District judges; additional retirement allowance. Justices of the Supreme Court, Superior judges, Environmental judges, and District judges, upon normal retirement under this section, shall receive a normal retirement allowance equal to one and two-thirds percent of the member's average final compensation times the years of Group D membership service up to 12 years. Group D members shall receive an additional retirement allowance according to years of service as a Supreme Court Justice, a Superior judge, an Environmental judge, or a District judge, or a Probate judge, or any combination thereof, as follows:~~

(i) After 12 years of service, an additional retirement allowance of an amount ~~which that~~, together with the normal service retirement allowance ~~for the first 12 years~~, will make the total equal to two-fifths of their ~~salary at retirement~~ average final compensation.

(ii) For each year of service in excess of 12 years, an amount equal to  $3\frac{1}{3}$  ~~three and one-third~~ percent of their ~~salary at retirement~~ average final compensation shall be added to the retirement allowance as computed in

~~subsection (a) subdivision (i) of this section subdivision (b)(3)(A). However, at no time shall the total retirement allowance exceed their salary at retirement. Such In addition to the normal retirement allowance, such additional retirement allowance shall be treated as the normal retirement allowance for all purposes of the retirement act.~~

~~(B) In order to qualify for the benefits provided by this title each Justice or judge shall have the maximum employee contribution in accordance with the requirements of the State Employees' Retirement System. These provisions shall apply to surviving Justices and judges retired before its enactment, but only from the effective date of its enactment, and not retroactively. The total retirement allowance for Group D members shall be as follows:~~

~~(i) For a Group D member who retires on or before June 30, 2022, the total retirement allowance shall not exceed the member's salary at retirement.~~

~~(ii) For a Group D member who, on or before June 30, 2022, has five years or more of service as a Supreme Court Justice, a Superior judge, an Environmental judge, a District judge, or a Probate judge, or any combination thereof, and has attained 57 years of age or older, or is a Group D member on or before June 30, 2022 and has 15 years or more of creditable service, the total retirement allowance shall not exceed the member's salary at retirement.~~

~~(iii) For a Group D member who retires on or after July 1, 2022, and who does not meet the requirements set forth in subdivision (i) or (ii) of this subdivision (B), the member's total retirement allowance shall not exceed 80 percent of the member's average final compensation.~~

~~(C) For the purposes of this section, years of service as a municipal judge are to be counted as years of service in determining the additional retirement allowance, insofar as they represent years of membership service. [Repealed.]~~

~~(4) Group D members who are Probate judges; additional retirement allowance. Probate judges, having retired under this section, shall be entitled to an additional retirement allowance according to their years in service as follows:~~

~~(A) Upon completion of 12 years of service an amount which with service retirement allowance will equal two-fifths of the salary at retirement.~~

~~(B) For each additional year of service, an amount equal to 3 1/3 percent of the salary at retirement shall be added to the retirement allowance as computed in subsection (a) of this section. Such additional retirement~~

allowance shall be treated as the normal retirement allowance for all purposes of the retirement act. [Repealed.]

\* \* \*

(6)(A) Upon normal retirement pursuant to subdivisions 455(a)(13)(E)(i) and (iii) of this chapter, a group G member shall receive a normal retirement allowance equal to two and one-half of a percent of the member's average final compensation times years of membership service in Group G. The maximum retirement allowance shall be 50 percent of average final compensation.

(B) Upon normal retirement pursuant to subdivision 455(a)(13)(E)(ii) of this chapter, a Group G member shall receive a normal retirement allowance equal to two and one-half of a percent of the member's average final compensation times years of membership service in Group G. The maximum retirement allowance shall be 60 percent of average final compensation.

(c) Early retirement.

\* \* \*

(4) Group G members. Any Group G member who has attained 55 years of age and has completed five years of creditable service may retire on an early retirement allowance.

(d) Early retirement allowance.

\* \* \*

(3) Upon early retirement, a ~~group~~ Group D member shall receive an early retirement allowance ~~which~~ that shall be equal to the normal retirement allowance reduced by one-quarter of one percent for each month the member is under age ~~62~~ the member's normal retirement date at the time of early retirement.

(4)(A) Upon early retirement, a Group G member who was previously a Group F member first included in the membership of the System on or before June 30, 2008, and who elected to transfer into Group G on July 1, 2023 pursuant to the terms set by the Board, shall receive an early retirement allowance that shall be equal to the normal retirement allowance reduced by the lesser of (i) one-half of one percent for each month equal to the difference between the 240 months and the member's months of creditable service, or (ii) an amount that shall be the actuarial equivalent of the normal retirement allowance computed under subsection (b) of this section.

(B) Upon early retirement, a Group G member who was previously a Group F member first included in the membership of the System on or after July 1, 2008, and who elected to transfer into Group G on July 1, 2023 pursuant to the terms set by the Board, shall receive an early retirement allowance that shall be equal to the normal retirement allowance reduced by the lesser of (i) five-ninths of one percent for each month equal to the difference between the 240 months and the member's months of creditable service, or (ii) an amount that shall be the actuarial equivalent of the normal retirement allowance computed under subsection (b) of this section.

(C) Upon early retirement, all Group G members other than those specified in subdivision (d)(4)(A) of this section shall receive an early retirement allowance that shall be equal to the normal retirement allowance reduced by an amount that shall be the actuarial equivalent of the normal retirement allowance computed under subsection (b) of this section.

~~(4)~~(5) Notwithstanding subdivisions (1) and (2) of this subsection, an employee of the Department of Fish and Wildlife assigned to law enforcement duties, an employee of the Military Department assigned to airport firefighting duties, or a ~~group~~ Group C member shall, upon early retirement, receive an early retirement allowance ~~which~~ that shall be equal to ~~his or her~~ the normal retirement allowance computed under subsection (b) of this section.

~~(5)~~(6) Notwithstanding subdivisions (1) and (2) of this subsection, a State's Attorney, the Defender General, or sheriff who has completed 20 years of creditable service, of which 15 years has been as a State's Attorney, the Defender General, or sheriff, shall receive an early retirement allowance equal to the normal retirement allowance, at age 55 years of age, without reductions.

\* \* \*

Sec. 6. 3 V.S.A. § 459a is amended to read:

§ 459a. RESTORATION OF SERVICE

\* \* \*

(b)(1) Upon the subsequent retirement of an employee who once again became a member under subsection (a) of this section, the employee shall once again become a beneficiary whose former retirement allowance shall be restored under the same plan provisions applicable at the time of the initial retirement, but the beneficiary shall not be entitled to cost of living adjustments for the period during which ~~he or she~~ the beneficiary was restored to service. In addition to the former retirement allowance, a beneficiary shall be entitled to a retirement allowance separately computed for the period beginning with ~~his or her~~ the beneficiary's last restoration to service for which

the member has made a contribution. If the beneficiary is not vested in the system since ~~he or she~~ the beneficiary was last restored to service, the member's contributions plus accumulated interest shall be returned to ~~him or her~~ the beneficiary.

(2) Notwithstanding subdivision (1) of this subsection, for a Group C member who has attained the later of 50 years of age and has completed 20 or more years of service, in no event shall the member's separately computed retirement allowance increase by an amount equal to more than one and one-half percent of the member's average final compensation per year of service actually performed during the period beginning with the member's last restoration to service.

Sec. 7. 3 V.S.A. § 460 is amended to read:

#### § 460. ORDINARY DISABILITY RETIREMENT

(a) Upon the application of a member or of ~~his or her~~ the member's department head not later than 90 days, or longer for cause shown, after the date the member may have separated from service, any ~~group~~ Group A, group Group C, group Group D, or group Group F, or Group G member who has had five or more years of creditable service may be retired by the retirement board on an ordinary disability retirement allowance, not less than 30 nor more than 90 days after filing such application; provided ~~he or she~~ the member is not eligible for accidental disability retirement; provided ~~he or she~~ the member has requested application prior to death; and provided that the Medical Board, after a medical examination of such member, shall certify that the member is mentally or physically incapacitated for the further performance of duty, that such incapacity has existed since the time of the member's separation from service and is likely to be permanent, and that he or she should be retired. The Retirement Board may consider, or may ask the Medical Board or a certified vocational rehabilitation counselor to consider whether the individual is disabled from performing other types of suitable work. However, if disability is denied because the individual is found to be suitable for other work, the member shall be advised at the time of denial of the following provisions ~~which~~ that shall apply:

(1) the individual will retain ~~his or her~~ the individual's existing retirement accrual status;

(2) the State shall provide any necessary retraining;

(3) there shall be no loss in pay;

(4) involuntary geographical moves beyond normal commuting distance are not permitted; and



(5) before any individual who is reassigned to another position rather than retired on disability may be terminated for performance reasons, the individual must first be reconsidered for disability retirement by the Retirement Board.

(b)(1) Upon ordinary disability retirement, a ~~group~~ Group A, ~~group~~ Group D, ~~or group~~ Group F, or Group G member shall receive a normal retirement allowance equal to the normal retirement benefit accrued to the effective date of the disability retirement; provided, however, that such allowance shall not be less than 25 percent of ~~his or her~~ the member's average final compensation at the time of ~~his or her~~ the member's disability retirement.

(2) Employees who are not eligible for representation by the Vermont State Employees' Association, including managerial, confidential, elected, and appointed officials, judicial, legislative, and exempt employees, who are employed on February 1, 1997, and whose application for the State's long-term disability plan is denied solely because of a preexisting condition, shall, if they are otherwise eligible for ordinary disability retirement, be entitled to a retirement allowance which, when added to Social Security and/or other disability payments, equals 662/3 percent of ~~his or her~~ the employee's final average compensation at the time of the disability retirement.

\* \* \*

Sec. 8. 3 V.S.A. § 464 is amended to read:

§ 464. ACCIDENTAL AND OCCUPATIONALLY RELATED DEATH  
BENEFIT

(a) If the Retirement Board shall find on the basis of such evidence as may come before it that a ~~group~~ Group A, ~~group~~ Group D, ~~or group~~ Group F, or ~~group~~ Group G member in service died prior to his or her retirement under the system as the natural and proximate result of an accident occurring at a definite time and place during the course of his or her performance of duty as an employee and that such accident was not the result of the member's own gross negligence or willful misconduct, a retirement allowance shall be paid to ~~his or her~~ the member's designated dependent beneficiary during ~~his or her~~ the member's life.

\* \* \*

Sec. 9. 3 V.S.A. § 465 is amended to read:

§ 465. TERMINATION OF SERVICE; ORDINARY DEATH BENEFIT

\* \* \*

(c) If a Group A, Group D, ~~or Group F,~~ or Group G member dies in service after becoming eligible for early retirement or after completing 10 years of creditable service, a retirement allowance will be payable to the member's designated dependent beneficiary during ~~his or her~~ the member's life. If the designated dependent beneficiary so elects, however, the return of the member's accumulated contributions shall be made in lieu thereof.

\* \* \*

Sec. 10. 3 V.S.A. § 470 is amended to read:

§ 470. POSTRETIREMENT ADJUSTMENTS TO RETIREMENT ALLOWANCES

(a) ~~For Group A, Group C, and Group D members, as of June 30th in each year, commencing June 30, 1972, a determination shall be made of any increase or decrease, to the nearest one-tenth of a percent, in the ratio of the average of the Consumer Price Index for the month ending on that date to the average of said index for the month ending on June 30, 1971, or the month ending on June 30th of the most recent year subsequent thereto. In the event of an increase, and provided that the net increase following the application of any offset as provided in this subsection equals or exceeds one percent, the retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31st shall be increased by an equal percentage. Such increase shall commence on the January 1st immediately following such December 31st. Such percentage increase shall also be made in the retirement allowance payable to a beneficiary in receipt of an allowance under an optional election, provided the member on whose account the allowance is payable and such other person shall have received a total of at least 12 monthly payments by such December 31st. In the event of a decrease of the Consumer Price Index as of June 30th for the preceding year, the retirement allowance of a beneficiary shall not be subject to any adjustment on the next following January 1st; provided, however, that:~~

~~(1) such decrease shall be applied as an offset against the first subsequent year's increase of the Consumer Price Index when such increase equals or exceeds one percent, up to the full amount of such increase; and~~

~~(2) to the extent that such decrease is greater than such subsequent year's increase, such decrease shall be offset in the same manner against two or more years of such increases, for up to but not exceeding five subsequent years of such increases, until fully offset. Postretirement adjustments to retirement allowance. Beginning January 1, 2023 and each year thereafter, the retirement allowance of each beneficiary of the System who is in receipt of a retirement allowance and who meets the eligibility criteria set forth in this~~

section shall be adjusted by the amount described in subsection (d) of this section. In no event shall a beneficiary receive a negative adjustment to the beneficiary's retirement allowance.

~~(b) For Group F members, as of June 30th in each year, commencing January 1, 1991, a determination shall be made of any increase or decrease, to the nearest one-tenth of a percent of the Consumer Price Index for the preceding fiscal year. In the event of an increase, and provided that there exists a net increase following the application of any offset as provided in this subsection, the retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31st shall be increased by an amount equal to one-half of the net percentage increase. Commencing January 1, 2014, the retirement allowance of each beneficiary who was an active contributing member of the Group F plan on or after June 30, 2008, and who retires on or after July 1, 2008, shall be increased by an amount equal to the net percentage increase. The increase shall commence on the January 1st immediately following such December 31st. The increase shall apply to Group F members receiving an early retirement allowance only in the year following attainment of normal retirement age, provided the member has received benefits for at least 12 months as of December 31st of the year preceding any January adjustment. In the event of a decrease of the Consumer Price Index as of June 30th for the preceding year, the retirement allowance of a beneficiary shall not be subject to any adjustment on the next following January 1st; provided, however, that:~~

~~(1) such decrease shall be applied as an offset against the first subsequent year's increase of the Consumer Price Index, up to the full amount of such increase; and~~

~~(2) to the extent that such decrease is greater than such subsequent year's increase, such decrease shall be offset in the same manner against two or more years of such increases, for up to but not exceeding five subsequent years of such increases, until fully offset. Calculation of net percentage increase.~~

(1) Consumer Price Index; maximum and minimum amounts. Prior to October 1 of each year, a determination shall be made of any increase or decrease, to the nearest one-tenth of a percent, in the Consumer Price Index for the month ending on June 30 of that year to the average of said index for the month ending on June 30 of the previous year. Any increase or decrease in the Consumer Price Index shall be subject to adjustment so as to remain within the following maximum and minimum amounts:

(A) For Group A members, the maximum amount of any increase or decrease used to determine the net percentage increase shall be five percent.

(B) For Group C members who are first eligible for normal retirement or unreduced early retirement on or before June 30, 2022, or who are vested deferred members as of June 30, 2022, the maximum amount of any increase or decrease used to determine the net percentage increase shall be five percent.

(C) For Group C members who are first eligible for normal retirement or unreduced early retirement on or after July 1, 2022, the maximum amount of any increase or decrease used to determine the net percentage increase shall be four percent.

(D) For Group D members, the maximum amount of any increase or decrease used to determine the net percentage increase shall be five percent.

(E) For Group F members who are first eligible for normal retirement or unreduced early retirement on or before June 30, 2022, or who are vested deferred members as of June 30, 2022, the maximum amount of any increase or decrease used to determine the net percentage increase shall be five percent. In the event that there is an increase or decrease of less than one percent, the net percentage increase shall be assigned a value of one percent and shall not be subject to further adjustment pursuant to subsection (d) of this section.

(F) For Group F and Group G members who are first eligible for normal retirement or unreduced early retirement on or after July 1, 2022, the maximum amount of any increase or decrease used to determine the net percentage increase shall be four percent.

(2) Consumer Price Index; decreases. In the event of a decrease in the Consumer Price Index, there shall be no adjustment to retirement allowances for the subsequent year beginning January 1; provided, however, that:

(A) such decrease shall be applied as an offset against the first subsequent year's increase of the Consumer Price Index, up to the full amount of such increase; and

(B) to the extent that such decrease is greater than such subsequent year's increase, such decrease shall be offset in the same manner against two or more years of such increases, for up to but not exceeding five subsequent years of such increases, until fully offset.

(3) Consumer Price Index; increases. In the event of an increase in the Consumer Price Index, and provided there remains an increase following the application of any offset as in subdivision (2) of this subsection, that amount

shall be identified as the net percentage increase and used to determine the members' postretirement adjustment as described herein.

(c) For purposes of subsection (a) of this section, the maximum amount of any increase or decrease utilized to determine the net percentage increase shall be five percent. For purposes of subsection (b) of this section, the maximum amount of any increase or decrease utilized to determine the net percentage increase shall be five percent, and any increase or decrease of less than one percent shall be assigned a value of one percent. Eligibility for postretirement adjustment. In order for a beneficiary to receive a postretirement adjustment to the beneficiary's retirement allowance, the beneficiary must meet the following eligibility requirements:

(1) Retired and vested deferred on or before June 30, 2022. For all members who are retired or vested deferred on or before June 30, 2022, other than those Group F members on an early retirement allowance who have not reached normal retirement age, as specified in subdivision (4) of this subsection, the member must be in receipt of a retirement allowance for at least 12 months prior to the January 1 effective date of any postretirement adjustment.

(2) In service on or before June 30, 2022. For all Group A, C, and F members who are first eligible for normal retirement or unreduced early retirement on or before June 30, 2022, and for Group D members first appointed or elected on or before June 30, 2022, the member must be in receipt of a retirement allowance for at least 12 months prior to the January 1 effective date of any postretirement adjustment.

(3) In service on or after July 1, 2022. For all Group A, C, F, and G members who are first eligible for normal retirement or unreduced early retirement on or after July 1, 2022, and for Group D members first appointed or elected on or after July 1, 2022, the member must be in receipt of a retirement allowance for at least 24 months prior to the January 1 effective date of any postretirement adjustment.

(4) Special rule for Group F and Group G early retirement. A Group F or Group G member in receipt of an early retirement allowance shall not receive a postretirement adjustment to the member's retirement allowance until such time as the member has reached normal retirement age, provided the member has also met the other eligibility criteria set forth in this subsection.

(d) For purposes of this section, Consumer Price Index shall mean the Northeast Region Consumer Price Index for all urban consumers, designated as "CPI-U," in the northeast region, as published by the U.S. Department of Labor, Bureau of Labor Statistics. Amount of postretirement adjustment. The

postretirement adjustment for each member who meets the eligibility criteria set forth in subsection (c) of this section shall be as follows:

(1) the full amount of the net percentage increase calculated in subsection (b) of this section for the following:

(A) Group A and C members, provided that the net increase following the application of any offset as provided in this section equals or exceeds one percent;

(B) Group D members first appointed or elected on or before June 30, 2022, provided that the net increase following the application of any offset as provided in this section equals or exceeds one percent; and

(C) commencing January 1, 2014, any active contributing member of the Group F or Group G plan on or after June 30, 2008, and who retires as a Group F or Group G member on or after July 1, 2008;

(2) one-half of the net percentage increase calculated in subsection (b) of this section for Group F members who retired on or before June 30, 2008;

(3) for Group D members first appointed or elected on or after July 1, 2022, provided that the net increase following the application of any offset as provided in this section equals or exceeds one percent, the full amount of the net percentage increase calculated in subsection (b) of this section for amounts equal to or less than \$75,000.00 of annual retirement allowance and one-half the net percentage increase calculated in subsection (b) of this section for amounts \$75,000.01 or greater of annual retirement allowance.

(e) Definition. For purposes of this section:

(1) "Consumer Price Index" means the Northeast Region Consumer Price Index for all urban consumers, designated as "CPI-U," in the northeast region, as published by the U.S. Department of Labor, Bureau of Labor Statistics.

(2) "Vested deferred" means a member who receives a vested deferred allowance payable pursuant to subsection 465(a) of this title.

(f) Deferred vested allowance. No increase shall be made pursuant to this section in a deferred vested allowance payable pursuant to subsection 465(a) of this title prior to its commencement.

Sec. 11. 3 V.S.A. § 473 is amended to read:

§ 473. FUNDS

(a) Assets. All of the assets of the Retirement System shall be credited to the Vermont State Retirement Fund.

(b) Member contributions.

(1)(A) Allocations. Contributions deducted from the compensation of members together with any member contributions transferred thereto from the predecessor systems shall be accumulated in the Fund and separately recorded for each member. The amounts so transferred on account of Group A members shall be allocated between regular and additional contributions. The amounts so allocated as regular contributions shall be determined as if the rate of contribution of four percent has been continuously in effect in the predecessor system from which such amounts were transferred and the balance of any amount so transferred on account of any Group A member shall be deemed additional contributions. In the case of Group C members who were members as of the date of establishment and Group D members, all contributions transferred from predecessor systems shall be deemed regular contributions. Those members who, prior to the date of establishment of this system, had been contributing at a rate less than four percent shall have any benefit otherwise payable on their behalf actuarially reduced to reflect such prior contribution rate of less than four percent. Upon a member's retirement or other withdrawal from service on the basis of which a retirement allowance is payable, the member's additional contributions, with interest thereon, shall be paid as an additional allowance equal to an annuity ~~which~~ that is the actuarial equivalent of such amount, in the same manner as the benefit otherwise payable under the System.

(B) Periodic review. When the State Employees' Retirement System has been determined by the actuary to have assets at least equal to its accrued liability, contribution rates will be reevaluated by the actuary with a subsequent recommendation to the General Assembly. In determining the amount earnable by a member in a payroll period, the Retirement Board may consider the annual or other periodic rate of earnable compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deduction from compensation for any period less than a full payroll period if an employee was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as, on an annual basis, shall not exceed one-tenth of one percent of the annual earnable compensation upon the basis of which such deduction is to be made. Each of

the amounts shall be deducted until the member retires or otherwise withdraws from service and when deducted shall be paid into the Annuity Savings Fund and shall be credited to the individual account of the member from whose compensation the deduction was made.

~~(2)(A) Group A members. Commencing on July 1, 2016, contributions shall be 6.55 percent of compensation for Group A, D, and F members and 8.43 percent of compensation for Group C members. When the State Employees' Retirement System has been determined by the actuary to have assets at least equal to its accrued liability, contribution rates will be reevaluated by the actuary with a subsequent recommendation to the General Assembly. In determining the amount earnable by a member in a payroll period, the Retirement Board may consider the annual or other periodic rate of earnable compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deduction from compensation for any period less than a full payroll period if an employee was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as, on an annual basis, shall not exceed one-tenth of one percent of the annual earnable compensation upon the basis of which such deduction is to be made. Each of the amounts shall be deducted until the member retires or otherwise withdraws from service, and when deducted shall be paid into the Annuity Savings Fund, and shall be credited to the individual account of the member from whose compensation the deduction was made.~~

(B) Group C members.

(i) Commencing the first full pay period in fiscal year 2023, the contribution rate for Group C members shall be 8.93 percent of compensation.

(ii) Commencing the first full pay period in fiscal year 2024, the contribution rate for Group C members shall be 9.43 percent of compensation.

(iii) Commencing the first full pay period in fiscal year 2025 and annually thereafter, the contribution rate for Group C members shall be 9.93 percent of compensation.

(C) Group D members. Commencing on July 1, 2022, the contribution rate for Group D members shall be based on the quartile in which a member's hourly rate of pay falls. Quartiles shall be determined annually in the first full pay period of each fiscal year by the Department of Human Resources based on the hourly rate of pay by all Group D members. The contribution rates shall be based on the schedule set forth below:



(i) Based on the quartiles for the first full pay period of each fiscal year and effective the first full pay period in that fiscal year, for members who have an hourly rate of pay in any pay period below the 25th percentile of Group D member hourly rates of pay, the contribution rate shall be 6.55 percent of compensation.

(ii) Based on the quartiles for the first full pay period of each fiscal year and effective the first full pay period in that fiscal year, for members who have an hourly rate of pay in any pay period at the 25th percentile and below the 50th percentile of Group D member hourly rates of pay, the contribution rate shall be as follows:

(I) commencing in fiscal year 2023, 7.05 percent of compensation;

(II) commencing in fiscal year 2024, 7.55 percent of compensation; and

(III) commencing in fiscal year 2025 and annually thereafter, 8.05 percent of compensation.

(iii) Based on the quartiles for the first full pay period of each fiscal year and effective the first full pay period in that fiscal year, for members who have an hourly rate of pay in any pay period at the 50th percentile and below the 75th percentile of Group D member hourly rates of pay, the contribution rate shall be as follows:

(I) commencing in fiscal year 2023, 7.05 percent of compensation;

(II) commencing in fiscal year 2024, 7.55 percent of compensation;

(III) commencing in fiscal year 2025, 8.05 percent of compensation; and

(IV) commencing in fiscal year 2026 and annually thereafter, 8.55 percent of compensation.

(iv) Based on the quartiles for the first full pay period of each fiscal year and effective the first full pay period in that fiscal year, for members who have an hourly rate of pay in any pay period at or above the 75th percentile of Group D member hourly rates of pay, the contribution rate shall be as follows:

(I) commencing in fiscal year 2023, 7.05 percent of compensation;

(II) commencing in fiscal year 2024, 7.55 percent of compensation;

(III) commencing in fiscal year 2025, 8.05 percent of compensation;

(IV) commencing in fiscal year 2026, 8.55 percent of compensation; and

(V) commencing in fiscal year 2027 and annually thereafter, 9.05 percent of compensation.

(D) Group F members. Commencing on July 1, 2022, the contribution rate for Group F members shall be based on the quartile in which a member's hourly rate of pay falls. Quartiles shall be determined annually in the first full pay period of each fiscal year by the Department of Human Resources based on the hourly rate of pay of all Group F members. The contribution rates shall be based on the schedule set forth below:

(i) Based on the quartiles for the first full pay period of each fiscal year and effective the first full pay period in that fiscal year, for members who have an hourly rate of pay in any pay period below the 25th percentile of Group F member hourly rates of pay, the contribution rate shall be 6.55 percent of compensation.

(ii) Based on the quartiles for the first full pay period of each fiscal year and effective the first full pay period in that fiscal year, for members who have an hourly rate of pay in any pay period at the 25th percentile and below the 50th percentile of Group F member hourly rates of pay, the contribution rate shall be as follows:

(I) commencing in fiscal year 2023, 7.05 percent of compensation;

(II) commencing in fiscal year 2024, 7.55 percent of compensation; and

(III) commencing in fiscal year 2025 and annually thereafter, 8.05 percent of compensation.

(iii) Based on the quartiles for the first full pay period of each fiscal year and effective the first full pay period in that fiscal year, for members who have an hourly rate of pay in any pay period at the 50th percentile and below the 75th percentile of Group F member hourly rates of pay, the contribution rate shall be as follows:

(I) commencing in fiscal year 2023, 7.05 percent of compensation;

(II) commencing in fiscal year 2024, 7.55 percent of compensation;

(III) commencing in fiscal year 2025, 8.05 percent of compensation; and

(IV) commencing in fiscal year 2026 and annually thereafter, 8.55 percent of compensation.

(iv) Based on the quartiles for the first full pay period of each fiscal year and effective the first full pay period in that fiscal year, for members who have an hourly rate of pay in any pay period at or above the 75th percentile of Group F member hourly rates of pay, the contribution rate shall be as follows:

(I) commencing in fiscal year 2023, 7.05 percent of compensation;

(II) commencing in fiscal year 2024, 7.55 percent of compensation;

(III) commencing in fiscal year 2025, 8.05 percent of compensation;

(IV) commencing in fiscal year 2026, 8.55 percent of compensation; and

(V) commencing in fiscal year 2027 and annually thereafter, 9.05 percent of compensation.

(E) Group G members. Commencing on July 1, 2023, the contribution rate for Group G members shall be based on the quartile in which a member's hourly rate of pay falls. Quartiles shall be determined annually in the first full pay period of each fiscal year by the Department of Human Resources based on the hourly rate of pay of all Group G members. The contribution rates shall be based on the schedule set forth below:

(i) Based on the quartiles for the first full pay period of each fiscal year and effective the first full pay period in that fiscal year, for members who have an hourly rate of pay in any pay period below the 25th percentile of Group G member hourly rates of pay, the contribution rate shall be 11.23 percent of compensation.

(ii) Based on the quartiles for the first full pay period of each fiscal year and effective the first full pay period in that fiscal year, for members who have an hourly rate of pay in any pay period at the 25th percentile and below the 50th percentile of Group G member hourly rates of pay, the contribution rate shall be as follows:

(I) commencing in fiscal year 2024, 12.23 percent of compensation; and

(II) commencing in fiscal year 2025 and annually thereafter, 12.73 percent of compensation.

(iii) Based on the quartiles for the first full pay period of each fiscal year and effective the first full pay period in that fiscal year, for members who have an hourly rate of pay in any pay period at the 50th percentile and below the 75th percentile of Group G member hourly rates of pay, the contribution rate shall be as follows:

(I) commencing in fiscal year 2024, 12.23 percent of compensation;

(II) commencing in fiscal year 2025, 12.73 percent of compensation; and

(III) commencing in fiscal year 2026 and annually thereafter, 13.23 percent of compensation.

(iv) Based on the quartiles for the first full pay period of each fiscal year and effective the first full pay period in that fiscal year, for members who have an hourly rate of pay in any pay period at or above the 75th percentile of Group G member hourly rates of pay, the contribution rate shall be as follows:

(I) commencing in fiscal year 2024, 12.23 percent of compensation;

(II) commencing in fiscal year 2025, 12.73 percent of compensation;

(III) commencing in fiscal year 2026, 13.23 percent of compensation; and

(IV) commencing in fiscal year 2027 and annually thereafter, 13.73 percent of compensation.

(3) Deductions. The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided herein and shall receipt for full compensation, and payment of compensation less such deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under this subchapter.

(4) Additional contributions. Subject to the approval of the Retirement Board, in addition to the contributions deducted from compensation as hereinbefore provided, any member may redeposit in the Fund by a single payment or by an increased rate of contribution an amount equal to the total amount ~~which~~ that the member previously withdrew from this System or one of the predecessor systems; or any member may deposit therein by a single payment or by an increased rate of contribution an amount computed to be sufficient to purchase an additional annuity ~~which~~ that, together with prospective retirement allowance, will provide for the member a total retirement allowance not in excess of one-half of average final compensation at normal retirement date, with the exception of Group D members for whom creditable service shall be restored upon redeposits of amounts previously withdrawn from the System, or for whom creditable service shall be granted upon deposit of amounts equal to what would have been paid if payment had been made during any period of service during which such a member did not contribute. Such additional amounts so deposited shall become a part of the member's accumulated contributions as additional contributions.

(5) Beneficiaries. The contributions of a member and such interest as may be allowed thereon ~~which~~ that are withdrawn by the member or paid to the member estate or to a designated beneficiary in event of the member's death, shall be paid from the Fund.

(6) Scope. Contributions required under this subsection shall be limited to contributions from Group A, Group C, Group D, ~~and~~ Group F, and Group G members.

(7) [Repealed.]

(c) Employer contributions, earnings, and payments.

\* \* \*

(8) Annually, the Board shall certify an amount to pay the annual actuarially determined employer contribution, as calculated in this subsection, and additional amounts as follows:

(A) in fiscal year 2024, the amount of \$9,000,000.00;

(B) in fiscal year 2025, the amount of \$12,000,000.00; and

(C) in fiscal year 2026 and in any year thereafter when the Fund is calculated to have a funded ratio of less than 90 percent, the amount of \$15,000,000.00.

\* \* \*

Sec. 12. 3 V.S.A. § 477a is amended to read:

§ 477a. ELECTIONS

\* \* \*

(h) When a Group F member has a minimum of 25 years of creditable service, ~~he or she~~ the member may elect to purchase up to five years of additional service credit. A member who makes an election under this subsection shall deposit in the fund by a single contribution, an amount computed at regular interest to be sufficient to provide at normal retirement an annuity equal to 1-2/3 percent of the member's average final compensation multiplied by the number of years purchased.

Sec. 13. 3 V.S.A. § 479 is amended to read:

§ 479. GROUP INSURANCE

(a) As provided under section 631 of this title, a member who is insured by the respective group insurance plans immediately preceding the member's effective date of retirement shall be entitled to continuation of group insurance as follows:

(1)(A) coverage in the group medical benefit plan provided by the State of Vermont for active State employees; or

(B) for a Group F and Group G plan member first included in the membership of the system on or after July 1, 2008, coverage in the group medical benefit plan offered by the State of Vermont for active State employees and pursuant to the following, provided:

(i) a member who has completed five years and less than 10 years of creditable service at ~~his or her~~ the member's retirement shall pay the full cost of the premium;

(ii) a member who has completed 10 years and less than 15 years of creditable service at ~~his or her~~ the member's retirement shall pay 60 percent of the cost of the premium;

(iii) a member who has completed 15 years and less than 20 years of creditable service at his or her retirement shall pay 40 percent of the cost of the premium;

(iv) a member who has completed 20 years or more of creditable service at his or her retirement shall pay 20 percent of the cost of the premium; and

(2) members who have completed 20 years of creditable service at their effective date of retirement shall be entitled to the continuation of life insurance in the amount of \$10,000.00.

\* \* \*

(g) A member of the Group F or Group G plan who is first included in the membership of the System on or after July 1, 2008, who separates from service prior to being eligible for retirement benefits under this chapter, who has at least 20 years of creditable service, and who participated in the group medical benefit plan at the time of separation from service shall have a one-time option at the time retirement benefits commence to reinstate the same level of coverage, in the group medical benefit plan provided by the State of Vermont for active State employees, that existed at the date of separation from service. Premiums for the plan shall be prorated between the retired member and the Retirement System pursuant to subsection 479(a) of this title.

\* \* \*

#### Sec. 14. ONE-TIME IRREVOCABLE ELECTION FOR CERTAIN CORRECTIONS WORKERS

(a) On or before September 15, 2022, the Department of Human Resources, in consultation with the State Treasurer's office, shall establish a list of positions eligible for Group G of the Vermont State Employees' Retirement System. The list of Group G-eligible positions shall be limited to the following State employees:

- (1) facility employees of the Department of Corrections;
- (2) Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community;
- (3) employees of a facility for justice-involved youth; and
- (4) employees of the Vermont State Hospital or its successor in interest, who provide direct patient care.

(b) It is the intent of the General Assembly that Group G-eligible positions include those positions that are currently eligible for unreduced early retirement pursuant to 3 V.S.A. § 459(d)(2).

(c) In establishing any new corrections position on and after July 1, 2023, the Department of Human Resources shall identify that position as eligible for either Group G, pursuant to the criteria set forth in subsection (a), or Group F.

(d)(1) Each person employed in a Group G-eligible position on or before June 30, 2023 shall have a one-time option to transfer to the Group G plan pursuant to the following schedule:

(A) For Group G-eligible employees who are employed on or before March 31, 2023, election to join Group G under this subsection (d) shall be made on or before June 1, 2023.

(B) For Group G-eligible employees who are first employed on or after April 1, 2023, election to join Group G under this subsection (d) shall be made not more than 60 days from the employee's date of hire.

(2) Election to join the Group G plan under this subsection shall be irrevocable.

(e) The effective date of participation in a new group plan for those employees covered under this section and who elect to transfer shall be the first full pay period in fiscal year 2024. All past service accrued through the date of transfer shall be calculated based upon the plan in which it was accrued, with all provisions and penalties, if applicable, applied.

\* \* \* Other Postemployment Benefits \* \* \*

Sec. 15. 3 V.S.A. § 479a is amended to read:

§ 479a. STATE EMPLOYEES' POSTEMPLOYMENT BENEFITS TRUST  
FUND

\* \* \*

(b) Into the Benefits Fund shall be deposited:

(1) all assets remitted to the State as a subsidy on behalf of the members of the Vermont State Employees' Retirement System for employer-sponsored qualified prescription drug plans pursuant to the Medicare Prescription Drug Improvement and Modernization Act of 2003, except that any subsidy received from an Employer Group Waiver Program is not subject to this requirement;

(2) any appropriations by the General Assembly for the purposes of paying current and future retiree postemployment benefits for members of the Vermont State Employees' Retirement System; ~~and~~

(3) amounts contributed or otherwise made available by members of the System or their beneficiaries for the purpose of paying current or future postemployment benefits costs; and

(4) any monies pursuant to subsection (e) of this section.



(c) The Benefits Fund shall be administered by the State Treasurer. The Treasurer may invest monies in the Benefits Fund in accordance with the provisions of 32 V.S.A. § 434 or, in the alternative, may enter into an agreement with the Commission to invest such monies in accordance with the standards of care established by the prudent investor rule under 14A V.S.A. § 902, in a manner similar to the ~~Committee's~~ Commission's investment of ~~retirements~~ retirement system monies. All balances in the Benefits Fund at the end of the fiscal year shall be carried forward. Interest earned shall remain in the Benefits Fund. The Treasurer's annual financial report to the Governor and the General Assembly shall contain an accounting of receipts, disbursements, and earnings of the Benefits Fund.

\* \* \*

(e) State Contribution.

(1) Beginning on July 1, 2022 and annually thereafter, the State shall make annual contributions to the Benefits Fund known as the "normal contribution" and the "accrued liability contribution," each of which shall be fixed on the basis of the liabilities of the System as shown by the most recent actuarial valuation and made by the payroll assessment included in annual agency and department budgets:

(A) The "normal contribution" shall be the amount that, if contributed over each member's prospective period of service, will be sufficient to provide for the payment of all future retiree postemployment benefits after subtracting the unfunded actuarial liability and the total assets of the Benefits Fund. The "normal contribution" shall be identified using the actuarial cost method known as "projected unit credit" and applying a rate of return equal to the most recently adopted actuarial rate of return pursuant to section 523 of this title.

(B) The "accrued liability contribution" shall be the annual payment set forth in the most recent actuarial valuation that is necessary to liquidate the unfunded accrued liability over a closed period of 26 years and determined based on the funding schedule set forth in this section.

(i) It is the policy of the State of Vermont to liquidate fully the unfunded accrued liability for the payment of retiree health and medical benefits.

(ii) Beginning on July 1, 2022, until the unfunded accrued liability is liquidated, the accrued liability contribution shall be the annual payment required to liquidate the unfunded accrued liability over a closed period of 26 years ending on June 30, 2048, provided that the amount of each annual basic

accrued liability contribution shall be determined by amortization of the unfunded liability over the remainder of the closed 26-year period in installments.

(2) Any variation in the contribution of normal or accrued liability contributions from those recommended by the actuary and any actuarial gains and losses shall be added or subtracted to the unfunded accrued liability and amortized over the remainder of the closed 26-year period.

(3) The Board shall review annually the amount of State contributions recommended by the actuary. Based on this review, the Board shall determine the amount of State contribution necessary for the next fiscal year to achieve and preserve the financial integrity of the funds and certify a statement of the percentage of the payroll of all members sufficient to fund the normal cost and the accrued liability contribution. On or before December 15 of each year, the Board shall inform the Governor and the House and Senate Committees on Government Operations and on Appropriations in writing about the amount needed. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

\* \* \* VSERS Actuarial Studies \* \* \*

Sec. 16. 3 V.S.A. § 523 is amended to read:

§ 523. VERMONT PENSION INVESTMENT COMMISSION; DUTIES

\* \* \*

(f) Asset and liability study. Beginning on July 1, ~~2022~~ 2023, and every three years thereafter, based on the most recent actuarial valuations of each Plan, the Commission shall study the assets and liabilities of each Plan over a 20-year period. The study shall:

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

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

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

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

\* \* \*

Sec. 17. 3 V.S.A. § 471 is amended to read:

§ 471. RETIREMENT BOARD; MEDICAL BOARD; ACTUARY; RATES OF CONTRIBUTION; SAFEKEEPING OF SECURITIES

\* \* \*

(j) The Retirement Board shall designate an actuary who shall be the technical advisor of the Board on matters regarding the operation of the Fund of the Retirement System, and shall perform such other duties as are required in connection therewith. Immediately after the establishment of the Retirement System, the Retirement Board shall adopt for the Retirement System such mortality and service tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this subchapter. At Beginning July 1, 2023, at least once in each three-year period every three fiscal years following the establishment of the System, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the Retirement System, and taking into account the results of such investigation, the Retirement Board shall adopt for the Retirement System such mortality, service, and other tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this subchapter.

\* \* \*

\* \* \* Vermont State Teachers' Retirement System \* \* \*

\* \* \* VSTRS Actuarial Studies \* \* \*

Sec. 18. 16 V.S.A. § 1942 is amended to read:

§ 1942. BOARD OF TRUSTEES; MEDICAL BOARD; ACTUARY; RATE OF CONTRIBUTION; SAFEKEEPING OF SECURITIES

\* \* \*

(m) Immediately after the establishment of the System, the actuary shall make such investigation of the mortality, service, and compensation experience of the members of the System, as the actuary shall recommend and the Board shall authorize, for the purpose of determining the proper mortality and service tables to be prepared and submitted to the Board for adoption. Having regard to such investigation and recommendation, the Board shall adopt for the System such mortality and service tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this chapter. At least once in each three-year period Beginning July 1, 2023, at least once every three fiscal years following the establishment of the System,

the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the System, and taking into account the results of such investigation, the Board shall adopt for the System such mortality, service, and other tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this chapter.

\* \* \*

\* \* \* Pension Benefits \* \* \*

\* \* \*

Sec. 19. 16 V.S.A. § 1944 is amended to read:

§ 1944. VERMONT TEACHERS' RETIREMENT FUND

(a) Pension Fund. All of the assets of the System shall be credited to the Vermont Teachers' Retirement Fund.

(b) Member contributions.

(1) Contributions deducted from the compensation of members shall be accumulated in the Pension Fund and separately recorded for each member.

(2) The proper authority or officer responsible for making up each employer payroll shall cause to be deducted from the compensation:

(A) ~~of~~ Of each Group A member, five and one-half percent of the member's total earnable compensation, including compensation paid for absence as provided by subsection 1933(d) of this title.

(B) ~~from~~ Of each Group C member ~~with at least five years of membership service as of July 1, 2014, five percent of the member's earnable compensation; and from each Group C member with less than five years of membership service as of July 1, 2014, six percent of the member's earnable compensation, including the following shall apply:~~

(i) Beginning on July 1, 2022, a Group C member shall have the rate set forth in this subdivision (b)(2)(B)(i) applied to the member's total earnable compensation for the fiscal year, which shall include compensation paid for absence as provided by subsection 1933(d) of this title, and any additional stipends identified as of July 1. A member's rate shall not be adjusted during the fiscal year. For a member who works a part-time equivalency status, the rate shall apply to the member's total earnable compensation and not to an amount equal to an annualized base salary. If a member is employed on a part-time equivalency status with two or more employers, the highest rate shall be applied to the amounts deducted from each

employer. A member's rate shall be calculated according to the following rates and income brackets:

(I) If a member's base salary is at or below \$40,000.00, the rate is 6.0 percent.

(II) If a member's base salary is \$40,000.01 or more but not more than \$50,000.00, the rate is 6.05 percent.

(III) If a member's base salary is \$50,000.01 or more but not more than \$60,000.00, the rate is 6.10 percent.

(IV) If a member's base salary is \$60,000.01 or more but not more than \$70,000.00, the rate is 6.20 percent.

(V) If a member's base salary is \$70,000.01 or more but not more than \$80,000.00, the rate is 6.25 percent.

(VI) If a member's base salary is \$80,000.01 or more but not more than \$90,000.00, the rate is 6.35 percent.

(VII) If a member's base salary is \$90,000.01 or more but not more than \$100,000.00, the rate is 6.50 percent.

(VIII) If a member's base salary is \$100,000.01 or more, the rate is 6.65 percent.

(ii) Beginning on July 1, 2023, a Group C member shall have the rate set forth in this subdivision (b)(2)(B)(ii) applied to the member's total earnable compensation for the fiscal year, which shall include compensation paid for absence as provided by subsection 1933(d) of this title, and any additional stipends identified as of July 1. A member's rate shall not be adjusted during the fiscal year unless the member's full-time equivalency status changes, which shall require that the member's rate be recalculated and the new rate applied for the remainder of that fiscal year. For a member who works a part-time equivalency status, the rate shall apply to the member's total earnable compensation and not to an amount equal to an annualized base salary. If a member is employed on a part-time equivalency status with two or more employers, the highest rate shall be applied to the amounts deducted from each employer. A member's rate shall be calculated according to the following rates and income brackets:

(I) If a member's base salary is at or below \$40,000.00, the rate is 6.10 percent.

(II) If a member's base salary is \$40,000.01 or more but not more than \$50,000.00, the rate is 6.15 percent.

(III) If a member's base salary is \$50,000.01 or more but not more than \$60,000.00, the rate is 6.25 percent.

(IV) If a member's base salary is \$60,000.01 or more but not more than \$70,000.00, the rate is 6.35 percent.

(V) If a member's base salary is \$70,000.01 or more but not more than \$80,000.00, the rate is 6.50 percent.

(VI) If a member's base salary is \$80,000.01 or more but not more than \$90,000.00, the rate is 6.75 percent.

(VII) If a member's base salary is \$90,000.01 or more but not more than \$100,000.00, the rate is 7.0 percent.

(VIII) If a member's base salary is \$100,000.01 or more, the rate is 7.25 percent.

(iii) Beginning on July 1, 2024 and annually thereafter, a Group C member shall have an effective rate, rounded to the nearest hundredth of a percent, that is calculated based on the member's base salary as of July 1 each year, which equals the member's total earnable compensation, including compensation paid for absence as provided by subsection 1933(d) of this title, and any additional stipends identified as of July 1 for the next fiscal year. A member's effective rate shall not be adjusted during any fiscal year unless the member's full-time equivalency status changes, which shall require that the member's effective rate be recalculated and the new rate applied for the remainder of that fiscal year. For a member who works a part-time equivalency status, the effective rate shall apply to the member's total earnable compensation and not to an amount equal to an annualized base salary. If a member is employed on a part-time equivalency status with two or more employers, the highest effective rate shall be applied to the amounts deducted from each employer. A member's effective rate shall be calculated according to the following marginal rates and income brackets:

(I) if a member's base salary is at or below \$40,000.00, the rate is 6.25 percent;

(II) if a member's base salary is \$40,000.01 or more but not more than \$60,000.00, the rate is the equivalent of \$2,900.00 on \$40,000.00 and 6.75 percent of the member's salary that is \$40,000.01 or more;

(III) if a member's base salary is \$60,000.01 or more but not more than \$80,000.00, the rate is the equivalent of \$3,850.00 on \$60,000.00 and 7.5 percent of the member's salary that is \$60,000.01 or more;

(IV) if a member's base salary is \$80,000.01 or more but not more than \$100,000.00, the rate is the equivalent of \$5,350.00 on \$80,000.00 and 8.25 percent of the member's salary that is \$80,000.01 or more; and

(V) if a member's base salary is \$100,000.01 or more, the rate is the equivalent of \$7,000.00 on \$100,000.00 and 9.0 percent of the member's salary that is \$100,000.01 or more.

(C) In determining the amount earnable by a member set forth in this subdivision (2) in a payroll period, the Board may consider the rate of compensation payable to such member on the first day of a payroll period as continuing throughout the payroll period, and it may omit deduction from compensation for any period less than a full payroll period if a teacher was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed one-tenth of one percent of the annual earnable compensation upon the basis of which such deduction is made. The actuary shall make annual valuations of the reduction to the recommended State contribution attributable to the increase from five to six percent, and the Board shall include the amount of this reduction in its written report pursuant to subsection 1942(r) of this title.

\* \* \*

(c) State contributions, earnings, and payments.

(1) All State appropriations and all reserves for the payment for all pensions including all interest and dividends earned on the assets of the Retirement System shall be accumulated in the Pension Fund. All benefits payable under the System, except for retired teacher health and medical benefits, shall be paid from the Pension Fund. Annually, the Retirement Board shall allow regular interest on the individual accounts of members in the Pension Fund ~~which~~ that shall be credited to each member's account.

(2) Beginning with the actuarial valuation as of June 30, 2006, the contributions to be made to the Pension Fund by the State shall be determined on the basis of the actuarial cost method known as "entry age normal." On account of each member, there shall be paid annually by the State into the Pension Fund a percentage of the earnable compensation of each member to be known as the "normal contribution" and an additional percentage of the member's earnable compensation to be known as the "accrued liability contribution." The percentage rate of such contributions shall be fixed on the basis of the liabilities of the System as shown by actuarial valuation. "Normal contributions" and "accrued liability contributions" shall be by separate appropriation in the annual budget enacted by the General Assembly.

(3) The normal contribution shall be the uniform percentage of the total compensation of members that, if contributed over each member's prospective period of service and added to such member's prospective contributions, if any, will be sufficient to provide for the payment of all future pension benefits after subtracting the sum of the unfunded accrued liability and the total assets of the Pension Fund.

(4) It is the policy of the State of Vermont to liquidate fully the unfunded accrued liability to the System. Beginning on July 1, 2008, until the unfunded accrued liability is liquidated, the accrued liability contribution shall be the annual payment required to liquidate the unfunded accrued liability over a closed period of 30 years ending on June 30, 2038, provided that:

(A) From July 1, 2009 to June 30, 2019, the amount of each annual basic accrued liability contribution shall be determined by amortization of the unfunded liability over the remainder of the closed 30-year period in installments increasing at a rate of five percent per year.

(B) Beginning on July 1, 2019 and annually thereafter, the amount of each annual basic accrued liability contribution shall be determined by amortization of the unfunded liability over the remainder of the closed 30-year period in installments increasing at a rate of three percent per year.

(C) Any variation in the contribution of normal or unfunded accrued liability contributions from those recommended by the actuary and any actuarial gains and losses shall be added or subtracted to the unfunded accrued liability and amortized over the remainder of the closed 30-year period.

\* \* \*

(13) Annually, the Board shall certify an amount to pay the annual actuarially determined employer contribution, as calculated in this subsection, and additional amounts as follows:

(A) in fiscal year 2024, the amount of \$9,000,000.00;

(B) in fiscal year 2025, the amount of \$12,000,000.00; and

(C) in fiscal year 2026 and in any year thereafter until the Fund is calculated to have a funded ratio of at least 90 percent, the amount of \$15,000,000.00.

\* \* \*



Sec. 20. FISCAL YEAR 2025; VERMONT STATE TEACHERS'  
RETIREMENT SYSTEM; CONTRIBUTION RATES; STUDY

(a) The Secretary of Digital Services and the State Treasurer, in consultation with the Vermont Association of School Business Officers, the Vermont Superintendents Association, and the Vermont-NEA, shall study and make recommendations on the implementation of the marginal rates set forth in 16 V.S.A. § 1944(b)(2)(B)(iii) in FY 2025 and annually thereafter, including whether any adjustments need to be made to the marginal rate structure.

(b) On or before January 15, 2023, the Secretary of Digital Services and the State Treasurer shall submit a report on the study and recommendations described in subsection (a) of this section to the Joint Pension Oversight Committee and the House and Senate Committees on Appropriations and on Government Operations.

Sec. 21. 16 V.S.A. § 1949a is added to read:

§ 1949a. POSTRETIREMENT ADJUSTMENT ALLOWANCE ACCOUNT

(a) Intent. It is the intent of the General Assembly to recognize members who are in active service on or before June 30, 2022 and made contributions for the duration of fiscal year 2023 and members who are in active service on or after July 1, 2022 and made contributions for at least one year, as part of a broader effort to improve the health of the System. As an acknowledgment of these additional contributions, once the System is in a healthier financial position, it is the intent of the General Assembly that these members should receive postretirement adjustment allowances that will more fully reflect the net percentage increase in the Consumer Price Index. It is also the intent of the General Assembly that the postretirement adjustment allowance formula should be incrementally increased to 100 percent of the net percentage increase in the Consumer Price Index, but that no increase should occur to the formula unless the funded ratio of the System is at least 80 percent funded on an actuarial value basis and the accumulated assets of the Account are equal to or exceed the present value of the benefits to accrue to members.

(b) Creation. There is established the Postretirement Adjustment Allowance Account, to be maintained under the Retirement System, which shall be used to provide funding for postretirement adjustment formula enhancements or other benefits that may accrue to eligible members pursuant to the requirements of subsection (d) of this section.

(c) Funds. The Account shall consist of:

(1) any amounts transferred to it from the General Fund Balance Reserve established in 32 V.S.A. § 308c;

(2) any amounts transferred or appropriated to it by the General Assembly; and

(3) interest earned pursuant to subsection (d) of this section.

(d) Account administration. The Postretirement Adjustment Allowance Account shall be subordinate to the retirement benefits provided by the Retirement System. Contributions to the Account shall be irrevocable, and it shall be impossible at any time before satisfaction of all liabilities to provide funding for postretirement adjustment formula enhancements or other benefits that may accrue to eligible members for any part of the corpus or income of the Account to be used for, or diverted to, any purpose other than providing funding for postretirement adjustment formula enhancements or other benefits that may accrue to eligible members. All balances in the Account at the end of the fiscal year shall be carried forward, and interest earned shall remain in the Account.

(e) Recommendation of Board. In any fiscal year, the Board may recommend to the General Assembly that the monies in the Account be used to provide for postretirement adjustment formula enhancements or other benefits that may accrue to eligible members in the System, provided that:

(1) an evaluation has been conducted pursuant to section 1949b of this chapter;

(2) the actuary has certified that the System has a funded ratio of at least 80 percent in the most recent fiscal year; and

(3) the actuary has certified that the Account has sufficient assets to pay for the present value of any benefit being recommended.

(f) Use of funds. In the event that the General Assembly approves of the Board's recommended postretirement adjustment formula enhancements or other benefit change pursuant to subsection (e) of this section, the Board may direct that funds sufficient to pay the present value of change be charged from the Account for that purpose.

(g) Account charges. In no event shall the funds charged from the Account exceed the outstanding Account balance.

(h) Account assets.

(1) For funding purposes, any asset value utilized in the calculation of the actuarial value of assets of a system shall exclude the Account as of the asset determination date for such calculation.

(2) For all purposes other than funding, the funds in the Account shall be considered assets of the System.

(i) Definition. As used in this section, “eligible member” means:

(1) a member of the System who is in active service on or before June 30, 2022 and made contributions for the duration of fiscal year 2023; or

(2) a member of the System who is in active service on or after July 1, 2022 and made contributions for at least one year.

Sec. 22. 16 V.S.A. § 1949b is added to read:

§ 1949b. POSTRETIREMENT ADJUSTMENT TO RETIREMENT ALLOWANCE; FORMULA; EVALUATION

(a) On or before September 1, 2027 and every three years thereafter, or at the request of the Board in conjunction with any proposed changes to the amortization schedule, the Board shall consider the intent set forth in subsection 1949a(a) of this chapter and evaluate whether to modify the postretirement adjustment formula or any other benefit that may accrue to the members of the System who are in active service on or before June 30, 2022 and made contributions for the duration of fiscal year 2023 and members in active service on or after July 1, 2022 and made contributions for at least one year. The evaluation shall only include a proposed benefit change if the Postretirement Adjustment Allowance Fund has sufficient assets to pay for the present value of that benefit.

(b) On or before January 15, 2028 and every three years thereafter, or following a request for an evaluation by the Board, the Board shall submit a report to the House and Senate Committees on Government Operations with the results of the evaluation described in subsection (a) of this section.

Sec. 23. 16 V.S.A. § 1949 is amended to read:

§ 1949. POSTRETIREMENT ADJUSTMENTS TO RETIREMENT ALLOWANCES

~~(a) For all Group A members, as of June 30 in each year, beginning June 30, 1972, the Board shall determine any increase or decrease, to the nearest one-tenth of one percent, in the ratio of the average of the Consumer Price Index for the month ending on that date to the average of the Index for the month ending on June 30, 1971, or the month ending on June 30 of the most recent year thereafter. In the event of an increase, and provided that the net increase following the application of any offset as provided in this subsection equals or exceeds one percent, the retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31 shall be increased by an equal percentage. Such increase shall begin on the January 1 immediately following that December 31. An equivalent percentage increase shall also be made in the retirement~~

~~allowance payable to a beneficiary in receipt of an allowance under an optional election, provided the member on whose account the allowance is payable and such other person shall have received a total of at least 12 monthly payments by such December 31. In the event of a decrease of the Consumer Price Index as of June 30 for the preceding year, the retirement allowance of a beneficiary shall not be subject to any adjustment on the next following January 1; provided, however, that:~~

~~(1) such decrease shall be applied as an offset against the first subsequent year's increase of the Consumer Price Index when such increase equals or exceeds one percent, up to the full amount of such increase; and~~

~~(2) to the extent that such decrease is greater than such subsequent year's increase, such decrease shall be offset in the same manner against two or more years of such increases, for up to but not exceeding five subsequent years of such increases, until fully offset. Postretirement Adjustments to Retirement allowance. On January 1 of each year, the retirement allowance of each beneficiary of the System who is in receipt of a retirement allowance for at least a one-year period as of December 31 in the previous year, and who meets the eligibility criteria set forth in this section, shall be adjusted by the amount described in subsection (b) of this section. In no event shall a beneficiary receive a negative adjustment to the beneficiary's retirement allowance.~~

~~(b) For Group C members, as of June 30 in each year, commencing June 30, 1981, a determination shall be made of any increase or decrease, to the nearest one-tenth of a percent of the Consumer Price Index for the preceding fiscal year. In the event of an increase, and provided that there exists a net increase following the application of any offset as provided in this subsection, the retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31 shall be increased by an amount equal to one-half of the net percentage increase. The increase shall commence on the January 1 immediately following that December 31. The increase shall apply to Group C members having attained 57 years of age or completed at least 25 years of creditable service as of June 30, 2010, and receiving an early retirement allowance only in the year following attainment of age 62, and shall apply to Group C members not having attained 57 years of age or having completed at least 25 years of creditable service as of June 30, 2010, and receiving an early retirement allowance only in the year following the member's attainment of 65 years of age, provided the member has received benefits for at least 12 months as of December 31 of the year preceding any January adjustment. In the event of a decrease of the Consumer Price Index as of June 30 for the preceding year, the~~

~~retirement allowance of a beneficiary shall not be subject to any adjustment on the next following January 1; provided, however, that:~~

~~(1) such decrease shall be applied as an offset against the first subsequent year's increase of the Consumer Price Index, up to the full amount of such increase; and~~

~~(2) to the extent that such decrease is greater than such subsequent year's increase, such decrease shall be offset in the same manner against two or more years of such increases, for up to but not exceeding five subsequent years of such increases, until fully offset. Calculation of Net Percentage Increase. Each year, a determination shall be made of any increase or decrease, to the nearest one-tenth of a percent, in the Consumer Price Index for the month ending on June 30 of that year to the average of the Consumer Price Index for the month ending on June 30 of the previous year.~~

~~(1) Consumer Price Index; maximum and minimum amounts. Any increase or decrease in the Consumer Price Index shall be subject to adjustment so as to remain within the following maximum and minimum amounts:~~

~~(A) For Group A members and Group C members who are eligible for normal retirement or unreduced early retirement on or before June 30, 2022, the maximum amount of any increase or decrease utilized to determine the net percentage increase shall be five percent.~~

~~(B) For Group C members who are eligible for retirement and leave active service on or after July 1, 2022, the maximum amount of any increase or decrease utilized to determine the net percentage increase shall be four percent.~~

~~(2) Consumer Price Index; decreases. In the event of a decrease of the Consumer Price Index as of June 30 for the preceding year, there shall be no adjustment to the retirement allowance of a beneficiary for the subsequent year beginning January 1; provided, however, that:~~

~~(A) such decrease shall be applied as an offset against the first subsequent year's increase of the Consumer Price Index up to the full amount of such increase; and~~

~~(B) to the extent that such decrease is greater than such subsequent year's increase, such decrease shall be offset in the same manner against two or more years of such increases, for up to but not exceeding five subsequent years of such increases, until fully offset.~~

~~(3) Consumer Price Index; increases. Subject to the maximum and minimum amounts set forth in subdivision (1) of this subsection, in the event~~

of an increase in the Consumer Price Index, and provided there remains an increase following the application of any offset as in subdivision (2) of this subsection, that amount shall be identified as the net percentage increase and used to determine the members' postretirement adjustment as set forth in subsection (d) of this section.

~~(c) For purposes of subsection (a) of this section, the maximum amount of any increase or decrease utilized to determine the net percentage increase shall be five percent. For purposes of subsection (b) of this section, the maximum amount of any increase or decrease utilized to determine the net percentage increase shall be five percent, and any increase or decrease less than one percent shall be assigned a value of one percent. Eligibility for postretirement adjustment. In order for a beneficiary to receive a postretirement adjustment allowance, the beneficiary must meet the following eligibility requirements:~~

(1) for any Group A or Group C member eligible for retirement on or before June 30, 2022, the member must be in receipt of a retirement allowance for at least 12 months prior to the January 1 effective date of any postretirement adjustment; and

(2) for any Group C member who is eligible for retirement and leaves active service on or after July 1, 2022, the member must be in receipt of a retirement allowance for at least 24 months prior to the January 1 effective date of any postretirement adjustment.

(d) As used in this section, "Consumer Price Index" shall mean the Northeast Region Consumer Price Index for all urban consumers, designated as "CPI-U," in the northeast region, as published by the U.S. Department of Labor, Bureau of Labor Statistics.

\* \* \* Other Postemployment Benefits \* \* \*

Sec. 24. 16 V.S.A. § 1944b is amended to read:

§ 1944b. RETIRED TEACHERS' HEALTH AND MEDICAL BENEFITS  
FUND

(a) There is established the Retired Teachers' Health and Medical Benefits Fund (Benefits Fund) to pay ~~retired teacher health and medical~~ retiree postemployment benefits, including prescription drug benefits, when due in accordance with the terms established by the Board of Trustees of the State Teachers' Retirement System of Vermont pursuant to subsection 1942(p) and section 1944e of this title. The Benefits Fund is intended to comply with and be a tax exempt governmental trust under Section 115 of the Internal Revenue Code of 1986, as amended. The Benefits Fund shall be administered by the Treasurer.

(b) The Benefits Fund shall consist of:

(1) all monies remitted to the State on behalf of the members of the State Teachers' Retirement System of Vermont for prescription drug plans, including manufacturer rebates, as well as monies pursuant to the Employer Group Waiver Plan with Wrap pursuant to the Medicare Prescription Drug Improvement and Modernization Act of 2003;

(2) any monies appropriated by the General Assembly for the purpose of paying ~~the health and medical~~ postemployment benefits for retired members and their dependents provided by subsection 1942(p) and section 1944e of this title;

(3) any monies pursuant to subsection ~~(e)~~ (h) of this section; and

(4) [Repealed.]

(5) any monies pursuant to section 1944d of this title.

(c) No employee contributions shall be deposited in the Benefits Fund.

(d) The Treasurer may invest monies in the Benefits Fund in accordance with the provisions of 32 V.S.A. § 434 or, in the alternative, may enter into an agreement with the Vermont Pension Investment ~~Committee~~ Commission to invest such monies in accordance with the standards of care established by the prudent investor rule under 14A V.S.A. § 902, in a manner similar to the ~~Committee's~~ Commission's investment of retirement system monies. Interest earned shall remain in the Benefits Fund, and all balances remaining at the end of a fiscal year shall be carried over to the following year. The Treasurer's annual financial report to the Governor and the General Assembly shall contain an accounting of receipts, disbursements, and earnings of the Benefits Fund.

(e) [Repealed.]

(f) Contributions to the Benefits Fund shall be irrevocable and it shall be impossible at any time prior to the satisfaction of all liabilities, with respect to employees and their beneficiaries, for any part of the corpus or income of the Benefits Fund to be used for, or diverted to, purposes other than the payment of retiree postemployment benefits to members and their beneficiaries and reasonable expenses of administering the Benefits Fund and related benefit plans.

(g) [Repealed.]

(h) State contribution.

(1) Beginning on July 1, 2022, and annually thereafter, the State shall make annual contributions to the Benefits Fund known as the “normal contribution” and the “accrued liability contribution,” each of which shall be fixed on the basis of the liabilities of the System as shown by the most recent actuarial valuation and made by separate appropriation in the annual budget enacted by the General Assembly:

(A) The “normal contribution” shall be the amount that, if contributed over each member’s prospective period of service, will be sufficient to provide for the payment of all future retiree postemployment benefits after subtracting the unfunded actuarial liability and the total assets of the Benefits Fund. The “normal cost” shall be identified using the actuarial cost method known as “projected unit credit” and applying a rate of return equal to the most recently adopted actuarial rate of return pursuant to 3 V.S.A. § 523.

(B) The “accrued liability contribution” shall be the annual payment set forth in the most recent actuarial valuation that is necessary to liquidate the unfunded accrued liability over a closed period of 26 years and determined based on the funding schedule set forth in this section.

(i) It is the policy of the State of Vermont to liquidate fully the unfunded accrued liability for the payment of retiree postemployment benefits.

(ii) Beginning on July 1, 2022, until the unfunded accrued liability is liquidated, the accrued liability contribution shall be the annual payment required to liquidate the unfunded accrued liability over a closed period of 26 years ending on June 30, 2048, provided that the amount of each annual basic accrued liability contribution shall be determined by amortization of the unfunded liability over the remainder of the closed 26-year period in installments.

(2) Any variation in the contribution of normal or accrued liability contributions from those recommended by the actuary and any actuarial gains and losses shall be added or subtracted to the unfunded accrued liability and amortized over the remainder of the closed 26-year period.

(3) The Board shall review annually the amount of State contributions recommended by the actuary of the Retirement System. Based on this review, the Board shall determine the amount of State contribution necessary for the next fiscal year to achieve and preserve the financial integrity of the funds. On or before December 15 of each year, the Board shall inform the Governor and the House and Senate Committees on Government Operations and on Appropriations in writing about the amount needed. The provisions of



2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

Sec. 25. 16 V.S.A. § 4025 is amended to read:

§ 4025. EDUCATION FUND

\* \* \*

(b) Monies in the Education Fund shall be used for the following:

\* \* \*

(4) To make payments to the Vermont Teachers' Retirement Fund and the Retired Teachers' Health and Medical Benefits Fund for the normal ~~contribution~~ contributions in accordance with ~~subsection~~ subsections 1944(c) ~~of this title~~ and 1994b(h) of this title.

\* \* \*

Sec. 26. VERMONT TEACHERS' RETIREMENT SYSTEM; REPEAL OF PRIOR SUNSET AND REPORTING PROVISIONS

2018 (Sp. Sess.) Acts and Resolves No.11, Secs. E.515.3 and E.515.4 are hereby repealed.

\* \* \* Vermont Municipal Employees' Retirement System \* \* \*

Sec. 27. 24 V.S.A. § 5062 is amended to read:

§ 5062. RETIREMENT BOARD; MEDICAL BOARD; ACTUARY; RATES OF CONTRIBUTION; SAFEKEEPING OF SECURITIES

\* \* \*

(k) Immediately after the establishment of the Retirement System, the Retirement Board shall adopt for the Retirement System such mortality and service tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this chapter. ~~At least once in each three-year period~~ Beginning July 1, 2023, at least once every three fiscal years following the establishment of the System, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the Retirement System, and taking into account the results of such investigation, the Retirement Board shall adopt for the Retirement System such mortality, service, and other tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this chapter.

\* \* \*

\* \* \* Funding \* \* \*

Sec. 28. FY 2022; APPROPRIATION; STATE EMPLOYEES'  
POSTEMPLOYMENT BENEFITS TRUST FUND; RETIRED  
TEACHERS' HEALTH AND MEDICAL BENEFITS FUND

(a) In FY 2022, of the amount of General Funds reserved in 2021 Acts and Resolves No. 74, Sec. C.101(a) is unreserved as follows:

(1) the sum of \$75,000,000.00 is appropriated to the Vermont State Retirement Fund, established in 3 V.S.A. § 473, to address the unfunded accrued liability in pension benefits; and

(2) the sum of \$75,000,000.00 is appropriated to the Vermont Teachers' Retirement Fund, established in 16 V.S.A. § 1944, to address the unfunded accrued liability in pension benefits.

(b) In FY 2022, the amount of \$50,000,000.00 in General Funds shall be appropriated to the to the Vermont Teachers' Retirement Fund, established in 16 V.S.A. § 1944, to address the unfunded accrued liability in pension benefits.

(c) In FY 2022, of the amount of Education Funds reserved in 2021 Acts and Resolves No. 74, Sec. C.101(a) is unreserved and the sum of \$13,300,000.00 is appropriated to the Retired Teachers' Health and Medical Benefits Fund, established in 16 V.S.A. § 1944b, to support the normal cost of other postemployment benefits as set forth in 16 V.S.A. § 1944f.

(d) The appropriations in subsections (a) and (b) of this section shall not be included for the purposes of calculating the reserve total for fiscal year 2023 pursuant to 32 V.S.A. § 308 (General Fund budget stabilization reserve).

Sec. 29. 32 V.S.A. § 308c is amended to read:

§ 308c. GENERAL FUND AND TRANSPORTATION FUND BALANCE  
RESERVES

(a) There is hereby created within the General Fund a General Fund Balance Reserve, also known as the "Rainy Day Reserve." After satisfying the requirements of section 308 of this title, and after other reserve requirements have been met, any remaining unreserved and undesignated end of fiscal year General Fund surplus shall be reserved in the General Fund Balance Reserve. The General Fund Balance Reserve shall not exceed five percent of the appropriations from the General Fund for the prior fiscal year without legislative authorization.

(1), (2) [Repealed.]

(3) Of the funds that would otherwise be reserved in the General Fund Balance Reserve under this subsection, ~~50 percent of any such funds the~~

following amounts shall be reserved as necessary and transferred from the General Fund to the ~~Vermont State Employees' Postemployment Benefits Trust Fund~~ established by ~~3 V.S.A. § 479a~~ as follows:

(A) 25 percent to the Vermont State Retirement Fund established by 3 V.S.A. § 473; and

(B) 25 percent to the Postretirement Adjustment Allowance Account established in 16 V.S.A. § 1949a.

\* \* \*

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

#### Sec. 30. EFFECTIVE DATES

This act shall take effect on July 1, 2022, except that Sec. 28 (FY 2022 appropriation) shall take effect on passage.

### **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.

**S.C.R. 19** (For text of Resolutions, see Addendum to Senate Calendar for April 28, 2022)

**H.C.R. 150 - 160** (For text of Resolutions, see Addendum to House Calendar for April 28, 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)

Michael Donohue of Shelburne – Chair, Human Services Board – By Sen. Hardy for the Committee on Health and Welfare. (4/27/22)

Caroline Carpenter of Salisbury – Member, Vermont Economic Development Authority – By Sen. Hardy for the Committee on Finance. (4/28/22)

Peter Gregory of Hartland – Member, State Infrastructure Bank Board – By Sen. Sirotkin for the Committee on Finance. (4/28/22)

Karyn Hale of Lyndonville – Member, Vermont Economic Development Authority – By Sen. Hardy for the Committee on Finance. (4/28/22)

Thomas Leavitt of Waterbury – Member, Vermont Housing Finance Agency – By Sen. Cummings for the Committee on Finance. (4/28/22)

Dr. Audra Pinto of Essex Junction – Member, State Board of Health – By Sen. Hooker for the Committee on Health and Welfare. (4/29/22)

## **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]*