

# Senate Calendar

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MONDAY, MAY 2, 2022

SENATE CONVENES AT: 1:00 P.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 FRIDAY, APRIL 29, 2022**

**Second Reading**

**Favorable**

**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. 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. 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)

**Amendments to proposal of amendment of the Committee on Health and Welfare to H. 728 to be offered by Senators Hardy, Cummings, Hooker and Lyons**

Senators Hardy, Cummings, Hooker and Lyons move to amend the proposal of amendment of the Committee on Health and Welfare as follows:

First: In Sec. 8, Overdose Prevention Site Working Group, by striking out subsection (e) in its entirety and inserting in lieu thereof a new subsection (e) to read as follows:

(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, including the plan developed pursuant to subdivision (c)(5) of this section and the estimated cost to implement the plan.

Second: In Sec. 9, mobile medication-assisted treatment, by inserting a sentence at the end of the section to read as follows:

As part of their respective presentations, the designated agencies and the Department shall describe geographic inequities in the provision of methadone services and provide proposals for addressing geographic inequities.

**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.~~

~~(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. § 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 entireties 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; other policies approved by the General Assembly; Agency goals, mission, and objectives; 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.

**Proposal of amendment to House proposal of amendment to S. 280 to be offered by Senators Perchlik, Mazza, Chittenden, Ingalls and Kitchel**

Senators Perchlik, Mazza, Chittenden, Ingalls and Kitchel move that the Senate concur in the House proposal of amendment with a proposal of amendment as follows

By striking out Secs. 12, report on increasing gross weight limits on highways; 13, distracted driving; report; 14, idling; public outreach campaign; 15, 19 V.S.A. § 10b; 16, 19 V.S.A. § 10i; and 17, effective dates, and their corresponding reader assistance headings in their entirety and inserting in lieu thereof the following:

\* \* \* General Statement of Policy; Transportation Planning \* \* \*

Sec. 12. 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.

(b) The Agency shall coordinate planning and education efforts with ~~those of the Vermont Climate Change Oversight Committee 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. 13. 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; other policies approved by the General Assembly; Agency goals, mission, and objectives; 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.

\* \* \*

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

#### Sec. 14. 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.

### **NEW BUSINESS**

#### **Third Reading**

##### **H. 456.**

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

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

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

##### **H. 482.**

An act relating to the Petroleum Cleanup Fund.

##### **H. 523.**

An act relating to reducing hydrofluorocarbon emissions.

##### **H. 606.**

An act relating to community resilience and biodiversity protection.



**H. 729.**

An act relating to miscellaneous judiciary procedures.

**Proposal of amendment to H. 729 to be offered by Senators White, Sears, Baruth and Benning before Third Reading**

Senators White, Sears, Baruth and Benning move to amend the Senate proposal of amendment as follows:

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

\* \* \* Report on Unification of Animal Welfare and Related Public Safety Functions \* \* \*

**Sec. 38. UNIFICATION OF ANIMAL WELFARE AND RELATED PUBLIC SAFETY FUNCTIONS; REPORT**

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

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

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

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

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

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

(b) The Department shall engage with the Animal Cruelty Investigation Advisory Board, the Vermont Humane Federation, and other interested stakeholders as needed to comply with this section.

And by renumbering the remaining section to be numerically correct.

**Proposal of amendment to H. 729 to be offered by Senator Sears before  
Third Reading**

Senator Sears moves to amend Senate proposal of amendment by inserting a new section to be Sec. 7a to read as follows:

Sec. 7a. 13 V.S.A. § 7602 is amended to read:

§ 7602. EXPUNGEMENT AND SEALING OF RECORD,  
POSTCONVICTION; PROCEDURE

(a)(1) A person may file a petition with the court requesting expungement or sealing of the criminal history record related to the conviction if:

\* \* \*

(C) pursuant to the conditions set forth in subsection (g) of this section, the person was convicted of a violation of 23 V.S.A. § 1201(a) or § 1091 related to operating under the influence of alcohol or other substance, excluding a violation of ~~that section~~ those sections resulting in serious bodily injury or death to any person other than the operator, or related to operating a school bus with a blood alcohol concentration of 0.02 or more or operating a commercial vehicle with a blood alcohol concentration of 0.04 or more; or

\* \* \*

**Second Reading**

**Favorable**

**H. 500.**

An act relating to prohibiting the sale of mercury lamps in the State.

**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 552-556)

## Favorable with Proposal of Amendment

### H. 96.

An act relating to creating the Truth and Reconciliation Commission.

**Reported favorably with recommendation of proposal of amendment by Senator Ram Hinsdale 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. INTENT

It is the intent of the General Assembly to establish the Vermont Truth and Reconciliation Commission to:

(1) examine and begin the process of dismantling institutional, structural, and systemic discrimination in Vermont, both past and present, that has been caused or permitted by State laws and policies;

(2) establish a public record of institutional, structural, and systemic discrimination in Vermont that has been caused or permitted by State laws and policies; and

(3) identify potential actions that can be taken by the State to repair the damage caused by institutional, structural, and systemic discrimination in Vermont that has been caused or permitted by State laws and policies and prevent the recurrence of such discrimination in the future.

Sec. 2. 1 V.S.A. chapter 25 is added to read:

#### CHAPTER 25. TRUTH AND RECONCILIATION COMMISSION

##### § 901. DEFINITIONS

As used in this chapter:

(1) “Commission” means the Vermont Truth and Reconciliation Commission, including its commissioners, committees, and staff.

(2) “Consultation” means a meaningful and timely process of seeking, discussing, and considering carefully the views of others in a manner that is cognizant of all parties’ cultural values.

(3) “Panel” means the Selection Panel established pursuant to section 904 of this chapter.

(4) “Record” means any written or recorded information, regardless of physical form or characteristics.

§ 902. VERMONT TRUTH AND RECONCILIATION COMMISSION;  
ESTABLISHMENT; ORGANIZATION

(a) There is created and established a body corporate and politic to be known as the Vermont Truth and Reconciliation Commission to carry out the provisions of this chapter. The Truth and Reconciliation Commission is constituted a public instrumentality exercising public and essential government functions and the exercise by the Commission of the power conferred by this chapter shall be deemed and held to be the performance of an essential governmental function.

(b)(1) The Commission shall consist of three commissioners appointed pursuant to section 905 of this chapter and shall include one or more committees established by the commissioners to examine institutional, structural, and systemic discrimination caused or permitted by State laws and policies experienced by each of the following populations and communities in Vermont:

(A) individuals who identify as Native American or Indigenous;

(B) individuals with a physical, psychiatric, or mental condition or disability and the families of individuals with a physical, psychiatric, or mental condition or disability;

(C) Black individuals and other individuals of color;

(D) individuals with French Canadian, French-Indian, or other mixed ethnic or racial heritage; and

(E) in the commissioners' discretion, other populations and communities that have experienced institutional, structural, and systemic discrimination caused or permitted by State laws and policies.

(2)(A) Each committee shall consist of the commissioners and members appointed by the commissioners in consultation with the populations and communities identified pursuant to subdivision (1) of this subsection (b).

(B) The commissioners shall ensure that the members of each committee shall be broadly representative of the populations and communities who are the subject of that committees' work.

(C) The commissioners may appoint not more than 30 committee members in the aggregate across all of the committees established pursuant to subdivision 906(a)(1) of this chapter.

(D)(i) Except as otherwise provided pursuant to subdivision (ii) of this subdivision (2)(D), committee members 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 per calendar year. These payments shall be made from monies appropriated to the Commission.

(ii) The commissioners may authorize committee members to receive per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for additional meetings in each calendar year. Payments for additional meetings shall be made from grants or additional funding received by the Commissioners pursuant to subdivision 906(b)(11) of this chapter. In no event shall the per diem compensation and reimbursement of expenses for any additional meetings exceed the amounts permitted pursuant to 32 V.S.A. § 1010.

(3) Nothing in this subsection shall be construed to require the Commission to examine institutional, structural, and systemic discrimination experienced by the populations and communities identified in subdivision (1) of this subsection in isolation or separately from each other.

#### § 903. COMMISSIONERS

(a) Commissioners shall be full-time State employees and shall be exempt from the State classified system.

(b) The commissioners shall receive compensation equal to one-half that of a Superior Court Judge.

(c) The term of each commissioner shall begin on the date of appointment and end on July 1, 2026.

#### § 904. SELECTION PANEL; MEMBERSHIP; DUTIES

(a)(1) The Selection Panel shall be composed of seven members selected on or before September 1, 2022 by a majority vote of the following:

(A) the Executive Director of Racial Equity or designee;

(B) the Executive Director of the Vermont Center for Independent Living or designee;

(C) an individual, who shall not be a current member of the General Assembly, appointed by the Speaker of the House;

(D) an individual, who shall not be a current member of the General Assembly, appointed by the Committee on Committees; and

(E) an individual appointed by the Chief Justice of the Vermont Supreme Court.

(2) The individuals identified in subdivision (1) of this subsection:

(A) shall hold their first meeting on or before August 1, 2022 at the call of the individual appointed by the Chief Justice of the Vermont Supreme Court; and

(B) are encouraged to appoint individuals to the Selection Panel who include members of the populations and communities identified pursuant to subdivisions 902(b)(1)(A)–(D) of this chapter and who are diverse with respect to socioeconomic status, work, education, geographic location, gender, and sexual identity.

(3) Individuals selected pursuant to subdivision (1) of this subsection who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than two meetings. These payments shall be made from amounts appropriated to the Truth and Reconciliation Commission.

(b)(1) The Selection Panel shall select and appoint the commissioners of the Truth and Reconciliation Commission as provided pursuant to section 905 of this chapter.

(2) To enable it to carry out its duty to select and appoint the commissioners of the Truth and Reconciliation Commission as provided pursuant to section 905 of this chapter, the Panel may:

(A) adopt procedures as necessary to carry out the duties set forth in section 905 of this chapter;

(B) establish and maintain a principal office;

(C) meet and hold hearings at any place in this State; and

(D) hire temporary staff to provide administrative assistance during the period from September 1, 2022 through January 15, 2023, provided that if the Panel extends the time to select commissioners pursuant to subdivision 905(c)(1) of this chapter, it may retain staff to provide administrative assistance through March 31, 2023.

(c) The term of each member of the Panel shall begin on the date of appointment and end on January 15, 2023, except if the Panel extends the time to select commissioners pursuant to subdivision 905(c)(1) of this chapter, the term of the Panel members shall end on March 31, 2023.

(d) The Panel shall select a chair and a vice chair from among its members.

(e)(1) Meetings shall be held at the call of the Chair or at the request of four or more members of the Panel.

(2) A majority of the current membership of the Panel shall constitute a quorum, and actions of the Panel may be authorized by a majority of the members present and voting at a meeting of the Panel.

(f) Members of the Panel shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than 20 meetings during fiscal year 2023. These payments shall be made from amounts appropriated to the Truth and Reconciliation Commission.

#### § 905. SELECTION OF COMMISSIONERS

(a)(1) Except as otherwise provided pursuant to subdivision (c)(1) of this section, the Selection Panel shall, on or before December 31, 2022, select three individuals to serve as the commissioners of the Vermont Truth and Reconciliation Commission.

(2) In carrying out its duty to select the commissioners, the Panel shall:

(A) Establish a public, transparent, and simple process for candidates to apply to serve as a commissioner.

(B) Publicize the application process, deadlines, and requirements to serve as a commissioner through media outlets, civil society organizations, and any other forms of public outreach that the Panel determines to be appropriate.

(C) Solicit nominations for individuals to serve as commissioners from civil society organizations in Vermont whose work relates to the mission of the Commission.

(D) Invite Vermont residents to submit applications to serve as commissioners.

(E) Hold one or more public hearings to provide an opportunity for members of the public to meet and ask questions of the finalists to serve as a commissioner.

(F) Hold private interviews with each individual selected by the Panel as a finalist for selection as a commissioner.

(G) Conduct criminal history record checks for finalists, provided that the Panel shall only consider felony convictions or convictions for crimes involving untruthfulness or falsification. A finalist who has been convicted of a felony or a crime involving untruthfulness or falsification shall be afforded an opportunity to explain the information and the circumstances regarding the conviction, including postconviction rehabilitation.

(H) Take any other actions that the Panel deems appropriate or necessary to carry out its duties in relation to the selection of commissioners.

(3) The three commissioners selected by the Panel shall:

(A) be residents of Vermont;

(B) not be members of the Selection Panel;

(C) have knowledge of the problems and challenges facing the populations and communities identified pursuant to subdivisions 902(b)(1)(A)–(D) of this chapter; and

(D) satisfy any additional criteria established by the Panel.

(b) Not later than five days after selecting the commissioners pursuant to subsection (a) of this section, the Panel shall submit a brief report to the Governor and the General Assembly identifying the commissioners. The names of the commissioners shall be made available to the public on the same day that the report is submitted.

(c)(1) If the Panel is unable to identify three suitable applicants on or before December 31, 2022, the Panel may by a majority vote extend the time to select commissioners to March 31, 2023.

(2) If the Panel extends the time to select commissioners pursuant to this subsection, the Panel shall, on or before January 5, 2023, submit a brief written report to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Government Operations providing notice of its decision to extend the time to select commissioners and its reasons for doing so and identifying any changes to the provisions of this chapter that may be necessary to enable the Panel to successfully identify and select commissioners.

#### § 906. POWERS AND DUTIES OF THE COMMISSIONERS

(a) Duties. The commissioners shall:

(1) establish, in consultation with the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter and other interested parties in the commissioners' discretion, committees to examine institutional, structural, and systemic discrimination caused or permitted by State laws and policies that have been experienced by the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter;



(2) determine, in consultation with the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter, historians, social scientists, experts in restorative justice, and other interested parties in the commissioners' discretion, the scope and objectives of the work to be carried out by each committee established pursuant to subdivision (1) of this subsection;

(3) develop and implement a process for each committee established pursuant to subdivision (1) of this subsection to fulfill the objectives established pursuant to subdivision (2) of this subsection;

(4) work with the committees and Commission staff to carry out research, public engagement, and other work necessary to:

(A) identify and examine historic and ongoing institutional, structural, and systemic discrimination against members of the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter that has been caused or permitted by State laws and policies;

(B) determine the current status of members of the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter; and

(C) satisfy the scope of work and the objectives established pursuant to subdivision (1) of this subsection (a);

(5) work with the committees and Commission staff to identify potential programs and activities to create and improve opportunities for or to eliminate disparities experienced by the populations and communities that are the subject of the committees' work;

(6) work with the committees and Commission staff to identify potential educational programs related to historic and ongoing institutional, structural, and systemic discrimination against members of the populations and communities that are the subject of the committees' work;

(7) work in consultation with the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter, experts in restorative justice, and, in the commissioners' discretion, other interested parties to ensure that the work of the Commission is open, transparent, inclusive, and meaningful; and

(8) supervise the work of the Executive Director of the Commission.

(b) Powers. To carry out its duties pursuant to this chapter, the commissioners may:

(1) Adopt rules in accordance with 3 V.S.A. chapter 25 as necessary to implement the provisions of this chapter.

(2) Adopt procedures as necessary to carry out the duties set forth in subsection (a) of this section.

(3) Establish and maintain a principal office.

(4) Meet and hold hearings at any place in this State.

(5) Consult with local, national, and international experts on issues related to discrimination, truth and reconciliation, and restorative justice.

(6) Interview and take statements from members of the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter; members of the public; and persons with knowledge of the institutional, structural, and systemic discrimination experienced by such populations and communities.

(7) Study, research, investigate, and report on the impact of State laws and policies on populations and communities identified pursuant to subdivision 902(b)(1) of this chapter. If the Commission determines that particular laws or policies caused or permitted institutional, structural, and systemic discrimination against a population or community, regardless of whether the discrimination was intentional or adversely impacted the population or community, the Commission may propose legislative or administrative action to the General Assembly or Governor, as appropriate, to remedy the impacts on the population or community.

(8) Enter into cooperative agreements with private organizations or individuals or with any agency or instrumentality of the United States or of this State to carry out the provisions of this chapter.

(9) Make and execute legal documents necessary or convenient for the exercise of its powers and duties under this chapter.

(10) Hire consultants and independent contractors to assist the Commission in carrying out the provisions of this chapter.

(11) Seek grants or funding other than annual State appropriations to further the work of the Commission.

(12) Take any other actions necessary to carry out the provisions of this chapter.

#### § 907. EXECUTIVE DIRECTOR; DUTIES

(a) The Commissioners shall appoint an Executive Director. The Executive Director shall be a full-time State employee, shall be exempt from the State classified system, and shall serve at the pleasure of the commissioners.

(b) The Executive Director shall be responsible for the following:

(1) supervising and administering the implementation of the provisions of this chapter on behalf of the commissioners;

(2) assisting the commissioners in carrying out their duties;

(3) ensuring that the Commission has the resources and staff assistance necessary to collect historical materials, take statements from individuals, hold public hearings and events, and prepare and publish reports and other documents;

(4) facilitating communications between the Commission and members of the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter, interested parties, and members of the public;

(5) hiring staff, including researchers and administrative and legal professionals, as necessary to carry out the duties of the Commission; and

(6) preparing an annual budget for submission to the commissioners.

#### § 908. REPORTS

(a) On or before January 15, 2024, the Commission shall submit to the Governor and General Assembly an interim report on the Commission's progress to date, the committees established pursuant to subdivision 906(a)(1) of this chapter and the scope and objectives of their work, emerging themes and issues that the Commission has identified, and, if available, any preliminary findings and recommendations for legislative or other action that the Commission believes should be prioritized to address instances of institutional, structural, and systemic discrimination identified by the Commission.

(b)(1) On or before June 15, 2026, the Commission shall submit a final report incorporating the findings and recommendations of each committee. Each report shall detail the findings and recommendations of the relevant committee and shall include recommendations for actions that can be taken to eliminate ongoing instances of institutional, structural, and systemic discrimination and to address the harm caused by historic instances institutional, structural, and systemic discrimination.

(2) The Commission shall, on or before January 15, 2026, make a draft of the final report publicly available and provide copies of the draft to interested parties from the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter and other interested parties. The Commission shall provide the interested parties and members of the public with not less than 60 days to review the draft and provide comments on it.

The Commission shall consider fully all comments submitted in relation to the draft and shall include with the final version of the report a summary of all comments received and a concise statement of the reasons why the Commission decided to incorporate or reject any proposed changes. Comments submitted in relation to the final report shall be made available to the public in a manner that complies with the requirements of section 910 of this chapter.

(c) The Commission may, in its discretion, issue additional reports to the Governor, General Assembly, and public.

#### § 909. ACCESS TO INFORMATION; CONFIDENTIALITY

(a) Access to State records and information.

(1) The Commission shall have access to and the right to copy any record or other information held by all executive, administrative, and judicial agencies and departments and all instrumentalities of the State. All executive, administrative, and judicial agencies and departments and all instrumentalities of the State shall cooperate with the Commission with respect to any request for access to any record or other information and shall provide all records or other information requested by the Commission to the extent permitted by law.

(2) The Commission shall keep confidential any information received from an executive, administrative, or judicial agency or department or an instrumentality of the State that is confidential or is exempt from the Public Records Act.

(b) Confidentiality requirements.

(1) Except as otherwise provided pursuant to subsection (c) of this section, information and records acquired by or provided to the Commission that would in any manner reveal an individual's identity shall be kept confidential and shall be exempt from public inspection and copying under the Public Records Act.

(2) The Commission shall not include the personally identifying information of any individual in any report that it produces without the express, written consent of the individual.

(c) Exceptions.

(1) Except as provided in subdivision (2) of this subsection, information and records acquired by or provided to the Commission shall only be available to the public in an anonymized form that does not reveal the identity of any individual.

(2) Information or records acquired by or provided to the Commission may be disclosed in a manner that would reveal the identity of an individual if that individual has provided their express, written consent to the disclosure of the information or record in a manner that would reveal their identity.

(d) Private proceedings.

(1) The Commission shall permit any individual who is interviewed by the Commission to elect to have their interview conducted in a manner that protects the individual's privacy and to have any recording of the interview kept confidential by the Commission. Any other record or document produced in relation to an interview conducted pursuant to this subdivision (d)(1) shall only be available to the public in an anonymized form that does not reveal the identity of any individual.

(2) The Commission shall adopt procedures and safeguards to ensure to the greatest extent possible that it does not conduct any interview in a manner that is open to the public if the interview will reveal the identities of individuals other than the interviewee without the express, written consent of those individuals.

### Sec. 3. APPROPRIATION

The sum of \$748,000.00 is appropriated from the General Fund to the Truth and Reconciliation Commission in fiscal year 2023.

### Sec. 4. REPEAL

1 V.S.A. chapter 25 (Truth and Reconciliation Commission) is repealed on July 1, 2026.

### Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-1-0)

(For House amendments, see House Journal for March 23, 2022, pages 828-843)

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

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

In Sec. 2, 1 V.S.A. chapter 25, Truth and Reconciliation Commission, after section 909, by adding section 910 to read as follows:

§ 910. ESTABLISHMENT OF POSITIONS

The establishment of the following exempt limited-service positions within the Truth and Reconciliation Commission is authorized in fiscal year 2023:

- (1) one Executive Director;
- (2) one Staff Attorney;
- (3) one Researcher; and
- (4) one Administrative Assistant.

(Committee vote: 6-0-1)

**H. 465.**

An act relating to boards and commissions.

**Reported favorably with recommendation of proposal of amendment by Senator Collamore 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, 32 V.S.A. § 1010, in subdivision (e)(1), following the last sentence of the subdivision, by inserting the following:

Prior to submitting this schedule, the Governor shall consult with each elective officer or State officer who administers per diems that are not funded by the General Fund.

Second: By adding a reader assistance heading and new section to be Sec. 7a to read as follows:

\* \* \* Emergency Service Provider Wellness Commission \* \* \*

Sec. 7a. 18 V.S.A. § 7257b is amended to read:

§ 7257b. EMERGENCY SERVICE PROVIDER WELLNESS  
COMMISSION

(a) As used in this section:

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

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

(A) currently or formerly recognized by a Vermont fire department as a firefighter;

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

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

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

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

(F) currently or formerly registered as a ski patroller at a Vermont ski resort with the National Ski Patrol or Professional Ski Patrol Association.

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

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

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

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

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

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

intervention of the effects of trauma experienced by emergency service providers;

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

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

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

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

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

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

\* \* \*

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

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

(Y) a member of the National Ski Patrol appointed by consensus agreement of the National Ski Patrol Northern Vermont and Southern Vermont Regional Directors.

\* \* \*

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 17, 2022, pages 653-662)



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

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

First: In Sec. 8, 32 V.S.A. § 1010, in subdivision (e)(2), following the last sentence of the subdivision, by inserting the following:

The agency or department shall include within its annual budget documentation the justification for any current or projected per diem rate that is greater than \$50.00, including the justification for authorizing a per diem rate of greater than \$50.00 for a board, commission, council, or committee created by executive order pursuant to subsection (g) of this section.

Second: In Sec. 8, 32 V.S.A. § 1010, in subsection (e), by inserting a new subdivision to be subdivision (3) to read as follows:

(3) When the General Assembly is not in session, a department or agency may only increase the per diem rate above the level included in their budget submission if approved by the Commissioner of Finance and Management after review of written justification for the per diem rate adjustment.

Third: By striking out Sec. 9, effective date, and its reader assistance heading in their entirety and inserting in lieu thereof two new sections to be Secs. 9 and 10 and a reader assistance heading to read as follows:

Sec. 9. DEPARTMENT OF FINANCE AND MANAGEMENT; FISCAL YEAR 2024; PER DIEM MAXIMUM; REPORT

(a) Fiscal year 2024. The fiscal year 2024 annual budget report of the Governor and the fiscal year 2024 annual budget documentation submitted by agencies and departments shall include the documentation and information required in Sec. 8 of this act regarding current and proposed per diem rates for boards, commissions, councils, and committees.

(b) Report. On or before December 1, 2024, the Department of Finance and Management shall submit a written report to the House and Senate Committees on Appropriations and on Government Operations with a recommendation on whether to establish a maximum per diem rate for boards, commissions, councils, or committees and any legislative actions necessary to increase uniformity and equality of per diem rates across State government.

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

Sec. 10. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 8 shall take effect on July 1, 2023.

(Committee vote: 6-0-1)

**H. 489.**

An act relating to miscellaneous provisions affecting health insurance regulation.

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

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

By adding a new section to be Sec. 9 to read as follows:

Sec. 9. SEPARATE INDIVIDUAL AND SMALL GROUP HEALTH INSURANCE MARKETS FOR PLAN YEAR 2023

(a) As used in this section, “health benefit plan,” “registered carrier,” and “small employer” have the same meanings as in 33 V.S.A. § 1811.

(b) Notwithstanding any provision of 33 V.S.A. § 1811 to the contrary, for plan year 2023, a registered carrier shall:

(1) offer separate health benefit plans to individuals and families in the individual market and to small employers in the small group market;

(2) apply community rating in accordance with 33 V.S.A. § 1811(f) to determine the premiums for the carrier’s plan year 2023 individual market plans separately from the premiums for its small group market plans; and

(3) file premium rates with the Green Mountain Care Board pursuant to 8 V.S.A. § 4062 separately for the carrier’s individual market and small group market plans.

And by renumbering the existing Sec. 9, effective dates, to be Sec. 10

(Committee vote: 6-1-0)

(For House amendments, see House Journal for February 22, 2022, pages 175-182)

**H. 727.**

An act relating to the exploration, formation, and organization of union school districts and unified union school districts.

**Reported favorably with recommendation of proposal of amendment by Senator Campion 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:

Sec. 1. 16 V.S.A. chapter 11, subchapter 1 is redesignated to be chapter 9, subchapter 6 to read:

Subchapter ~~16~~. ~~GENERALLY~~; CONTRACTS BETWEEN DISTRICTS  
TO OPERATE SCHOOLS JOINTLY

§ 571. CONTRACTS TO CONSTRUCT AND OPERATE JOINT SCHOOLS

\* \* \*

§ 572. JOINT BOARDS FOR JOINT, CONTRACT, OR CONSOLIDATED SCHOOLS

\* \* \*

Sec. 2. REPEAL

16 V.S.A. chapter 11 (union schools) is repealed on passage of this act.

Sec. 3. 16 V.S.A. chapter 11 is added to read:

CHAPTER 11. UNION SCHOOL DISTRICTS

Subchapter 1. General Provisions

§ 701. POLICY

It is the policy of the State to provide substantially equal educational opportunities for all children in Vermont by authorizing two or more school districts, including an existing union school district, to form a union school district for the purpose of providing for the education of its resident students in the grades for which it is organized, and for the new union school district to be a body politic and corporate with the powers incident to a municipal corporation, with all of the rights and responsibilities that a town school district has in providing for the education of its resident students. Formation of union school districts shall be designed to encourage and support local decisions and actions that provide substantial equity of educational opportunities statewide, lead students to achieve or exceed the State's Education Quality Standards, maximize operational efficiencies, promote

transparency and accountability, and be delivered at a cost that parents, voters, and taxpayers value.

## § 702. DEFINITIONS

As used in this chapter:

(1) “Board clerk” means the individual selected to be clerk of the board of a union school district by the members of the board from among their number pursuant to the provisions of sections 714 (initial members of union school district board), 729 (unified union district board members), and 747 (union elementary and union high school district board members) of this chapter.

(2) “District clerk” means the individual elected as clerk of a union school district by the voters of the district pursuant to the provisions of sections 715 (union school district organizational meeting), 735 (unified union school district officers and election), and 753 (union elementary and union high school district officers and election) of this chapter.

(3) “Forming districts” means all school districts, including union school districts, that are located within the geographical boundaries of a proposed or voter-approved union school district prior to the operational date of the union school district, which will potentially merge or have merged to form the new union school district.

(4) “Member district” means a school district, which can be a union school district, that is a member of a union elementary school district or a union high school district for certain grades, prekindergarten through grade 12, and is a distinct district organized to provide for the education of its resident students for all other grades, whether by operating one or more schools or paying tuition.

(5) “Operational date” means the date on which a union school district formed pursuant to the provisions of this chapter assumes full and sole responsibility for the education of all resident students in the grades for which it is organized.

(6) “School district” means a school district organized as a town school district, city school district, incorporated school district, or union school district, unless clearly inapplicable.

(7) In addition to its plain meaning, “town” means a city or incorporated village.

(8) In addition to its plain meaning, “town school district” means a city school district, or incorporated school district, and does not mean a union

school district.

(9) “Town within a unified union school district” means each town located inside the geographic boundaries of a unified union school district and in which the district’s resident students live.

(10) “Transitional period” means the period of time beginning on the day on which a union school district becomes a legal entity pursuant to section 713 (certification of votes) of this chapter and continuing until its operational date.

(11) “Unified union school district” means a union school district organized to provide for the education of the district’s resident students in all grades, prekindergarten through grade 12.

(12) “Union elementary school district” and “union high school district” mean a union school district organized to provide for the education of the district’s resident students in fewer than all grades, prekindergarten through grade 12.

(13)(A) “Union school district” means a municipality formed under the provisions of this chapter that is governed by a single publicly elected board and that is responsible for the education of students residing in two or more towns in the grades for which the district is organized by:

(i) operating a school or schools for all grades;

(ii) operating a school or schools for all students in one or more grades and paying tuition for all students in the remaining grade or grades; or

(iii) paying tuition for all grades.

(B) Use of the term “union school district” or “union district” includes a union elementary school district, union high school district, and unified union school district unless the context clearly limits it to fewer than all options.

(14) “Weighted voting” means a system, sometimes used in the “proportional to town population” model of union school district board membership, set forth in subdivisions 711(d)(1), 711(e)(1), 730(a)(1), 748(a)(1), and 748(b)(1) of this chapter, where proportionality is achieved by assigning a different number of votes to each board member.

#### § 703. APPLICATION OF OTHER LAWS AND ARTICLES OF AGREEMENT

(a) Other education laws. The provisions of this chapter are intended to be in addition to the general provisions of law pertaining to schools, school

districts, and supervisory unions. General provisions of law shall apply to union school districts unless inconsistent with or otherwise provided in this chapter.

(b) Existing articles of agreement.

(1) If a union school district joins with other school districts to form a new union school district pursuant to the provisions of sections 706–715 (process of exploration, formation, and organization of a union school district) of this chapter, then the articles of agreement of the existing union school district are repealed, and the articles of agreement of the new union school district shall govern.

(2) If a union school district joins another existing union school district pursuant to the provisions of section 721 (joining an existing union school district) of this chapter, then the articles of agreement of the joining district are repealed, and the articles of agreement of the enlarged union school district shall govern, unless the districts agree otherwise.

Subchapter 2. Exploration, Formation, and Organization

Article 1. Process

§ 706. PROPOSAL TO FORM STUDY COMMITTEE; BUDGET AND MEMBERSHIP

(a) Establishment of committee. When the boards of two or more school districts vote to establish a study committee to study the advisability of forming a union school district or are petitioned to do so by at least five percent of voters in the school district, the boards shall meet with the superintendent or superintendents of each school district. With the advice of the superintendent or superintendents, the boards shall establish a budget for the study committee’s work and shall determine the number of persons to serve on the study committee pursuant to subsection (b) of this section.

(b) Budget and membership. Each participating school district’s share of the established budget and membership on the study committee shall be the same as the proportion of the school district’s equalized pupils to the total equalized pupils of all school districts intending to participate formally in the study committee. As used in this subsection, “equalized pupils” has the same meaning as in section 4001 of this title.

(c) Existing union school districts.

(1) Existing union elementary or union high school district; proposed unified union school district. If the board of an existing union elementary or union high school district votes to participate in a study committee to consider

formation of a unified union school district, or is petitioned by the voters to do so, then:

(A) The interests of the existing union school district shall be represented by its member districts on the study committee.

(B) Any warning and vote on the study committee budget pursuant to section 707 of this chapter and the warning and vote on any resulting proposal to form a unified union school district pursuant to section 710 shall be at the member district level.

(C) If the existing union school district does not have any member districts because all towns for which it is organized are members of both a union elementary school district and a union high school district, then the existing union school district shall represent its own interests on the study committee, and the towns within it shall not participate on its behalf.

(D) If a town is a member of both a union elementary school district and a union high school district, is not independently organized as a district that is responsible for the education of students in any grade, and does not have a town school district board, then notwithstanding other provisions to the contrary:

(i) To the extent possible, the boards of the union elementary and union high school districts of which the town is a member shall make a reasonable attempt, jointly, to appoint a member to the study committee who resides in the town.

(ii) The legislative body or appropriate officer of the town shall perform electoral functions, including warning meetings and conducting the voting process, ordinarily performed by and in member districts on behalf of a union school district.

(2) Existing unified union school district; proposed unified union school district. If the board of a unified union school district votes to participate in a study committee to consider formation of a new unified union school district rather than the enlargement of the existing unified union school district pursuant to section 721 (joining an existing union school district) of this chapter, or is petitioned by the voters to do so, then:

(A) The existing unified union school district shall represent its own interests on the study committee, and the towns within it shall not participate on its behalf.

(B) To the extent possible, the board of the existing unified union school district shall make a reasonable attempt to appoint members to the study committee who reside in each town within the district.

(C) Any warning and vote on the study committee budget pursuant to section 707 of this chapter and the warning and vote of the electorate on any resulting proposal to form a new unified union school district pursuant to section 710 shall proceed pursuant to the provisions for commingled Australian ballot voting as set forth in subchapter 3 (unified union school districts) of this chapter.

(3) Existing union elementary or union high school district; proposed union elementary or union high school district. If the board of an existing union elementary or union high school district votes to participate in a study committee to consider formation of a new union elementary or union high school district rather than enlarging the existing union school district pursuant to section 721 (joining an existing union school district) of this chapter, or is petitioned by the voters to do so, then:

(A) The existing union school district shall represent its own interests on the study committee, and the member districts of the existing union school district shall not participate on its behalf.

(B) To the extent possible, the board of the existing union school district shall make a reasonable attempt to appoint members to the study committee who reside in each of the member districts within the existing union school district.

(C) Any warning and vote on the study committee budget pursuant to section 707 of this chapter and the warning and vote of the electorate on any resulting proposal to form a new union elementary or union high school district pursuant to section 710 of this chapter shall proceed pursuant to the provisions for commingled Australian ballot voting as set forth in subchapter 4 (union elementary and union high school districts) of this chapter.

§ 707. APPROVAL OF STUDY BUDGET; APPOINTMENT OF STUDY COMMITTEE; PARTICIPATION

(a) Proposed budget exceeding \$50,000.00.

(1) If the proposed budget established in section 706 of this chapter exceeds \$50,000.00, then subject to the provisions of that section the board of each potentially participating school district shall warn the district's voters to meet at an annual or special school district meeting to vote whether to appropriate funds necessary to support the district's financial share of a study committee's costs. The meeting in each school district shall be warned for the same date. The warning in each school district shall contain an identical article in substantially the following form:



Shall the school district of \_\_\_\_\_ appropriate funds necessary to support the school district's financial share of a study to determine the advisability of forming a union school district with some or all of the following school districts: \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_? It is estimated that the \_\_\_\_\_ school district's share, if all of the identified school districts vote to participate, will be \$ \_\_\_\_\_. The total proposed budget, to be shared by all participating school districts is \$ \_\_\_\_\_."

(2) If the vote in subdivision (1) of this subsection is in the affirmative in two or more school districts, then the boards of the affirming school districts shall appoint a study committee consisting of the number of persons determined pursuant to section 706 (proposed study committee budget and membership) of this chapter. At least one current board member from each participating school district shall be appointed to the study committee. The board of a school district appointing more than one person to the study committee may appoint residents of the school district who are not members of the board to any of the remaining seats.

(3) The sums expended for study purposes under this section shall be considered part of the approved cost of any project in which the union school district, if created, participates pursuant to chapter 123 of this title.

(b) Proposed budget not exceeding \$50,000.00.

(1) If the proposed budget established in section 706 of this chapter does not exceed \$50,000.00, then the boards of the participating school districts shall appoint a study committee consisting of the number of persons determined under that section. At least one current board member from each participating school district shall be appointed to the study committee. The board of a school district appointing more than one person to the study committee may appoint residents of the school district who are not members of the board to any of the remaining seats.

(2) The sums expended for study purposes under this section shall be considered part of the approved cost of any project in which the union school district, if created, participates pursuant to chapter 123 of this title.

(c) Additional costs.

(1) If the voters approve a budget that exceeds \$50,000.00 but the study committee later determines that its budget is likely to exceed the projected, voter-approved amount, then the boards of all participating school districts shall obtain voter approval for the amounts exceeding the previously approved budget in the manner set forth in subdivision (a)(1) of this section before the

study committee obligates or expends sums in excess of the initial voter-approved amount.

(2) If a proposed budget does not exceed \$50,000.00 at the time the school boards appoint members to the study committee, but the study committee later determines that its total budget is likely to exceed \$50,000.00, then the boards of all participating school districts shall obtain voter approval for the amounts exceeding \$50,000.00 in the manner set forth in subdivision (a)(1) of this section before the study committee obligates or expends funds in excess of \$50,000.00.

(d) Grants. Costs to be paid by State, federal, or private grants shall not be included when calculating whether a study committee's budget or proposed budget exceeds \$50,000.00.

(e)(1) Subsequent appointments of persons to the study committee; vacancy. Subject to the requirement that each school board appoint at least one current member of the board, the board of a participating school district shall appoint a person residing in the school district to the study committee if one of the school district's seats is vacant because a study committee member:

(A) is no longer a member of the school district's board and was the sole board member appointed by that school district;

(B) has resigned from or is no longer able to serve on the study committee; or

(C) has not attended three consecutive study committee meetings without providing notice to the study committee chair of the reason for each absence and obtaining a determination of the study committee members that the absences were reasonable.

(2) Notice under subdivision (1)(C) of this subsection shall be given in advance of absences whenever possible.

(f) Formal participation in study committee.

(1) A school district shall not be a formal participant in and appoint members to more than one study committee created under this chapter at any one point in time.

(2) A school district shall not formally withdraw its participation in an existing study committee after the school district has appointed members to that committee until the study committee dissolves pursuant to subsection 708(e) of this chapter.

(g) Additional formal participants.

(1) Subject to the provisions of subsection (f) of this section, a school district may join as an additional formal participant in a study committee after creation of the committee if:

(A) the school district's board has requested the committee's approval to participate after either a vote of the school district's board or a petition by five percent of the school district's voters and if the study committee votes to approve formal participation by the district; or

(B) the study committee has voted to ask the school district to participate formally and either the board of the school district votes to approve formal participation or is petitioned by five percent of the school district's voters to do so.

(2) A school district that becomes a formal participant in an existing study committee pursuant to this subsection is subject to the provisions of section 706 (proposed study committee budget and membership) of this chapter regarding financial and representational proportionality and to all other requirements of study committees set out in this chapter.

(h) Informal participation by other school districts.

(1) The board of a school district that is not a formal participant in an existing study committee may authorize one or more of the board's members to contact the study committee to discuss whether it may be advisable to include the school district within a proposal to form a new union school district as an "advisable" district, as described in section 708 (necessary and advisable districts) of this chapter.

(2) An existing study committee may authorize one or more of its members to contact the board of one or more additional school districts that are not formal participants in the committee to discuss whether it may be advisable to include the school district within a proposal to form a new union school district as an "advisable" district.

(3) An existing study committee may invite representatives of a nonparticipating school district's board to participate informally in the study committee's deliberations.

(4) Nothing in this section shall be construed to prohibit the board of a school district from authorizing informal exploration between and among the boards of school districts prior to the formation of a study committee.

§ 708. STUDY COMMITTEE; NECESSARY AND ADVISABLE DISTRICTS; CONTENTS OF STUDY COMMITTEE REPORT AND PROPOSED ARTICLES; DISSOLUTION OF COMMITTEE

(a) Study committee; process.

(1) The superintendent shall convene a study committee's first meeting when the committee's members are appointed. If the participating districts are members of more than one supervisory union, then the superintendents shall decide which of their number shall convene the meeting. The study committee members shall elect a chair who shall notify the Secretary in writing of the committee's creation and the chair's election within 30 days following the vote of the committee's creation.

(2) Staff of the supervisory union or unions shall provide administrative assistance to the study committee.

(3) The Secretary shall cooperate with the study committee and is authorized to make Agency staff available to provide technical assistance to the committee.

(4) The study committee is a public body pursuant to 1 V.S.A. § 310(4) and is subject to the requirements of 1 V.S.A. chapter 5, subchapter 2.

(5) Although a study committee should try to achieve consensus, committee decisions shall be reached by a majority of all committee members present and voting.

(b) Necessary and advisable school districts. If a study committee decides to recommend formation of a union school district, then it shall determine whether each school district included in the recommended formation is "necessary" or "advisable" to formation.

(1) "Necessary" school district.

(A) The study committee shall identify a school district as "necessary" to formation of the union school district only if the school district is a formal participant in the study committee.

(B) Subject to the provisions of subsection 706(c) of this chapter, the school board of a "necessary" school district is required to warn a vote of the electorate under sections 710 (vote to form union school district) and 711 (initial members of union school district board election) of this chapter.

(C) A proposed union school district is formed only if the voters voting in each "necessary" school district vote to approve formation.

(2) "Advisable" school district.

(A) The study committee may identify any school district as “advisable” to formation of the union school district even if the school district is not a formal participant in the study committee.

(B) The school board of an “advisable” school district is not required to warn a vote of the electorate under sections 710 (vote to form union school district) and 711 (initial members of union school district board election) of this chapter, except upon application of 10 percent of the voters in the school district.

(C) Voter approval in an “advisable” district is not required for formation of a new union school district.

(3) Existing union elementary or union high school district. Notwithstanding other provisions of this subsection, an existing union elementary or union high school district is “necessary” to the formation of a unified union school district even though its interests are represented by its member districts pursuant to subdivision 706(c)(1) (study committee budget and membership for existing union school districts) of this chapter.

(c) Proposal to form union school district; report and proposed articles of agreement. If a study committee determines that it is advisable to propose formation of a union school district, then it shall prepare a report analyzing the strengths and challenges of the current structures of all “necessary” and “advisable” school districts and outlining the ways in which a union school district promotes the State policy set forth in section 701 of this chapter. The study committee shall also prepare proposed articles of agreement that, if approved pursuant to the provisions of this chapter, shall serve as the operating agreement for the new union school district. At a minimum, articles of agreement shall state:

(1) The name of any school district the study committee considers “necessary” to formation of the proposed union school district.

(2) The name of any school district the study committee considers “advisable” to include in the proposed union school district.

(3) The legal name or temporary legal name by which the union school district shall be known.

(4) The grades, if any, that the proposed union school district will operate and the grades, if any, for which it will pay tuition.

(5) The cost and general location of any proposed new school buildings to be constructed and the cost and general description of any proposed renovations to existing school buildings.

(6) A plan for the first year of the union school district's operation for transportation of students, assignment of staff, and use of curriculum that is consistent with existing contracts, collective bargaining agreements, and other provisions of law. The board of the union school district, if formed, shall make all subsequent decisions regarding transportation, staff, and curriculum subject to existing contracts, collective bargaining agreements, and other provisions of law.

(7) A list of the indebtedness of each "necessary" and "advisable" district, which the union school district shall assume.

(8) The specific pieces of real property of each "necessary" and "advisable" district that the union school district shall acquire, their valuation, and how the union school district shall pay for them.

(9) Consistent with the proportional representation requirements of the Equal Protection Clause of the U.S. Constitution, the method or methods of apportioning representation on the union school district board as set forth in subsections 711(d) (unified union school district), (e) (union elementary or union high school district), and (f) (weighted voting) of this chapter.

(10) The term of office for each member initially elected to the union school district board, to be arranged so that one-third expire on the day of the second annual meeting of the union school district, one-third on the day of the third annual meeting, and one-third on the day of the fourth annual meeting, or as near to that proportion as possible.

(11) The date on which the proposal to create the union school district and the election of initial union school district board members will be submitted to the voters.

(12) The date on which the union school district will be solely responsible for the education of its resident students in the grades for which it is organized and will begin operating any schools, paying any tuition, and providing educational services.

(13) Whether the election of board members, election of school district officers, votes on the union school district budget, or votes on other public questions, or any two or more of these, shall be by Australian ballot.

(14) Any other matters that the study committee considers pertinent.

(d) No proposal to form a union school district. If a study committee determines that it is inadvisable to propose formation of a union school district, then its members shall vote to dissolve the committee. If the study committee members vote to dissolve, then the chair shall notify the Secretary in writing of the vote.

(e) Dissolution of study committee.

(1) If a study committee proposes formation of a union school district pursuant to subsection (c) of this section, then the committee shall cease to exist when the clerk of each school district voting on a proposal to establish the union school district has certified the results of the vote to the Secretary pursuant to subsection 713(a) of this chapter.

(2) If a study committee determines that it is inadvisable to propose formation of a union school district, then the committee shall cease to exist when the chair notifies the Secretary of the committee's vote pursuant to subsection (d) of this section.

§ 709. REVIEW BY LOCAL SCHOOL DISTRICT BOARDS;  
CONSIDERATION AND APPROVAL BY STATE BOARD OF  
EDUCATION

(a) If a study committee determines that it is advisable to propose formation of a union school district, then the committee shall transmit its report and proposed articles of agreement to the school board of each school district that the report identifies as either "necessary" or "advisable" to formation of the proposed union school district. Each board may review the report and proposed articles and may provide its comments to the study committee. The study committee has sole authority to determine the contents of the report and proposed articles and to decide whether to submit them to the State Board under subsection (b) of this section.

(b) If a study committee determines that it is advisable to propose formation of a union school district, then the committee shall transmit the report and proposed articles of agreement to the Secretary who shall submit them with recommendations to the State Board.

(c)(1) The State Board:

(A) shall consider the study committee's report and proposed articles of agreement and the Secretary's recommendations;

(B) shall provide the study committee an opportunity to be heard;

(C) may ask the Secretary or the study committee, or both, to make further investigation and may consider any other information the State Board deems to be pertinent; and

(D) may request that the study committee amend the report or the proposed articles of agreement, or both.

(2) If the State Board finds that formation of the proposed union school district is in the best interests of the State, the students, and the school districts,

and aligns with the policy set forth in section 701 of this title, then it shall approve the study committee's report and proposed articles of agreement, together with any amendments, as the final report and proposed articles of agreement, and shall give notice of its action to the study committee.

(d) The chair of the study committee shall file a copy of the approved final report and proposed articles of agreement with the clerk of each school district identified as "necessary" or "advisable" at least 30 days prior to the vote of the electorate on whether to form the union school district.

#### § 710. VOTE TO FORM UNION SCHOOL DISTRICT

Subject to the provisions of subsections 706(c) (proposal to form study committee; existing union school districts) and 708(b) (study committee; necessary and advisable districts) of this chapter, the voters of each school district identified as "necessary" or "advisable" shall vote whether to form the proposed union school district, as follows:

(1) The vote shall be held on the date specified in the final report.

(2) The vote shall be by Australian ballot.

(3) The vote shall be at separate school district meetings held on the same day.

(4) The opportunity for early and absentee voting pursuant to 17 V.S.A. §§ 2531–2550 shall be provided.

(5) The board of each school district voting on the proposal shall warn the vote either as a special meeting of the school district or as part of its annual meeting.

#### § 711. VOTE TO ELECT INITIAL MEMBERS OF THE UNION SCHOOL DISTRICT BOARD

(a) Election of initial members of union school district board. At the meeting warned to vote on formation of a union school district under section 710 of this chapter, the voters shall also elect the initial members who will serve on the board of the union school district if the voters approve the district's formation.

(1) The vote to elect the initial members shall be by Australian ballot.

(2) The opportunity for early and absentee voting pursuant to 17 V.S.A. §§ 2531–2550 shall be provided.

(b) Representation and term length. Initial membership on a union school district board shall be pursuant to the method of representation set forth in the articles of agreement, for the terms specified in that document, and pursuant to



the provisions of this section and subdivisions 708(c)(9) and (10) (study committee; proposed articles of agreement; apportionment and terms) of this chapter.

(c) Operational definitions. As used in subsections (d) and (e) of this section, any term not defined in section 702 of this chapter shall have its plain meaning, except as provided in this subsection.

(1) If, pursuant to section 425 (other town school district officers) of this title, the voters of a school district have elected a district clerk who is not also the clerk of the town served by the school district, then “town clerk” means the elected clerk of that school district.

(2) Notwithstanding subdivision (1) of this subsection, if a potential forming district is an existing unified union school district, then:

(A) Reference to the voters of the “school district” means the voters of each town within the existing unified union school district, who shall vote at a location in their town of residence that is identified in the warning issued by the existing unified union school district; provided, however, that the total of all votes cast in the towns shall determine the modified at-large and at-large election of initial board members pursuant to subdivisions (d)(2) (proposed unified union district; modified at-large), (d)(3) (proposed union district; at-large), (e)(2) (proposed union elementary or union high school district; modified-at large), and (e)(3) (proposed union elementary or union high school district; at-large) of this section, as well as whether the existing unified union school district approves formation of the new unified union school district.

(B) “Town clerk” means the clerk of each town within the existing unified union school district; provided, however, that the town clerk of each town shall transmit the name of each duly nominated candidate to the clerk of the existing unified union school district, who shall prepare the unified union school district ballot for that town and transmit the ballot to the town clerk to make available to the voters.

(3) Notwithstanding subdivision (1) (clerk of school district) of this subsection, if a town is a member of both a union elementary school district and a union high school district, is not independently organized as a district that is responsible for the education of students in any grade, and does not have a town school district board, then:

(A) reference to the voters of the “school district” means the voters of the town that is the member of both existing union school districts, who shall vote at a location in their town of residence that is identified in the warning issued by:

(i) the existing union elementary school district if the voters are voting on a proposed unified union school district or a proposed union elementary school district; or

(ii) the existing union high school district if the voters are voting on a proposed union high school district; and

(B) “town clerk” means the clerk of the town that is a member of both existing union school districts; provided, however, that the town clerk shall transmit the name of each duly nominated candidate to the clerk of the union school district identified in subdivision (A) of this subdivision (3), who shall prepare the ballot for that town and transmit the ballot to the town clerk to make available to the voters.

(d) Proposed unified union school district. Subject to the provisions of subsections 706(c) (existing union school districts) and 708(b) (necessary and advisable school districts) of this chapter, the voters of each school district identified as “necessary” or “advisable” shall vote whether to elect initial board members of a proposed unified union school district, as follows

(1) Proportional to town population. When representation on the board of a proposed unified union school district is apportioned to each potential town within the proposed district in a number that is closely proportional to the town’s relative population:

(A) Voters of each school district identified as either “necessary” or “advisable” to formation of the proposed unified union school district shall file a petition nominating a candidate for the office of unified union school district board member based on town population. A petition shall be valid only if:

(i) the candidate is a current voter of the town;

(ii) the petition identifies the term of office for which the candidate is nominated;

(iii) the petition is signed by at least 30 voters residing in the town or one percent of the legal voters in the town, whichever is less;

(iv) the voters file the petition with the town clerk of the town in which the candidate resides not later than 5:00 p.m. on the sixth Monday preceding the day of the election; and

(v) the candidate files with the town clerk a written consent to the printing of the candidate’s name on the ballot.

(B) The town clerk shall place the name of each duly nominated candidate on the ballot to be presented to the voters of the school district.

(C) The voters of the school district for the town in which the candidate resides shall elect as many board members to the unified union school board as are apportioned based on the town's population.

(2) Modified at-large model: allocation to town; at-large representation. When representation on the board of a proposed unified union school district is allocated to each potential town within the proposed district, but the allocation is not closely proportional to the town's relative population and the board member is elected at-large:

(A) Voters of each school district identified as either "necessary" or "advisable" to formation of the proposed unified union school district shall file a petition nominating a candidate for the office of unified union school district board member allocated to the voters' town. A petition shall be valid only if:

(i) the candidate is a current voter of the town;

(ii) the petition identifies the term of office for which the candidate is nominated;

(iii) the petition is signed by at least 30 voters residing in the town or one percent of the legal voters in the town, whichever is less;

(iv) the voters file the petition with the town clerk of the town in which the candidate resides not later than 5:00 p.m. on the sixth Monday preceding the day of the election; and

(v) the candidate files with the town clerk a written consent to the printing of the candidate's name on the ballot.

(B) Upon receipt of a petition for a unified union school district board member allocated to a potential town within the proposed district but to be elected at-large under the modified at-large model, the town clerk shall place the name of the duly nominated candidate on the ballot to be presented to the voters of the school district and shall notify the town clerks preparing the ballots for the voters of each of the other "necessary" school districts and of each "advisable" school district voting on formation of the proposed unified union school district to place the candidate's name on the ballot presented to the voters in those districts. Alternatively, at their discretion, the town clerks may meet jointly to prepare a uniform ballot.

(C) The voters of each "necessary" school district and of each "advisable" school district voting on formation of the proposed unified union school district shall vote for the board members to be elected at-large under the modified at-large model; provided, however, that ballots shall be included in the calculation of total votes cast pursuant to the provisions of subdivision 714(a)(2) (calculation of votes) of this chapter.

(3) At-large representation. When representation on the board of a proposed unified union school district is not apportioned or allocated to the potential towns within the proposed district pursuant to subdivision (1) (proportional to town population) or (2) (modified at-large) of this subsection and the board member is elected at-large:

(A) The voters of one or more school districts identified as “necessary” to formation of the proposed unified union school district shall file a petition nominating a candidate for the office of unified union school district board member at-large. A petition shall be valid only if:

(i) the candidate is a current voter of a school district identified as “necessary” to the formation of the proposed union school district;

(ii) the petition identifies the term of office for which the candidate is nominated;

(iii) the petition is signed by at least 60 voters residing in one or more school districts identified as “necessary” to the formation of the proposed unified union school district;

(iv) the voters file the petition with the town clerk in the “necessary” school district in which the candidate resides not later than 5:00 p.m. on the sixth Monday preceding the day of the election; and

(v) the candidate files with the town clerk a written consent to the printing of the candidate’s name on the ballot.

(B) Upon receipt of a petition for a unified union school district board member elected at-large, the town clerk shall place the name of the duly nominated candidate on the ballot to be presented to the voters of the school district and shall notify the town clerks preparing the ballots for the voters of each of the other “necessary” school districts and of each “advisable” school district voting on formation of the proposed unified union school district to place the candidate’s name on the ballot presented to the voters in those districts. Alternatively, at their discretion, the town clerks may meet jointly to prepare a uniform ballot.

(C) The voters of each “necessary” school district and of each “advisable” school district voting on formation of the proposed unified union school district shall vote for the members to be elected at-large; provided, however, that ballots shall be included in the calculation of total votes cast pursuant to the provisions of subdivision 714(a)(2) (calculation of votes) of this chapter.

(e) Proposed union elementary or union high school district. Subject to the provisions of subsections 706(c) (existing union school districts) and 708(b) (necessary and advisable school districts) of this chapter, the voters of each school district identified as “necessary” or “advisable” shall vote whether to elect initial board members of the proposed union school district, as follows:

(1) Proportional to town population. When representation on the board of a proposed union elementary or union high school district is apportioned to each potential member district of the proposed district in a number that is closely proportional to the potential member district’s relative population:

(A) Voters of each school district identified as either “necessary” or “advisable” to formation of the proposed union school district shall file a petition nominating a candidate for the office of union school district board member representing the potential member district. A petition shall be valid only if:

(i) the candidate is a current voter of the potential member district;

(ii) the petition identifies the term of office for which the candidate is nominated;

(iii) the petition is signed by at least 30 voters residing in the potential member district or one percent of the legal voters in the district, whichever is less;

(iv) the petition is filed with the town clerk not later than 5:00 p.m. on the sixth Monday preceding the day of the election; and

(v) the candidate files with the town clerk a written consent to the printing of the candidate’s name on the ballot.

(B) The town clerk shall place the name of each duly nominated candidate on the ballot to be presented to the voters of the potential member district.

(C) The voters of the district shall elect as many board members as are apportioned to the potential member district based on population.

(2) Modified at-large model: allocation to town; at-large representation. When representation on the board of a proposed union elementary or union high school district is allocated to each potential member district, but the allocation is not closely proportional to the potential member district’s relative population and the board member is elected at-large:

(A) Voters of each school district identified as either “necessary” or “advisable” to formation of the proposed union school district shall file a petition nominating a candidate for the office of union school district board member allocated to the potential member district. A petition shall be valid only if:

(i) the candidate is a current voter of the potential member district;

(ii) the petition identifies the term of office for which the candidate is nominated;

(iii) the petition is signed by at least 30 voters residing in the potential member district or one percent of the legal voters in the district, whichever is less;

(iv) the petition is filed with the town clerk of the school district in which the candidate resides not later than 5:00 p.m. on the sixth Monday preceding the day of the election; and

(v) the candidate files with the town clerk a written consent to the printing of the candidate’s name on the ballot.

(B) Upon receipt of a petition for union school district board member allocated to a potential member district but to be elected at-large under the modified at-large mode, the town clerk shall place the name of the duly nominated candidate on the ballot to be presented to the voters of the potential member district and shall notify the town clerks preparing the ballots for the voters of each of the other “necessary” school districts and of each “advisable” school district voting on formation of the proposed union school district to place the candidate’s name on the ballot presented to the voters in those districts. Alternatively, at their discretion, the town clerks may meet jointly to prepare a uniform ballot.

(C) The voters of each “necessary” school district and of each “advisable” school district voting on formation of the proposed unified union school district shall vote for the board members to be elected at-large under the modified at-large model; provided, however, that ballots shall be included in the calculation of total votes cast pursuant to the provisions of subdivision 714(a)(2) (calculation of votes) of this chapter.

(3) At-large representation. When representation on the board of a proposed union elementary or union high school district board is not apportioned or allocated to the potential member districts pursuant to subdivision (1) (proportional to town population) or (2) (modified at large) of this subsection and the board member is elected at-large:

(A) The voters of one or more school districts identified as “necessary” to the formation of the proposed union school district shall file a petition nominating a candidate for the office of union school district board member at-large. A petition shall be valid only if:

(i) the candidate is a current voter of a school district identified as “necessary” to the formation of the proposed union school district;

(ii) the petition identifies the term of office for which the candidate is nominated;

(iii) the petition is signed by at least 60 voters residing in one or more school districts identified as “necessary” to the formation of the proposed union school district;

(iv) the petition is filed with the town clerk in the “necessary” school district in which the candidate resides not later than 5:00 p.m. on the sixth Monday preceding the day of the election; and

(v) the candidate files with the town clerk a written consent to the printing of the candidate’s name on the ballot.

(B) Upon receipt of a petition for a union school district board member to be elected at-large, the town clerk shall place the name of the duly nominated candidate on the ballot to be presented to the voters of the school district and shall notify the town clerks preparing the ballots for the voters of each of the other “necessary” school districts and of each “advisable” school district voting on formation of the proposed union school district to place the candidate’s name on the ballot presented to the voters in those districts. Alternatively, at their discretion, the town clerks may meet jointly to prepare a uniform ballot.

(C) The voters of each “necessary” school district and of each “advisable” school district voting on formation of the proposed union school district shall vote for the board members to be elected at-large; provided, however, that ballots shall be included in the calculation of total votes cast pursuant to the provisions of subdivision 714(a)(2) (calculation of votes) of this chapter.

(f) Weighted voting. If representation on a union school district board is apportioned based upon population pursuant to subdivision (d)(1) or (e)(1) of this section, then the union school district may achieve proportionality through a system of weighted voting.

§ 712. CONTENTS OF WARNING ON VOTES TO ESTABLISH THE UNION SCHOOL DISTRICT AND ELECT THE INITIAL MEMBERS OF THE UNION SCHOOL DISTRICT BOARD

The warning for each school district meeting to vote on formation of a union school district shall contain two articles in substantially the following form. The language used in Article 1 shall be the same for each “necessary” and “advisable” district voting on formation of the new district. Article II of the warning shall not include names of candidates for the union school district board.

WARNING

The voters of the \_\_\_\_\_ School District are hereby notified and warned to meet at \_\_\_\_\_ on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, to vote by Australian ballot between the hours of \_\_\_\_\_, at which time the polls will open, and \_\_\_\_\_, at which time the polls will close, upon the following articles of business:

Article I. FORMATION OF UNION SCHOOL DISTRICT

Shall the \_\_\_\_\_ School District, which the proposed articles of agreement have identified as [“necessary” or “advisable”] to the formation of the proposed union school district, join with the school district[s] of \_\_\_\_\_ and \_\_\_\_\_, which are identified as “necessary” to formation, and potentially the school district[s] of \_\_\_\_\_ and \_\_\_\_\_, which are identified as “advisable” to formation, for the purpose of forming a union school district, as provided in Title 16, Vermont Statutes Annotated, upon the following conditions and agreements:

(a) Grades. The union school district shall be organized to provide for the education of resident students in grades \_\_\_\_\_ through \_\_\_\_\_ and shall assume full and sole responsibility therefor on July 1, 20\_\_\_.

(b) Operation of schools. The union school district shall operate and manage one or more schools offering instruction in grades \_\_\_\_\_ through \_\_\_\_\_. [Amend as necessary if the district will pay tuition for any or all grades for which it is organized.]

(c) Union school district board. [State method by which representation of each member of the union school board is to be determined pursuant to section 711 (vote to elect initial members) of this chapter.]

(d) Assumption of debts and ownership of school property. The union school district shall assume the indebtedness of forming districts, acquire the school properties of the forming districts, and pay for them, all as specified in



the final report and proposed articles of agreement.

(e) Final report. The provisions of the final report and proposed articles of agreement approved by the State Board of Education on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, which is on file in the office of the clerk of each school district named in this warning, shall govern the union school district.

## Article II. ELECTION OF INITIAL MEMBERS OF THE UNION SCHOOL DISTRICT BOARD

To elect a total of \_\_\_\_\_ ( ) member(s) to serve as initial members of the proposed union school district board for the terms established in the final report and proposed articles of agreement: [Amend as necessary to reflect method for determining school board membership pursuant to section 711 (vote to elect initial members) of this chapter.]

(a) [Insert number] Board Member[s] to serve until the second annual meeting of the union school district, in 20\_\_\_.

(b) [Insert number] Board Member[s] to serve until the third annual meeting of the union school district, in 20\_\_\_.

(c) [Insert number] Board Member[s] to serve until the fourth annual meeting of the union school district, in 20\_\_\_.

## § 713. CERTIFICATION OF VOTES; DESIGNATION OF DISTRICT AS UNION SCHOOL DISTRICT; RECORDING BY SECRETARY OF STATE

(a) Within 45 days after the vote or 15 days after a vote to reconsider the original vote under 17 V.S.A. § 2661, whichever is later, the clerk of each school district voting on the proposal to form a union school district shall certify the results of that vote to the Secretary of Education. The clerk shall submit the certification regardless of whether the district voters approved the proposed formation of a union school district.

(b) If the voters voting in each school district identified as “necessary” to formation of the proposed union school district vote to form the district, then the “necessary” school districts constitute a union school district, together with any school district designated as “advisable” that votes to form the proposed union school district.

(c) If the voters approve formation of a union school district pursuant to subsection (b) of this section, then upon receiving the certification of each clerk pursuant to subsection (a) of this section, but not sooner than 30 days after the initial vote, the Secretary shall designate the newly formed district as a union school district. The Secretary shall certify that designation and send

the certification together with the clerks' certifications to the Secretary of State, who shall record the certification.

(d) When the Secretary of State records the certification of the Secretary of Education, the union school district shall be a body politic and corporate with the powers incident to a municipal corporation, shall be known by the name or number given in the recorded certification, by that name or number may sue and be sued, and may hold and convey real and personal property for the use of the union school district. The recorded certification shall be notice to all parties of the formation of the union school district with all the powers incident to such a district as provided in this title.

(e) The Secretary of State shall file a certified copy of the recorded certification with the clerk of each member district of a new union elementary or union high school district and with the town clerk of each town within a new unified union school district. The Secretary of State shall file the certified copies not later than 14 days after the date on which the Secretary of Education certifies the existence of the union school district to the Secretary of State. Filing a certified copy with each clerk shall be prima facie evidence of full compliance with the requirements for the formation of a union school district as set forth in this subchapter.

§ 714. INITIAL MEMBERS OF UNION SCHOOL DISTRICT BOARD;  
TALLYING OF AT-LARGE VOTES; OATH OF OFFICE AND  
ASSUMPTION OF DUTIES

(a) Tallying of at-large votes for initial members of board. If the voters have elected some or all of the initial members of the union school district board under either model involving at-large voting as set forth in subdivision 711(d)(2) (proposed unified union school district; modified at-large), (d)(3) (proposed unified union school district; at-large), (e)(2) (proposed union elementary or union high school district; modified at-large), or (e)(3) (proposed union elementary or union high school district; at-large) of this chapter, then the total votes cast for each of the at-large candidates shall be calculated as follows:

(1) Within seven days after the vote, the clerk of each school district voting on the proposal to form a union school district shall transmit electronically to the Secretary of Education the total number of votes cast in that school district for each at-large candidate.

(2) The Secretary shall calculate the total votes cast for each candidate and transmit those calculations to the clerks for verification. Ballots cast by the voters of any "advisable" district that does not approve the proposal to form a new union school district shall not be included in the calculation.

(3) When each clerk has verified the calculations, the Secretary shall prepare and execute a certification of the votes cast for each candidate.

(b) Notification. If the voters approve formation of a new union school district, then within 30–45 days after the vote or 15 days after a vote to reconsider the original vote to form the district, whichever is later, the notification of the election of initial board members shall be sent to the Secretary of State as follows:

(1) The clerk of each forming district shall transmit the names of board members elected in a manner that is proportional to town population as set forth in subdivision 711(d)(1) (proposed unified union district; proportional to town population) or (e)(1) (proposed union elementary or union high school district; proportional to town population) of this chapter.

(2) The Secretary of Education shall transmit the names of board members elected under either model involving at-large voting.

(c) Oath of office; assumption of duties; election of chair and clerk. The superintendent of the supervisory union serving the new union school district shall cause the initial board members to be sworn in. Although the swearing-in may occur prior to the organizational meeting required by section 715 of this chapter, it shall not occur before the Secretary of State files the certified copy of the recorded certification with each clerk pursuant to subsection 713(e) of this chapter. The initial board members shall assume office upon being sworn in and shall meet to elect one of their number to serve as the board chair and one other of its number to serve as the board clerk, and to transact any other business within its jurisdiction; provided, however, such meeting shall not occur prior to the organizational meeting required by section 715.

#### § 715. ORGANIZATIONAL MEETING; NOTICE; BUSINESS TO BE TRANSACTED

(a) Meeting. The union school district shall hold an organizational meeting within 60 days after the Secretary of State files the certified copy of the recorded certification with each clerk pursuant to subsection 713(e) of this chapter.

(b) Notice.

(1) The Secretary of Education shall prepare and execute a warning for the organizational meeting. The warning shall give notice of the day, hour, and location of the meeting and shall itemize the business to be transacted.

(2) The Secretary of Education shall transmit the signed warning to the superintendent, who shall post the warning in at least one public place in each

town within the union school district and shall cause the warning to be published once in a newspaper of general circulation in the towns within the union school district. Posting and publication shall be made not more than 40 days nor less than 30 days before the date of the meeting.

(3) The union school district shall bear the cost of posting and publishing the warning.

(c) Business to be transacted.

(1) The Secretary or a person designated by the Secretary shall call the organizational meeting to order and the registered voters shall consider the following items of business:

(A) Elect a temporary presiding officer and a temporary clerk of the union school district from among the voters present at the organizational meeting.

(B) Adopt Robert's or other rules of order, which shall govern the parliamentary procedures of the organizational meeting and all subsequent meetings of the union school district.

(C) Elect a moderator of the union school district from among the voters.

(D) Elect a clerk of the union school district from among the voters or vote to authorize the school board to appoint a clerk of the union school district from among the voters.

(E) Elect a treasurer of the union school district or vote to authorize the school board to appoint a treasurer of the union school district. The treasurer may also be the supervisory union treasurer and need not be a resident of the union school district.

(F) Determine the date and location of the union school district's annual meeting, which shall be not earlier than February 1 nor later than June 1, if not previously determined by the voter-approved articles of agreement.

(G) Determine whether compensation shall be paid to the moderator, clerk, and treasurer of the union school district elected at the organizational meeting and at subsequent annual meetings of the union school district and, if so, the amount to be paid to them.

(H) Determine whether compensation shall be paid to members of the union school district board and, if so, the amount to be paid to them.

(I) Establish provisions for payment by the union school district of any expense incurred or to be incurred by or on behalf of the district for the

period between the date on which the voters approved formation of the union school district and the first annual meeting of the union district.

(J) Determine whether to authorize the initial board of the union school district to borrow money pending receipt of payments from the Education Fund by the issuance of its note payable not later than one year from the date of the note. Regardless of whether the voters provide this authorization, the initial board is authorized to borrow sufficient funds to meet pending obligations until the voters approve a budget for the initial year of operation pursuant to subdivision 716(b)(3) of this chapter.

(K) Transact any other business, the subject matter of which has been included in the warning, that the voters have power to transact at any annual or special meeting and transact any nonbinding business that may legally come before the voters.

(2) When there is only one nominee for temporary presiding officer, temporary clerk, moderator, district clerk, or district treasurer, the voters may, by acclamation, instruct an officer to elect the nominee by casting one ballot, and upon the ballot being cast, the nominee shall be legally elected and shall thereupon be sworn.

(3) The elected officers listed in subdivisions (1)(A) (temporary presiding officer and temporary clerk), (C) (moderator of the union school district), (D) (clerk of the union school district), and (E) (treasurer of the union school district) of this subsection shall be sworn in before entering upon the duties of their offices and a record made by the district clerk. They shall assume office upon being sworn in. The officers listed in subdivisions (1)(C), (D), and (E) of this subsection shall serve terms as set forth in section 735 (unified union school districts; officers) or 753 (union elementary and union high school district; officers) of this chapter unless the voters extend the term length up to three years.

(4) Any member of the union school district board not sworn in before the organizational meeting pursuant to section 714 of this chapter may be sworn in at or after the organizational meeting.

Article 2. Transition; Dissolution, Reorganization, and Discontinuation of  
Forming Districts; Sale of Real Property; Supervisory Unions  
and Supervisory Districts

§ 716. TRANSITION TO FULL OPERATIONS

(a) Operational date. The operational date of a union school district is the July 1 next following the date on which the voters vote to approve formation of the district, unless the voter-approved articles of agreement establish a

different date.

(b) Roles and authority during transitional period. During the transitional period:

(1) The forming districts, through their boards, shall continue to be responsible for the education of their respective resident students.

(2) The board of the new union school district shall develop school district policies; adopt curriculum, educational programs, assessment measures, and reporting procedures; negotiate and enter into contractual agreements; negotiate and enter into collective bargaining agreements; set the school calendar for the fiscal year that begins on the operational date; prepare and present to the voters the proposed budget for the fiscal year that begins on the operational date; prepare for the annual and any special meetings of the new union school district that may occur during the transitional period; and transact any other lawful business coming before it.

(3) During the transitional period and continuing until the voters approve a budget for the initial fiscal year of operation, the board of the new union school district shall have the authority to borrow sufficient funds to meet pending obligations. The board shall vote whether to include the total sum borrowed under this subsection as education spending in the board's proposed budget for the initial fiscal year or to treat the sum as a deficit pursuant to 24 V.S.A. § 1523(b) (municipal and county government; duties of selectboards as to a deficit).

(c) Assets.

(1) Definition. For purposes of this subsection, the "assets" of a forming district shall include all real and personal property, operating fund accounts, special fund accounts, trust fund accounts, accounts receivable, and any other property to which the forming district holds title or over which it has control.

(2) Transfer and acquisition of title. On or before the operational date, the forming districts shall transfer and the union school district shall acquire ownership of all assets of the forming districts that are owned by the forming districts on or before the June 30 immediately preceding the operational date, unless the voter-approved articles of agreement explicitly provide for an alternative disposition of a specific asset. The transfer of an asset shall be subject to all encumbrances and conditions of record, unless the voter-approved articles of agreement explicitly provide otherwise.

(3) Prohibition. A forming district shall not transfer ownership of an asset to any entity other than the union school district between the date on

which the vote occurs pursuant to section 710 (vote to form union school district) of this chapter and the operational date unless explicitly authorized in the voter-approved articles of agreement or approved by the voters of the union school district during the transitional period.

(4) Trust funds. A union school district shall hold and apply all trust funds transferred to it by a forming district as the terms of the trust indicate. If the trust allows, a union school district may use the funds to benefit union school district students who reside, or buildings that are located, outside the geographical boundaries of the forming district that originally held the trust.

(5) Reserve funds. A union school district shall hold and apply all reserve funds transferred to it by a forming district pursuant to the conditions imposed prior to the date on which the forming district voted to approve formation of the union school district.

(d) Liabilities.

(1) Definition. For purposes of this subsection, the “liabilities” of a forming district shall include all contractual obligations, all indebtedness including principal and interest, and any other legal commitment of a forming district.

(2) Transfer and assumption of liabilities. On or before the operational date, the forming districts shall transfer and the union school district shall assume all liabilities of the forming districts that exist on the June 30 immediately preceding the operational date, unless the voter-approved articles of agreement explicitly provide otherwise.

(3) Prohibition. Notwithstanding the provisions of subdivision (2) of this subsection (d), a union school district shall not assume liabilities that a forming district incurs between the date on which the vote occurs pursuant to section 710 (vote to form union school district) of this chapter and the operational date unless explicitly authorized in the voter-approved articles of agreement or approved by the union school district board during the transitional period; provided, however, that a union school district shall in all cases assume the contractual obligations of the member districts regarding each collective bargaining agreement or other employment contract entered into during the transitional period until the agreement’s or contract’s expiration.

(e) Unpaid expenses. At the district’s first annual meeting following assumption of full operations or at a later meeting as necessary, the voters of a new union school district shall vote a sum sufficient to pay any unpaid balance of expenses, as defined in subdivision 715(c)(1)(H) of this chapter, that was

incurred by or on behalf of the union school district during the transitional period.

§ 717. DISSOLUTION, REORGANIZATION, AND DISCONTINUATION OF FORMING DISTRICTS

(a) Unified union school district; dissolution of forming districts. On its operational date, a unified union school district shall supplant all forming districts and the forming districts shall cease to exist; provided, however, that if the voter-approved articles of agreement explicitly provide for it, then the supplanted forming districts and their boards may continue to exist for up to six months after the operational date for the sole purpose of completing any outstanding business that cannot legally be performed by the new unified union school district.

(b) Union Elementary and Union High School Districts.

(1) Reorganization of forming districts. On its operational date, a union elementary or union high school district shall supplant each forming district for the grades for which the union elementary or union high school district is organized (the supplanted grades). Each forming district shall cease to be organized to provide for education in the supplanted grades but shall continue to be responsible for the other grades for which it is organized; provided, however, that if the voter-approved articles of agreement explicitly provide for it, then the forming districts and their boards may continue to exist for the supplanted grades for up to six months after the operational date for the sole purpose of completing any outstanding business that cannot legally be performed by the new union elementary or union high school district.

(2) Dissolution of forming districts. If a forming district is organized to provide for education solely in the grades for which the new union elementary or union high school district is organized and the forming district is a member district of another union school district for all other grades, prekindergarten through grade 12, then the forming district shall cease all educational operations on the new union district's operational date, the new union school district shall assume all powers and responsibilities of the forming district, and the forming district shall cease to exist; provided, however, that if the voter-approved articles of agreement explicitly provide for it, then the forming district and its board may continue to operate for up to six months after the operational date for the sole purpose of completing any outstanding business that cannot legally be performed by the new union elementary or union high school district.



§ 718. TRANSFER OF REAL PROPERTY TO TOWN IN WHICH IT IS LOCATED

If the original voter-approved articles of agreement require sale of real property to the town in which the property is located and the sale is scheduled to occur after the operational date, or if after the operational date and after completing any statutory and contractual prerequisites the union school district offers to sell any of its real property to the town in which the property is located, then the town may assume title to the real property for a price that is less than the fair market value only as follows:

(1) The conveyance to the town shall be made subject to all encumbrances of record, the assumption or payment of all outstanding bonds and notes, and the repayment of any school construction aid or grants that may be required by law if any such obligation was incurred before the operational date.

(2) The conveyance to the town shall be conditioned upon the town owning and using the real property for community and public purposes for a minimum of five years.

(3) If the town sells the real property prior to five years of ownership, then the town shall compensate the union school district for all capital improvements and renovations initiated after the operational date and prior to the sale to the town.

§ 719. SUPERVISORY UNION; SUPERVISORY DISTRICT

(a) The State Board shall assign each union school district formed under this chapter to a supervisory union for administrative, educational, and planning services, effective on the day on which the union school district becomes a body politic and corporate pursuant to subsection 713(d) (Secretary of State records the certification of the Secretary of Education) of this chapter.

(b) If a union school district formed under this chapter is a unified union school district, then the State Board may designate it as a supervisory district pursuant to the provisions of this title, to be effective not earlier than the operational date of the unified union school district.

(c) If a supervisory union includes at least one district that is a unified union school district, then the State Board, on its own initiative or at the request of the board of the supervisory union or the board of one or more districts in the supervisory union, may at any time, adjust the supervisory union board representation required by section 266 of this title to more fairly and accurately reflect the relative number of students for which each district is responsible and the grades for which the district operates a school or schools.

Article 3. Changes in Union District Membership and  
Other Amendments to Articles of Agreement

§ 721. JOINING AN EXISTING UNION SCHOOL DISTRICT

(a) Action initiated by district outside the union school district.

(1) After preliminary study, if the board of a school district determines that it would be advisable to join an existing union school district, then the board of the interested school district shall request approval of the State Board to pursue this possibility.

(2) If the State Board determines that it is in the best interests of the State, the students, and the districts involved and aligns with the policy set-forth in section 701 of this title for the interested school district to join the existing union school district, then at a meeting of the interested school district warned for the purpose, the voters shall vote whether to apply to the existing union school district for admission.

(3) If the voters of the interested school district approve the proposal to apply to the union school district for admission, then the clerk of the interested school district shall certify the results of the vote to the Secretary and to the clerk of the union school district.

(4) If the voters of the union school district approve the application of the school district within two years after the vote in subdivision (2) of this subsection, then the clerk of the union school district shall certify the results of the vote to the Secretary.

(b) Action initiated by union school district.

(1) After preliminary study, if the board of a union school district determines that it would be advisable to enlarge the district, then the board of the union school district shall submit a plan to the State Board requesting approval to incorporate a distinct school district into the union school district.

(2) If the State Board determines that it is in the best interests of the State, the students, and the districts involved and aligns with the policy set-forth in section 701 of this title for the school district to join the existing union school district, then at a union school district meeting warned for the purpose, the voters shall vote whether to enlarge the union school district to include the school district.

(3) If the voters of the union school district approve the proposal to include the school district, then the clerk of the union school district shall certify the results of that vote to the Secretary and to the clerk of the school district.

(4) If the voters of the school district approve the offer to join the union school district within two years after the vote in subdivision (2) of this subsection, then the clerk of the school district shall certify the results of the vote to the Secretary.

(c) Certification; Secretary of State. Upon receipt of the clerk's certification pursuant to subdivision (a)(4) (school district application approval) or (b)(5) (school district approval of offer to join the union school district) of this section, the Secretary of Education shall designate the existing union school district to be enlarged pursuant to the votes and shall certify the enlargement to the Secretary of State. When the Secretary of State records the certification of the Secretary of Education, the union school district shall be enlarged accordingly, although the union school district and the school district that will join it may decide in advance of the votes that the enlarged union school district shall have a later operational date. The Secretary of State shall file a certified copy of the recorded certification with the clerks of the union school district and of the district that is joining it. The Secretary of State shall file the certified copies not later than 14 days after the date the Secretary of Education certifies the designation to the Secretary of State. Filing a certified copy with each clerk shall be prima facie evidence of full compliance with the requirements for enlarging an existing union school district as set forth in this section.

(d) Powers and responsibilities. A union school district enlarged pursuant to this section shall have all the powers and responsibilities given to a union school district by this title. Unless otherwise approved by the voters of the union school district and the school district that will join it, if the operational date is delayed pursuant to an agreement under subsection (c) of this section, then the joining school district shall share in the expenses of the union school district beginning on the date the Secretary of State records the certification of the Secretary of Education.

(e) Australian ballot. All votes of the electorate under this section shall occur by Australian ballot.

#### § 722. AMENDMENTS TO ARTICLES OF AGREEMENT

(a) The union school district voters. Only the voters of a union school district may amend a specific condition or agreement in the district's articles of agreement if the condition or agreement was set forth as a distinct subsection in the warning required by section 712 (warning on vote to establish union school district and elect initial members of the board) of this chapter to form the union school district or in a subsequent warning to amend the articles pursuant to this section, which the voters approved.

(b) The union school district board. The board of a union school district may amend a specific condition or agreement in the district's articles of agreement only if the condition or agreement was not set forth as a distinct subsection in a warning required in subsection (a) of this section, but was instead incorporated into the warning by reference pursuant subsection 712(e) of this chapter (warning on vote to establish union school district and elect initial members of the board), or if the original articles of agreement or voter-approved amendments authorize the board to amend a specific condition or agreement.

(c) Reduction of grades operated. Notwithstanding the provisions of subsection (a) (union school district voters) of this section, the voters shall not vote whether to reduce the grades that the union school district operates, and to begin paying tuition for those grades, unless the State Board finds it is in the best interests of the State, the students, and the districts involved and aligns with the policy set-forth in section 701 of this title and gives prior approval to the proposed amendment.

(d) Number of board members. Notwithstanding the provisions of subsections (a) (union school district voters) and (b) (union school district board) of this section, if membership on a union school district board is proportional to town population as set forth in subdivisions 711(d)(1) (proposed unified union school district) and (e)(1) (proposed union elementary or union high school district) of this chapter, and if the district's articles of agreement direct the board to adjust board membership when necessary to conform to each new decennial census, then the board shall amend the articles to adjust the apportionment of board seats without presenting the amendment to the voters for approval.

(e) Districts created by State Board order. Notwithstanding the provisions of subsections (a) (union school district voters) and (b) (union school district board) of this section, the authority to amend the articles governing any union school district formed by the State Board's Final Report and Order issued on November 30, 2018 pursuant to 2015 Acts and Resolves No. 46, as amended, vests either with the electorate or the board pursuant to the provisions of Article 14, as that article was issued by the State Board or subsequently amended by the voters of the union school district.

(f) Process. A vote by the voters of a union school district to amend the articles of agreement shall be by Australian ballot and shall proceed pursuant to sections 737 (warnings of unified union school district meetings) and 739–742 (vote by Australian ballot) of this chapter for unified union school districts and sections 755 (warnings of union elementary and union high school district meetings) and 757–759 (vote by Australian ballot ) for union elementary and

union high school districts. The warning shall contain each proposed amendment as a distinct question to be determined separately. The provisions of this subsection shall not apply to any issue to the extent that a different section of law provides a specific amendment procedure.

§ 723. DECISION TO VOTE BY AUSTRALIAN BALLOT

(a) If a union school district's articles of agreement do not provide that the election of board members or district officers, budget votes, or votes on other public questions shall proceed by Australian ballot, then the voters of a union school district may vote to do so at any annual or special meeting of the union school district where the question has been duly warned.

(b) Any category of vote to be taken by Australian ballot shall proceed in this manner in all towns within or member districts of a union school district.

(c) If voting in a unified union school district proceeds by Australian ballot, then the provisions of sections 739–742 (vote by Australian ballot) of this chapter shall apply to all votes taken by Australian ballot.

(d) If voting in a union elementary or union high school district proceeds by Australian ballot, then the voters shall also determine whether the ballots shall be commingled prior to counting total votes cast by Australian ballot in the union district.

(1) If the voters determine that the ballots shall not be commingled for counting in this manner, then the board of civil authority of each town within the union elementary or union high school district shall count the ballots cast in that town and report that town's results to the clerk of the union elementary or union high school district, who shall calculate the total votes cast within the district and report the total result to the public.

(2) If the voters determine that the ballots shall be commingled for counting, then the ballots shall be deposited in separate ballot boxes at each polling location and the provisions of sections 757–759 (vote by Australian ballot) of this chapter shall apply.

(e) The vote on whether to proceed by Australian ballot shall be taken by paper ballot.

(f) Unless clearly inconsistent, the provisions of 17 V.S.A. chapter 55 shall apply to actions taken under this section.

§ 724. WITHDRAWAL FROM OR DISSOLUTION OF A UNIFIED UNION SCHOOL DISTRICT

(a) Definition. As used in this section, "petitioning town" means the town within a unified union school district that seeks to withdraw from the union

district pursuant to the provisions of this section.

(b) Withdrawal study committee.

(1) To initiate the process set forth in this section, the voters residing in the petitioning town shall submit petitions to the clerk of the unified union school district indicating the petitioners' desire to withdraw the petitioning town from the union district. Individual petitions shall be signed by at least five percent of the voters residing in each of the towns within the union school district, with each town having its own petition. The petitioners shall submit each petition to that town's town clerk for verification of the voting registration status of the signors. On a form created by the Secretary of State's Office, and appended to each petition, shall be the names of three voters residing in the petitioning town to serve on a withdrawal study committee and a signed statement by each of the three named voters consenting to serve. Once each petition has been verified by the subject town clerk, the petitioners shall submit the petitions to the clerk of the unified union school district.

(2) Within 30 days after receiving the petition, the board of the union district shall recognize the creation of the withdrawal study committee and shall appoint a board subcommittee to serve as a liaison between the board and the withdrawal study committee and to represent the interests of the union district.

(3) Within 30 days after the board's appointment of the liaison subcommittee, the superintendent of the union district shall convene the first formal meeting of the withdrawal study committee. The study committee shall elect one committee member to serve as chair.

(4) Before beginning any analysis under subsection (c) of this section or seeking technical or analytical services from the union district staff or supervisory union staff, or both, the withdrawal study committee shall obtain a letter of commitment from a supervisory union board to explore the provision of supervisory union services if withdrawal is ultimately approved.

(5) The withdrawal study committee is a public body pursuant to 1 V.S.A. § 310(4) and is subject to the requirements of chapter 5, subchapter 2 of that title.

(c) Analysis. The withdrawal study committee shall evaluate the strengths and challenges of the current union district structure and consider the ways in which the union district promotes or fails to promote the State policy set forth in section 701 of this chapter. At a minimum, the withdrawal study committee shall evaluate:

(1) the educational advantages and disadvantages likely to result from the proposed withdrawal of the petitioning town from the union district:

(A) on the students residing in the proposed new school district; and

(B) on the students remaining in the union district if withdrawal is approved;

(2) the educational advantages and disadvantages likely to result from the continued inclusion of the petitioning town as a town within the union district:

(A) on the students residing in the petitioning town; and

(B) on the students residing in the other towns within the union district;

(3) the financial advantages and disadvantages likely to result from the proposed withdrawal of the petitioning town from the union district:

(A) on the taxpayers residing in the proposed new school district; and

(B) on the taxpayers remaining in the union district if withdrawal is approved;

(4) the financial advantages and disadvantages likely to result from the continued inclusion of the petitioning town as a town within the union district:

(A) on the taxpayers residing in the petitioning town; and

(B) on the taxpayers residing in the other towns within the union district;

(5) the likely operational and financial viability and sustainability of:

(A) the proposed new school district; and

(B) the union district if withdrawal is approved;

(6) any other advantages and disadvantages of withdrawal, including any advantages and disadvantages to the students and taxpayers of the region and the State; and

(7) the potential source of supervisory union services for the proposed new school district, including discussions with the board of any supervisory union to which the report of the withdrawal study committee might propose assignment.

(d) Report, including a plan for withdrawal; decision not to prepare report.

(1) Report supporting withdrawal.

(A) If, after conducting the analysis required by subsection (c) of this section, the withdrawal study committee votes to advance the withdrawal process as further outlined in this section, then the committee shall prepare a report, which it shall deliver electronically to the union district board and which the superintendent shall publish on the district's website.

(B) At a minimum, the report shall include:

(i) the analysis conducted pursuant to subsection (c) of this section, describing the ways in which the data and analysis:

(I) support withdrawal; and

(II) do not support the continuation of the union district in its current configuration;

(ii) the proposed financial terms of withdrawal, including the proposed ownership of buildings and other assets and the proposed responsibility for financial and other contractual obligations, including debts;

(iii) a plan, including a detailed timeline, for the actions the proposed new school district would take to ensure that, on a proposed operational date, it could provide for the education of its students in prekindergarten through grade 12 by operating all grades, tuitioning all grades, or operating some grades and tuitioning the remainder, in a manner that will meet educational quality standards as required by section 165 of this title, and including, if applicable, the process by which the proposed new school district would explore formation of a new union school district with one or more other school districts in the region and would integrate or condition any votes to withdraw with votes on formation of a new union district; and

(iv) a proposal, including analysis, for the potential source of supervisory union services for the proposed new school district, including, if applicable to the proposal:

(I) a recommendation of one or more potential supervisory unions to which the State Board could assign the proposed new school district; and

(II) a statement from the board of the potential supervisory union or unions regarding the ability and willingness to accept the proposed new school district as a member district.

(C) Within 45 days following receipt of the withdrawal study committee report, the union district board shall invite the members of the withdrawal study committee to attend a regularly scheduled meeting of the board to present the contents of its report and to answer any questions posed



by the board. The board shall also invite the members of the liaison subcommittee to share any analysis and conclusions at the meeting. The withdrawal study committee has sole authority to determine the contents of its report.

(2) Decision not to propose withdrawal. If, after conducting the analysis required by subsection (c) of this section, the withdrawal study committee votes not to approve advancement of the withdrawal process, then:

(A) the withdrawal study committee shall prepare a brief written statement explaining the reasons underlying the votes supporting and not supporting advancement, which it shall deliver electronically to the union district board and which the superintendent shall publish on the district's website;

(B) within 45 days following receipt of the withdrawal study committee report, the union district board shall invite the members of the withdrawal study committee to attend a regularly scheduled meeting of the board to present the contents of the written statement and to answer any questions posed by the board; and

(C) the withdrawal study committee shall cease to exist upon adjournment of the union district board's meeting.

(e) Secretary of Education review and opinion.

(1) Review by the Secretary. Within 30 days after attending the union district board meeting pursuant to subdivision (d)(1)(C) of this section, the withdrawal study committee shall deliver the report or reports electronically to the Secretary for review. The Secretary:

(A) shall consider the report or reports;

(B) shall provide representatives of the withdrawal study committee, the liaison subcommittee, and any supervisory union that has been identified as a potential source of supervisory union services for the proposed new school district an opportunity to be heard at a meeting held at a location within the petitioning town;

(C) may, in the Secretary's discretion, take testimony from other individuals and entities;

(D) may ask the withdrawal study committee, or the liaison subcommittee, to make further investigation and may consider any other information the Secretary deems to be pertinent; and

(E) may request that the members of the withdrawal study committee to amend the report.

(2) Advisory opinion of the Secretary with positive recommendation.

(A) If the Secretary finds that the withdrawal proposal contained in the report, including the most feasible options for the provision of supervisory union services to the proposed new school district, is in the best interests of the State, the region, the students, and the school districts, and aligns with the policy set forth in section 701 of this title, then, within 90 days following receipt of the report or reports, unless the study committee agrees to an extension of the deadline, the Secretary shall:

(i) issue an opinion recommending approval of the withdrawal proposal;

(ii) provide a preliminary assessment of most feasible options for the provision of supervisory union services to the proposed new school district if withdrawal is approved by the voters; and

(iii) make any other finding related and necessary to the withdrawal proposal.

(B) After the Secretary issues an opinion recommending approval of the withdrawal proposal, the proposal shall proceed to a vote of the electorate under subsection (g) of this section.

(3) Advisory opinion of the Secretary with negative recommendation. If the Secretary finds that the withdrawal proposal contained in the report, including the most feasible options for the provision of supervisory union services to the proposed new school district, is not in the best interests of the State, the region, the students, and the school districts or does not align with the policy set forth in section 701 of this title, or both, then, within 90 days following receipt of the report or reports, unless the study committee agrees to an extension of the deadline, the Secretary shall:

(A) issue a written opinion recommending disapproval of the withdrawal proposal, including a written statement detailing the reasons supporting this conclusion;

(B) provide a preliminary assessment of the most feasible options for the provision of supervisory union services to the proposed new school district if withdrawal is approved by the voters;

(C) make any other finding related and necessary to the withdrawal proposal; and

(D) post the written opinion on the Agency of Education's website and transmit it electronically to the clerk of the union district. After receiving the Secretary's opinion, the study committee shall vote pursuant to subsection (f).

(f) State Board of Education final review.

(1) Study committee vote. Within 30 days following receipt of a negative advisory opinion from the Secretary, the clerk of the union school district shall post the document on its website and schedule the contents as a topic for public discussion at a special or regular board meeting. Within 30 days following the public meeting, the study committee shall convene a meeting and vote whether to cease efforts to withdraw from the union district or whether to request review of the Secretary's advisory opinion by the State Board of Education for the withdrawal proposal to proceed to a vote of the electorate.

(2) Cease efforts to withdraw. If the study committee votes to cease efforts to withdraw from the union district, then the petitioning town shall remain a town within the union district, the withdrawal action initiated pursuant to this section is concluded, and the withdrawal study committee shall cease to exist upon adjournment of the meeting.

(3) Proceed with withdrawal; State Board of Education final review and vote. If the study committee votes to proceed with withdrawal, it shall petition the State Board of Education for final review of the Secretary's advisory opinion. The State Board shall review the report and plan of the study committee required under subsection (d) of this section, review the Secretary's written negative advisory opinion, and provide the study committee, the Secretary, and any supervisory union that has been identified as a potential source of supervisory union services for the proposed new school district an opportunity to be heard at a meeting held at a location within the petitioning town. The State Board may, in its discretion, take testimony from other individuals and entities, including the union school district. Within 90 days after receiving the petition of the study committee, the State Board shall issue a final written decision and transmit the decision to the superintendent.

(A) Vote to approve. If the State Board finds that the withdrawal proposal contained in the report, including the most feasible options for the provision of supervisory union services to the proposed new school district, is in the best interests of the State, the region, the students, and the school districts or aligns with the policy set forth in section 701 of this title, or both, then the State Board shall:

(i) approve the study committee report supporting withdrawal, together with any amendments, as the final report and proposal of withdrawal;

(ii) provide a preliminary assessment of the most feasible options for the provision of supervisory union services to the proposed new school district;

(iii) declare that the withdrawal process will proceed to a vote of the union district voters pursuant to subsection (g) of this section; and

(iv) make any other finding or declaration, and approve any other motion, related and necessary to the withdrawal proposal.

(B) Vote not to approve. If the State Board finds that the plan for withdrawal, including the most feasible options for the provision of supervisory union services to the proposed new school district, is not in the best interests of the State, the region, the students, and the school districts or does not align with the policy set forth in section 701 of this title, or both, then:

(i) the State Board shall not approve the report supporting withdrawal;

(ii) the process will not proceed to a vote of the electorate;

(iii) the petitioning town shall remain a town within the union district; and

(iv) the State Board's determination and the resulting consequences imposed by such a determination shall be final and shall conclude the withdrawal action.

(v) The withdrawal study committee shall cease to exist after the vote of the State Board.

(g) Vote of the electorate.

(1) Within 30 days following receipt of the Secretary's positive advisory opinion pursuant to subdivision (e)(2) of this section or within 30 days following the State Board's vote to approve the withdrawal proposal pursuant to subdivision (f)(3)(A) of this section, the superintendent shall file the withdrawal study committee's report, the Secretary's written advisory opinion, the State Board's written recommendation, and any report of the liaison subcommittee with the clerk of the union district and the town clerk of each town within the union district.

(2) Within 90 days after the clerk of the union district receives the reports and recommendations described in subdivision (2) of this subsection,

the voters of the union district, including those residing in the petitioning town, shall vote whether to approve withdrawal as set forth in the report. The question shall be determined by Australian ballot and shall proceed pursuant to sections 737 (warnings of unified union school district meetings) and 739–741 (vote by Australian ballot) of this chapter. The ballots shall not be commingled.

(3) Withdrawal from the union district shall occur if the question is approved by a majority vote of the union district voters living in each town within the district, including the petitioning town. If a majority of the voters in one or more towns within the union district do not vote in favor of withdrawal, then the proposed withdrawal shall not occur.

(4) Within 45 days after the vote or 15 days after a vote to reconsider the original vote under 17 V.S.A. § 2661, whichever is later, the clerk of each town within the union district shall certify the results of the vote to the Secretary of Education, and the Secretary shall advise the State Board of the certified results. Each clerk shall submit the certification regardless of whether the voters in that town approved withdrawal. The withdrawal study committee shall cease to exist when each clerk has submitted a certification to the Secretary.

(h) Election of potential board members. On the day on which they vote whether to approve withdrawal, the union district voters residing in the petitioning town shall also vote for three individual registered voters from the petitioning town to serve as the initial members of the proposed new school district’s board if withdrawal is approved. The nomination and election of the initial members shall proceed pursuant to subdivision 730(a)(1) of this chapter (election of board members under the proportional to town model by Australian ballot). The term of office for each initial member shall be arranged so that one term expires on the day of the second annual meeting of the proposed new school district, one term expires on the day of the third annual meeting, and one term expires on the day of the fourth annual meeting.

(i) State Board’s duties if withdrawal is approved. If the union district voters approve withdrawal pursuant to subsection (g) of this section, then upon receiving notice from the Secretary pursuant to subdivision (g)(4) of this section, the State Board shall:

(1) Declare the withdrawal approved as of the date of the Board’s meeting; provided, however, that withdrawal shall not be final until the date identified in the voter-approved proposal of withdrawal.

(2) Declare the creation and existence of the new school district, effective on the date of the Board’s declaration; provided, however, that:

(A) the new school district shall assume full and sole responsibility for the education of its resident students on the date identified in the voter-approved proposal of withdrawal; and

(B) until the identified operational date, the new school district shall exist for the sole purposes of:

(i) convening an organizational meeting of the voters of the new school district to prepare the district to assume its responsibilities;

(ii) organizing the school board of the new school district, which shall be responsible for preparing a proposed budget for the fiscal year beginning on the identified operational date;

(iii) approving the budget of the new school district for the fiscal year beginning on the identified operational date; and

(iv) taking any other actions necessary, as district voters or as a school board, for the new school district to assume full responsibility for providing for the education of the district's resident students in all grades, prekindergarten through grade 12, on the identified operational date.

(3) Determine or set a schedule for determining the manner in which supervisory union services will be provided to the new school district, to be effective on the district's identified operational date.

(A) In addition to the considerations set forth in section 261 of this title, when the State Board makes its determination, it shall consider the potential positive and negative consequences on all affected districts and supervisory unions if supervisory union services were provided to the new school district in a manner that required:

(i) a union district serving as its own supervisory district to become a member of a multidistrict supervisory union; or

(ii) a neighboring supervisory union to accept one or more additional districts that the supervisory union testifies it is not able to accommodate.

(B) If assigned to a multidistrict supervisory union, then the board of the new school district may appoint its members to the supervisory union board pursuant to section 266 of this title, where they may participate as nonvoting members of that board until the new school district's operational date.

(j) Certification; Secretary of State. If the State Board declares the creation and existence of a new school district pursuant to subdivision (i)(2) of this section, then within 30 days following such action the Secretary of Education

shall certify the adjustment of the towns within the union district to the Secretary of State. When the Secretary of State records the certification of the Secretary of Education, the towns within the union district shall be adjusted accordingly; provided, however, that the voter-approved proposal of withdrawal shall establish the date on which withdrawal shall be final, the new school district shall assume full and sole responsibility for the education of its resident students, and the union school district shall no longer have responsibility for the education of those students. Not more than 14 days after the date the Secretary of Education certifies the adjustment, the Secretary of State shall file a certified copy of the recorded certification with the clerk of the union district and the clerk for the town in which the new school district is located. Filing a certified copy with the clerks shall be prima facie evidence of full compliance with the requirements for adjusting the union school district by withdrawal as set forth in this section.

(k) Timing of action.

(1) The voters residing in any town within a union district shall not initiate the withdrawal process set forth in this section within the first year after the latter of the operational date of a newly formed union district or, if applicable, the operational date of a union district adjusted pursuant to subsection (i) of this section.

(2) If a petitioning town's action to withdraw from a union school district is unsuccessful, then the voters residing in that town shall not initiate a new withdrawal action under this section until two years after either a withdrawal study committee votes not to approve advancement of the withdrawal process or the vote by the voters that concluded the initial withdrawal action.

#### § 725. WITHDRAWAL FROM OR DISSOLUTION OF A UNION ELEMENTARY OR UNION HIGH SCHOOL DISTRICT

(a) Definition. As used in this section:

(1) "Petitioning district" means:

(A) a member district of a union elementary or union high school district that seeks to withdraw from the union district pursuant to the provisions of this section; or

(B) a town that is a member of both a union elementary school district and a union high school district, is not independently organized as a district that is responsible for the education of students in any grade, does not have a town school district board, and that seeks to withdraw from a union elementary or union high school district pursuant to the provisions of this

section.

(2) “New school district” means the petitioning district once the State Board has declared it to be withdrawn from the union elementary or union high school district.

(b) Withdrawal study committee.

(1) To initiate the process set forth in this section, the board of the petitioning district shall submit a petition to the clerk of the union elementary or union high school district indicating its desire to withdraw the petitioning district from the union district and identifying at least three board members of the petitioning district who will serve on a withdrawal study committee. The board of the petitioning district shall submit the petition to the clerk of the union school district after either a vote by the board of the petitioning district or receipt of individual petitions signed by at least five percent of the voters residing in the petitioning district and five percent of the voters residing in each of the other member districts within the union school district, with each member district having its own petition. The clerk of the petitioning district shall submit each petition to the subject member district’s clerk for verification of the voting registration of the signors. Once each petition has been verified by the subject district clerk, the board of the petitioning district shall append the individual petitions to the withdrawal petition it sends to the clerk of the union district.

(2) To initiate the process set forth in this section if the petitioning district does not have a town school district board, the voters residing in the petitioning district shall submit petitions to the clerk of the unified union school district indicating the petitioners’ desire to withdraw the petitioning district from the union district. Individual petitions shall be signed by at least five percent of the voters residing in the petitioning district and five percent of the voters residing in each of the member districts within the union school district, with each district having its own petition. The petitioning district shall submit each petition to that district’s clerk for verification of the voting registration status of the signors. On a form created by the Secretary of State’s office, and appended to each petition, shall be the names of three voters residing in the petitioning district to serve on a withdrawal study committee and a signed statement by each of the three named voters consenting to serve. Once each petition has been verified by the subject district clerk, the petitioning district shall submit the petitions to the clerk of the union school district.

(3) Within 30 days after receiving the petition, the board of the union district shall recognize the creation of the withdrawal study committee and



shall appoint a board subcommittee to serve as a liaison between the board and the withdrawal study committee and to represent the interests of the union district.

(4) Within 30 days after the board's appointment of the liaison subcommittee, the superintendent of the union district shall convene the first formal meeting of the withdrawal study committee. The study committee shall elect one committee member to serve as Chair.

(5) Before beginning any analysis under subsection (c) of this section or seeking technical or analytical services from the union district staff or supervisory union staff, or both, the withdrawal study committee shall obtain a letter of commitment from a supervisory union board to explore the provision of supervisory union services if withdrawal is ultimately approved.

(6) The withdrawal study committee is a public body pursuant to 1 V.S.A. § 310(4) and is subject to the requirements of chapter 5, subchapter 2 of that title.

(c) Analysis. The withdrawal study committee shall evaluate the strengths and challenges of the current union district structure and consider the ways in which the union district promotes or fails to promote the State policy set forth in section 701 of this chapter. At a minimum, the withdrawal study committee shall evaluate:

(1) the educational advantages and disadvantages likely to result from the proposed withdrawal of the petitioning district from the union elementary or union high school district:

(A) on the students residing in the proposed new school district; and

(B) on the students remaining in the union district if withdrawal is approved;

(2) the educational advantages and disadvantages likely to result from the continued inclusion of the petitioning district as a member district of the union elementary or union high school district:

(A) on the students residing in the petitioning district; and

(B) on the students residing in the other member districts of the union district;

(3) the financial advantages and disadvantages likely to result from the proposed withdrawal of the petitioning district from the union elementary or union high school district:

(A) on the taxpayers residing in the proposed new school district; and

(B) on the taxpayers remaining in the union district if withdrawal is approved;

(4) the financial advantages and disadvantages likely to result from the continued inclusion of the petitioning district within the union elementary or union high school district:

(A) on the taxpayers residing in the petitioning district; and

(B) on the taxpayers residing in the other member districts within the union district;

(5) the likely operational and financial viability and sustainability of:

(A) the proposed new school district; and

(B) the union elementary or union high school district if withdrawal is approved;

(6) any other advantages and disadvantages of withdrawal, including any advantages and disadvantages to the students and taxpayers of the region and the State; and

(7) the potential source of supervisory union services for the proposed new district, including discussions with the board of any supervisory union to which the report of the withdrawal study committee might propose assignment or the continuation of assignment.

(d) Report, including a plan for withdrawal; decision not to prepare report.

(1) Report supporting withdrawal.

(A) If, after conducting the analysis required by subsection (c) of this section, the withdrawal study committee votes to advance the withdrawal process as further outlined in this section, then the committee shall prepare a report, which it shall deliver electronically to the union district board and which the superintendent shall publish on the district's website.

(B) At a minimum, the report shall include:

(i) the analysis conducted pursuant to subsection (c) of this section, describing the ways in which the data and analysis:

(I) support withdrawal; and

(II) do not support the continuation of the union elementary or union high school district in its current configuration;

(ii) the proposed financial terms of withdrawal, including the proposed ownership of buildings and other assets and the proposed responsibility for financial and other contractual obligations, including debts;

(iii) a plan, including a detailed timeline, for the actions the proposed new school district would take to ensure that, on the proposed operational date, it could provide for the education of its students in the grades for which the union elementary or union high school district is organized, in a manner that will meet educational quality standards as required by section 165 of this title, and including, if applicable, the process by which the proposed new school district would explore formation of a new union district with one or more other school districts in the region and would integrate or condition any votes to withdraw with votes on formation of a new union district; and

(iv) a proposal, including analysis, for the source of supervisory union services for the proposed new school district.

(C) Within 45 days following receipt of the study committee report, the union elementary or union high school district board shall invite the members of the withdrawal study committee to attend a regularly scheduled meeting of the board to present the contents of its report and to answer any questions posed by the board. The board shall also invite the members of the liaison subcommittee to share any analysis and conclusions at the meeting. The withdrawal study committee has sole authority to determine the contents of its report.

(2) Decision not to propose withdrawal. If, after conducting the analysis required by subsection (c) of this section, the withdrawal study committee votes not to approve advancement of the withdrawal process, then:

(A) the withdrawal study committee shall prepare a brief written statement explaining the reasons underlying the votes supporting and not supporting advancement, which it shall deliver electronically to the union district board and which the superintendent shall publish on the district's website;

(B) within 45 days following receipt of the study committee report, the union elementary or union high school district board shall invite the members of the withdrawal study committee to attend a regularly scheduled meeting of the board to present the contents of the written statement and to answer any questions posed by the board; and

(C) the withdrawal study committee shall cease to exist upon adjournment of the union elementary or union high school district board's meeting.

(e) Secretary of Education review and opinion.

(1) Review by the Secretary. Within 30 days after attending the union district board meeting pursuant to subdivision (d)(1)(C) of this section, the

withdrawal study committee shall deliver the report or reports electronically to the Secretary for review. The Secretary:

(A) shall consider the report or reports;

(B) shall provide representatives of the withdrawal study committee, the liaison subcommittee, and any supervisory union that has been identified as a potential source of supervisory union services for the proposed new school district an opportunity to be heard at a meeting held at a location within the petitioning district;

(C) may, in the Secretary's discretion, take testimony from other individuals and entities;

(D) may ask the withdrawal study committee, or the liaison subcommittee, to make further investigation and may consider any other information the Secretary deems to be pertinent; and

(E) may request that the members of the withdrawal study committee amend the report.

(2) Advisory opinion of the Secretary with positive recommendation.

(A) If the Secretary finds that the withdrawal proposal contained in the report, including the most feasible options for the provision of supervisory union services to the proposed new school district, is in the best interests of the State, the region, the students, and the school districts, and aligns with the policy set forth in section 701 of this title, then, within 90 days of receipt of the report or reports, unless the study committee agrees to an extension of the deadline, the Secretary shall:

(i) issue an opinion recommending approval of the withdrawal proposal;

(ii) provide a preliminary assessment of most feasible options for the provision of supervisory union services to the proposed new school district if withdrawal is approved by the voters; and

(iii) make any other finding related and necessary to the withdrawal proposal.

(B) After the Secretary issues an opinion recommending approval of the withdrawal proposal, the proposal shall proceed to a vote of the electorate under subsection (g) of this section.

(3) Advisory opinion of the Secretary with negative recommendation. Advisory opinion. If the Secretary finds that the withdrawal proposal contained in the report, including the most feasible options for the provision of

supervisory union services to the proposed new school district, is not in the best interests of the State, the region, the students, and the school districts or does not align with the policy set forth in section 701 of this title, or both, then, within 90 days of receipt of the report or reports, unless the study committee agrees to an extension of the deadline, the Secretary shall:

(A) issue a written opinion recommending disapproval of the withdrawal proposal, including a written statement detailing the reasons supporting this conclusion;

(B) provide a preliminary assessment of most feasible options for the provision of supervisory union services to the proposed new school district if withdrawal is approved by the voters;

(C) make any other finding related and necessary to the withdrawal proposal; and

(D) post the written opinion on the Agency of Education's website and transmit it electronically to the clerk of the union district.

(f) State Board of Education final review.

(1) Study committee vote. Within 30 days following receipt of a negative advisory opinion from the Secretary, the clerk of the union school district shall post the document on its website and schedule the contents as a topic for public discussion at a special or regular board meeting. Within 30 days following the public meeting, the study committee shall convene a meeting and vote whether to cease efforts to withdraw from the union district or whether to request review of the Secretary's advisory opinion by the State Board of Education for the withdrawal proposal to proceed to a vote of the electorate.

(2) Cease efforts to withdraw. If the study committee votes to cease efforts to withdraw from the union district, then the petitioning town shall remain a town within the union district, the withdrawal action initiated pursuant to this section is concluded, and the withdrawal study committee shall cease to exist upon adjournment of the meeting.

(3) Proceed with withdrawal; State Board of Education final review and vote. If the study committee votes to proceed with withdrawal, it shall petition the State Board of Education for final review of the Secretary's advisory opinion. The State Board shall review the report and plan of the study committee required under subsection (d) of this section, review the Secretary's written negative advisory opinion, and provide the study committee, the Secretary, and any supervisory union that has been identified as a potential source of supervisory union services for the proposed new school district an

opportunity to be heard at a meeting held at a location within the petitioning town. The State Board may, in its discretion, take testimony from other individuals and entities, including the union school district. Within 90 days after receiving the petition of the study committee, the State Board shall issue a final written decision and transmit the decision to the superintendent.

(A) Vote to approve. If the State Board finds that the withdrawal proposal contained in the report, including the most feasible options for the provision of supervisory union services to the proposed new school district, is in the best interests of the State, the region, the students, and the school districts or aligns with the policy set forth in section 701 of this title, or both, then the State Board shall:

(i) approve the study committee report supporting withdrawal, together with any amendments, as the final report and proposal of withdrawal;

(ii) provide a preliminary assessment of most feasible options for the provision of supervisory union services to the proposed new school district;

(iii) declare that the withdrawal process will proceed to a vote of the union district voters pursuant to subsection (g) of this section; and

(iv) make any other finding or declaration, and approve any other motion, related and necessary to the withdrawal proposal.

(B) Vote not to approve. If the State Board finds that the plan for withdrawal, including the most feasible options for the provision of supervisory union services to the proposed new school district, is not in the best interests of the State, the region, the students, and the school districts or does not align with the policy set forth in section 701 of this title, or both, then:

(i) the State Board shall not approve the report supporting withdrawal;

(ii) the process will not proceed to a vote of the electorate;

(iii) the petitioning district shall remain a member district within the union district; and

(iv) the State Board's determination and the resulting consequences imposed by such a determination shall be final and shall conclude the withdrawal action.

(C) The withdrawal study committee shall cease to exist after the vote of the State Board.

(g) Vote of the electorate.

(1) Within 30 days following receipt of the Secretary's positive advisory opinion pursuant to subdivision (e)(2)(A) of this section or within 30 days following the State Board's vote to approve the withdrawal proposal pursuant to subdivision (f)(3)(A) of this section, the superintendent shall file the withdrawal study committee's report, the State Board's written recommendation, and any report of the liaison subcommittee with the clerk of the union elementary or union high school district and the district clerk of each of the member districts within the union elementary or union high school district.

(2) Within 90 days after the clerk of the union district receiving the reports and recommendations described in subdivision (1) of this subsection, the voters of the union elementary or union high school district, including those residing in the petitioning district, shall vote whether to approve withdrawal as set forth in the report. The question shall be determined by Australian ballot and shall proceed pursuant to sections 755 (warnings of union elementary and union high school district meetings) and 757-759 (vote by Australian ballot) of this chapter.

(3) Withdrawal from the union elementary or union high school district shall occur if the question is approved by a majority vote of the union district voters living in each of the member districts within the union elementary or union high school district, including in the petitioning district. If a majority of the voters in one or more member districts within the union elementary or union high school district do not vote in favor of withdrawal, then the proposed withdrawal shall not occur.

(4) Within 45 days after the vote or 15 days after a vote to reconsider the original vote under 17 V.S.A. § 2661, whichever is later, the clerk of each member district within the union elementary or union high school district shall certify the results of the vote to the Secretary of Education, and the Secretary shall advise the State Board of the certified results. Each clerk shall submit the certification regardless of whether the voters in that district approved withdrawal. The withdrawal study committee shall cease to exist when each clerk has submitted a certification to the Secretary.

(5) If the petitioning district or one of the other member districts does not have a town school district board, the legislative body or appropriate officer of the town shall perform electoral functions, including warning meetings and conducting the voting process, ordinarily performed by and in member districts on behalf of a union school district.

(h) Election of potential board members. If the petitioning district does not

have a town school district board, on the day on which they vote whether to approve withdrawal, the union district voters residing in the petitioning school district shall also vote for three individual registered voters from the petitioning district to serve as the initial members of the proposed new school district's board if withdrawal is approved. The nomination and election of the initial members shall proceed pursuant to subdivision 748(a)(1) of this chapter (election of board members under the proportional to town model by Australian ballot). The term of office for each initial member shall be arranged so that one term expires on the day of the second annual meeting of the proposed new school district, one term expires on the day of the third annual meeting, and one term expires on the day of the fourth annual meeting.

(i) State Board's duties if withdrawal is approved. If the union elementary or union high school district voters approve withdrawal pursuant to subsection (g) of this section, then upon receiving notice from the Secretary pursuant to subdivision (g)(4) of this section, the State Board shall:

(1) declare the withdrawal approved as of the date of the Board's meeting; provided, however, that withdrawal shall not be final until the date identified in the voter-approved proposal of withdrawal;

(2) declare it to be the obligation of the new school district to assume responsibility for the education of its residents in the grades for which the union elementary or union high school district was previously responsible, effective on the date of the Board's declaration; provided, however, that:

(A) the new school district shall assume full and sole responsibility for the education of its resident students in the grades for which the union elementary or union high school district was previously responsible on the date identified in the voter-approved proposal of withdrawal; and

(B) until the identified operational date, the new school district shall exist for the sole purposes of:

(i) providing for the education of its residents in the grades for which it was organized prior to withdrawal;

(ii) convening an organizational meeting of the voters of the new school district to prepare the district to assume its new responsibilities if the petitioning district did not have a town school district board;

(iii) organizing the school board of the new school district if the petitioning district did not have a town school district board;

(iv) preparing a proposed budget for the fiscal year beginning on the identified operational date;



(v) approving the budget of the new school district for the fiscal year beginning on the identified operational date; and

(vi) taking any other actions necessary, as district voters or as a school board, for the new school district to assume full responsibility for providing for the education of the district's resident students in the grades it is now organized to provide for, on the identified operational date; and

(3) ensure a smooth transition of supervisory services, to be effective on the district's identified operational date.

(j) Certification; Secretary of State. If the State Board declares it to be the obligation of the new school district pursuant to subdivision (i)(2) of this section to provide for the education of resident students who were formerly the responsibility of the union elementary or union high school district, then within 30 days following such action the Secretary of Education shall certify the adjustment of the member districts within the union elementary or union high school district to the Secretary of State. When the Secretary of State records the certification of the Secretary of Education, the member districts within the union elementary or union high school district shall be adjusted accordingly; provided, however, that the voter-approved proposal of withdrawal shall establish the date on which withdrawal shall be final, the new school district shall assume full and sole responsibility for the education of its residents in the grades for which it is now organized, and the union school district shall no longer have responsibility for the education of those students. Not more than 14 days after the date the Secretary of Education certifies the adjustment, the Secretary of State shall file a certified copy of the recorded certification with the clerk of the union elementary or union school district and the clerk for new school district. Filing a certified copy with the clerks shall be prima facie evidence of full compliance with the requirements for adjusting the union school district by withdrawal as set forth in this section.

(k) Timing of action.

(1) The voters residing in any member district within a union elementary or union high school district shall not initiate the withdrawal process set forth in this section within the first year after the latter of the operational date of a newly formed union elementary or union high school district or, if applicable, the operational date of a union elementary or union high school district adjusted pursuant to subsection (i) of this section.

(2) If a petitioning district's action to withdraw from a union elementary or union high school district is unsuccessful, then the voters residing in that member district shall not initiate a new withdrawal action under this section until two years after either a withdrawal study committee votes not to approve

advancement of the withdrawal process or the vote by the voters that concluded the initial withdrawal action.

### Subchapter 3. Unified Union School Districts

#### Article 1. Unified Union School Districts – Boards and Board Members

##### § 729. BOARD MEMBERS; TERM; CONDUCT OF MEETINGS; QUORUM AND VOTING; POWERS AND DUTIES

(a) Members. Except as set forth in subchapter 2 (exploration, formation, and organization) of this chapter for initial members, each member of the board of a unified union school district shall:

(1) be elected by the voters at a warned meeting of the unified union school district pursuant to sections 730 (nomination and election of unified union school district board members) and 737 (warnings of unified union school district meetings) of this title;

(2) assume office upon election, except as provided in subdivision 737(f)(3) (warnings of unified union school district meetings) of this chapter; and

(3) be sworn in before entering upon the duties of the office.

(b) Term. A member elected at an annual meeting shall serve for a term of three years or until the member’s successor is elected and has taken the oath of office. A member elected at a special meeting shall serve for the balance of the term of office remaining.

(c) Quorum. A majority of the members of the board shall constitute a quorum. Subject to the provisions of subsection (d) of this section but notwithstanding any other provision of law, the concurrence of a majority of members present at a unified union school district board meeting shall be necessary and sufficient for board action; provided, however, the concurrence of more than a majority shall be necessary if required for a particular action by the voter-approved articles of agreement.

(d) Weighted voting. If weighted voting is used to achieve constitutionally required proportionality for members elected under the “proportional to town population” model described in subdivisions 711(d)(1) (proposed unified union school district; proportional to town population) and 730(a)(1) (unified union school district; Australian ballot; proportional to town population) of this chapter, then a number of members of the board holding a majority of the total number of weighted votes shall constitute a quorum, and a majority of the weighted votes cast shall be necessary and sufficient for board action.

(e) Board chair and board clerk. At the board meeting next following each

annual district meeting, the unified union school district board shall elect one of its number to serve as the chair of the board and one other of its number to serve as the clerk of the board.

(f) Powers, duties, and liabilities. The powers, duties, and liabilities of a unified union school district board, board chair, and board clerk shall be the same as those of a board, board chair, and board clerk of a town school district.

(g) Minutes. The board clerk shall prepare minutes of the proceedings of the unified union school district board, unless the board votes to delegate those duties to another individual. The board clerk shall transmit the minutes and all other documents constituting the record of board proceedings to the clerk of the unified union school district, who shall be responsible for maintaining a permanent record of board proceedings. In the board clerk's absence, another member of the school board shall assume the duties of the clerk.

(h) Stipend. The board clerk may be paid upon order of the board.

§ 730. UNIFIED UNION SCHOOL DISTRICT BOARD MEMBERS;  
NOMINATION AND ELECTION; BOND

(a) If by Australian ballot. The provisions of this subsection (a) shall apply to a unified union school district that conducts elections for board membership by Australian ballot.

(1) Proportional to town population.

(A) When membership on the board of a unified union school district is apportioned to each town within the district in a number that is closely proportional to the town's relative population, the voters residing in the town may file a petition nominating a candidate for board membership. A petition is valid only if:

(i) the candidate is a current voter of the town;

(ii) the petition identifies the term of office for which the candidate is nominated;

(iii) the petition is signed by at least 30 voters residing in the town or one percent of the legal voters in the town, whichever is less;

(iv) the voters file the petition with the town clerk not later than 5:00 p.m. on the sixth Monday preceding the day of the election; and

(v) the candidate files with the town clerk a written consent to the printing of the candidate's name on the ballot.

(B) After confirming that the names on the petition correspond to

registered voters of the town, the town clerk shall transmit the name of each duly nominated candidate to the clerk of the unified union school district.

(C) The district clerk shall prepare a unified union school district ballot for each town and shall transmit the ballot to the town clerk to make available to the voters residing in the town.

(D) The voters of a town within the unified union school district shall elect as many board members as are apportioned for that term of office based on the population of the town.

(2) Modified at-large model: allocation to town; at-large representation.

(A) When membership on the board of a unified union school district is allocated to each town within the district, but the allocation is not closely proportional to the town's relative population and the board member is elected at-large, the voters residing in any one or more of the towns within the district may file a petition nominating a candidate for board membership under the "modified at-large" model. A petition is valid only if:

(i) the candidate is a current voter of the town to which the seat is allocated;

(ii) the petition identifies the term of office for which the candidate is nominated;

(iii) the petition is signed by at least 60 voters residing in the unified union school district;

(iv) the voters file the petition with the clerk of the unified union school district not later than 5:00 p.m. on the sixth Monday preceding the day of the election; and

(v) the candidate files with the district clerk a written consent to the printing of the candidate's name on the ballot.

(B) Not later than 5:00 p.m. on the sixth Monday preceding the day of the election, the town clerk of each town within the unified union school district shall furnish to the district clerk, at the expense of the district, authenticated copies of the checklist of legal voters within the town as the checklist appears after revisions are made pursuant to 17 V.S.A. §§ 2141–2150.

(C) The district clerk shall prepare the unified union school district ballot to include the name of each duly nominated candidate and shall transmit the ballot to the town clerk of each town within the district to make available to the voters residing in the town.

(D) The voters of the unified union school district shall elect as many board members as are to be elected at-large for that term of office under the “modified at-large” model.

(3) At-large representation.

(A) When membership on a unified union school district board is not apportioned or allocated pursuant to subdivision (1) (proportional to town population) or (2) (modified at-large) of this subsection (a) and the board member is elected at large, the voters residing in any one or more of the towns within the district may file a petition nominating a candidate for at-large board membership. A petition is valid only if:

(i) the candidate is a current voter of a town within the unified union school district;

(ii) the petition identifies the term of office for which the candidate is nominated;

(iii) the petition is signed by at least 60 voters residing in the unified union school district;

(iv) the voters file the petition with the clerk of the unified union school district not later than 5:00 p.m. on the sixth Monday preceding the day of the election; and

(v) the candidate files with the district clerk a written consent to the printing of the candidate’s name on the ballot.

(B) Not later than 5:00 p.m. on the sixth Monday preceding the day of the election, the town clerk of each town within the unified union school district shall furnish to the district clerk, at the expense of the district, authenticated copies of the checklist of legal voters within the town as the checklist appears after revisions are made pursuant to 17 V.S.A. §§ 2141–2150.

(C) The district clerk shall prepare the unified union school district ballot to include the name of each duly nominated candidate and shall transmit the ballot to the town clerk of each town within the district to make available to the voters residing in the town.

(D) The voters of the unified union district shall elect as many board members as are to be elected at-large for that term of office.

(b) If not by Australian ballot. The provisions of this subsection shall apply to a unified union school district that has not voted to conduct elections for board membership by Australian ballot.

(1) The nomination and election of candidates for the office of unified union school district board member shall occur at a warned meeting of the unified union school district; provided, however, if the district elects board members under the “proportional to town population” model, then the nomination and election of candidates shall occur at an annual or special meeting of the town in which the candidate resides, warned for the purpose pursuant to subsection 737(f) of this chapter.

(2) Voters shall only nominate a person who is present at the meeting and the person shall accept or reject the nomination.

(3) The clerk shall ensure that the candidate is a voter of a specific town if the district elects board members under either the “proportional to town population” model or the “modified at-large” model.

(c) Bond. Before a newly elected board member enters upon the duties of office, the district shall ensure that the district’s blanket bond covers the new member. In lieu of a blanket bond, the district may choose to provide suitable crime insurance coverage.

(d) Notification. Within 10 days after the election of a board member pursuant to this section, the district clerk shall transmit the name of newly elected board members to the Secretary of State.

#### § 731. VACANCY ON UNIFIED UNION SCHOOL DISTRICT BOARD

(a) Filling a vacancy. Notwithstanding any other provision of law to the contrary, this section shall apply to a vacancy on a unified union school district board, unless otherwise provided in the articles of agreement of the district as initially approved by the voters on or before July 1, 2019.

(1) Proportional to town population. If the vacancy is for a seat where membership is apportioned to a town within the unified union school district in a number that is closely proportional to the town’s relative population and only voters residing in the town elect the board member, then the clerk of the unified union school district shall notify the selectboard of the town not later than five days after learning of the vacancy. Within 30 days after providing notice and after consultation with the selectboard, the unified union school district board shall appoint an eligible person to fill the vacancy until the voters elect a successor at an annual or special meeting.

(2) Modified at-large model: allocation to town; at-large representation. If the vacancy is for a seat where membership is allocated to a town within the unified union school district in a number that is not closely proportional to each town’s relative population and the board member is elected at large, then the district clerk shall notify the selectboard of the town not later than five

days after learning of the vacancy. Within 30 days after providing notice and after consultation with the selectboard, the unified union school district board shall appoint an eligible person to fill the vacancy until the voters elect a successor at an annual or special meeting.

(3) At-large representation. If the vacancy is for a seat that is neither apportioned nor allocated to a town within the unified union school district as provided in subdivision (1) or (2) of this subsection and the board member is elected at-large, then within 30 days after creation of the vacancy the unified union school district board shall appoint an eligible person to fill the vacancy until the voters elect a successor at an annual or special meeting.

(4) Vacancy in all seats. If all seats on a school board are vacant, then the Secretary of State shall call a special election to fill the vacancies.

(b) Notification. Within 10 days after the appointment of a board member pursuant to this section, the district clerk of the unified union school district shall transmit the name of the appointed board member to the Secretary of State.

(c) Obligations and expenses.

(1) Vacancy in majority. If there are vacancies in a majority of the members of a unified union school district board at the same time, then the remaining member or members are authorized to draw orders for payment of continuing obligations and necessary expenses until a majority of the vacancies are filled pursuant to the provisions of this section.

(2) Vacancy in all seats. If there are no members of the unified union school district board in office, then the Secretary of State shall authorize the district clerk or other qualified person to draw orders for payment of continuing obligations and necessary expenses until a majority of the vacancies are filled.

#### § 732. UNIFIED UNION SCHOOL DISTRICT BUDGET; PREPARATION AND AUTHORIZATION

(a) The board of a unified union school district shall prepare and distribute a proposed budget annually for the next school year pursuant to the provisions of subdivision 563(11) (powers of school boards; budget) of this title.

(b) If the voters do not approve the board's proposed budget, then the board shall prepare and present a revised proposed budget pursuant to 17 V.S.A. § 2680(c)(2) (local elections; Australian ballot system; rejected budget).

(c) If the voters do not approve a budget on or before June 30 of any year,

then the board of the unified union school district may borrow funds pursuant to the authority granted under section 566 (school district; authority to borrow) of this title. As used in section 566, the “most recently approved school budget” of a union school district in its first fiscal year of full operations means the cumulative budget amount of the most recently approved school budgets of all districts that merged to form the union district plus one percent.

§ 733. ANNUAL REPORT; DATA

(a) The board of a unified union school district shall prepare an annual report concerning the affairs of the district and have it printed and distributed to the voters of the district pursuant to the provisions of subdivision 563(10) (school districts; powers of school boards; report) of this title. The board shall file the report with the unified union school district clerk and with the town clerk of each town within the district.

(b) Annually, on or before August 15, the unified union school district board shall provide to the Secretary answers to statistical inquiries that may be addressed to the district by the Secretary.

Article 2. Unified Union School Districts – Officers, Annual Meetings,  
and Special Meetings

§ 735. OFFICERS; ELECTION; TERM; VACANCY; BOND

(a) Officers. At an annual meeting of the unified union school district, the voters shall elect a moderator from among the registered voters of the district. The voters shall also vote to elect a clerk and a treasurer of the district; provided, however, at any annual or special meeting, the voters may vote to authorize the school board to appoint the clerk or the treasurer, or both. The clerk of the district shall be elected or appointed from among the voters. The treasurer may also be the supervisory union treasurer and need not be a resident of the union school district.

(b) Election.

(1) If an officer is elected by Australian ballot in a unified union school district, then the provisions of subdivision 730(a)(3) for election by Australian ballot of at-large candidates for the unified union school district board shall apply.

(2) Votes cast to elect an officer shall be commingled and reported to the voters pursuant to section 742 (commingling of votes cast by Australian ballot and from the floor) of this chapter.

(c) Terms.

(1) Moderator. A moderator elected at an annual meeting pursuant to



this section shall assume office on July 1 following the election, unless the voters vote at an annual meeting for the moderator to assume office upon election. A moderator shall serve a term of one year or until a successor is elected and has taken the oath of office unless the voters extend the term length up to three years.

(2) Clerk. A clerk elected at an annual meeting pursuant to this section shall assume office on July 1 following the election. A clerk shall serve a term of one year or until a successor is elected and has taken the oath of office unless the voters extend the term length up to three years.

(3) Treasurer. A treasurer elected at an annual meeting pursuant to this section shall assume office on July 1 following the election. A treasurer shall serve a term of one year or until a successor is elected and has taken the oath of office unless the voters extend the term length up to three years.

(d) Vacancy. The board of the unified union school district shall fill a vacancy in any office elected pursuant to this section as soon as practicable after the vacancy occurs. The appointee shall serve upon appointment for the remainder of the unexpired term of office or until the voters elect a successor.

(e) Oath of office. An officer elected or appointed pursuant to this section shall be sworn in before entering upon the duties of the office.

(f) Bond. The district shall ensure that its blanket bond covers a newly elected or appointed treasurer before the treasurer enters upon the duties of the office. In lieu of a blanket bond, the district may choose to provide suitable crime insurance coverage.

(g) Notification. Within 10 days after the election or appointment of any officer pursuant to this section, the clerk of the unified union school district shall transmit the name of the officer to the Secretary of State.

#### § 736. OFFICERS; POWERS, DUTIES, AND LIABILITIES

(a) Moderator. The powers, duties, and liabilities of the moderator of a unified union school district shall be the same as those of a moderator of a town school district. The moderator shall preside at each annual and special meeting of the unified union school district. In the moderator's absence, the voters shall elect a moderator pro tempore to preside.

(b) Clerk. The powers, duties, and liabilities of the clerk of a unified union school district shall be the same as those of a clerk of a town school district. The district clerk shall keep a record of the votes and the proceedings of the union school district meetings and shall provide certified copies of them when requested.

(c) Treasurer. The powers, duties, and liabilities of the treasurer of a unified union school district shall be the same as those of a treasurer of a town school district.

(d) Documents. The person having custody shall provide to each newly elected or appointed officer of a unified union district all books, papers, and electronic documents of the office.

§ 737. WARNINGS OF UNIFIED UNION SCHOOL DISTRICT MEETINGS

(a) The board of a unified union school district shall have the same authority and obligation to warn or call meetings of the district as a town school board has to warn or call town school district meetings.

(b) Except as provided in subsection (f) of this section, the district clerk shall warn a unified union school district meeting pursuant to the provisions of 17 V.S.A. § 2641 (town meetings and local elections; warning and notice publication) by posting a warning and notice to voters, signed by the chair of the board or the chair's designee, specifying the date, time, location, and business of the meeting, in at least one public place in each town within the unified union school district, and causing the same to be published once in a newspaper circulating in the unified union school district. In the district clerk's absence, the chair of the board or the chair's designee shall warn the meeting pursuant to the provisions of this section.

(c) The warning shall, by separate articles, specifically indicate the business to be transacted, to include the offices and the questions upon which the electorate shall vote. The warning shall also contain any article or articles requested by a petition signed by at least five percent of the voters of the district and filed with the district clerk pursuant to 17 V.S.A. § 2642 (town meetings and local elections; warning and notice contents).

(d) The posted notice that accompanies the warning shall include information on voter registration, early and absentee voting, the time and location at which the ballots will be counted, and any other applicable information.

(e) The warning shall be recorded in the office of the district clerk before posting.

(f) This subsection applies if a unified union school district elects school board members under the "proportional to town population" model and if it elects those members by a floor vote rather than by Australian ballot.

(1) The election shall be warned as follows:

(A) The district clerk shall transmit the signed warning to each town clerk.

(B) The district clerk shall assist each town clerk to incorporate the warning into the warning for the annual or special meeting of each town.

(C) Each town clerk, rather than the district clerk, shall post and publish the warning pursuant to the provisions of subsection (b) of this section.

(2) Notwithstanding any provision of law to the contrary, if any town within the unified union school district elects its selectboard members by Australian ballot, then the warning, nomination, ballot preparation, and election of unified union school district board members shall proceed pursuant to the same laws that govern the town.

(3) If an annual town meeting at which the board members are elected under this subsection is more than 30 days prior to the annual meeting of the unified union school district, then notwithstanding subsection 729(a) (members of unified union school district boards) of this section, the newly elected board members shall assume office at the conclusion of the district's annual meeting.

(g) Notwithstanding any provisions of this section to the contrary, a unified union school district:

(1) shall warn a meeting called for the purpose of considering a bond issue pursuant to the provisions of 24 V.S.A. § 1755; and

(2) shall warn a meeting to consider a revised proposed budget pursuant to the provisions of subsection 732(b) of this chapter.

§ 738. CHECKLIST FOR UNION DISTRICT MEETINGS WHERE  
VOTING IS CONDUCTED FROM THE FLOOR

(a) Not later than the close of business on the day before an annual or special meeting of a unified union school district, the town clerk of each town within the district shall furnish to the district clerk, at the expense of the district, authenticated copies of the checklist of legal voters within the town as the checklist appears after revisions are made pursuant to 17 V.S.A. §§ 2141–2150 (elections; registration of voters). The checklist shall control for purposes of determining voter eligibility in the unified union school district.

(b) During the annual or special meeting, one or more members of each town's board of civil authority shall assist the district clerk to determine voter eligibility and to supervise voting during the meeting.

(c) This section shall not apply to a meeting warned pursuant to subsection 737(f) (unified union school district meetings; proportional to town

population; floor vote) of this chapter.

#### § 739. CONDUCT OF VOTE IF BY AUSTRALIAN BALLOT

For any vote that proceeds by Australian ballot in a unified union school district:

(1) A district voter shall vote by Australian ballot in the town in which the voter currently resides at the polling location identified in the warning.

(2) Voting shall occur in each town on the same day.

(3) The board of civil authority of each town shall be responsible for determining the eligibility of persons to vote and for supervising voting at that polling location.

(4) The opportunity for early and absentee voting pursuant to 17 V.S.A. §§ 2531–2550 (conduct of elections; early and absentee voters) shall be provided.

#### § 740. PREPARATION AND FORM OF AUSTRALIAN BALLOT

(a) The clerk of a unified union school district shall prepare the ballot for any vote that proceeds by Australian ballot in the district.

(b) Only questions warned by the unified union school district and presented to the voters of that district shall appear on a ballot prepared pursuant to subsection (a) of this section.

(c) Warned questions of the unified union school district shall not appear on the same ballot as questions warned by the legislative body of a town within the unified union school district.

#### § 741. COUNTING OF AUSTRALIAN BALLOTS

(a) Process.

(1) At least two members of the board of civil authority of each town within a unified union school district, or two election officials appointed by the board of civil authority of that town, shall transport ballots cast in the town in a sealed container to a central location designated by the district clerk. The district clerk shall place the ballots from all locations into a single container.

(2) The boards of civil authority shall not count the ballots for purposes of determining the outcome of the votes cast in that town prior to transporting them but may open the containers and count the total number of ballots cast at that polling location.

(3) The district clerk or designee shall supervise representatives of the boards of civil authority, identified in subdivision (1) of this subsection, to

count ballots at the central location pursuant to section 742 (commingling and reporting of votes cast by Australian ballot and from the floor) of this title. The district clerk shall also have the authority to appoint current unified union school district board members who are not on the ballot to aid in the counting of ballots.

(4) The ballots shall be counted as soon as possible, but not later than 24 hours after the time at which the polls closed.

(5) If ballots are to be counted on the day following the election, then the clerk of each town within the unified union school district shall store the ballots in a secure location in the town until they are transported on the following day to the central location designated by the district clerk for counting.

(6) After the ballots have been counted, the district clerk shall seal them in a secure container and store them for at least 90 days in a secure location.

(b) Applicability. The counting of Australian ballots cast by voters in a unified union school district for the election of members of the district board, for the election of district officers, for proposed budgets, and for any other public questions shall proceed pursuant to the provisions of this section, except when:

(1) Vermont statute explicitly permits or requires a different method for a specific type of question presented to the voters;

(2) the ballots have been cast to elect a unified union school district board member where membership on the board is apportioned based on town population pursuant to subdivision 730(a)(1) (unified union school district; Australian ballot; proportional to town population) of this title; or

(3) the articles of agreement as initially approved by the voters on or before July 1, 2019 explicitly provide that the board of civil authority of each town within the unified union school district shall count Australian ballots cast in that town and report that town's results to the district clerk, who shall calculate total votes cast within the unified union school district and report the result of the vote to the public.

§ 742. COMMINGLING AND REPORTING OF ALL VOTES CAST BY AUSTRALIAN BALLOT AND FROM THE FLOOR

(a) Commingling. Votes cast by the voters of a unified union school district shall be commingled, whether cast by Australian ballot or from the floor, and shall not be counted according to the town in which a voter resides.

(b) Report to public. The district clerk shall report the commingled results

of votes cast by voters of a unified union school district.

(c) Applicability. The commingling and reporting of votes cast by voters in a unified union school district for the election of members of the district board, for the election of district officers, for proposed budgets, and for any other public question shall proceed pursuant to the provisions of this section regardless of whether the votes proceeds by Australian ballot or by a floor vote, except when:

(1) Vermont statute explicitly permits or requires a different method for a specific type of question presented to the voters;

(2) the ballots have been cast to elect a unified union school district board member where membership on the board is apportioned based on town population pursuant to subdivision 730(a)(1) (unified union school district; Australian ballot; proportional to town population) of this chapter; or

(3) the articles of agreement as initially approved by the voters on or before July 1, 2019 explicitly provide that the board of civil authority of each town within the unified union school district shall count Australian ballots cast in that town and report that town's results to the district clerk, who shall calculate total votes cast within the unified union school district and report the result of the vote to the public.

#### § 743. BOND ISSUES; DEBT LIMIT

(a) A unified union school district may make improvements, as defined by 24 V.S.A. § 1751 (municipal and county government; indebtedness definitions), and may incur indebtedness for improvements as provided in 24 V.S.A. chapter 53, subchapter 1 (municipal and county government; indebtedness generally).

(b) The debt limit of the unified union school district shall be 10 times the total of the education grand lists of the towns within the unified union school district. The existing indebtedness of a unified union school district incurred to finance any project approved under sections 3447 to 3456 (State aid for capital construction costs) of this title shall not be considered a part of the indebtedness of the unified union school district for purposes of determining its debt limit for a new proposed bond issue.

(c) Bond issues under this section shall be determined by Australian ballot and shall proceed pursuant to sections 737 (warnings of unified union school district meetings) and 739–742 (vote by Australian ballot) of this subchapter. The ballots shall be commingled before counting.

Subchapter 4. Union Elementary School Districts and  
Union High School Districts

§ 745. DEFINITIONS

As used in this subchapter, words have the meaning as defined in section 702 (definitions) of this title and any words not defined in that section have their plain meaning, except:

(1) Member district. “Member district” means either a town school district that is a member district as defined in section 702 (definitions) of this title or a town in a member district if the member district is itself a union elementary or union high school district, as applicable.

(2) Town clerk.

(A) If, pursuant to section 425 (other town school district officers) of this title, the voters of a member district have elected a district clerk who is not also the clerk of the town, then “town clerk” means the elected clerk of that member district.

(B) Notwithstanding subdivision (A) of this subdivision (2), if a union elementary or union high school district is a member district of the union school district, then “town clerk” has its plain meaning and means the clerk of each town in the member district.

Article 1. Union Elementary and Union High School Districts – Boards and Board Members

§ 747. BOARD MEMBERS; TERM; CONDUCT OF MEETINGS;  
QUORUM AND VOTING; POWERS AND DUTIES

(a) Members. Except as set forth in subchapter 2 (exploration, formation, and organization) of this chapter for initial members, each member of the board of a union elementary school or union high school district shall:

(1) be elected by the voters at warned meeting pursuant to section 748 (union elementary and union high school district board members) of this chapter;

(2) assume office upon election, except as provided in subdivision 755(f)(3) (warnings of union elementary and union high school district meetings) of this chapter; and

(3) be sworn in before entering upon the duties of the office.

(b) Term. A member elected at an annual meeting shall serve for a term of three years or until the member’s successor is elected and has taken the oath of office. A member elected at a special meeting shall serve for the balance of

the term remaining.

(c) Quorum. A majority of the members of the board shall constitute a quorum. Subject to the provisions of subsection (d) of this section but notwithstanding any other provision of law, the concurrence of a majority of members present at a union elementary or union high school district board meeting shall be necessary and sufficient for board action; provided, however, the concurrence of more than a majority shall be necessary if required for a particular action by the voter-approved articles of agreement.

(d) Weighted voting. If weighted voting is used to achieve constitutionally required proportionality for members elected under the “proportional to town population” model set out in subdivisions 711(e)(1) (proposed union elementary or union high school district; proportional to town population) and 748(a)(1) (union elementary and union high school district board members; Australian ballot; proportional to town population) of this chapter, then a number of members of the board holding a majority of the total number of weighted votes shall constitute a quorum, and a majority of the weighted votes cast shall be necessary and sufficient for board action.

(e) Board chair and board clerk. At the meeting next following each annual meeting, the union elementary or union high school district board shall elect one of its number to serve as the chair of the board and one other of its number to serve as the clerk of the board.

(f) Powers, duties, and liabilities. The powers, duties, and liabilities of a union elementary or union high school district board, board chair, and board clerk shall be the same as those of a board, board chair, and board clerk of a town school district.

(g) Minutes. The board clerk shall prepare minutes of the proceedings of the union elementary or union high school district board, unless the board votes to delegate those duties to another individual. The board clerk shall transmit the minutes and all other documents constituting the record of board proceedings to the clerk of the union elementary or union high school district, who shall be responsible for maintaining a permanent record of board proceedings. In the board clerk’s absence, another member of the school board shall assume the duties of the clerk.

(h) Stipend. The board clerk may be paid upon order of the board.

§ 748. UNION ELEMENTARY AND UNION HIGH SCHOOL DISTRICT BOARD MEMBERS; NOMINATION AND ELECTION; BOND

(a) If by Australian ballot. The provisions of this subsection (a) shall apply to a union elementary or union high school district that conducts elections for



board membership by Australian ballot.

(1) Proportional to town population.

(A) When membership on the board of a union elementary or union high school district is apportioned to each member district in a number that is closely proportional to the member district's relative population, the voters of the member district may file a petition nominating a candidate for board membership. A petition is valid only if:

(i) the candidate is a current voter of the member district;

(ii) the petition identifies the term of office for which the candidate is nominated;

(iii) the petition is signed by at least 30 voters residing in the member district or one percent of the legal voters in that district, whichever is less;

(iv) the voters file the petition with the town clerk not later than 5:00 p.m. on the sixth Monday preceding the day of the election; and

(v) the candidate files with the town clerk a written consent to the printing of the candidate's name on the ballot.

(B) After confirming that the names on the petition correspond to registered voters of the member district, the town clerk shall transmit the name of each duly nominated candidate to the clerk of the union elementary or union high school district.

(C) The union district clerk shall prepare a union elementary or union high school district ballot for each member district and shall transmit the ballot to the town clerk to make available to the voters residing in the member district.

(D) The voters of the member district shall elect as many board members as are apportioned for that term of office on the union elementary or union high school district board based on the population of the member district.

(2) Modified at-large model: allocation to town; at-large representation.

(A) When membership on the board of a union elementary or union high school district is allocated to each member district, but the allocation is not closely proportional to the member district's population and the board member is elected at-large, the voters residing in any one or more of the member districts may file a petition nominating a candidate for board membership under the "modified at-large" model. A petition is valid only if:

(i) the candidate is a current voter of the member district to which the seat is allocated;

(ii) the petition identifies the term of office for which the candidate is nominated;

(iii) the petition is signed by at least 60 voters residing in the union elementary or union high school district;

(iv) the voters file the petition with the clerk of the union elementary or union high school district not later than 5:00 p.m. on the sixth Monday preceding the day of the election; and

(v) the candidate files with the union district clerk a written consent to the printing of the candidate's name on the ballot.

(B) Not later than 5:00 p.m. on the sixth Monday preceding the day of the election, the town clerk of each member district shall furnish to the union district clerk, at the expense of the union district, authenticated copies of the checklist of legal voters within the member district as the checklist appears after revisions are made pursuant to 17 V.S.A. §§ 2141–2150.

(C) The union district clerk shall prepare the union elementary or union high school district ballot to include the name of each duly nominated candidate and shall transmit the ballot to the town clerk of each member district to make available to the voters residing in the member district.

(D) The voters of the union elementary or union high school district shall elect as many board members as are to be elected at-large for that term of office under the “modified at-large” model.

(3) At-large representation.

(A) When membership on the board of a union elementary or union high school district is not apportioned or allocated pursuant to subdivision (1) (proportional to town population) or (2) (modified at-large) of this subsection (a) (Australian ballot) and the board member is elected at large, the voters residing in any one or more of the member districts may file a petition nominating a candidate for at-large board membership. A petition is valid only if:

(i) the candidate is a current voter of the union elementary or union high school district;

(ii) the petition identifies the term of office for which the candidate is nominated;

(iii) the petition is signed by at least 60 voters residing in the

union elementary or union high school district;

(iv) the voters file the petition with the clerk of the union elementary or union high school district not later than 5:00 p.m. on the sixth Monday preceding the day of the election; and

(v) the candidate files with the union district clerk a written consent to the printing of the candidate's name on the ballot.

(B) Not later than 5:00 p.m. on the sixth Monday preceding the day of the election, the town clerk of each member district shall furnish to the union district clerk, at the expense of the union district, authenticated copies of the checklist of legal voters within the member district as the checklist appears after revisions are made pursuant to 17 V.S.A. §§ 2141–2150.

(C) The union district clerk shall prepare the union elementary or union high school district ballot to include the name of each duly nominated candidate and shall transmit the ballot to the town clerk of each member district to make available to the voters residing in the member district.

(D) The voters of the union elementary or union high school district shall elect as many board members as are to be elected at-large for that term of office.

(b) If not by Australian ballot. The provisions of this subsection (b) shall apply to a union elementary or union high school district that does not conduct elections for board membership by Australian ballot.

(1) The nomination and election of candidates for the office of union elementary or union high school district board member shall occur at a warned meeting of the union school district; provided, however, if the union district elects board members under the “proportional to town population” model, then the nomination and election of candidates shall occur at an annual or special meeting of the member district for the town in which the candidate resides, warned for the purpose pursuant to subsection 755(f) (warnings of union elementary and union high school district meetings; members elected under proportional to town population model and by floor vote) of this chapter.

(2) Voters shall only nominate a person who is present at the meeting, and the person shall accept or reject the nomination.

(3) The meeting shall proceed in a manner to ensure that the candidate is a voter of a specific member district if the union district elects board members under either the “proportional to town population” model or the “modified at-large” model.

(c) Bond. Before a newly elected board member enters upon the duties of

office, the union district shall ensure that the district's blanket bond covers the new member. In lieu of a blanket bond, the district may choose to provide suitable crime insurance coverage.

(d) Notification. Within 10 days after the election of a board member pursuant to this section, the union elementary or union high school district clerk shall transmit the name of the newly elected board member to the Secretary of State.

#### § 749. VACANCY ON UNION ELEMENTARY OR UNION HIGH SCHOOL DISTRICT BOARD

(a) Filling a vacancy. Notwithstanding any other provisions of law to the contrary, this section shall apply to a vacancy on a union elementary or union high school district board, unless otherwise provided in the articles of agreement of the union elementary or union high school district as initially approved by the voters on or before July 1, 2019.

(1) Proportional to town population. If the vacancy is for a seat where membership is apportioned to a member district in a number that is closely proportional to its relative population and only voters residing in the member district elect the board member, then the union elementary or union high school district clerk shall notify the board of the member district not later than five days after learning of the vacancy. Within 30 days after receiving notice, the board of the member district shall appoint a person who is otherwise eligible to serve as a member of the union elementary or union high school district board to fill the vacancy until the voters elect a successor at an annual or special meeting pursuant to the provisions of section 748 (union elementary and union high school district board members) of this chapter.

(2) Modified at-large model: allocation to town; at-large representation. If the vacancy is for a seat where membership is allocated to a member district in a number that is not closely proportional to each district's relative population and the board member is elected at-large, then the union elementary or union high school district clerk shall notify the board of the member district not later than five days after learning of the vacancy. Within 30 days after providing notice and after consultation with the member district's board, the union elementary or union high school district board shall appoint a person who is otherwise eligible to serve as a member of the union elementary or union high school district board to fill the vacancy until the voters elect a successor at an annual or special meeting pursuant to the provisions of section 748 (union elementary and union high school district board members) of this chapter.

(3) At-large representation. If the vacancy is for a seat that is neither

apportioned nor allocated to a member district pursuant to subdivision (1) (proportional to town population) or (2) (modified at-large) of this subsection and the board member is elected at-large, then within 30 days after creation of the vacancy the union elementary or union high school district board shall appoint a person who is otherwise eligible to serve as a member of the board to fill the vacancy until the voters elect a successor at an annual or special meeting pursuant to the provisions of section 748 (union elementary and union high school district board members) of this chapter.

(4) No board of member district. For purposes of subdivisions (1) (proportional to town population) and (2) (modified at-large) of this subsection (a), if the member district is also a union school district and any related town school district has discontinued operations pursuant to subdivision 717(b)(2) (discontinuation of forming districts in union elementary and union high school districts) of this chapter and has no board, then the clerk of the union elementary or union high school district shall notify the selectboard of the pertinent town not later than five days after learning of the vacancy. Within 30 days after providing notice and after consultation with the selectboard, the union elementary or union high school district board shall appoint a person who is otherwise eligible to serve as a member of the union elementary or union high school district board to fill the vacancy until the voters elect a successor at an annual or special meeting pursuant to the provisions of section 748 (union elementary and union high school district board members) of this chapter.

(5) Vacancy in all seats. If all seats on a school board are vacant, then the Secretary of State shall call a special election to fill the vacancies.

(b) Notification. Within 10 days after the appointment of a board member pursuant to this section, the clerk of the union elementary or union high school district shall transmit the name of the appointed board member to the Secretary of State.

(c) Obligations and expenses.

(1) Vacancy in majority. If there are vacancies in a majority of the members of a union elementary or union high school district board at the same time, then the remaining member or members are authorized to draw orders for payment of continuing obligations and necessary expenses until a majority of the vacancies are filled pursuant to the provisions of this section.

(2) Vacancy in all seats. If there are no members of the union elementary or union high school district board in office, then the Secretary of State shall appoint and authorize the district clerk or other qualified person to draw orders for payment of continuing obligations and necessary expenses

until a majority of the vacancies are filled.

§ 750. UNION ELEMENTARY OR UNION HIGH SCHOOL DISTRICT  
BUDGET; PREPARATION AND AUTHORIZATION

(a) The board of a union elementary or union high school district shall prepare and distribute a proposed budget annually for the next school year pursuant to the provisions of subdivision 563(11) (powers of school boards; budget) of this title.

(b) If the voters do not approve the board's proposed budget, then the board shall prepare a revised proposed budget pursuant to 17 V.S.A. § 2680(c)(2) (local elections using the Australian ballot system; rejected budget).

(c) If the voters do not approve a budget on or before June 30 of any year, the board of the unified union school district may borrow funds pursuant to the authority granted under section 566 (school districts; authority to borrow) of this title. As used in section 566, the "most recently approved school budget" of a union school district in its first fiscal year of full operations means the cumulative budget amount of the most recently approved school budgets of all districts that merged to form the union district plus 1 percent.

§ 751. ANNUAL REPORT; DATA

(a) The board of a union elementary or union high school district shall prepare an annual report concerning the affairs of the district and have it printed and distributed to the voters of the district pursuant to the provisions of subdivision 563(10) (powers of school boards; report) of this title. The board shall file the report with the union district clerk and the clerk of each member district.

(b) Annually, on or before August 15, the union elementary or union high school district board shall provide to the Secretary answers to statistical inquiries that may be addressed to the district by the Secretary.

Article 2. Union Elementary and Union High School Districts – Officers,  
Annual Meetings, and Special Meetings

§ 753. OFFICERS; ELECTION; TERM; VACANCY; BOND

(a) Officers. At an annual meeting of the union elementary or union high school district, the voters shall elect a moderator from among the registered voters. The voters shall also vote to elect a clerk and a treasurer of the district; provided, however, at any annual or special meeting, the voters may vote to authorize the school board to appoint the clerk or the treasurer, or both. The clerk of the district shall be elected or appointed from among the voters. The treasurer may also be the supervisory union treasurer and need not be a

resident of the union elementary or union high school district.

(b) Election if by Australian ballot. If a union elementary or union high school district elects its officers by Australian ballot, then the provisions of subdivision 748(a)(3) of this chapter for election by Australian ballot of at-large candidates for the union elementary or union high school district board shall apply.

(c) Terms.

(1) Moderator. A moderator elected at an annual meeting pursuant to this section shall assume office on July 1 following the election, unless the voters vote at an annual meeting for the moderator to assume office upon election. A moderator shall serve a term of one year or until a successor is elected and has taken the oath of office unless the voters extend the term length up to three years.

(2) Clerk. A clerk elected at an annual meeting pursuant to this section shall assume office on July 1 following the election. A clerk shall serve a term of one year or until a successor is elected and has taken the oath of office unless the voters extend the term length up to three years.

(3) Treasurer. A treasurer elected at an annual meeting pursuant to this section shall assume office on July 1 following the election. A clerk shall serve a term of one year or until a successor is elected and has taken the oath of office unless the voters extend the term length up to three years.

(d) Vacancy. The board of the union elementary or union high school district shall fill a vacancy in any office elected or appointed pursuant to this section as soon as practicable after the vacancy occurs. The appointee shall serve upon appointment for the remainder of the unexpired term of office or until the voters elect a successor.

(e) Oath of office. An officer elected or appointed pursuant to this section shall be sworn in before entering upon the duties of the office.

(f) Bond. The district shall ensure that its blanket bond covers a newly elected or appointed treasurer before the treasurer enters upon the duties of the office. In lieu of a blanket bond, the district may choose to provide suitable crime insurance coverage.

(g) Notification. Within 10 days after the election or appointment of any officer pursuant to this section, the clerk of the union elementary or union high school district shall transmit the name of the officer to the Secretary of State.

#### § 754. OFFICERS; POWERS, DUTIES, AND LIABILITIES

(a) Moderator. The powers, duties, and liabilities of the moderator of a

union elementary or union high school district shall be the same as those of a moderator of a town school district. The moderator shall preside at each annual and special meeting of the union elementary or union high school district. In the moderator's absence, the voters shall elect a moderator pro tempore to preside.

(b) Clerk. The powers, duties, and liabilities of the clerk of a union elementary or union high school district shall be the same as those of a clerk of a town school district. The district clerk shall keep a record of the votes and the proceedings of the union school district meetings and shall provide certified copies of them when requested.

(c) Treasurer. The powers, duties, and liabilities of the treasurer of a union elementary or union high school district shall be the same as those of a treasurer of a town school district.

(d) Documents. The person having custody shall provide to each elected or appointed officer of a union district all books, papers, and electronic documents of the office.

#### § 755. WARNINGS OF UNION ELEMENTARY AND UNION HIGH SCHOOL DISTRICT MEETINGS

(a) The board of a union elementary or union high school district shall have the same authority and obligation to warn or call meetings of the district as a town school board has to warn or call town school district meetings.

(b) Except as provided in subsection (f) of this section, not less than 30 nor more than 40 days before the meeting, the union district clerk shall warn a union elementary or union high school district meeting by posting a warning and notice to voters, signed by the chair of the union district board or the chair's designee, specifying the date, time, location, and business of the meeting, in the district clerk's office and at least one public place in each town within the union elementary or union high school district, and causing the same to be published once in a newspaper circulating in the union district at least five days before the meeting. In the district clerk's absence, the chair of the board or the chair's designee shall warn the meeting pursuant to the provisions of this section.

(c) The warning shall, by separate articles, specifically indicate the business to be transacted, including the offices and the questions upon which the electorate shall vote. The warning shall also contain any article or articles requested by a petition signed by at least five percent of the voters of the district and filed with the district clerk pursuant to 17 V.S.A. § 2642 (town meetings and local elections; warning and notice contents).



(d) The posted notice that accompanies the warning shall include information on voter registration, early and absentee voting, the time and location at which the ballots will be counted, and other applicable information.

(e) The warning shall be recorded in the office of the district clerk and shall be provided to the town clerk of each town in the unified elementary or union high school district before being posted.

(f) This subsection shall apply if a union elementary or union high school district elects school board members under the “proportional to town population” model and if it elects those members by a floor vote rather than by Australian ballot.

(1) The election shall be warned as follows:

(A) The district clerk shall transmit the signed warning to each town clerk.

(B) The district clerk shall assist each town clerk to incorporate the warning into the warning for the annual or special meeting of each member district.

(C) Each town clerk, rather than the union district clerk, shall post and publish the warning pursuant to the provisions of subsection (b) of this section.

(2) Notwithstanding any provision of law to the contrary, if any member district elects its own board members by Australian ballot, then the warning, nomination, ballot preparation, and election of union school district board members shall proceed pursuant to the same laws that govern the member district.

(3) If an annual meeting of a member district at which the union district board members are elected under this subsection is more than 30 days prior to the annual meeting of the union school district, then notwithstanding subsection 747(a) (board members of union elementary and union high school districts) of this chapter, the newly elected board members shall assume office at the conclusion of the union school district’s annual meeting.

(g) Notwithstanding any provision of this section to the contrary, a union elementary or union high school district:

(1) shall warn a meeting called for the purpose of considering a bond issue in accordance with the provisions of 24 V.S.A. § 1755; and

(2) shall warn a meeting to consider a revised proposed budget pursuant to the provisions of subsection 750(b) (union elementary or union high school district revised proposed budget) of this chapter.

§ 756. UNION DISTRICT MEETINGS CONDUCTED FROM THE FLOOR

(a) Not later than the close of business on the day before the meeting, the town clerk of each member district of a union elementary or union high school district shall furnish to the union district clerk, at the expense of the union district, authenticated copies of the checklist of legal voters within the member district as the checklist appears after revisions are made pursuant to 17 V.S.A. §§ 2141–2150 (registration of voters). The checklist shall control for purposes of determining voter eligibility in the union elementary or union high school district.

(b) During the annual or special meeting, one or more members of each town's board of civil authority shall assist the union district clerk to determine voter eligibility and to supervise voting during the meeting.

(c) Votes cast at an annual or special meeting shall be commingled and shall not be counted according to the town in which a voter resides.

(d) The provisions of this section shall apply to all votes of the electorate in a union elementary or union high school district that do not proceed by Australian ballot; provided, however:

(1) They shall not apply if Vermont statute explicitly permits or requires a different method for a specific type of question presented to the voters.

(2) They shall not apply to a vote warned pursuant to subsection 755(f) (warnings of union elementary and union high school district meetings; members elected under proportional to town population model and by floor vote) of this chapter.

(e) If a person who resides in a member district and is otherwise eligible to vote at a union elementary or union high school district meeting has not maintained residence in the member district for the requisite number of days but resided in another member district of the union elementary or union high school district for the requisite number of days, then the town clerk of the member district in which the person currently resides shall enter such person's name on the checklist of legal voters if the person presents to that town clerk a certificate signed by the town clerk of the member district in which the person formally resided confirming that the person lived within the union elementary or union high school district for the requisite number of days.

§ 757. CONDUCT OF VOTE IF BY AUSTRALIAN BALLOT

In any vote that proceeds by Australian ballot in a union elementary or union high school district:

(1) A district voter shall vote by Australian ballot in the town in which

the voter currently resides at the polling location identified in the warning.

(2) Voting shall occur in each town on the same day.

(3) The board of civil authority of each town shall be responsible for determining the eligibility of persons to vote and for supervising voting at that polling location.

(4) The opportunity for early and absentee voting pursuant to 17 V.S.A. §§ 2531–2550 (conduct of elections; early or absentee voters) shall be provided.

#### § 758. PREPARATION AND FORM OF AUSTRALIAN BALLOT

(a) The clerk of a union elementary or union high school district shall prepare the ballot for any vote that proceeds by Australian ballot in the union school district.

(b) Only questions warned by the union elementary or union high school district and presented to the voters of that district shall appear on a ballot prepared pursuant to subsection (a) of this section.

(c) Warned questions of the union elementary or union high school district shall not appear on the same ballot as questions warned by a member district of the union elementary or union high school district or by the legislative body of a town within the union elementary or union high school district.

#### § 759. COUNTING AND REPORTING RESULTS OF VOTE BY AUSTRALIAN BALLOT

(a) Process if commingled. If the voters have approved the commingling of votes cast by Australian ballot for any or all categories of public questions, including elections and budget votes, or if Vermont law requires commingling, then the following process applies to those votes except to the extent that Vermont law explicitly requires a different process for a specific type of public question.

(1) At least two members of the board of civil authority of each town within a union elementary or union high school district, or two election officials appointed by the board of civil authority of that town, shall transport ballots cast in the member district in a sealed container to a central location designated by the clerk of the union elementary or union high school district.

(2) The boards of civil authority shall not count the ballots for purposes of determining the outcome of the votes cast in the member district prior to transporting them but may open the containers and count the total number of ballots cast at that polling location.

(3) The union elementary or union high school district clerk or designee shall supervise representatives of the boards of civil authority to count ballots at the central location. The union elementary or union high school district clerk shall also have the authority to appoint current union elementary or union high school district board members who are not on the ballot to aid in the counting of ballots

(4) The ballots shall be counted as soon as possible, but not later than 24 hours after the time at which the polls closed.

(5) If ballots are to be counted on the day following the election, then the clerk of each member district shall store the ballots in a secure location until they are transported on the following day to the central location designated by the union district clerk for counting.

(6) Ballots from all member districts shall be combined into a single group before counting and shall not be counted according to the member district or town in which a voter resides.

(7) After the ballots have been counted, the union district clerk shall seal them in a secure container and store them for at least 90 days at a secure location.

(8) The union district clerk shall report the commingled results of votes cast within the union elementary or union high school district to the public.

(b) Process if not commingled. If the voters have not approved the commingling of votes cast by Australian ballot for budgets, elections, or any other category of public question, and if Vermont law does not require commingling, then the following process applies to those votes except to the extent that Vermont law explicitly requires a different process for a specific type of public question.

(1) The board of civil authority of each town within the union elementary or union high school district shall count Australian ballots cast in the member district and report the results to the clerk of the union district.

(2) The clerk of the union district shall calculate total votes cast within the union district for any vote that requires approval by the electorate of the entire union elementary or union high school district, rather than approval by the voters in one member district or by the voters in each member district separately.

(3) The union district shall report to the public the results of total votes cast; provided, however, that both the union district clerk and the clerk of each member school district shall report the results of ballots cast to elect a union school district board member where membership on the board is apportioned

based on town population pursuant to subdivision 748(a)(1) of this chapter.

§ 760. BOND ISSUES; DEBT LIMIT

(a) A union elementary or union high school district may make improvements, as defined by 24 V.S.A. § 1751, and may incur indebtedness for the improvements as provided in 24 V.S.A. chapter 53, subchapter 1.

(b) The debt limit of the union elementary or union high school district shall be 10 times the total of the education grand lists of the member districts of the union school district. The existing indebtedness of a union elementary or union high school district incurred to finance any project approved under sections 3447 to 3456 of this title shall not be considered a part of the indebtedness of the union elementary or union high school district for purposes of determining its debt limit for a new proposed bond issue. An obligation incurred by a union elementary or union high school district pursuant to this chapter shall be the joint and several obligation of the union school district and each of its member districts. Any joint or several obligation incurred by a member district pursuant to this subsection shall not be considered in determining the debt limit for the separate purposes of the member district.

(c) Bond issues under this section shall be determined by Australian ballot and shall proceed pursuant to sections 755 (warnings of union elementary school district and union high school district meetings) and 757–759 (vote by Australian ballot) of this subchapter. Ballots shall be commingled before counting.

Subchapter 5. Districts Formed Pursuant to Prior Laws

§ 763. RATIFICATION; ARTICLES OF AGREEMENT; APPLICATION OF CHAPTER

(a) Each union school district in existence on July 1, 2022, is ratified and subject to the provisions of this chapter 11, regardless of whether the district was formed by an affirmative vote of the electorate or by the State Board as part of its “Final Report of Decisions and Order on Statewide School District Merger Decisions Pursuant to [2015 Acts and Resolves No.] 46, Sections 8(b) and 10” dated November 28, 2018 (the Order).

(b) References in this chapter 11 to articles of agreement initially adopted by the voters shall also mean articles of agreement as issued by the State Board as part of the Order.

(c) Articles of agreement in effect on June 30, 2022, as initially adopted by the voters or subsequently amended, shall govern the district unless and until amended; provided, however, and notwithstanding the provisions of 1 V.S.A. § 214 or other laws to the contrary, the provisions of this chapter 11 shall

govern in all matters not addressed in the articles of agreement and shall take precedence in the event of conflict with any article.

§ 764. SECRETARY OF STATE; RECORDING CERTIFICATES

(a) To ensure that documentary evidence relating to the creation of union school districts can be found in one location, the Secretary of Education shall forward to the Secretary of State copies of the certifications designating the existence of each new union school district created pursuant to the State Board's "Final Report of Decisions and Order on Statewide School District Merger Decisions Pursuant to 2015 Acts and Resolves No. 46, Sections 8(b) and 10" dated November 28, 2018 (the Order).

(b) The Secretary of State shall record the certifications and all subsequent amendments and addenda to the certifications.

(c) The Secretary of State shall file a certified copy of the recorded certification and any amendments or addenda with the elected clerk of each union school district created by the Order.

Sec. 4. WITHDRAWAL ACTIONS APPROVED BY STATE BOARD;  
NEW DISTRICTS WITH AN OPERATIONAL DATE ON OR  
AFTER JULY 1, 2023

(a) Application of this section. This section shall apply solely to a withdrawal action initiated pursuant to the provisions of 16 V.S.A. § 724 that were in effect prior to the effective date of Sec. 3 of this act (former 16 V.S.A § 724) if each of the following actions occurred prior to that effective date:

(1) the State Board of Education gave final approval to the voter-approved and voter-ratified proposal to withdraw from the union school district;

(2) the State Board declared a new school district to be reconstituted;

(3) the State Board established the new school district's operational date as July 1, 2023 or after;

(4) the voters of the new school district elected school board members;

(5) the voters of the towns within the union district voted to approve the financial terms of withdrawal negotiated by the boards of the new school district and the union district; and

(6) the State Board charged the new school district and its board with performing the transitional activities necessary to assume sole responsibility for the education of resident students on the identified operational date.

(b) Status report. On or before July 1, 2022, the new school district shall

submit a written status report to the State Board detailing the actions the district has taken and will take to ensure that, as of its operational date, the district will be prepared to assume sole responsibility for the education of its students in prekindergarten through grade 12 in a manner that will meet educational quality standards as required by 16 V.S.A. § 165 and to ensure the provision of supervisory union services. The status report shall include a timeline indicating the date by which each action shall be complete.

(c) Review and preparedness determination by State Board.

(1) Review. The State Board shall consider the status report and provide the board of the new school district an opportunity to be heard at one or more of the Board's regularly scheduled meetings. The State Board may also take testimony from other entities including the union school district and the Secretary of Education. The State Board shall issue a determination of preparedness on or before September 1, 2022.

(2) Preparedness deemed likely. If the State Board determines that it is likely the new school district will be prepared, on the identified operational date, to assume full responsibility for the education of its resident students in a manner that substantially complies with educational quality standards as required by 16 V.S.A. § 165, and to ensure the provision of supervisory union services, then the new school district, the union district, and, if applicable, the supervisory union or unions shall continue to take all actions necessary to prepare for the realignment of duties on the operational date.

(3) Preparedness deemed unlikely. If the State Board determines there is a reasonable risk that the new district will not be able to be prepared, on the operational date, to assume full responsibility for the education of its resident students in a manner that substantially complies with educational quality standards as required by 16 V.S.A. § 165, and to ensure the provision of supervisory union services, then:

(A) the State Board shall reverse and void earlier declarations approving withdrawal and reconstituting the new school district and the withdrawal action initiated pursuant to the former 16 V.S.A. § 724 is concluded; provided, however, upon order of the State Board, the new school district and its board may continue to exist for up to six months after the date of the State Board's determination for the sole purpose of completing any outstanding business that cannot legally be performed by another entity;

(B) the petitioning town shall be a town within the union district;

(C) the State Board's determination of reasonable risk and the resulting consequences imposed by such a determination shall be final and

shall conclude the withdrawal action initiated pursuant to the provisions of the former 16 V.S.A. § 724;

(D) if voters residing in any town within the union district wish to initiate new withdrawal procedures, then they shall do so pursuant to the process set forth in Sec. 3, 16 V.S.A. § 724, of this act; and

(E) the State Board may make any declarations and take any actions, including recording certifications with the Secretary of State, that are necessary to support the consequences outlined in this subdivision (c)(3).

(d) Repeal. This section is repealed on July 1, 2023.

Sec. 5. WITHDRAWAL PROPOSALS ON WHICH THE STATE BOARD  
HAS NOT TAKEN ACTION; ALTERNATIVE GOVERNANCE  
PROPOSAL PREVIOUSLY PRESENTED

(a) Application of this section.

(1) For purposes of this section and notwithstanding any provision of law to the contrary, the provisions of 16 V.S.A. § 724 that were in effect prior to the effective date of Sec. 3 of this act (former 16 V.S.A. § 724) are deemed to authorize withdrawal from a unified union school district created by the State Board of Education in its “Final Report of Decisions and Order on Statewide School District Merger Decisions Pursuant to Act 46, Secs. 8(b) and 10” dated November 28, 2018 (Order).

(2) This section shall apply solely to a withdrawal action initiated by a town within a union district (petitioning town) pursuant to the former 16 V.S.A. § 724 if each of the following actions occurred prior to the effective date of Sec. 3 of this act:

(A) the State Board created the union district in its Order;

(B) prior to issuance of the Order, the districts that merged to form the union district submitted a proposal to the Secretary of Education and the State Board setting forth the details of their self-evaluation and a proposal for an alternative governance structure pursuant to 2015 Acts and Resolves No. 46, Sec. 9 (Section 9 proposal);

(C) the voters of the petitioning town approved a proposal to withdraw from the union district;

(D) the voters of each of the other towns within the union district ratified the petitioning town’s proposal to withdraw; and

(E) the State Board of Education has not approved or taken action to approve the withdrawal proposal or to declare that a new school district is



reconstituted.

(b) Report and plan. At any time after the effective date of this section, but on or before the regular September 2022 State Board meeting, the self-selected representatives of the petitioning town and the board of the union district shall submit to the State Board in writing:

(1) A report explaining the ways in which the current plan of the petitioning town and the union district for operation after withdrawal conforms to or differs from the Section 9 proposal.

(2) A plan, including a timeline, identifying the actions the petitioning town and the union district have taken and will take to transition to the proposed structure and to ensure that, as of an identified operational date, the proposed new school district will be prepared to assume sole responsibility for the education of its students in prekindergarten through grade 12 in a manner that will meet educational quality standards as required by 16 V.S.A. § 165, including the actions necessary to transition to the proposed method by which supervisory union services would be provided. At a minimum, the plan and timeline should include the actions identified in subsection (d) of this section.

(c) State Board review and action.

(1) Review. The State Board shall consider the report and plan and shall provide the self-selected representatives of the petitioning town and the board of the union district an opportunity to be heard. The Board may, in its discretion, take testimony from other individuals and entities.

(2) Preparedness determination and vote to approve withdrawal. The State Board shall determine if it is likely or unlikely the proposed new school district, on the proposed operational date, will be prepared to assume full responsibility for the education of its resident students in a manner that substantially complies with educational quality standards as required by 16 V.S.A. § 165 and also whether it is likely or unlikely that supervisory union services will be available to both the proposed new school district and the union district on the operational date. If the State Board determines preparedness is unlikely, it shall issue a written advisory statement detailing the factors underlying its conclusion, which shall be posted on its website. Upon making its preparedness determination, the State Board shall vote to:

(A) approve the withdrawal proposal;

(B) approve any motion necessary for the withdrawal process to proceed pursuant to subsection (d) of this section, including a motion to create a new school district as of the date of the motion in order to enable the election of members to the board of the proposed new school district, negotiation and

voter approval of a withdrawal agreement pursuant to the former 16 V.S.A. § 724(c), and preparation to assume full responsibility for the education of resident students on the operational date;

(C) determine or set a schedule for determining the manner in which supervisory union services will be provided to the proposed new school district and, if appropriate, the union district to be effective on the proposed new school district's operational date; and

(D) make any other findings or declarations and approve any other motions that are related and necessary to the withdrawal proposal.

(d) Actions necessary to be fully operational. After the State Board makes its determination of preparedness and approves the withdrawal process pursuant to subdivision (c)(2) of this section, then the new school district, the union district, and, if applicable, the supervisory union or unions shall take all actions necessary to be fully operational on the operational date. At a minimum, the required necessary actions shall include:

(1) election of initial school board members by the voters of the new school district, whose terms of office shall be arranged so that one each expires on the day of the second, third, and fourth annual meeting of the new school district, and whose sole responsibility until the new school district's operational date shall be to prepare for the district to assume sole responsibility for the education of resident students on that date;

(2) negotiation of the proposed financial terms of withdrawal by the board of the new school district and the board of the union district in order to comply with the requirements of the former 16 V.S.A. § 724(c);

(3) approval by the voters of each town within the union district of the negotiated proposed financial terms of withdrawal in order to comply with the requirements of the former 16 V.S.A. § 724(c);

(4) preparation of a proposed budget by the board of the new school district for the fiscal year beginning on the district's operational date, together with presentation to and approval by the district's voters prior to that date;

(5) preparation for the provision of supervisory union services to the new school district and, if applicable, for the transition of the union school district from a supervisory district structure to a supervisory union structure; and

(6) all other actions necessary to transition from one school district to two districts and, if applicable, to transition from a supervisory district structure to a supervisory union structure, including all actions necessary to address the collectively bargained rights of employees of the current

employing entity.

(e) Preparedness deemed unlikely.

(1) If the State Board determines preparedness is unlikely and issues a written advisory statement detailing the factors underlying its conclusion pursuant to subdivision (c)(2) of this section, it shall electronically transmit the advisory statement to the board of the new school district upon its election.

(2) Upon receipt of the advisory statement, the board of the new school district shall post the document on its website and schedule the contents as a topic for public discussion at a special or regular board meeting.

(3) Prior to the operational date and after public discussion and any board deliberations:

(A) The board of the new school district may continue to take all actions necessary to prepare for the realignment of duties on the operational date.

(B) On its own motion, or if petitioned to do so by at least five percent of the voters in the new school district, the board of the new school district shall warn a vote to request the State Board to reverse its declaration approving withdrawal and reconstituting the new school district. The vote shall be held before the October 1 prior to the operational date.

(i) The question shall be decided by Australian ballot.

(ii) Within 45 days after the vote or 15 days after a vote to reconsider under 17 V.S.A. § 2661, whichever is later, the clerk of the new school district shall certify the results of the vote to the Secretary of State who shall record the certificate and give notice of the vote to the clerk of the union district, the clerks of each of the other towns within the union district, and the Secretary of Education. The clerk of the new school district shall submit the certification regardless of whether the voters in the district voted to petition the State Board to reverse its declarations.

(4) If the new school district requests the State Board to take action under subdivision (3) of this subsection, then:

(A) the State Board shall reverse and void earlier declarations approving withdrawal and reconstituting the new school district and the withdrawal action initiated pursuant to the former 16 V.S.A. § 724 is concluded; and

(B) the union school district shall continue to be solely responsible for the education of the students residing in the town that petitioned for withdrawal; provided, however:

(i) the new school district and its board shall continue to exist for up to six months after the day on which the State Board reverses and voids its earlier declarations for the sole purpose of completing any outstanding business that cannot legally be performed by another entity; and

(ii) the State Board may make any declarations and take any actions, including recording certifications with the Secretary of State, that are necessary to support the consequences outlined in this subdivision (e)(4).

(f) Application of this section to withdrawal from a union elementary or union high school district.

(1) The processes outlined in this section shall apply to an action of a member school district to withdraw from a union elementary or union high school district if the five elements set forth in subdivisions (A)–(E) of subdivision (a)(2) are met.

(2) For purposes of applying the process in this section to withdrawal from a union elementary or union high school district under this subsection, the terms used in subsections (a) through (e) have the following meanings:

(A) “Petitioning town” means the member district of the union elementary or union high school district that initiated the withdrawal process pursuant to the provisions of 16 V.S.A. § 721a that were in effect prior to the effective date of Sec. 3 of this act.

(B) “Selectboard” means the board of the member district that initiated the withdrawal process pursuant to the provisions of 16 V.S.A. § 721a that were in effect prior to the effective date of Sec. 3 of this act.

(C) “Town within the union school district” means a member district of the union elementary or union high school district.

(g) Repeal. This section is repealed on July 1, 2024.

Sec. 6. WITHDRAWAL PROPOSALS ON WHICH THE STATE BOARD  
HAS NOT TAKEN ACTION; UNION DISTRICT CREATED BY  
THE ELECTORATE

(a) Application of this section. This section shall apply solely to a withdrawal action initiated by a town within a union district (petitioning town) pursuant to the provisions of 16 V.S.A. § 724 that were in effect prior to the effective date of Sec. 3 of this act (former 16 V.S.A. § 724) if each of the following actions occurred prior to that date:

(1) the union district formed pursuant to the provisions of 16 V.S.A. §§ 706–706j that were in effect prior to the effective date of Sec. 3 of this act;

(2) the voters of the petitioning town approved a proposal to withdraw from the union district;

(3) the voters of each of the other towns within the union district ratified the petitioning town's proposal to withdraw; and

(4) the State Board of Education has not approved a final date of withdrawal and the assumption of full operations.

(b) Report and plan. At any time before July 1, 2022, the self-selected representatives of the petitioning town shall submit a written report and plan to the State Board, and shall indicate to the State Board that the documents are submitted pursuant to this section.

(1) Report. The report shall describe the analysis that has been performed by the petitioning town to evaluate the likely strengths and challenges for the proposed new school district and for the reconfigured union district if withdrawal is approved and the ways in which withdrawal would enable both districts to provide for the education of their respective resident students in a manner that will meet educational quality standards as required by 16 V.S.A. § 165. The report shall address:

(A) the educational advantages and disadvantages likely to result from withdrawal for the students in the proposed new school district and the students in the remaining towns within the union district and the ways in which they are preferable to those of continuing in the current governance structure;

(B) the financial advantages and disadvantages likely to result from withdrawal for the taxpayers in the proposed new school district and the taxpayers in the remaining towns within the union district and the ways in which they are preferable to those of continuing in the current governance structure;

(C) the likely operational and financial viability and sustainability of the proposed new school district and the union district after withdrawal of the petitioning town;

(D) any other advantages and disadvantages of withdrawal, including any advantages and disadvantages to the students and taxpayers of the region and the State; and

(E) the potential source of supervisory union services for the new school district and, if appropriate, for the union district, including discussions with the board of any supervisory union to which the petitioning town proposes assignment.

(2) Plan. The plan shall describe the actions that the petitioning town has taken and will take to ensure that, as of its proposed operational date, the proposed new district will be prepared to assume sole responsibility for the education of its students in prekindergarten through grade 12 in a manner that will meet educational quality standards as required by 16 V.S.A. § 165, including the actions necessary to transition to the proposed method by which supervisory union services would be provided. The plan shall include a timeline indicating the date by which each action will be complete. At a minimum, the plan and timeline should include the actions identified in subsection (d) of this section.

(c) Review and preparedness determination by the State Board.

(1) Review. The State Board shall consider the report and plan and provide the self-selected representatives of the petitioning town and the board of the union district an opportunity to be heard at a meeting held at a location within the petitioning town. The State Board may also take testimony from other individuals and entities including the Secretary of Education and any supervisory union that has been identified as a potential source of supervisory union services for the proposed new school district. The State Board shall issue a determination of preparedness as soon as possible after receipt of the report and plan but in no event later than August 1, 2022.

(2) Preparedness deemed likely; State Board of Education action. If the State Board determines that it is likely the proposed new school district, on the proposed operational date, will be prepared to assume full responsibility for the education of its resident students in a manner that substantially complies with educational quality standards as required by 16 V.S.A. § 165 and that it is also likely supervisory union services will be available to the proposed new school district, then it shall vote to:

(A) approve the withdrawal proposal;

(B) approve any motion necessary for the withdrawal process to proceed pursuant to subsection (d) of this section, including a motion to create a new school district as of the date of the motion in order to enable the election of members to the board of the proposed new school district, negotiation and voter approval of a withdrawal agreement pursuant to the former 16 V.S.A. § 724(c), and preparation to assume full responsibility for the education of resident students on the operational date;

(C) determine or set a schedule for determining the manner in which supervisory union services will be provided to the proposed new school district and, if appropriate, the union district, to be effective on the proposed new school district's operational date; and

(D) make any other findings or declarations and approve any other motions that are related and necessary to the withdrawal proposal.

(3) Preparedness deemed unlikely. If the State Board determines there is a reasonable risk that the proposed new school district will not be able to be prepared, on the proposed operational date, to assume full responsibility for the education of its resident students in a manner that substantially complies with educational quality standards as required by 16 V.S.A. § 165, and to ensure the provision of supervisory union services, and that the criteria will not be met by postponing the operational date, then:

(A) the State Board shall declare that the petitioning town's proposal to withdraw initiated under the former 16 V.S.A. § 724 is denied;

(B) the petitioning town shall remain a town within the union district;

(C) the State Board's determination of reasonable risk and the resulting consequences imposed by such a determination shall be final and shall conclude the withdrawal action initiated pursuant to the provisions of the former 16 V.S.A. § 724; and

(D) if voters residing in any town within the union district wish to initiate new withdrawal procedures, then they shall do so pursuant to the process set forth in Sec. 3, 16 V.S.A. § 724, of this act.

(d) Preparedness deemed likely; next steps. If the State Board approves the withdrawal process pursuant to subdivision (c)(2) of this section, then the new school district, the union district, and, if applicable, the supervisory union or unions shall take all actions necessary to be fully operational on the identified operational date. At a minimum, the required necessary actions shall include:

(1) election of initial school board members by the voters of the new school district, whose terms of office shall be arranged so that one each expires on the day of the second, third, and fourth annual meeting of the new school district and whose sole responsibility until the new school district's operational date shall be to prepare for the district to assume sole responsibility for the education of resident students on that date;

(2) negotiation by the board of the new school district and the board of the union district of the proposed financial terms of withdrawal in order to comply with the requirements of the former 16 V.S.A. § 724(c);

(3) approval by the voters of each town within the union district of the negotiated proposed financial terms of withdrawal in order to comply with the requirements of the former 16 V.S.A. § 724(c);

(4) preparation of a proposed budget by the board of the new school district for the fiscal year beginning on the district's operational date, together with presentation to and approval by the district's voters prior to that date;

(5) preparation for the provision of supervisory union services to the new school district and, if applicable, for the transition of the union school district from a supervisory district structure to a supervisory union structure; and

(6) all other actions necessary to transition from one school district to two districts and, if applicable, to transition from a supervisory district structure to a supervisory union structure, including any actions necessary to address the collectively bargained rights of employees of the former employing entity.

(e) Application of this section to withdrawal from a union elementary or union high school district.

(1) The processes outlined in this section shall apply to an action of a member school district to withdraw from a union elementary or union high school district if the four elements set forth in subdivisions (1)–(4) of subsection (a) of this section are met.

(2) For purposes of applying the process in this section to withdrawal from a union elementary or union high school district under this subsection, the terms used in subsections (a) through (d) of this section have the following meanings:

(A) "Petitioning town" means the member district of the union elementary or union high school district that initiated the withdrawal process pursuant to the provisions of 16 V.S.A. § 721a that were in effect prior to the effective date of Sec. 3 of this act.

(B) "Selectboard" means the board of the member district that initiated the withdrawal process pursuant to the provisions of 16 V.S.A. § 721a that were in effect prior to the effective date of Sec. 3 of this act.

(C) "Town within the union school district" means a member district of the union elementary or union high school district.

(f) Repeal. This section is repealed on July 1, 2024.

## Sec. 7. WITHDRAWAL PROPOSALS; NO FINAL RATIFICATION VOTES

(a) Application of this section. This section shall apply solely to a withdrawal action initiated by a town within a union district (petitioning town) pursuant to the provisions of 16 V.S.A. § 724 that were in effect prior to the



effective date of Sec. 3 of this act (former 16 V.S.A. § 724) if each of the following actions occurred prior to that date:

(1) the union district formed pursuant to the provisions of 16 V.S.A. §§ 706–706j that were in effect prior to the effective date of Sec. 3 of this act;

(2) a vote in the petitioning town to approve a withdrawal proposal was warned to occur on or before June 1, 2022; and

(3) the voters of each of the other towns within the union district have not voted whether to ratify the withdrawal proposal prior to the effective date of this section or if they each voted but the votes are not final prior to the effective date.

(b) Vote of the other towns within the union district. If the voters in the petitioning town vote to approve withdrawal, then within 90 days after the town clerks in the other towns within the union district receive notice from the Secretary of State pursuant to the former 16 V.S.A. § 724(b) that the vote in the petitioning town is final, the voters of the other towns within the union district shall vote whether to ratify the withdrawal proposal. The question shall be determined by Australian ballot and shall proceed pursuant to Sec. 3, 16 V.S.A. § 737 (warnings of unified union school district meetings) and §§ 739–741 (vote by Australian ballot) of this act. The ballots shall not be commingled.

(1) Vote not to ratify withdrawal. If a majority of the voters in one or more towns within the union district do not vote in favor of withdrawal, then the proposed withdrawal shall not occur. The voters residing in any town within the union district may initiate new withdrawal procedures pursuant to the process set forth in Sec. 3, 16 V.S.A. § 724, of this act.

(2) Vote in favor of withdrawal. If a majority of the voters in all towns within the union district vote in favor of withdrawal, then the withdrawal process shall proceed pursuant to subsections (c)–(e) of this section.

(c) Report and plan. Within 30 days after the ratification votes of the other towns within the union district are final, the self-selected representatives of the petitioning town shall submit a written report and plan to the State Board and shall indicate to the State Board that the documents are submitted pursuant to this section.

(1) Report. The report shall describe the analysis that has been performed by the petitioning town to evaluate the likely strengths and challenges for the proposed new school district and for the reconfigured union district if withdrawal is approved and the ways in which withdrawal would enable both districts to provide for the education of their respective resident

students in a manner that will meet educational quality standards as required by 16 V.S.A. § 165. The report shall address:

(A) the educational advantages and disadvantages likely to result from withdrawal for the students in the proposed new school district and the students in the remaining towns within the union district and the ways in which they are preferable to those of continuing in the current governance structure;

(B) the financial advantages and disadvantages likely to result from withdrawal for the taxpayers in the proposed new school district and the taxpayers in the remaining towns within the union district and the ways in which they are preferable to those of continuing in the current governance structure;

(C) the likely operational and financial viability and sustainability of the proposed new school district and the union district after withdrawal of the petitioning town;

(D) any other advantages and disadvantages of withdrawal, including any advantages and disadvantages to the students and taxpayers of the region and the State; and

(E) the potential source of supervisory union services for the new school district and, if appropriate, for the union district, including discussions with the board of any supervisory union to which the petitioning town proposes assignment.

(2) Plan. The plan shall describe the actions that the petitioning town has taken and will take to ensure that, as of its proposed operational date, the proposed new district will be prepared to assume sole responsibility for the education of its students in prekindergarten through grade 12 in a manner that will meet educational quality standards as required by 16 V.S.A. § 165, including the actions necessary to transition to the proposed method by which supervisory union services would be provided. The plan shall include a timeline indicating the date by which each action will be complete. At a minimum, the plan and timeline should include the actions identified in subsection (e) of this section.

(d) Review and preparedness determination by the State Board.

(1) Review. The State Board shall consider the report and plan and provide the self-selected representatives of the petitioning town, the board of the union district, and any supervisory union that has been identified as a potential source of supervisory union services for the proposed new school district an opportunity to be heard at a meeting held at a location within the

petitioning town. The State Board may also take testimony from other individuals and entities, including the Secretary of Education. The State Board shall issue a determination of preparedness within 90 days following receipt of the report and plan required under subsection (c) of this section, unless the self-selected representatives agree to an extension of the deadline.

(2) Preparedness deemed likely; State Board of Education action. If the State Board determines that it is likely the proposed new school district, on the proposed operational date, will be prepared to assume full responsibility for the education of its resident students in a manner that substantially complies with educational quality standards as required by 16 V.S.A. § 165 and that it is also likely supervisory union services will be available to the proposed new school district, then it shall vote to:

(A) approve the withdrawal proposal;

(B) approve any motion necessary for the withdrawal process to proceed pursuant to subsection (d) of this section, including a motion to create a new school district as of the date of the motion in order to enable the election of members to the board of the proposed new school district, negotiation and voter approval of a withdrawal agreement pursuant to the former 16 V.S.A. § 724(c), and preparation to assume full responsibility for the education of resident students on the operational date;

(C) determine or set a schedule for determining the manner in which supervisory union services will be provided to the proposed new school district and, if appropriate, the union district, to be effective on the proposed new school district's operational date; and

(D) make any other findings or declarations and approve any other motions that are related and necessary to the withdrawal proposal.

(3) Preparedness deemed unlikely. If the State Board determines there is a reasonable risk that the proposed new school district will not be able to be prepared, on the proposed operational date, to assume full responsibility for the education of its resident students in a manner that substantially complies with educational quality standards as required by 16 V.S.A. § 165, and to ensure the provision of supervisory union services, and that the criteria will not be met by postponing the operational date, then:

(A) the State Board shall declare that the petitioning town's proposal to withdraw initiated under the former 16 V.S.A. § 724 is denied;

(B) the petitioning town shall remain a town within the union district;

(C) the State Board's determination of reasonable risk and the

resulting consequences imposed by such a determination shall be final and shall conclude the withdrawal action initiated pursuant to the provisions of the former 16 V.S.A. § 724; and

(D) if voters residing in any town within the union district wish to initiate new withdrawal procedures, then they shall do so pursuant to the process set forth in Sec. 3, 16 V.S.A. § 724, of this act.

(e) Preparedness deemed likely; next steps. If the State Board approves the withdrawal process pursuant to subdivision (d)(2) of this section, then the new school district, the union district, and, if applicable, the supervisory union or unions shall take all actions necessary to be fully operational on the identified operational date. At a minimum, the required necessary actions shall include:

(1) election of initial school board members by the voters of the new school district, whose terms of office shall be arranged so that one each expires on the day of the second, third, and fourth annual meeting of the new school district and whose sole responsibility until the new school district's operational date shall be to prepare for the district to assume sole responsibility for the education of resident students on that date;

(2) negotiation by the board of the new school district and the board of the union district of the proposed financial terms of withdrawal in order to comply with the requirements of the former 16 V.S.A. § 724(c);

(3) approval by the voters of each town within the union district of the negotiated proposed financial terms of withdrawal in order to comply with the requirements of the former 16 V.S.A. § 724(c);

(4) preparation of a proposed budget by the board of the new school district for the fiscal year beginning on the district's operational date, together with presentation to and approval by the district's voters prior to that date;

(5) preparation for the provision of supervisory union services to the new school district and, if applicable, for the transition of the union school district from a supervisory district structure to a supervisory union structure; and

(6) all other actions necessary to transition from one school district to two districts and, if applicable, to transition from a supervisory district structure to a supervisory union structure, including any actions necessary to address the collectively bargained rights of employees of the former employing entity.

(f) Application of this section to withdrawal from a union elementary or union high school district.

(1) The processes outlined in this section shall apply to an action of a member school district to withdraw from a union elementary or union high school district if the three elements set forth in subdivisions (1)–(3) of subsection (a) of this section are met.

(2) For purposes of applying the process in this section to withdrawal from a union elementary or union high school district under this subsection, the terms used in subsections (a) through (e) of this section have the following meanings:

(A) “Petitioning town” means the member district of the union elementary or union high school district that initiated the withdrawal process pursuant to the provisions of 16 V.S.A. § 721a that were in effect prior to the effective date of Sec. 3 of this act.

(B) “Selectboard” means the board of the member district that initiated the withdrawal process pursuant to the provisions of 16 V.S.A. § 721a that were in effect prior to the effective date of Sec. 3 of this act.

(C) “Town within the union school district” means a member district of the union elementary or union high school district.

(g) Repeal. This section is repealed on July 1, 2025.

#### Sec. 8. TEMPORARY MORATORIUM ON UNION SCHOOL DISTRICT SCHOOL CLOSURES

(a) Notwithstanding any provision of law to the contrary, a union school district shall be prohibited from closing a school building within its district unless the school building closure has already been accounted for in the fiscal year 2023 school budget or the closure is approved by the district voters residing in the town in which the building is located. For the purposes of this section, “closing a school building ” means the district ceases to use the building to provide direct education for a majority of the grades operated within the building on or before July 1, 2022.

(b) This section is repealed on July 1, 2024.

#### Sec. 9. UNION SCHOOL DISTRICT CLOSURES; REPORT

On or before September 1, 2023, the Agency of Education shall issue a written report to the Senate and House Committees on Education on union school district school building closures. In preparing the report, the Agency shall consult with the State Board of Education, the Vermont School Boards Association, the Vermont Principals’ Association, the Vermont Superintendents Association, the Vermont National Education Association, and the Vermont League of Cities and Towns. The Agency shall also solicit and

consider comments from the public. The report shall include:

(1) an examination of examples of recent school closures, or attempted school closures, within union school districts and identification of common trends and issues;

(2) an examination of the impact school closures have had or are anticipated to have on towns or member districts seeking to withdraw from a union school district;

(3) an examination of the issues leading a school board to consider closing a school building, the options to address the issue that could be employed instead of school closure, and the impact the inability to close a school building has had or is expected to have on the union school district or any of the towns or member districts within it;

(4) an examination of the factors that should be used to determine school viability and sustainability and how those factors relate to school closure decisions;

(5) an examination of the advantages and disadvantages of creating a consistent statewide process for union school district school closures and a common definition of what actions constitute a closure;

(6) recommendations on school closure standards and processes; and

(7) recommendations for legislative action, including recommended legislative language.

#### Sec. 10. UNION SCHOOL DISTRICT WITHDRAWAL; ANNUAL REPORT

The Agency of Education shall make an annual report to the Senate and House Committees on Education on or before January 15. The report shall include a detailed analysis of each union school district withdrawal action the Agency reviewed during the preceding year. The report shall also include any recommendations for legislative action.

Sec. 11. 16 V.S.A. § 1804 is added to read:

#### § 1804. EMPLOYMENT TRANSITION; NEW SCHOOL DISTRICT CREATED UPON WITHDRAWAL FROM A UNION SCHOOL DISTRICT

(a) Definitions. The definitions in section 1801 of this subchapter shall not apply to this section. As used in this section:

(1) “Expanded district” means a school district:

(A) that was responsible for the education of students residing in a single town for some, but not all, grades, whether by operating all grades, tuitioning all grades, or operating some grades and paying tuition for others; and

(B) that, as the result of its withdrawal from a union elementary or union high school district pursuant to section 725 of this title, is solely responsible for the education of its resident students in all grades prekindergarten through grade 12, whether by operating all grades, tuitioning all grades, or operating some grades and paying tuition for others.

(2) “New district” means:

(A) a school district created by withdrawal from a unified union school district pursuant to section 724 of this title that is responsible for the prekindergarten through grade 12 education of students residing in a single town, whether by operating all grades, tuitioning all grades, or operating some grades and paying tuition for others;

(B) a school district responsible for the prekindergarten through grade 12 education of students residing in a single town, whether by operating all grades, tuitioning all grades, or operating some grades and paying tuition for others, that was formed when another town’s withdrawal from a unified union school district resulted in dissolution of the union district;

(C) an expanded district that did not operate any schools immediately prior to withdrawal and, after withdrawal, operates a school in one or more of the grades previously operated by the union district; or

(D) a school district created by withdrawal from a union elementary or union high school district pursuant to section 725 of this title if prior to withdrawal the withdrawing member was a member of both a union elementary school district and a union high school district, was not independently organized as a district responsible for the education of students in any grade, and did not have a town school district board.

(3) “Operational date” means the date on which a new district or an expanded district assumes full and sole responsibility for the education of its resident students in the grades for which the union district was previously responsible. “Initial operational year” and “second operational year” mean the year commencing on the operational date and the year immediately following the initial operational year, respectively.

(4) “Transitional period” means the period of time beginning on the day on which the State Board declares the creation and existence of the new district or the expanded district pursuant to subdivision 724(h)(2) or 725(h)(2) of this

title and continuing until the new district's or newly expanded district's operational date.

(b) Negotiations council and recognized representatives of a new district. At its first meeting during the transitional period, the board of a new district shall:

(1) appoint a school board negotiations council for the new district for the purpose of negotiating with the representatives of future licensed and nonlicensed employees of the new district; and

(2) recognize the representative of the employees of the union school district as the recognized representative of the employees of the new district.

(c) Employment agreements for the initial and second operational years of a new district.

(1) After the new district's organizational meeting, the new district's school board negotiations council and the representative of the employees of the new district shall commence negotiations relating to the employment of licensed and nonlicensed employees in the initial operational year. Negotiations shall be conducted pursuant to the provisions of chapter 57 of this title for teachers and administrators and 21 V.S.A. chapter 22 for other employees. The negotiations council or councils representing employees of the union school district shall represent the employees of the new district unless and until the exclusive representative for employees of the new district designates new representatives to a negotiations council.

(2) If the parties do not ratify a new agreement at least 90 days prior to the new district's operational date, then the new district and its employees shall be governed by the terms of the collectively bargained agreement in place for the union district for the year preceding the initial operational year unless and until the parties agree otherwise.

(d) Non-probationary employees; changes to seniority and other provisions. For each new district and its employees, whether governed by an agreement in the initial operational year pursuant to subdivision (c)(1) or (c)(2) of this section:

(1) an employee of the union district in the year preceding the initial operational year who was not a probationary employee of the union district at the conclusion of that year shall not be considered a probationary employee if employed by the new district in the initial operational year; and

(2) prior to the operational date, the board of the union district, the board of the new district, and the representative of the employees of the union district may negotiate a temporary memorandum of understanding to adjust



provisions in the union district contract regarding seniority, reductions in force, layoff, and recall in order to assist the workforce needs of both the union district and the new district and the best interests of the licensed and nonlicensed employees they employ.

(e) Individual employment contracts not covered by a collective bargaining agreement. On its operational date, the new district shall assume the obligations of each existing individual employment contract, including accrued leave and associated benefits, of any union district employee not covered by a collective bargaining agreement who worked in the building located in the new district in the year preceding the initial operational year and who chooses to continue to work in the same capacity in that building in the initial operational year.

(f) Supervisory unions. If the State Board creates a new supervisory union to provide services to the new district and one or more other school districts, then the provisions of subsections (b) through (e) of this section shall apply to the transition of any employee who was employed by the union district in the year prior to the initial operational year to provide services typically provided by a supervisory union employee, if the employee is employed by the new supervisory union in the initial operational year to provide the same services, with the board of the new supervisory union assuming the responsibilities of the board of the new district as outlined in subsections (b) through (e) of this section.

#### Sec. 12. APPLICATION OF EMPLOYMENT TRANSITION PROVISIONS

The provisions of Sec. 11 of this act shall also apply to any school district with an operational date of July 1, 2023 or later if the State Board of Education created the district as the result of a withdrawal action initiated pursuant to the terms of 16 V.S.A. § 721a or § 724 that were in effect on January 1, 2022.

#### Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 6-0-0)

(For House amendments, see House Journal for March 17, 2022, pages 648-651)

## House Proposals of Amendment

### S. 100

An act relating to universal school breakfast and the creation of the Task Force on Universal School Lunch

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:

\* \* \* Title \* \* \*

#### Sec. 1. SHORT TITLE

This act may be cited as the “Universal School Meals Act.”

\* \* \* Findings \* \* \*

#### Sec. 2. FINDINGS

The General Assembly finds that:

(1) According to the Vermont Agency of Education, an average of 38 percent of students across all supervisory unions during the 2019–2020 school year qualified for free or reduced-price lunch. The General Assembly recognizes that students need fresh and nutritional foods to enable them to focus on their education and that many students come to school hungry. Providing universal school meals offered at no cost to students or their families creates a necessary foundation for learning readiness during the school day.

(2) A 2021 study by the National Food Access and COVID Research Team found that in the first year of the pandemic, nearly one-third of people in Vermont faced hunger, and families with children were five times more likely to face hunger. Food insecurity rates remained above pre-pandemic levels a year after the start of the pandemic.

(3) In a 2019 research report, the Urban Institute found that up to 42 percent of children living in food-insecure homes may not be eligible for free or reduced-price school meals.

(4) In 2016, the Center for Rural Studies at the University of Vermont partnered with the Vermont Farm to School Network to measure the economic contribution and impacts of Farm to School in Vermont. The final report found that school meal programs support a vibrant agricultural economy with every \$1.00 spent on local food in schools contributing \$1.60 to the Vermont economy.

(5) A study conducted by researchers at the University of Vermont and Hunger Free Vermont, and published in the Journal of Hunger and

Environmental Nutrition, found that universal school meals programs in Vermont were associated with, among other benefits, improved overall school climate as a result of financial differences being less visible and improved readiness to learn among students overall.

\* \* \* Universal Meals \* \* \*

### Sec. 3. UNIVERSAL MEALS

(a) Notwithstanding provision. The provisions of this section shall apply notwithstanding any provision of law to the contrary.

(b) Definition. As used in this section, “approved independent school” means an approved independent school physically located in Vermont.

(c) Universal food program.

(1) In addition to the requirements of 16 V.S.A. § 1264(a)(1) (food program), each school board operating a public school shall cause to operate within each school in the school district the same school breakfast and school lunch program made available to students who qualify for those meals under the National Child Nutrition Act and the National School Lunch Act, as amended, for each attending student every school day at no charge. An approved independent school located in Vermont may operate the same school lunch and the same school breakfast program made available to students who qualify for those meals under the National Child Nutrition Act and the National School Lunch Act, each as amended, to each student attending on public tuition every school day at no charge.

(2) In operating its school breakfast and lunch program, a school district and an approved independent school shall seek to achieve the highest level of student participation, which may include any or all of the following:

(A) providing breakfast meals that can be picked up by students;

(B) making breakfast available to students in classrooms after the start of the school day; and

(C) for school districts, collaborating with the school’s wellness community advisory council, as established under subsection 136(e) of this title, in planning school meals.

(3) A school district and an approved independent school shall count time spent by students consuming school meals during class as instructional time.

(d) Award of Grants.

(1) Public schools. From State funds appropriated to the Agency for this subsection, the Agency shall reimburse each school district that made available both school breakfast and lunch to students at no charge under subsection (c) of this section for the cost of each meal actually provided in the district during the previous quarter that qualifies as a paid breakfast or paid lunch under the federal school breakfast and federal school lunch programs. Reimbursement from State funds shall be available only to districts that maximize access to federal funds for the cost of the school breakfast and lunch program by participating in the Community Eligibility Provision or Provision 2 of these programs, or any other federal provision that in the opinion of the Agency draws down the most possible federal funding for meals served in that program.

(2) Approved independent schools.

(A) Subject to subdivision (B) of this subsection (2), from State funds appropriated to the Agency for this subsection (d), the Agency shall reimburse each approved independent school that made available both school breakfast and lunch to students attending on public tuition at no charge under subsection (c) of this section for the cost of each meal actually provided by the approved independent school to those students during the previous quarter that qualifies as a paid breakfast or paid lunch under the federal school breakfast and federal school lunch programs.

(B) An approved independent school is eligible for reimbursement under this subsection (d) only if it operates a food program that makes available a school lunch, as provided in the National School Lunch Act as amended, and a school breakfast, as provided in the National Child Nutrition Act as amended, to each attending student who qualifies for those meals under these Acts every school day.

(C) Reimbursement from State funds shall be available only to approved independent schools that maximize access to federal funds for the cost of the school breakfast and lunch program by participating in the Community Eligibility Provision or Provision 2 of these programs, or any other federal provision that in the opinion of the Agency draws down the most possible federal funding for meals served in that program.

(3) Reimbursement amounts for public schools and approved independent schools. The reimbursement amount for breakfast shall be a sum equal to the federal reimbursement rate for a free school breakfast less the federal reimbursement rate for a paid school breakfast, using rates identified annually by the Agency of Education from payment levels established

annually by the U.S. Department of Agriculture. The reimbursement amount for lunch shall be a sum equal to the federal reimbursement rate for a free school lunch less the federal reimbursement rate for a paid school lunch, using rates identified annually by the Agency of Education from payment levels established annually by the U.S. Department of Agriculture.

(e) Notwithstanding any provision of law to the contrary, 16 V.S.A. § 1265 shall not apply to school year 2022–2023.

(f) The Agency of Education may use the universal income declaration form to collect the household income information necessary for the implementation of a universal meals program.

#### Sec. 4. REPEAL

Sec. 3 of this act is repealed on July 1, 2023.

#### Sec. 5. APPROPRIATION; UNIVERSAL MEALS

Notwithstanding 16 V.S.A. § 4025(d) and any other provision of law to the contrary, the sum of \$29,000,000.00 is appropriated from the Education Fund to the Agency of Education for fiscal year 2023 to provide reimbursement for school meals under Sec. 3 this act.

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

#### Sec. 6. AGENCY OF EDUCATION; CONSULTATION; REPORT

On or before January 15, 2023, the Agency of Education shall report to the House and Senate Committees on Education and on Appropriations, the House Committee on Ways and Means, and the Senate Committee on Finance on the impact and status of implementation under this act. The report shall include data on student participation rates in the universal meals program on an individual school level and, if possible, on a grade level; the relationship of federal rules to the State-funded program; and strategies for minimizing the use of State funds.

#### Sec. 7. JOINT FISCAL OFFICE; REPORT

On or before February 1, 2023, the Joint Fiscal Office (JFO) shall prepare a report examining possible revenue sources including expansion of the sales tax base, enactment of an excise tax on sugar sweetened beverages, and other sources of revenue not ordinarily used for General Fund purposes. The report shall include preliminary revenue estimates and other policy considerations.

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

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

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

An act relating to universal school meals.

**S. 127**

An act relating to the procedures and review of community supervision furlough revocation or interruption appeals.

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

Sec. 1. 28 V.S.A. § 724 is amended to read:

§ 724. TERMS AND CONDITIONS OF COMMUNITY SUPERVISION  
FURLOUGH

\* \* \*

(c) Appeal.

(1) An offender whose community supervision furlough status is revoked or interrupted for 90 days or longer for a technical violation shall have the right to appeal the Department's determination to the Civil Division of the Superior Court in accordance with Rule 74 of the Vermont Rules of Civil Procedure. The appeal shall be based on a de novo review of the record. The appellant may offer testimony, and, in its discretion for good cause shown, the court may accept additional evidence to supplement the record. If additional evidence is accepted by the court, the Department, through the Office of the Vermont Attorney General, shall have the opportunity to present rebuttal evidence, including testimony, for the court's consideration. The notice of appeal filed pursuant to Rule 74 shall include a certification that the court has subject matter jurisdiction. The Department shall file an objection to subject matter jurisdiction within 14 days, which shall stay the filing of the record on appeal until the court issues an order on the Department's objection. The appellant shall have the burden of proving by a preponderance of the evidence that the Department abused its discretion in imposing a furlough revocation or interruption for 90 days or longer pursuant to subsection (d) of this section.

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

of interruption or revocation may be a consideration in the abuse of discretion determination.

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

(d) Technical violations.

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

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

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

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

(C) The offender's violation is absconding from community supervision furlough. As used in this subdivision, "absconding" means:

(i) the offender has not met supervision requirements, cannot be located with reasonable efforts, and has not made contact with Department staff within three days if convicted of a listed crime as defined in 13 V.S.A. § 5301(7) or seven days if convicted of a crime not listed in 13 V.S.A. § 5301(7);

(ii) the offender flees from Department staff or law enforcement;  
or

(iii) the offender left the State without Department authorization.

Sec. 2. 28 V.S.A. § 123 is amended to read:

#### § 123. DEPARTMENT OF CORRECTIONS MONITORING COMMISSION

(a) Creation. There is created the Corrections Monitoring Commission to provide advice and counsel to the Commissioner of Corrections with regard to the Commissioner's responsibility to manage the reporting of sexual

misconduct; promote adherence to anti-retaliation policies; ensure overall policy implementation and effectiveness; improve the transparency, accountability, and cultural impact of agency decisions; and ensure that the ~~determination of investigatory findings~~ Department's investigations and any resulting disciplinary actions are ~~just and appropriate~~ compliant with Department policies, procedures, and directives.

\* \* \*

(c) Powers and duties. The Commission shall have the following duties:

(1) Provide advice and counsel to the Commissioner of Corrections in carrying out the Commissioner's responsibilities at the Department of Corrections to ~~monitor~~ review the reporting of sexual misconduct, the ~~implementation of adherence to~~ the Department's anti-retaliation policy, ~~create~~ the transparency and ~~implement~~ implementation of policies relating to misconduct, and ~~review the disciplinary actions policies.~~

(2) ~~Examine~~ Review facility staffing needs, employee retention, employee working conditions, and employee morale. The Commission may engage with current and former Department employees and individuals in the custody of the Department, review the Analysis of State of Vermont Employee Engagement Survey Results from the Department of Human Resources, and meet with the Vermont State Employees' Association to further the Commission's understanding of these issues. The Commission shall report annually on or before January 15 to the Commissioner of Corrections, the Secretary of Human Services, the House Committees on Corrections and Institutions and on Government Operations, and the Senate Committees on Judiciary and on Government Operations on:

\* \* \*

(3) Monitor the Department in the following areas:

\* \* \*

(F) ~~investigations of compliance with the policies, procedures, or directives governing~~ employee misconduct; investigations; the movement of contraband in facilities; threats to personal safety; and the Department's response to major events that occur in the Department of Corrections; ~~including the death of an individual in the custody of the Commissioner of Corrections and the escape of an individual from a Department facility or Department custody; and~~

\* \* \*

(f) Assistance. The Commission shall have the administrative; and



~~technical, and legal~~ assistance of the Department of Corrections. The Commission shall have the legal assistance of the Office of the Attorney General.

(g) Commissioner of Correction's duties.

(1) The creation and existence of the Commission shall not relieve the Commissioner of ~~his or her~~ the Commissioner's duties under the law to manage, supervise, and control the Department of Corrections.

(2) The Commissioner or designee shall produce all relevant Department policies, procedures, and directives requested by the Commission pursuant to its monitoring duties under this section.

\* \* \*

(i) Confidentiality. Any information or report related to employee or incarcerated individual misconduct or discipline that is provided to the Commission shall be in a form that does not include personally identifiable information of any of the parties to the alleged misconduct and does not disclose any information that is required to be kept confidential pursuant to applicable State and federal law or any applicable collective bargaining or employment contract.

(j) Definition.

As used in subdivision (c)(3) of this section, "monitor" shall, when appropriate, include access to incident information in a form sufficient to discern the nature of the incident in question and compliance with the policies, procedures, or directives governing the incident.

### Sec. 3. APPLICABILITY

Notwithstanding 1 V.S.A. §§ 213 and 214, the following provisions of Sec. 1 of this act shall apply retroactively to any pending appeal filed at any time prior to the effective date of this act:

(1) the provisions of 28 V.S.A. § 724(c)(1) related to subject matter jurisdiction certification and the Department's ability to object to subject matter jurisdiction; and

(2) 28 V.S.A. § 724(c)(3) (venue).

### Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to clarifying community supervision furlough appeals and the powers of the Corrections Monitoring Commission.

## S. 195

An act relating to the certification of mental health peer support specialists

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

### Sec. 1. FINDINGS

The General Assembly finds:

(1) The Centers for Medicare and Medicaid Services (CMS) recognizes that the experiences of peer support specialists, as part of an evidence-based model of care, can be an important component in a state's delivery of effective mental health treatment. CMS encourages states to offer comprehensive programs.

(2) Research studies have demonstrated that peer supports improve an individual's functioning, increase an individual's satisfaction, alleviate symptoms, reduce hospitalizations and hospital days, increase an individual's satisfaction with treatment, and enhance an individual's self-advocacy.

(3) Certification can encourage an increase in the number, diversity, and availability of peer support specialists.

(4) The U.S. Department of Veterans Affairs, more than 46 states, and the District of Columbia have created statewide mental health peer certification programs.

(5) Mental health peers in Vermont are currently providing individualized support, coaching facilitation, and education to individuals with mental health needs, in a variety of settings, yet no statewide scope of practice, standardized curriculum, training standards, supervision standards, or certification protocols are available.

### Sec. 2. PEER SUPPORT SPECIALIST CERTIFICATION

(a) The Department of Mental Health shall initiate the next steps toward the creation of a statewide peer support specialist certification program through execution of the grant for advancing peer certification in Vermont included in the allocation of monies appropriated to the Department in 2022 Acts and Resolves No, 83, Sec. 72a(c)(4).

(b) On or before December 15, 2022, the Department shall submit a written report to the House Committee on Health Care and to the Senate Committee on Health and Welfare that:

(1) incorporates recommendations of the grantee selected pursuant to subsection (a) of this section; and

(2) provides policy guidance and recommendations for any legislation necessary to create the program.

(c) The report required pursuant to subsection (b) of this section shall include input from:

(1) the Office of Professional Regulation; and

(2) the Department of Vermont Health Access regarding the options and steps required to seek Medicaid funding for certified peer support specialists.

### Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

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

An act relating to examining mental health peer support certification.

## NOTICE CALENDAR

### House Proposals of Amendment

#### S. 220

An act relating to State-paid deputy sheriffs.

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

Sec. 1. 3 V.S.A. § 902 is amended to read:

#### § 902. DEFINITIONS

As used in this chapter:

\* \* \*

(5) “State employee” means any individual employed on a permanent or limited status basis by the State of Vermont, the Vermont State Colleges, the University of Vermont, ~~or~~ the State’s Attorneys’ offices, or as a full-time deputy sheriff paid by the State pursuant to 24 V.S.A. § 290(b), including permanent part-time employees, and an individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, but excluding an individual:

(A) exempt or excluded from the State classified service under the provisions of section 311 of this title, except that the State Police in the Department of Public Safety; employees of the Defender General, excluding attorneys employed directly by the Defender General and attorneys contracted to provide legal services; deputy State’s Attorneys; ~~and~~ employees of State’s Attorneys’ offices; and full-time deputy sheriffs paid by the State pursuant to

24 V.S.A. § 290(b) are included within the meaning of “State employee”;

\* \* \*

(7)(A) “Employer” means the State of Vermont, excluding the Legislative and Judiciary Departments, represented by the Governor or designee, the Office of the Defender General represented by the Defender General or designee, Vermont State Colleges represented by the Chancellor or designee, and the University of Vermont represented by the President or designee.

(B) With respect to employees of State’s Attorneys’ offices and full-time deputy sheriffs paid by the State pursuant to 24 V.S.A. § 290(b), “employer” means the Department of State’s Attorneys and Sheriffs represented by the Executive Director or designee. Nothing in this subdivision (7)(B) shall be construed to affect a sheriff’s deputation authority pursuant to 24 V.S.A. § 307(a).

\* \* \*

Sec. 2. 3 V.S.A. § 906 is amended to read:

§ 906. DESIGNATION OF MANAGERIAL, SUPERVISORY, AND  
CONFIDENTIAL EMPLOYEES

\* \* \*

(b)(1) The Executive Director of the Department of State’s Attorneys and Sheriffs may determine positions in the State’s Attorneys’ offices whose incumbents the Executive Director believes should be designated as managerial, supervisory, or confidential employees. Any disputes arising from the determination shall be finally resolved by the Board.

(2) The Executive Director of the Department of State’s Attorneys and Sheriffs may designate as a confidential employee not more than one deputy sheriff paid by the State pursuant to 24 V.S.A. § 290(b) who is assigned to the Department of State’s Attorneys and Sheriffs’ central office to serve as the coordinator for the other State-paid deputies.

Sec. 3. 3 V.S.A. § 911 is added to read:

§ 911. DESIGNATION OF DEPUTY SHERIFFS PAID BY STATE;  
STATEWIDE BARGAINING RIGHTS

(a) Deputy sheriffs paid by the State pursuant to 24 V.S.A. § 290(b) shall be part of a single, separate statewide bargaining unit, as determined to be appropriate by the Board pursuant to section 941 of this title, for the purpose of bargaining collectively pursuant to this chapter.

(b) The bargaining unit created pursuant to this section shall be referred to as the State-Paid Deputy Sheriffs Unit.

#### Sec. 4. EXISTING BARGAINING UNIT; DECERTIFICATION

On the effective date of this act, the existing bargaining unit and certification of an exclusive bargaining representative for the State-paid deputy sheriffs in the Chittenden County Sheriff's Department shall be dissolved.

Sec. 5. 3 V.S.A. § 904 is amended to read:

#### § 904. SUBJECTS FOR BARGAINING

(a) All matters relating to the relationship between the employer and employees shall be the subject of collective bargaining except those matters that are prescribed or controlled by statute. The matters appropriate for collective bargaining to the extent they are not prescribed or controlled by statute include:

\* \* \*

(8) terms of coverage and amount of employee financial participation in insurance programs, except that the Department of State's Attorneys and Sheriffs and the deputy State's Attorneys ~~and~~ other employees of the State's Attorneys' offices, and deputy sheriffs paid by the State pursuant to 24 V.S.A. § 290(b) shall not bargain in relation to terms of coverage and the amount of employee financial participation in insurance programs;

\* \* \*

#### Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

#### **S. 287**

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

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:

\* \* \* Findings and Goals \* \* \*

#### Sec. 1. FINDINGS

(a) The Vermont Supreme Court, in *Brigham v. State*, 166 Vt. 246 (1997), held that education in Vermont is "a constitutionally mandated right" and that to "keep a democracy competitive and thriving, students must be afforded equal access to all that our educational system has to offer." Therefore, the Court held that in order to "fulfill its constitutional obligation the [S]tate must

ensure substantial equality of educational opportunity throughout Vermont.”

(b) The General Assembly reflected this holding in statute, 16 V.S.A. § 1, stating that “the right to education is fundamental for the success of Vermont’s children in a rapidly-changing society and global marketplace as well as for the State’s own economic and social prosperity. To keep Vermont’s democracy competitive and thriving, Vermont students must be afforded substantially equal access to a quality basic education...it is the policy of the State that all Vermont children will be afforded educational opportunities that are substantially equal although educational programs may vary from district to district.”

(c) Students come to school with needs that may require different types and levels of educational support for them to achieve common standards or outcomes. Similarly, schools may also require different levels of resources. Therefore, school districts with similar education property tax rates may achieve significantly different student outcomes.

(d) 2018 Acts and Resolves No. 173, Sec. 11 directed the Agency of Education to study the efficacy of the current pupil weights, which are used in Vermont’s school funding formula to provide equitable tax capacity to local school districts for spending on various student needs, and to consider whether increased or additional weights should be included in the equalized pupil count.

(e) On December 24, 2019, the Agency issued its Pupil Weighting Factors Report, which was produced by a University of Vermont-Rutgers University team of researchers. The Report found that neither the cost factors incorporated in the weighting formula nor the values of the current weights reflect contemporary educational circumstances and costs and that stakeholders viewed the existing approach as “outdated.” The Report found that values for the existing weights have weak ties, if any, with evidence describing differences in the costs for educating students with disparate needs or operating schools in different contexts and recommended that the General Assembly increase certain existing weights and add certain new weights.

(f) 2021 Acts and Resolves No. 59 created the Task Force on the Implementation of the Pupil Weighting Factors Report composed of eight members of the General Assembly, four Senators and four Representatives, to recommend to the General Assembly an action plan and proposed legislation to ensure that all public school students have equitable access to educational opportunities, taking into account the Weighting Report. The Task Force unanimously recommended two systemic change options and a series of related provisions for either updating the weights or adopting a cost adjustment

approach to providing direct aid to school districts as set out in its “Report Prepared in Accordance with Act No. 59 of the 2021 Legislative Session” dated December 17, 2021.

(g) Under current law, 16 V.S.A. § 4010, a weight of 0.46 is applied to a student enrolled in a prekindergarten program. The Pupil Weighting Factors Report did not review whether this weight reflected the actual cost of providing prekindergarten educational services because that review was not within the scope of the authors’ mandate. That review is now being undertaken pursuant to 2021 Acts and Resolves No. 45. Therefore, although the 0.46 prekindergarten weight is in current law, its status should be viewed as transitional pending the outcome of this review.

## Sec. 2. GOALS

By enacting this legislation, the General Assembly intends to fulfill Vermont’s constitutional mandate to ensure that all students receive substantial equality of educational opportunity throughout the State. The legislation is designed to:

(1) increase educational equity by ensuring that the financial resources available to local school districts for educating students living in poverty, English learners, students in small rural schools, students in sparsely populated school districts, and students in middle and high schools are sufficient to meet the cost of educating these students;

(2) improve educational outcomes of publicly funded students throughout Vermont;

(3) improve transparency in the distribution of financial resources to school districts by simplifying the school funding formula and better tying educational expenditures to student needs; and

(4) enhance educational and financial accountability by ensuring that equitable resources are budgeted and expended for the education of students in these circumstances or categories and that regular evaluation mechanisms are utilized to assess educational equity and outcomes.

\* \* \* Updated Weights; Implementation \* \* \*

## Sec. 3. INTENT OF ACT

This act updates and adds new pupil weights for fiscal year 2025 and thereafter. Because this change will affect homestead property tax rates, this act limits the degree to which these rates can increase over fiscal years 2025–2029.

Sec. 4. 16 V.S.A. § 4010 is amended to read:

§ 4010. DETERMINATION OF WEIGHTED LONG-TERM MEMBERSHIP  
AND PER PUPIL EDUCATION SPENDING

~~(a) On or before the first day of December during each school year, the Secretary shall determine the average daily membership of each school district for the current school year. The determination shall list separately:~~

~~(1) resident prekindergarten children;~~

~~(2) resident students being provided elementary or kindergarten education; and~~

~~(3) resident students being provided secondary education.~~

~~(b) The Secretary shall determine the long-term membership for each school district for each student group described in subsection (a) of this section. The Secretary shall use the actual average daily membership over two consecutive years, the latter of which is the current school year.~~

~~(c) The Secretary shall determine the weighted long-term membership for each school district using the long-term membership from subsection (b) of this section and the following weights for each class:~~

~~Prekindergarten 0.46~~

~~Elementary or kindergarten 1.0~~

~~Secondary 1.13~~

~~(d) The weighted long-term membership calculated under subsection (c) of this section shall be increased for each school district to compensate for additional costs imposed by students from economically deprived backgrounds. The adjustment shall be equal to the total from subsection (c) of this section, multiplied by 25 percent, and further multiplied by the poverty ratio of the district.~~

~~(e) The weighted long-term membership calculated under subsection (c) of this section shall be further increased by 0.2 for each student in average daily membership for whom English is not the primary language.~~

~~(f) For purposes of determining weighted membership under this section, a district's equalized pupils shall in no case be less than 96 and one-half percent of the actual number of equalized pupils in the district in the previous year, prior to making any adjustment under this section.~~

~~(g) The Secretary shall develop guidelines to enable clear and consistent identification of students to be counted under this section.~~

~~(h) On December 1 each year, the Secretary shall determine the equalized~~



~~pupil count for the next fiscal year for district review. The Secretary shall make any necessary corrections on or before December 15, on which date the count shall become final for that year.~~

~~(i) The Secretary shall evaluate the accuracy of the weights established in subsection (c) of this section and, at the beginning of each biennium, shall propose to the House and Senate Committees on Education whether the weights should stay the same or be adjusted. 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.~~

(a) Definitions. As used in this section:

(1) "EL pupils" means pupils described under section 4013 of this title.

(2) "FPL" means the Federal Poverty Level.

(3) "Weighting categories" means the categories listed under subsection (b) of this section.

(b) Determination of average daily membership and weighting categories. On or before the first day of December during each school year, the Secretary shall determine the average daily membership, as defined in subdivision 4001(1) of this title, of each school district for the current school year and shall perform the following tasks.

(1) Using average daily membership, list for each school district the number of:

(A) pupils in prekindergarten;

(B) pupils in kindergarten through grade five;

(C) pupils in grades six through eight;

(D) pupils in grades nine through 12;

(E) pupils whose families are at or below 185 percent of FPL, using the highest number of pupils in the district:

(i) that meet this definition under the universal income declaration form; or

(ii) who are directly certified for free and reduced-priced meals;  
and

(F) EL pupils.

(2)(A) Identify all school districts that have low population density, measured by the number of persons per square mile residing within the land area of the geographic boundaries of the district as of July 1 of the year of

determination, equaling:

(i) fewer than 36 persons per square mile;

(ii) 36 or more persons per square mile but fewer than 55 persons per square mile; or

(iii) 55 or more persons per square mile but fewer than 100 persons per square mile.

(B) Population density data shall be based on the best available U.S. Census data as provided to the Agency of Education by the Vermont Center for Geographic Information.

(C) Using average daily membership, list for each school district that has low population density the number of pupils in each of subdivisions (A)(i)–(iii) of this subdivision (2).

(3)(A) Identify all school districts that have one or more small schools, which are schools that have an average two-year enrollment of:

(i) fewer than 100 pupils; or

(ii) 100 or more pupils but fewer than 250 pupils.

(B) As used in subdivision (A) of this subdivision (3), “average two-year enrollment” means the average enrollment of the two most recently completed school years, and “enrollment” means the number of pupils who are enrolled in a school operated by the district on October 1. A pupil shall be counted as one whether the pupil is enrolled as a full-time or part-time student.

(C) Using average two-year enrollment, list for each school district that has a small school the number of pupils in each of subdivisions (A)(i)–(ii) of this subdivision (3).

(c) Reporting on weighting categories to the Agency of Education. Each school district shall annually report to the Agency of Education by a date established by the Agency the information needed in order for the Agency to compute the weighting categories under subsection (b) of this section for that district. In order to fulfill this obligation, a school district that pays public tuition on behalf of a resident student (sending district) to a public school in another school district, an approved independent school, or an out-of-state school (each a receiving school) may request the receiving school to collect this information on the sending district’s resident student, and if requested, the receiving school shall provide this information to the sending district in a timely manner.

(d) Determination of weighted long-term membership. For each weighting

category except the small schools weighting category under subdivision (b)(3) of this section, the Secretary shall compute the weighting count by using the long-term membership, as defined in subdivision 4001(7) of this title, in that category.

(1) The Secretary shall first apply grade level weights. Each pupil included in long-term membership from subsection (b) of this section shall count as one, multiplied by the following amounts:

(A) prekindergarten—negative 0.54;

(B) grades six through eight—0.36; and

(C) grades nine through 12—0.39.

(2) The Secretary shall next apply a weight for pupils whose family is at or below 185 percent of FPL. Each pupil included in long-term membership whose family is at or below 185 percent of FPL shall receive an additional weighting amount of 1.03.

(3) The Secretary shall next apply a weight for EL pupils. Each EL pupil included in long-term membership shall receive an additional weighting amount of 2.49.

(4) The Secretary shall then apply a weight for pupils living in low population density school districts. Each pupil included in long-term membership residing in a low population density school district, measured by the number of persons per square mile residing within the land area of the geographic boundaries of the district as of July 1 of the year of determination, shall receive an additional weighting amount of:

(A) 0.15, where the number of persons per square mile is fewer than 36 persons;

(B) 0.12, where the number of persons per square mile is 36 or more but fewer than 55 persons; or

(C) 0.07, where the number of persons per square mile is 55 or more but fewer than 100.

(5) The Secretary shall lastly apply a weight for pupils who attend a small school. If the number of persons per square mile residing within the land area of the geographic boundaries of a school district as of July 1 of the year of determination is 55 or fewer, then, for each pupil listed under subdivision (b)(3)(C) of this section (pupils who attend small schools):

(A) where the school has fewer than 100 pupils in average two-year enrollment, the school district shall receive an additional weighting amount of

0.21 for each pupil included in the small school's average two-year enrollment; or

(B) where the small school has 100 or more but fewer than 250 pupils, the school district shall receive an additional weighting amount of 0.07 for each pupil included in the small school's average two-year enrollment.

(6) A school district's weighted long-term membership shall equal long-term membership plus the cumulation of the weights assigned by the Secretary under this subsection.

(e) Hold harmless. A district's weighted long-term membership shall in no case be less than 96 and one-half percent of its actual weighted long-term membership the previous year prior to making any adjustment under this subsection.

(f) Determination of per pupil education spending. As soon as reasonably possible after a school district budget is approved by voters, the Secretary shall determine the per pupil education spending for the next fiscal year for the school district. Per pupil education spending shall equal a school district's education spending divided by its weighted long-term membership.

(g) Guidelines. The Secretary shall develop guidelines to enable clear and consistent identification of pupils to be counted under this section.

(h) Updates to weights. On or before January 1, 2027 and on or before January 1 of every fifth year thereafter, the Agency of Education and the Joint Fiscal Office shall calculate, based on their consensus view, updates to the weights to account for cost changes underlying those weights and shall issue a written report on their work to the House and Senate Committees on Education, the House Committee on Ways and Means, and the Senate Committee on Finance. The General Assembly shall update the weights under this section and transportation reimbursement under section 4016 of this title not less than every five years and the implementation date for the updated weights and transportation reimbursement shall be delayed by a year in order to provide school districts with time to prepare their budgets. Updates to the weights may include recalibration, recalculation, adding or eliminating weights, or any combination of these actions.

#### Sec. 5. COLLABORATION BY THE AGENCY OF EDUCATION AND JOINT FISCAL OFFICE

The Agency of Education and the Joint Fiscal Office shall:

(1) on or before August 1, 2022, enter into a memorandum of understanding to share data, models, and other information that is needed to update the weights; and

(2) each host the statistical model used to provide modeling for the Weighting Report dated December 24, 2019 and for ensuing memos and ensure that this model is updated and maintained on both systems in parallel.

#### Sec. 6. VERMONT CENTER FOR GEOGRAPHIC INFORMATION

The Vermont Center for Geographic Information created under 3 V.S.A. § 2475 shall assist the Agency of Education in determining the number of persons per square mile residing within the land area of the geographic boundaries of each school district in the State.

#### Sec. 7. CALCULATION OF TAX RATES; TAX RATE REVIEW; FISCAL YEARS 2025–2029

(a) Notwithstanding 16 V.S.A. chapter 133, 32 V.S.A. chapter 135, and any other provision of law to the contrary, if, in fiscal year 2025 when applying the funding formula created under this act, a school district's homestead property tax rate increases by five percent or more over the school district's homestead property tax rate in fiscal year 2024, then the school district's homestead property tax rate shall be increased by not more than five percent over the prior fiscal year in each fiscal year for five fiscal years, from fiscal year 2025 through fiscal year 2029. In fiscal years 2026–2029, this subsection shall only apply if the school district's property tax rate increase was limited pursuant to this subsection in the prior fiscal year.

(b)(1) In order to determine which school districts shall be subject to a Tax Rate Review, the Secretary of Education shall calculate the fiscal year 2024 per pupil education spending of each school district subject to subsection (a) of this section as though the funding formula created under this act applied to fiscal year 2024. In fiscal year 2025, if a school district's per pupil education spending calculated using the funding formula created under this act increases by 10 percent or more over the school district's fiscal year 2024 per pupil education spending as calculated by the Secretary under this subsection, then the school district shall be subject to a Tax Rate Review. In fiscal years 2026–2029, if a school district's per pupil education spending calculated using the funding formula created under this act increases by 10 percent or more over the school district's prior fiscal year per pupil education spending, then the school district shall be subject to a Tax Rate Review. Upon request of the Secretary, a school district shall submit its budget to a Tax Rate Review to determine whether its increase in per pupil education spending was beyond the school district's control or for other good cause. In conducting the Review, the Secretary shall select three business managers and three superintendents to serve in an advisory role in the Review. The Review shall consider at least the following factors:

(A) the extent to which the increase in per pupil education spending is caused by declining enrollment in the school district; and

(B) the extent to which the increase in per pupil education spending is caused by increases in tuition paid by the school district.

(2) If, at the conclusion of the Review, the Secretary determines that the school district's budget contains excessive increases in per pupil education spending that are within the school district's control and are not supported by good cause, then the homestead property tax rate of the school district that would otherwise be increased by not more than five percent in each fiscal year pursuant to subsection (a) of this section shall be increased to the actual homestead property tax rate calculated pursuant to this act.

#### Sec. 8. SUSPENSION OF LAWS

(a) Suspension of excess spending penalty. Notwithstanding any provision of law to the contrary, the excess spending penalty under 16 V.S.A. § 4001(6)(B) and 32 V.S.A. § 5401(12) is suspended during fiscal years 2024–2029.

(b) Suspension of hold harmless provision. Notwithstanding any provision of law to the contrary, the hold harmless provision under 16 V.S.A. § 4010(e) is suspended during fiscal years 2025–2029.

(c) Suspension of ballot language requirement. Notwithstanding 16 V.S.A. § 563(11)(D), which requires specified language for a school budget ballot, this requirement is suspended during fiscal years 2025–2029.

\* \* \* Universal Income Declaration Form \* \* \*

#### Sec. 9. UNIVERSAL INCOME DECLARATION FORM

(a) It is the intention of the General Assembly that, beginning with the 2023–24 school year and thereafter, the determination of whether a pupil is from an economically deprived background be changed from qualification for nutrition benefits to eligibility based upon family income of 185 percent or less of the current year Federal Poverty Level, with data collected from a universal income declaration form.

(b) A universal income declaration form is used by some other states and school districts in Vermont with universal school meals programs to collect household size and income information. A universal income declaration form is used to collect income bracket information from all families, reducing stigma and resulting in the collection of more accurate pupil eligibility counts throughout a school district.

(c) On or before October 1, 2022, the Agency of Education shall convene a working group that includes school staff and hunger and nutrition experts to develop the universal income declaration form that shall be fully accessible to all Vermont families both in paper form and electronically. On or before July 1, 2023, the new form shall be implemented statewide for the 2023–24 school year and thereafter.

(d) The Agency of Education shall establish a process for verifying the accuracy of data collected through the universal income declaration form on a community level, which may include using other sources of income data available to the Agency, including census and direct certification for free and reduced-priced meals.

(e) The sum of \$200,000.00 is appropriated from the General Fund to the Agency of Education for fiscal year 2023 to fund operating expenses associated with the creation of the electronic universal income declaration form.

\* \* \* English Learners \* \* \*

Sec. 10. 16 V.S.A. § 4013 is added to read:

§ 4013. ENGLISH LEARNERS SERVICES; STATE AID

(a) Definitions. As used in this section:

(1) “Applicable federal laws” mean the Equal Education Opportunities Act (20 U.S.C. § 1703), Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.), and Titles I and III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. §§ 6301 et seq. and 20 U.S.C. §§ 6801 et seq.), each as amended.

(2) “EL services” mean instructional and support personnel and services that are required under applicable federal laws for EL students and their families.

(3) “EL students” or “EL pupils” mean students who have been identified as English learners through the screening protocols required under 20 U.S.C. § 6823(b)(2).

(b) Required EL services. Each school district shall:

(1) screen students to determine which students are EL students and therefore qualify for EL services;

(2) assess and monitor the progress of EL students;

(3) provide EL services;

(4) budget sufficient resources through a combination of State and federal categorical aid and local education spending to provide EL services;

(5) report expenditures on EL services annually to the Agency of Education through the financial reporting system as required by the Agency; and

(6) evaluate the effectiveness of their EL programs and report educational outcomes of EL students as required by the Agency and applicable federal laws.

(c) Agency of Education support and quality assurance. The Agency of Education shall:

(1) provide guidance and program support to all school districts with EL students as required under applicable federal law, including:

(A) professional development resources for EL teachers and support personnel; and

(B) information on best practices and nationally recognized language development standards; and

(2) prescribe, collect, and analyze financial and student outcome data from school districts to ensure that districts are providing high-quality EL services and expending sufficient resources to provide these services.

(d) Categorical aid. In addition to the EL weight under section 4010 of this title, a school district that has, as determined annually on October 1 of the year:

(1) one to five EL students enrolled shall receive State aid of \$25,000.00 for that school year; or

(2) six to 25 EL students enrolled shall receive State aid of \$50,000.00 for that school year.

(e) Annual appropriation. Annually, the General Assembly shall include in its appropriation for statewide education spending under subsection 4011(a) of this title an appropriation to provide aid to school districts for EL services under this section.

(f) Payment. On or before November 1 of each year, the State Treasurer shall withdraw from the Education Fund, based on warrant of the Commissioner of Finance and Management, and shall forward to each school district the aid amount it is owed under this section.



Sec. 11. JOINT FISCAL OFFICE REPORT; ENGLISH LEARNERS SERVICES; CATEGORICAL AID

(a) On or before December 15, 2022, the Joint Fiscal Office shall issue a written report to the House and Senate Committees on Education, the House Committee on Ways and Means, and the Senate Committee on Finance on the advantages and disadvantages of:

(1) changing the weight for EL students under 16 V.S.A. § 4010, as amended by this act, to reflect the cost of providing different levels of required EL services, such as different services levels based on the degree of English proficiency of EL students; and

(2) changing the amount or eligibility, or both, for the categorical aid provided to school districts with 25 or fewer EL students under 16 V.S.A. § 4013(d) as added by this act.

(b) The Joint Fiscal Office shall consult with the Agency of Education in drafting its report under subsection (a) of this section. On or before September 1, 2022, the Agency of Education shall provide the Joint Fiscal Office with information on the different levels of required EL services and the number of EL students in each service-level category and shall assist the Joint Fiscal Office in estimating the cost of providing EL services for each service level category.

(c) The Joint Fiscal Office may contract with a third party to perform the work required of it under this section.

\* \* \* Agency of Education; Staffing \* \* \*

Sec. 12. AGENCY OF EDUCATION; STAFFING

(a) The following five positions are created in the Agency of Education:

(1) one full-time, classified position to provide guidance and support to school districts for English learner students;

(2) two full-time, classified positions to develop and maintain the universal income declaration form and provide guidance to school districts on its use; and

(3) two full-time, classified positions to provide financial and data analysis for the Agency of Education.

(b) There is appropriated to the Agency of Education from the General Fund for fiscal year 2023 the amount of \$200,000.00 for salaries, benefits, and operating expenses for the positions created under subdivision (a)(2) of this section.

(c) On or before December 15, 2022, the Agency of Education shall submit a plan as part of the budget process to the House and Senate Committees on Education and on Appropriations, House Committee on Ways and Means, and Senate Committee on Finance that sets out the duties of each position under subdivisions (a)(1) and (3) of this section and identifies the funding source or sources for these positions in the transition to the new pupil weights under this act.

\* \* \* Education Quality Standards; Evaluation and Reporting \* \* \*

Sec. 13. 16 V.S.A. § 165 is amended to read:

\* \* \*

(g) In addition to the education quality standards provided in section (a) of this section, each Vermont school district shall meet the school district quality standards adopted by rule of the Agency of Education regarding the business, facilities management, and governance practices of school districts. These standards shall include a process for school district quality reviews to be conducted by the Agency of Education. Annually, the Secretary shall publish metrics regarding the outcomes of school district quality reviews.

Sec. 14. EDUCATION QUALITY STANDARDS; RULEMAKING

On or before February 1, 2023, the Agency of Education shall initiate rulemaking to update education quality standards as required under 16 V.S.A. § 165. Prior to the filing of the draft updated rules with the Interagency Committee on Administrative Rules, the Agency of Education shall engage stakeholders for input on the draft rules in accordance with a written plan approved by the State Board of Education.

Sec. 15. EVALUATION AND REPORTING ON IMPLEMENTATION OF  
ACT

The Joint Fiscal Office shall design and contract for an evaluation of the impact of the changes required under this act in achieving the goals under Sec. 2 of this act. On or before December 15, 2029, the Joint Fiscal Office shall submit to the House and Senate Committees on Education, the House Committee on Ways and Means, and the Senate Committee on Finance its written evaluation report.

\* \* \* Career Technical Education \* \* \*

Sec. 16. [Deleted.]

Sec. 17. FUNDING AND GOVERNANCE STRUCTURES OF  
CAREER TECHNICAL EDUCATION IN VERMONT

(a) The Joint Fiscal Office shall contract for services to:

(1) complete a systematic examination of the existing funding structures of career technical education (CTE) in Vermont and how these structures impede or promote the State's educational and workforce development goals;

(2) examine CTE governance structures in relationship to those funding structures;

(3) examine the funding and alignment of early college and dual enrollment as they relate to CTE;

(4) examine the barriers to enrollment in CTE, early college, and dual enrollment and provide recommendations for addressing these barriers; and

(5) identify and prioritize potential new models of CTE funding and governance structures to reduce barriers to enrollment and to improve the quality, duration, impact, and access to CTE statewide.

(b) The contractor shall work with the consultant, the Agency of Education, and any other stakeholders who were involved in completing the report on the design, implementation, and costs of an integrated and coherent adult basic education, adult secondary education, and postsecondary career and technical education system pursuant to 2021 Acts and Resolves No. 74, Sec. H.3.

(c) On or before March 1, 2023, the Joint Fiscal Office shall issue a written report to the House and Senate Committees on Education, the House Committee on Commerce and Economic Development, the Senate Committee on Economic Development, Housing and General Affairs, the House Committee on Ways and Means, and the Senate Committee on Finance on the work performed pursuant to subsection (a) of this section.

(d)(1) The Agency of Education shall consider the work performed and report issued pursuant to subsection (c) of this section and shall develop an implementation plan, including recommended steps to design and implement new funding and governance models.

(2) On or before July 1, 2023, the Agency shall issue a written report to the House and Senate Committees on Education, the House Committee on Commerce and Economic Development, the Senate Committee on Economic Development, Housing and General Affairs, the House Committee on Ways and Means, and the Senate Committee on Finance that describes the results of its work under this subsection and the implementation plan and makes recommendations for legislative action.

\* \* \* Education Tax-Related Reports \* \* \*

Sec. 18. REPORT; INCOME-BASED EDUCATION TAX SYSTEM;  
DEPARTMENT OF TAXES

On or before January 1, 2023, the Department of Taxes, in consultation with the Agency of Education and the Joint Fiscal Office, shall submit a written report to the House Committees on Education and on Ways and Means and the Senate Committees on Education and on Finance that makes recommendations regarding the implementation of an income-based education tax system to replace the homestead property tax system, including:

(1) restructuring the renter credit under 32 V.S.A. chapter 154 or creating a new credit or other mechanisms to ensure that Vermonters who rent a primary residence participate fairly in the education income tax system;

(2) transitioning from the current homestead property tax system to the new income-based education tax system;

(3) accurate modelling, given the differences between household income for homestead property tax purposes and adjusted gross income for income tax purposes; and

(4) administering a new proposed education income tax system.

Sec. 19. REPORTS; PROPERTY TAX RATES; JOINT FISCAL OFFICE

Vermont's system of equalized pupils within a shared education fund creates significant opportunities to meet the needs of schools and students. However, certain aspects of the current system distort or prevent a fully equitable and progressive education finance system. Therefore, the Joint Fiscal Office shall explore the issues set forth in this section. On or before January 15, 2023, the Joint Fiscal Office shall examine and provide options to the House Committees on Education and on Ways and Means and the Senate Committees on Education and on Finance for structuring the following:

(1) methods for cost containment that create equity in school districts' ability to spend sufficiently on education to meet student needs;

(2) in collaboration with the Department of Taxes and the Agency of Education, the mechanics for setting the yields in a manner that creates a constitutionally adequate education spending amount for school districts at a level that is determined by education funding experts to be sufficient to meet student needs; and

(3) funding similar school districts in an equitable manner regardless of their per pupil education spending decisions.

\* \* \* Joint Fiscal Office; Appropriation \* \* \*

Sec. 20. JOINT FISCAL OFFICE; APPROPRIATION

There is appropriated to the Joint Fiscal Office from the General Fund for fiscal year 2023 the amount of \$205,000.00 for the studies and reports required by the Joint Fiscal Office under this act.

\* \* \* Conforming and Technical Changes to Titles 16 and 32 \* \* \*

Sec. 21. 16 V.S.A. § 828 is amended to read:

§ 828. TUITION TO APPROVED SCHOOLS; AGE; APPEAL

A school district shall not pay the tuition of a student except to a public school, an approved independent school, an independent school meeting education quality standards, a tutorial program approved by the State Board, an approved education program, or an independent school in another state or country approved under the laws of that state or country, that complies with the reporting requirement under subsection 4010(c) of this title, nor shall payment of tuition on behalf of a person be denied on account of age. Unless otherwise provided, a person who is aggrieved by a decision of a school board relating to eligibility for tuition payments, the amount of tuition payable, or the school ~~he or she~~ the person may attend, may appeal to the State Board and its decision shall be final.

Sec. 22. 16 V.S.A. § 1531 is amended to read:

§ 1531. RESPONSIBILITY OF STATE BOARD

\* \* \*

(c) For a school district that is geographically isolated from a Vermont career technical center, the State Board may approve a career technical center in another state as the career technical center that district students may attend. In this case, the school district shall receive transportation assistance pursuant to section 1563 of this title and tuition assistance pursuant to ~~section~~ subsection 1561(c) of this title. Any student who is a resident in the Windham Southwest Supervisory Union and who is enrolled at public expense in the Charles H. McCann Technical School or the Franklin County Technical School shall be considered to be attending an approved career technical center in another state pursuant to this subsection, and, if the student is from a school district eligible for a ~~small schools merger~~ support grant pursuant to section 4015 of this title or a small school weight pursuant to section 4010 of this title, the student's full-time equivalency shall be computed according to time attending the school.

Sec. 23. 16 V.S.A. § 1546 is amended to read:

§ 1546. COMPREHENSIVE HIGH SCHOOLS

\* \* \*

(c) Two or more comprehensive high schools for which the State Board has designated a service region shall be a career technical center for the purposes of accountability to the State Board under subchapter 2 of this chapter, responsibilities of the career technical center under subchapter 3 of this chapter, and receiving State financial assistance under subchapter 5 of this chapter, excluding the ~~per equalized-pupil~~ general State support grant under subsection 1561(b) ~~of this title~~. The regional advisory board shall determine how funds received under subchapter 5 shall be distributed. A comprehensive high school aggrieved by a decision of the regional advisory board may appeal to the Secretary who, after opportunity for hearing, may affirm or modify the decision.

Sec. 24. 16 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

As used in this chapter:

\* \* \*

(3) ~~“Equalized pupils” means the long-term weighted average daily membership multiplied by the ratio of the statewide long-term average daily membership to the statewide long-term weighted average daily membership. [Repealed.]~~

\* \* \*

(7) “Long-term membership” of a school district in any school year means the:

(A) ~~mean~~ average of the district’s average daily membership, excluding full-time equivalent enrollment of State-placed students, over two school years, the latter of which is the current school year, plus

(B) full-time equivalent enrollment of State-placed students for the most recent of the two years.

\* \* \*

(8) ~~“Poverty ratio” means the number of persons in the school district who are aged six through 17 and who are from economically deprived backgrounds, divided by the long-term membership of the school district. A person from an economically deprived background means a person who~~

~~resides with a family unit receiving nutrition benefits. A person who does not reside with a family unit receiving nutrition benefits but for whom English is not the primary language shall also be counted in the numerator of the ratio. The Secretary shall use a method of measuring the nutrition benefits population that produces data reasonably representative of long-term trends. Persons for whom English is not the primary language shall be identified pursuant to subsection 4010(e) of this title. [Repealed.]~~

~~\* \* \*~~

~~(14) “Adjusted education payment” means the district’s education spending per equalized pupil “Per pupil education spending” of a school district in any school year means the per pupil education spending of that school district as determined under subsection 4010(f) of this title.~~

~~\* \* \*~~

Sec. 25. 16 V.S.A. § 4011 is amended to read:

§ 4011. EDUCATION PAYMENTS

\* \* \*

(c) Annually, each school district shall receive an education spending payment for support of education costs. An unorganized town or gore shall receive an amount equal to its ~~adjusted education payment per pupil education spending~~ for that year for each student based on the weighted average daily membership count, which shall not be equalized. In fiscal years 2007 and after, ~~no~~ No district shall receive more than its education spending amount.

\* \* \*

(i) Annually, ~~by~~ on or before October 1, the Secretary shall send to school boards for inclusion in town reports and publish on the Agency website the following information:

(1) the statewide average district ~~spending per equalized pupil per pupil education spending~~ for the current fiscal year and 125 percent of that average spending; and

(2) a statewide comparison of student-teacher ratios among schools that are similar in number of students and number of grades.

Sec. 26. 16 V.S.A. § 4015 is amended to read:

§ 4015. ~~SMALL SCHOOL MERGER SUPPORT FOR MERGED~~  
DISTRICTS

~~(a) In this section:~~

~~(1) “Eligible school district” means a school district that:~~

~~(A) operates at least one school with an average grade size of 20 or fewer; and~~

~~(B) has been determined by the State Board, on an annual basis, to be eligible due to either:~~

~~(i) the lengthy driving times or inhospitable travel routes between the school and the nearest school in which there is excess capacity; or~~

~~(ii) the academic excellence and operational efficiency of the school, which shall be based upon consideration of:~~

~~(I) the school’s measurable success in providing a variety of high-quality educational opportunities that meet or exceed the educational quality standards adopted by the State Board pursuant to section 165 of this title;~~

~~(II) the percentage of students from economically deprived backgrounds, as identified pursuant to subsection 4010(d) of this title, and those students’ measurable success in achieving positive outcomes;~~

~~(III) the school’s high student-to-staff ratios; and~~

~~(IV) the district’s participation in a merger study and submission of a merger report to the State Board pursuant to chapter 11 of this title or otherwise.~~

~~(2) “Enrollment” means the number of students who are enrolled in a school operated by the district on October 1. A student shall be counted as one whether the student is enrolled as a full-time or part-time student.~~

~~(3) “Two-year average enrollment” means the average enrollment of the two most recently completed school years.~~

~~(4) “Average grade size” means two-year average enrollment divided by the number of grades taught in the district on October 1. For purposes of this calculation, kindergarten and prekindergarten programs shall be counted together as one grade.~~

~~(5) “AGS factor” means the following factors for each average grade size:~~



Average grade size		Factor:
More than:	but less than or equal to:	
0	7	0.19
7	9	0.175
9	10	0.16
10	11	0.145
11	12	0.13
12	13	0.115
13	14	0.10
14	15	0.085
15	16	0.070
16	17	0.055
17	18	0.040
18	19	0.025
19	20	0.015

~~(6) “School district” means a town, city, incorporated, interstate, or union school district or a joint contract school established under chapter 11, subchapter 1 of this title.~~

~~(b) Small schools support grant. Annually, the Secretary shall pay a small schools support grant to any eligible school district. The amount of the grant shall be the greater of:~~

~~(1) the amount determined by multiplying the two-year average enrollment in the district by \$500.00 and subtracting the product from \$50,000.00, with a maximum grant of \$2,500.00 per enrolled student; or~~

~~(2) the amount of 87 percent of the base education amount for the current year, multiplied by the two-year average enrollment, multiplied by the AGS factor.~~

~~(c) [Repealed.]~~

~~(d) [Repealed.]~~

~~(e) In the event that a school or schools that have received a grant under this section merge in any year following receipt of a grant, and the consolidated school is not eligible for a grant under this section or the small school grant for the consolidated school is less than the total amount of grant aid the schools would have received if they had not combined, the consolidated school shall continue to receive a grant for three years following consolidation. The amount of the annual grant shall be:~~

~~(1) in the first year following consolidation, an amount equal to the amount received by the school or schools in the last year of eligibility;~~

~~(2) in the second year following consolidation, an amount equal to two-thirds of the amount received in the previous year; and~~

~~(3) in the third year following consolidation, an amount equal to one-third of the amount received in the first year following consolidation.~~

~~(f)(1) Notwithstanding anything to the contrary in this section, a school district that received a small schools grant in fiscal year 2020 shall continue to receive an annual small schools grant.~~

~~(2) Payment of the grant under this subsection shall continue annually unless explicitly repealed by the General Assembly; provided, however, that the Secretary shall discontinue payment of the grant in the fiscal year following the cessation of operations of the school that made the district eligible for the small schools grant, and further provided that if the building that houses the school that made the district eligible for the small schools grant is consolidated with another school into a renovated or new school building, then the Secretary shall continue to pay the grant during the repayment term of any bonded indebtedness incurred in connection with the consolidation-related renovation or construction.~~

~~(3) A school district that is eligible to receive an annual small schools grant under this subsection shall not also be eligible to receive a small school grant or its equivalent under subsection (b) of this section or under any other provision of law.~~

(a) A school district that was voluntarily formed under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended, and received a merger support grant shall continue to receive that merger support grant, subject to the provisions in subsection (c) of this section.

(b) A school district that was involuntarily formed under the Final Report of Decisions and Order on Statewide School District Merger Decisions Pursuant to Act 46, Secs. 8(b) and 10 dated November 28, 2018 and that received a small schools grant in fiscal year 2020 shall receive an annual merger support grant in that amount, subject to the provisions in subsection (c) of this section.

(c)(1) Payment of a merger support grant under this section shall not be made in any year that the school district receives a small school weight under section 4010 of this title.

(2) Payment of a merger support grant under this section shall continue annually unless explicitly repealed by the General Assembly; provided, however, that the Secretary shall discontinue payment of the grant in the fiscal

year following the cessation of operations of the school that made the district originally eligible for the grant, and further provided that if the building that houses the school that made the district originally eligible for the grant is consolidated with another school into a renovated or new school building, then the Secretary shall continue to pay the grant during the repayment term of any bonded indebtedness incurred in connection with the consolidation-related renovation or construction.

Sec. 27. 16 V.S.A. § 4030 is amended to read:

§ 4030. DATA SUBMISSION; CORRECTIONS

\* \* \*

(b) The Secretary shall use data submitted on or before January 15 prior to the fiscal year that begins the following July 1; in order to calculate the amounts due each school district for any fiscal year for ~~the following:~~

(1) ~~transportation aid due under section 4016 of this title; and~~

(2) ~~the small school support grant due under section 4015 of this title.~~

\* \* \*

(d) The Secretary shall not use data corrected due to an error submitted following the deadlines to recalculate ~~the equalized pupil ratio under subdivision 4001(3)~~ weighted long-term membership under section 4010 of this title. The Secretary shall not adjust average daily membership counts if an error or change is reported more than three fiscal years following the date that the original data was due.

\* \* \*

Sec. 28. 32 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

As used in this chapter:

\* \* \*

(13)(A) “Education property tax spending adjustment” means the greater of one or a fraction in which the numerator is the district’s per pupil education spending plus excess spending, ~~per equalized pupil~~, for the school year, and the denominator is the property dollar equivalent yield for the school year, as defined in subdivision (15) of this section.

(B) “Education income tax spending adjustment” means the greater of one or a fraction in which the numerator is the district’s per pupil education spending plus excess spending, ~~per equalized pupil~~, for the school year, and

the denominator is the income dollar equivalent yield for the school year, as defined in subdivision (16) of this section.

\* \* \*

(15) “Property dollar equivalent yield” means the amount of per pupil education spending ~~per equalized pupil~~ that would result if the homestead tax rate were \$1.00 per \$100.00 of equalized education property value, and the statutory reserves under 16 V.S.A. § 4026 and section 5402b of this title were maintained.

(16) “Income dollar equivalent yield” means the amount of per pupil education spending ~~per equalized pupil~~ that would result if the income percentage in subdivision 6066(a)(2) of this title were 2.0 percent, and the statutory reserves under 16 V.S.A. § 4026 and section 5402b of this title were maintained.

Sec. 29. 32 V.S.A. § 5402(e) is amended to read:

(e) The Commissioner of Taxes shall determine a homestead education tax rate for each municipality that is a member of a union or unified union school district as follows:

(1) For a municipality that is a member of a unified union school district, use the base rate determined under subdivision (a)(2) of this section and a spending adjustment under subdivision 5401(13) of this title based upon the per pupil education spending ~~per equalized pupil~~ of the unified union.

(2) For a municipality that is a member of a union school district:

(A) Determine the municipal district homestead tax rate using the base rate determined under subdivision (a)(2) of this section and a spending adjustment under subdivision 5401(13) of this title based on the per pupil education spending ~~per total equalized pupil~~ in the municipality who attends a school other than the union school.

(B) Determine the union district homestead tax rate using the base rate determined under subdivision (a)(2) of this section and a spending adjustment under subdivision 5401(13) of this title based on the per pupil education spending ~~per equalized pupil~~ of the union school district.

(C) Determine a combined homestead tax rate by calculating the weighted average of the rates determined under subdivisions (A) and (B) of this subdivision (2), with weighting based upon the ratio of union school ~~equalized pupils~~ long-term membership, as defined in 16 V.S.A. § 4001(7), from the member municipality to total ~~equalized pupils~~ long-term membership of the member municipality; and the ratio of ~~equalized pupils~~ long-term

membership attending a school other than the union school to total equalized pupils long-term membership of the member municipality. Total equalized pupils long-term membership of the member municipality is based on the number of pupils who are legal residents of the municipality and attending school at public expense. If necessary, the Commissioner may adopt a rule to clarify and facilitate implementation of this subsection (e).

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

#### Sec. 30. EFFECTIVE DATES

(a) The following sections shall take effect on July 1, 2022:

(1) Sec. 1 (findings);

(2) Sec. 2 (goals);

(3) Sec. 3 (intent of act);

(4) Sec. 5 (collaboration by the Agency of Education and Joint Fiscal Office);

(5) Sec. 6 (Vermont Center for Geographic Information);

(6) Sec. 7 (calculation of tax rates; tax rate review; fiscal years 2025–2029);

(7) Sec. 8 (suspension of laws);

(8) Sec. 9 (universal income declaration form);

(9) Sec. 11 (Joint Fiscal Office report; English learners services; categorical aid);

(10) Sec. 12 (Agency of Education; staffing);

(11) Sec. 14 (education quality standards; rulemaking);

(12) Sec. 15 (evaluation and reporting on implementation of act);

(13) Sec. 17 (funding and governance structures of career technical education in Vermont);

(14) Sec. 18 (report; income-based education tax system; Department of Taxes);

(15) Sec. 19 (reports; property tax rates; Joint Fiscal Office);

(16) Sec. 20 (Joint Fiscal Office; appropriation); and

(17) this section (effective dates).

(b) The following sections shall take effect on July 1, 2024:

(1) Sec. 4 (amendment to 16 V.S.A. § 4010; determination of weighted long-term membership and per pupil education spending);

(2) Sec. 10 (adding 16 V.S.A. § 4013; English learners services; State aid);

(3) Sec. 13 (amendment to 16 V.S.A. § 165; education quality standards);

(4) Sec. 21 (amendment to 16 V.S.A. § 828; tuition to approved schools; age; appeal);

(5) Sec. 22 (amendment to 16 V.S.A. § 1531; responsibility of State Board);

(6) Sec. 23 (amendment to 16 V.S.A. § 1546; comprehensive high schools);

(7) Sec. 24 (amendment to 16 V.S.A. § 4001; definitions);

(8) Sec. 25 (amendment to 16 V.S.A. § 4011; education payments);

(9) Sec. 26 (amendment to 16 V.S.A. § 4015; merger support for merged districts);

(10) Sec. 27 (amendment to 16 V.S.A. § 4030; data submission; corrections);

(11) Sec. 28 (amendment to 32 V.S.A. § 5401; definitions); and

(12) Sec. 29 (amendment to 32 V.S.A. § 5402(e); determination of homestead education tax rate).

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

#### **H. 736**

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

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

First: In Sec. 2, fiscal year 2023 transportation investments, by inserting the words and the Climate Action Plan following “the Comprehensive Energy Plan”

Second: In Sec. 2, fiscal year 2023 transportation investments, by inserting a new subdivision (8)(D) to read as follows:

(D) eBike Incentives. Sec. 5(d) of this act authorizes \$50,000.00 for incentives under a continuation of the eBike incentives, which will be the State's programs to provide incentives towards the purchase of electric bicycles, and capped administrative costs.

and by relettering subdivision (8)(D) to be (8)(E)

Third: In Sec. 2, fiscal year 2023 transportation investments, in newly relettered subdivision (8)(E), by striking out "Sec. 5(d)" and inserting in lieu thereof Sec. 5(e)

Fourth: In Sec. 2, fiscal year 2023 transportation investments, subdivision (12), by striking out "Secs. 55–57" and inserting in lieu thereof Secs. 54–56

Fifth: In Sec. 5, vehicle incentive programs, by inserting a new subsection (d) to read as follows:

(d) eBike Incentives. The Agency is authorized to spend up to \$50,000.00 as appropriated in the fiscal year 2023 budget on a continuation of the eBike incentives as established in 2021 Acts and Resolves No. 55, Sec. 28.

And by relettering the remaining subsections to be alphabetically correct

Sixth: In Sec. 5, vehicle incentive programs, in newly relettered subsection (f), by striking out "(a)–(c)" and inserting in lieu thereof (a)–(d)

Seventh: In Sec. 5, vehicle incentive programs, in newly relettered subsection (h), by striking out the word "and" preceding the words "Replace Your Ride", by inserting , and eBike incentives following the words "Replace Your Ride", and by striking out subsection (e) and inserting in lieu thereof subsection (f)

Eighth: In Sec. 7, Vermont Association of Snow Travelers (VAST) authorizations, in subsection (a), by striking out ", through the Department of Motor Vehicles," following "The Agency of Transportation"

Ninth: By striking out Sec. 13, town highway structures and town highway class 2 roadway, in its entirety and inserting in lieu thereof the following:

#### Sec. 13. TOWN HIGHWAY STRUCTURES

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

<u>FY23</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	6,333,500	7,200,000	866,500
Total	6,333,500	7,200,000	866,500
<u>Sources of funds</u>			
State	6,333,500	7,200,000	866,500
Total	6,333,500	7,200,000	866,500

Sec. 13a. TOWN HIGHWAY CLASS 2 ROADWAY

Within the Agency of Transportation's Proposed Fiscal Year 2023 Transportation Program for Town Highway Class 2 Roadway, authorized spending is amended as follows:

<u>FY23</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	7,648,750	8,600,000	951,250
Total	7,648,750	8,600,000	951,250
<u>Sources of funds</u>			
State	7,648,750	8,600,000	951,250
Total	7,648,750	8,600,000	951,250

Sec. 13b. HIGHWAY MAINTENANCE

(a) Within the Agency of Transportation's Proposed Fiscal Year 2023 Transportation Program for Maintenance, authorized spending is amended as follows:

<u>FY23</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Person. Svcs.	44,709,478	44,709,478	0
Operat. Exp.	61,554,303	59,736,553	-1,817,750
Total	106,263,781	104,446,031	-1,817,750
<u>Sources of funds</u>			
State	105,517,966	103,700,216	-1,817,750
Federal	645,815	645,815	0
Inter Unit	100,000	100,000	0
Total	106,263,781	104,446,031	-1,817,750

(b) Restoring the fiscal year 2023 Maintenance Program appropriation and authorization to the level included in the Agency of Transportation's Proposed Fiscal Year 2023 Transportation Program shall be the Agency's top priority if there is unexpended State fiscal year 2022 appropriations of Transportation Fund Monies. Accordingly:

(1) At the close of State fiscal year 2022, an amount up to \$1,817,750.00 of any unencumbered Transportation Fund monies appropriated in 2021 Acts and Resolves No. 74, Secs. B.900–B.922, as amended by 2022 Acts and Resolves No. 83, Secs. 41–45, that would otherwise be authorized to



carry forward is reappropriated for the Agency of Transportation's Proposed Fiscal Year 2023 Transportation Program for Maintenance 30 days after the Agency sends written notification of the request for the unencumbered Transportation Fund monies to be reappropriated to the Joint Transportation Oversight Committee, provided that the Joint Transportation Oversight Committee does not send written objection to the Agency.

(2) If any unencumbered Transportation Fund monies are reappropriated pursuant to subdivision (1) of this subsection, then, within the Agency of Transportation's Proposed Fiscal Year 2023 Transportation Program for Maintenance, authorized spending is further amended to increase operating expenses by not more than \$1,817,750.00 in Transportation Fund monies.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, the Agency may request further amendments to the Agency of Transportation's Proposed Fiscal Year 2023 Transportation Program for Maintenance through the State fiscal year budget adjustment act.

Tenth: In Sec. 16, one-time public transit monies, by striking out subsection (c) in its entirety and inserting in lieu thereof the following:

(c) Implementation. The Agency of Transportation shall, in its sole discretion, distribute the authorization in subsection (b) of this section to transit agencies in the State that are eligible to receive grant funds pursuant to 49 U.S.C. § 5307 or 5311, or both. The authorization shall, as practicable and in the sole discretion of the transit agencies in the State, only be used for the following during fiscal year 2023:

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

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

Eleventh: By striking out Sec 17, Burlington International Airport Study Committee; report, and its corresponding reader assistance heading in their entirety and inserting in lieu thereof the following:

\* \* \* Burlington International Airport Working Group; Report \* \* \*

Sec. 17. BURLINGTON INTERNATIONAL AIRPORT WORKING  
GROUP; REPORT

(a) Creation. There is created the Burlington International Airport Working Group (Working Group) to discuss current issues of regional concern at the Burlington International Airport (Airport).

(b) Membership. The Working Group shall be composed of the following facilitator and six members:

(1) the Secretary of Transportation or designee, who shall be the facilitator of the Working Group, but shall not be considered a member of the Working Group;

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

(3) one member to represent Airport leadership designated by the mayor of the City of Burlington;

(4) one member to represent the general aviation organizations at the Airport designated by the mayor of the City of Burlington;

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

(6) one member designated by the city council, inclusive of the mayor and deputy mayor, of the City of Winooski; and

(7) the Director of the Chittenden County Regional Planning Commission or designee, who shall be a member of the Working Group.

(c) Duties. The Working Group shall:

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

(2) discuss current issues of regional concern regarding the Airport;

(3) explore opportunities for regional collaboration regarding the Airport;

(4) analyze what actions could address any issues of regional concern regarding the Airport; and

(5) prepare a report, based on the determination of the members of the Working Group, that:

(A) summarizes any current issues of regional concern regarding the Airport;

(B) identifies and discusses any opportunities for regional collaboration regarding the Airport; and

(C) identifies and discusses any actions that could address any issues of regional concern regarding the Airport.

(d) Report. On or before January 15, 2023, the Secretary of Transportation or designee shall submit the written report of the Working Group to the House and Senate Committees on Transportation.

(e) Meetings.

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

(2) The Working Group shall only meet if a majority of the membership is present.

(3) The Working Group shall cease to exist on July 1, 2023.

Twelfth: By inserting a new section to be Sec. 59a and its reader assistance heading to read as follows:

\* \* \* Relinquishment of Vermont Route 36 in the Town of St. Albans \* \* \*

Sec. 59a. RELINQUISHMENT OF VERMONT ROUTE 36 IN THE TOWN OF ST. ALBANS

(a) Pursuant to 19 V.S.A. § 15(a)(2), the General Assembly approves the Secretary of Transportation to enter into an agreement with the Town of St. Albans to relinquish to the Town's jurisdiction a segment of the State highway in the Town of St. Albans known as Vermont Route 36. The authority shall expire on June 30, 2032. The segment authorized to be relinquished begins at the 0.000 mile marker, just east of the "Black Bridge" (B2), and continues 14,963 feet (approximately 2.834 miles) easterly to mile marker 2.834, where Vermont Route 36 meets the boundary of the City of St. Albans, and includes the 0.106 mile westbound section of Vermont Route 36 and approaches at the entrance to the St. Albans Bay Town Park.

(b) Following relinquishment, control of the segment of highway shall be under the jurisdiction of the Town of St. Albans, but the Town shall not own any of the land or easements within the highway right-of-way.

(c) The Town of St. Albans shall not sell or abandon any portion of the relinquished segment or allow any encroachments within the relinquished segment without written permission of the Secretary of Transportation.

Thirteenth: By striking out Secs. 63, 24 V.S.A. § 4413(i), and 64, effective dates, and their reader assistance headings in their entireties and inserting in lieu thereof the following:

\* \* \* Transportation Network Companies (TNC);  
Preemption; Sunset Extension; Report \* \* \*

Sec. 63. 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. 64. 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.

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

Sec. 65. EFFECTIVE DATES

(a) This section and Secs. 57 (amendment to sunset of 32 V.S.A. § 604), 59 (extension of authority to relinquish State highway right-of-way for Vermont Route 207 Extension), and 63 (transportation network companies regulation preemption; 23 V.S.A. § 754(b)) shall take effect on passage.

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

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

**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.

James Riley Allen of Montpelier – Member, Public Utility Commission – By Sen. Bray for the Committee on Finance. (5/3/22)

Jennifer Samuelson of Shelburne – Secretary, Agency of Human Services – By Sen. Lyons for the Committee on Health and Welfare. (5/4/22)

Thomas Walsh of Colchester – Member, Vermont Green Mountain Care Board – By Sen. Hardy for the Committee on Health and Welfare. (5/4/22)

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)

Bruce Wilson of Winooski – Member, Human Rights Commission – By Sen. Benning for the Committee on Judiciary. (5/4/22)

### **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 #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]*