

Senate Calendar

THURSDAY, MAY 12, 2022

SENATE CONVENES AT: 9:00 A.M.

TABLE OF CONTENTS

Page No.

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..... 5578

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

Text of the veto message.....5578

Bill as passed by Senate and House.....5579

UNFINISHED BUSINESS OF APRIL 21, 2022

GOVERNOR'S VETO

S. 79 An act relating to improving rental housing health and safety..... 5582

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

Text of the veto message.....5582

Bill as passed by Senate and House.....5584

UNFINISHED BUSINESS OF MAY 9, 2022

Second Reading

Favorable with Proposal of Amendment

H. 737 An act relating to setting the homestead property tax yields and the nonhomestead property tax rate

Finance Report - Senator Cummings5606

Appropriations Report - Sen. Baruth5607

House Proposals of Amendment

S. 33 An act relating to project-based tax increment financing districts.....5607

S. 234 An act relating to changes to Act 250.....5613

Amendment - Sen. Chittenden 5649

UNFINISHED BUSINESS OF MAY 11, 2022

House Proposal of Amendment

S. 226 An act relating to expanding access to safe and affordable housing..... 5650

Report of Committee of Conference

H. 740 An act relating to making appropriations for the support of government.....5676

(For text of Report of the Committee of Conference, see Addendum to Senate Calendar for May 10, 2022)

Addendum to Committee of Conference Report 5676

NEW BUSINESS

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

S. 280 An act relating to miscellaneous changes to laws related to vehicles..... 5677

NOTICE CALENDAR

Second Reading

Favorable

H. 320 An act relating to prohibiting agreements that prevent an employee from working for the employer following the settlement of a discrimination claim

Econ Dev, Housing and General Affairs Report - Sen. Clarkson 5683

House Proposal of Amendment

S. 250 An act relating to law enforcement data collection and interrogation..... 5684

House Proposal of Amendment to Senate Proposal of Amendment

H. 572 An act relating to the retirement allowance for interim educators..... 5690

ORDERS OF THE DAY

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 MAY 9, 2022

Second Reading

Favorable with Proposal of Amendment

H. 737.

An act relating to setting the homestead property tax yields and the nonhomestead property tax rate.

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:

First: By striking out Sec. 1, property dollar equivalent yield, in its entirety and inserting in lieu thereof:

Sec. 1. PROPERTY DOLLAR EQUIVALENT YIELD, INCOME
DOLLAR EQUIVALENT YIELD, AND NONHOMESTEAD
PROPERTY TAX RATE FOR FISCAL YEAR 2023

For fiscal year 2023 only:

(1) Pursuant to 32 V.S.A. § 5402b(b), the property dollar equivalent yield shall be \$13,144.00.

(2) Pursuant to 32 V.S.A. § 5402b(b), the income dollar equivalent yield shall be \$15,736.00.

(3) Notwithstanding 32 V.S.A. § 5402(a)(1) and any other provision of law to the contrary, the nonhomestead property tax rate shall be \$1.485 per \$100.00 of equalized education property value.

Second: By striking out Sec. 2, Education Fund reserve, in its entirety and inserting in lieu thereof:

Sec. 2. EDUCATION FUND RESERVES; FISCAL YEAR 2023;
UNIVERSAL SCHOOL MEALS; POLYCHLORINATED
BIPHENYLS (PCBS) REMEDIATION

(a) In fiscal year 2023, notwithstanding 16 V.S.A. § 4025(d), the following amounts shall be reserved within the Education Fund:

(1) \$29,000,000.00 for purposes of funding universal school breakfast and lunch programs under 16 V.S.A. chapter 27, subchapter 2; and

(2) \$45,000,000.00 for purposes of funding polychlorinated biphenyls (PCBs) testing, assessment, and response efforts.

(b) After satisfying the requirements of 16 V.S.A. § 4026 and after other reserve requirements have been met, notwithstanding 16 V.S.A. § 4025(d), the first \$10,000,000.00 of remaining unreserved and undesignated monies in the Education Fund at the close of fiscal year 2022 shall be reserved for purposes of funding PCBs testing, assessment, and response efforts.

(Committee vote: 6-0-1)

(No House amendments)

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

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

First: By striking out Sec. 2, Education Fund reserves, in its entirety and inserting in lieu thereof the following:

Sec. 2. EDUCATION FUND RESERVES; POLYCHLORINATED BIPHENYLS (PCBS) REMEDIATION

(a) At the close of fiscal year 2022, notwithstanding 16 V.S.A. § 4025(d), \$45,000,000.00 shall be reserved within the Education Fund for fiscal year 2023 for purposes of funding polychlorinated biphenyls (PCBs) testing, assessment, and response efforts.

(b) After satisfying the requirements of 16 V.S.A. § 4026 and after other reserve requirements have been met, notwithstanding 16 V.S.A. § 4025(d), the first \$10,000,000.00 of remaining unreserved and undesignated monies in the Education Fund at the close of fiscal year 2022 shall be reserved for fiscal year 2023 for purposes of funding PCBs testing, assessment, and response efforts.

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

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 7-0-0)

House Proposals of Amendment

S. 33

An act relating to project-based tax increment financing districts.

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. 24 V.S.A. § 1891 is amended to read:

§ 1891. DEFINITIONS

When used in this subchapter:

* * *

(4) “Improvements” means the installation, new construction, or reconstruction of infrastructure that will serve a public purpose and fulfill the purpose of tax increment financing districts as stated in section 1893 of this subchapter, including utilities, transportation, public facilities and amenities, land and property acquisition and demolition, and site preparation. “Improvements” does not include the funding of debt service payments.

* * *

(7) “Financing” means debt incurred, including principal, interest, and any fees or charges directly related to that debt, or other instruments or borrowing used by a municipality to pay for improvements in a tax increment financing district, only if authorized by the legal voters of the municipality in accordance with section 1894 of this subchapter. Payment for the cost of district improvements may also include direct payment by the municipality using the district increment. However, such payment is also subject to a vote by the legal voters of the municipality in accordance with section 1894 of this subchapter and, if not included in the tax increment financing plan approved under subsection 1894(d) of this subchapter, is also considered a substantial change and subject to the review process provided by subdivision 1901(2)(B) of this subchapter. If interfund loans within the municipality are used as the method of financing, no interest shall be charged. Bond anticipation notes may be used as a method of financing; provided, however, that bond anticipation notes shall not be considered a first incurrence of debt pursuant to subsection 1894(a) of this subchapter.

* * *

(9) “Active district” means a district that has been created pursuant to subsection 1892(a) of this subchapter, has not been terminated pursuant to subsection 1894(a) of this subchapter, and has not retired all district financing or related costs.

Sec. 2. 24 V.S.A. 1892 is amended to read:

§ 1892. CREATION OF DISTRICT

* * *

~~(d) The following municipalities have been authorized to use education tax increment financing for a tax increment financing district:~~

- ~~(1) the City of Burlington, Downtown;~~
- ~~(2) the City of Burlington, Waterfront;~~
- ~~(3) the Town of Milton, North and South;~~
- ~~(4) the City of Newport;~~
- ~~(5) the City of Winooski;~~
- ~~(6) the Town of Colchester;~~
- ~~(7) the Town of Hartford;~~
- ~~(8) the City of St. Albans;~~
- ~~(9) the City of Barre;~~
- ~~(10) the Town of Milton, Town Core; and~~

~~(11) the City of South Burlington There shall be not more than 14 active districts in the State at any time.~~

* * *

(h) Annually, based on the analysis and recommendations included in the reports required in this section, the General Assembly shall consider the amount of new long-term net debt that prudently may be authorized for TIF districts in the next fiscal year and determine whether to expand the number of active TIF districts or similar economic development tools ~~in addition to the previously approved districts referenced in subsection (d) of this section and the six additional districts authorized by 32 V.S.A. § 5404a(f) in subsection (d) of this section.~~

Sec. 3. 24 V.S.A. § 1895 is amended to read:

§ 1895. ORIGINAL TAXABLE VALUE

(a) Certification. As of the date the district is created, the lister or assessor for the municipality shall certify the original taxable value and shall certify to the legislative body in each year thereafter during the life of the district the amount by which the total valuation as determined in accordance with 32 V.S.A. chapter 129 of all taxable real property located within the tax increment financing district has increased or decreased relative to the original taxable value.

(b) Boundary of the district. No adjustments to the physical boundary lines of a district shall be made after the approval of a tax increment financing district plan.

Sec. 4. 24 V.S.A. § 1896 is amended to read:

§ 1896. TAX INCREMENTS

(a) In each year following the creation of the district, the listers or assessor shall include ~~no~~ not more than the original taxable value of the real property in the assessed valuation upon which the treasurer computes the rates of all taxes levied by the municipality and every other taxing district in which the tax increment financing district is situated; but the treasurer shall extend all rates so determined against the entire assessed valuation of real property for that year. In each year ~~for which the assessed valuation exceeds the original taxable value~~, the municipality shall hold apart, rather than remit to the taxing districts, that proportion of all taxes paid that year on the real property in the district ~~which~~ that the excess valuation bears to the total assessed valuation. The amount held apart each year is the “tax increment” for that year. ~~No~~ Not more than the percentages established pursuant to section 1894 of this subchapter of the municipal and State education tax increments received with respect to the district and committed for the payment for financing for improvements and related costs shall be segregated by the municipality in a special tax increment financing account and in its official books and records until all capital indebtedness of the district has been fully paid. The final payment shall be reported to the treasurer, who shall thereafter include the entire assessed valuation of the district in the assessed valuations upon which municipal and other tax rates are computed and extended and thereafter no taxes from the district shall be deposited in the district’s tax increment financing account.

* * *

(e) In each year, a municipality shall remit not less than the aggregate tax due on the original taxable value to the Education Fund.

Sec. 5. 32 V.S.A. § 5404a is amended to read:

§ 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT FINANCING DISTRICTS

(a) A tax agreement or exemption shall affect the education property tax grand list of the municipality in which the property subject to the agreement is located if the agreement or exemption is:

* * *

(b)(1) An agreement affecting the education property tax grand list defined under subsection (a) of this section shall reduce the municipality's education property tax liability under this chapter for the duration of the agreement or exemption without extension or renewal, and for a maximum of 10 years. A municipality's property tax liability under this chapter shall be reduced by any difference between the amount of the education property taxes collected on the subject property and the amount of education property taxes that would have been collected on such property if its fair market value were taxed at the equalized nonhomestead rate for the tax year.

(2) Notwithstanding any other provision of law, if a municipality has entered into an agreement that reduces the municipality's education property tax liability under this chapter and the municipality establishes a tax increment financing district under 24 V.S.A. chapter 53, subchapter 5, the municipality's municipal and education tax increment shall be calculated based on the assessed value of the properties in the municipality's grand list and not on the stabilized value.

* * *

(f) A municipality that establishes a tax increment financing district under 24 V.S.A. chapter 53, subchapter 5 shall collect all property taxes on properties contained within the district and apply not more than 70 percent of the State education property tax increment, and not less than 85 percent of the municipal property tax increment, to repayment of financing of the improvements and related costs for up to 20 years pursuant to 24 V.S.A. § 1894, if approved by the Vermont Economic Progress Council pursuant to this section, subject to the following:

(1) In a municipality with one or more approved districts, the Council shall not approve an additional district until the municipality retires the debt incurred for all of the districts in the municipality.

(2) The Council shall not approve ~~more than six districts in the State, and not a district if it will result in the total number of active districts, as defined in 24 V.S.A. § 1891(9), exceeding the limit set forth in 24 V.S.A. § 1892(d)~~ and shall not approve more than two per county, provided:

(A) ~~The districts listed in 24 V.S.A. § 1892(d) shall not be counted against the limits imposed in this subdivision (2).~~

(B) The Council shall consider complete applications in the order they are submitted, except that if during any calendar month the Council receives applications for more districts than are actually available in a county, the Council shall evaluate each application and shall approve the application that, in the Council's discretion, best meets the economic development needs of the county.

(B) If, while the General Assembly is not in session, the Council receives applications for districts that would otherwise qualify for approval but, if approved, would exceed the ~~six-district~~ 14 active-district limit in the State, the Council shall make one or more presentations to the Emergency Board concerning the applications, and the Emergency Board may, in its discretion, increase the ~~six-district~~ 14 active-district limit.

* * *

Sec. 6. REPORT; DEPARTMENT OF TAXES; LOCAL OPTION TAX;
MUNICIPAL INFRASTRUCTURE IMPROVEMENTS

(a) On or before January 1, 2023, the Commissioner of Taxes shall submit a written report to the House Committees on Government Operations and on Ways and Means and the Senate Committees on Finance and on Government Operations that recommends a program to allow a municipality to adopt a local option tax under 24 V.S.A. § 138 without requiring legislative approval by the General Assembly, provided that:

(1) all revenue from the local option tax is:

(A) used only for specified municipal projects for infrastructure improvements; and

(B) deposited into a special or limited-use fund;

(2) the imposition of the local option tax is limited in duration to the term of repayment of a municipal debt obligation; and

(3) notwithstanding 24 V.S.A. § 138(c) and (d):

(A) the Department shall collect the per-return fee for the costs of administration and collection under 24 V.S.A. § 138(c) from the municipality only; and

(B) all revenue from the local option tax after reduction for the costs of administration and collection shall be paid to the municipality.

(b) As part of the recommendation described in subsection (a) of this section, the Commissioner of Taxes shall consider whether a municipality that already has a local option tax can use the program and, if so, whether any other conditions should apply.

Sec. 7. 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 miscellaneous changes to tax increment financing district provisions.

S. 234

An act relating to changes to Act 250

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:

* * * Municipal Zoning * * *

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

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

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

* * *

(b) Definitions.

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

* * *

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

* * *

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

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

* * *

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

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

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

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

* * *

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

§ 2793b. DESIGNATION OF NEW TOWN CENTER DEVELOPMENT DISTRICTS

* * *

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

* * *

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

* * *

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

* * *

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

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

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

* * *

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

* * * Municipal Bylaw Grants * * *

Sec. 4. 24 V.S.A. § 4306 is amended to read:

§ 4306. MUNICIPAL AND REGIONAL PLANNING FUND

(a)(1) The Municipal and Regional Planning Fund for the purpose of assisting municipal and regional planning commissions to carry out the intent of this chapter is hereby created in the State Treasury.

(2) The Fund shall be composed of 17 percent of the revenue from the property transfer tax under 32 V.S.A. chapter 231 and any monies from time to time appropriated to the Fund by the General Assembly or received from any other source, private or public. All balances at the end of any fiscal year shall be carried forward and remain in the Fund. Interest earned by the Fund shall be deposited in the Fund.

(3) Of the revenues in the Fund, each year:

(A) 10 percent shall be disbursed to the Vermont Center for Geographic Information;

(B) 70 percent shall be disbursed to the Secretary of Commerce and Community Development for performance contracts with regional planning commissions to provide regional planning services pursuant to section 4341a of this title; and

(C) 20 percent shall be disbursed to municipalities.

* * *

(c) Funds allocated to municipalities shall be used for the purposes of:

* * *

(4) reasonable and necessary costs of administering the Fund by the Department of Housing and Community Development, not to exceed six percent of the municipality allocation.

(d) New funds allocated to municipalities under this section may take the form of municipal bylaw modernization grants in accordance with section 4307 of this title.

Sec. 5. 24 V.S.A. § 4307 is added to read:

§ 4307. MUNICIPAL BYLAW MODERNIZATION GRANTS

(a) There are created Municipal Bylaw Modernization Grants to assist municipalities in updating their land use and development bylaws. Bylaws updated under this section shall increase housing choice, affordability, and opportunity in areas planned for smart growth. The Grants shall be funded by

monies allocated from the municipality allocation of the Municipal and Regional Planning Funds established in subdivision 4306(a)(3)(C) of this title and any other monies appropriated for this purpose.

(b) Disbursement to municipalities shall be administered by the Department of Housing and Community Development through a competitive process providing the opportunity for all regions and any eligible municipality to compete regardless of size.

(c) Funds may be disbursed by the Department in installments to ensure the municipal bylaw updates meet the goals of this section.

(d) Funding may be used for the cost of regional planning commission staff or consultant time and any other purpose approved by the Department.

(e) A municipality grantee shall use the funds to prepare amendments to bylaws to increase housing choice, affordability, and opportunity and that support a neighborhood development pattern that is pedestrian oriented in areas planned for smart growth consistent with the smart growth principles established in section 2791 of this title and that prioritize projects in designated areas in accordance with chapter 76A of this title.

(f) To receive the grant, the municipality shall:

(1) identify municipal water and wastewater disposal infrastructure, municipal water and sewer service areas, and the constraints on that infrastructure based on the best available data;

(2) increase allowed housing types and uses, which may include duplexes to the same extent as single-family homes;

(3) include parking waiver provisions in areas planned for smart growth consistent with smart growth principles as defined in section 2791 of this title and appropriate situations;

(4) review and modify street standards that implement the complete streets principles as described in 19 V.S.A. § 309d and that are oriented to pedestrians;

(5) reduce nonconformities by making the allowed standards principally conform to the existing settlement within any area designated under chapter 76A of this title and increase allowed lot/building/dwelling unit density by adopting dimensional, use, parking, and other standards that allow compact neighborhood form and support walkable lot and dwelling unit density, which may be achieved with a standard allowing at least four units per acre or allowing the receipt of a State or municipal water and wastewater permit to determine allowable density or by other means established in guidelines issued by the Department;

(6) restrict development of and minimize impact to important natural resources, including new development in flood hazard areas, undeveloped floodplains, and river corridor areas, unless lawfully allowed for infill development in §29-201 of the Vermont Flood Hazard Area and River Corridor Rule;

(7) update the municipal plan’s housing element as provided in subdivision 4382(a)(10) of this title related to addressing lower- and moderate-income housing needs, implement that element of the plan including through the bylaw amendments, and demonstrate how those bylaws support the implementation of the housing element; and

(8) comply with State and Federal Fair Housing Act, including the fair housing provisions of Vermont’s Planning and Development Act.

(g) On or before September 1, 2022, the Department shall adopt guidelines to assist municipalities applying for grants under this section.

Sec. 6. MUNICIPAL BYLAW MODERNIZATION GRANT FUNDING

Of the funds appropriated in fiscal year 2023 to the municipality allocation of the Municipal and Regional Planning Fund, up to \$650,000.00 shall be used for Municipal Bylaw Modernization Grants as established in 24 V.S.A. § 4307.

* * * Accessory Dwelling Units * * *

Sec. 7. 24 V.S.A. § 4414 is amended to read:

§ 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

* * *

(4) Parking and loading facilities. A municipality may adopt provisions setting forth standards for permitted and required facilities for off-street parking and loading which may vary by district and by uses within each district. These bylaws may also include provisions covering the location, size, design, access, landscaping, and screening of those facilities. In determining the number and size of parking spaces required under these regulations, the appropriate municipal panel may take into account the existence or availability of employer “transit pass” and rideshare programs, public transit routes, and public parking spaces in the vicinity of the development. However, a municipality shall not require an accessory dwelling unit to have more than one parking space per bedroom.

* * *

* * * Act 250 * * *

Sec. 8. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

As used in this chapter:

* * *

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

* * *

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

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

(aa) [Repealed.]

(bb) [Repealed.]

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

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

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

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

* * *

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

* * *

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

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

* * *

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

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

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

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

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

* * *

(35) “Priority housing project” means a discrete project located on a single tract or multiple contiguous tracts of land that consists exclusively of:

~~(A) mixed income housing or mixed use, or any combination thereof, and is located entirely within a designated downtown development district, designated new town center, designated growth center, or designated village center that is also a designated neighborhood development area under 24 V.S.A. chapter 76A; or~~

~~(B) mixed income housing and is located entirely within a designated Vermont neighborhood or designated neighborhood development area under 24 V.S.A. chapter 76A.~~

* * *

Sec. 9. 10 V.S.A. § 6081(p) is amended to read:

~~(p)(1) No permit or permit amendment is required for any change to a project that is located entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, if the change consists exclusively of any combination of mixed use and mixed income housing, and the cumulative changes within any continuous period of five years, commencing on or after May 28, 2002, remain below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title.~~

~~(2) No permit or permit amendment is required for a priority housing project in a designated center other than a downtown development district if the project remains below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title and will comply with all conditions of any existing permit or permit amendment issued under this chapter that applies to the tract or tracts on which the project will be located. If such a priority housing project will not comply with one or more of these conditions, an application may be filed pursuant to section 6084 of this title.~~

Sec. 10. 10 V.S.A. § 6084(f) is amended to read:

~~(f) This subsection concerns an application for a new permit amendment to change the conditions of an existing permit or existing permit amendment in order to authorize the construction of a priority housing project described in subdivision 6081(p)(2) of this title.~~

~~(1) The District Commission may authorize a district coordinator to issue such an amendment, without notice and a hearing, if the applicant demonstrates that all parties to the existing permit or existing permit amendment, which contains the condition or conditions proposed to be changed, or their successors in interest have consented to the proposed changes to conditions relative to the criteria for which the party obtained party status.~~

~~(2) If the applicant is not able to obtain the consent of a party or parties or their successors in interest with respect to one or more of the conditions in the existing permit or permit amendment proposed to be changed, the applicant shall file a permit application pursuant to this section. However, review by the District Commission shall be limited to whether the changes to conditions not consented to by the party or parties or their successors in interest enable positive findings to be made under subsection 6086(a) and are authorized under subsection 6086(e) of this title. [Repealed.]~~

* * * Criterion 1(D) * * *

Sec. 11. 10 V.S.A. § 6086 is amended to read:

§ 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

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

* * *

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

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

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

* * *

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

Sec. 12. 10 V.S.A. 6086(g) is added to read:

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

* * * Forest Blocks * * *

Sec. 13. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

As used in this chapter:

* * *

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

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

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

Sec. 14. 10 V.S.A. § 6086(a)(8) is amended to read:

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

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

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

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

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

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

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

Sec. 15. CRITERION 8(C) RULEMAKING

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

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

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

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

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

(3)(A) As used in this section “fragmentation” generally means dividing land that has naturally occurring vegetation and ecological processes into smaller and smaller areas as a result of land uses that remove vegetation and create physical barriers that limit species’ movement and interrupt ecological processes between previously connected natural vegetation. However, the rules shall further define “fragmentation” for purposes of avoiding, minimizing, and mitigating undue adverse impacts on forest blocks and connecting habitat. “Fragmentation” does not include the division or conversion of a forest block or connecting habitat by an unpaved recreational trail or by improvements constructed for farming, logging, or forestry purposes below the elevation of 2,500 feet.

(B) As used in this subsection, “recreational trail” has the same meaning as “trails” in 10 V.S.A. § 442.

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

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

(A) appropriate ratios for compensation;

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

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

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

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

Sec. 16. 10 V.S.A. § 127 is amended to read:

§ 127. RESOURCE MAPPING

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

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

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

* * * Wood Products Manufacturers * * *

Sec. 17. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

* * *

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

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

Sec. 18. 10 V.S.A. § 6086(c) is amended to read:

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

(2) Permit conditions on a wood products manufacturer.

(A) When issuing a permit with conditions on wood products manufacturing and delivery, the District Commission shall account for the seasonal, weather-dependent, land-dependent, and varied conditions unique to the industry.

(B) A permit condition that sets hours of operation for a wood products manufacturer shall only be imposed to mitigate an impact under subdivision (a)(1), (5), or (8) of this section. If an adverse impact under would result, a permit with conditions shall allow the manufacturer to operate while allowing for flexible timing of deliveries of wood products from forestry operations to the manufacturer outside permitted hours of operation, including

nights, weekends, and holidays, for the number of days demonstrated by the manufacturer as necessary to enable deliveries, not to exceed 90 days per year.

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

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

Sec. 19. 10 V.S.A. § 6093 is amended to read:

§ 6093. MITIGATION OF PRIMARY AGRICULTURAL SOILS

(a) Mitigation for loss of primary agricultural soils. Suitable mitigation for the conversion of primary agricultural soils necessary to satisfy subdivision 6086(a)(9)(B)(iv) of this title shall depend on where the project tract is located.

* * *

(5) Wood products manufacturers. Notwithstanding any provision of this chapter to the contrary, a conversion of primary agricultural soils by a wood products manufacturer shall be allowed to pay a mitigation fee computed according to the provisions of subdivision (1) of this subsection, except that it shall be entitled to a ratio of 1:1 protected acres to acres of affected primary agricultural soil.

* * * One-acre towns * * *

Sec. 20. INTENT; AMENDMENT OF 10 V.S.A. § 6001(3)(A)(ii)

The General Assembly's intent in the amendments to 10 V.S.A. §6001(3)(A)(ii) set forth in Sec. 21 of this act is to clarify the text to reflect the way jurisdiction over commercial and industrial development in towns without permanent zoning and subdivision bylaws has been determined since the passage of Act 250 in 1970. The General Assembly does not intend any provision of this act to be interpreted as a substantive change to determining jurisdiction under 10 V.S.A. § 6001(3)(A)(ii).

Sec. 21. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

* * *

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

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

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

* * *

* * * Reports * * *

Sec. 22. REPORT; ACT 250 JURISDICTION OVER AGRICULTURAL BUSINESSES

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

Sec. 23. DESIGNATED AREA REPORT; APPROPRIATION

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

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

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

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

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

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

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

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

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

(E) apply regulatory and non-regulatory benefits;

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

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

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

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

Sec. 24. REPORT; NATURAL RESOURCES BOARD

(a) On or before December 31, 2023, the Chair of the Natural Resources Board shall report to the House Committees on Natural Resources, Fish, and Wildlife and on Ways and Means and the Senate Committees on Finance and on Natural Resources and Energy on necessary updates to the Act 250 program.

(b) The report shall include:

(1) How to transition to a system in which Act 250 jurisdiction is based on location, which shall encourage development in designated areas, the maintenance of intact rural working lands, and the protection of natural resources of statewide significance, including biodiversity. Location-based jurisdiction would adjust the threshold for Act 250 jurisdiction based on the characteristics of the location. This section of the report shall consider whether to develop thresholds and tiers of jurisdiction as recommended in the Commission on Act 250: the Next 50 Years Report.

(2) How to use the Capability and Development Plan to meet the statewide planning goals.

(3) An assessment of the current level of staffing of the Board and District Commissions, including whether there should be a district coordinator located in every district.

(4) Whether the permit fees are sufficient to cover the costs of the program and, if not, a recommendation for a source of revenue to supplement the fees.

(5) Whether the permit fees are effective in providing appropriate incentives.

(6) Whether the Board should be able to assess their costs on applicants.

* * * Natural Resources Board * * *

Sec. 25. PURPOSE

The purpose of this act is to strengthen the administration of the Act 250 program by changing the structure, function, and name of the Natural Resources Board. This act requires that appeals of Act 250 permit decisions be heard by a five-member board called the Environmental Review Board. The Environmental Division of the Superior Court would continue to hear the other types of cases within its jurisdiction. The Environmental Review Board would keep the current duties of the Natural Resources Board in addition to hearing appeals. This change would allow the Act 250 program to return to how it was originally envisioned when enacted by being a citizen-friendly process. The Board would provide oversight, management, and training to the Act 250 program staff and District Commissions and develop Act 250 program policy through permit decisions and rulemaking.

Sec. 26. 10 V.S.A. § 6021 is amended to read:

§ 6021. BOARD; VACANCY; REMOVAL

(a) ~~A Natural Resources Board established.~~ The Environmental Review Board is created to administer the Act 250 program and hear appeals.

(1) ~~The Board shall consist of five members appointed by the Governor, after review and approval by the Environmental Review Board Nominating Committee in accordance with subdivision (2) of this section and confirmed with the advice and consent of the Senate, so that one appointment expires in each year. The Chair shall be a full-time position, and the other four members shall be half-time positions. In making these appointments, the Governor and the Senate shall give consideration to candidates who have experience, expertise, or skills relating to the environment or land use one or more of the following areas: environmental science, natural resources law and policy, land use planning, community planning, or environmental justice.~~

(A) ~~The Governor shall appoint a chair of the Board, a position that shall be a full-time position. The Governor shall ensure Board membership shall reflect, to the extent possible, the racial, ethnic, gender, and geographic diversity of the State. The Board shall not contain two members who reside in the same county.~~

(B) ~~Following initial appointments, the members, except for the Chair, shall be appointed for terms of four five years. All terms shall begin on July 1 and expire on June 30. A member may continue serving until a successor is appointed. The initial appointments shall be for staggered terms.~~

(2) ~~The Governor shall appoint up to five persons, with preference given to former Environmental Board, Natural Resources Board, or District Commission members, with the advice and consent of the Senate, to serve as alternates for Board members.~~

(A) ~~Alternates shall be appointed for terms of four years, with initial appointments being staggered~~ The Environmental Review Board Nominating Committee shall advertise the position when a vacancy will occur on the Environmental Review Board.

(B) ~~The Chair of the Board may assign alternates to sit on specific matters before the Board in situations where fewer than five members are available to serve~~ The Nominating Committee shall review the applicants to determine which are well-qualified for appointment to the Board and shall recommend those candidates to the Governor. The names of candidates shall be confidential.

(C) The Governor shall appoint, with the advice and consent of the Senate, a chair and four members of the Board from the list of well-qualified candidates sent to the Governor by the Committee.

(b) Any vacancy occurring in the membership of the Board shall be filled by the Governor for the unexpired portion of the term Terms; vacancy; succession. The term of each appointment subsequent to the initial appointments described in subsection (a) of this section shall be five years. Any appointment to fill a vacancy shall be for the unexpired portion of the term vacated. A member may seek reappointment by informing the Governor. If the Governor decides not to reappoint the member, the Nominating Committee shall advertise the vacancy.

(c) Removal. Notwithstanding the provisions of 3 V.S.A. § 2004, members shall only be removable for cause only, except the Chair, who shall serve at the pleasure of the Governor by the remaining members of the Board in accordance with the Vermont Administrative Procedures Act. The Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to define the basis and process for removal.

(d) Disqualified members. The Chair of the Board, upon request of the Chair of a District Commission, may appoint and assign former Commission members to sit on specific Commission cases when some or all of the regular members and alternates of the District Commission are disqualified or otherwise unable to serve.

(e) Retirement from office. When a Board member who hears all or a substantial part of a case retires from office before the case is completed, the member may remain a member of the Board, at the member's discretion, for the purpose of concluding and deciding that case and signing the findings and judgments involved. A retiring Chair shall also remain a member for the purpose of certifying questions of law if a party appeals to the Supreme Court. For the service, the member shall receive a reasonable compensation to be fixed by the remaining members of the Board and necessary expenses while on official business.

Sec. 27. 10 V.S.A. § 6032 is added to read:

§ 6032. ENVIRONMENTAL REVIEW BOARD NOMINATING COMMITTEE

(a) Creation. The Environmental Review Board Nominating Committee is created for the purpose of assessing the qualifications of applicants for appointment to the Environmental Review Board in accordance with section 6021 of this title.

(b) Members. The Committee shall consist of seven members who shall be appointed as follows:

(1) The Governor shall appoint three members from the Executive Branch, with at least one being an employee of the Department of Human Resources.

(2) The Speaker of the House of Representatives shall appoint two members from the House of Representatives.

(3) The Senate Committee on Committees shall appoint two members from the Senate.

(c) Terms. The members of the Committee shall serve for terms of two years. Members shall serve until their successors are appointed. Members shall serve not more than three consecutive terms in any capacity. A legislative member who is appointed as a member of the Committee shall retain the position for the term appointed to the Committee even if the member is subsequently not reelected to the General Assembly during the member's term on the Committee.

(d) Chair. The members shall elect their own chair.

(e) Quorum. A quorum of the Committee shall consist of four members.

(f) Staff and services. The Committee is authorized to use the staff and services of appropriate State agencies and departments as necessary to conduct investigations of applicants.

(g) Confidentiality. Except as provided in subsection (h) of this section, proceedings of the Committee, including the names of candidates considered by the Committee and information about any candidate submitted to the Governor, shall be confidential. The provisions of 1 V.S.A. § 317(e) (expiration of Public Records Act exemptions) shall not apply to the exemptions or confidentiality provisions in this subsection.

(h) Public information. The following shall be public:

(1) operating procedures of the Committee;

(2) standard application forms and any other forms used by the Committee, provided they do not contain personal information about a candidate or confidential proceedings;

(3) all proceedings of the Committee prior to the receipt of the first candidate's completed application; and

(4) at the time the Committee sends the names of the candidates to the Governor, the total number of applicants for the vacancies and the total number of candidates sent to the Governor.

(i) Reimbursement. Legislative members of the Committee shall be entitled to per diem compensation and reimbursement for expenses in accordance with 2 V.S.A. § 23. Compensation and reimbursement shall be paid from the legislative appropriation.

(j) Duties.

(1) When a vacancy occurs, the Committee shall review applicants to determine which are well-qualified for the Board and submit those names to the Governor. The Committee shall submit to the Governor a summary of the qualifications and experience of each candidate whose name is submitted to the Governor, together with any further information relevant to the matter.

(2) An applicant for the position of member of the Environmental Review Board shall not be required to be an attorney. If the candidate is admitted to practice law in Vermont or practices a profession requiring licensure, certification, or other professional regulation by the State, the Committee shall submit the candidate's name to the Court Administrator or the applicable State professional regulatory entity, and that entity shall disclose to the Committee any professional disciplinary action taken or pending concerning the candidate.

(3) Candidates shall be sought who have experience, expertise, or skills relating to one or more of the following areas: environmental science, natural resources law and policy, land use planning, community planning, or environmental justice.

(4) The Committee shall ensure a candidate possesses the following attributes:

(A) Integrity. A candidate shall possess a record and reputation for excellent character and integrity.

(B) Impartiality. A candidate shall exhibit an ability to make judicial determinations in a manner free of bias.

(C) Work ethic. A candidate shall demonstrate diligence.

(D) Availability. A candidate shall have adequate time to dedicate to the position.

Sec. 28. 10 V.S.A. § 6025 is amended to read:

§ 6025. RULES

(a) The Board may adopt rules of procedure for itself and the District Commissions. The Board shall adopt rules of procedure that govern appeals and other contested cases before it that are consistent with this chapter.

* * *

Sec. 29. 10 V.S.A. § 6027 is amended to read:

§ 6027. POWERS

(a) The Board and District Commissions ~~each~~ shall have supervisory authority in environmental matters respecting projects within their jurisdiction and shall apply their independent judgment in determining facts and interpreting law. ~~Each~~ shall have the power, with respect to any matter within its jurisdiction, to:

(1) administer oaths, take depositions, subpoena and compel the attendance of witnesses, and require the production of evidence;

(2) allow parties to enter upon lands of other parties for the purposes of inspecting and investigating conditions related to the matter before the Board or Commission;

(3) enter upon lands for the purpose of conducting inspections, investigations, examinations, tests, and site evaluations as it deems necessary to verify information presented in any matter within its jurisdiction; and

(4) apply for and receive grants from the federal government and from other sources.

(b) The powers granted under this chapter are additional to any other powers ~~which~~ that may be granted by other legislation.

(c) ~~The Natural Resources Board~~ may designate or establish ~~such~~ regional offices as it deems necessary to implement the provisions of this chapter and the rules adopted ~~hereunder~~. ~~The Natural Resources Board~~ may designate or require a regional planning commission to receive applications, provide administrative assistance, perform investigations, and make recommendations.

(d) At the request of a District Commission, if the Board Chair determines that the workload in the requesting district is likely to result in unreasonable delays or that the requesting District Commission is disqualified to hear a case, the Chair may authorize the District Commission of another district to sit in the requesting district to consider one or more applications.

(e) ~~The Natural Resources Board~~ may by rule allow joint hearings to be conducted with specified State agencies or specified municipalities.

(f) ~~The Board shall publish its decisions online.~~ The Board may publish online or contract to publish annotations and indices of its decisions, the decisions of the Environmental Division of the Superior Court and the Supreme Court, and the text of those decisions. The published product shall be available at a reasonable rate to the general public and at a reduced rate to libraries and governmental bodies within the State.

(g) ~~The Natural Resources Board~~ shall manage the process by which land use permits are issued under section 6086 of this title, may initiate enforcement on related matters under the provisions of chapters 201 and 211 of this title, and may ~~petition the Environmental Division~~ initiate and hear petitions for revocation of land use permits issued under this chapter. Grounds for revocation are:

(1) noncompliance with this chapter, rules adopted under this chapter, or an order that is issued that relates to this chapter;

(2) noncompliance with any permit or permit condition;

(3) failure to disclose all relevant and material facts in the application or during the permitting process;

(4) misrepresentation of any relevant and material fact at any time;

(5) failure to pay a penalty or other sums owed pursuant to, or other failure to comply with, court order, stipulation agreement, schedule of compliance, or other order issued under Vermont statutes and related to the permit; or

(6) failure to provide certification of construction costs, as required under subsection 6083a(a) of this title, or failure to pay supplemental fees as required under that section.

(h) ~~The Natural Resources Board~~ may hear appeals of fee refund requests under section 6083a of this title. The Board shall hear appeals of decisions made by District Commissions and district coordinators.

(i) The Chair, subject to the direction of the Board, shall have general charge of the offices and employees of the Board and the offices and employees of the District Commissions.

(j) ~~The Natural Resources Board may participate as a party in all matters before the Environmental Division that relate to land use permits issued under this chapter.~~ [Repealed.]

* * *

Sec. 30. 10 V.S.A. § 6022 is amended to read:

§ 6022. PERSONNEL

(a) Regular personnel. The Board may appoint legal counsel, scientists, engineers, experts, investigators, temporary employees, and administrative personnel as it finds necessary in carrying out its duties, ~~unless the Governor shall otherwise provide~~ in providing personnel to assist the District Commissions and in investigating matters within its jurisdiction.

(b) Executive Director. The Board shall appoint an Executive Director. The Director shall be a full-time State employee, shall be exempt from the State classified system, and shall serve at the pleasure of the Board. The Director shall be responsible for:

(1) supervising and administering the operation and implementation of this chapter and the rules adopted by the Board as directed by the Board;

(2) assisting the Board in its duties and administering the requirements of this chapter;

(3) employing such staff as may be required to carry out the functions of the Board; and

(4) preparing an annual budget for submission to the Board.

Sec. 31. 10 V.S.A. § 6084 is amended to read:

§ 6084. NOTICE OF APPLICATION; HEARINGS; COMMENCEMENT OF REVIEW

~~(a) On or before the date of~~ Upon the filing of an application with the District Commission, the ~~applicant~~ District Commission shall send, by electronic means, notice ~~and a copy of the initial application~~ to the owner of the land if the applicant is not the owner; the municipality in which the land is located; the municipal and regional planning commissions for the municipality in which the land is located; the Vermont Agency of Natural Resources; and any adjacent Vermont municipality and municipal and regional planning commission if the land is located on a municipal or regional boundary. ~~The applicant shall furnish to the District Commission the names of those furnished notice by affidavit, and shall post~~ send by electronic means a copy of the notice ~~in~~ to the town clerk's office of the town or towns in which the project lies. The town clerk shall post the notice in the town office. The applicant shall also provide a list of adjoining landowners to the District Commission. Upon request and for good cause, the District Commission may authorize the applicant to provide a partial list of adjoining landowners in accordance with Board rules.

* * *

(e) Any notice for a major or minor application, as required by this section, shall also be published by the District Commission in a local newspaper generally circulating in the area where the development or subdivision is located and on the Board's website not more than ten days after receipt of a complete application.

* * *

Sec. 32. 10 V.S.A. § 6086(f) is amended to read:

(f) Prior to any appeal of a permit issued by a District Commission, any aggrieved party may file a request for a stay of construction with the District Commission together with a declaration of intent to appeal the permit. The stay request shall be automatically granted for seven days upon receipt and notice to all parties and pending a ruling on the merits of the stay request pursuant to Board rules. The automatic stay shall not extend beyond the 30-day appeal period unless a valid appeal has been filed with the ~~Environmental Division Board~~. The automatic stay may be granted only once under this subsection during the 30-day appeal period. Following appeal of the District Commission decision, any stay request must be filed with the ~~Environmental Division pursuant to the provisions of chapter 220 of this title~~ Board. A District Commission shall not stay construction authorized by a permit processed under the Board's minor application procedures.

Sec. 33. 10 V.S.A. § 6089 is amended to read:

§ 6089. APPEALS

~~Appeals of any act or decision of a District Commission under this chapter or a district coordinator under subsection 6007(c) of this title shall be made to the Environmental Division in accordance with chapter 220 of this title. For the purpose of this section, a decision of the Chair of a District Commission under section 6001e of this title on whether action has been taken to circumvent the requirements of this chapter shall be considered an act or decision of the District Commission.~~

(a)(1) An appeal of any act or decision of a District Commission shall be to the Board and shall be accompanied by a fee prescribed by section 6083a of this title.

(2) Participation before District Commission. A person shall not appeal an act or decision that was made by a District Commission unless the person was granted party status by the District Commission pursuant to subdivision 6085(c)(1)(E) of this title, participated in the proceedings before the District Commission, and retained party status at the end of the District Commission

proceedings. In addition, the person may only appeal those issues under the criteria with respect to which the person was granted party status. However, notwithstanding these limitations, a person may appeal an act or decision of the District Commission if the Board determines that:

(A) there was a procedural defect that prevented the person from obtaining party status or participating in the proceeding;

(B) the decision being appealed is the grant or denial of party status;
or

(C) some other condition exists that would result in manifest injustice if the person's right to appeal was disallowed.

(3) An appellant to the Board, under this section, shall file with the notice of appeal a statement of the issues to be addressed in the appeal, a summary of the evidence that will be presented, and a preliminary list of witnesses who will testify on behalf of the appellant.

(4) The Board shall hold a de novo hearing on all findings requested by any party that files an appeal or cross appeal, according to the rules of the Board. The hearing shall be held in the municipality where the project subject to the appeal is located, if possible, or as close as possible.

(5) Notice of appeal shall be filed with the Board within 30 days following the act or decision by the District Commission. The Board shall notify the parties who had party status before the District Commission of the filing of any appeal.

(6) Prehearing discovery.

(A) A party may obtain discovery of expert witnesses who may provide testimony relevant to the appeal. Expert witness prefiled testimony shall be in accordance with the Vermont Rules of Evidence. The use of discovery for experts shall comply with the requirements in the Vermont Rules of Civil Procedure 26–37.

(B) Interrogatories served on nonexpert witnesses shall be limited to discovery of the identity of witnesses and a summary of each witness' testimony, except by order of the Board for cause shown. Interrogatories served on expert witnesses shall be in accordance with the Vermont Rules of Civil Procedure.

(C) Parties may submit requests to produce and requests to enter upon land pursuant to the Vermont Rule of Civil Procedure 34.

(D) Parties may not take depositions of witnesses, except by order of the Board for cause shown.

(E) The Board may require a party to supplement, as necessary, any prehearing testimony that is provided.

(b) Prior decisions of the former Environmental Board, Water Resources Board, Waste Facilities Panel, and Environmental Division of the Superior Court shall be given the same weight and consideration as prior decisions of the Environmental Review Board.

(c) An appeal from a decision of the Board under subsection (a) of this section shall be to the Supreme Court by a party as set forth in subsection 6085(c) of this title.

(d) No objection that has not been raised before the Board may be considered by the Supreme Court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(e) An appeal of a decision by the Board shall be allowed pursuant to 3 V.S.A. § 815, including the unreasonableness or insufficiency of the conditions attached to a permit. An appeal from the District Commission shall be allowed for any reason, except no appeal shall be allowed when an application has been granted and no hearing was requested.

(f) Precedent from the former Environmental Board and of the Environmental Review Board that interpret Act 250 shall be provided the same deference by the Supreme Court as precedents accorded to other Executive Branch agencies charged with administering their enabling act. On appeal to the Supreme Court from the Environmental Review Board, decisions of the Environmental Review Board interpreting this act also shall be accorded that deference.

(g) Upon appeal to the Supreme Court, the Board's findings of fact shall be accepted unless clearly erroneous.

(h) Completion of case. A case shall be deemed completed when the Board enters a final decision even though that decision is appealed to the Supreme Court and remanded by that Court.

(i) Court of record; jurisdiction. The Board shall have the powers of a court of record in the determination and adjudication of all matters within its jurisdiction. It may initiate proceedings on any matter within its jurisdiction. It may render judgments and enforce the same by any suitable process issuable by courts in this State. An order issued by the Board on any matter within its jurisdiction shall have the effect of a judicial order. The Board's jurisdiction shall include:

(1) the issuance of declaratory rulings on the applicability of this chapter and rules or orders issued under this chapter, pursuant to 3 V.S.A. § 808; and

(2) the issuance of decisions on appeals pursuant to sections 6007 and 6089 of this title.

Sec. 34. 10 V.S.A. § 6007 is amended to read:

§ 6007. ACT 250 DISCLOSURE STATEMENT; JURISDICTIONAL DETERMINATION

* * *

(c) With respect to the partition or division of land, or with respect to an activity that might or might not constitute development, any person may submit to the district coordinator an “Act 250 Disclosure Statement” and other information required by the rules of the Board and may request a jurisdictional opinion from the district coordinator concerning the applicability of this chapter. If a requestor wishes a final determination to be rendered on the question, the district coordinator, at the expense of the requestor and in accordance with rules of the Board, shall publish notice of the issuance of the opinion in a local newspaper generally circulating in the area where the land that is the subject of the opinion is located and shall serve the opinion on all persons listed in subdivisions 6085(c)(1)(A) through (D) of this title. In addition, the requestor who is seeking a final determination shall consult with the district coordinator and obtain approval of a subdivision 6085(c)(1)(E) list of persons who shall be notified by the district coordinator because they are adjoining property owners or other persons who would be likely to be able to demonstrate a particularized interest protected by this chapter that may be affected by an act or decision by a District Commission.

(d) A person who seeks review of a jurisdictional opinion issued by a district coordinator may bring to the Board an appeal of issues addressed in the opinion.

(1) The appellant shall provide notice of the filing of an appeal to each person entitled to notice under subdivisions 6085(c)(1)(A) through (D) of this title and to each person on an approved subdivision 6085(c)(1)(E) list.

(2) Failure to appeal within 30 days following the issuance of the jurisdictional opinion shall render the decision of the district coordinator under subsection (c) of this section the final determination regarding jurisdiction unless the underlying jurisdictional opinion was not properly served on persons listed in subdivisions 6085(c)(1)(A) through (D) of this title and on persons on a subdivision 6085(c)(1)(E) list approved under subsection (c) of this section.

Sec. 35. 10 V.S.A. § 6083a is amended to read:

§ 6083a. ACT 250 FEES

* * *

(i) All persons filing an appeal, cross appeal, or petition from a District Commission decision or jurisdictional determination shall pay a fee of \$295.00, plus publication costs.

* * * Appeals * * *

Sec. 36. 10 V.S.A. chapter 220 is amended to read:

CHAPTER 220. CONSOLIDATED ENVIRONMENTAL APPEALS

§ 8501. PURPOSE

It is the purpose of this chapter to:

(1) consolidate existing appeal routes for municipal zoning and subdivision decisions and acts or decisions of the Secretary of Natural Resources, ~~district environmental coordinators, and District Commissions,~~ excluding enforcement actions brought pursuant to chapters 201 and 211 of this title and the adoption of rules under 3 V.S.A. chapter 25;

(2) standardize the appeal periods, the parties who may appeal these acts or decisions, and the ability to stay any act or decision upon appeal, taking into account the nature of the different programs affected;

~~(3) encourage people to get involved in the Act 250 permitting process at the initial stages of review by a District Commission by requiring participation as a prerequisite for an appeal of a District Commission decision to the Environmental Division;~~

(4) ~~assure~~ ensure that clear appeal routes exist for acts and decisions of the Secretary of Natural Resources; and

~~(5)~~(4) consolidate appeals of decisions related to renewable energy generation plants and telecommunications facilities with review under, respectively, 30 V.S.A. §§ 248 and 248a, with appeals and consolidation of proceedings pertaining to telecommunications facilities occurring only while 30 V.S.A. § 248a remains in effect.

§ 8502. DEFINITIONS

As used in this chapter:

(1) ~~“District Commission” means a District Environmental Commission established under chapter 151 of this title. [Repealed.]~~

(2) ~~“District coordinator” means a district environmental coordinator attached to a District Commission established under chapter 151 of this title. [Repealed.]~~

(3) “Environmental Court” or “Environmental Division” means the Environmental Division of the Superior Court established by 4 V.S.A. § 30.

(4) ~~“Natural Resources Environmental Review Board”~~ or “Board” means the Board established under chapter 151 of this title.

(5) “Party by right” means the following:

(A) the applicant;

(B) the landowner, if the applicant is not the landowner;

(C) the municipality in which the project site is located and the municipal and regional planning commissions for that municipality;

(D) if the project site is located on a boundary, any Vermont municipality adjacent to that border and the municipal and regional planning commissions for that municipality;

(E) the solid waste management district in which the land is located, if the development or subdivision constitutes a facility pursuant to subdivision 6602(10) of this title;

(F) any State agency affected by the proposed project.

(6) “Person” means any individual; partnership; company; corporation; association; joint venture; trust; municipality; the State of Vermont or any agency, department, or subdivision of the State; any federal agency; or any other legal or commercial entity.

(7) “Person aggrieved” means a person who alleges an injury to a particularized interest protected by the provisions of law listed in section 8503 of this title, attributable to an act or decision by ~~a district coordinator, District Commission,~~ the Secretary, or the Environmental Division that can be redressed by the Environmental Division or the Supreme Court.

(8) “Secretary” means the Secretary of Natural Resources or the Secretary’s duly authorized representative. As used in this chapter, “Secretary” shall also mean the Commissioner of Environmental Conservation, the Commissioner of Forests, Parks and Recreation, and the Commissioner of Fish and Wildlife, with respect to those statutes that refer to the authority of that commissioner or department.

§ 8503. APPLICABILITY

(a) This chapter shall govern all appeals of an act or decision of the Secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

* * *

(b) ~~This chapter shall govern:~~

~~(1) all appeals from an act or decision of a District Commission under chapter 151 of this title, excluding appeals of application fee refund requests;~~

~~(2) appeals from an act or decision of a district coordinator under subsection 6007(e) of this title;~~

~~(3) appeals from findings of fact and conclusions of law issued by the Natural Resources Board in its review of a designated growth center for conformance with the criteria of subsection 6086(a) of this title, pursuant to authority granted at 24 V.S.A. § 2793e(f). [Repealed.]~~

(c) This chapter shall govern all appeals arising under 24 V.S.A. chapter 117, the planning and zoning chapter.

(d) This chapter shall govern all appeals from an act or decision of the Environmental Division under this chapter.

(e) This chapter shall not govern appeals from rulemaking decisions by the ~~Natural Resources~~ Environmental Review Board under chapter 151 of this title or enforcement actions under chapters 201 and 211 of this title.

(f) This chapter shall govern all appeals of acts or decisions of the legislative body of a municipality arising under 24 V.S.A. chapter 61, subchapter 10, relating to the municipal certificate of approved location for salvage yards.

(g) This chapter shall govern all appeals of an act or decision of the Secretary of Natural Resources that a solid waste implementation plan for a municipality proposed under 24 V.S.A. § 2202a conforms with the State Solid Waste Implementation Plan adopted pursuant to section 6604 of this title.

§ 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

(a) ~~Act 250 and Agency appeals.~~ Within 30 days of the date of following the act or decision, any person aggrieved by an act or decision of the Secretary, ~~a District Commission, or a district coordinator~~ under the provisions of law listed in section 8503 of this title, or any party by right, may appeal to the Environmental Division, except for an act or decision of the Secretary under subdivision 6086b(3)(E) of this title or governed by section 8506 of this title.

* * *

(c) Notice of the filing of an appeal.

(1) ~~Upon filing an appeal from an act or decision of the District Commission, the appellant shall notify all parties who had party status as of the end of the District Commission proceeding, all friends of the Commission, and the Natural Resources Board that an appeal is being filed. In addition, the appellant shall publish notice not more than 10 days after providing notice as required under this subsection, at the appellant's expense, in a newspaper of general circulation in the area of the project that is the subject of the decision. [Repealed.]~~

* * *

(d) Requirement to participate before ~~the District Commission or the Secretary.~~

(1) ~~Participation before District Commission. An aggrieved person shall not appeal an act or decision that was made by a District Commission unless the person was granted party status by the District Commission pursuant to subdivision 6085(c)(1)(E) of this title, participated in the proceedings before the District Commission, and retained party status at the end of the District Commission proceedings. In addition, the person may only appeal those issues under the criteria with respect to which the person was granted party status. However, notwithstanding these limitations, an aggrieved person may appeal an act or decision of the District Commission if the Environmental judge determines that:~~

~~(A) there was a procedural defect that prevented the person from obtaining party status or participating in the proceeding;~~

~~(B) the decision being appealed is the grant or denial of party status;~~
or

~~(C) some other condition exists that would result in manifest injustice if the person's right to appeal was disallowed. [Repealed.]~~

(2) Participation before the Secretary.

* * *

(e) Act 250 jurisdictional determinations by a district coordinator.

~~(1) The appellant shall provide notice of the filing of an appeal to each person entitled to notice under subdivisions 6085(c)(1)(A) through (D) of this title, to each person on an approved subdivision 6085(c)(1)(E) list, and to the Natural Resources Board.~~

~~(2) Failure to appeal within the time required under subsection (a) of this section shall render the decision of the district coordinator under subsection 6007(c) of this title the final determination regarding jurisdiction under chapter 151 of this title unless the underlying jurisdictional opinion was not properly served on persons listed in subdivisions 6085(c)(1)(A) through (D) of this title and on persons on a subdivision 6085(c)(1)(E) list approved under subsection 6007(c) of this title. [Repealed.]~~

* * *

(g) Consolidated appeals. The Environmental Division may consolidate or coordinate different appeals where those appeals all relate to the same project.

* * *

~~(i) Deference to Agency technical determinations. In the adjudication of appeals relating to land use permits under chapter 151 of this title, technical determinations of the Secretary shall be accorded the same deference as they are accorded by a District Commission under subsection 6086(d) of this title. [Repealed.]~~

* * *

(k) Limitations on appeals. Notwithstanding any other provision of this section:

~~(1) there shall be no appeal from a District Commission decision when the Commission has issued a permit and no hearing was requested or held, or no motion to alter was filed following the issuance of an administrative amendment;~~

(2) a municipal decision regarding whether a particular application qualifies for a recorded hearing under 24 V.S.A. § 4471(b) shall not be subject to appeal;

~~(3) if a District Commission issues a partial decision under subsection 6086(b) of this title, any appeal of that decision must be taken within 30 days of the date of that decision.~~

(l) Representation. The Secretary may represent the Agency of Natural Resources in all appeals under this section. ~~The Chair of the Natural Resources Board may represent the Board in any appeal under this section, unless the Board directs otherwise.~~ If more than one State agency, ~~other than the Board,~~ either appeals or seeks to intervene in an appeal under this section, only the Attorney General may represent the interests of those agencies of the State in the appeal.

(m) Precedent. Prior decisions of the Environmental Board, Water Resources Board, and Waste Facilities Panel shall be given the same weight and consideration as prior decisions of the Environmental Division.

(n) Intervention. Any person may intervene in a pending appeal if that person:

(1) appeared as a party in the action appealed from and retained party status;

(2) is a party by right;

(3) ~~is the Natural Resources Board;~~ [Repealed.]

(4) is a person aggrieved, as defined in this chapter;

(5) qualifies as an “interested person,” as established in 24 V.S.A. § 4465, with respect to appeals under 24 V.S.A. chapter 117; or

(6) meets the standard for intervention established in the Vermont Rules of Civil Procedure.

(o) With respect to review of an act or decision of the Secretary pursuant to 3 V.S.A. § 2809, the Division may reverse the act or decision or amend an allocation of costs to an applicant only if the Division determines that the act, decision, or allocation was arbitrary, capricious, or an abuse of discretion. In the absence of such a determination, the Division shall require the applicant to pay the Secretary all costs assessed pursuant to 3 V.S.A. § 2809.

(p) Administrative record. The Secretary shall certify the administrative record as defined in chapter 170 of this title and shall transfer a certified copy of that record to the Environmental Division when:

~~(1) there is an appeal of an act or decision of the Secretary that is based on that record; or~~

~~(2) there is an appeal of a decision of a District Commission, and the applicant used a decision of the Secretary based on that record to create a presumption under a criterion of subsection 6086(a) of this title that is at issue in the appeal.~~

§ 8505. APPEALS TO THE SUPREME COURT

(a) Any person aggrieved by a decision of the Environmental Division pursuant to this subchapter, any party by right, or any person aggrieved by a decision of the Environmental Review Board may appeal to the Supreme Court within 30 days of following the date of the entry of the order or judgment appealed from, provided that:

(1) the person was a party to the proceeding before the Environmental Division; ~~or~~

(2) the decision being appealed is the denial of party status; or

(3) the Supreme Court determines that:

(A) there was a procedural defect that prevented the person from participating in the proceeding; or

(B) some other condition exists that would result in manifest injustice if the person's right to appeal were disallowed.

* * *

* * * Environmental Division * * *

Sec. 37. 4 V.S.A. § 34 is amended to read:

§ 34. JURISDICTION; ENVIRONMENTAL DIVISION

The Environmental Division shall have:

(1) jurisdiction of matters arising under 10 V.S.A. chapters 201 and 220; and

(2) jurisdiction of matters arising under 24 V.S.A. chapter 61, subchapter 12 and 24 V.S.A. chapter 117; ~~and~~

~~(3) original jurisdiction to revoke permits under 10 V.S.A. chapter 151.~~

* * * Appropriation; Transition; Revision Authority * * *

Sec. 38. ENVIRONMENTAL REVIEW BOARD POSITIONS;
APPROPRIATION

(a) The following new positions are created at the Environmental Review Board for the purposes of carrying out this act:

(1) one Staff Attorney 1; and

(2) four half-time Environmental Review Board members.

(b) The sum of \$384,000.00 is appropriated to the Environmental Review Board from the General Fund in fiscal year 2023 for the positions established in subsection (a) of this section and for additional operating costs required to implement the appeals process established in this act.

Sec. 39. NATURAL RESOURCES BOARD TRANSITION

(a) The Governor shall appoint the members of Environmental Review Board on or before July 1, 2023, and the terms of any Natural Resources Board member not appointed consistent with the requirements of 10 V.S.A. § 6021(a)(1)(A) or (B) shall expire on that day.

(b) As of July 1, 2023, all appropriations and employee positions of the Natural Resources Board are transferred to the Environmental Review Board.

(c) The Environmental Review Board shall adopt rules of procedure for its hearing process pursuant to 10 V.S.A. § 6025(a) on or before July 1, 2024.

Sec. 40. ENVIRONMENTAL DIVISION; CONTINUED JURISDICTION

Notwithstanding the repeal of its jurisdictional authority to hear appeals relative to land use permits under Sec. 36 of this act, the Environmental Division of the Superior Court shall continue to have jurisdiction to complete its consideration of any appeal that is pending before it as of July 1, 2024 if the act or appeal has been filed. The Environmental Review Board shall have authority to be a party in any appeals pending under this section until July 1, 2024.

Sec. 41. REVISION AUTHORITY

In preparing the Vermont Statutes Annotated for publication in 2022, the Office of Legislative Counsel shall replace all references to the “Natural Resources Board” with the “Environmental Review Board” in Title 3, Title 10, Title 24, Title 29, Title 30, and Title 32.

* * * Effective Dates * * *

Sec. 42. EFFECTIVE DATES

This act shall take effect on passage except that Sec. 14 (10 V.S.A. § 6086(a)(8)) shall take effect on September 1, 2024 and Secs. 36 and 37 (10 V.S.A. chapter 220; 4 V.S.A. § 34) shall take effect on July 1, 2024.

Proposal of amendment to House proposal of amendment to S. 234 to be offered by Senator Chittenden

Senator Chittenden moves that the Senate concur in the House proposal of amendment with a proposal of amendment as follows:

First: By striking out Secs. 13-16, forest blocks, and their reading assistance heading in their entireties

Second: By striking out Secs. 25-41, Natural Resources Board, and their reader assistance headings in their entireties and by renumbering the remaining sections to be numerically correct

Third: By striking out the newly renumbered Sec. 21, effective dates, in its entirety and inserting in lieu thereof the following:

Sec. 21. EFFECTIVE DATE

This act shall take effect on passage.

UNFINISHED BUSINESS OF MAY 11, 2022

House Proposal of Amendment

S. 226

An act relating to expanding access to safe 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:

* * * First-Generation Homebuyers * * *

Sec. 1. 32 V.S.A. 5930u is amended to read:

§ 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

* * *

(b) Eligible tax credit allocations.

* * *

(3) Down Payment Assistance Program.

(A) The Vermont Housing Finance Agency shall have the authority to allocate affordable housing tax credits to finance down payment assistance loans that meet the following requirements:

(i) the loan is made in connection with a mortgage through an Agency program;

(ii) the borrower is a first-time home buyer of an owner-occupied primary residence; and

(iii) the borrower uses the loan for the borrower's down payment or closing costs, or both.

(B) The Agency shall require the borrower to repay the loan upon the transfer or refinance of the residence.

(C) The Agency shall use the proceeds of loans made under the Program for future down payment assistance.

(D) The Agency may reserve funding and adopt guidelines to provide grants to first-time homebuyers who are also first-generation homebuyers.

* * *

Sec. 2. FIRST-GENERATION HOMEBUYER; IMPLEMENTATION; APPROPRIATION

(a) Guidelines. The Vermont Housing Finance Agency shall adopt guidelines and procedures for the provision of grants to first-generation homebuyers pursuant to 32 V.S.A. § 5930u(b)(3)(D) consistent with the criteria of the Down Payment Assistance Program implemented pursuant to 32 V.S.A. § 5930u(b)(3) and with this section.

(b) As used in this section and 32 V.S.A. § 5930u(b)(3)(D), a “first-generation homebuyer” means an applicant who self-attests that the applicant is an individual:

(1)(A) whose parents or legal guardians do not have any present residential ownership interest in any State; and

(B) whose spouse, or domestic partner, and each member of whose household has not, during the three-year period ending upon acquisition of the eligible home to be acquired, had any present ownership interest in a principal residence in any State; or

(2) is an individual who has at any time been placed in foster care.

(c) 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 Agency shall work with Vermont chapters of the NAACP, AALV, and USCRI; the Executive Director of Racial Equity; the Vermont Commission on Native American Affairs; and local racial justice organizations to develop a plan of active outreach and implementation to ensure that down payment assistance opportunities are effectively communicated, and that funds are equitably available, to communities of Vermonters who have historically suffered housing discrimination.

(d) Of the amounts appropriated to the Department of Housing and Community Development in 2021 Acts and Resolves No. 74, the Department shall transfer \$1,000,000.00 to the Vermont Housing Finance Agency to provide grants pursuant to 32 V.S.A. § 5930u(b)(3)(D) and for the costs of administration and outreach pursuant to this section.

* * * Manufactured Home Relocation Incentives * * *

Sec. 3. MANUFACTURED HOME IMPROVEMENT AND REPLACEMENT PROGRAM

Of the amounts available from federal COVID-19 relief funds, the following amounts are appropriated to the Department of Housing and Community Development for the purposes specified:

(1) \$2,500,000.00 for manufactured home community small-scale capital grants, through which the Department may award not more than \$20,000.00 for owners of manufactured housing communities to complete small-scale capital needs to help infill vacant lots with homes, which may include projects such as disposal of abandoned homes, lot grading/preparation, site electrical box issues/upgrades, E911 safety issues, legal fees, transporting homes out of flood zones, individual septic system, and marketing to help make it easier for home-seekers to find vacant lots around the State.

(2) \$750,000.00 for manufactured home repair grants, through which the Department may award funding for minor rehab or accessibility projects, coordinated as possible with existing programs, for between 250 and 400 existing homes where the home is otherwise in good condition or in situations where the owner is unable to replace the home and the repair will keep them housed.

(3) \$750,000.00 for new manufactured home foundation grants, through which the Department may award not more than \$15,000.00 per grant for a homeowner to pay for a foundation or HUD-approved slab, site preparation, skirting, tie-downs, and utility connections on vacant lots within manufactured home communities.

* * * New Approaches to Creating Housing * * *

Sec. 4. COMMUNITY PARTNERSHIP FOR NEIGHBORHOOD DEVELOPMENT

(a) The Department of Housing and Community Development shall lead a Community Partnership for Neighborhood Development Program, which shall be a collaborative among municipalities, nonprofit and for-profit developers, State agencies, employers, and other relevant stakeholders to develop a pilot neighborhood and demonstrate how new partnership models for targeted and

coordinated investments can support the development of at least 300 homes in inclusive, smart growth neighborhoods.

(b) The Program shall be steered by a Housing Equity Council with representatives from the Vermont Department of Housing Community Development, the Vermont Housing Finance Agency, the Agency of Natural Resources, the Agency of Transportation, the Department of Public Service, the Vermont Bond Bank, the Vermont Economic Development Authority, the Vermont Housing and Conservation Board, the Vermont Association of Planning and Development Agencies, the Vermont League of Cities and Towns, and the Vermont Regional Development Corporations.

(c) The Council shall consider and recommend to the Department of Housing and Community Development at least three a pilot neighborhood development project in three separate regional planning commission regions using a competitive process to select municipalities a municipality able to demonstrate need, collaboration, preliminary planning, bylaw modernization, and budgetary commitments to support smart growth and housing development in a location within or up to one quarter of a mile from a neighborhood planning area, as defined in 24 V.S.A. § 2791, or a location that otherwise represent a logical extension of an existing compact settlement pattern that is consistent with smart-growth principles.

(d) Through the Program, the Department and the Council shall coordinate with the pilot municipality through 2026 on the strategic use of public resources to create a development-ready framework for new and infill neighborhood development and construction-ready building lots through the integrated coordination of the following:

- (1) State, regional, and municipal planning;
 - (2) State and municipal regulation;
 - (3) land acquisition and land banking;
 - (4) physical improvement planning, design, and scoping;
 - (5) capital investment in infrastructure;
 - (6) financing and funding, including funding from the American Rescue Plan Act and Infrastructure Investment and Jobs Act;
 - (7) lot and building development by private and nonprofit developers;
- and
- (8) the sale or leasing of homes.

(e) The Department and the Council shall seek to achieve the following goals through the Program:

(1) The development of a neighborhood that:

(A) is compact and human-scaled, with a density of at least eight dwelling units per acre, including modestly sized dwellings on small lots;

(B) is characteristic of Vermont's smart growth principles, as provided in 24 V.S.A. § 2791;

(C) is located in proximity to existing residential, employment, and civic uses;

(D) provides for a mix of housing types, styles, tenure, and sizes to accommodate diverse households of varying composition, age, and income, including not less than 25 percent of the units with perpetual affordability and 35 percent of the homes affordable at 80 percent of the area median income;

(E) provides for a mix of transportation modes with interconnected streets and sidewalks; and

(F) is designed in a manner that enhances historic resources, climate readiness, energy efficiency, environmental quality, resident health, and overall livability.

(2) A successful model for the acquisition or banking of developable- or development-ready land for new neighborhood development or infill development within an existing, developed neighborhood.

(3) A successful model for the integration of planning and implementation for water, sewer, and other public utilities and services with land use planning and transportation investments in new or upgraded streets.

(f) \$1,000,000.00 is appropriated from the American Recue Plan Act (ARPA) recovery funds to the Department of Housing and Community Development for predevelopment grants that implement this section, which may fund municipal planning, site control, land acquisition, design, scoping, and surveying for the development of a pilot neighborhood.

(g) Of the amounts appropriated in this section, the Department may reserve not more than \$100,000.00 for related administrative expenses through fiscal year 2026.

(h) The Agency of Natural Resources and the Agency of Transportation shall report back to the General Assembly on or before December 15, 2024 on financial contributions the agencies can make to the Program's pilot neighborhood.

(i) The Department of Housing and Community Development shall report back to the General Assembly on the results of the Program on or before December 15, 2026.

* * * Downtown and Village Center Tax Credit Program * * *

Sec. 5. 32 V.S.A. § 5930aa is amended to read:

§ 5930aa. DEFINITIONS

As used in this subchapter:

(1) “Qualified applicant” means an owner or lessee of a qualified building involving a qualified project; but does not include a State or federal agency or a political subdivision of either; or an instrumentality of the United States.

(2) “Qualified building” means a building built at least 30 years before the date of application, located within a designated downtown or village center, or neighborhood development area, which, upon completion of the project supported by the tax credit, will be an income-producing building not used solely as a single-family residence. Churches and other buildings owned by religious organization may be qualified buildings, but in no event shall tax credits be used for religious worship.

(3) “Qualified code improvement project” means a project:

(A) to install or improve platform lifts suitable for transporting personal mobility devices, limited use or limited application elevators, elevators, sprinkler systems, and capital improvements in a qualified building, and the installations or improvements are required to bring the building into compliance with the statutory requirements and rules regarding fire prevention, life safety, and electrical, plumbing, and accessibility codes as determined by the Department of Public Safety;

(B) to abate lead paint conditions or other substances hazardous to human health or safety in a qualified building; or

(C) to redevelop a contaminated property in a designated downtown or village center, or neighborhood development area under a plan approved by the Secretary of Natural Resources pursuant to 10 V.S.A. § 6615a.

(4) “Qualified expenditures” means construction-related expenses of the taxpayer directly related to the project for which the tax credit is sought but excluding any expenses related to a private residence.

(5) “Qualified façade improvement project” means the rehabilitation of the façade of a qualified building that contributes to the integrity of the designated downtown ~~or~~, designated village center, or neighborhood development area. Façade improvements to qualified buildings listed, or eligible for listing, in the State or National Register of Historic Places must be consistent with Secretary of the Interior Standards, as determined by the Vermont Division for Historic Preservation.

(6) “Qualified Flood Mitigation Project” means any combination of structural and nonstructural changes to a building located within the flood hazard area as mapped by the Federal Emergency Management Agency that reduces or eliminates flood damage to the building or its contents. The project shall comply with the municipality’s adopted flood hazard bylaw, if applicable, and a certificate of completion shall be submitted by a registered engineer, architect, qualified contractor, or qualified local official to the State Board. Improvements to qualified buildings listed, or eligible for listing, in the State or National Register of Historic Places shall be consistent with Secretary of the Interior’s Standards for Rehabilitation, as determined by the Vermont Division for Historic Preservation.

(7) “Qualified historic rehabilitation project” means an historic rehabilitation project that has received federal certification for the rehabilitation project.

~~(7)~~(8) “Qualified project” means a qualified code improvement, qualified façade improvement, or qualified historic rehabilitation project as defined by this subchapter.

~~(8)~~(9) “State Board” means the Vermont Downtown Development Board established pursuant to 24 V.S.A. chapter 76A.

Sec. 6. 32 V.S.A. § 5930bb is amended to read:

§ 5930bb. ELIGIBILITY AND ADMINISTRATION

* * *

(e) Availability of Neighborhood Development Area tax credits. Beginning on July 1, 2025, under this subchapter no new tax credit may be allocated by the State Board to a qualified building located in a neighborhood development area unless specific funds have been appropriated for that purpose.

Sec. 7. 24 V.S.A. § 2793a is amended to read:

§ 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

* * *

(c) A village center designated by the State Board pursuant to subsection (a) of this section is eligible for the following development incentives and benefits:

* * *

(4) ~~The following State tax credits for projects located in a designated village center:~~

~~(A) A State historic rehabilitation tax credit of ten percent under 32 V.S.A. § 5930cc(a) that meets the requirements for the federal rehabilitation tax credit.~~

~~(B) A State façade improvement tax credit of 25 percent under 32 V.S.A. § 5930cc(b).~~

~~(C) A State code improvement tax credit of 50 percent under 32 V.S.A. § 5930ee(e) The Downtown and Village Center Tax Credit Program described in 32 V.S.A. § 5930aa et seq.~~

* * *

Sec. 8. 24 V.S.A. § 2793e is amended to read:

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

* * *

(f) Neighborhood development area incentives for developers. Once a municipality has a designated neighborhood development area or has a Vermont neighborhood designation pursuant to section 2793d of this title, any proposed development within that area shall be eligible for each of the benefits listed in this subsection. These benefits shall accrue upon approval by the district coordinator, who shall review the density requirements set forth in subdivision (c)(7) of this section to determine benefit eligibility and issue a jurisdictional opinion under 10 V.S.A. chapter 151 on whether the density requirements are met. These benefits are:

(1) ~~The~~ the application fee limit for wastewater applications stated in 3 V.S.A. § 2822(j)(4)(D);₂

(2) ~~The~~ the application fee reduction for residential development stated in 10 V.S.A. § 6083a(d);₂

(3) ~~The~~ the exclusion from the land gains tax provided by 32 V.S.A. § 10002(p); and

(4) eligibility for the Downtown and Village Center Tax Credit Program described in 32 V.S.A. § 5930aa et seq.

* * *

Sec. 9. 24 V.S.A. § 2794 is amended to read:

§ 2794. INCENTIVES FOR PROGRAM DESIGNEES

(a) Upon designation by the Vermont Downtown Development Board under section 2793 of this title, a downtown development district and projects in a downtown development district shall be eligible for the following:

(1) Priority consideration by any agency of the State administering any State or federal assistance program providing funding or other aid to a municipal downtown area with consideration given to such factors as the costs and benefits provided and the immediacy of those benefits, provided the project is eligible for the assistance program.

(2) ~~The following State tax credits:~~

~~(A) A State historic rehabilitation tax credit of 10 percent under 32 V.S.A. § 5930cc(a) that meets the requirements for the federal rehabilitation tax credit.~~

~~(B) A State façade improvement tax credit of 25 percent under 32 V.S.A. § 5930cc(b).~~

~~(C) A State code improvement tax credit of 50 percent under 32 V.S.A. § 5930cc(e) The Downtown and Village Center Tax Credit Program described in 32 V.S.A. § 5930aa et seq.~~

* * *

Sec. 10. 32 V.S.A. § 5930cc is amended to read:

§ 5930cc. DOWNTOWN AND VILLAGE CENTER PROGRAM TAX CREDITS

* * *

(d) Flood Mitigation Tax Credit. The qualified applicant of a qualified flood mitigation project shall be entitled, upon the approval of the State Board, to claim against the taxpayer's State individual income tax, State corporate income tax, or bank franchise or insurance premiums tax liability a credit of 50 percent of qualified expenditures up to a maximum tax credit of \$75,000.00.

* * * Missing Middle Housing * * *

Sec. 11. MISSING MIDDLE-INCOME HOMEOWNERSHIP
DEVELOPMENT PILOT PROGRAM

(a) The following amounts are appropriated from the America Rescue Plan Act (ARPA) – Coronavirus State Fiscal Recovery Funds to the Department of Housing and Community Development to grant to the Vermont Housing Finance Agency to establish the Missing Middle-Income Homeownership Development Pilot Program:

- (1) \$5,000,000.00 in fiscal year 2022; and
- (2) \$10,000,000.00 in fiscal year 2023.

(b) As used in this section:

(1) “Affordable owner-occupied housing” means owner-occupied housing identified in 26 U.S.C. § 143(c)(1) or that qualifies under Vermont Housing Finance Agency criteria governing owner-occupied housing.

(2) “Income-eligible homebuyer” means a Vermont household with annual income that does not exceed 120 percent of area median income.

(c) The Agency shall use the funds appropriated in this section to provide subsidies for new construction or acquisition and substantial rehabilitation of affordable owner-occupied housing for purchase by income-eligible homebuyers.

(d) The total amount of subsidies for a project shall not exceed 35 percent of eligible development costs, as determined by the Agency, which the Agency may allocate consistent with the following:

(1) Developer subsidy. The Agency may provide a direct subsidy to the developer, which shall not exceed the difference between the cost of development and the market value of the home as completed.

(2) Affordability subsidy. Of any remaining amounts available for the project after the developer subsidy, the Agency may provide a subsidy for the benefit of the homebuyer to reduce the cost of purchasing the home, provided that:

(A) the Agency includes conditions in the subsidy, or uses another legal mechanism, to ensure that, to the extent the home value has risen, the amount of the subsidy remains with the home to offset the cost to future homebuyers; or

(B) the subsidy is subject to a housing subsidy covenant, as defined in 27 V.S.A. § 610, that preserves the affordability of the home for a period of 99 years or longer.

(3) The Agency shall allocate not less than 33 percent of the funds available through the Program to projects that include a housing subsidy covenant consistent with subdivision (2)(B) of this subsection.

(e) The Agency shall adopt a Program plan that establishes application and selection criteria, including:

(1) project location;

(2) geographic distribution;

(3) leveraging of other programs;

(4) housing market needs;

(5) project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan;

(6) construction standards, including considerations for size;

(7) priority for plans with deeper affordability and longer duration of affordability requirements;

(8) sponsor characteristics;

(9) energy efficiency of the development; and

(10) historic nature of the project.

(f) The Agency may assign its rights under any investment or subsidy made under this section to the Vermont Housing and Conservation Board or any State agency or nonprofit organization qualifying under 26 U.S.C. § 501(c)(3), provided such assignee acknowledges and agrees to comply with the provisions of this section.

(g) The Agency shall ensure that initial investments made under this Program are obligated by December 31, 2024 and expended by December 31, 2026.

(h) The Department shall report to the House Committee on Housing, General, and Military Affairs and Senate Committee on Economic Development, Housing and General Affairs on the status of the Program annually, on or before January 15, through 2027.

* * * Residential Construction Contractors * * *

Sec. 12. FINDINGS

The General Assembly finds that:

(1) There is currently no master list of residential construction contractors operating in the State.

(2) There is no standard process for determining or adjudicating construction contract fraud complaints either on the part of contractors or consumers.

(3) Public authorities have no mechanism to contact all contractors when necessary to provide updates to public health requirements, safe working protocols, codes and standards, available trainings and certifications, or building incentives or construction subsidies.

(4) Wide dissemination of information on codes, standards, and trainings is vital to improving construction techniques throughout the State's construction industry. Since building thermal conditioning represents over one-quarter of the State's greenhouse gas emissions, improving energy performance is a key strategy for meeting the requirements of the Global Warming Solutions Act, 2020 Acts and Resolves No. 153.

(5) While registration is not licensure and confers no assurance of competence, consumers have no way of knowing whether a contractor is operating legally or has been subject to civil claims or disciplinary actions.

(6) A noncommercial, standardized public listing will provide contractors an opportunity to include in their record optional third-party, State-sanctioned certifications.

Sec. 13. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

The Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a director who shall be qualified by education and professional experience to perform the duties of the position. The Director of the Office of Professional Regulation shall be a classified position with the Office of the Secretary of State. The following boards or professions are attached to the Office of Professional Regulation:

* * *

(51) Residential Contractors.

Sec. 14. 26 V.S.A. chapter 106 is added to read:

CHAPTER 106. RESIDENTIAL CONTRACTORS

Subchapter 1. General Provisions

§ 5501. REGISTRATION REQUIRED

(a) A person shall register with the Office of Professional Regulation prior to contracting with a homeowner to perform residential construction in exchange for consideration of more than \$10,000.00, including labor and materials.

(b) Unless otherwise exempt under section 5502 of this title, as used in this chapter, "residential construction" means to build, demolish, or alter a residential dwelling unit, or a building or premises with four or fewer residential dwelling units, in this State, and includes interior and exterior construction, renovation, and repair; painting; paving; roofing; weatherization; installation or repair of heating, plumbing, solar, electrical, water, or wastewater systems; and other activities the Office specifies by rule consistent with this chapter.

§ 5502. EXEMPTIONS

This chapter does not apply to:

(1) an employee acting within the scope of his or her employment for a business organization registered under this chapter;

(2)(A) a professional engineer, licensed architect, or a tradesperson licensed, registered, or certified by the Department of Public Safety acting within the scope of his or her license, registration, or certification; or

(B) a business that performs residential construction if the work is performed primarily by or under the direct supervision of one or more employees who are individually exempt from registration under subdivision (2)(A) of this section;

(3) delivery or installation of consumer appliances, audio-visual equipment, telephone equipment, or computer network equipment;

(4) landscaping;

(5) work on a structure that is not attached to a residential building; or

(6) work that would otherwise require registration that a person performs in response to an emergency, provided the person applies for registration within a reasonable time after performing the work.

§ 5503. MANDATORY REGISTRATION AND VOLUNTARY
CERTIFICATION DISTINGUISHED

(a)(1) The system of mandatory registration established by this chapter is intended to protect against fraud, deception, breach of contract, and violations of law, but is not intended to establish standards for professional qualifications or workmanship that is otherwise lawful.

(2) The provisions of 3 V.S.A. § 129a, with respect to a registration, shall be construed in a manner consistent with the limitations of this subsection.

(b) The system of voluntary certification established in this chapter is intended to provide consumers and contractors with a publicly available, noncommercial venue for contractors to list optional approved certifications. The Director of Professional Regulation, in consultation with public safety officials and recognized associations or boards of builders, remodelers, architects, and engineers, may:

(1) adopt rules providing for the issuance of voluntary certifications, as defined in subdivision 3101a(1) of this title, that signify demonstrated competence in particular subfields and specialties related to residential construction;

(2) establish minimum qualifications, and standards for performance and conduct, necessary for certification; and

(3) discipline a certificant for violating adopted standards or other law, with or without affecting the underlying registration.

Subchapter 2. Administration

§ 5505. DUTIES OF THE DIRECTOR

(a) The Director of Professional Regulation shall:

(1) provide information to the public concerning registration, certification, appeal procedures, and complaint procedures;

(2) administer fees established under this chapter;

(3) receive applications for registration or certification, issue registrations and certifications to applicants qualified under this chapter, deny or renew registrations or certifications, and issue, revoke, suspend, condition, and reinstate registrations and certifications as ordered by an administrative law officer;

(4) prepare and maintain a registry of registrants and certificants; and

(5) use the registry to timely communicate with registrants and certificants concerning issues of health and safety, building codes, environmental and energy issues, and State and federal incentive programs.

(b) The Director, after consultation with an advisor appointed pursuant to section 5506 of this title, may adopt rules to implement this chapter.

§ 5506. ADVISORS

(a) The Secretary of State shall appoint two persons pursuant to 3 V.S.A. § 129b to serve as advisors in matters relating to residential contractors and construction.

(b) To be eligible to serve, an advisor shall:

(1) register under this chapter;

(2) have at least three years' experience in residential construction immediately preceding appointment; and

(3) remain active in the profession during his or her service.

(c) The Director of Professional Regulation shall seek the advice of the advisors in implementing this chapter.

§ 5507. FEES

A person regulated under this chapter shall pay the following fees at initial application and biennial renewal:

(1) Registration, individual: \$75.00.

(2) Registration, business organization: \$250.00.

(3) State certifications: \$75.00 for a first certification and \$25.00 for each additional certification.

Subchapter 3. Registrations

§ 5508. ELIGIBILITY

To be eligible for registration, the Director of Professional Regulation shall find that the applicant is in compliance with the provisions of this chapter and applicable State law and has satisfied any judgment order related to the provision of professional services to a homeowner.

§ 5509. REQUIREMENTS OF REGISTRANTS

(a) Insurance. A person registered under this chapter shall maintain minimum liability insurance coverage in the amount of \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate, evidence of which may be required as a precondition to issuance or renewal of a registration.

(b) Writing.

(1) A person registered under this chapter shall execute a written contract prior to receiving a deposit or commencing residential construction work if the estimated value of the labor and materials exceeds \$10,000.00.

(2) A contract shall specify:

(A) Price. One of the following provisions for the price of the contract:

(i) a maximum price for all work and materials;

(ii) a statement that billing and payment will be made on a time and materials basis, not to exceed a maximum price; or

(iii) a statement that billing and payment will be made on a time and materials basis and that there is no maximum price.

(B) Work dates. Estimated start and completion dates.

(C) Scope of work. A description of the services to be performed and a description of the materials to be used.

(D) Change order provision. A description of how and when amendments to the contract may be approved and documented, as agreed by the parties.

(3) The parties shall document an amendment to the contract in a signed writing.

(c) Down payment.

(1) If a contract specifies a maximum price for all work and materials or a statement that billing and payment will be made on a time and materials basis, not to exceed a maximum price, the contract may require a down payment of up to one-half of the cost of labor to the consumer, or one-half of the price of materials, whichever is greater.

(2) If a contract specifies that billing and payment will be made on a time and materials basis and that there is no maximum price, the contract may require a down payment as negotiated by the parties.

§ 5510. PROHIBITIONS AND REMEDIES

(a) A person who does not register as required pursuant to this chapter may be subject to an injunction or a civil penalty, or both, for unauthorized practice as provided in 3 V.S.A. § 127(b).

(b) The Office of Professional Regulation may discipline a registrant or certificant for unprofessional conduct as provided in 3 V.S.A. § 129a, except that 3 V.S.A. § 129a(b) does not apply to a registrant.

(c) The following conduct by a registrant, certificant, applicant, or person who later becomes an applicant constitutes unprofessional conduct:

(1) failure to enter into a written contract when required by this chapter;

(2) failure to maintain liability or workers' compensation insurance as required by law;

(3) committing a deceptive act in commerce in violation of 9 V.S.A. § 2453;

(4) falsely claiming certification under this chapter, provided that this subdivision does not prevent accurate and nonmisleading advertising or statements related to credentials that are not offered by this State; and

(5) selling or fraudulently obtaining or furnishing a certificate of registration, certification, license, or any other related document or record, or assisting another person in doing so, including by reincorporating or altering a trade name for the purpose or with the effect of evading or masking revocation, suspension, or discipline against a registration issued under this chapter.

Sec. 15. IMPLEMENTATION

(a) Notwithstanding any contrary provision of 26 V.S.A. chapter 106:

(1) The initial biennial registration term for residential contractors pursuant to 26 V.S.A. chapter 106 shall begin on April 1, 2023.

(2) The Secretary of State may begin receiving applications for the initial registration term on December 1, 2022.

(3)(A) The registration fee for individuals who submit complete registration requests between December 1, 2022 and March 31, 2023 is \$25.00 and between April 1, 2023 and March 31, 2024, the fee is \$50.00.

(B) The registration fee for business organizations that submit complete registration requests between December 1, 2022 and March 31, 2023 is \$175.00 and between April 1, 2023 and March 31, 2024, the fee is \$200.00.

(4) Prior to April 1, 2024, the Office of Professional Regulation shall not take any enforcement action for unauthorized practice under 26 V.S.A. § 5510(a) against a residential contractor who fails to register as required by this act.

(b) On or before July 1, 2023, the Director of Professional Regulation shall establish an initial set of voluntary certifications, to include at minimum OSHA standards on construction projects and components of energy-efficient “green” building for insulators, carpenters, and heating and ventilation installers.

Sec. 16. CREATION OF POSITIONS WITHIN THE OFFICE OF PROFESSIONAL REGULATION; LICENSING

(a) There are created within the Secretary of State’s Office of Professional Regulation one new position in licensing and one new position in enforcement.

(b) In fiscal year 2023, the amount of \$200,000.00 in Office of Professional Regulation special funds is appropriated to the Secretary of State to fund the positions created in subsection (a) of this section.

Sec. 17. ATTORNEY GENERAL; CONSUMER ASSISTANCE PROGRAM; POSITION; APPROPRIATION

(a) The Office of the Attorney General is authorized to create one classified, two-year full-time limited-service position within the Consumer Assistance Program, whose duties shall include:

(1) assisting with consumer complaints concerning residential construction projects with a value of less than \$10,000.00;

(2) providing education, outreach, and mediation to contractors and consumers; and

(3) coordinating and facilitating information sharing concerning complaints with the Office of Professional Regulation.

(b) In fiscal year 2023, the amount of \$200,000.00 is appropriated from the General Fund to the Office of the Attorney General to create the position and perform the duties provided in this section.

Sec. 18. SECRETARY OF STATE; STATUS REPORT

On or before January 15, 2024, the Office of Professional Regulation shall report to the House Committees on General, Housing, and Military Affairs and on Government Operations and to the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations concerning the implementation of 26 V.S.A. chapter 106, including:

(1) the number of registrations and certifications;

(2) the resources necessary to implement the chapter;

(3) the number and nature of any complaints or enforcement actions;

(4) the potential design and implementation of a one-stop portal for contractors and consumers; and

(5) any other issues the Office deems appropriate.

Sec. 19. 9 V.S.A. § 4500 is amended to read:

§ 4500. LEGISLATIVE INTENT

(a) The provisions of this chapter establishing legal standards, duties, and requirements with respect to persons with disabilities in places of public accommodation as defined in this chapter, except those provisions relating to remedies, are intended to implement and to be construed so as to be consistent with the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. and regulations promulgated under that act Act, and are not intended to impose additional or higher standards, duties, or requirements than that act Act.

(b) Subsections 4502(b) and (c) of this title shall not be construed to create or impose on governmental entities additional or higher standards, duties, or requirements than that imposed by Title II of the Americans with Disabilities Act.

(c) The provisions of this chapter shall be construed liberally to accomplish its remedial purposes and any exceptions and exemptions to the provisions of this chapter shall be construed narrowly in order to maximize the deterrence of discriminatory behavior.

Sec. 20. 9 V.S.A. § 4503 is amended to read:

§ 4503. UNFAIR HOUSING PRACTICES

(a) It shall be unlawful for any person:

* * *

(2) To discriminate against, or to harass, any person in the terms, conditions, privileges, and protections of the sale or rental of a dwelling or other real estate, or in the provision of services or facilities in connection ~~therewith~~ with a dwelling or other real estate, because of the race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance, or because a person is a victim of abuse, sexual assault, or stalking.

* * *

(d)(1) As used in this section, “harass” means to engage in unwelcome conduct that detracts from, undermines, or interferes with the person’s terms, conditions, privileges, or protections in the sale or rental of a dwelling or other real estate, or in the provision of services or facilities in connection with a dwelling or other real estate, because of the person’s race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability, or because the person intends to occupy a dwelling with one or more minor children, or because the person is a recipient of public assistance, or because the person is a victim of abuse, sexual assault, or stalking.

(2) Notwithstanding any judicial precedent to the contrary, harassing conduct need not be severe or pervasive to be unlawful pursuant to the provisions of this section. In determining whether conduct constitutes unlawful harassment:

(A) The determination shall be made on the basis of the record as a whole, according to the totality of the circumstances, and a single incident may constitute unlawful harassment.

(B) Incidents that may be harassment shall be considered in the aggregate with varying types of conduct and conduct based on multiple characteristics viewed in totality, rather than in isolation.

(C) Conduct may constitute unlawful harassment, regardless of whether:

(i) the complaining person is the person being harassed;

(ii) the complaining person acquiesced or otherwise submitted to or participated in the conduct;

(iii) the conduct is also experienced by others outside the protected class involved in the conduct;

(iv) the complaining person was able to enjoy the benefit of applicable terms, conditions, privileges, or protections in the sale or rental of the dwelling or other real estate, or to obtain services or facilities in connection with the dwelling or other real estate, despite the conduct;

(v) the conduct resulted in a physical or psychological injury; or

(vi) the conduct occurred outside the dwelling or other real estate.

(3) behavior that a reasonable person with the same protected characteristic would consider to be a petty slight or trivial inconvenience shall not constitute unlawful harassment or discrimination pursuant to this section.

Sec. 21. PROHIBITION OF TAX SALE WHILE VHAP APPLICATION
PENDING

(a) Not less than 60 days prior to serving a notice of sale on a delinquent taxpayer pursuant to 32 V.S.A. § 5252(a)(3), a town or municipality shall mail to the delinquent taxpayer's last known address a notice in the following, or substantially similar, form:

"If this property is your primary residence, you may be able to get help with delinquent property tax and utility payments through the Vermont Homeowner Assistance Program (VHAP). VHAP can help you avoid tax sale and transfer of your property by paying delinquent property taxes, water and sewer charges, interest, and penalties.

You can apply for VHAP online at vermonthap.vhfa.org. For advice about the program and help completing the application, call Vermont Legal Aid at 1-800-889-2047.

If you apply for VHAP, you must notify your town in writing, and your property will not be sold or transferred while your application is pending."

(b) A notice of sale to a delinquent taxpayer pursuant to 32 V.S.A. § 5252(a)(3) shall include the notice in subsection (a) of this section.

(c) If a town or municipality has sold a delinquent taxpayer's property pursuant to 32 V.S.A. § 5254 prior to the effective date of this section, but the deed conveying title to the purchaser has not yet been executed pursuant to 32 V.S.A. § 5261, not later than 30 days from the effective date of this section, the town or municipality shall mail to the delinquent taxpayer's last known address the notice in subsection (a) of this section.

(d)(1) A homeowner who has applied for VHAP may request a stay of the tax sale process or extension of the redemption period while the VHAP application is pending by attesting to the municipality that the homeowner has made a good faith application for VHAP funds in connection with the homeowner's primary residence.

(2) Upon notification that a VHAP application is pending, a municipality shall not conduct a tax sale of the property until one of the following occurs:

(A) the applicant is deemed ineligible for VHAP;

(B) the VHAP application is closed due to inaction by the applicant;

or

(C) payment is issued to the municipality on a qualifying application.

(3) If a payment is issued that satisfies the delinquency, the sale shall not proceed.

(e)(1) If a tax sale occurred prior to the delinquent taxpayer's application for VHAP, the redemption period established in 32 V.S.A. § 5260 shall be extended by operation of law until one of the following occurs:

(A) the applicant is deemed ineligible for VHAP;

(B) the VHAP application is closed due to inaction by the applicant;

or

(C) payment is issued to the municipality on a qualifying application.

(2) If payment is issued for the redemption amount, the deed shall not be made to the purchaser, but the sums shall be paid to the purchaser pursuant to 32 V.S.A. § 5260.

(f)(1) This section is repealed on September 30, 2025.

(2) The notice obligations in subsections (a)–(c) of this section shall cease when the Vermont Housing Finance Agency stops accepting VHAP applications because funding is exhausted.

Sec. 22. INTENT

It is the intent of the Vermont General Assembly to acknowledge structural racism and address prevalent wealth disparities by creating new opportunities to improve access to woodlands, farmland, and land and home ownership for Vermonters from historically marginalized or disadvantaged communities who continue to face barriers to land and home ownership.

Sec. 22a. VERMONT LAND ACCESS AND OPPORTUNITY BOARD; APPROPRIATION; SUPPORT

(a) As used in this section:

(1) "Board" means the Vermont Land Access and Opportunity Board.

(2) "VHCB" means the Vermont Housing and Conservation Board.

(b) The sum of \$200,000.00 is appropriated from the General Fund to VHCB in fiscal year 2023 to administer and support the Vermont Land Access and Opportunity Board.

(c) In fiscal year 2023, and to the extent that funding is appropriated in fiscal years 2024 and 2025, VHCB shall provide general, accounting, and administrative support to the Board, including support related to the administration of Board meetings, compliance with requirements for records retention and of the Open Meeting Law, processing of per diem compensation

and reimbursement of expenses for Board members, contracting, and bookkeeping and financial compliance.

Sec. 22b. 10 V.S.A. chapter 15, subchapter 5 is added to read:

Subchapter 5: Land Access and Opportunity Board

§ 325t. DEFINITIONS

As used in this subchapter:

(1) “Board” means the Vermont Land Access and Opportunity Board.

(2) “Historically marginalized or disadvantaged community” means a community that has historically suffered from discrimination and has not had equal access to public or private economic benefits due to the race, ethnicity, gender, geography, language preference, immigrant or citizen status, sexual orientation, gender identity, socioeconomic status, or disability status of its members.

(3) “LGBTQ” means an individual who identifies as lesbian, gay, bisexual, transgender, queer, or questioning.

(4) “VHCB” means the Vermont Housing and Conservation Board.

§ 325u. VERMONT LAND ACCESS AND OPPORTUNITY BOARD

(a) Creation. There is created the Vermont Land Access and Opportunity Board to promote improvements in access to woodlands, farmland, and land and home ownership for Vermonters from historically marginalized or disadvantaged communities who continue to face barriers to land and home ownership. The Board shall be attached to the Vermont Housing and Conservation Board for administrative purposes.

(b) Organization of Board. The Board shall be composed of:

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

(2) one member of Indigenous heritage, appointed by the Vermont Commission on Native American Affairs;

(3) one member, appointed by the Vermont NAACP;

(4) one member, appointed by the Vermont Racial Justice Alliance;

(5) one member, appointed by Liberation Ecosystem;

(6) one member, appointed by the Vermont Every Town project;

(7) one member, appointed by the National Association of Social Workers, Vermont Chapter, who shall be a social worker with expertise in antiracism;

(8) one member, appointed by the Pride Center of Vermont, who shall be LGBTQ;

(9) one member, appointed by the U.S. Committee for Refugees and Immigrants Vermont, who shall be a member of a refugee or immigrant community or shall have experience representing refugee or immigrant communities, or both;

(10) one member, appointed by the Vermont Developmental Disabilities Council; and

(11) one member, appointed by Vermont Psychiatric Survivors.

(c) Member terms; priority.

(1) A member of the Board shall serve a term of three years and until their successor has been appointed.

(2) In the event of a vacancy occurring during a member's term, the vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(3)(A) When selecting members of the Board, appointing authorities shall give priority to, and shall seek to appoint, Vermonters who satisfy one or more of the following:

(i) are a member of a historically marginalized or disadvantaged community;

(ii) represent the interests of Vermonters from historically marginalized or disadvantaged communities; or

(iii) have expertise regarding access to housing, land, agriculture, or credit.

(4) A member may serve not more than two full terms. A member who is appointed to fill a vacancy occurring during a term may serve two full terms in addition to the unexpired portion of the term during which the member is first appointed.

(d) Compensation. Board members shall be entitled to per diem compensation and reimbursement of expenses pursuant 32 V.S.A. § 1010 for meetings as deemed appropriate by the Board within the appropriation provided. These payments shall be made from monies appropriated to VHCB for the support and administration of the Board.

(e) Meetings. The Executive Director of Racial Equity or designee shall call the first meeting of the Board to occur on or before September 1, 2022.

(f) Powers and duties of the Board. The Board may do the following:

(1) Advise VHCB, the Vermont Housing Finance Agency, the Vermont Economic Development Authority, the Vermont Agricultural Credit Corporation, and other affordable housing and land access stakeholders regarding policy development and programs to promote racial, social, economic, and climate justice for Vermonters from historically marginalized or disadvantaged communities.

(2) Retain wealth, financial, and real estate advisors who are Vermonters from historically marginalized or disadvantaged communities and use the services of those advisors to provide education and guidance for Vermonters from historically marginalized or disadvantaged communities.

(3) Retain Vermonters from historically marginalized or disadvantaged communities with expertise in agriculture, agronomics, and natural resource and land management to provide regenerative natural resource services to Vermonters from historically marginalized or disadvantaged communities.

(4) Work with VHCB; the Agency of Agriculture, Food and Markets; the Departments of Financial Regulation and of Housing and Community Development; the Vermont Sustainable Jobs Fund; the Vermont Housing Finance Agency; the Vermont State Housing Authority; the Vermont Economic Development Agency; and other State entities to:

(A) develop metrics relevant to historically marginalized or disadvantaged communities to understand disparities and track progress in addressing disparities and improving opportunities; and

(B) develop strategies and plans to more effectively reach out and provide access to resources that can overcome structural barriers to housing and land ownership, including an examination of:

(i) debt-to-income ratios;

(ii) impacts from redlining;

(iii) the impact of algorithmic systems of decision making, including the impact of credit scores and criminal background checks;

(iv) the impact of shared equity programs and homeownership programs on wealth disparity; and

(v) other practices that increase discrimination, disparities, and inequities in land access, property ownership, and wealth acquisition.

(5) Work with the Department of Taxes to recommend options and opportunities to provide advantageous tax treatment to properties owned by Vermonters who come from historically marginalized or disadvantaged communities.

(6)(A) Review, monitor, and recommend options and opportunities to redress State policies, procedures, practices, laws, and rules related to racial and social equity in property ownership for the benefit of Vermonters from historically marginalized or disadvantaged communities.

(B) Collaborate with VHCB and other affordable housing stakeholders to recommend programs and related rules to provide loans, grants, and financial assistance to individuals from historically marginalized or disadvantaged communities.

(7) Develop one or more programs with associated rules and procedures to distribute grants, to the extent funds are appropriated for the purpose, for:

(A) community-based groups and programs that will improve land and housing access, safety, and health for historically marginalized or disadvantaged communities; and

(B) individual and collective property and home ownership or housing improvements to support safe and sustainable residences for historically marginalized or disadvantaged communities.

(8) Identify, examine, and make recommendations to redress the limitations and problems associated with existing laws, rules, programs, and services related to property ownership for Vermonters from historically marginalized or disadvantaged communities.

§ 325v. ACCEPTANCE OF GRANTS AND CONTRIBUTIONS

The Board may accept from any governmental department or agency, public or private body, or any other source, grants or contributions to be used in carrying out the provisions of this subchapter.

Sec. 22c. INITIAL REPORT; VERMONT LAND ACCESS AND OPPORTUNITY BOARD

On or before January 15, 2023, in consultation with the Vermont Housing and Conservation Board and any contractors hired for this purpose, the Vermont Land Access and Opportunity Board shall submit a written report to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs with initial recommendations related to the goals set forth in 10 V.S.A. § 325u. The report and recommendations shall primarily address legal, constitutional, and

governance questions relevant to the functions of the Board, including grant making and how to fund, organize, and structure the Board as a permanent instrumentality of the State of Vermont.

Sec. 23. EFFECTIVE DATES

This act shall take effect on July 1, 2022, except that Sec. 11 (Missing Middle Pilot Program) and Sec. 21 (tax sales) shall take effect on passage.

Report of Committee of Conference

H. 740.

An act relating to making appropriations for the support of government.

(For text of Report of the Committee of Conference see Addendum to Senate Calendar for May 10, 2022)

Addendum to the Report of Committee of Conference

H. 740

An act relating to making appropriations for the support of government.

By adding a new section to be Sec. E.400.1 to read as follows:

Sec. E.400.1. UNEMPLOYMENT INSURANCE; INFORMATION
TECHNOLOGY MODERNIZATION FUNDING; REPORT

(a) On or before January 15, 2023, the Commissioner of Labor shall submit a written report to the House Committees on Commerce and Economic Development and on Ways and Means and the Senate Committees on Economic Development, Housing and General Affairs and on Finance evaluating potential funding mechanisms to support ongoing unemployment insurance information technology modernization and unemployment-insurance-related administrative costs without utilizing appropriations from the General Fund.

(b) The report shall do the following:

(1) identify and evaluate funding mechanisms utilized by other states for similar purposes;

(2) in the Commissioner's discretion, identify and evaluate other potential funding mechanisms that could support ongoing unemployment insurance information technology modernization and unemployment-insurance-related administrative costs; and

(3) examine any benefits, adverse impacts, or challenges related to implementing the identified funding mechanisms.

(c) The report shall include a recommendation for one or more funding mechanisms to support ongoing unemployment insurance information technology modernization and unemployment-insurance-related administrative costs without utilizing appropriations from the General Fund. The report may include a recommendation for legislative action to implement the recommended funding mechanism or mechanisms.

*M. JANE KITCHEL
PHILIP E. BARUTH
RICHARD A. WESTMAN*

Committee on the part of the Senate

*MARY S. HOOPER
PETER J. FAGAN
KIMBERLY JESSUP*

Committee on the part of the House

NEW BUSINESS

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

S. 280

An act relating to miscellaneous changes to laws related to vehicles

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

By striking out Secs. 10, 23 V.S.A. § 754; 11, transportation network companies (TNC) report; 12, 19 V.S.A. § 10b; 13, 19 V.S.A. § 10i; and 14, effective dates, and their corresponding reader assistance headings in their entireties and inserting in lieu thereof the following:

* * * Gross Weight Limits on Highways; Permit Portal; Report * * *

Sec. 10. 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. 11. 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. 12. 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. 13. 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. 14. 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. 15. EFFECTIVE DATES

(a) This section and Secs. 1 (new motor vehicle arbitration; 9 V.S.A. § 4173(d)), 3 (current Total Abstinence Program participants), and 8 and 9 (abandoned vehicles; 23 V.S.A. §§ 2151 and 2153(a)) 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.

NOTICE CALENDAR

Second Reading

Favorable

H. 320.

An act relating to prohibiting agreements that prevent an employee from working for the employer following the settlement of a discrimination claim.

Reported favorably by Senator Clarkson for the Committee on Economic Development, Housing and General Affairs.

(Committee vote: 3-1-1)

(For House amendments, see House Journal of February 1, 2022, pages 167-168)

House Proposal of Amendment

S. 250

An act relating to law enforcement data collection and interrogation

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. 20 V.S.A. § 2366 is amended to read:

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

* * *

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

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

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

(3) On or before ~~September~~ July 1, 2016 2023 and annually thereafter, law enforcement agencies shall provide all data collected by the agency, including the data collected under this subsection, to the Executive Director of Racial Equity and the vendor chosen by the Criminal Justice Council under

subdivision (2) of this subsection or, in the event the vendor is unable to continue receiving data under this section, to the Council. Law enforcement agencies shall provide the data collected under this subsection in an electronic format specified by the receiving entity.

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

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

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

* * *

Sec. 2. GIGLIO DATABASE; STUDY COMMITTEE; REPORT

(a) Creation. There is created the Giglio Database Study Committee to study the appropriate structure and process to administer a database designed to catalogue potential impeachment information concerning law enforcement agency witnesses or affiants to enable a prosecutor to disclose such information consistently and appropriately under the obligations of *Giglio v. United States*, 405 U.S. 150 (1972), and its progeny.

(b) Membership. The Giglio Database Study Committee shall be composed of the following members:

(1) two current members of the House of Representatives, not from the same political party, who shall be appointed by the Speaker of the House;

(2) two current members of the Senate, not from the same political party, who shall be appointed by the President Pro Tempore;

(3) the Commissioner of the Department of Public Safety or designee;

(4) the Executive Director of the Vermont Criminal Justice Council or designee;

- (5) the President of the Vermont Sheriffs' Association or designee;
- (6) the President of the Vermont Association of Chiefs of Police or designee;
- (7) the Executive Director of the Vermont Office of Racial Equity;
- (8) the Attorney General or designee;
- (9) the Executive Director of the Department of State's Attorneys and Sheriffs or designee; and
- (10) the Defender General or designee.

(c) Powers and duties. The Giglio Database Study Committee shall study the appropriate structure and process to administer a law enforcement officer information database designed to facilitate the disclosure of potential impeachment information by prosecutors pursuant to legal obligations. The Committee shall study the following:

- (1) the appropriate department or agency to manage and administer the database;
- (2) the type and scope of information maintained in the database;
- (3) any gatekeeping functions used to review information before it is entered into the database;
- (4) any due process procedures to dispute information entered into the database;
- (5) how to securely maintain the database;
- (6) the appropriate access to the database;
- (7) the confidentiality of the information maintained in, or accessed from, the database; and
- (8) the resources necessary to effectively administer and maintain the database.

(d) Report. On or before December 1, 2022, the Giglio Database Study Committee shall submit a written report with legislative recommendations to the House and Senate Committees on Government Operations.

(e) Assistance. The Giglio Database Study Committee shall have the administrative, technical, and legal assistance of the Vermont Criminal Justice Council and any other stakeholders interested in assisting with the report.

(f) Meetings.

(1) The Executive Director of the Office of Racial Equity or designee shall call the first meeting of the Committee to occur on or before July 15, 2022.

(2) The Executive Director of the Office of Racial Equity shall select a chair from among its members at the first meeting.

(3) The Committee shall meet six times.

(4) A majority of the membership shall constitute a quorum.

(5) The Giglio Database Study Committee shall cease to exist on December 15, 2022.

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Giglio Database Study Committee shall be entitled to per diem compensation pursuant to 2 V.S.A. § 23 for not more than six meetings. These payments shall be made from monies appropriated to the General Assembly.

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

§ 5585. ELECTRONIC RECORDING OF A CUSTODIAL
INTERROGATION

(a) As used in this section:

(1) “Custodial interrogation” means any interrogation:

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

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

* * *

(3) “Place of detention” means a building or a police station that is a place of operation for the State police, a municipal police department, county sheriff department, or other law enforcement agency that is owned or operated by a law enforcement agency at which persons are or may be questioned in connection with criminal offenses or detained temporarily in connection with criminal charges pending a potential arrest or citation.

(4) “Statement” means an oral, written, sign language, or nonverbal communication.

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

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

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

(A) exigent circumstances;

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

(C) interrogations conducted by other jurisdictions;

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

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

(F) equipment malfunction.

* * *

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

(a) The Joint Legislative Justice Oversight Committee shall study the use of deceptive and coercive interrogation tactics employed by law enforcement in the State of Vermont. In particular, the study shall consider:

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

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

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

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

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

(b) The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Counsel. The Committee may have the assistance of the Vermont Criminal Justice Council in drafting the report, along with any other stakeholders interested in assisting. On or before December 1, 2022, the Committee shall submit a report in the form of proposed legislation.

Sec. 5. 20 V.S.A. § 2222 is amended to read:

§ 2222. FEDERAL LAW ENFORCEMENT OFFICERS; POWER OF ARREST FOR VERMONT CRIMES

(a) For purposes of this section, “a certified federal law enforcement officer” means a federal law enforcement officer who:

(1) is employed as a law enforcement officer of the federal government as:

(A) a special agent, border patrol agent, or immigration inspector of the Immigration and Naturalization Service, U.S. Department of Justice; ~~or~~

(B) an officer or inspector of the U.S. Customs Service of the Department of the Treasury; ~~and~~ or

(C) a special agent, inspector, or member of the police service of the U.S. Department of Veterans Affairs;

(2) has satisfactorily completed a course of study in Vermont laws and criminal procedures approved by the Vermont Criminal Justice Council, at the expense of the officer’s agency;

(3) has been certified by the Commissioner of Public Safety pursuant to subsection (b) of this section; and

(4) has taken an oath administered by the Commissioner of Public Safety or by the Commissioner’s designee to uphold the Constitution of the State of Vermont.

* * *

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

House Proposal of Amendment to Senate Proposal of Amendment

H. 572

An act relating to the retirement allowance for interim educators

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

First: In Sec. 1, FY 2023; restoration of service; Vermont State Teachers' Retirement System, by striking out subdivision (a)(3) in its entirety and inserting a new subdivision (a)(3) to read as follows:

(3) the employer of the beneficiary remits payment to the Vermont Teachers' Retirement Fund, established in 16 V.S.A. § 1944, in an amount equal to the contribution rate established for members of the beneficiary's group for any period that service is resumed.

Second: By adding a new Sec. 2 to read as follows:

Sec. 2. 16 V.S.A. § 1949 is amended to read:

§ 1949. POSTRETIREMENT ADJUSTMENTS TO RETIREMENT ALLOWANCES

~~(a) For all Group A members, as of June 30 in each year, beginning June 30, 1972, the Board shall determine any increase or decrease, to the nearest one-tenth of one percent, in the ratio of the average of the Consumer Price Index for the month ending on that date to the average of the Index for the month ending on June 30, 1971, or the month ending on June 30 of the most recent year thereafter. In the event of an increase, and provided that the net increase following the application of any offset as provided in this subsection equals or exceeds one percent, the retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31 shall be increased by an equal percentage. Such increase shall begin on the January 1 immediately following that December 31. An equivalent percentage increase shall also be made in the retirement allowance payable to a beneficiary in receipt of an allowance under an optional election, provided the member on whose account the allowance is payable and such other person shall have received a total of at least 12 monthly payments by such December 31. In the event of a decrease of the Consumer Price Index as of June 30 for the preceding year, the retirement allowance of a beneficiary shall not be subject to any adjustment on the next following January 1; provided, however, that:~~

~~(1) such decrease shall be applied as an offset against the first subsequent year's increase of the Consumer Price Index when such increase equals or exceeds one percent, up to the full amount of such increase; and~~

~~(2) to the extent that such decrease is greater than such subsequent year's increase, such decrease shall be offset in the same manner against two or more years of such increases, for up to but not exceeding five subsequent years of such increases, until fully offset. Postretirement adjustments to retirement allowance. On January 1 of each year, the retirement allowance of each beneficiary of the System who is in receipt of a retirement allowance for at least a one-year period as of December 31 in the previous year, and who meets the eligibility criteria set forth in this section, shall be adjusted by the amount described in subsection (d) of this section. In no event shall a beneficiary receive a negative adjustment to the beneficiary's retirement allowance.~~

~~(b) For Group C members, as of June 30 in each year, commencing June 30, 1981, a determination shall be made of any increase or decrease, to the nearest one-tenth of a percent of the Consumer Price Index for the preceding fiscal year. In the event of an increase, and provided that there exists a net increase following the application of any offset as provided in this subsection, the retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31 shall be increased by an amount equal to one-half of the net percentage increase. The increase shall commence on the January 1 immediately following that December 31. The increase shall apply to Group C members having attained 57 years of age or completed at least 25 years of creditable service as of June 30, 2010, and receiving an early retirement allowance only in the year following attainment of age 62, and shall apply to Group C members not having attained 57 years of age or having completed at least 25 years of creditable service as of June 30, 2010, and receiving an early retirement allowance only in the year following the member's attainment of 65 years of age, provided the member has received benefits for at least 12 months as of December 31 of the year preceding any January adjustment. In the event of a decrease of the Consumer Price Index as of June 30 for the preceding year, the retirement allowance of a beneficiary shall not be subject to any adjustment on the next following January 1; provided, however, that:~~

~~(1) such decrease shall be applied as an offset against the first subsequent year's increase of the Consumer Price Index, up to the full amount of such increase; and~~

~~(2) to the extent that such decrease is greater than such subsequent year's increase, such decrease shall be offset in the same manner against two~~

~~or more years of such increases, for up to but not exceeding five subsequent years of such increases, until fully offset. Calculation of net percentage increase. Each year, a determination shall be made of any increase or decrease, to the nearest one-tenth of a percent, in the Consumer Price Index for the month ending on June 30 of that year to the average of the Consumer Price Index for the month ending on June 30 of the previous year.~~

(1) Consumer Price Index; maximum and minimum amounts. Any increase or decrease in the Consumer Price Index shall be subject to adjustment so as to remain within the following maximum and minimum amounts:

(A) For Group A members and Group C members who are eligible for normal retirement or unreduced early retirement, or who are vested deferred, on or before June 30, 2022, the maximum amount of any increase or decrease utilized to determine the net percentage increase shall be five percent.

(B) For Group C members who are eligible for retirement and leave active service on or after July 1, 2022, the maximum amount of any increase or decrease utilized to determine the net percentage increase shall be four percent.

(2) Consumer Price Index; decreases. In the event of a decrease of the Consumer Price Index as of June 30 for the preceding year, there shall be no adjustment to the retirement allowance of a beneficiary for the subsequent year beginning on January 1; provided, however, that:

(A) such decrease shall be applied as an offset against the first subsequent year's increase of the Consumer Price Index up to the full amount of such increase; and

(B) to the extent that such decrease is greater than such subsequent year's increase, such decrease shall be offset in the same manner against two or more years of such increases, for up to but not exceeding five subsequent years of such increases, until fully offset.

(3) Consumer Price Index; increases. Subject to the maximum and minimum amounts set forth in subdivision (1) of this subsection, in the event of an increase in the Consumer Price Index, and provided there remains an increase following the application of any offset as in subdivision (2) of this subsection, that amount shall be identified as the net percentage increase and used to determine the members' postretirement adjustment as set forth in subsection (d) of this section.

~~(c) For purposes of subsection (a) of this section, the maximum amount of any increase or decrease utilized to determine the net percentage increase shall~~

~~be five percent. For purposes of subsection (b) of this section, the maximum amount of any increase or decrease utilized to determine the net percentage increase shall be five percent, and any increase or decrease less than one percent shall be assigned a value of one percent. Eligibility for postretirement adjustment. In order for a beneficiary to receive a postretirement adjustment allowance, the beneficiary must meet the following eligibility requirements:~~

(1) for any Group A or Group C member eligible for retirement, or who is vested deferred, on or before June 30, 2022, the member must be in receipt of a retirement allowance for at least 12 months prior to the January 1 effective date of any postretirement adjustment; and

(2) for any Group C member who is eligible for retirement and leaves active service on or after July 1, 2022, the member must be in receipt of a retirement allowance for at least 24 months prior to the January 1 effective date of any postretirement adjustment.

(d) Amount of postretirement adjustment. The postretirement adjustment for each member who meets the eligibility criteria set forth in subsection (c) shall be as follows:

(1) the full amount of the net percentage increase calculated pursuant to subsection (b) of this section for all Group A members; and

(2) one-half of the net percentage increase for all Group C members.

(e) As used in this section, “Consumer Price Index” shall mean the Northeast Region Consumer Price Index for all urban consumers, designated as “CPI-U,” in the northeast region, as published by the U.S. Department of Labor, Bureau of Labor Statistics.

And by renumbering the remaining section to be numerically correct.

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.

Joan Goldstein of Royalton – Commissioner, Department of Economic Development – By Sen. Sirotkin for the Committee on Economic Development, Housing and General Affairs. (5/13/22)

Joshua C. Hanford of Randolph Center – Commissioner, Department of Housing and Community Development – By Sen. Sirotkin for the Committee on Economic Development, Housing and General Affairs. (5/13/22)

Lindsay Kurrle of Middlesex – Secretary, Agency of Commerce and Community Development – By Sen. Sirotkin for the Committee on Economic Development, Housing and General Affairs. (5/13/22)

Heather Pelham of Randolph Center – Commissioner, Department of Tourism and Marketing – By Sen. Sirotkin for the Committee on Economic Development, Housing and General Affairs. (5/13/22)

Jamie Dragon of Stowe – Member, Fish and Wildlife Board – By Sen. MacDonald for the Committee on Natural Resources and Energy. (5/13/22)

Michael Donohue of Shelburne – Member, Vermont Economic Progress Council – By Sen. Sirotkin for the Committee on Economic Development, Housing and General Affairs. (5/13/22)

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]

JFO #3098 – One (1) limited-service position, Environmental Analyst IV, to the Agency of Natural Resources, Department of Environmental Conservation. This position will assist with coordination of the \$10M Regional Partnership Program grant which supports DEC's work on creative and innovative approaches to water quality. Position funded through previously approved grant #2762 through 12/31/2024.

[Received April 18, 2022]