

Journal of the House

Wednesday, May 19, 2021

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

A moment of silence was held in lieu of a devotional.

Third Reading; Bill Passed in Concurrence With Proposal of Amendment

S. 7

Senate bill, entitled

An act relating to expanding access to expungement and sealing of criminal history records

Was taken up, read the third time, and passed in concurrence with proposal of amendment.

Third Reading; Bill Passed in Concurrence With Proposal of Amendment

S. 101

Senate bill, entitled

An act relating to promoting housing choice and opportunity in smart growth areas

Was taken up, read the third time, and passed in concurrence with proposal of amendment.

Rules Suspended; Report of Committee of Conference Adopted

H. 433

Appearing on the Calendar for Notice, on motion of **Rep. McCoy of Poultney**, the rules were suspended and House bill, entitled

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

Was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses respectfully reported that it met and considered the same and recommended the following:

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House Bill entitled:

H. 433 An act relating to the Transportation Program and miscellaneous changes to laws related to transportation.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

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

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

(a) The Agency of Transportation's Proposed Fiscal Year 2022 Transportation Program appended to the Agency of Transportation's proposed fiscal year 2022 budget, as amended by this act, is adopted to the extent federal, State, and local funds are available.

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

(1) "Agency" means the Agency of Transportation.

(2) "Electric bicycle" means a bicycle equipped with fully operable pedals, a saddle or seat for the rider, and an electric motor of less than 750 watts.

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

(4) "Plug-in electric vehicle (PEV)," "plug-in hybrid electric vehicle (PHEV)," and "battery electric vehicle (BEV)" have the same meanings as in 23 V.S.A. § 4(85).

(5) "Secretary" means the Secretary of Transportation.

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

(7) The table heading "As Proposed" means the Proposed Transportation Program referenced in subsection (a) of this section; the table heading "As Amended" means the amendments as made by this act; the table

heading “Change” means the difference obtained by subtracting the “As Proposed” figure from the “As Amended” figure; and the terms “change” or “changes” in the text refer to the project- and program-specific amendments, the aggregate sum of which equals the net “Change” in the applicable table heading.

(c) In the Agency of Transportation’s Proposed Fiscal Year 2022 Transportation Program for Town Highway Aid, the value “\$26,017,744” is struck and “\$27,105,769” is inserted in lieu thereof to correct a typographic error.

* * * Summary of Transportation Investments * * *

Sec. 2. FISCAL YEAR 2022 TRANSPORTATION INVESTMENTS
INTENDED TO REDUCE TRANSPORTATION-RELATED
GREENHOUSE GAS EMISSIONS, REDUCE FOSSIL FUEL
USE, AND SAVE VERMONT HOUSEHOLDS MONEY

This act includes the State’s fiscal year 2022 transportation investments intended to reduce transportation-related greenhouse gas emissions, reduce fossil fuel use, and save Vermont households money in furtherance of the policies articulated in 19 V.S.A. § 10b and the goals of the Comprehensive Energy Plan and to satisfy the Executive and Legislative Branches’ commitments to the Paris Agreement climate goals. In fiscal year 2022, these efforts will include the following:

(1) Park and Ride Program. This act provides for a fiscal year expenditure of \$5,220,233.00, which will fund three park and ride construction projects, including the creation of two new park and ride facilities; the design of two additional park and ride facilities scheduled for construction in future fiscal years; and paving projects for existing park and ride facilities. This year’s Park and Ride Program will create 226 new State-owned spaces. Specific additions and improvements include:

(A) Berlin (Exit 6)—Design for 62 spaces;

(B) Berlin (Exit 7)—Construction of 34 new spaces;

(C) Manchester—Design for 50 spaces;

(D) Williamstown-Northfield (Exit 5)—Construction of 50 new spaces; and

(E) Williston—Construction of 142 new spaces.

(2) Bike and Pedestrian Facilities Program. This act, in concert with 2020 Acts and Resolves No. 139, Sec. 12(b)(1), provides for a fiscal year expenditure, including local match, of \$21,180,936.00, which will fund 27

bike and pedestrian construction projects; two new pedestrian bridge installations; and 12 bike and pedestrian design, right-of-way, or design and right-of way projects for construction in future fiscal years. The construction projects include the creation, improvement, or rehabilitation of walkways, sidewalks, shared-use paths, bike paths, and cycling lanes. In addition to the Lamoille Valley Rail Trail, which will run from Swanton to St. Johnsbury, projects are funded in Arlington, Bennington, Brattleboro, Chester, Colchester-Essex, Dover, East Montpelier, Enosburg Falls, Hartford, Hartland, Hinesburg, Jericho, Johnson, Lincoln, Middlebury, Moretown, Plainfield, Poultney, Proctor, Richford, Rutland City, Shelburne, South Burlington, Springfield, St. Albans City, Swanton, Underhill, Vergennes, Waitsfield, Waterbury, Williston, Wilmington, and Winooski. This act also provides State funding for some of Local Motion's operation costs to run the Bike Ferry on the Colchester Causeway, which is part of the Island Line Trail; funding for the small-scale municipal bicycle and pedestrian grant program for projects to be selected during the fiscal year; and funding for bicycle and pedestrian education activities being conducted through a grant to Local Motion.

(3) Transportation Alternatives Program. This act provides for a fiscal year expenditure of \$5,567,868.00, including local funds, which will fund 22 transportation alternatives construction projects and 20 transportation alternatives design, right-of-way, or design and right-of-way projects. Of these 42 projects, seven involve environmental mitigation related to clean water, stormwater, or both clean water and stormwater concerns, and nine involve bicycle and pedestrian facilities. Projects are funded in Bennington, Bridgewater, Bridport, Burlington, Castleton, Chester, Colchester, Derby, Duxbury, East Montpelier, Enosburg, Essex, Essex Junction, Fair Haven, Fairfax, Franklin, Granville, Hartford, Hyde Park, Jericho, Montgomery, Newfane, Norwich, Pittsford, Proctor, Rutland Town, South Burlington, St. Albans City, St. Johnsbury, Vergennes, Warren, Wilmington, and Winooski.

(4) Public Transit Program.

(A) Sec. 31 of this act expresses the General Assembly's intent that all public transit, both rural and urban, be operated on a zero-fare basis in fiscal year 2022, as practicable, with monies for public transit from the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136 (CARES Act); the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260; and the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (ARPA).

(B) Sec. 32 of this act requires the Agency to review and implement coordinated intermodal connections, to the extent practicable, to ensure efficient and accessible intermodal transportation opportunities in Vermont and support the cross promotion of intermodal connections.

(C) Sec. 34 of this act requires the Agency to prepare a long-range plan that outlines the costs, timeline, training, maintenance, and operational actions required to move to a fully electric public transportation fleet.

(D) This act also authorizes \$45,821,522.00 in funding for public transit uses throughout the State, which is an 11.1 percent increase over fiscal year 2021 levels and a 24.4 percent increase over fiscal year 2020 levels. Included in the authorization are:

(i) Go! Vermont, with an authorization of \$793,400.00. This authorization supports the promotion and use of carpools and vanpools.

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

(iii) Opioid Treatment Pilot, with an authorization of \$84,064.00. This authorization supports the transit needs of Vermonters in need of opioid treatment services.

(5) Rail Program. This act authorizes \$36,780,019.00, including local funds, for intercity passenger rail service and rail infrastructure throughout the State, including modifications to the Burlington Vermont Rail Systems railyard to accommodate overnight servicing to facilitate New York City–Burlington rail service.

(6) Transformation of the State Vehicle Fleet. The Department of Buildings and General Services, which manages the State Vehicle Fleet, currently has 25 PHEVs and two BEVs in the State Vehicle Fleet. In fiscal year 2022, the Department of Buildings and General Services expects to add 12 additional PHEVs and eight additional BEVs to the fleet.

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

(A) Sec. 29 of this act authorizes up to \$1,000,000.00 to the Interagency EVSE Grant Program for a pilot program for EVSE at multi-unit affordable housing and multi-unit dwellings owned by a nonprofit; and

(B) Sec. 30 of this act sets a State goal to have a level 3 EVSE charging port available to the public within five miles of every exit of the Dwight D. Eisenhower National System of Interstate and Defense Highways within the State and 50 miles of another level 3 EVSE charging port available to the public along a State highway and requires the annual filing of an up-to-date map showing the locations of all level 3 EVSE available to the public within the State with the House and Senate Committees on Transportation until this goal is met.

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

(A) Incentive Program for New PEVs and partnership with Drive Electric Vermont. Sec. 17 of this act authorizes:

(i) up to an additional \$250,000.00 for the Agency to continue and expand the Agency's public-private partnership with Drive Electric Vermont to support the expansion of the PEV market in the State; and

(ii) at least \$3,000,000.00 for PEV purchase and lease incentives under the Incentive Program for New PEVs, which is the State's program to incentivize the purchase and lease of new PEVs, and capped administrative costs.

(B) MileageSmart. Sec. 20 of this act authorizes up to \$1,250,000.00 for purchase incentives under MileageSmart, which is the State's used high-fuel-efficiency vehicle incentive program, and capped administrative costs.

(C) Emissions repairs. Sec. 25 of this act authorizes up to \$375,000.00 for emissions repair vouchers and capped startup and administrative costs.

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

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

(9) PEV rate design. Sec. 33 of this act requires the State's electric distribution utilities to offer PEV rates for public and private EVSE not later than June 30, 2024.

(10) Improvements to high-use corridors. Sec. 39 of this act requires the Agency to continue to improve highways as required under statute in order to enhance safety and accessibility on highways with a particular focus on high-use corridors identified in the On-Road Bicycle Plan prepared in April 2016 or a subsequent update.

(11) Transportation equity framework. Sec. 41 of this act requires the Agency, in consultation with the State's 11 Regional Planning Commissions (PRCs), to complete and report back on a comprehensive analysis of the State's existing transportation programs and develop a recommendation on a transportation equity framework that can be used to advance mobility equity, which is a transportation system that increases access to mobility options,

reduces air pollution, and enhances economic opportunity for Vermonters in communities that have been underserved by the State's transportation system. As part of this analysis, the RPCs are required to engage in a targeted public outreach process.

* * * Highway Maintenance * * *

Sec. 3. HIGHWAY MAINTENANCE

Within the Agency of Transportation's Proposed Fiscal Year 2022 Transportation Program for Maintenance, spending is amended as follows:

<u>FY22</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal	45,339,790	45,339,790	0
Services			
Operating	57,902,709	57,902,709	0
Expenses			
Grants	277,000	277,000	0
Total	103,519,499	103,519,499	0
<u>Sources of funds</u>			
State	92,516,712	87,191,712	-5,325,000
Federal	10,902,787	16,227,787	5,325,000
Interdepartmental			
Transfer	100,000	100,000	0
Total	103,519,499	103,519,499	0

* * * Bridge 61; Program Development; Town Highway Bridges * * *

Sec. 4. BRIDGE 61 IN SPRINGFIELD, VT

(a) Within the Agency of Transportation's Proposed Fiscal Year 2022 Transportation Program, the following project is moved from Program Development to Town Highway Bridges: Springfield BF 0134(49).

(b) Authorized spending for Springfield BF 0134(49) is not modified in any way.

* * * DMV IT System Replacement * * *

Sec. 5. DMV IT SYSTEM REPLACEMENT

(a) The following project is added to the Agency of Transportation's Proposed Fiscal Year 2022 Transportation Program for the Department of Motor Vehicles: DMV IT System Replacement.

(b) Within the Agency of Transportation's Proposed Fiscal Year 2022 Transportation Program for the Department of Motor Vehicles, spending authority for the DMV IT System Replacement Project is authorized as follows:

<u>FY22</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Operating Expenses	0	24,500,000	24,500,000
Total	0	24,500,000	24,500,000
<u>Sources of funds</u>			
Federal	0	24,500,000	24,500,000
Total	0	24,500,000	24,500,000

(c) Notwithstanding any other provision of law and subject to the approval of the Secretary of Administration, any amount of the appropriation for the DMV IT System Replacement Project remaining unexpended on June 30, 2022 shall be carried forward and designated for expenditure on the DMV IT System Replacement Project in the subsequent fiscal year.

* * * Roadway Projects; Phosphorus Control Planning * * *

Sec. 6. ROADWAY PROJECTS; STATEWIDE PHOSPHORUS CONTROL PLANNING

(a) The following project is added to the Agency of Transportation’s Proposed Fiscal Year 2022 Transportation Program for Roadway: Statewide PCP().

(b) Within the Agency of Transportation’s Proposed Fiscal Year 2022 Transportation Program for Roadway, spending authority for the Statewide PCP() Project is authorized as follows:

<u>FY22</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	2,250,000	2,250,000
ROW	0	150,000	150,000
Construction	0	600,000	600,000
Total	0	3,000,000	3,000,000
<u>Sources of funds</u>			
Federal	0	3,000,000	3,000,000
Total	0	3,000,000	3,000,000

(c) Notwithstanding any other provision of law and subject to the approval of the Secretary of Administration, any amount of the appropriation for the Statewide PCP() Project remaining unexpended on June 30, 2022 shall be carried forward and designated for expenditure on the Statewide PCP() Project in the subsequent fiscal year.

* * * Municipal Mitigation Assistance Program * * *

Sec. 7. MUNICIPAL MITIGATION ASSISTANCE PROGRAM

Within the Agency of Transportation’s Proposed Fiscal Year 2022 Transportation Program for Municipal Mitigation Assistance Program,

spending is amended as follows:

<u>FY22</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Operating Expenses	265,000	265,000	0
Grants	5,845,000	6,345,000	500,000
Total	6,110,000	6,610,000	500,000
<u>Sources of funds</u>			
State	705,000	705,000	0
Federal	1,428,000	1,928,000	500,000
Other	3,977,000	3,977,000	0
Total	6,110,000	6,610,000	500,000

* * * New Haven Train Depot * * *

Sec. 8. NEW HAVEN TRAIN DEPOT

In fiscal year 2022, the Agency is authorized to spend up to \$400,000.00 in one-time Transportation Fund monies to provide a grant to the Town of New Haven to cover a portion of the costs associated with relocating the New Haven Train Depot currently located at the junction of Routes 7 and 17.

* * * Repeal of U.S. Route 4 Permit * * *

Sec. 9. LEGISLATIVE INTENT

(a) It is the intent of the General Assembly not to repeal 23 V.S.A. § 1432(c), pursuant to Secs. 10 and 42(b) of this act, until the Agency of Transportation:

(1) works with the Town of Woodstock to identify safety concerns related to tractor trailers traveling through the Town on U.S. Route 4; and

(2) incorporates improvements it determines, in its sole authority, are feasible within the town highway right-of-way and scope of work for Woodstock NH PC21(5) within the Agency's Proposed Fiscal Year 2022 Transportation Program for Program Development—Paving.

(b) The project identified as Woodstock NH PC21(5) is expected to be completed during the summer 2021 construction season and there is no projected fiscal year 2023 funding for the project included in the Proposed Fiscal Year 2022 Transportation Program, so having the repeal of 23 V.S.A. § 1432(c) be effective on July 1, 2022 should provide sufficient time for the Agency to work with the Town to design and complete the project identified as Woodstock NH PC21(5) and the Town to make any additional improvements that it deems necessary.

Sec. 10. 23 V.S.A. § 1432(c) is amended to read:

~~(c) Operation on U.S. Route 4. Notwithstanding any other law to the contrary, vehicles with a trailer or semitrailer that are longer than 68 feet but not longer than 75 feet may be operated with a single or multiple trip overlength permit issued at no cost by the Department of Motor Vehicles or, for a fee, by an entity authorized in subsection 1400(d) of this title on U.S. Route 4 from the New Hampshire state line to the junction of VT Route 100 south, provided the distance from the kingpin of the semitrailer to the center of the rearmost axle group is not greater than 41 feet. [Repealed.]~~

~~*** Town Highway Aid ***~~

Sec. 11. TOWN HIGHWAY AID

(a) Notwithstanding 19 V.S.A. § 306(a), the fiscal year 2022 budget increases the annual appropriation for aid to town highways by \$3,000,000.00 in one-time Transportation Fund monies to a total of \$30,105,769.00, which shall be distributed to municipalities in the same apportionments and for the same purposes as prescribed under 19 V.S.A. § 306(a)(3).

(b) The additional \$3,000,000.00 in one-time Transportation Fund monies shall not be included in any subsequent calculations for the annual appropriation for aid to town highways pursuant to 19 V.S.A. § 306(a).

~~*** Federal Infrastructure Funding ***~~

Sec. 12. FEDERAL INFRASTRUCTURE FUNDING

(a) Notwithstanding Sec. 1 of this act; 2020 Acts and Resolves No. 121, Sec. 1; 19 V.S.A. § 10g(n); and 32 V.S.A. § 706, if a federal infrastructure bill or other federal legislation that provides for infrastructure funding is enacted that provides Vermont with additional federal funding for transportation-related projects, the Secretary, with approval from the Joint Transportation Oversight Committee pursuant to subdivision (c)(2) of this section, is authorized to exceed federal monies spending authority in the Fiscal Year 2021 and Fiscal Year 2022 Transportation Programs and to obligate and expend federal monies and up to \$2,000,000.00 in State Transportation Fund monies on development and evaluation for additional projects that meet federal eligibility and readiness criteria and have been evaluated through the Agency's prioritization process but are not in the Fiscal Year 2021 or Fiscal Year 2022 Transportation Program.

(b) Nothing in subsection (a) of this section shall be construed to authorize the Secretary to obligate or expend:

(1) State TIB funds above amounts authorized in the Fiscal Year 2021 or Fiscal Year 2022 Transportation Program; or

(2) State Transportation Fund monies if the Agency does not:

(A) expect to accept and obligate federal monies pursuant to subsection (a) of this section in an amount sufficient to cover the additional expenditure of State Transportation Fund monies; and

(B) expect the projects for which State Transportation Fund monies are used to eventually be eligible for funding entirely through federal monies.

(c)(1) The Agency shall promptly report the obligation or expenditure of monies under the authority of this section to the House and Senate Committees on Transportation and to the Joint Fiscal Office while the General Assembly is in session.

(2)(A) Consistent with 19 V.S.A. § 12b(c), the Agency shall promptly report any changes in the availability of federal funds and the anticipated obligation or expenditure of monies under the authority of this section to the Joint Fiscal Office, the Joint Fiscal Committee, and the Joint Transportation Oversight Committee.

(B) If the Joint Transportation Oversight Committee disapproves of the anticipated obligation or expenditure of monies under the authority of this section, it shall provide notice of that disapproval, and an explanation of the basis for the disapproval, to the Agency within 30 calendar days following receipt of the report of the anticipated expenditure.

(C) If the Joint Transportation Oversight Committee disapproves of an anticipated obligation or expenditure of monies under subdivision (B) of this subdivision (2), the Agency may revise and resubmit for further consideration.

(D) If the Joint Transportation Oversight Committee does not disapprove of the anticipated obligation or expenditure of monies under the authority of this section within 30 calendar days of receipt of the report of the anticipated obligation or expenditure or receipt of a revised submittal, then the anticipated obligation or expenditure is deemed approved.

(d) Subsections (a) and (b) of this section shall continue in effect until February 1, 2022.

* * * Inclusion of Maintenance for the Lamoille Valley Rail Trail in the
Annual Proposed Transportation Program * * *

Sec. 13. 19 V.S.A. § 10g(p) is added to read:

(p) The Agency shall include the annual maintenance required for the Lamoille Valley Rail Trail (LVRT), running from Swanton to St. Johnsbury, in the Transportation Program it presents to the General Assembly under subsection (a) of this section. The proposed authorization for the maintenance of the LVRT shall be sufficient to cover:

(1) maintenance and repair or replacement of any bridges along the LVRT;

(2) maintenance and repair of the fencing along the LVRT and any leased lines;

(3) maintenance and repair of the stormwater systems for the LVRT;

(4) any large-scale surface maintenance required due to dangerous conditions along the LVRT or compromise of the rail bed of the LVRT, or both;

(5) resolution of any unauthorized encroachments related to the rail bed, but not the recreational use of the LVRT; and

(6) any other maintenance obligations required of the Agency under a memorandum of understanding entered into regarding the maintenance of the LVRT.

* * * Town Highway Structures and

Class 2 Town Highway Roadway Programs * * *

* * * Fiscal Year 2021 * * *

Sec. 14. TOWN HIGHWAY STRUCTURES AND CLASS 2 TOWN
HIGHWAY ROADWAY PROGRAMS IN FISCAL YEAR 2021

Notwithstanding any other provision of law, in fiscal year 2022, the Agency is authorized to reimburse, subsequent to performance of the work, municipalities for projects awarded a grant under the Town Highway Structures and Class 2 Town Highway Roadway Programs for costs incurred during fiscal year 2021.

* * * Minimum Total Grant Awards; Maximum Grant Award * * *

Sec. 15. 19 V.S.A. § 306 is amended to read:

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

* * *

(e) State aid for town highway structures.

(1) There shall be an annual appropriation for grants to municipalities for maintenance (including actions to extend life expectancy) and for construction of bridges and culverts; for maintenance and construction of other structures, including causeways and retaining walls, intended to preserve the integrity of the traveled portion of class 1, 2, and 3 town highways; and for alternatives that eliminate the need for a bridge, culvert, or other structure, such as the construction or reconstruction of a highway, the purchase of

parcels of land that would be landlocked by closure of a bridge, the payment of damages for loss of highway access, and the substitution of other means of access.

(2) Each fiscal year, the Agency shall approve qualifying projects with a total estimated State share cost of ~~\$5,833,500.00~~ \$7,200,000.00 at a minimum as new grants. The Agency's proposed appropriation for the Program shall take into account the estimated amount of qualifying invoices submitted to the Agency with respect to project grants approved in prior years but not yet completed as well as with respect to new project grants to be approved in the fiscal year. In a given fiscal year, should expenditures in the Town Highway Structures Program exceed the amount appropriated, the Agency shall advise the Governor of the need to request a supplemental appropriation from the General Assembly to fund the additional project cost, provided that the Agency has previously committed to completing those projects.

* * *

(h) Class 2 Town Highway Roadway Program. There shall be an annual appropriation for grants to municipalities for resurfacing, rehabilitation, or reconstruction of paved or unpaved class 2 town highways. However, municipalities that have no State highways or class 1 town highways within their borders may use the grants for such activities with respect to both class 2 and class 3 town highways. Each fiscal year, the Agency shall approve qualifying projects with a total estimated State share cost of ~~\$7,648,750.00~~ \$8,600,000.00 at a minimum as new grants. The Agency's proposed appropriation for the Program shall take into account the estimated amount of qualifying invoices submitted to the Agency with respect to project grants approved in prior years but not yet completed as well as with respect to new project grants to be approved in the fiscal year. In a given fiscal year, should expenditures in the Class 2 Town Highway Roadway Program exceed the amount appropriated, the Agency shall advise the Governor of the need to request a supplemental appropriation from the General Assembly to fund the additional project cost, provided that the Agency has previously committed to completing those projects. Funds received as grants for State aid under the Class 2 Town Highway Roadway Program may be used by a municipality to satisfy a portion of the matching requirements for federal earmarks, subject to subsection 309b(c) of this title.

* * *

Sec. 16. 19 V.S.A. § 309b is amended to read:

§ 309b. LOCAL MATCH; CERTAIN TOWN HIGHWAY PROGRAMS

(a) Notwithstanding subsection 309a(a) of this title, grants provided to

towns under the town highway structures program shall be matched by local funds sufficient to cover 20 percent of the project costs, unless the town has adopted road and bridge standards, has completed a network inventory, and has submitted an annual certification of compliance for town road and bridge standards to the ~~secretary~~ Secretary, in which event the local match shall be sufficient to cover 10 percent of the project costs. The ~~secretary~~ Secretary may adopt rules to implement the town highway structures program. Town highway structures projects receiving funds pursuant to this subsection shall be the responsibility of the applicant municipality.

(b) Notwithstanding subsection 309a(a) of this title, grants provided to towns under the class 2 town highway roadway program shall be matched by local funds sufficient to cover 30 percent of the project costs, unless the town has adopted road and bridge standards, has completed a network inventory, and has submitted an annual certification of compliance for town road and bridge standards to the ~~secretary~~ Secretary, in which event the local match shall be sufficient to cover 20 percent of the project costs. The ~~secretary~~ Secretary may adopt rules to implement the class 2 town highway roadway program. Class 2 town highway roadway projects receiving funds pursuant to this subsection shall be the responsibility of the applicant municipality, and a municipality shall not receive a grant in excess of ~~\$175,000.00~~ \$200,000.00.

* * *

* * * One-Time Transportation Fund Monies Authorizations for
 Electrification of the Transportation Sector * * *

* * * Incentive Program for New PEVs; Partnership with Drive Electric * * *

Sec. 17. INCENTIVE PROGRAM FOR NEW PEVS; PARTNERSHIP WITH
 DRIVE ELECTRIC VERMONT

(a) The Agency is authorized to spend up to \$3,250,000.00 in one-time Transportation Fund monies in fiscal years 2021 and 2022 combined on the Incentive Program for New PEVs established in 2019 Acts and Resolves No. 59, Sec. 34, as amended, and its partnership with Drive Electric Vermont with:

(1) Up to \$250,000.00 of that \$3,250,000.00 available in fiscal year 2022 to continue and expand the Agency's public-private partnership with Drive Electric Vermont to support the expansion of the PEV market in the State.

(2) At least \$3,000,000.00 of that \$3,250,000.00 for PEV purchase and lease incentives and administrative costs as allowed under subsection (b) of this section. If less than \$250,000.00 is expended on the public-private partnership with Drive Electric Vermont under subdivision (1) of this subsection, then the balance of that \$250,000.00 shall only be authorized for

additional PEV purchase and lease incentives and administrative costs as allowed under subsection (b) of this section.

(b) The Agency shall use not more than 10 percent of the authorization under subdivision (a)(2) of this section for costs associated with the administration of the Program.

Sec. 18. 2019 Acts and Resolves No. 59, Sec. 34(a)(4), as amended by 2020 Acts and Resolves No. 121, Sec. 14, 2020 Acts and Resolves No. 154, Sec. G.112, and 2021 Acts and Resolves No. 3, Sec. 56, is further amended to read:

~~(4) The Agency shall administer the program described in subsection (b) of this section through no-cost contracts with the State's electric distribution utilities. [Repealed.]~~

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

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

* * *

(2) provide not more than one incentive of \$1,500.00 for a PHEV or \$2,500.00 for a BEV, per individual per year, to:

(A) an individual domiciled in the State whose federal income tax filing status is single or head of household with an adjusted gross income under the laws of the United States greater than \$50,000.00 and at or below \$100,000.00;

(B) an individual domiciled in the State whose federal income tax filing status is surviving spouse with an adjusted gross income under the laws of the United States greater than ~~\$50,000.00~~ \$75,000.00 and at or below \$125,000.00;

(C) an individual who is part of a married couple with at least one spouse domiciled in the State whose federal income tax filing status is married filing jointly with an adjusted gross income under the laws of the United States greater than ~~\$50,000.00~~ \$75,000.00 and at or below \$125,000.00; or

(D) an individual who is part of a married couple with at least one

spouse domiciled in the State and at least one spouse whose federal income tax filing status is married filing separately with an adjusted gross income under the laws of the United States greater than \$50,000.00 and at or below \$100,000.00;

(3) provide not more than one incentive of \$3,000.00 for a PHEV or \$4,000.00 for a BEV, per individual per year, to:

(A) an individual domiciled in the State whose federal income tax filing status is single, or head of household, or surviving spouse with an adjusted gross income under the laws of the United States at or below \$50,000.00;

(B) an individual domiciled in the State whose federal income tax filing status is surviving spouse with an adjusted gross income under the laws of the United States at or below \$75,000.00;

~~(B)~~(C) an individual who is part of a married couple with at least one spouse domiciled in the State whose federal income tax filing status is married filing jointly with an adjusted gross income under the laws of the United States at or below \$50,000.00 \$75,000.00; or

~~(C)~~(D) an individual who is part of a married couple with at least one spouse domiciled in the State and at least one spouse whose federal income tax filing status is married filing separately with an adjusted gross income under the laws of the United States at or below \$50,000.00;

(4) provide not more than five incentives of either \$3,000.00 for a PHEV or \$4,000.00 for a BEV, or a combination thereof, in fiscal year 2022 to a tax-exempt organization incorporated in the State for the purpose of providing Vermonters with transportation alternatives to personal vehicle ownership;

~~(4)~~(5) apply to manufactured PEVs with a Base Manufacturer's Suggested Retail Price (MSRP) of \$40,000.00 or less; and

~~(5) provide not less than \$1,100,000.00, of the initial \$2,000,000.00 authorization, and up to an additional \$2,050,000.00 in fiscal year 2021 in PEV purchase and lease incentives~~

(6) provide incentives that may be in addition to any other available incentives, including through another program funded by the State, provided that not more than one incentive under the Incentive Program for New PEVs is used for the purchase or lease of any one PEV.

* * * MileageSmart * * *

Sec. 20. MILEAGESMART

The Agency is authorized to spend up to \$750,000.00 in one-time Transportation Fund monies in fiscal years 2021 and 2022 combined and up to \$500,000.00 in one-time General Fund monies in fiscal year 2022 on MileageSmart, which was established in 2019 Acts and Resolves No. 59, Sec. 34, as amended, with up to 10 percent of the total amount that is distributed in incentives in fiscal year 2022, including incentive funding authorized by this section and incentive funding carried over from prior fiscal years pursuant to 2019 Acts and Resolves No. 59, Sec. 34, as amended, available for costs associated with administering MileageSmart.

Sec. 21. 2019 Acts and Resolves No. 59, Sec. 34(c)(1), as amended by 2020 Acts and Resolves No. 121, Sec. 14, 2020 Acts and Resolves No. 154, Sec. G.112, and 2021 Acts and Resolves No. 3, Sec. 56, is further amended to read:

(1) The high fuel efficiency vehicle incentive program shall be known as MileageSmart and shall:

* * *

(B) provide point-of-sale vouchers through the State's network of community action agencies and base set income eligibility for the voucher ~~on the same criteria used for income qualification for weatherization services through the Weatherization Program at 80 percent of the State median income;~~ and

* * *

* * * Emissions Repair Program * * *

Sec. 22. 2019 Acts and Resolves No. 59, Sec. 34(a)(3), as amended by 2020 Acts and Resolves No. 121, Sec. 14, 2020 Acts and Resolves No. 154, Sec. G.112, and 2021 Acts and Resolves No. 3, Sec. 56, is further amended to read:

(3) Subject to State procurement requirements, the Agency may retain a contractor or contractors to assist with marketing, program development, and administration of the programs. Up to \$150,000.00 of program funding may be set aside for this purpose for the ~~programs~~ program described in subsection (c) of this section in fiscal year 2020 and \$50,000.00 of program funding shall be set aside for this purpose for the ~~programs~~ program described in ~~subdivision subsection~~ (c)(1) of this section in fiscal year 2021.

Sec. 23. 2019 Acts and Resolves No. 59, Sec. 34(a)(5), as amended by 2020 Acts and Resolves No. 121, Sec. 14, 2020 Acts and Resolves No. 154, Sec. G.112, and 2021 Acts and Resolves No. 3, Sec. 56, is further amended to read:

(5) The Agency shall annually evaluate the programs to gauge

effectiveness and submit a written report on the effectiveness of the programs to the House and Senate Committees on Transportation, the House Committee on Energy and Technology, and the Senate Committee on Finance on or before the 31st day of January in each year following a year that an incentive or repair voucher was provided through one of the programs. Notwithstanding 2 V.S.A. § 20(d), the annual report required under this section shall continue to be required if an incentive or repair voucher is provided through one of the programs unless the General Assembly takes specific action to repeal the report requirement.

Sec. 24. 2019 Acts and Resolves No. 59, Sec. 34(c), as amended by 2020 Acts and Resolves No. 121, Sec. 14, 2020 Acts and Resolves No. 154, Sec. G.112, and 2021 Acts and Resolves No. 3, Sec. 56, is further amended to read:

~~(c) High fuel efficiency vehicle incentive and emissions repair programs program. Used A used high fuel efficiency vehicle purchase incentive and emissions repair programs program for Vermont residents shall structure high fuel efficiency purchase incentive payments and emissions repair vouchers by income to help Vermonters benefit from more efficient driving, including Vermont's most vulnerable. Not less than \$750,000.00 shall be provided in point-of-sale and point-of-repair vouchers.~~

* * *

~~(2) The emissions repair program shall:~~

~~(A) apply to repairs of certain vehicles that failed the on board diagnostic (OBD) systems inspection;~~

~~(B) provide point-of-repair vouchers through the State's network of community action agencies and base eligibility for voucher on the same criteria used for income qualification for Low Income Home Energy Assistance Program (LIHEAP) through the State's Economic Services Division within the Department for Children and Families; and~~

~~(C) provide a point-of-repair voucher to repair a motor vehicle that was ready for testing, failed the OBD systems inspection, requires repairs that are not under warranty, and will be able to pass the State's vehicle inspection once the repairs are made provided that the point-of-repair voucher is commensurate with the fair market value of the vehicle to be repaired and does not exceed \$2,500.00, with \$2,500.00 vouchers only being available to repair vehicles with a fair market value of at least \$5,000.00. [Repealed.]~~

Sec. 25. EMISSIONS REPAIR PROGRAM

(a) Program creation. The Department of Environmental Conservation, in consultation with the Agency of Transportation, shall establish and administer

an emissions repair program that shall:

(1) apply to repairs of certain vehicles that failed the on board diagnostic (OBD) systems inspection;

(2) provide point-of-repair vouchers and base eligibility for vouchers on the same criteria used for income qualification for the Low Income Home Energy Assistance Program (LIHEAP) through the State's Economic Services Division within the Department for Children and Families; and

(3) provide a point-of-repair voucher to repair a motor vehicle that was ready for testing, failed the OBD systems inspection, requires repairs that are not under warranty, and will be able to pass the State's vehicle inspection once the repairs are made provided that the point-of-repair voucher is commensurate with the fair market value of the vehicle to be repaired and does not exceed \$2,500.00, with \$2,500.00 vouchers only being available to repair vehicles with a fair market value of at least \$5,000.00.

(b) Authorization and transfer. In fiscal year 2022, the Agency of Transportation is authorized to transfer \$375,000.00 in one-time Transportation Fund monies to the Department of Environmental Conservation for the emissions repair program established under this section, with up to \$50,000.00 of that \$375,000.00 transfer available for start-up costs and outreach education and up to \$125,000.00 of that \$375,000.00 transfer available for costs associated with developing and administering the emissions repair program.

* * * Repeal of Emissions Inspections Waiver * * *

Sec. 26. REPEALS

(a) 2018 Acts and Resolves No. 206, Sec. 23(e) (establishment of emissions inspections waiver) is repealed on January 1, 2023.

(b) 2018 Acts and Resolves No. 158, Sec. 42(e) (establishment of emissions inspections waiver) is repealed on January 1, 2023.

* * * Replace Your Ride Program * * *

Sec. 27. REPLACE YOUR RIDE PROGRAM

(a) Program creation. The Agency of Transportation, in consultation with the Departments of Environmental Conservation and of Public Service, shall expand upon the vehicle incentive programs established under 2019 Acts and Resolves No. 59, Sec. 34, as amended, to provide additional incentives for Vermonters with low income through a program to be known as the Replace Your Ride Program.

(b) Incentive amount. The Replace Your Ride Program shall provide up to

a \$3,000.00 incentive, which may be in addition to any other available incentives, including through a program funded by the State, to individuals who qualify based on both income and the removal of an internal combustion vehicle. Only one incentive per individual is available under the Replace Your Ride Program and incentives shall be provided on a first-come, first-served basis once the Replace Your Ride Program is operational.

(c) Eligibility. Applicants must qualify through both income and the removal of an eligible vehicle with an internal combustion engine.

(1) Income eligibility. The following applicants meet the income eligibility requirement:

(A) an individual domiciled in the State whose federal income tax filing status is single or head of household, with an adjusted gross income under the laws of the United States at or below \$50,000.00;

(B) an individual domiciled in the State whose federal income tax filing status is surviving spouse with an adjusted gross income under the laws of the United States at or below \$75,000.00;

(C) an individual who is part of a married couple with at least one spouse domiciled in the State whose federal income tax filing status is married filing jointly with an adjusted gross income under the laws of the United States at or below \$75,000.00;

(D) an individual who is part of a married couple with at least one spouse domiciled in the State and at least one spouse whose federal income tax filing status is married filing separately with an adjusted gross income under the laws of the United States at or below \$50,000.00; or

(E) an individual who qualifies for an incentive under MileageSmart, which is set at 80 percent of the State median income.

(2) Vehicle removal.

(A) In order for an individual to qualify for an incentive under the Replace Your Ride Program, the individual must remove an older low-efficiency vehicle from operation and switch to a mode of transportation that produces fewer greenhouse gas emissions. The entity that administers the Replace Your Ride Program, in conjunction with the Agency of Transportation, shall establish Program guidelines that specifically provide for how someone can show that the vehicle removal eligibility requirement has been, or will be, met.

(B) For purposes of the Replace Your Ride Program:

(i) An “older low-efficiency vehicle”:

(I) is currently registered, and has been for two years prior to the date of application, with the Vermont Department of Motor Vehicles;

(II) is currently titled in the name of the applicant and has been for at least one year prior to the date of application;

(III) has a gross vehicle weight rating of 10,000 pounds or less;

(IV) is at least 10 model years old;

(V) has an internal combustion engine; and

(VI) passed the annual inspection required under 23 V.S.A. § 1222 within the prior year.

(ii) Removing the older low-efficiency vehicle from operation must be done by disabling the vehicle's engine from further use and fully dismantling the vehicle for either donation to a nonprofit organization to be used for parts or destruction.

(iii) The following qualify as a switch to a mode of transportation that produces fewer greenhouse gas emissions:

(I) purchasing or leasing a new or used PEV;

(II) purchasing a new or used bicycle, electric bicycle, or motorcycle that is fully electric, and the necessary safety equipment; and

(III) utilizing shared-mobility services or privately operated vehicles for hire.

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

* * * Electric Bicycle Incentives * * *

Sec. 28. ELECTRIC BICYCLE INCENTIVES

(a) Implementation. The Agency of Transportation, in consultation with Vermont electric distribution utilities, shall expand upon the vehicle incentive programs established under 2019 Acts and Resolves No. 59, Sec. 34, as amended, to provide a \$200.00 incentive to 250 individuals who purchase a new electric bicycle. Specifically, the Program shall:

(1) distribute \$200.00 incentives on a first-come, first-served basis after the Agency announces that incentives are available;

(2) apply to new electric bicycles with any Manufacturer's Suggested

Retail Price (MSRP); and

(3) be available to all Vermonters who self-certify as to meeting any incentive tier under the income eligibility criteria for the Incentive Program for New PEVs.

(b) Authorization. In fiscal year 2022, the Agency is authorized to spend up to \$50,000.00 in one-time Transportation Fund monies on the electric bicycle incentives.

* * * EVSE Grant Program * * *

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

(a) As used in this section:

(1) “Area median income” means the county or Metropolitan Statistical Area median income published by the federal Department of Housing and Urban Development.

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

(A) at least 50 percent of the units are or will be occupied by households whose income does not exceed 100 percent of the greater of the State or area median income; or

(B) all units are affordable to households earning between 60 and 120 percent of area median income.

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

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

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

(c) In fiscal year 2022, the Agency is authorized to spend up to

\$1,000,000.00 in one-time Transportation Fund monies on the pilot program established in this section.

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

(e) The Department of Housing and Community Development shall consult with an interagency team consisting of the Commissioner of Housing and Community Development or designee; the Commissioner of Environmental Conservation or designee; the Commissioner of Public Service or designee; and the Agency's Division Director of Policy, Planning, and Intermodal Development or designee regarding the design, award of funding, and administration of this pilot program.

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

(g) The Department of Housing and Community Development shall file a written report on the outcomes of the pilot program with the House and Senate Committees on Transportation not later than January 15, 2022.

* * * EVSE Network in Vermont * * *

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

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

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

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

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

* * * Zero-Fare Public Transit in Fiscal Year 2022 * * *

Sec. 31. ZERO-FARE PUBLIC TRANSIT IN FISCAL YEAR 2022

(a) Urban public transit. It is the intent of the General Assembly that

public transit operated by transit agencies that are eligible to receive grant funds pursuant to 49 U.S.C. § 5307 in the State shall be operated on a zero-fare basis with monies for public transit from the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136 (CARES Act); the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260; and the American Rescue Plan Act of 2021, Pub. L. No. 117-2, as practicable, during fiscal year 2022.

(b) Rural public transit. It is the intent of the General Assembly that public transit operated by transit agencies that are eligible to receive grant funds pursuant to 49 U.S.C. § 5311 in the State shall be operated on a zero-fare basis with monies for public transit from the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136 (CARES Act) and the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, as practicable, during fiscal year 2022.

* * * Coordinated Intermodal Connections Review * * *

Sec. 32. COORDINATED INTERMODAL CONNECTIONS REVIEW

The Agency, in coordination with public transit, passenger rail, and other transportation service providers, shall review and implement coordinated intermodal connections, to the extent practicable, to ensure efficient and accessible intermodal transportation opportunities in Vermont. The Agency shall also work with transportation service providers to support the cross promotion of intermodal connections.

* * * PEV Electric Distribution Utility Rate Design * * *

Sec. 33. PEV ELECTRIC DISTRIBUTION UTILITY RATE DESIGN

(a) This section serves to encourage efficient integration of PEVs and EVSE into the electric system and the timely adoption of PEVs and public charging through managed loads or time-differentiated price signals.

(b) Unless an extension is granted pursuant to subsection (e) of this section, all State electric distribution utilities shall offer PEV rates, which may include rates for electricity sales to an entire customer premises, for public and private EVSE not later than June 30, 2024. These rates shall, pursuant to 30 V.S.A. § 225, be filed for review and approval by the Public Utility Commission and encourage:

(1) efficient use of PEV loads consistent with objectives of least-cost integrated planning, set out in 30 V.S.A. § 218c, and 30 V.S.A. § 202(b) and (c);

(2) participation in the PEV rates;

(3) travel by PEV relative to available alternatives; and

(4) greater adoption of PEVs.

(c) PEV rates approved by the Public Utility Commission under subdivisions (1) and (2) of this subsection comply with subsection (b) of this section.

(1) The Public Utility Commission shall approve PEV rates that it finds, at a minimum:

(A) support greater adoption of PEVs;

(B) adequately compensate PEV operators and owners of EVSE available to the public for the value of grid-related services, including costs avoided through peak management;

(C) adequately compensate the electric distribution utility and its customers for the additional costs that are directly attributable to the delivery of electricity through a PEV rate;

(D) include a reasonable contribution to historic or embedded costs required to meet the overall cost of service;

(E) do not discourage EVSE available to the public; and

(F) do not have an adverse impact to ratepayers not utilizing the PEV rate.

(2) The Public Utility Commission may approve PEV rates that utilize direct load control, third-party managed load control, static or dynamic time-varying rates, or other innovative practices that accomplish the goals set forth in subsection (a) of this section.

(d) Electric distribution utilities with PEV rates approved by the Public Utility Commission prior to July 1, 2021 currently implemented as tariffs by those electric distribution utilities are exempt from subsection (b) of this section for the relevant rate classes, market segments, or customer segments in which the PEV rates are offered.

(e) The Public Utility Commission may grant a petitioning electric distribution utility an extension of the June 30, 2024 implementation deadline. An extension may only be granted in response to a petition if the Public Utility Commission finds that the electric distribution utility's inability to meet the June 30, 2024 implementation deadline is due to a technical inability to implement a PEV rate, adverse economic impacts to ratepayers that would result from the implementation of a PEV rate, or other good cause demonstrated. The length of the extension shall be directly related to the demonstrated need for the extension.

(f) The Public Utility Commission, in consultation with the Department of

Public Service and State electric distribution utilities, shall file written reports with the House Committees on Energy and Technology and on Transportation and the Senate Committees on Finance, on Natural Resources and Energy, and on Transportation that address the goals delineated in subdivisions (c)(1)(A)–(F) of this section, as applicable, and any progress barriers towards the goals contained in subsections (a) and (b) of this section not later than January 15, 2022, January 15, 2023, January 15, 2024, and January 15, 2025.

* * * Public Transportation Electrification Plan * * *

Sec. 34. PUBLIC TRANSPORTATION ELECTRIFICATION PLAN

(a) The Agency of Transportation, in consultation with the State’s public transit providers, shall prepare a long-range plan that outlines the costs, timeline, training, maintenance, and operational actions required to move to a fully electrified public transportation fleet.

(b) The Agency shall file the long-range plan required under subsection (a) of this section with the House and Senate Committees on Transportation not later than January 31, 2022.

* * * Airport and Rail Signs; Banners * * *

Sec. 35. 10 V.S.A. § 494 is amended to read:

§ 494. EXEMPT SIGNS

The following signs are exempt from the requirements of this chapter except as indicated in section 495 of this title:

* * *

(6)(A) Official traffic control signs, including signs on limited access highways, consistent with the Manual on Uniform Traffic Control Devices (MUTCD) adopted under 23 V.S.A. § 1025, directing people persons to:

- (i) other towns;
- (ii) international airports;
- (iii) postsecondary educational institutions;
- (iv) cultural and recreational destination areas;
- (v) nonprofit diploma-granting educational institutions for people persons with disabilities; and
- (vi) official State visitor information centers.

(B) After having considered the six priority categories in subdivision (A) of this subdivision (6), the Travel Information Council may approve installation of a sign for any of the following provided the location is open a

minimum of 120 days each year and is located within 15 miles of an interstate highway exit:

- (i) nonprofit museums;
- (ii) cultural and recreational attractions owned by the State or federal government;
- (iii) officially designated scenic byways;
- (iv) park and ride or multimodal centers; and
- (v) fairgrounds or exposition sites.

(C) The Agency of Transportation may approve and erect signs, including signs on limited access highways, consistent with the MUTCD, directing persons to State-owned airports and intercity passenger rail stations located within 25 miles of a limited access highway exit.

(D) Notwithstanding the limitations of this subdivision (6), supplemental guide signs consistent with the MUTCD for the President Calvin Coolidge State Historic Site may be installed at the following highway interchanges:

* * *

~~(D)~~(E) Signs erected under this subdivision (6) shall not exceed a maximum allowable size of 80 square feet.

* * *

(18)(A) A sign that is a banner erected over a highway right-of-way for not more than 21 days if the bottom of the banner is not less than 16 feet 6 inches above the surface of the highway and is securely fastened with breakaway fasteners and the proposed banner has been authorized by the legislative body of the municipality in which it is located.

(B) As used in this subdivision (18), “banner” means a sign that is constructed of soft cloth or fabric or flexible material such as vinyl or plastic cardboard.

* * * Municipal Development Review; Section 1111 Permit Fees * * *

Sec. 36. 24 V.S.A. § 4416 is amended to read:

§ 4416. SITE PLAN REVIEW

* * *

(b) Whenever a proposed site plan involves access to a State highway or other work in the State highway right-of-way such as excavation, grading, paving, or utility installation, the application for site plan approval shall

include a letter ~~of intent~~ from the Agency of Transportation confirming that the Agency has reviewed the proposed site plan and is ~~prepared to issue an access permit under 19 V.S.A. § 1111~~, and setting determined whether a permit is required under 19 V.S.A. § 1111. If the Agency determines that a permit for the proposed site plan is required under 19 V.S.A. § 1111, then the letter from the Agency shall set out any conditions that the Agency proposes to attach to the ~~section 1111~~ permit required under 19 V.S.A. § 1111.

Sec. 37. 24 V.S.A. § 4463(e) is added to read:

(e) Whenever a proposed subdivision is adjacent to a State highway, the application for subdivision approval shall include a letter from the Agency of Transportation confirming that the Agency has reviewed the proposed subdivision and determined whether a permit is required under 19 V.S.A. § 1111. If the Agency determines that a permit for the proposed subdivision is required under 19 V.S.A. § 1111, then the letter from the Agency shall set out any conditions that the Agency proposes to attach to the permit required under 19 V.S.A. § 1111.

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

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

* * *

(6) permit amendments: \$0.00.

* * * Improvement of High-Use Corridor Segments * * *

Sec. 39. IMPROVEMENT OF HIGH-USE CORRIDOR SEGMENTS FOR BICYCLISTS

(a) The Agency of Transportation shall continue to improve highways consistent with 19 V.S.A. § 2310 in order to enhance safety and accessibility on highways, and in particular for high-use corridor segments identified in the On-Road Bicycle Plan prepared in April 2016, or a subsequent update.

(b) The Agency shall consider traffic volumes, the scope of the project, and other factors such as environmental or right-of-way impacts when making improvements.

* * * Work Zone Highway Safety

Automated Traffic Law Enforcement Study and Report * * *

Sec. 40. WORK ZONE HIGHWAY SAFETY AUTOMATED TRAFFIC LAW ENFORCEMENT STUDY AND REPORT

(a) Findings. The General Assembly finds that:

(1) There are times, either because of insufficient staffing or inherent onsite difficulties, where law enforcement personnel cannot practically be utilized in a work zone.

(2) The objectives of utilizing an automated traffic law enforcement system in a work zone are improved work crew safety and reduced traffic crashes resulting from an increased adherence to traffic laws achieved by effective deterrence of potential violators, which could not be achieved by traditional law enforcement methods.

(3) The use of automated traffic law enforcement systems in work zones is not intended to replace traditional law enforcement personnel, nor is it intended to mitigate problems caused by deficient road design, construction, or maintenance. Rather, it provides deterrence and enforcement at times when and in locations where law enforcement personnel cannot be utilized safely or are needed for other law enforcement activities.

(b) Definitions. As used in this section:

(1) “Automated traffic law enforcement system” means a device with one or more sensors working in conjunction with a speed measuring device to produce recorded images of motor vehicles traveling at more than 10 miles above the speed limit or traveling in violation of another traffic control device, or both.

(2) “Recorded image” means a photograph, microphotograph, electronic image, or electronic video that shows the front or rear of the motor vehicle clearly enough to identify the registration number plate of the motor vehicle or that shows the front of the motor vehicle clearly enough to identify the registration number plate of the motor vehicle and shows the operator of the motor vehicle.

(3) “Traffic control device” means any sign, signal, marking, channelizing, or other device that conforms with the Manual on Uniform Traffic Control Devices, which is the standards for all traffic control signs, signals, and markings within the State pursuant to 23 V.S.A. § 1025, and is used to regulate, warn, or guide traffic and placed on, over, or adjacent to a highway, pedestrian facility, or bicycle path by authority of the State or the municipality with jurisdiction over the highway, pedestrian facility, or bicycle path.

(c) Study. The Agency of Transportation shall, in consultation with at least the Department of Public Safety and the Associated General Contractors of Vermont, study the feasibility of implementing automated traffic law enforcement systems in work zones in Vermont and make specific

recommendations on whether to pursue a program that utilizes automated traffic law enforcement systems within work zones in Vermont, with a specific focus on affecting driver behavior. At a minimum, the Agency shall:

(1) research the cost to procure equipment and services to assist in the implementation of a program that utilizes automated traffic law enforcement systems within work zones in Vermont;

(2) research how images are collected, stored, accessed, used, and disposed of; by whom; and under what timeline or timelines when automated traffic law enforcement systems are used to collect a recorded image of a motor vehicle in violation of a traffic control device in a work zone;

(3) make recommendations on how images should be collected, stored, accessed, used, and disposed of; by whom; and under what timeline or timelines if a program that utilizes automated traffic law enforcement systems within work zones in Vermont is implemented; and

(4) define the system components needed to implement a program that utilizes automated traffic law enforcement systems within work zones in Vermont.

(d) Report. On or before January 15, 2022, the Agency shall submit a written report to the House and Senate Committees on Judiciary and on Transportation with its findings and any proposals for implementation.

* * * Transportation Equity Framework * * *

Sec. 41. TRANSPORTATION EQUITY FRAMEWORK; REPORT

(a) The Agency of Transportation, in consultation with the State's 11 Regional Planning Commissions (RPCs), shall undertake a comprehensive analysis of the State's existing transportation programs and develop a recommendation on a transportation equity framework through which the annual Transportation Program, and the Agency's Annual Project Prioritization Process, can be evaluated so as to advance mobility equity, which is a transportation system that increases access to mobility options, reduces air pollution, and enhances economic opportunity for Vermonters in communities that have been underserved by the State's transportation system.

(b) In conducting the analysis required under subsection (a) of this section, the Agency, in coordination with the State's 11 RPCs, shall seek input from individuals who are underserved by the State's current transportation system or who may not have previously been consulted as part of the Agency's planning processes.

(c) In order to aid the Agency in conducting the analysis required under subsection (a) of this section, the State's 11 RPCs shall convene regional

meetings focused on achieving equity and inclusion in the transportation planning process. Meeting facilitation shall include identification of and outreach to underrepresented local communities and solicitation of input on the transportation planning process pursuant to the transportation planning efforts required under 19 V.S.A. § 10l.

(d) The Agency shall file a written report with its analysis and a recommendation on a transportation equity framework as required under subsection (a) of this section with the House and Senate Committees on Transportation not later than January 15, 2022.

* * * Effective Dates * * *

Sec. 42. EFFECTIVE DATES

(a) This section and Secs. 12 (federal infrastructure funding), 17 (authorization for the Incentive Program for New PEVs), and 20 (authorization for MileageSmart) shall take effect on passage.

(b) Sec. 10 (repeal of 23 V.S.A. § 1432(c)) shall take effect on July 1, 2022.

(c) Sec. 13 (19 V.S.A. § 10g(p); Lamoille Valley Rail Trail maintenance) shall take effect on July 1, 2021 and apply to Transportation Programs commencing with fiscal year 2023.

(d) All other sections shall take effect on July 1, 2021.

*RICHARD T. MAZZA
ANDREW J. PERCHLIK
THOMAS CHITTENDEN*

Committee on the part of the Senate

*DIANE M. LANPHER
CHARLES "BUTCH" H. SHAW
TIMOTHY R. CORCORAN*

Committee on the part of the House

Which was considered and adopted on the part of the House.

Third Reading; Bill Passed**H. 444**

House bill, entitled

An act relating to approval of amendments to the charter of the City of Barre

Was taken up, read the third time, and passed.

Recess

At ten o'clock and thirty-eight minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

At ten o'clock and forty-one minutes in the forenoon, the Speaker called the House to order.

At ten o'clock and forty-two minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

At two o'clock and thirty-seven minutes in the afternoon, the Speaker called the House to order.

Rules Suspended; Senate Proposal of Amendment Concurred in**H. 88**

Appearing on the Calendar for Notice, on motion of **Rep. McCoy of Poultney**, the rules were suspended and House bill, entitled

An act relating to certification of agricultural use for purposes of the use value appraisal program

Was taken up for immediate consideration.

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

First: By striking out Sec. 1, 32 V.S.A. § 3755(f), in its entirety and inserting in lieu thereof the following:

Sec. 1. 32 V.S.A. § 3755 is amended to read:

§ 3755. ELIGIBILITY FOR USE VALUE APPRAISALS

* * *

(f) ~~On~~ To maintain eligibility for use value appraisal under this subchapter, ~~on~~ or before November 1 of each year, the owner of agricultural land or buildings enrolled in the use value program as agricultural land or buildings shall certify in writing under oath to the Commissioner that the agricultural land or buildings enrolled by that owner continue to meet the requirements for

enrollment in the use value program at the time of the certification. In the event the owner of agricultural land or buildings enrolled in the use value program fails to certify on or before November 1 of each year as required under this subsection, the Commissioner may waive the certification requirement, provided the Commissioner obtains, through other means, satisfactory information that the agricultural land continues or agricultural buildings continue to meet the other requirements for enrollment. The form of the certification shall be made on a form specified by the Director of Property Valuation and Review.

(g) Any applicant for a use value appraisal or any beneficiary of a use value appraisal must be in good standing with the Department of Taxes pursuant to subsection 3113(g) of this title to be eligible or to maintain eligibility for use value appraisal under this subchapter.

Second: By striking out Sec. 2, effective date, in its entirety and inserting in lieu thereof the following:

Sec. 2. 32 V.S.A. § 3752(5) is amended to read:

(5)(A) “Development” means, for the purposes of determining whether a land use change tax is to be assessed under section 3757 of this chapter, the construction of any building, road, or other structure, or any mining, excavation, or landfill activity.

(B) “Development” also means the subdivision of a parcel of land into two or more parcels, regardless of whether a change in use actually occurs, where one or more of the resulting parcels contains less than 25 acres each; but if subdivision is solely the result of a transfer to one or more of a spouse, ex-spouse in a divorce settlement, parent, grandparent, child, grandchild, niece, nephew, or sibling of the transferor, or to the surviving spouse of any of the foregoing, then “development” shall not apply to any portion of the newly created parcel or parcels that qualify for enrollment and for which, within 30 days following the transfer, each transferee or transferor applies for reenrollment in the use value appraisal program.

(C) “Development” also means the cutting of timber on property appraised under this chapter at use value in a manner contrary to a forest or conservation management plan as provided for in subsection 3755(b) of this title during the remaining term of the plan, or contrary to the minimum acceptable standards for forest management if the plan has expired; or a change in the parcel or use of the parcel in violation of the conservation management standards established by the Commissioner of Forests, Parks and Recreation.

(D) “Development” also means notification of the Director by the Secretary of Agriculture, Food and Markets under section 3756 of this title that the owner or operator of agricultural land or a farm building is violating the water quality requirements of 6 V.S.A. chapter 215 or is failing to comply with the terms of an order issued under 6 V.S.A. chapter 215, subchapter 10.

(E) The term “development” shall not include the construction, reconstruction, structural alteration, relocation, or enlargement of any building, road, or other structure for farming, logging, forestry, or conservation purposes, but shall include the subsequent commencement of a use of that building, road, or structure for other than farming, logging, or forestry purposes.

(F) The term “development” shall not include the location of any solar generation facility that is, in the aggregate, on 0.1 of an acre of land or less, provided that the underlying land qualifies under this chapter as agricultural land or open land that qualifies as managed forestland in accordance with standards established by the Commissioner of Forests, Parks and Recreation.

Sec. 3. 32 V.S.A. § 3756 is amended to read:

§ 3756. QUALIFICATION FOR USE VALUE APPRAISAL

(a) The owner of eligible agricultural land, farm buildings, or managed forestland shall be entitled to have eligible property appraised at its use value provided the owner shall have applied to the Director on or before September 1 of the previous tax year, on a form ~~approved by the Board and~~ provided by the Director. A farmer, whose application has been accepted on or before December 31 by the Director of the Division of Property Valuation and Review of the Department of Taxes for enrollment for the use value program for the current tax year, shall be entitled to have eligible property appraised at its use value, if ~~he or she~~ the farmer was prevented from applying on or before September 1 of the previous year due to the severe illness of the farmer.

* * *

(g) The Director shall execute ~~such~~ and provide other forms and the ~~board~~ Board shall adopt ~~such~~ other procedures and regulations, as are needed to ~~assure~~ ensure a fair opportunity for owners to qualify under this subchapter and to ~~assure~~ ensure compliance with the provisions of this chapter.

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

And that after passage the title of the bill be amended to read: “An act relating to the use value appraisal program”

Which proposal of amendment was considered and concurred in.

Senate Proposal of Amendment Concurred in

H. 337

The Senate proposed to the House to amend House bill, entitled
An act relating to the printing and distribution of State publications

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

In Sec. 6, 22 V.S.A. § 611 (d), immediately following the words “by the State Librarian” by inserting , provided that the sale is permitted by the publishing contract before the period.

Proposal of amendment was considered and concurred in.

Senate Proposal of Amendment Concurred in

H. 122

The Senate proposed to the House to amend House bill, entitled
An act relating to boards and commissions

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

By striking out Sec. 12, effective date, and its reader assistance heading in their entireties and adding eight sections to be Secs. 11a–18 with reader assistance headings to read as follows:

Sec. 11a. [Deleted.]

* * * State Emergency Response Commission; Regional Committees * * *

Sec. 12. 20 V.S.A. § 6 is amended to read:

§ 6. LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT

(a) Each town and city of this state is hereby authorized and directed to establish a local organization for emergency management in accordance with the state State emergency management plan and program. ~~Except in a town that has a town manager in accordance with chapter 37 of Title 24, the~~ The executive officer or legislative branch of the town or city is authorized to appoint a town or city emergency management director who shall have direct responsibility for the organization, administration, and coordination of the local organization for emergency management, subject to the direction and control of the executive officer or legislative branch. If the town or city that

has not adopted the town manager form of government in accordance with chapter 37 of Title 24 and the executive officer or legislative branch of the town or city has not appointed an emergency management director, the executive officer or legislative branch shall be the town or city emergency management director. The town or city emergency management director may appoint an emergency management coordinator and other staff as necessary to accomplish the purposes of this chapter.

(b) ~~Except as provided in subsection (d) of this section, each~~ Each local organization for emergency management shall perform emergency management functions within the territorial limits of the town or city within which it is organized, and, in addition, shall conduct such functions outside of the territorial limits as may be required pursuant to the provisions of this chapter and in accord with such regulations as the governor may prescribe.

(c) ~~Each local organization shall participate in the development of~~ develop and maintain an all-hazards emergency management plan with the local emergency planning committee and the public safety district in accordance with guidance set forth by the Division of Emergency Management.

(d) ~~Each local organization shall annually notify the local emergency planning committee on forms provided by the state emergency response commission of its capacity to perform emergency functions in response to an all-hazards incident. Each local organization shall perform the emergency functions indicated on the most recently submitted form in response to an all-hazards incident.~~ Regional emergency management committees shall be established by the Division of Emergency Management.

(1) Regional emergency management committees shall coordinate emergency planning and preparedness activities to improve their regions' ability to prepare for, respond to, and recover from all disasters.

(2) The Division of Emergency Management shall establish geographic boundaries and guidance documents for regional emergency planning committees in coordination with regional planning commissions and mutual aid associations.

(3) A regional emergency management committee shall consist of voting and nonvoting members.

(A) Voting members. The local emergency management director or designee and one representative from each town and city in the region shall serve as the voting members of the committee. A representative from a town or city shall be a member of the town's or city's emergency services community and shall be appointed by the town's or city's executive or legislative branch.

(B) Nonvoting members. Nonvoting members may include representatives from the following organizations serving within the region: fire departments; emergency medical services; law enforcement; media; transportation; regional planning commissions; hospitals; the Department of Health's district office; the Division of Emergency Management; organizations serving vulnerable populations; and any other interested public or private individual or organization.

(4) Voting members shall annually elect a chair and vice chair of the committee from the voting membership. The Chair shall develop a meeting schedule, agenda, and facilitate each meeting. The Vice Chair shall fill in for the Chair during the Chair's absence.

(5) Committees shall develop and maintain a regional plan, consistent with guidance provided by the Division of Emergency Management in coordination with regional planning commissions, that describes regional coordination and regionally available resources.

Sec. 13. 20 V.S.A. § 30 is amended to read:

§ 30. STATE EMERGENCY RESPONSE COMMISSION; CREATION

(a) A state emergency response commission The State Emergency Response Commission is created within the ~~department~~ Department of ~~public safety~~ Public Safety. The commission shall consist of ~~15~~ 17 members, ~~six~~ eight ex officio members, including the ~~commissioner of public safety~~ Commissioner of Public Safety, the ~~secretary of natural resources~~ Secretary of Natural Resources, the ~~secretary of transportation~~ Secretary of Transportation, the ~~commissioner of health~~ Commissioner of Health, the ~~secretary of agriculture, food~~ Secretary of Agriculture, Food and Markets Markets, and the ~~commissioner of labor~~ Commissioner of Labor, the Director of Fire Safety, and the Director of Emergency Management, or their designees; and nine public members, including a representative from each of the following: local government, a the local emergency planning committee, a regional planning commission, the fire service, law enforcement, emergency medical service, a hospital, a transportation entity required under EPCRA to report chemicals to the ~~state emergency response commission~~ State Emergency Response Commission, and another entity required to report extremely hazardous substances under EPCRA. ~~The director of emergency management shall be the secretary of the commission without a vote.~~

(b) The nine public members shall be appointed by the governor Governor for staggered three year terms. ~~The governor~~ Governor shall appoint the chair of the commission.

(c) Members of the commission, except state employees who are not

otherwise compensated as part of their employment and who attend meetings, shall be entitled to a per diem and expenses as provided in 32 V.S.A. § 1010.

Sec. 14. 20 V.S.A. § 31 is amended to read:

§ 31. STATE EMERGENCY RESPONSE COMMISSION; DUTIES

(a) The commission shall have authority to:

(1) Carry out all the requirements of a commission under the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § § 11000-11050 (1986) (EPCRA), ~~and all hazards mitigation, response, recovery, and preparedness, as hereafter amended and other applicable federal initiatives.~~

(2) Adopt rules necessary for the implementation of EPCRA and for the reporting of hazardous chemicals or substances, including setting minimum limits on the level of hazardous chemicals to be reported.

(3) Designate and appoint local emergency planning committees.

(4) Review and comment on the development and implementation of local emergency response plans by the local emergency planning ~~committees~~ committee and provide assistance to ~~those committees~~ that committee in executing ~~their~~ its duties.

(5) Review and comment on the comprehensive state State emergency operations management plan and the local emergency planning committee response plans.

(6) Meet with interested parties, which may include representatives of the carrier industry shippers, and state and local agencies, having an interest, responsibility, or expertise concerning hazardous materials.

(7) Ensure that a state State plan will go into effect when an accident occurs involving the transportation of hazardous materials. The plan shall be ~~field tested~~ exercised at least once annually and shall be coordinated with local and State emergency plans.

(8) Jointly adopt rules concerning reportable quantities of economic poison as defined in 6 V.S.A. § 911(5) with the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets. The commission may enter into contracts with governmental agencies or private organizations to carry out the duties of this section.

(9) ~~Coordinate statewide efforts and draft policies regarding planning, mitigation, preparedness, and response to all hazards events to be approved by the commissioner.~~

(10) Recommend funding for awards to be made by the ~~commissioner~~

~~Commissioner for planning, training, special studies, citizen corps councils, community emergency response teams (CERT), medical reserve corps, and hazardous materials response teams~~ exercises, and response capabilities from funds that are available from federal sources or through the hazardous substances fund created in section 38 of this title. The commission may create committees as necessary for other related purposes and delegate funding recommendation powers to those committees.

(b) The Department of Public Safety shall provide administrative support to the State Emergency Response Commission.

Sec. 15. 20 V.S.A. § 32 is amended to read:

§ 32. LOCAL EMERGENCY PLANNING COMMITTEES; CREATION;
DUTIES

~~(a) Local~~ One or more local emergency planning committees shall be appointed by the ~~state emergency response commission~~ State Emergency Response Commission.

~~(b) Local~~ All local emergency planning committees ~~should~~ shall include representatives from the following: fire departments; local and regional emergency medical services; local, county, and state law enforcement; media; transportation; regional planning commissions; hospitals; industry; the ~~national guard~~ Vermont National Guard; the ~~department~~ Department of ~~health~~ Health's district office; an animal rescue organization; and may include any other interested public or private individual or organization. Where the local emergency planning committee represents more than one region of the State, the commission shall appoint representatives that are geographically diverse.

(c) A local emergency planning committee shall perform all the following duties:

(1) Carry out all the requirements of a committee pursuant to EPCRA, including preparing a local emergency planning committee ~~response~~ plan. The plan shall be coordinated with the ~~state~~ State emergency ~~operations management~~ plan and may be expanded to address all hazards ~~and all phases of emergency management.~~ identified in the State emergency management plan. At a minimum, the local emergency planning committee ~~response~~ plan shall include the following:

(A) Identifies facilities and transportation routes of extremely hazardous substances.

(B) Describes emergency response procedures, including those identified in facility plans.

(C) Designates a local emergency planning committee coordinator

and facility coordinators to implement the plan.

(D) Outlines emergency notification procedures.

(E) Describes how to determine the probable affected area and population by releases of hazardous substances.

(F) Describes local emergency equipment and facilities and the persons responsible for them.

(G) Outlines evacuation plans.

(H) Provides for coordinated local training to ensure integration with the state State emergency operations management plan.

(I) Provides methods and schedules for exercising emergency response plans.

(2) Upon receipt by the committee or the committee's designated community emergency coordinator of a notification of a release of a hazardous chemical or substance, ~~insure~~ ensure that the local emergency response plan has been implemented.

(3) Consult and coordinate with the heads of local government emergency services, the emergency management director or designee, regional planning commissions, and the managers of all facilities within the ~~district~~ jurisdiction regarding the facility plan.

(4) Review and evaluate requests for funding and other resources and advise the ~~state emergency response commission~~ State Emergency Response Commission and ~~district coordinators~~ concerning disbursement of funds.

(5) Work to support the various emergency services, mutual aid systems, town governments, regional planning commissions, state agency district offices, and others in their area in conducting coordinated all-hazards emergency management activities.

Sec. 16. 20 V.S.A. § 38 is amended to read:

§ 38. SPECIAL FUNDS

~~(a)(1) There is created a radiological emergency response plan fund, into which any entity operating a nuclear reactor or storing nuclear fuel and radioactive waste in this state (referred to hereinafter as "the nuclear power plant") shall deposit the amount appropriated to support the Vermont radiological response plan for that fiscal year, adjusted by any balance in the radiological emergency response plan fund from the prior fiscal year. There shall also be deposited into the fund any monies received from any other source, public or private, that is intended to support the radiological~~

~~emergency response planning process. The fund shall be managed in accordance with subchapter 5 of chapter 7 of Title 32. Any interest earned on the balance in the fund shall be retained by the fund.~~

~~(2) Expenditures from the fund shall be made by the division of emergency management, subject to an annual legislative appropriation. As part of the annual appropriations process, the division of emergency management shall present a budget for the ensuing fiscal year that anticipates the expenditures that will be made from the fund. Each fiscal year, the division of emergency management in collaboration with the state and local agencies, the management of the nuclear power plant, the selectboards of the municipalities in the emergency planning zone, the Windham regional planning commission, and any other municipality or emergency planning zone entity defined by the state as required to support the radiological emergency response plan shall develop the budget for expenditures from the radiological emergency response plan fund. State personnel with responsibility for local coordination and plan development shall be physically located in the region. The annual budget shall include only expenditures necessary to support the radiological emergency response plan.~~

~~* * *~~

~~(5) The state shall bill the nuclear power plant on a monthly basis based on the budget presented and approved by the legislature. The nuclear power plant shall have the right to audit the books and records of the fund.~~

~~(6) Upon the permanent cessation of operation of the nuclear reactor and final removal of all nuclear fuel and radioactive waste, and the removal of emergency response plan regulations and state responsibilities applicable to it by the Federal Nuclear Regulatory Commission and any other federal agency having regulatory jurisdiction, and after all outstanding debts have been paid, all monies remaining in the fund shall be repaid to the nuclear power plant, and the fund terminated.~~

~~(b) There is created a hazardous chemical and substance emergency response fund which that shall include all moneys paid to the state State pursuant to section 39 of this title. The fund shall be managed pursuant to the provisions of subchapter 5 of chapter 7 of Title 32. The fund shall be used to implement and administer this chapter, including planning, training and response activities as well as the purchase of equipment and assisting local organizations referred to in section 6 of this chapter to develop emergency response plans. Each local emergency planning committee shall receive a minimum grant of \$1,500.00, and \$4,000.00 as of July 1, 2007, annually and may petition the state emergency response commission for additional funds if needed and available an annual grant from the Commissioner of Public Safety.~~

~~The annual total grant amount to be allocated to local emergency planning committees statewide shall not exceed \$52,000.00, and the Commissioner shall divide the total annual grant amount equally among the local emergency planning committees. After disbursement of the minimum grant amounts funding and after consideration of the comments and evaluation received from the appropriate local emergency planning committee and the State Emergency Response Commission, the commissioner Commissioner of Public Safety at the Commissioner's discretion with the approval of the emergency response commission~~ may make additional grants from the fund to any local emergency planning committee or regional emergency response commission as well as to any political subdivisions including any city, town, fire district, incorporated village and other incorporated entities in the state in accordance with rules adopted by the ~~state emergency response commission~~ State Emergency Response Commission. Unless waived by the ~~state emergency response commission~~ State Emergency Response Commission, grants shall be matched by local governments in the amount of 25 percent of the grant. The matching may be by contribution or by privately furnished funds or by in-kind services, space, or equipment ~~which that~~ would otherwise be purchased by a local emergency planning committee.

Sec. 17. 20 V.S.A. § 3a is amended to read:

§ 3a. EMERGENCY MANAGEMENT DIVISION; DUTIES; BUDGET

(a) In addition to other duties required by law, the ~~emergency management division~~ Division of Emergency Management shall:

(1) ~~Establish and define emergency planning zones and prepare and maintain a comprehensive state~~ State emergency management strategy that includes an emergency ~~operations management~~ management plan, establish and define ~~emergency planning zones and prepare and maintain a radiological emergency response plan for use in those zones~~ regional emergency management committees, and prepare an all-hazards mitigation plan in cooperation with other state, regional, and local agencies ~~for use in such zones and in compliance with adopted federal standards for emergency management. The strategy shall be designed to protect the lives and property, including domestic animals, of persons within this state~~ State who might be threatened as the result of all-hazards and shall align ~~state~~ State coordination structures, capabilities, and resources into a unified and ~~multi-disciplined~~ multidisciplined all-hazards approach to incident management.

(2) ~~Design the radiological emergency response plan to protect persons and property within this state who or which might be threatened as the result of their proximity to any operating nuclear reactor. The plan shall be formulated in accordance with procedures approved by the Federal Nuclear~~

~~Regulatory Commission. At a minimum, the plan shall provide for all the following:~~

- ~~(A) Monitoring radiological activity within the state.~~
- ~~(B) Emergency evacuation routes within a ten-mile radius of any operating nuclear reactor.~~
- ~~(C) Adequate notification and communications systems.~~
- ~~(D) Contingency procedures as deemed necessary in the event of an incident or accident involving an operating nuclear reactor.~~

~~(3) Assist the state emergency response commission State Emergency Response Commission, the local emergency planning committees, the regional emergency management committees, and the municipally established local organizations referred to in section 6 of this title in carrying out their designated emergency functions, including developing, implementing, and coordinating emergency response plans.~~

~~(4) Provide administrative support to the state emergency response commission.~~

* * *

* * * Effective Dates * * *

Sec. 18. EFFECTIVE DATES

This section and Secs. 1–11a (misc. boards and commissions) shall take effect on passage, and Secs. 12–17 (emergency management commission/committees) shall take effect on July 1, 2021.

Proposal of amendment was considered and concurred in.

Rules Suspended; Second Reading; Proposal of Amendment Agreed to; Third Reading Ordered; Rules Suspended; Third Reading; Bill Passed in Concurrence with Proposal of Amendment

S. 97

On motion of **Rep. McCoy of Poultney**, the rules were suspended and Senate bill, entitled

An act relating to miscellaneous judiciary procedures

Appearing on the Calendar for Notice, was taken up for immediate consideration.

Rep. Burditt of West Rutland, for the Committee on Judiciary, to which had been referred the Senate bill reported in favor of its passage in

concurrence with proposal of amendment by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Sunset Repeals and Extension * * *

Sec. 1. SUNSET REPEAL; COURT DIVERSION PROGRAM CHANGES

2017 Acts and Resolves No. 61, Sec. 7, as amended by 2020 Acts and Resolves No. 134, Sec. 1 (July 1, 2020 repeal of changes to the court diversion program), is repealed.

Sec. 2. SUNSET REPEAL; RACIAL DISPARITIES IN THE CRIMINAL
AND JUVENILE JUSTICE SYSTEMS ADVISORY PANEL

2017 Acts and Resolves No. 54, Sec. 6a, as amended by 2020 Acts and Resolves No. 134, Sec. 2 (July 1, 2020 repeal of 3 V.S.A. § 168, Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel), is repealed.

Sec. 3. SUNSET REPEAL; SPOUSAL MAINTENANCE AND SUPPORT
GUIDELINES

2017 Acts and Resolves No. 60, Sec. 3, as amended by 2018 Acts and Resolves No. 203, Sec. 1 (July 1, 2021 repeal of spousal maintenance and support guidelines), is repealed.

Sec. 4. 2017 Acts and Resolves No. 142, Sec. 5, is amended to read:

Sec. 5. REPEAL

13 V.S.A. §§ 5451 (creation of Vermont Sentencing Commission) and 5452 (creation of Vermont Sentencing Commission) shall be repealed on July 1, ~~2021~~ 2022.

* * * Repeals * * *

Sec. 5. 13 V.S.A. § 2579 is amended to read:

~~§ 2579. CIVIL RECOVERY FOR RETAIL THEFT~~

~~(a) Any person over the age of 16 years or any emancipated minor who commits the offense of retail theft against a retail mercantile establishment in violation of section 2575 of this title shall be civilly liable to the retail mercantile establishment in an amount consisting of:~~

~~(1) damages equal to the retail price of the merchandise if the item is not returned in a merchantable condition; and~~

~~(2) a civil penalty of two times the retail price of the merchandise, to be not less than \$25.00 and not more than \$300.00.~~

~~(b) The fact that an action may be brought against an individual as provided in this section shall not limit the right of a retail mercantile establishment to demand, in writing, that a person who is liable for damages and penalties under this section remit the damages and penalties prior to the commencement of any legal action.~~

~~(c) If the person to whom a demand is made complies with the demand, that person shall incur no further civil liability for that specific act of retail theft.~~

~~(d) Any demand made under this section shall be accompanied by a copy of this law.~~

~~(e) A criminal prosecution under section 2575 of this title is not a prerequisite to the applicability of this section and such a criminal prosecution shall not bar an action under this section. An action under this section shall not bar a criminal prosecution under section 2575 of this title.~~

~~(f) The provisions of this section shall not be construed to prohibit or limit any other cause of action that a retail mercantile establishment may have against a person who unlawfully takes merchandise from a retail mercantile establishment, except as provided in subsection (c) of this section.~~

~~(g) Any testimony or statements by the defendant or any evidence derived from an attempt to reach a civil settlement or from a civil proceeding brought under this section shall be inadmissible in any other court proceeding relating to such retail theft.~~

~~(h) If a retail mercantile establishment files suit to recover damages and penalties pursuant to subsection (a) of this section and the mercantile establishment fails to appear at a hearing in such proceedings without excuse from the court, the court shall dismiss the suit with prejudice and award costs to the defendant.~~

~~(i) A person who knowingly uses the provisions of this section to demand or extract money from a person who is not legally obligated to pay a penalty shall be imprisoned not more than one year or fined not more than \$1,000.00, or both. [Repealed.]~~

Sec. 6. 20 V.S.A. § 187 is amended to read:

§ 187. SPECIAL EMERGENCY JUDGES

In the event that any district judge is unavailable to exercise the powers and discharge the duties of his or her office, the duties of the office shall be discharged and the powers exercised by one of three special emergency judges residing in the district served by such judge, and designated by him or her within 60 days after the approval of this chapter, and thereafter immediately

~~after the date that he or she shall have been appointed and qualified as such. Such special emergency judges shall, in the order specified, exercise the powers and discharge the duties of such office in case of the unavailability of the regular judge or persons immediately preceding them in the designation. The designating authority shall, each year, review and shall revise, as necessary, designations made pursuant to this chapter to insure their current status. Forthwith after such designations are made and after a revision thereof copies shall be filed in the offices of the governor and the county clerk. Said emergency special judges shall discharge the duties and exercise the powers of such office until such time as a vacancy which may exist shall be filled in accordance with the constitution and statutes or until the regular judge or one preceding the designee in the order of designation becomes available to exercise the powers and discharge the duties of his or her office. While exercising the powers and discharging the duties of the office of a district judge a special emergency judge shall receive the pro rata salary and perquisites thereof. [Repealed.]~~

* * * Probate Fees * * *

Sec. 7. 14 V.S.A. § 1492 is amended to read:

§ 1492. ACTION FOR DEATH FROM WRONGFUL ACT; PROCEDURE;
DAMAGES

(a) The action shall be brought in the name of the personal representative of the deceased person and commenced within two years from the discovery of the death of the person, but if the person against whom the action accrues is out of the State, the action may be commenced within two years after the person comes into the State. After the cause of action accrues and before the two years have run, if the person against whom it accrues is absent from and resides out of the State and has no known property within the State that can by common process of law be attached, the time of his or her absence shall not be taken as part of the time limited for the commencement of the action. If the death of the decedent occurred under circumstances such that probable cause is found to charge a person with homicide, the action shall be commenced within seven years after the discovery of the death of the decedent or not more than two years after the judgment in that criminal action has become final, whichever occurs later.

* * *

(f) The fee for the appointment of a personal representative to bring an action pursuant to subsection (a) of this section shall be the entry fee established by 32 V.S.A. § 1434(a)(1).

Sec. 8. 32 V.S.A. § 1434 is amended to read:

§ 1434. PROBATE CASES

(a) The following entry fees shall be paid to the Probate Division of the Superior Court for the benefit of the State, except for subdivisions (18) and (19) of this subsection, which shall be for the benefit of the county in which the fee was collected:

(1) Estates of \$10,000.00 or less \$50.00

* * *

(34) Registration of foreign guardianship order \$90.00

* * *

* * * Judicial Bureau; Agricultural Product Identification

Labels Misuse * * *

Sec. 9. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) The Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.

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

* * *

(7) Violations of 16 V.S.A. chapter 4 9, subchapter 9 5, relating to hazing.

* * *

~~(19) Violations of 6 V.S.A. § 2965, relating to the misuse of identification labels for agricultural products produced in Vermont and meeting standards of quality established by the Secretary of Agriculture, Food and Markets. [Repealed.]~~

* * *

* * * Roadside Safety Technical Correction * * *

Sec. 10. 23 V.S.A. § 1203 is amended to read:

§ 1203. ADMINISTRATION OF TESTS; RETENTION OF TEST AND
VIDEOTAPE

(a) A breath test shall be administered only by a person who has been certified by the Vermont Criminal Justice Council to operate the breath testing equipment being employed. In any proceeding under this subchapter, a

person's testimony that he or she is certified to operate the breath testing equipment employed shall be prima facie evidence of that fact.

(b)(1) Only a physician, licensed nurse, medical technician, physician assistant, medical technologist, laboratory assistant, intermediate or advanced emergency medical technician, or paramedic acting at the request of a law enforcement officer may, at a medical facility, police or fire department, or other safe and clean location as determined by the individual withdrawing blood, withdraw blood for the purpose of determining the presence of alcohol or another drug. A Any withdrawal of blood shall not be taken at roadside, and a law enforcement officer, even if trained to withdraw blood, acting in that official capacity may not withdraw blood for the purpose of determining the presence of alcohol or another drug. These limitations do not apply to the taking of a breath sample. A medical facility or business may not charge more than \$75.00 for services rendered when an individual is brought to a facility for the sole purpose of an evidentiary blood sample or when an emergency medical technician or paramedic draws an evidentiary blood sample.

(2) A saliva sample may be obtained by a person authorized by the Vermont Criminal Justice Council to collect a saliva sample for the purpose of evidentiary testing to determine the presence of a drug. Any saliva sample obtained pursuant to this section shall not be taken at roadside.

(c) ~~When a breath test that is intended to be introduced in evidence is taken with a crimper device or when blood or saliva is withdrawn at an officer's request, a sufficient amount of breath saliva or blood, as the case may be, shall be taken to enable the person to have made an independent analysis of the sample and shall be held for at least 45 days from the date the sample was taken. At any time during that period, the person may direct that the sample be sent to an independent laboratory of the person's choosing for an independent analysis. The Department of Public Safety shall adopt rules providing for the security of the sample. At no time shall the defendant or any agent of the defendant have access to the sample. A preserved sample of breath shall not be required when an infrared breath-testing instrument is used. A person tested with an infrared breath-testing instrument shall have the option of having a second infrared test administered immediately after receiving the results of the first test.~~

(d) ~~In the case of a breath, saliva, or blood test administered using an infrared breath testing instrument, the test shall be analyzed in compliance with rules adopted by the Department of Public Safety. The analyses shall be retained by the State. A sample is adequate if the infrared breath testing instrument analyzes the sample and does not indicate the sample is deficient.~~ Analysis An analysis of the person's breath saliva or blood that is available to

that person for independent analysis shall be considered valid when performed according to methods approved by the Department of Public Safety. The analysis performed by the State shall be considered valid when performed according to a method or methods selected by the Department of Public Safety. The Department of Public Safety shall use rule making procedures to select its method or methods. Failure of a person to provide an adequate breath or saliva sample constitutes a refusal.

(e) [Repealed.]

(f) When a law enforcement officer has reason to believe that a person may be violating or has violated section 1201 of this title, the officer may request the person to provide a sample of breath for a preliminary screening test using a device approved by the Commissioner of Public Safety for this purpose. The person shall not have the right to consult an attorney prior to submitting to this preliminary breath alcohol screening test. The results of this preliminary screening test may be used for the purpose of deciding whether an arrest should be made and whether to request an evidentiary test and shall not be used in any court proceeding except on those issues. Following the screening, test additional tests may be required of the operator pursuant to the provisions of section 1202 of this title.

* * *

(h) A Vermont law enforcement officer shall have a right to request a breath, saliva, or blood sample in an adjoining state or country under this section unless prohibited by the law of the other state or country. If the law in an adjoining state or country does not prohibit an officer acting under this section from taking a breath, saliva, or blood sample in its jurisdiction, evidence of such sample shall not be excluded in the courts of this State solely on the basis that the test was taken outside the State.

* * *

Sec. 11. REPEAL

2020 Acts and Resolves No. 164, Sec. 24 (administration of tests; 23 V.S.A. § 1203) is repealed.

Sec. 12. 2020 Acts and Resolves No. 164, Sec. 33(c) is amended to read:

(c) Secs. 10 (implementation of Medical Cannabis Registry), 13 (implementation of medical cannabis dispensaries), 18 (income tax deduction), 18c (legislative intent), 21 (definition of evidentiary test), 22 (operating vehicle under the influence of alcohol or other substance), 23 (consent to taking of tests to determine blood alcohol content or presence of

other drug), 24 (~~administration of tests~~), and 25 (independent testing of evidentiary sample) shall take effect January 1, 2022.

* * * Juvenile Justice Stakeholders Working Group Recommendations * * *

Sec. 13. 4 V.S.A. § 33 is amended to read:

§ 33. JURISDICTION; FAMILY DIVISION

(a) Notwithstanding any other provision of law to the contrary, the Family Division shall have exclusive jurisdiction to hear and dispose of the following proceedings filed or pending on or after October 1, 1990:

* * *

(8) All juvenile proceedings filed pursuant to 33 V.S.A. chapters 51, 52, and 53, including proceedings involving “youthful offenders” pursuant to 33 V.S.A. § 5281 whether the matter originated in the Criminal or Family Division of the Superior Court, except for a proceeding charging the holder of a commercial driver’s license as defined in 23 V.S.A. § 4103 with an offense or violation listed in 23 V.S.A. § 4116 that would result in the license holder being disqualified from driving a commercial motor vehicle if convicted.

* * *

Sec. 14. 33 V.S.A. § 5103 is amended to read:

§ 5103. JURISDICTION

(a) The Family Division of the Superior Court shall have exclusive jurisdiction over all proceedings concerning a child who is or who is alleged to be a delinquent child or a child in need of care or supervision brought under the authority of the juvenile judicial proceedings chapters, except as otherwise provided in such chapters.

* * *

(c)(1) Except as otherwise provided by this title and by subdivision (2) of this subsection, jurisdiction over a child shall not be extended beyond the child’s 18th birthday.

(2)(A) Jurisdiction over a child with a ~~pending~~ delinquency may be extended until six months beyond the child’s:

(i) 19th birthday if the child was 16 or 17 years of age when he or she committed the offense; or

(ii) 20th birthday if the child was 18 years of age when he or she committed the offense.

* * *

Sec. 15. 2020 Acts & Resolves No. 124, Sec. 3 is amended to read:

Sec. 3. 33 V.S.A. § 5103(c) is amended to read:

(c)(1) Except as otherwise provided by this title and by subdivision (2) of this subsection, jurisdiction over a child shall not be extended beyond the child's 18th birthday.

(2)(A) Jurisdiction over a child with a ~~pending~~ delinquency may be extended until six months beyond the child's:

(i) 19th birthday if the child was 16 or 17 years of age when he or she committed the offense; ~~or~~

(ii) 20th birthday if the child was 18 years of age when he or she committed the offense; or

(iii) 21st birthday if the child was 19 years of age when he or she committed the offense.

* * *

Sec. 16. 33 V.S.A. § 5204a is amended to read:

§ 5204a. JURISDICTION OVER ADULT DEFENDANT FOR CRIME
COMMITTED WHEN DEFENDANT WAS UNDER ~~18~~ 19
YEARS OF AGE.

(a) A proceeding may be commenced in the Family Division against a defendant who has attained 18 years of age if:

(1) the petition alleges that the defendant:

(A) before attaining ~~18~~ 19 years of age, violated a crime listed in subsection 5204(a) of this title;

(B) after attaining 14 years of age but before attaining ~~18~~ 19 years of age, committed an offense listed in 13 V.S.A. § 5301(7) but not listed in subsection 5204(a) of this title; or

(C) after attaining 17 years of age but before attaining ~~18~~ 19 years of age, committed any offense not listed in 13 V.S.A. § 5301(7) or subsection 5204(a) of this title, ~~as long as~~ provided the petition is filed prior to the defendant's 19th birthday;

(2) a juvenile petition was never filed based upon the alleged conduct;
and

(3) the statute of limitations has not tolled on the crime that the defendant is alleged to have committed.

(b)(1) The Family Division shall, except as provided in subdivision (2) of this subsection, transfer a petition filed pursuant to subdivision (a)(1)(A) of this section to the Criminal Division if the Family Division finds that:

(A) there is probable cause to believe that while the defendant was less than ~~18~~ 19 years of age he or she committed an act listed in subsection 5204(a) of this title;

(B) there was good cause for not filing a delinquency petition in the Family Division when the defendant was less than ~~18~~ 19 years of age;

(C) there has not been an unreasonable delay in filing the petition; and

(D) transfer would be in the interest of justice and public safety.

(2)(A) If a petition has been filed pursuant to subdivision (a)(1)(A) of this section, the Family Division may order that the defendant be treated as a youthful offender consistent with the applicable provisions of chapter 52A of this title if the defendant is under ~~23~~ 22 years of age and the Family Division:

* * *

(3) The Family Division shall in all respects treat a petition filed pursuant to subdivision (a)(1)(B) of this section in the same manner as a petition filed pursuant to section 5201 of this title, except that the Family Division's jurisdiction shall end on or before the defendant's 22nd birthday, if the Family Division:

(A) finds that there is probable cause to believe that, after attaining 14 years of age but before attaining ~~18~~ 19 years of age, the defendant committed an offense listed in 13 V.S.A. § 5301(7) but not listed in subsection 5204(a) of this title; and

(B) makes the findings required by subdivisions (b)(1)(B) and (C) of this section.

* * *

* * * Eligibility to Receive Juvenile Proceedings Records * * *

Sec. 17. 33 V.S.A. § 5117 is amended to read:

§ 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

(a) 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.

(b)(1) Notwithstanding the foregoing, inspection of such records and files by or dissemination of such records and files to the following is not prohibited:

(A) a court having the child before it in any juvenile judicial proceeding;

(B) the officers of public institutions or agencies to whom the child is committed as a delinquent child;

(C) a court in which a person is convicted of a criminal offense for the purpose of imposing sentence upon or supervising the person, or by officials of penal institutions and other penal facilities to which the person is committed, or by a parole board in considering the person's parole or discharge or in exercising supervision over the person;

(D) the parties to the proceeding, court personnel, the State's Attorney or other prosecutor authorized to prosecute criminal or juvenile cases under State law, the child's guardian ad litem, the attorneys for the parties, probation officers, and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the child;

(E) the child who is the subject of the proceeding, the child's parents, guardian, and custodian may inspect such records and files upon approval of the Family Court judge;

(F) any other person who has a need to know may be designated by order of the Family Division of the Superior Court;

(G) the Commissioner of Corrections if the information would be helpful in preparing a presentence report, in determining placement, or in developing a treatment plan for a person convicted of a sex offense that requires registration pursuant to 13 V.S.A. chapter 167, subchapter 3;

(H) the Human Services Board and the Commissioner's Registry Review Unit in processes required under chapter 49 of this title; and

(I) the Department for Children and Families.

(2) Files inspected under this subsection shall be marked: UNLAWFUL DISSEMINATION OF THIS INFORMATION IS A CRIME PUNISHABLE BY A FINE UP TO \$2,000.00.

* * *

* * * Annual Report on Hate-Motivated Crimes * * *

Sec 18. 13 V.S.A. § 1455 is amended to read:

§ 1455. HATE-MOTIVATED CRIMES

* * *

(d)(1) On or before January 1, 2022 and annually thereafter, the Executive Director of the Department of State's Attorneys and Sheriffs, in consultation with the Office of the Attorney General, shall submit to the House and Senate Committees on Judiciary a report that details for the prior year:

(A) incidents reported to the National Incident-Based Reporting System, with details on both categories of bias motivation and types of offenses that were coded with an offender bias motivation;

(B) any convictions in the Criminal Division of the Superior Court for which the sentence was enhanced pursuant to this section; and

(C) any reported bias incidents that resulted in a final judgement in the Civil Division of the Superior Court.

(2) To the extent feasible, the report required by this subsection shall:

(A) include demographic information about the defendants; and

(B) protect victim confidentiality when statistical information may be identifying.

* * * Racial Disparities in Criminal and Juvenile Justice System Advisory Panel Membership and Report * * *

Sec. 19. 3 V.S.A. § 168 is amended to read:

§ 168. RACIAL DISPARITIES IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEM ADVISORY PANEL

(a) The Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel is established. The Panel shall be organized and have the duties and responsibilities as provided in this section. The Panel shall be organized within the Office of the Attorney General and shall consult with the Vermont Human Rights Commission, the Vermont chapter of the ACLU, the Vermont Police Association, the Vermont Sheriffs' Association, the Vermont Association of Chiefs of Police, and others.

(b) The Panel shall comprise the following ~~13~~ 16 members:

(1) five members, drawn from diverse backgrounds to represent the interests of communities of color throughout the State, who have had experience working to implement racial justice reform, appointed by the Attorney General;

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

(3) the Attorney General or designee;

(4) the Defender General or designee;

(5) the Executive Director of the State's Attorneys and Sheriffs or designee;

(6) the Chief Superior Judge or designee;

(7) the Commissioner of Corrections or designee;

(8) the Commissioner of Public Safety or designee; ~~and~~

(9) the Commissioner for Children and Families or designee;

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

(11) two members, drawn from diverse backgrounds to represent the interests of communities of color throughout the State, who have had experience working in information technology or data collection systems, appointed by the Executive Director of Racial Equity.

* * *

Sec. 20. RACIAL DISPARITIES IN CRIMINAL AND JUVENILE JUSTICE
SYSTEM ADVISORY PANEL; REPORT ON BUREAU OF
RACIAL JUSTICE STATISTICS

(a) On or before November 15, 2021, the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel shall report to the House and Senate Committees on Judiciary on the creation of the Bureau of Racial Justice Statistics to collect and analyze data related to systemic racial bias and disparities within the criminal and juvenile justice systems. The report shall address:

(1) where the Bureau should be situated, taking into account the necessity for independence and the advantages and disadvantages of being a stand-alone body or being housed in State government;

(2) how and to what extent the Bureau should be staffed;

- (3) what should be the scope of the Bureau's mission;
- (4) how the Bureau should conduct data collection and analysis; and
- (5) the best methods for the Bureau to enforce its data collection and analysis responsibilities.

(b) For purposes of developing the report required by subsection (a) of this section, the Panel shall:

(1) consult with:

- (A) the Vermont Crime Research Group;
- (B) the National Center on Restorative Justice;
- (C) the University of Vermont; and
- (D) any other entity that would be of assistance to the Bureau; and

(2) consult with and have the assistance of:

- (A) the Vermont Chief Performance Officer; and
- (B) the Vermont Chief Data Officer.

(c) The report required by subsection (a) of this section shall include proposed draft legislation.

(d) Members of the Panel who are neither State employees nor otherwise paid to participate in the working group in their professional capacity shall be entitled to per diem compensation and reimbursement of expenses for attending meetings as permitted under 32 V.S.A. § 1010. The Attorney General may in its discretion pay more than the per diem permitted under 32 V.S.A. § 1010 to members of the Panel who are neither State employees nor otherwise paid to participate in the working group in their professional capacity, provided that such payments shall be made out of the \$50,000.00 appropriated to the Office of the Attorney General in subsection (e) of this section.

(e) In fiscal year 2022, \$50,000.00 is appropriated to the Office of the Attorney General from the General Fund to complete the work described in this section, portions of which may be used to contract with other entities for assistance and with the University of Vermont Legislative Internship Program for the purposes of providing support to the Panel for the report required by this section. Interns for the Panel shall be drawn from diverse backgrounds to represent the interests of communities of color throughout the State.

* * * Effective Dates * * *

Sec. 21. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 10 (23 V.S.A. § 1203) shall take effect on January 1, 2022.

Rep. Durfee of Shaftsbury, for the Committee on Ways and Means, recommended that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Judiciary.

Rep. Squirrell of Underhill, for the Committee on Appropriations, recommended that report of the by the Committee on Judiciary be amended by striking out Sec. 20, Racial Disparities in Criminal and Juvenile Justice System Advisory Panel; report on Bureau of Racial Justice Statistics, in its entirety and inserting in lieu thereof a new Sec. 20 to read as follows:

Sec. 20. RACIAL DISPARITIES IN CRIMINAL AND JUVENILE JUSTICE
SYSTEM ADVISORY PANEL; REPORT ON BUREAU OF
RACIAL JUSTICE STATISTICS

(a) On or before November 15, 2021, the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel shall report to the House and Senate Committees on Judiciary on the creation of the Bureau of Racial Justice Statistics to collect and analyze data related to systemic racial bias and disparities within the criminal and juvenile justice systems. The report shall address:

(1) where the Bureau should be situated, taking into account the necessity for independence and the advantages and disadvantages of being a stand-alone body or being housed in State government;

(2) how and to what extent the Bureau should be staffed;

(3) what should be the scope of the Bureau's mission;

(4) how the Bureau should conduct data collection and analysis; and

(5) the best methods for the Bureau to enforce its data collection and analysis responsibilities.

(b) For purposes of developing the report required by subsection (a) of this section, the Panel shall create a subcommittee working group that shall:

(1) consult with:

(A) the Vermont Crime Research Group;

(B) the National Center on Restorative Justice;

(C) the University of Vermont; and

(D) any other entity that would be of assistance to the Bureau; and

(2) consult with and have the assistance of:

(A) the Vermont Chief Performance Officer; and

(B) the Vermont Chief Data Officer.

(c) The report required by subsection (a) of this section shall include proposed draft legislation.

(d) Members of the Panel who are neither State employees nor otherwise paid to participate in the working group in their professional capacity shall be entitled to per diem compensation and reimbursement of expenses for attending meetings as permitted under 32 V.S.A. § 1010.

(e) In fiscal year 2022, \$50,000.00 is appropriated to the Office of the Attorney General from the General Fund to complete the work described in this section, portions of which may be used to establish performance-based contracts with:

(1) other entities and individuals to research and provide:

(A) other models of data collection entities and determine how they are typically organized, structured, and located;

(B) methodologies for how data can be gathered from disparate locations and organizations;

(C) best practices for collection and organization of data to permit ease of accessibility and development of policy recommendations;

(D) how to use the data to create a public-facing dashboard that is user-friendly and permits public transparency;

(E) technical assistance and customized consulting to support new data-sharing collaborations and partnerships on a range of topics, including:

(i) legal frameworks for data sharing;

(ii) data governance;

(iii) procedures for data access;

(iv) data management and analytics;

(v) staffing data infrastructure; and

(vi) community engagement and agenda setting; and

(2) the University of Vermont Legislative Internship Program for the purposes of providing support to the Panel for the report required by this section. Interns for the Panel shall be drawn from diverse backgrounds to represent the interests of communities of color throughout the State.

The bill was read the second time and the report of the Committee on Judiciary was amended as recommended by the Committee on Appropriations. Thereupon, the report of the Committee on Judiciary, as amended, was agreed to and third reading was ordered.

On motion of **Rep. McCoy of Poultney**, the rules were suspended and the bill placed in all remaining stages of passage. Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Rules Suspended; Bills Messaged to Senate Forthwith

On motion of **Rep. McCoy of Poultney**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

H. 444

House bill, entitled

An act relating to approval of amendments to the charter of the City of Barre

S. 7

Senate bill, entitled

An act relating to expanding access to expungement and sealing of criminal history records

S. 97

Senate bill, entitled

An act relating to miscellaneous judiciary procedures

Rules Suspended; Senate Proposal of Amendment Concurred in

H. 183

Appearing on the Calendar for Notice, on motion of **Rep. McCoy of Poultney**, the rules were suspended and House bill, entitled

An act relating to sexual violence

Was taken up for immediate consideration.

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

Sec. 1. 13 V.S.A. § 3251 is amended to read:

§ 3251. DEFINITIONS

As used in this chapter:

* * *

(3) ~~“Consent” means words or actions by a person indicating a voluntary agreement to engage in a sexual act~~ the affirmative, unambiguous, and voluntary agreement to engage in a sexual act, which can be revoked at any time.

* * *

(10) “Incapable of consenting” means the person:

(A) is incapable of understanding the nature of the conduct at issue;

(B) is physically incapable of resisting, declining participation in, or communicating unwillingness to engage in the conduct at issue; or

(C) lacks the mental ability to make or communicate a decision about whether to engage in the conduct at issue.

Sec. 2. 13 V.S.A. § 3252 is amended to read:

§ 3252. SEXUAL ASSAULT

(a) No person shall engage in a sexual act with another person ~~and compel the other person to participate in a sexual act:~~

(1) without the consent of the other person; ~~or~~

(2) by threatening or coercing the other person; ~~or~~

(3) by placing the other person in fear that any person will suffer imminent bodily injury; or

(4) when the person knows or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring.

~~(b)(1) No person shall engage in a sexual act with another person and impair substantially the ability of the other person to appraise or control conduct by administering or employing drugs or intoxicants without the knowledge or against the will of the other person administer any alcohol, drugs, or other intoxicants to another person without the person’s knowledge or against the person’s will and, while the person is impaired by the alcohol, drugs, or intoxicants, engage in a sexual act with that person.~~

(2) No person shall engage in a sexual act with another person when the other person is incapable of consenting to the sexual act due to substantial impairment by alcohol, drugs, or other intoxicants and that condition is known or reasonably should be known by the person.

* * *

(f)(1) A person who violates subsection (a), (b), (d), or (e) of this section shall be imprisoned not less than three years and for a maximum term of life; and, in addition, may be fined not more than \$25,000.00.

* * *

(g) A person convicted of violating subsection (a), (b), (d), or (e) of this section shall be sentenced under section 3271 of this title.

Sec. 3. 13 V.S.A. § 3254 is amended to read:

§ 3254. TRIAL PROCEDURE; CONSENT

In a prosecution for a crime defined in this chapter or section 2601 of this title:

(1) ~~lack~~ Lack of consent may be shown without proof of resistance;

(2) Submission resulting from the use of force, threat of force, or placing another person in fear does not constitute consent.

(3) Consent shall not be demonstrated by evidence prohibited under section 3255 of this title.

(4) A sleeping or unconscious person cannot consent.

(5) a A person shall be deemed to have acted without the consent of the other person where the actor:

(A) ~~knows~~ knew or reasonably should have known that the other person ~~is was~~ mentally incapable of understanding the nature of consenting to the sexual act or lewd and lascivious conduct; or

(B) ~~knows that the other person is not physically capable of resisting, or declining consent to, the sexual act or lewd and lascivious conduct; or~~

(C) ~~knows~~ knew or reasonably should have known that the other person ~~is~~ was unaware that a sexual act or lewd and lascivious conduct ~~is~~ was being committed; or

(D)(C) ~~knows that the other person is mentally incapable of resisting, or declining consent to, the sexual act or lewd and lascivious conduct, due to a mental condition or a psychiatric or developmental disability as defined in 14 V.S.A. § 3061~~ knew or reasonably should have known that the other person was incapable of consenting to the sexual act or lewd and lascivious conduct with the actor because the person was substantially impaired by alcohol, drugs, or other intoxicants.

Sec. 4. VERMONT SENTENCING COMMISSION

The Vermont Sentencing Commission shall examine whether the

application of 13 V.S.A. § 3254 (trial procedure; consent) to 13 V.S.A. § 2601 (lewd and lascivious conduct) continues to be appropriate given recent amendments to 13 V.S.A. chapter 59 (lewdness and prostitution).

Sec. 5. DATA COLLECTION AND REPORTING

(a)(1) On or before September 1, 2024 and bi-annually thereafter, the Department of Public Safety shall provide a statistical report to the General Assembly based on data from the National Incident Based Reporting System and the Vermont Judiciary on the following:

(A) the number of sexual violence cases reported to State, county, and municipal law enforcement agencies and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with 20 V.S.A. § 2358;

(B) the number of civil sexual assault or stalking orders granted;

(C) the number of sexual violence cases referred by law enforcement to a State's Attorney or the Attorney General for potential charges; and

(D) the number of sexual violence cases charged, the nature of the charge, and the disposition of the charges.

(2) The data identified in subdivision (a)(1) of this section shall be organized and reported to the General Assembly by county.

(b) The Department of Public Safety shall make a reasonable effort to protect victim confidentiality when statistical information may be identifying.

(c) The Department of Public Safety shall post the data collected pursuant to subsection (a) of this section on its website in a manner that is clear, understandable, and accessible to the public.

Sec. 6. 16 V.S.A. § 2187 is added to read:

§ 2187. INTERCOLLEGIATE SEXUAL HARM PREVENTION COUNCIL

(a) Creation. There is created the Intercollegiate Sexual Harm Prevention Council to create a coordinated response to campus sexual harm across institutions of higher learning in Vermont.

(b) Membership.

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

(A) a Title IX coordinator and a campus-based sexual harm prevention/education coordinator from an institution of higher learning, appointed by the Chancellor of the Vermont State Colleges;

(B) a Title IX coordinator and a campus-based sexual harm prevention/education coordinator from an institution of higher learning, appointed by the President of the University of Vermont;

(C) a Title IX coordinator and a campus-based sexual harm prevention/education coordinator from an institution of higher learning, appointed by the President of the Association of Vermont Independent Colleges;

(D) two community-based sexual violence advocates, appointed by the Network Against Domestic and Sexual Violence;

(E) two law enforcement or public safety representatives with experience responding to and investigating campus sexual violence, appointed by the Commissioner of Public Safety;

(F) three college students, at least one of whom has lived experience as a sexual violence survivor and one who represents a campus-based racial justice organization, appointed by the Center for Crime Victim Services;

(G) a person with expertise in sexual violence responses within the lesbian, gay, bisexual, transgender, and queer community, appointed by the Center for Crime Victim Services;

(H) a sexual assault nurse examiner, appointed by the Network Against Domestic and Sexual Violence;

(I) a prosecutor with experience in prosecuting sexual violence cases from either the Department of State's Attorneys and Sheriffs or the Office of the Attorney General, appointed by the Attorney General; and

(J) an attorney with experience in sexual violence cases, appointed by the Defender General.

(2) To ensure a council that is reflective of Vermont's college campuses, appointing authorities shall consider diversity when making appointments to the Council.

(c) Duties. The Council shall:

(1) Review the recommendations from the Report of the Vermont Campus Sexual Harm Task Force and develop prevention solutions to sexual harm based on those recommendations.

(2) Implement interdisciplinary planning and information sharing to support sexual violence prevention programs on every college campus in Vermont.

(3) Undertake an annual review of trends in aggregate data collected by institutions of higher learning regarding sexual violence on college campuses in Vermont.

(4) Identify and share effective practices on violence prevention, sexual health education, and strategies for mitigating sexual harm and secondary impacts of sexual harm on college campuses in Vermont.

(5) Identify campus-wide activities, publications, and services that promote a campus culture of respect to support the prevention of sexual harm.

(6) Recommend statutory protections to the General Assembly not later than November 1, 2021 to ensure that survivors of sexual harm are not punished for reporting an incident of sexual violence due to alcohol, drug use, or other minor conduct violations occurring at or around the time of an assault.

(d) Assistance. The Council shall have the administrative and technical assistance of the Network Against Domestic and Sexual Violence.

(e) Report. On or before December 1, 2022 and annually thereafter, the Council shall submit a written report to the General Assembly with a summary of activities and any recommendations for legislative action.

(f) Meetings.

(1) The Network Against Domestic and Sexual Violence shall call the first meeting of the Council to occur on or before July 15, 2021.

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

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

(4) The Council shall meet quarterly.

(5) Members who are not otherwise compensated by the member's employer for attendance at meetings shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010. These payments shall be made from monies appropriated to the Network Against Domestic and Sexual Violence for such purposes.

Sec. 7. REPEAL

16 V.S.A. § 2187 (Intercollegiate Sexual Harm Prevention Council) is repealed on July 1, 2025.

Sec. 8. APPROPRIATIONS

(a) In fiscal year 2022, \$11,990.00 is appropriated to the Center for Crime Victim Services to provide a grant for the purpose of staffing the Intercollegiate Sexual Harm Prevention Council.

(b) In fiscal year 2022, \$1,010.00 is appropriated to the Center for Crime Victim Services to provide for per diem compensation and reimbursement of expenses for members who are not otherwise compensated by the member's employer for attendance at meetings.

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 6 (Intercollegiate Sexual Harm Prevention Council) and 8 (Appropriations) shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2021.

Which proposal of amendment was considered and concurred in on a vote by division: Yeas, 104; Nays, 20.

**Amendments Offered Prior to Third Reading;
Proposal of Amendment Amended; Third Reading;
Passed in Concurrence with Proposal of Amendment**

S. 25

Senate bill, entitled

An act relating to miscellaneous cannabis regulation procedures

Was taken up and pending third reading of the bill, **Rep. Gannon of Wilmington** moved to amend the House proposal of amendment as follows:

First: In Sec. 8, 7 V.S.A. § 881, in subdivision (a)(1), after subdivision (R), by adding “* * *”

Second: By striking out Sec. 20, effective date, in its entirety and inserting in lieu thereof a new Sec. 20 to read as follows:

Sec. 20. EFFECTIVE DATES

(a) Secs. 9 (advertising) and 18 (substance misuse prevention) shall take effect on March 1, 2022.

(b) The remaining sections shall take effect on passage.

Which was agreed to.

Thereafter, pending third reading of the bill, **Rep. Donahue of Northfield** moved to further amend the House proposal of amendment by adding a Sec. 8a to read as follows:

Sec. 8a. DEPARTMENT OF HEALTH; REPORT

On or before March 1, 2022, the Department of Health shall report to the House and Senate Committees on Government Operations regarding its

collaboration with the Cannabis Control Board developing health warnings as required by 7 V.S.A. chapters 33 (cannabis establishments) and 37 (medical cannabis dispensaries).

Which was agreed to. Thereupon, the bill was read a third time and passed in concurrence with proposal of amendment.

Rules Suspended; Senate Proposal of Amendment Concurred in

H. 135

Appearing on the Calendar for Notice, on motion of **Rep. McCoy of Poultney**, the rules were suspended and House bill, entitled

An act relating to the State Ethics Commission

Was taken up for immediate consideration.

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

Sec. 1. 3 V.S.A. chapter 31 is amended to read:

CHAPTER 31. GOVERNMENTAL ETHICS

* * *

Subchapter 2. Disclosures

§ 1211. EXECUTIVE OFFICERS; ~~BIENNIAL~~ ANNUAL DISCLOSURE

(a) ~~Biennially~~ Annually, each Executive officer shall file with the State Ethics Commission a disclosure form that contains the following information in regard to the previous ~~calendar year~~ 12 months:

(1) Each source, but not amount, of personal income of the officer and of his or her spouse or domestic partner, and of the officer together with his or her spouse or domestic partner, that totals more than \$5,000.00, including any of the sources meeting that total described as follows:

(A) employment, including the employer or business name and address and, if self-employed, a description of the nature of the self-employment without needing to disclose any individual clients; and

(B) investments, described generally as “investment income.”

(2) Any board, commission, or other entity that is regulated by law or that receives funding from the State on which the officer served and the officer’s position on that entity.

(3) Any company of which the officer or his or her spouse or domestic partner, or the officer together with his or her spouse or domestic partner,

owned more than 10 percent.

(4) Any lease or contract with the State held or entered into by:

(A) the officer or his or her spouse or domestic partner; or

(B) a company of which the officer or his or her spouse or domestic partner, or the officer together with his or her spouse or domestic partner, owned more than 10 percent.

(b) In addition, if an Executive officer's spouse or domestic partner is a lobbyist, the officer shall disclose that fact and provide the name of his or her spouse or domestic partner and, if applicable, the name of his or her lobbying firm.

(c)(1) Disclosure forms shall contain the statement, "I certify that the information provided on all pages of this disclosure form is true to the best of my knowledge, information, and belief."

(2) Each Executive officer shall sign his or her disclosure form in order to certify it in accordance with this subsection.

(d)(1) An officer shall file his or her disclosure on or before January 15 of the odd-numbered each year or, if he or she is appointed after January 15, within 10 days after that appointment.

(2) An officer who filed this disclosure form as a candidate in accordance with 17 V.S.A. § 2414 in the preceding year and whose disclosure information has not changed since that filing may update that filing to indicate that there has been no change.

~~(d)~~(e) As used in this section:

(1) "Domestic partner" means an individual with whom the Executive officer has an enduring domestic relationship of a spousal nature, as long as the officer and the domestic partner:

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

(B) are at least 18 years of age;

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

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

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

(2) "Lobbyist" and "lobbying firm" shall have the same meanings as in

2 V.S.A. § 261.

§ 1212. COMMISSION MEMBERS AND EXECUTIVE DIRECTOR;
~~BIENNIAL~~ ANNUAL DISCLOSURE

(a) ~~Biennially~~ Annually, each member of the Commission and the Executive Director of the Commission shall file with the Executive Director a disclosure form that meets the requirements of and contains the information that Executive officers are required to disclose under section 1211 of this subchapter.

(b) A member and the Executive Director shall file their disclosures on or before January 15 of ~~the first each~~ year of ~~their appointments~~ or, if the member or Executive Director is appointed after January 15, within 10 days after that appointment, ~~and shall file subsequent disclosures biennially thereafter.~~

§ 1213. DISCLOSURES; GENERALLY

(a) The Executive Director of the Commission shall prepare on behalf of the Commission any disclosure form required to be filed with it and the candidate disclosure form described in 17 V.S.A. § 2414, and shall make ~~those~~ forms to be filed with the Commission available on the Commission's website.

(b) The Executive Director shall post on the Commission's website a copy of any disclosure form the Commission receives.

Subchapter 3. State Ethics Commission

§ 1221. STATE ETHICS COMMISSION

(a) Creation. There is created within the Executive Branch an independent commission named the State Ethics Commission to accept, review, make referrals regarding, and track complaints of alleged violations of governmental conduct regulated by law, of the Department of Human Resources ~~Code of Ethics~~ Personnel Policy and Procedure Manual, and of the State's campaign finance law set forth in 17 V.S.A. chapter 61; to provide ethics training; and to issue guidance and advisory opinions regarding ethical conduct.

(b) Membership.

(1) The Commission shall be composed of the following five members:

(A) one member appointed by the Chief Justice of the Supreme Court;

(B) one member appointed by the League of Women Voters of Vermont, who shall be a member of the League;

(C) one member appointed by the Board of Directors of the Vermont Society of Certified Public Accountants, who shall be a member of the

Society;

(D) one member appointed by the Board of Managers of the Vermont Bar Association, who shall be a member of the Association; and

(E) one member appointed by the Board of Directors of the SHRM (Society of Human Resource Management) Vermont Human Resource Association State Council, who shall be a member of the Association Council.

(2) The Commission shall elect the Chair of the Commission from among its membership.

(3) A member shall not:

(A) hold any office in the Legislative, Executive, or Judicial Branch of State government or otherwise be employed by the State;

(B) hold or enter into any lease or contract with the State, or have a controlling interest in a company that holds or enters into a lease or contract with the State;

(C) be a lobbyist;

(D) be a candidate for State ~~or~~ legislative, or elected judicial office;

or

(E) hold any office in a State ~~or~~ legislative, or elected judicial office candidate's committee, a political committee, or a political party.

(4) A member may be removed for cause by the remaining members of the Commission in accordance with the Vermont Administrative Procedure Act.

(5)(A) A member shall serve a term of ~~three~~ five years and until a successor is appointed. A term shall begin on January 1 of the year of appointment and run through December 31 of the last year of the term. Terms of members shall be staggered so that ~~not all~~ no two terms expire at the same time.

(B) A vacancy created before the expiration of a term shall be filled in the same manner as the original appointment for the unexpired portion of the term.

(C) A member shall not serve more than two consecutive terms. A member appointed to fill a vacancy created before the expiration of a term shall not be deemed to have served a term for the purpose of this subdivision (C).

(c) Executive Director.

(1) The Commission shall be staffed by an Executive Director who shall

be appointed by and serve at the pleasure of the Commission and who shall be a part-time exempt State employee.

(2) The Executive Director shall maintain the records of the Commission and shall provide administrative support as requested by the Commission, in addition to any other duties required by this chapter.

(d) Confidentiality. The Commission and the Executive Director shall maintain the confidentiality required by this chapter.

(e) Meetings. Meetings of the Commission:

(1) shall be held at least quarterly for the purpose of the Executive Director updating the Commission on his or her work;

(2) may be called by the Chair and shall be called upon the request of any other two Commission members; and

(3) shall be conducted in accordance with 1 V.S.A. § 172.

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

* * *

§ 1223. PROCEDURE FOR HANDLING COMPLAINTS

(a) Accepting complaints.

(1) On behalf of the Commission, the Executive Director shall accept complaints from any source regarding governmental ethics in any of the three branches of State government or of the State's campaign finance law set forth in 17 V.S.A. chapter 61.

(2) Complaints shall be in writing and shall include the identity of the complainant.

(b) Preliminary review by Executive Director. The Executive Director shall conduct a preliminary review of complaints made to the Commission in order to take action as set forth in this subsection, which shall include referring complaints to all relevant entities.

(1) Governmental conduct regulated by law.

(A) If the complaint alleges a violation of governmental conduct regulated by law, the Executive Director shall refer the complaint to the Attorney General or to the State's Attorney of jurisdiction, as appropriate.

(B) The Attorney General or State's Attorney shall file a report with the Executive Director regarding his or her decision as to whether to bring an

enforcement action as a result of a complaint referred under subdivision (A) of this subdivision (1) within 10 days of that decision.

(2) Department of Human Resources, ~~Code of Ethics~~ Personnel Policy and Procedure Manual.

(A) If the complaint alleges a violation of the Department of Human Resources, ~~Code of Ethics~~ Personnel Policy and Procedure Manual, the Executive Director shall refer the complaint to the Commissioner of Human Resources.

(B) The Commissioner shall report back to the Executive Director regarding the final disposition of a complaint referred under subdivision (A) of this subdivision (2) within 10 days of that final disposition.

(3) Campaign finance.

(A) If the complaint alleges a violation of campaign finance law, the Executive Director shall refer the complaint to the Attorney General or to the State's Attorney of jurisdiction, as appropriate.

(B) The Attorney General or State's Attorney shall file a report with the Executive Director regarding his or her decision as to whether to bring an enforcement action as a result of a complaint referred under subdivision (A) of this subdivision (3) as set forth in 17 V.S.A. § 2904a.

(4) Legislative and Judicial Branches; attorneys.

(A) If the complaint is in regard to conduct committed by a State Senator, the Executive Director shall refer the complaint to the Senate Ethics Panel and shall request a report back from the Panel regarding the final disposition of the complaint.

(B) If the complaint is in regard to conduct committed by a State Representative, the Executive Director shall refer the complaint to the House Ethics Panel and shall request a report back from the Panel regarding the final disposition of the complaint.

(C) If the complaint is in regard to conduct committed by a judicial officer, the Executive Director shall refer the complaint to the Judicial Conduct Board and shall request a report back from the Board regarding the final disposition of the complaint.

(D) If the complaint is in regard to an attorney employed by the State, the Executive Director shall refer the complaint to the Professional Responsibility Board and shall request a report back from the Board regarding the final disposition of the complaint.

(E) If any of the complaints described in subdivisions (A)–(D) of this

subdivision (4) also allege that a crime has been committed, the Executive Director shall also refer the complaint to the Attorney General and the State's Attorney of jurisdiction.

(5) Closures. The Executive Director shall close any complaint that he or she does not refer as set forth in subdivisions (1)–(4) of this subsection.

(c) Confidentiality. Complaints and related documents in the custody of the Commission shall be exempt from public inspection and copying under the Public Records Act and kept confidential.

§ 1224. COMMISSION ETHICS TRAINING

At least annually, in collaboration with the Department of Human Resources, the Commission shall make available to legislators, State officers, and State employees training on issues related to governmental ethics. The training shall include topics related to those covered in any guidance provided or advisory opinion issued under section 1225 of this subchapter.

§ 1225. EXECUTIVE DIRECTOR GUIDANCE AND ADVISORY OPINIONS

(a) Guidance.

(1) ~~The Executive Director may issue provide guidance only to an Executive officer or other State employee~~ a person who is or will be subject to the provisions of this chapter, upon his or her request, guidance with respect to that person's duties regarding any provision of this chapter or regarding any other issue related to governmental ethics.

(2) The Executive Director may consult with members of the Commission and the Department of Human Resources in preparing this guidance.

(3) Guidance ~~issued~~ provided under this subsection shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential unless the receiving entity has publicly disclosed it.

(b) Advisory opinions.

(1) ~~The~~ On the written request of a person who is or will be subject to the provisions of this chapter, the Executive Director may issue an advisory ~~opinions~~ opinion to that person that provide provides general advice or interpretation with respect to that person's duties regarding any provision of this chapter or regarding any other issue related to governmental ethics.

(2) The Executive Director may consult with members of the Commission and the Department of Human Resources in preparing these advisory opinions.

(3) The Executive Director may seek comment from persons interested in the subject of an advisory opinion under consideration.

(4) The Executive Director shall post on the Commission's website any advisory opinions that he or she issues.

§ 1226. COMMISSION REPORTS

Annually, on or before January 15, the Commission shall report to the General Assembly regarding the following issues:

(1) Complaints. The number and a summary of the complaints made to it, separating the complaints by topic, and the disposition of those complaints, including any prosecution, enforcement action, or dismissal. This summary of complaints shall not include any personal identifying information.

(2) Guidance. The number of requests for and a summary of the guidance ~~documents~~ the Executive Director issued provided, separating the guidance by topic. This summary of guidance shall not include any personal identifying information.

(3) Recommendations. Any recommendations for legislative action to address State governmental ethics or provisions of campaign finance law.

Sec. 2. 2017 Acts and Resolves No. 79, Sec. 13, as amended by 2020 Acts and Resolves No. 120, Sec. A.8 is further amended to read:

Sec. 13. STATE ETHICS COMMISSION FUNDING SOURCE SURCHARGE; REPEAL

(a) Surcharge.

(1) Notwithstanding the provisions of 3 V.S.A. § 2283(c) setting forth the purpose and rate of charges collected in the Human Resource Services Internal Service Fund, in fiscal year 2018 and thereafter, a surcharge of up to 2.3 percent, but no greater than the cost of the activities of the State Ethics Commission set forth in Sec. 7 of this act, on the per-position portion of the charges authorized in 3 V.S.A. § 2283(c)(2) shall be assessed to all Executive Branch agencies, departments, and offices and shall be paid by all assessed entities solely with State funds.

(2) The amount collected shall be accounted for within the Human Resource Services Internal Service Fund and used solely for the purposes of funding the activities of the State Ethics Commission set forth in Sec. 7 of this act.

(b) Repeal. This section shall be repealed on ~~June 30, 2021~~ July 1, 2022.

Sec. 3. IMPLEMENTATION OF STAGGERED FIVE-YEAR TERMS

In order to stagger the terms of the members of the State Ethics Commission as described in 3 V.S.A. § 1221(b)(5)(A) in Sec. 1 of this act, members shall serve five-year terms beginning on January 1, 2022, except that:

(1) Following the conclusion of the current term of the Chief Justice of the Supreme Court appointment on December 31, 2023, the subsequent Chief Justice of the Supreme Court appointment shall be for a two-year term ending on December 31, 2025.

(2) Following the conclusion of the current term of the Board of Directors of the Vermont Human Resource Association appointment on December 31, 2022, the subsequent SHRM (Society of Human Resource Management) Vermont State Council appointment shall be for a two-year term ending on December 31, 2024.

Sec. 4. CREATION OF POSITION WITHIN THE STATE ETHICS COMMISSION

(a) The establishment of the following new position is authorized in fiscal year 2022, and the position shall be transferred and converted from an existing vacant position in the Executive Branch and shall not increase the total number of authorized State positions: one permanent exempt 0.5 full-time equivalent Administrative Assistant position for the efficient administration of the State Ethics Commission.

(b) The Executive Director may fill the position created in subsection (a) of this section with the consent of the State Ethics Commission.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

Which proposal of amendment was considered.

Rep. Long of Newfane presiding.

Thereupon Senate proposal of amendment was concurred in.

Rules Suspended; Senate Proposal of Amendment Concurred in

H. 443

Appearing on the Calendar for Notice, on motion of **Rep. McCoy of Poultney**, the rules were suspended and House bill, entitled

An act relating to approval of the merger of the Wilmington Water District with the Town of Wilmington

Was taken up for immediate consideration.

The Senate proposes to the House to amend the bill in Sec. 3, effective date, immediately following the words "This act shall take effect on" by striking out the date "July 1, 2021" and inserting in lieu thereof the date June 30, 2021 before the period.

Which proposal of amendment was considered and concurred in.

**Senate Proposal of Amendment Concurred in
With a Further Amendment Thereto**

H. 313

The Senate proposed to the House to amend House bill, entitled

An act relating to miscellaneous amendments to alcoholic beverage laws

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

Sec. 1. 7 V.S.A. § 204 is amended to read:

§ 204. APPLICATION AND RENEWAL FEES FOR LICENSES AND
PERMITS; DISPOSITION OF FEES

(a) The following fees shall be paid when applying for a new license or permit or to renew a license or permit:

* * *

(6) For a third-class license, \$1,095.00 for an annual license and \$550.00 for a six-month license. For a stand-alone third-class license, the issuing municipality may assess an additional \$50.00 local processing fee.

* * *

(24) For a third-class license granted to the holder of a manufacturer's or rectifier's license, \$230.00.

(b) Except for fees collected for first-, second-, and third-class licenses, the fees collected pursuant to subsection (a) of this section shall be deposited in the Liquor Control Enterprise Fund. The other fees shall be distributed as follows:

(1) Third-class license fees: 55 percent shall go to the Liquor Control Enterprise Fund, and 45 percent shall go to the General Fund and shall fund alcohol abuse prevention and treatment programs. The local processing fee for stand-alone third-class licenses shall be retained by the issuing municipality.

* * *

Sec. 2. 7 V.S.A. § 230 is added to read:

§ 230. SALE OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION

(a) The Board of Liquor and Lottery and the local control commissioners may authorize:

(1) First- and third-class licensees to sell malt beverages, vinous beverages, and spirits-based prepared drinks for off-premises consumption. All sales of alcoholic beverages for off-premises consumption must be accompanied by a food order.

(2) Second-class licensees to provide curbside pickup of unopened containers of the alcoholic beverages that the licensee is permitted to sell from the licensed premises pursuant to section 222 of this subchapter.

(3) Fourth-class licensees to provide curbside pickup of unopened containers of the alcoholic beverages that the licensee is permitted to sell from the licensed location pursuant to section 224 of this subchapter.

(b) For any alcoholic beverage sold pursuant to subdivision (a)(1) of this section, the first- or third-class licensee shall provide the alcoholic beverage in a container:

(1) with a securely affixed tamper-evident seal; and

(2) bearing a label that:

(A) states that the beverage contains alcohol; and

(B) lists the ingredients and serving size.

(c) A licensee may sell alcoholic beverages pursuant to this section between 10:00 a.m. and 11:00 p.m.

(d) The Board of Liquor and Lottery may adopt rules and forms necessary to implement this section.

Sec. 3. 7 V.S.A. § 253 is amended to read:

§ 253. FESTIVAL PERMITS

* * *

(b)(1) A festival required to be permitted under this section is any event that is open to the public for which the primary purpose is to serve one or more of the following: malt beverages, vinous beverages, fortified wines, or spirits.

(c) A festival permit holder is permitted to conduct an event that is open to the public at which one or more of the following are served: malt beverages, vinous beverages, fortified wines, or spirits.

(d) The permit holder shall ensure the following:

(1) Attendees at the festival shall be required to pay an entry fee of not less than \$5.00.

(2)(A) Malt beverages for sampling shall be offered in glasses that contain not more than 12 ounces with not more than 60 ounces served to any patron at one event.

(B) Vinous beverages for sampling shall be offered in glasses that contain not more than five ounces with not more than 25 ounces served to any patron at one event.

(C) Fortified wines for sampling shall be offered in glasses that contain not more than three ounces with not more than 15 ounces served to any patron at one event.

(D) Spirits for sampling shall be offered in glasses that contain not more than one ounce with not more than five ounces served to any patron at one event.

(E) Patrons attending a festival where combinations of malt, vinous, fortified wines, or spirits are mutually sampled shall not be served more than a combined total of six U.S. standard drinks containing 3.6 fluid ounces or 84 grams of pure ethyl alcohol.

(3) The event shall be conducted in compliance with all the requirements of this title.

(e)(1) A festival permit holder may purchase invoiced volumes of malt or vinous beverages directly from a manufacturer or packager licensed in Vermont, or a manufacturer or packager that holds a federal Basic Permit or Brewers Notice or evidence of licensure in a foreign country that is satisfactory to the Board.

(2) The invoiced volumes of malt or vinous beverages may be transported to the site and sold by the glass to the public by the permit holder or its employees and volunteers only during the event.

(e)(f) A festival permit holder shall be subject to the provisions of this title, including section 214 of this title, and the rules of the Board regarding the sale of the alcoholic beverages and shall pay the tax on the malt or vinous beverages pursuant to section 421 of this title.

(d)(g) A person shall be granted ~~no~~ not more than four festival permits per year, and each permit shall be valid for ~~no~~ not more than four consecutive days.

Sec. 4. 7 V.S.A. § 256 is amended to read:

§ 256. PROMOTIONAL TASTINGS FOR LICENSEES

(a)(1) At the request of a first- or second-class licensee, a holder of a manufacturer's, rectifier's, or wholesale dealer's license may distribute without charge to the first- or second-class licensee's management and staff, provided they are of legal age ~~and are off duty for the rest of the day~~, two ounces per person of vinous or malt beverages for the purpose of promoting the beverage.

(2) At the request of a holder of a third-class license, a manufacturer or rectifier of spirits or fortified wines may distribute without charge to the third-class licensee's management and staff, provided they are of legal age ~~and are off duty for the rest of the day~~, one-quarter ounce of each beverage and ~~no~~ not more than a total of one ounce to each individual for the purpose of promoting the beverage.

(3) No permit is required for a tasting pursuant to this subsection, ~~but written notice of the event shall be provided to the Division of Liquor Control at least two days prior to the date of the tasting.~~

* * *

Sec. 5. FEE REDUCTION FOR RENEWAL OF FIRST- AND THIRD-
CLASS LICENSES BY CLUBS; TEMPORARY PROVISION

Notwithstanding 7 V.S.A. § 204(a)(4) and (6), in the year 2021, the first- and third-class license renewal fees shall be waived for any club as defined in 7 V.S.A. § 2.

Sec. 6. REPORTS; SPORTS BETTING STUDY; IMPACTS OF SALE OF
ALCOHOLIC BEVERAGES FOR OFF-PREMISES
CONSUMPTION

(a) On or before October 15, 2021, the Office of Legislative Counsel and the Joint Fiscal Office 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 concerning the current state of the regulated sports betting market in the United States. In particular, the report shall examine and analyze:

(1) the sports betting laws in each state that has an active or proposed sports betting market;

(2) studies carried out by other states concerning the legalization, taxation, and regulation of sports betting;

(3) the models for regulation of sports betting that are currently operating in other states, including a summary of the tax or revenue sharing

structures used in each state;

(4) for each state with an active sports betting market, the state revenue resulting from sports betting; and

(5) any reports or information concerning impacts on problem gaming in the states with regulated sports betting markets.

(b) In the preparation of the report, the Office of Legislative Counsel and the Joint Fiscal Office shall solicit input from the Department of Liquor and Lottery, the Department of Taxes, the Office of the Attorney General, and other stakeholders.

(c) On or before January 15, 2023, the Department of Liquor and Lottery shall submit a report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on General, Housing, and Military Affairs concerning the sale of alcoholic beverages for delivery and curbside pickup by first-, second-, third-, and fourth-class licensees. The report shall include an analysis of:

(1) the economic impact on the licensees that were approved to sell alcoholic beverages pursuant to 7 V.S.A. § 230; and

(2) the impact on public safety and compliance with the State's alcoholic beverage laws.

(d) The Department shall collect data from licensees that is sufficient to demonstrate the economic impact of the authority granted to the licensees pursuant to 7 V.S.A. § 230.

Sec. 7. REPEAL

7 V.S.A. § 230 is repealed on July 1, 2023.

Sec. 8. EFFECTIVE DATES

This act shall take effect on July 1, 2021, except that this section and Sec. 5 (fee reduction for first- and third-class licenses) shall take effect on passage.

Pending the question, Shall the House concur in the Senate proposal of amendment?, **Rep. Birong of Vergennes** moved to concur in the Senate proposal of amendment with a further amendment thereto as follows:

In Sec. 6, reports; sports betting study; impacts of sale of alcoholic beverages for off-premises consumption, in subsection (a), immediately following the words "to the House" by striking out the word "Committee" and inserting in lieu thereof the words "Committees on Ways and Means and" before the words "on General, Housing, and Military Affairs"

Which was agreed to.

Speaker Krowinski presiding

Rules Suspended; Report of Committee of Conference Adopted

H. 449

Appearing on the Calendar for Notice, on motion of **Rep. McCoy of Poultney**, the rules were suspended and House bill, entitled

An act relating to the membership and duties of the Vermont Pension Investment Commission and the creation of the Pension Benefits, Design, and Funding Task Force

Was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses respectfully reported that it met and considered the same and recommended the following:

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference, to which were referred the disagreeing votes of the two Houses upon House Bill, entitled:

H. 449. An act relating to the membership and duties of the Vermont Pension Investment Commission and the creation of the Pension Benefits, Design, and Funding Task Force.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. chapter 17 is amended to read:

CHAPTER 17. VERMONT STATE POLICE AND MOTOR VEHICLE
INSPECTORS' RETIREMENT SYSTEM VERMONT PENSION
INVESTMENT COMMISSION

§ 521. DEFINITIONS

As used in this chapter:

(1) "~~Committee~~" "Commission" means the Vermont Pension Investment ~~Committee~~ Commission.

(2) “Financial expert” means an individual with material expertise and experience in institutional fund management, or other significant pension or other relevant financial expertise.

(3) “Independent” means an individual who does not have a direct or indirect material interest in the Plans.

(A) An individual has a direct or indirect material interest in the Plans if:

(i) the individual or the individual’s spouse is a beneficiary of any of the Plans; or

(ii) the individual or the individual’s spouse, parent, child, sibling, or in-law is or has been within the past five years an employee, director, owner officer, consultant, or manager, or had another material role with an entity servicing the Plans.

(B) An individual is considered an owner of a publicly traded company if the individual owns, directly or indirectly, five percent or more of a class of the company’s equity securities registered under the Securities Exchange Act of 1934 (15 U.S.C. § 78 et seq.), as amended.

(4) “Plans” means the Vermont State Teachers’ Retirement System, the Vermont State Employees’ Retirement System, and the Vermont Municipal Employees’ Retirement System pursuant to section 472 of this title, 16 V.S.A. § 1943, and 24 V.S.A. § 5063.

§ 522. VERMONT PENSION INVESTMENT COMMITTEE
COMMISSION

(a) Members. There is created the Vermont Pension Investment ~~Committee~~ Commission, an independent commission, to comprise ~~seven~~ nine members as follows:

(1) one member and one alternate, ~~who may or may not be trustees of the Board of the Vermont State Employees’ Retirement System,~~ elected by the employee and retiree members of ~~that board~~ the Board of the Vermont State Employees’ Retirement System;

(2) one member and one alternate, ~~who may or may not be trustees of the Board of the State Teachers’ Retirement System of Vermont,~~ elected by the employee and retiree members of ~~that~~ the Board of the Vermont State Teachers’ Retirement System;

(3) one member and one alternate, ~~who may or may not be trustees of the Board of the Vermont Municipal Employees’ Retirement System,~~ elected

by the municipal employee and municipal official members of ~~that the~~ Board of the Vermont Municipal Employees' Retirement System;

(4) two members and one alternate, who shall each be a financial expert and independent, appointed by the Governor;

(5) the State Treasurer or designee, an ex-officio voting member; and

(6) one member, appointed by the other six voting eight members of the Committee Commission, who shall serve as Chair of the Committee Commission and at the pleasure of the Committee Commission;

(7) one member representing a municipal employer, appointed by the Executive Director of the Vermont League of Cities and Towns; and

(8) one member representing a school employer, appointed by the Vermont School Boards Association.

~~(b) Training. An authority responsible for electing or appointing a member or alternate shall consider the experience and knowledge of potential members and alternates consistent with the purposes of the Committee, and shall inform potential members and alternates that they shall participate in Members and alternates of the Commission shall be required to participate in onboarding and ongoing periodic training in investments, securities, and fiduciary responsibilities as directed by the Committee Commission. The Commission shall provide an annual report to the respective authorities responsible for electing and appointing members and alternates regarding attendance at Commission meetings and relevant educational programs attended.~~

~~(c) Initially, one appointee and the alternate appointee of the Governor shall serve a two-year term, and the second appointee shall serve for a four-year term. Thereafter, the Governor's appointees and alternate appointee shall serve for four-year terms. Initially, the member and alternate chosen by the Vermont Municipal Employees' Retirement Board shall serve for a two-year term, the member and alternate chosen by the Vermont State Teachers' Retirement Board shall serve for a three-year term and the member and alternate chosen by the Vermont State Employees' Retirement Board shall serve for a four-year term. Thereafter, all members and alternates shall serve for four-year terms. Member terms.~~

(1) Except as provided in subdivision (2) of this section and for the ex-officio members of the Commission, all members and alternates of the Commission shall serve staggered four-year terms. A vacancy created before the expiration of a term shall be filled in the same manner as the original appointment for the unexpired portion of the term. A member or alternate appointed to fill a vacancy created before the expiration of a term shall not be deemed to have served a term for the purpose of this subsection. Members and

alternates of the Commission shall be eligible for reappointment and shall serve not more than three terms; provided, however, that a single term served as an alternate shall not be used to calculate a member's total term limit. Members and alternates of the Commission may be removed only for cause. The Commission shall adopt rules pursuant to chapter 25 of this title to define the basis and process for removal.

(2) The Chair shall serve not more than 20 years on the Commission as a chair or Commission member. If the Chair is unable to perform his or her duties, the Commission shall elect an interim chair who shall be a financial expert and independent.

(3) Terms shall end on June 30 with new terms beginning on July 1.

(4) Notwithstanding subdivision (3) of this subsection, members and alternates shall serve until their successors are appointed subject to the term limits provided in this subsection.

(d) Chair and vice chair.

(1)(A) The Chair of the Vermont Pension Investment Committee Commission shall have the financial, investment, leadership, and governance expertise as required by policies adopted by the Commission.

(B) The Chair shall be a nonvoting member, except in the case of a tie vote.

(2) The Vermont Pension Investment Commission shall elect a vice chair from among its members.

(e) ~~The Vermont Pension Investment Committee shall elect a vice chair from among its members~~ Eligibility. No legislator who is currently serving in the General Assembly shall serve on the Commission.

(f) ~~Four Meetings.~~

(1) Five members of the ~~Committee~~ Commission shall constitute a quorum.

(2) If a member is not in attendance, the alternate of that member shall be eligible to act as a member of the ~~Committee~~ Commission during the absence of the member.

(3) ~~Four~~ Five concurring votes shall be necessary for a decision of the ~~Committee~~ Commission at any meeting of the ~~Committee~~ Commission, except that any decision of the Commission relating to setting actuarial assumptions pursuant to subdivision 523(b)(1) of this title shall require six concurring votes. ~~The Committee shall be attached to the Office of the State Treasurer for administrative support, and the expenses of the Committee and the Treasurer's~~

~~office in support of the Committee shall be paid proportionately from the funds of the three retirement systems and any individual municipalities that have been allowed to invest their retirement funds pursuant to subsection 523(a) of this title.~~

(g) Leave time. Public employee members and alternates shall be granted reasonable leave time by their employers to attend ~~Committee~~ Commission meetings and ~~Committee-related~~ Commission-related educational programs.

(h) ~~The Committee shall provide an annual report to the respective authorities responsible for electing and appointing members and alternates regarding attendance at Committee meetings and relevant educational programs attended~~ Compensation and reimbursements. Members and alternates of the Commission who are not public employees shall be entitled to compensation as set forth in 32 V.S.A. § 1010 and reimbursement for all necessary expenses that they may incur through service on the Commission from the funds of the retirement systems. The Chair of the Commission may be compensated from the funds at a level not to exceed one-third of the salary of the State Treasurer, as determined by the other members of the Commission.

(i) ~~A vacancy of an elected or appointed member or alternate shall be filled for the remainder of the term by the authority responsible for electing or appointing that member or alternate~~ Assistance and expenses.

(1) The Commission shall have the administrative and technical support of the Office of the State Treasurer.

(2) The Commission may collect proportionally from the funds of the three retirement systems and any individual municipalities that have been allowed to invest their retirement funds pursuant to subsection 523(a) of this title, any expenses incurred that are associated with carrying out its duties, and any expenses incurred by the Treasurer's office in support of the Commission.

(3) The Attorney General shall serve as legal advisor to the Commission.

§ 523. VERMONT PENSION INVESTMENT COMMITTEE
COMMISSION; DUTIES

(a) General. The Vermont Pension Investment ~~Committee~~ Commission shall be responsible for the investment of the assets of the ~~State Teachers' Retirement System of Vermont~~ Vermont State Teachers' Retirement System, the Vermont State Employees' Retirement System, and the Vermont Municipal Employees' Retirement System pursuant to section 472 of this title, 16 V.S.A. § 1943, and 24 V.S.A. § 5063. The ~~Committee~~ Commission shall strive to maximize total return on investment, within acceptable levels of risk for public

retirement systems, in accordance with the standards of care established by the prudent investor rule under 14A V.S.A. § 902. The ~~Committee~~ Commission may, in its discretion, subject to approval by the Attorney General, also enter into agreements with municipalities administering their own retirement systems to invest retirement funds for those municipal pension plans. The State Treasurer shall serve as the custodian of the funds of all three retirement systems. The ~~Committee~~ Commission may, in its discretion, also enter into agreements with the State Treasurer to invest the State Employees' Postemployment Benefits Trust Fund, established in 3 V.S.A. § section 479a of this title, and the Retired Teachers' Health and Medical Benefits Fund, established in 16 V.S.A. § 1944b.

~~(b) Members and alternates of the Committee who are not public employees shall be entitled to compensation as set forth in 32 V.S.A. § 1010 and reimbursement for all necessary expenses that they may incur through service on the committee from the funds of the retirement systems. The Chair of the Committee may be compensated from the funds at a level not to exceed one-third of the salary of the State Treasurer, as determined by the other members of the Committee~~ Powers and duties. The Commission shall have the following duties:

(1) Set the following actuarial assumptions:

(A) the investment rate of return;

(B) the inflation rate; and

(C) the smoothing rate method used for the actuarial valuation of assets and returns.

(2) Not more than 180 days after the end of each fiscal year, conduct an asset allocation study that reviews the expected return of each fund, including a risk analysis using best practices methodologies to estimate potential risks to the fund's asset values over a five-, 10-, and 20-year period, and the remainder of the statutory amortization period. The study shall be submitted to the House and Senate Committees on Government Operations and the Office of the Governor and made publicly available within 10 days of completion.

(c) Recordkeeping. The ~~Committee~~ Commission shall keep a record of all its proceedings, which shall be open for public inspection.

(d) Policies. The ~~Committee~~ Commission shall formulate policies and procedures deemed necessary and appropriate to carry out its functions, including a written statement of the responsibilities of and expectations for the Chair of the ~~Committee~~ Commission and standards of conduct for members and employees of the Commission in order to maintain and promote public confidence in the integrity of the Commission. The standard of conduct

policies shall prohibit members and employees from receiving or soliciting any gift, including meals, alcoholic beverages, travel fare, room and board, or any other thing of value, tangible or intangible, from any vendor or potential vendor of investment services, management services, brokerage services, and other services to the Commission.

~~(e) The Attorney General shall serve as legal advisor to the Committee Contracts.~~

~~(f) Contracts approved by the Committee Commission and related documents may be executed by the Chair; or, in the Chair's absence, the Vice Chair.~~

(f) Asset and liability study. Beginning on July 1, 2022, and every three years thereafter, based on the most recent actuarial valuations of each Plan, the Commission shall study the assets and liabilities of each Plan over a 20-year period. The study shall:

(1) project the expected path of the key indicators of each Plan's financial health based on all current actuarial and investment assumptions; current contribution and benefit policies, including the Plans' mark-to-market funded ratio; actuarially required contributions by source; payout ratio; and related liquidity obligations; and

(2) project the effect on each Plan's financial health resulting from:

(A) possible material deviations from Plan assumptions in investment assumptions, including returns versus those expected and embedded in the actuary's estimate of actuarially required contributions and any material changes in capital markets volatility; and

(B) possible material deviations from key plan actuarial assumptions, including retiree longevity, potential benefit increases, and inflation.

~~(g) Changes to actuarial rate of return. Notwithstanding any other provision of law to the contrary, Any changes to the actuarial rate of return shall be made at a joint meeting of by the Committee Commission and the appropriate Retirement Board. The Board and Committee shall review the recommendations of the actuary and the investment consultant. A change to an actuarial rate of return shall be by joint resolution of the Board and Committee. Each body shall vote according to its own procedures. In the event that the Board and Committee are unable to agree on an actuarial rate of return, the existing assumed rate of return shall remain in effect.~~

(h) Annual reports.

(1) Beginning on January 15, 2022, and every year thereafter, the Commission shall submit to the House and Senate Committees on Government Operations:

(A) a report on the performance of each Plan versus its demographic investment and other actuarial assumptions over a three-, five-, seven-, and 10-year period, and the funding ratio of each Plan to each Plan beneficiary at the end of each fiscal year; and

(B) a report on the status of the funding and investment performance of each Plan and any relevant information from the asset liability and scenario testing completed during the prior fiscal year.

(2) The Commission shall send to each participant or beneficiary of each Plan a written or electronic copy of the report described in subdivision (1) of this subsection, in the format authorized by the participant or beneficiary. The report shall be consolidated with any other reports required to be sent by the Commission to the participants or beneficiaries of each Plan.

Sec. 2. VERMONT PENSION INVESTMENT COMMISSION;
TRANSITION OF MEMBER TERMS

The transition of the member terms of the Vermont Pension Investment Commission, created in Sec. 1 of this act, are as follows:

(1) Beginning on July 1, 2021, members shall be appointed to fill the new member seats established in 3 V.S.A. § 522(a)(7) and (8) in Sec. 1 of this act. The member appointed pursuant to 3 V.S.A. § 522(a)(7) in Sec. 1 of this act shall serve an initial term of one year, and the member appointed pursuant to 3 V.S.A. § 522(a)(8) in Sec. 1 of this act shall serve an initial term of two years.

(2) Members and alternates serving on the Commission as of the date of enactment of this act shall serve until the June 30 in the year prior to the expiration of their current terms or June 30, 2023, whichever is earlier. Current members and alternates may be reappointed if they meet the eligibility, qualification, and term limit requirements of 3 V.S.A. § 522 in Sec. 1 of this act.

Sec. 3. VERMONT PENSION INVESTMENT COMMISSION; FISCAL
YEAR 2022 REPORTS

(a) On or before January 15, 2022, the Commission shall develop a written policy for implementing the asset allocation study and the asset and liability study required by 3 V.S.A. § 523 and shall make the policy publicly available.

(b) On or before July 1, 2021, the Commission shall hire an independent third party to review and report on the operations of the Commission and the

Retirement Division of the State Treasurer's office and make recommendations on best practices and necessary actions to transfer the Commission to an independent entity. The report shall include a review of budgetary authority, frequency of trainings, transfer or hiring of personnel, and compensation of the Commission Chair and Commission employees. On or before January 15, 2022, the Commission shall submit a copy of the report to the House and Senate Committees on Government Operations.

Sec. 4. 3 V.S.A. § 471 is amended to read:

§ 471. RETIREMENT BOARD; MEDICAL BOARD; ACTUARY; RATES OF CONTRIBUTION; SAFEKEEPING OF SECURITIES

* * *

(j) The Retirement Board shall designate an actuary who shall be the technical advisor of the Board on matters regarding the operation of the Fund of the Retirement System, and shall perform such other duties as are required in connection therewith. Immediately after the establishment of the Retirement System, the Retirement Board shall adopt for the Retirement System such mortality and service tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this subchapter. At least once in each ~~five-year~~ three-year period following the establishment of the System, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the Retirement System, and taking into account the results of such investigation, the Retirement Board shall adopt for the Retirement System such mortality, service, and other tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this subchapter.

* * *

Sec. 5. 3 V.S.A. § 472 is amended to read:

§ 472. INVESTMENTS; INTEREST RATE; DISBURSEMENTS

* * *

(d) Except as otherwise herein provided, no trustee and no employee of the Board or member of the ~~Committee~~ Commission shall have any direct interest in the gains or profits of any investment made by the ~~Committee~~ Commission; nor shall any trustee or employee of the Board or the ~~Committee~~ Commission, directly or indirectly, for himself or herself or as an agent, in any manner use the same except to make such current and necessary payments as are authorized by the Board or ~~Committee~~ Commission; nor shall any trustee or employee of the Board or the ~~Committee~~ Commission become an endorser or

surety, or in any manner an obligor, for the monies loaned to or borrowed from the Board. The Treasurer, with the approval of the Board and the ~~Committee~~ Commission, shall adopt by rule standards of conduct for trustees, ~~members of the Committee~~, and employees of the Board and ~~Committee~~ in order to maintain and promote public confidence in the integrity of the Board and ~~Committee~~. Such rules shall prohibit trustees and employees from receiving or soliciting any gift, including meals, alcoholic beverages, travel fare, room and board, or any other thing of value, tangible or intangible, from any vendor or potential vendor of investment services, management services, brokerage services, and other services to the Board or ~~Committee~~ Commission.

Sec. 6. 16 V.S.A. § 1942 is amended to read:

§ 1942. BOARD OF TRUSTEES; MEDICAL BOARD; ACTUARY; RATE OF CONTRIBUTION; SAFEKEEPING OF SECURITIES

* * *

(m) Immediately after the establishment of the System, the actuary shall make such investigation of the mortality, service, and compensation experience of the members of the System, as the actuary shall recommend and the Board shall authorize, for the purpose of determining the proper mortality and service tables to be prepared and submitted to the Board for adoption. Having regard to such investigation and recommendation, the Board shall adopt for the System such mortality and service tables as shall be deemed necessary, and shall certify the rates of contribution payable under the provisions of this chapter. At least once in each ~~five-year~~ three-year period following the establishment of the ~~system~~ System, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the System, and taking into account the results of such investigation, the Board shall adopt for the System such mortality, service, and other tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this chapter.

* * *

Sec. 7. 16 V.S.A. § 1943 is amended to read:

§ 1943. INVESTMENTS; INTEREST RATE; DISBURSEMENTS

* * *

(d) Except as otherwise provided in this section, no trustee and no employee of the Board or member of the Vermont Pension Investment ~~Committee~~ Commission shall have any direct interest in the gains or profits of any investment made by the ~~Committee~~ Commission; nor shall any trustee or employee of the Board or ~~Committee~~ Commission, directly or indirectly, for

himself or herself or as an agent, in any manner use the same except to make such current and necessary payments as are authorized by the Board or ~~Committee~~ Commission; nor shall any trustee or employee of the Board or ~~Committee~~ Commission become an endorser or surety, or in any manner an obligor, for the monies loaned to or borrowed from the Board. The State Treasurer, with the approval of the Board and the Committee, shall adopt by rule standards of conduct for trustees and employees of the Board in order to maintain and promote public confidence in the integrity of the Board. Such rules shall prohibit trustees, ~~members of the Committee~~, and employees from receiving or soliciting any gift, including meals, alcoholic beverages, travel fare, room and board, or any other thing of value, tangible or intangible, from any vendor or potential vendor of investment services, management services, brokerage services, and other services to the Board.

Sec. 8. 24 V.S.A. § 5062 is amended to read:

§ 5062. RETIREMENT BOARD; MEDICAL BOARD; ACTUARY; RATES OF CONTRIBUTION; SAFEKEEPING OF SECURITIES

* * *

(k) Immediately after the establishment of the Retirement System, the Retirement Board shall adopt for the Retirement System such mortality and service tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this chapter. At least once in each ~~five-year~~ three-year period following the establishment of the System, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the Retirement System, and taking into account the results of such investigation, the Retirement Board shall adopt for the Retirement System such mortality, service, and other tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this chapter.

* * *

Sec. 9. 24 V.S.A. § 5063 is amended to read:

§ 5063. INVESTMENTS; INTEREST RATE; DISBURSEMENTS

* * *

(e) Except as otherwise herein provided, no trustee and no employee of the Retirement Board or Vermont Pension Investment ~~Committee~~ Commission shall have any direct interest in the gains or profits of any investment made by the ~~Committee~~ Commission, nor shall any trustee, member of the ~~Committee~~ Commission, or employee of the Board or ~~Committee~~ Commission, directly or indirectly, for himself or herself or as an agent, in any manner use the same

except to make such current and necessary payments as are authorized by the Board or ~~Committee~~ Commission; nor shall any trustee or employee of the Board or ~~Committee~~ Commission become an endorser or surety, or in any manner an obligor, for monies loaned to or borrowed from the Board.

Sec. 10. PENSION BENEFITS, DESIGN, AND FUNDING TASK FORCE;
STATE EMPLOYEES' RETIREMENT SYSTEM; STATE
TEACHERS' RETIREMENT SYSTEM; REPORT

(a) Creation. There is created the Pension Benefits, Design, and Funding Task Force to review and report on the benefits, design, and funding of retirement and retiree health benefit plans for the Vermont State Employees' Retirement System and the Vermont State Teachers' Retirement System.

(b) Membership.

(1) The Task Force shall be composed of the following members:

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

(B) two current members of the Senate, not from the same political party, who shall be appointed by the Committee on Committees;

(C) the Commissioner of Financial Regulation or designee;

(D) one member, who shall be appointed by the State Treasurer and who shall be a nonvoting member;

(E) three members, who shall be appointed by the President of the Vermont-NEA;

(F) two members, who shall be appointed by the President of the Vermont State Employees' Association; and

(G) one member of the Vermont Troopers' Association, who shall be appointed by the President of the Vermont Troopers' Association.

(2)(A) The members appointed pursuant to subdivisions (1)(A) and (B) of this subsection (b) shall not be direct or indirect beneficiaries of the Vermont State Employees' Retirement System or the Vermont State Teachers' Retirement System.

(B) The members appointed pursuant to subdivisions (1)(E)–(G) of this subsection (b) shall not be currently serving as a legislator or the spouse or partner of an individual currently serving as a legislator.

(c) Powers and duties.

(1) The Task Force shall make recommendations about benefit provisions and appropriate funding sources along with other recommendations it deems appropriate for consideration, consistent with actuarial and governmental accounting standards, as well as demographic and workforce trends and the long-term sustainability of the benefit programs, including the following:

(A) developing and evaluating a range of strategies to lower the actuarially determined employer contributions and unfunded actuarially accrued liability based on actuarial value of assets in the State Employees' Retirement System and the Teachers' Retirement System by between 25 and 100 percent of the size of the increases from fiscal year 2021 to fiscal year 2022, as reported in the respective Actuarial Valuation and Review for each retirement system, dated June 30, 2020, while maintaining the 2038 amortization date;

(B) a five-year review of benefit expenditure levels as well as employer and employee contribution levels and growth rates and a three-, five-, and 10-year projection of these levels and rates;

(C) identifying potential options for limiting the growth in the actuarially determined employer contributions to not more than inflation;

(D) assessing the impacts associated with any modifications to the current amortization schedule;

(E) based on benefit and funding benchmarks:

(i) proposed benefit structures with the objective of adequate benefits, including an evaluation of a shared-risk model for employer and employee contributions and cost-of-living adjustments, with a focus on reducing any future increases to the unfunded actuarially accrued liability;

(ii) an estimate of the cost of current and any proposed benefit structures on a budgetary and full actuarial accrual basis;

(iii) the State's pension contributions as a percentage of direct general spending and a comparison of other states' pension contributions; and

(iv) how proposed benefit changes for new members may reduce the impact of future actuarial assumption losses;

(F) evaluating any cross-subsidization between all groups within the Vermont State Employees' Retirement System and adjusting contribution amounts to eliminate any cross-subsidization;

(G) examining permanent and temporary revenue streams to fund the Vermont State Employees' Retirement System and the State Teachers' Retirement System;

(H) a plan for prefunding other postemployment benefits, with an evaluation of using federal funds to the extent permissible, including identifying long-term impacts of pay-as-you-go funding;

(I) evaluating the intermediate and long-term impacts to the State and local economies because of any proposed changes to current benefit structures and contribution characteristics and their potential effects on retiree spending power, including retirees who identify as female and retirees who are persons with disabilities; and

(J) an examination of the effects of current benefit structures and contribution characteristics on the recruitment and retention of public school educators and State employees and an evaluation of any proposed changes to current benefit structures and contribution characteristics on the recruitment and retention of public school educators and State employees in the future.

(2) The Task Force shall not make recommendations on adjusting the assumed rates of return.

(d) Stakeholder input. During the course of its deliberations, and prior to any final recommendations being made, the Task Force shall:

(1) solicit input, including through public hearings, from affected stakeholders, including those impacted by issues of inequities; and

(2) consult with representatives designated by the Supreme Court acting in its constitutional role as the administrator of the Judicial Branch, Group D members of the State Employees' Retirement System, and members of the State Employees' Retirement System who are employees of the Department of Corrections.

(e) Assistance.

(1) The Task Force shall have:

(A) fiscal assistance from the Joint Fiscal Office and Office of the State Treasurer; and

(B) committee support services from the Office of Legislative Operations.

(2) The Office of Legislative Counsel and Joint Fiscal Office are authorized to contract for advisory services for the Task Force from an independent actuary, benefits expert, and legal expert, as necessary.

(f) Leave time. Public employee members of the Task Force shall be granted reasonable leave time by their employers to attend Task Force meetings.

(g) Report. On or before October 15, 2021, the Task Force shall submit an interim written report to the Governor and to the House and Senate Committees on Government Operations with an update on the work of the Task Force. The Task Force shall submit a final report with its findings and any recommendations for legislative action on or before December 2, 2021. The Task Force shall also provide the report to the Board of Trustees of the State Employees' and Teachers' Retirement Systems for their consideration and comment to the General Assembly.

(h) Meetings.

(1) The members appointed pursuant to subdivisions (b)(1)(A) and (B) of this section shall appoint a House and Senate member as co-chairs, who shall call the first meeting of the Task Force to occur on or before June 15, 2021.

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

(3) The Co-Chairs may establish subcommittees within the Task Force to perform the work set forth in this section.

(4) The Task Force shall cease to exist on June 30, 2022.

(i) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Task Force serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than 20 meetings. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Task Force who are not State employees shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than 20 meetings. These payments shall be made from monies appropriated to the State Treasurer.

Sec. 11. 2 V.S.A. chapter 31 is added to read:

CHAPTER 31. JOINT PUBLIC PENSION OVERSIGHT COMMITTEE

§ 1001. CREATION OF COMMITTEE

(a) Creation. There is created a Joint Public Pension Oversight Committee for the purpose of working with and providing assistance to other legislative

committees on matters related to State's retirement system other postemployment benefits.

(b) Members. The Committee shall be composed of the following members, who shall be appointed each biennial session of the General Assembly:

(1) three members of the House, who shall not be from the same party, appointed by the Speaker of the House; and

(2) three members of the Senate, who shall not be from the same party, appointed by the Committee on Committees.

(c) Powers and duties. The Committee shall evaluate and make recommendations on the following:

(1) issues of public policy related to the provision of retirement benefits to the State's public sector workforce;

(2) changes to statutory provisions regarding the provision, design, and administration of retirement benefits and the retirement systems;

(3) issues of public policy relating to health benefit design innovations, State regulatory measures, and alternative methods of providing pooled health care benefits to both active and retired school employees to lower health care costs for employees, retirees, school boards, and the State; and

(4) the appropriate annual appropriation to fund the State's retirement obligations in accordance with actuarial recommendations, statutory amortization schedules, and funding policies.

(d) Policies. The Committee shall elect a chair, vice chair, and clerk from among its members and shall adopt rules of procedures. The Chair shall rotate biennially between the House and Senate members. The Committee shall keep minutes of its meetings.

(e) Meetings.

(1) When the General Assembly is in session, the Committee shall meet at the call of the Chair.

(2) The Committee may meet six times during adjournment and may meet more often subject to approval of the Speaker of the House and the President Pro Tempore of the Senate.

(3) A quorum shall consist of four members.

(f) Assistance. The Committee shall have assistance from the Office of Legislative Counsel, the Office of Legislative Operations, and the Joint Fiscal Office.

(g) Compensation and reimbursement. For attendance at a meeting when the General Assembly is not in session, members of the Committee shall be entitled to compensations for services and reimbursement of expenses as provided under subsection 23(a) of this title.

(h) Reports. Annually, on or before December 1 each year, the Vermont Investment Pension Commission and the Boards of Trustees for the State Employees' Retirement System, Teachers' Retirement System, and Municipal Employees' Retirement, shall report to the Committee.

Sec. 12. CONFORMING REVISIONS

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Counsel shall replace "Vermont Pension Investment Committee" with "Vermont Pension Investment Commission" throughout the statutes as needed for consistency with Secs. 1–9 of this act, provided the revisions have no other effect on the meaning of the affected statutes.

Sec. 13. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 11 shall take effect on October 1, 2021.

*JEANETTE K. WHITE
ANTHONY POLLINA
BRIAN P. COLLAMORE*

Committee on the part of the Senate

*SARAH L. COPELAND HANZAS
JOHN M. GANNON
ROBERT B. LACLAIR*

Committee on the part of the House

Which was considered and adopted on the part of the House.

Rules Suspended; Bills Messaged to Senate Forthwith

On motion of **Rep. McCoy of Poultney**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

H. 313

House bill, entitled

An act relating to miscellaneous amendments to alcoholic beverage laws

S. 25

Senate bill, entitled

An act relating to miscellaneous cannabis regulation procedures

Recess

At four o'clock and twenty-nine minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At six o'clock and six minutes in the evening, the Speaker called the House to order.

Rules Suspended; Report of Committee of Conference Adopted

H. 360

Pending appearance on the Calendar for Notice, on motion of **Rep. McCoy of Poultney**, the rules were suspended and House bill, entitled

An act relating to accelerated community broadband deployment

Was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses respectfully reported that it met and considered the same and recommended the following:

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House Bill entitled:

H. 360. An act relating to accelerated community broadband deployment.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Legislative Findings and Intent * * *

Sec. 1. FINDINGS AND INTENT

(a) The General Assembly finds that:

(1) For over a decade, Vermont has pursued many approaches and strategies designed to ensure that every Vermonter has access to reliable, affordable, high-speed broadband.

(2) In 2018, through Acts and Resolves No. 169, the General Assembly found that broadband is essential for supporting economic and educational opportunities, strengthening health and public safety networks, and reinforcing freedom of expression and democratic, social, and civic engagement.

(3) We further found in Act No. 169 that the lack of a thriving competitive market in Vermont, particularly in isolated locations, disadvantages the ability of consumers and businesses to protect their interests sufficiently, and we recognized that the State may exercise its traditional role in protecting consumers.

(4) In 2019, through Acts and Resolves No. 79, the General Assembly found that despite the FCC's "light-touch" regulatory approach under Title I of the Communications Act of 1934, rather than "utility-style" regulation under Title II, existing broadband providers are not providing adequate service to many rural areas where fewer potential customers reduce the profitability necessary to justify network expansion.

(5) Accordingly, reaching the last mile will require a grassroots approach founded on input from and support of local communities. Existing broadband grant programs do not offer the scale to solve this problem, and traditional capital sources typically shy away from businesses with limited revenue history and little equity or collateral.

(6) To this end, public investment in programs and personnel that provide local communities with much-needed resources and technical assistance is required.

(7) In 2020, the COVID-19 public health emergency served as an accelerant to the socioeconomic disparities between the connected and the unconnected in our State. Vermonters who cannot access or cannot afford broadband, many of whom are geographically isolated, face challenges with respect to distance learning; remote working; accessing telehealth services; and accessing government programs and services, including our institutions of democracy, such as the court system.

(8) Indeed, the ongoing public health emergency has highlighted the extent to which robust and resilient broadband networks are critical to our economic future as a whole and provide a foundation for our educational, health care, public health and safety, and democratic institutions.

(9) Broadband infrastructure is critical infrastructure fundamental to accessing other critical services in sectors such as energy, public safety, government, health care, education, and commerce.

(10) The goal of universal broadband needs to be elevated as a top priority of the State to meet the economic, health, safety, educational, and social needs of Vermonters.

(11) While private broadband providers have brought broadband services to many households, businesses, and locations in Vermont, significant gaps remain.

(12) When existing broadband providers fail to achieve the goal of providing reliable, high-quality, universal broadband, it is imperative for the State to support and facilitate the construction of broadband infrastructure through financial and other means.

(13) Communications union districts (CUDs) were created by the State to coordinate and implement creative and innovative solutions in their respective territories, particularly where existing providers are not providing adequate service that meets the needs of their residents and businesses while ensuring public accountability.

(14) CUDs are thus positioned to be the unofficial “provider of last resort” for broadband and ensure public accountability for serving all Vermonters within their respective service territories. Yet CUDs have limited access to financial capital necessary for expansion of broadband to unserved and underserved areas of the State.

(15) All Vermont electric ratepayers are supporting the rollout of clean energy technologies, however not all ratepayers are able to access those technologies because they do not have access to adequate broadband. Equity in the energy sector requires universal broadband.

(16) The Department of Public Service simultaneously plays a regulatory role in the telecommunications market while also supporting the development of CUDs in an unregulated competitive broadband market.

(17) To ensure universal broadband in Vermont, there is a need for greater coordination of grassroots broadband solutions both among the CUDs themselves and also with respect to their other potential partners, such as electric distribution utilities, nonprofit organizations, the federal government, and private broadband providers.

(18) In addition to broadband access, it is imperative for the State to address the critical issues of broadband affordability and adoption.

(19) The Department of Public Service estimates that 82 percent of Vermont addresses (254,000 locations) lack access to 100 Mbps symmetrical service. The total cost to provide 100 Mbps symmetrical service to each of these locations is approximately \$1,000,000,000.00. This figure is based on

estimates in the Magellan Advisors' report commissioned by the Department, and it includes estimates of both fixed and variable capital costs for fiber to the premise infrastructure (Feasibility Study of Electric Companies Offering Broadband in Vermont, dated December 31, 2019).

(b) Therefore, this act is intended to protect the public interest by:

(1) ensuring broadband availability to all Vermonters and Vermont addresses;

(2) ensuring public accountability for maintaining and upgrading critical broadband infrastructure;

(3) increasing the reliability of the electric grid and ensuring equal access to clean energy services among all electric ratepayers;

(4) protecting Vermonters' privacy and unrestricted access to the Internet;

(5) alleviating the inherent tension the Department of Public Service currently experiences as a result of its dual roles as both regulator and community project developer;

(6) directing public resources to the development of public broadband assets intended to provide universal access;

(7) developing favorable taxing, financing, and regulatory mechanisms to support communications union districts; and

(8) providing time-limited leadership for coordinating the buildout of Vermont's communications union districts and their partners and for developing financing mechanisms to fully support that buildout through a newly created State entity, the Vermont Community Broadband Board, designed specifically to effectuate these purposes.

* * * Vermont Community Broadband Board * * *

Sec. 2. 30 V.S.A. chapter 91A is added to read:

CHAPTER 91A: VERMONT COMMUNITY BROADBAND BOARD

§ 8081. PURPOSE

In recognition of the historic level of broadband funding currently available to the State and the critical need for broadband access and adoption, it is the purpose of this chapter to establish the Vermont Community Broadband Fund to support policies and programs designed to accelerate community efforts that advance the State's goal of achieving universal access to reliable, high-quality, affordable, fixed broadband and to establish the Vermont Community Broadband Board to coordinate, facilitate, support, and accelerate the

development and implementation of universal community broadband solutions.

§ 8082. DEFINITIONS

As used in this chapter:

(1) “Board” means the Vermont Community Broadband Board.

(2) “Broadband service” or “broadband” means a mass-market retail service by wire or radio in Vermont that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service.

(3) “Department” means the Department of Public Service.

(4) “Eligible provider” means:

(A) a communications union district;

(B) a small communications carrier; or

(C) an Internet service provider working in conjunction with a communications union district to expand broadband service to unserved and underserved locations as part of a plan to achieve universal broadband coverage in the district.

(5) “Fund” means the Vermont Community Broadband Fund established by this chapter.

(6) “Internet service provider” means a business that provides broadband Internet access service to any person in Vermont.

(7) “Location” means an E-911 business or residential address connected to the electric power grid.

(8) “Municipality” means a city, town, incorporated village, or unorganized town or gore.

(9) “Served” means a location that has access to broadband service capable of speeds of at least 25 Mbps download and 3 Mbps upload.

(10) “Small communications carrier” means a carrier:

(A) a carrier that has elected to be regulated under subsection 227d(a) of this title; or

(B) an Internet service provider that operates in not more than five counties.

(11) “Underserved” means a location that only has access to broadband service capable of speeds of at least 4 Mbps download and 1 Mbps upload but less than 25 Mbps download and 3 Mbps upload.

(12) “Universal service plan” means a plan for providing each unserved and underserved location in a communications union district or in a municipality that was not part of a communications union district prior to June 1, 2021 access to broadband service capable of speeds of at least 100 Mbps download and 100 Mbps upload.

(13) “Unserved” means a location that only has access to broadband capable of speeds of less than 4 Mbps download and 1 Mbps upload.

§ 8083. VERMONT COMMUNITY BROADBAND FUND

(a) There is created a special fund in the State Treasury to be known as the “Vermont Community Broadband Fund.” Expenditures from the Fund shall be made only to implement and effectuate the policies, purposes, and programs established in this chapter. The Fund shall be composed of any monies from time to time appropriated to the Fund by the General Assembly, transferred to the Fund pursuant to subsection 7523(b) of this title, or received from any other source, private or public, subject to the provisions of 32 V.S.A. § 5. Unexpended balances and any earnings shall remain in the Fund for use in accord with the purposes of this chapter.

(b) Authorized expenditures from the Fund include:

(1) grants pursuant to the Broadband Preconstruction Grant Program established in section 8085 of this chapter;

(2) grants pursuant to the Broadband Construction Grant Program established in section 8086 of this chapter;

(3) funding for communications workforce training and development, in consultation with the Commissioner of Labor, to the extent such funds are not available from other funding sources;

(4) funding for a comprehensive, statewide fiber-optic engineering design as specified in subdivision 8084(a)(6)(I) of this chapter;

(5) administrative expenses of grant recipients in an amount determined by the Board, subject to applicable federal law and guidance; and

(6) Up to \$1,500,000.00 annually to fund the operational expenses of the Board and the Department to the extent the Department’s expenses support the work of the Board.

(c) Expenditures from the Fund shall be authorized by the Board.

§ 8084. VERMONT COMMUNITY BROADBAND BOARD

(a) Vermont Community Broadband Board. (1) There is created within the Department of Public Service the Vermont Community Broadband Board. The Board shall have approval authority with respect to budget development, program design, grant awards, and all other funding allocations pursuant to this chapter.

(2) The Board shall consist of five members as follows:

(A) two members appointed by the Governor who shall not be employees or officers of the State at the time of the appointment and at least one of whom shall have expertise in the area of finance and one of whom shall be selected by the Governor to serve as the Chair;

(B) one member appointed by the Speaker of the House who shall not be a member of the General Assembly at the time of the appointment and who shall have expertise in the area of broadband deployment in rural, high-cost areas;

(C) one member appointed by the Senate Committee on Committees who shall not be a member of the General Assembly at the time of the appointment and who shall have expertise in the area of communications and electric utility law and policy; and

(D) one member appointed by the Vermont Communications Union District Association.

(3) The members may not be persons with a financial interest in or owners, employees, or members of a governing board of an Internet service provider or a communications union district; however, this provision shall not be construed to disqualify a member who has ownership in a mutual fund, exchange-traded fund, pension plan, or similar entity that owns shares in such enterprises as part of a broadly diversified portfolio. Members shall serve terms of three years beginning on February 1 of the year of appointment; however, the members first appointed by the Governor shall serve initial terms of four years, the member first appointed by the Speaker of the House shall serve an initial term of three years, and the member first appointed by the Committee on Committees shall serve an initial term of two years. A vacancy shall be filled by the respective appointing authority for the balance of the unexpired term. A member may be reappointed. A member may be removed for cause only.

(4) At its initial organizational meeting, and annually thereafter at the first meeting following February 1, the Board shall elect from among its members a vice chair. The Board may elect officers as it may determine. Meetings shall be held at the call of the Chair or at the request of two

members. A majority of sitting members shall constitute a quorum, and action taken by the Board under the provisions of this chapter may be authorized by a majority of the members present and voting at any regular or special meeting.

(5) Members are entitled to a per diem in the amount of \$250.00 for each day spent in the performance of their duties and each member shall be reimbursed for his or her reasonable expenses incurred in carrying out his or her duties under this chapter.

(6) The Board shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including the power to:

(A) coordinate and facilitate community broadband efforts;

(B) provide resources to communications union districts in the form of administrative and technical support;

(C) provide grants for the preconstruction and construction costs of broadband projects;

(D) facilitate partnerships between communications union districts and their potential partners;

(E) develop policies or recommend to the General Assembly programs that promote a strong communications workforce in Vermont;

(F) develop policies or recommend to the General Assembly programs that promote access to affordable broadband service plans;

(G) consult with the Vermont Economic Development Board and the Vermont Municipal Bond Bank with regard to financing community broadband projects;

(H) identify and publish State, federal, nonprofit, and any other broadband funding opportunities;

(I) contract for a comprehensive, statewide fiber-optic engineering design to identify strategies that maximize fiber-optic buildout efficiency and ensure resiliency and interoperability of all existing fiber-optic networks built with public or ratepayer funds, and that takes into consideration all proposed publicly funded fiber-optic projects, the development of which shall not be required or impede the disbursement of grants under this chapter;

(J) provide input to the Department of Public Service on the development of the State's Telecommunications Plan; and

(K) do any and all things necessary or convenient to effectuate the purposes and provisions of this chapter and to carry out its purposes and exercise the powers given and granted in this chapter.

(7) The Department shall provide the Board with administrative services.

(8) All meetings of the Board shall be open to the public and conducted in accordance with the Vermont Open Meeting Law. All records of the Board are subject to the Vermont Public Records Act. Any records or information produced or acquired by the Board that are trade secrets or confidential business information shall be exempt from public inspection and copying pursuant to 1 V.S.A. § 317(c)(9).

(b) Executive Director. (1) The Vermont Community Broadband Fund shall have an Executive Director. The initial Executive Director shall be appointed by the Governor with the advice and consent of the Senate, and subsequent executive directors shall be hired by the Board. The Executive Director shall be an employee of the Department of Public Service. The Executive Director shall be overseen and managed by the Board and shall serve as its chief administrative officer. The Executive Director shall direct and supervise the Board's administrative affairs and technical activities in accordance with Board policies. In addition to any other duties necessary for carrying out the purposes of this chapter, the Executive Director shall:

(A) work with the Board in developing and implementing the programs established by this chapter;

(B) approve all accounts of the Board, including accounts for salaries, per diems, and allowable expenses of any employee or consultant thereof and expenses incidental to the operation of the Board;

(C) make recommendations to the Board for grant awards or other forms of financial or technical assistance authorized by this chapter;

(D) make an annual report to the Board documenting the actions of the Board and such other reports as the Board may request; and

(E) perform such other duties as may be directed by the Board in the carrying out of the purposes and provisions of this chapter.

(2) The Executive Director may retain or employ technical experts and other officers, agents, employees, and contractors as are necessary to give effect to the purposes of this chapter, including in the areas of finance, network planning, engineering and technical design, and grant writing, and may fix their qualifications, duties, and compensation. The Executive Director shall oversee and manage the Rural Broadband Technical Assistance Specialist

created in subsection 7523(b) of this title. The Executive Director is authorized to hire additional full-time employees pursuant to this subdivision who shall be part of the classified service created in 3 V.S.A. chapter 13.

(c) Administration. The Fund shall be administered by the Department. The Department is authorized to expend monies from the Fund in accordance with this chapter. The Commissioner shall make all decisions necessary to implement this chapter and administer the Fund except those decisions committed to the Board under this section. The Department shall ensure an open public process in the administration of the Fund for the purposes established in this chapter.

(d) Grant administration redesignation. The Board shall be redesignated as the responsible entity for administering the \$1,000,000.00 grant award to the Department of Public Service by the Northern Border Regional Commission for the purpose of supporting communications union districts. Any position funded by the grant shall be overseen and managed by the Board in a manner that is consistent with grant terms and conditions.

§ 8085. BROADBAND PRECONSTRUCTION GRANT PROGRAM

(a) There is established the Community Broadband Preconstruction Grant Program to be administered by the Board. The purpose of the Program is to provide grants to communications union districts for preconstruction costs related to broadband projects that are part of a universal service plan.

(b) As used in this section, “preconstruction costs” include expenses for feasibility studies, business planning, pole data surveys, engineering and design, and make-ready work associated with the construction of broadband networks, including consultant, legal, and administrative expenses, and any other costs deemed appropriate by the Board.

(c) To ensure an equitable distribution of funds under this Program and to encourage collaborative work among communications union districts, grant awards shall be scalable and shall be commensurate with the size of a broadband project as determined by the project’s service area, road mileage, the number of unserved or underserved locations, or any other metric deemed appropriate by the Board. In addition, the Board may develop standards for the disbursement of grant funds in a manner that both supports the efficient and timely use of funds and also ensures accountability.

§ 8086. BROADBAND CONSTRUCTION GRANT PROGRAM

(a) There is established the Broadband Construction Grant Program to finance the broadband projects of eligible providers that are part of a universal service plan.

(b) In evaluating grant proposals under this chapter, the Board shall give priority to broadband projects that:

(1) leverage existing private resources and assets, with a high priority given to partnerships between a communications union district and a distribution utility;

(2) demonstrate project readiness;

(3) provide broadband service that complies with the consumer protection and net neutrality standards established in 3 V.S.A. § 348;

(4) support low-income or disadvantaged communities;

(5) promote geographic diversity of fund allocations;

(6) provide consumers with affordable service options; and

(7) include public broadband assets that can be shared by multiple service providers and that can support a variety of public purposes.

(c) The Board shall establish policies and standard grant terms and conditions that:

(1) reflect payment schedules that ensure maximum accountability;

(2) adopt an industry-accepted engineering standard that promotes network reliability, resiliency, and interoperability;

(3) establish standards for recouping grant funds and transferring ownership of grant-funded network assets to the State if a grantee materially fails to comply with the terms and conditions of a grant;

(4) establish a continuity of operations plan applicable to a network owned by a communications union district that, among other things, contemplates the Board assuming operational control of a network if necessary to maintain uninterrupted broadband service;

(5) prohibit the sale or transfer of grant-funded network assets without the prior written approval of the Board;

(6) allow an applicant to seek reconsideration of an adverse Board decision;

(7) ensure project completion within a reasonable period of time and consistent with applicable federal law and guidance; and

(8) comply with Administrative Bulletin No. 5, the Agency of Administration's policy for grant issuance and monitoring and Administrative Bulletin 3.5 the Agency of Administration's policy for procurement and contracting procedures, as appropriate, and any other requirements of federal

law and guidance, if applicable.

(d) Before the Board awards a grant under this section, it shall determine that the applicant has produced a viable business plan for its proposed broadband project, which takes into consideration network engineering and design, labor needs and availability, supply-chain contingencies for equipment and materials, make-ready work, and any other relevant capital and operational expenses.

(e) The Board shall not award a grant to an eligible provider who is not a communications union district unless the Board determines that the provider's universal service plan does not conflict with or undermine the universal service plan of an existing communications union district.

(f) The Board may provide a grant to an eligible provider that enables the provision of broadband service in a geographic area currently served, provided that:

(1) the proposed project is a cost-effective method for providing broadband service to nearby unserved and underserved locations that is capable of speeds of at least 100 Mbps download and 100 Mbps upload;

(2) any overbuild is incidental to the overall objectives of the universal service plan required for funding under this Program; and

(3) before awarding the grant, the Board makes a reasonable effort to distinguish served and unserved or underserved locations within the geographic area, including recognition and consideration of known or probable service extensions or upgrades.

(g) It is the intent of the General Assembly that a broadband project financed under this Program demonstrates an economically sustainable business model that ultimately will be eligible for financing in the private or municipal bond market.

§ 8087. CENTRALIZED RESOURCES FOR COMMUNICATIONS UNION DISTRICTS

(a) The Board shall provide centralized resources and technical and administrative support to communications union districts with respect to the planning, development, and implementation of broadband projects.

(b) In carrying out the purpose of this section, the Board shall:

(1) develop standardized forms, contracts, network business and design models, and templates for use by any communications union district;

(2) assist communications union districts with identifying and negotiating with potential partners, including with respect to the development

of a memorandum of understanding or other form of legally-binding commitment pertaining to a broadband project;

(3) when authorized by one or more communications union districts, apply for grants, loans, permits, licenses, certificates, or approvals, or enter into contractual arrangements for goods or services on behalf of or jointly with a communications union district or districts;

(4) assist communications union districts with pursuing route identification for fiber-optic infrastructure and with obtaining pole surveys and negotiating pole attachments;

(5) assist communications union districts with completing grant and loan applications for funding opportunities that exist outside this chapter; and

(6) assist communications union districts with obtaining access to fiber-optic networks owned by the State or by an electric distribution utility, where appropriate.

§ 8088. INTERAGENCY COOPERATION AND ASSISTANCE

Other departments and agencies of the State government, including the E-911 Board, shall assist and cooperate with the Board and shall make available to it information and data as needed to assist the Board in carrying out its duties. The Secretary of Administration shall establish protocols and agreements among the Board and departments and agencies of the State for this purpose. Nothing in this section shall be construed to waive any privilege or protection otherwise afforded to the data and information under exemption to the Public Records Act or under other laws due solely to the fact that the information or data is shared with the Board pursuant to this section.

§ 8089. ANNUAL REPORT

(a) Notwithstanding 2 V.S.A. § 20(d), on or before January 15 of each year, the Board shall submit a report of its activities pursuant to this chapter for the preceding year to the Senate Committees on Finance and on Natural Resources and Energy, the House Committee on Energy and Technology, and the Joint Information Technology Oversight Committee. The report shall include an operating and financial statement covering the Board's operations during the year, including a summary of all grant awards and contracts and agreements entered into by the Board. In addition, the report shall include a description of the progress each start-up communications union district has made in achieving long-term financial sustainability that is not dependent upon public funding, an update on its efforts to secure additional federal funds for broadband deployment, and progress made towards meeting the State's goal of ensuring every E-911 location has access to broadband capable of delivering a minimum of 100 Mbps symmetrical service as required in subdivision

202c(b)(10) of this title.

(b) As part of its first annual report, the Board shall include recommended legislation for policies and programs not authorized under this chapter but consistent with its purpose or for any other policies and programs it deems appropriate. The report shall include recommendations concerning increased access to and use of fiber-optic networks owned by the State or by an electric distribution utility in furtherance of the goals of this chapter. In addition, and with input from relevant stakeholders, the Board shall make recommendations on whether and to what extent authorized expenditures under the Fund should be expanded to include:

(1) funding for equipment replacement in the Department of Libraries' FiberConnect Network;

(2) funding for building-wide Wi-Fi installations at multi-unit affordable housing owned by nonprofits and housing authorities for the purpose of providing free broadband service to the residents thereof;

(3) funding for digital inclusion efforts, such as subsidized customer equipment installations and broadband service, grants for long-term affordability planning, and outreach and digital literacy training;

(4) funding for co-worker spaces;

(5) additional funding for communications workforce development initiatives; and

(6) funding for any other broadband programs or initiatives.

§ 8089a. SUNSET; TRANSFER PLAN

(a) The Fund and Board shall cease to exist on July 1, 2029.

(b) As part of its annual report submitted on or before January 15, 2029, the Board shall develop a plan for transferring its assets, liabilities, and legal and contractual obligations to another appropriate State entity. The Board may include in its report a recommendation regarding the continued existence of the Board beyond its statutory sunset date.

Sec. 3. ORGANIZATIONAL MEETING; SPACE ALLOCATION

(a) Within 60 days following the effective date of this act, the Vermont Community Broadband Board shall hold its initial organizational meeting and the Governor shall appoint an Executive Director.

(b) Within 60 days following the effective date of this act, the Commissioner of Buildings and General Services shall allocate space for the Vermont Community Broadband Board.

Sec. 4. REPEALS

The following provisions of law are repealed:

(1) 2019 Acts and Resolves No. 79, Sec. 10 (Broadband Innovation Grant Program); and

(2) 2020 Acts and Resolves No. 154, Sec. B1105.2 (amending the Broadband Innovation Grant Program).

Sec. 5. POSITIONS

(a) The position of Rural Broadband Technical Assistance Specialist shall be subject to the oversight and management of the Commissioner of Public Service until the appointment of the Executive Director of the Vermont Community Broadband Board. The position shall remain in the classified service created in 3 V.S.A. chapter 13.

(b) The Commissioner is authorized to hire one full-time employee to provide administrative services for the Board. This position shall be part of the classified service created in 3 V.S.A. Chapter 13. The Commissioner is authorized to hire one full-time attorney to provide legal services for the Board. This position shall be an exempt position and shall be subject to the oversight and management of the Executive Director of the Vermont Community Broadband Board upon his or her appointment. The salaries and benefits for these two positions shall constitute expenses that are to be reimbursed to the Department from the Fund pursuant to 30 V.S.A. § 8083(b)(5).

Sec. 6. INTERIM GRANTS; DEPARTMENT OF PUBLIC SERVICE

Notwithstanding any other provision of law to the contrary, to ensure the expeditious disbursement of available funds prior to the organization of the Vermont Community Broadband Board, the Department is authorized to allocate and disburse up to a total of \$20,000,000.00, or up to \$25,000,000.00 if an additional \$5,000,000.00 is approved by the Joint Fiscal Committee, under the Broadband Preconstruction Grant Program and the Broadband Construction Grant Program on or before December 31, 2021 or until the Board is operational, whichever occurs first.

* * * Transfer of Fiber-optic Assets * * *

Sec. 7. TRANSFER OF FIBER-OPTIC ASSETS

On or before September 30, 2021, subject to review and approval by the State Treasurer, the Department of Public Service shall transfer ownership of its fiber-optic assets to the communications union district in which those assets are located. The transfer shall include the transfer of rights and obligations

under any existing contracts or lease agreements with third parties regarding the maintenance or use of the fiber-optic assets. In addition, the transfer shall include a requirement that, upon the dissolution of a communications union district, any such fiber assets shall become the property of the State to be managed by the Department of Public Service. A communications union district may refuse to accept the transfer of assets authorized by this section, in which case the assets shall remain the property of the Department of Public Service. Nothing in this section shall preclude the Department from transferring fiber-optic assets to a communications union district that initially declined to accept such assets prior to September 30, 2021.

* * * Universal Service Charge; 0.4 Percent Revenue; Vermont Community
Broadband Fund * * *

Sec. 7a. 30 V.S.A. § 7516 is amended to read:

§ 7516. CONNECTIVITY FUND

(a) There is created a Connectivity Fund for the purpose of providing support to the High-Cost Program established under section 7515 of this chapter and the Connectivity Initiative established under section 7515b of this chapter. The fiscal agent shall determine annually, on or before November 1, the amount of monies available to the Connectivity Fund. Such funds shall be apportioned as follows: 45 percent to the High-Cost Program and 55 percent to the Connectivity Initiative.

~~(b) Of the money transferred to the Connectivity Fund pursuant to subsection 7523(b) of this title, up to \$120,000.00 shall be appropriated annually to the Department of Public Service to fund a Rural Broadband Technical Assistance Specialist whose duties shall include providing outreach, technical assistance, and other support services to communications union districts established pursuant to chapter 82 of this title and other units of government, nonprofit organizations, cooperatives, and for-profit businesses for the purpose of expanding broadband service to unserved and underserved locations. Support services also may include providing business model templates for various approaches, including formation of or partnership with a cooperative, a communications union district, a rural economic development infrastructure district, an electric utility, or a new or existing Internet service provider as operator of the network. Any remaining funds shall be used to support the Connectivity Initiative established under section 7515b of this title. [Repealed.]~~

Sec. 7b. 30 V.S.A. § 7523(b) is amended to read:

(b) Beginning on July 1, 2019, the rate of charge established under subsection (a) of this section shall be increased by four-tenths of one percent

of retail telecommunications service, and the monies collected from this increase shall be transferred to the ~~Connectivity Fund established under section 7516 of this title~~ Vermont Community Broadband Fund established under section 8083 of this title, and up to \$120,000.00 shall be used to fund a Rural Broadband Technical Assistance Specialist whose duties shall include providing outreach, technical assistance, and other support services to communications union districts established pursuant to chapter 82 of this title and other units of government, nonprofit organizations, cooperatives, and for-profit businesses for the purpose of expanding broadband service to unserved and underserved locations. Support services also may include providing business model templates for various approaches, including formation of or partnership with a cooperative, a communications union district, a rural economic development infrastructure district, an electric utility, or a new or existing Internet service provider as operator of the network.

* * * Connectivity Initiative; Department of Public Service * * *

Sec. 7c. 30 V.S.A. § 7515b is amended to read:

§ 7515b. CONNECTIVITY INITIATIVE

(a) The purpose of the Connectivity Initiative is to provide each service location in Vermont access to ~~Internet service~~ broadband that is capable of speeds of at least 25 Mbps download and 3 Mbps. Within this category of service locations, priority shall be given first to unserved and then to underserved locations. As used in this section, “unserved” means a location ~~having access to only satellite or dial-up Internet service that only has access to broadband capable of speeds of less than 4 Mbps download and 1 Mbps upload~~ and “underserved” means a location ~~having access to Internet service with speeds that exceed satellite and dial-up speeds but are less than that only has access to broadband capable of speeds of at least 4 Mbps download and 1 Mbps upload but less than 25 Mbps download and 3 Mbps upload. Any new services funded in whole or in part by monies from this Initiative shall be capable of being continuously upgraded to reflect the best available, most economically feasible service capabilities.~~

(b) The Department of Public Service shall publish annually a list of ~~census blocks~~ E-911 locations eligible for funding based on the Department’s most recent broadband mapping data. The Department annually shall solicit proposals from service providers to deploy broadband to eligible ~~census blocks~~ E-911 locations. Funding shall be available for capital improvements only, not for operating and maintenance expenses, and shall be available only for projects that the Department determines do not conflict with or undermine the deployment plans of a communications union district. The Department shall give priority to proposals that reflect the lowest cost of providing services to

unserved and underserved locations; however, the Department also shall consider:

- (1) the proposed data transfer rates and other data transmission characteristics of services that would be available to consumers;
- (2) the price to consumers of services;
- (3) the proposed cost to consumers of any new construction, equipment installation service, or facility required to obtain service;
- (4) whether the proposal would use the best available technology that is economically feasible;
- (5) the availability of service of comparable quality and speed; and
- (6) the objectives of the State's Telecommunications Plan; and
- (7) the extent to which a proposal leverages federal or private funding opportunities.

(c) In order to ensure that grants are disbursed based on the value of work completed, the Department shall develop with each grantee a payment schedule that reflects the verified percentage of project completion. To verify project completion, the grantee shall retain a Department-approved third party to conduct independent field testing, which the Department may supplement with provider-supplied data and crowd-sourced user data. If deemed necessary by the Department, the Department may advance a grantee funds necessary for project commencement. The Department shall retain five percent of an award for two years after project completion to ensure continued compliance with contract terms. A grantee shall reimburse the Department any funds received for contracted work that is not completed pursuant to contract specifications.

(d) The Department shall maintain a publicly accessible inventory of completed broadband projects financed in whole or in part with grants under this section.

* * * Connectivity Initiative; Vermont Community Broadband Board * * *

Sec. 7d. 30 V.S.A. § 7515b is amended to read:

§ 7515b. CONNECTIVITY INITIATIVE

(a) The Connectivity Initiative shall be administered by the Vermont Community Broadband Board. The purpose of the Connectivity Initiative is to provide each service location in Vermont access to broadband that is capable of speeds of at least 25 Mbps download and 3 Mbps upload, or the FCC speed requirements established under Connect America Fund Phase II, whichever is higher, beginning with locations not served as of December 31, 2013

according to the ~~minimum technical service characteristic objectives applicable at that time~~ 100 Mbps symmetrical. Within this category of service locations, priority shall be given first to unserved and then to underserved locations that are part of a plan to achieve universal broadband coverage in a community or communications union district. As used in this section, “unserved” means a location that only has access to broadband capable of speeds of less than 4 Mbps download and 1 Mbps upload and “underserved” means a location that only has access to broadband capable of speeds of at least 4 Mbps download and 1 Mbps upload but less than 25 Mbps download and 3 Mbps upload.

(b) The Department of Public Service shall publish annually a list of E-911 locations eligible for funding based on the Department’s most recent broadband mapping data. The ~~Department~~ Board annually shall solicit proposals from communications union districts and from service providers working in conjunction with a communications union district to provide universal broadband service in a community or communications union district, to deploy broadband to eligible E-911 locations. Funding shall be available for capital improvements only, not for operating and maintenance expenses, and shall be available only for projects that the Department determines do not conflict with or undermine the deployment plans of a communications union district. The ~~Department~~ Board shall give priority to proposals that reflect the lowest cost of providing services to unserved and underserved locations; however, the ~~Department~~ Board also shall consider:

- (1) the proposed data transfer rates and other data transmission characteristics of services that would be available to consumers;
- (2) the price to consumers of services;
- (3) the proposed cost to consumers of any new construction, equipment installation service, or facility required to obtain service;
- (4) whether the proposal would use the best available technology that is economically feasible;
- (5) the availability of service of comparable quality and speed;
- (6) the objectives of the State’s Telecommunications Plan; and
- (7) the extent to which a proposal leverages federal or private funding opportunities.

(c) In order to ensure that grants are disbursed based on the value of work completed, the ~~Department~~ Board shall develop with each grantee a payment schedule that reflects the verified percentage of project completion. To verify project completion, the grantee shall retain a ~~Department-approved~~ Board-approved third party to conduct independent field testing, which the

Department Board may supplement with provider-supplied data and crowd-sourced user data. If deemed necessary by the Department Board, the Department Board may advance a grantee funds necessary for project commencement. The Department Board shall retain five percent of an award for two years after project completion to ensure continued compliance with contract terms. A grantee shall reimburse the Department Board any funds received for contracted work that is not completed pursuant to contract specifications.

(d) The Department Board shall maintain a publicly accessible inventory of completed broadband projects financed in whole or in part with grants under this section.

* * * Telecommunications and Connectivity Advisory Board * * *

Sec. 8. 30 V.S.A. § 202f is amended to read:

§ 202f. TELECOMMUNICATIONS AND CONNECTIVITY ADVISORY BOARD

(a) There is created the Telecommunications and Connectivity Advisory Board for the purpose of making recommendations to the Commissioner of Public Service regarding his or her telecommunications responsibilities and duties as provided in this section. The Connectivity Advisory Board shall consist of eight members selected as follows:

- (1) the State Treasurer or designee;
- (2) the Secretary of Commerce and Community Development or designee;
- (3) five at-large members appointed by the Governor, who shall not be employees or officers of the State at the time of appointment; and
- (4) the Secretary of Transportation or designee.

(b) A quorum of the Connectivity Advisory Board shall consist of four voting members. No action of the Board shall be considered valid unless the action is supported by a majority vote of the members present and voting and then only if at least four members vote in favor of the action. The Governor shall select, from among the at-large members, a chair and vice chair.

(c) In making appointments of at-large members, the Governor shall give consideration to citizens of the State with knowledge of telecommunications technology, telecommunications regulatory law, transportation rights-of-way and infrastructure, finance, environmental permitting, and expertise regarding the delivery of telecommunications services in rural, high-cost areas. However, the five at-large members may not be persons with a financial

interest in or owners or employees of an enterprise that provides broadband or cellular service or that is seeking in-kind or financial support from the Department of Public Service. The conflict of interest provision in this subsection shall not be construed to disqualify a member who has ownership in a mutual fund, exchange traded fund, pension plan, or similar entity that owns shares in such enterprises as part of a broadly diversified portfolio. The at-large members shall serve terms of two years beginning on February 1 in odd-numbered years and until their successors are appointed and qualified. However, three of the five at-large members first appointed by the Governor shall serve an initial term of three years. Vacancies shall be filled for the balance of the unexpired term. A member may be reappointed for up to three consecutive terms. Upon completion of a term of service for any reason, including the term's expiration or a member's resignation, and for one year from the date of such completion, a former Board member shall not advocate before the Connectivity Board, Department of Public Service, or the Public Utility Commission on behalf of an enterprise that provides broadband or cellular service.

(d) Except for those members otherwise regularly employed by the State, the compensation of the Board's members is that provided by 32 V.S.A. § 1010(a). All members of the Board, including those members otherwise regularly employed by the State, shall receive their actual and necessary expenses when away from home or office upon their official duties.

(e) In performing its duties, the Connectivity Advisory Board may use the legal and technical resources of the Department of Public Service. The Department of Public Service shall provide the Board with administrative services.

(f) The Connectivity Advisory Board shall:

~~(1) have review and nonbinding approval authority with respect to the awarding of grants under the Connectivity Initiative. The Commissioner shall have sole authority to make the final decision on grant awards, as provided in subsection (g) of this section.~~

~~(2) function in an advisory capacity to the Commissioner on the development of State telecommunications policy and planning, including the action plan required under subdivision 202e(b)(6) of this chapter and the State Telecommunications Plan; and~~

~~(3) annually advise the Commissioner on the development of requests for proposals under the Connectivity Initiative.~~

~~(4) annually provide the Commissioner with recommendations for the apportionment of funds to the High-Cost Program and the Connectivity~~

~~Initiative.~~

~~(5)(2)~~ annually provide the Commissioner with recommendations on the appropriate Internet access speeds for publicly funded telecommunications and connectivity broadband projects.

~~(g) The Commissioner shall make an initial determination as to whether a proposal submitted under the Connectivity Initiative meets the criteria of the request for proposals. The Commissioner shall then provide the Connectivity Advisory Board a list of all eligible proposals and recommendations. The Connectivity Advisory Board shall review the recommendations of the Commissioner and may review any proposal submitted, as it deems necessary, and either approve or disapprove each recommendation and may make new recommendations for the Commissioner's final consideration. The Commissioner shall have final decision-making authority with respect to the awarding of grants under the Connectivity Initiative. If the Commissioner does not accept a recommendation of the Board, he or she shall provide the Board with a written explanation for such decision.~~

~~(h)~~ On November 15, 2019, and annually thereafter, the Commissioner shall submit to the Connectivity Advisory Board an accounting of monies in the Connectivity Fund and anticipated revenue for the next year.

~~(i)(h)~~ The Chair shall call the first meeting of the Connectivity Advisory Board. The Chair or a majority of Board members may call a Board meeting. The Board may meet up to six times a year.

~~(j)(i)~~ At least annually, the Connectivity Advisory Board and the Commissioner or designee shall jointly hold a public meeting to review and discuss the status of State telecommunications policy and planning, the Telecommunications Plan, the Connectivity Fund, the Connectivity Initiative, the High-Cost Program, and any other matters they deem necessary to fulfill their obligations under this section.

~~(k)(j)~~ Information and materials submitted by a telecommunications service provider concerning confidential financial or proprietary information shall be exempt from public inspection and copying under the Public Records Act, nor shall any information that would identify a provider who has submitted a proposal under the Connectivity Initiative be disclosed without the consent of the provider, unless a grant award has been made to that provider. Nothing in this subsection shall be construed to prohibit the publication of statistical information, determinations, reports, opinions, or other information so long as provided the data are disclosed in a form that cannot identify or be associated with a particular telecommunications service provider.

* * * VEDA; Broadband Expansion Loan Program; Lending Capacity * * *

Sec. 9. 10 V.S.A. § 280ee is amended to read:

§ 280ee. BROADBAND EXPANSION LOAN PROGRAM

(a) Creation. There is established within the Authority the Vermont Broadband Expansion Loan Program (~~the Program~~), the purpose of which is to enable the Authority to make loans that expand broadband service to unserved and underserved Vermonters as part of a plan to achieve universal broadband coverage in a municipality or communications union district.

(b) Intent. It is understood that loans under the Program may be high-risk loans to likely start-up businesses and therefore losses in the Program may be higher than the Authority's historical loss rate. Loans shall be underwritten by the Authority utilizing underwriting parameters that acknowledge the higher risk nature of these loans. The Authority shall not make a loan unless the Authority has a reasonable expectation of the long-term viability of the business. The Program is intended to provide start-up loans until such time as the borrower can refinance the loans through, for example, the municipal revenue bond market.

(c)(1) Requirements. The Authority shall make loans for start-up and expansion ~~that enable Internet service providers to expand broadband availability of broadband projects~~ in unserved and underserved locations as part of a plan to achieve universal broadband coverage in a municipality or communications union district.

(2) The Authority shall establish policies and procedures for the Program necessary to ensure the expansion of broadband availability to the largest number of Vermont addresses as possible. The policies shall specify that:

(A) loans may be made in an amount of up to \$4,000,000.00;

(B) eligible borrowers ~~include are communications union districts and other units of government, nonprofit organizations, cooperatives, and for-profit businesses;~~

(i) communications union districts;

(ii) Internet service providers working in conjunction with a communications union district to expand broadband service to unserved and underserved locations as part of a plan to achieve universal broadband coverage in the district; and

(iii) Internet service providers working in conjunction with a municipality that was not part of a communications union district prior to June 1, 2021 to expand broadband service to unserved and underserved locations as part of a plan to achieve universal broadband coverage in such municipality;

~~(C)~~ a loan shall not exceed 90 percent of project costs;

~~(D)~~ interest and principal may be deferred up to ~~two~~ three years;

~~(E)~~(D) a maximum of \$10,800,000.00 in Authority loans may be ~~made~~ outstanding under the Program commencing on June 20, 2019; ~~and~~

~~(F)~~(E) the provider shall offer to all customers broadband service that is capable of speeds of at least 100 Mbps symmetrical; and

(F) not more than one-sixth of the total allowable loans under this Program shall be available to eligible borrowers under subdivision (2)(B)(iii) of this subsection (c).

(3) To ensure the limited funding available through the Program supports the highest-quality broadband available to the most Vermonters and prioritizes delivering services to the unserved and underserved, the Authority shall consult with the Department of Public Service and the Vermont Community Broadband Board.

(d) On or before January 1, 2020, and annually thereafter, the Authority shall submit a report of its activities pursuant to this section to the Senate Committee on Finance and the House Committees on Commerce and Economic Development and on Energy and Technology. Each report shall include operating and financial statements for the two most recently concluded State fiscal years. In addition, each report shall include information on the Program portfolio, including the number of projects financed; the amount, terms, and repayment status of each loan; and a description of the broadband projects financed in whole or in part by the Program.

Sec. 10. 10 V.S.A. § 280ff is amended to read:

§ 280ff. FUNDING

(a) The State Treasurer, in consultation with the Secretary of Administration, shall negotiate an agreement with the Authority incorporating the provisions of this section and consistent with the requirements of this subchapter.

~~(b) Repayment from or appropriation~~ State appropriations to the Authority ~~in years 2021 and until the Program terminates is~~ are based on the Authority's contributions to loan loss reserves for the Program in accordance with generally accepted accounting principles. Any difference between the actual loan losses incurred by the Authority in a fiscal year ~~2020 through Program termination~~ shall be adjusted in the following year's appropriation.

~~(1) The Program shall terminate when all borrowers enrolled in the Program have repaid in full or loans have been charged-off against the reserves~~

of the Authority.

~~(2)~~ Upon termination of the Program, any remaining funds held by the Authority and not used for the Program shall be repaid to the State This is a revolving loan program.

~~(3)~~(2) The accumulated total of the appropriation shall not exceed \$8,500,000.00 over the life of the Program.

~~(4)~~(3) The Authority shall absorb its historical loan loss reserve rate before any State funds are expended.

~~(5)~~(4) Additionally, the Authority shall absorb up to \$3,000,000.00 in Program losses shared with the State on a pro rata basis.

* * * CUDs; Public Records Act; Trade Secret Exemption; Intent * * *

Sec. 11. 30 V.S.A. § 3084 is added to read:

§ 3084. CONFIDENTIALITY; LEGISLATIVE INTENT

The purpose of this section is to clarify that any records or information produced or acquired by a district that are trade secrets or confidential business information shall be exempt from public inspection and copying pursuant to 1 V.S.A. § 317(c)(9).

* * * Property Tax Exemption; Broadband Infrastructure * * *

Sec. 12. 32 V.S.A. § 3802 is amended to read:

§ 3802. PROPERTY TAX

The following property shall be exempt from taxation:

* * *

(19) Real and personal property, except land, owned by an electric distribution utility that comprises broadband infrastructure, including structures, machinery, lines, poles, wires, and fixtures, provided the infrastructure is leased to a communications union district or to an Internet service provider working in conjunction with a communications union district, and is primarily for the purpose of providing broadband service capable of speeds of at least 100 Mbps symmetrical. This exemption applies only to broadband infrastructure constructed on or after July 1, 2021.

Sec. 13. 32 V.S.A. § 3800(n) is added to read:

(n) The statutory purpose of the exemptions for broadband infrastructure in subdivision 3802(19) of this title is to lower the cost of broadband deployment in unserved and underserved areas of Vermont.

Sec. 14. 32 V.S.A. § 3602a is amended to read:

§ 3602a. FACILITIES USED IN THE GENERATION, TRANSMISSION,
OR DISTRIBUTION OF ELECTRIC POWER

All structures, machinery, poles, wires, and fixtures of all kinds and descriptions used in the generation, transmission, or distribution of electric power that are so fitted and attached as to be part of the works or facilities used to generate, transmit, or distribute electric power shall be set in the grand list as real estate. Nothing in this section shall alter the scope of the ~~exemption in subdivision~~ exemptions in subdivisions 3803(2) and 3802(19) of this title, nor shall it alter the taxation of municipally owned improvements accorded by section 3659 of this title.

Sec. 15. 32 V.S.A. § 3620 is amended to read:

§ 3620. ELECTRIC UTILITY POLES, LINES, AND FIXTURES

Electric utility poles, lines, and fixtures owned by nonmunicipal utilities shall be taxed at appraisal value as defined by section 3481 of this title, except as provided under subdivision 3802(19) of this title.

* * * Communications Workforce Development * * *

Sec. 16. BROADBAND OCCUPATIONAL NEEDS SURVEY

(a) The Commissioner of Labor shall conduct an occupational needs survey to determine workforce needs in the communications sector specific to broadband buildout and maintenance. In conducting this survey, the Commissioner shall solicit input from employers and subcontractors throughout the State. The Department of Public Service and communications union districts shall assist the Department of Labor in identifying employers with workforce needs connected to this act. The purpose of the survey is to identify current and future employment opportunities and the prerequisite skills needed for widespread worker recruitment and building a talent pipeline to support the goals of this act.

(b) The Commissioner shall report his or her findings and recommendations to the relevant legislative committees of jurisdiction on or before January 15, 2022.

(c) Employers who do not participate in supplying information for this report will not be eligible for grant funding under this act.

Sec. 17. FTTX; INCUMBENT TRAINING PROGRAM

Vermont Technical College, in consultation with the Vermont Department of Labor, shall establish an incumbent training program for communications installers and technicians. The goal of the program is to provide skills upgrades for existing employees. Up to \$40,000.00 is appropriated from the

Vermont Department of Labor's fiscal year 2022 Training Fund to support this training program.

Sec. 18. BROADBAND INSTALLER APPRENTICESHIP PROGRAM

The Commissioner of Labor, working with broadband employers, shall establish a federally registered apprenticeship program that meets one or more occupational needs related to the installation and maintenance of broadband networks.

* * * Easements; Private Property; Fiber * * *

Sec. 19. 30 V.S.A. § 127 is added to read:

§ 127. UTILITY POLES IN EASMENTS ACROSS PRIVATE PROPERTY

(a) Utility easements and State rules regarding utility rights of way and pole attachments shall include as an authorized utility use the installation of fiber-optic cable for purposes of providing broadband service to the public or for providing utility network management and monitoring, or both. Such use of the utility easement and right of way is generally of the type contemplated in utility easements, does not materially burden the landowner beyond what was intended in the conveyance or condemnation, serves the public good, and facilitates the construction of broadband networks as contemplated in this act.

(b) This section shall apply to all utility easements and State rules in effect on or after the effective date of this act. This section shall not apply to an easement that contains an express prohibition on the installation and operation of fiber-optic cable.

* * * Legislative Priorities for Federal Funds * * *

Sec. 20. LEGISLATIVE PRIORITIES; FEDERAL FUNDS

With respect to federal funds potentially available to the State of Vermont in fiscal years 2021 and 2022, the General Assembly establishes as a high priority providing support for community efforts that advance the State's goal of achieving universal access to reliable, high-quality, affordable broadband consistent with the policies, purposes, and programs established under 30 V.S.A. chapter 91A, concerning the Vermont Community Broadband Board established in Sec. 2 of this act.

* * * Effective Dates * * *

Sec. 21. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Secs. 12-15 (property tax exemption for broadband infrastructure) shall take effect on July 1, 2021; and

(2) Sec. 4 (repeal of the Broadband Innovation Grant Program), Sec. 7d (administration of the Connectivity Initiative by the Vermont Community Broadband Authority), and Sec. 8 (Telecommunications and Connectivity Advisory Board) shall take effect on January 1, 2022.

*ANN E. CUMMINGS
CHRISTOPHER A. PEARSON
RANDOLPH D. BROCK*

Committee on the part of the Senate

*TIMOTHY C. BRIGLIN
LAURA H. SIBILIA
AVRAM I. PATT*

Committee on the part of the House

Which was considered and adopted on the part of the House.

**Rules Suspended; Senate Proposal of Amendment to House Proposal of
Amendment Concurred in**

S. 115

Appearing on the Calendar for Notice, on motion of **Rep. McCoy of Poultney**, the rules were suspended and Senate bill, entitled

An act relating to making miscellaneous changes in education laws

Was taken up for immediate consideration.

The Senate concurs in the House proposal of amendment with the following proposal of amendment thereto:

By striking out Sec. 19, effective dates, and its reader assistance heading in their entirety and inserting in lieu thereof the following:

* * * State Board of Education; Members * * *

Sec. 19. 16 V.S.A. § 161 is amended to read:

§ 161. STATE BOARD OF EDUCATION; APPOINTMENT OF MEMBERS; TERM; VACANCY

The State Board shall consist of ten members. Two of the members shall be secondary students, one of whom shall be a full member and the other of whom shall be a junior member who may not vote. All members shall be appointed by the Governor with the advice and consent of the Senate. In the appointment of the nonstudent members, priority shall be given to the selection of persons with a demonstrated commitment to ensuring quality

education for Vermont students. To the extent possible, the members shall represent ~~geographically diverse areas of the State~~ the State's geographic, gender, racial, and ethnic diversity. The Secretary shall serve on the State Board as a nonvoting member.

* * *

* * * State Board of Education; Powers and Duties * * *

Sec. 20. 16 V.S.A. § 164 is amended to read:

§ 164. STATE BOARD; GENERAL POWERS AND DUTIES

The State Board shall ~~evaluate education policy proposals, including timely evaluation of policies presented by the Governor and Secretary;~~ engage local school board members and the broader education community; ~~and establish and advance education policy for the State of Vermont and,~~ consistent with the provisions of this title, its own rules, and rules adopted by the Secretary, establish and regularly update a long-term strategic vision for the delivery of educational services in Vermont; advise the General Assembly, the Governor, and the Secretary of Education on high-priority educational policies and issues as they arise; and act in accordance with legislative mandates, including the adoption of rules and executing special assignments. In addition to other specified duties, the Board shall:

(1) Establish such advisory commissions as in the judgment of the Board will be of assistance to it in carrying out its duties. Advisory commission members shall serve with or without compensation at the discretion of the Board but shall receive actual expenses incurred in pursuance of their duties.

(2) Have the authority to enter into agreements with school districts, municipalities, states, the United States, foundations, agencies, or individuals for service, educational programs, or research projects.

(3) Examine and determine all appeals that by law are made to it and prescribe rules of practice in respect thereto, not inconsistent with law.

(4) ~~Review and comment on an Agency budget prepared by the Secretary for the Governor.~~ [Repealed.]

(5) [Repealed.]

(6) Make regulations governing the attendance and records of attendance of all students and the deportment of students attending public schools.

(7) ~~Adopt rules pursuant to 3 V.S.A. chapter 25 as necessary or appropriate for the execution of its powers and duties and of the powers and~~

duties of all persons under its supervision and control to carry out the powers and duties of the Board as directed by the General Assembly, within the limitations of legislative intent.

* * * Effective Dates * * *

Sec. 21. EFFECTIVE DATES

This act shall take effect on passage, except that school districts and approved independent schools shall comply with the requirements of Sec. 11 (menstrual products) for the 2022–2023 school year and thereafter.

Which was considered and concurred in.

**Rules Suspended; Committee Bill; Second Reading;
Third Reading Ordered; Rules Suspended; Third Reading; Bill Passed**

H. 454

On motion of **Rep. McCoy of Poultney**, the rules were suspended and House bill, entitled

An act relating to approval of an amendment to the charter of the City of Burlington;

Appearing on the Calendar for Notice, was taken up for immediate consideration.

Rep. Hooper of Burlington spoke for the Committee on Government Operations.

The bill was read the second time, and third reading was ordered.

On motion of **Rep. McCoy of Poultney**, the rules were suspended and the bill placed in all remaining stages of passage. Thereupon, the bill was read the third time and passed.

Rules Suspended; Bills Messaged to Senate Forthwith

On motion of **Rep. McCoy of Poultney**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

H. 454

House bill, entitled

An act relating to approval of an amendment to the charter of the City of Burlington

S. 115

Senate bill, entitled

An act relating to making miscellaneous changes in education laws

Recess

At six o'clock and twenty-eight minutes in the evening, the Speaker declared a recess until the fall of the gavel.

At seven o'clock and fifty-one minutes in the evening, the Speaker called the House to order.

Second Reading; Proposal of Amendment Agreed to; Third Reading Ordered

S. 62

Rep. Marcotte of Coventry, for the Committee on Commerce and Economic Development, to which had been referred Senate bill, entitled

An act relating to creating incentives for new remote and relocation workers

Reported in favor of its passage in concurrence with proposal of amendment by striking all after the enacting clause and inserting in lieu thereof the following:

* * * New Relocating Employees * * *

Sec. 1. INTENT AND PURPOSE

It is the intent of the General Assembly and the purpose of Sec. 2 of this act to:

(1) expand the Vermont workforce;

(2) attract new residents to the State; and

(3) provide support to employers who are unable to fill positions from among candidates who are already located in this State, whether due to very low unemployment rate or due to a disconnect between job requirements and candidate qualifications.

Sec. 2. 10 V.S.A. chapter 1 is amended to read:

CHAPTER 1. ECONOMIC DEVELOPMENT

* * *

§ 4. NEW RELOCATING EMPLOYEES; INCENTIVES

(a) The Agency of Commerce and Community Development shall design and implement a program to award incentive grants to relocating employees as

provided in this section and subject to the policies and procedures the Agency adopts to implement the program.

(b) A relocating employee may be eligible for a grant under the program for qualifying expenses, subject to the following:

(1) A base grant shall not exceed \$5,000.00.

(2) The Agency may award an enhanced grant, which shall not exceed \$7,500.00, for a relocating employee who becomes a resident in a labor market area in this State in which:

(A) the average annual unemployment rate in the labor market area exceeds the average annual unemployment rate in the State; or

(B) the average annual wage in the State exceeds the annual average wage in the labor market area.

(c) The Agency shall:

(1) adopt procedures for implementing the program, which shall include a simple certification process to certify relocating employees and qualifying expenses;

(2) promote awareness of the program, including through coordination with relevant trade groups and by integration into the Agency's economic development marketing campaigns;

(3) award grants to relocating employees on a first-come, first-served basis beginning on July 1, 2021, subject to available funding; and

(4) adopt measurable goals, performance measures, and an audit strategy to assess the utilization and performance of the program.

(d) Annually, on or before December 15, the Agency shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs concerning the implementation of this section, including:

(1) a description of the policies and procedures adopted to implement the program;

(2) the promotion and marketing of the program; and

(3) an analysis of the utilization and performance of the program, including the projected revenue impacts and other qualitative and quantitative returns on investment in the program based on available data and modeling.

(e) As used in this section:

(1) “Qualifying expenses” means the actual costs a relocating employee incurs for relocation expenses, which may include moving costs, closing costs for a primary residence, rental security deposit, one month’s rent payment, and other relocation expenses established in Agency guidelines.

(2) “Relocating employee” means an individual who on or after July 1, 2021 meets the following criteria:

(A) The individual becomes a full-time resident of this State.

(B) The individual:

(i) becomes a full-time employee at a Vermont location of a for-profit or nonprofit business organization domiciled or authorized to do business in this State, or of a State, municipal, or other public sector employer; and

(ii) the employer attests to the Agency that, after reasonable time and effort, the employer has been unable to fill the employee’s position from among Vermont applicants.

(C) The individual receives gross salary or wages that equal or exceed the Vermont livable wage rate calculated pursuant to 2 V.S.A. § 526.

* * *

Sec. 3. REPEALS

The following are repealed:

(1) 2018 Acts and Resolves No. 197, Sec. 1, as amended by 2019 Acts and Resolves No. 80, Sec. 15 (New Remote Worker Grant Program); and

(2) 2019 Acts and Resolves No. 80, Sec. 12 (New Worker Relocation Incentive Program).

* * * Adult CTE Investments * * *

Sec. 4. CAREER AND TECHNICAL EDUCATION; APPROPRIATIONS

In fiscal year 2022, the following amounts are awarded from funds available through the American Rescue Plan Act to the following recipients for the purposes specified:

(1) Career and Technical Education Adult Training Scholarships.

(A) \$100,000.00 to the Vermont Student Assistance Corporation for CTE Adult Training Scholarships to provide not more than \$1,000.00 in tuition support to students enrolled in workforce development programs at Adult Career and Technical Education Centers.

(B) Funding may be used for standalone grants or for supplemental grants to the VSAC Advancement Grant.

(C) Eligible students may be nominated by a VSAC Outreach Counselor or a caseworker from the Vermont Department of Labor.

(2) Career and Technical Education equipment purchasing.

(A) \$150,000.00 to the Vermont Agency of Education to award grants of not more than \$20,000 to Adult Career and Technical Education Centers for the purchase of equipment needed to launch or sustain workforce development programs in high-growth, high-need sectors.

(B) The Agency of Education shall collaborate with the Vermont Adult Career and Technical Education Association and the Vermont Department of Labor to create a competitive grant program.

(3) CTE program development and instruction.

(A) \$150,000.00 to the Agency of Education to provide adult CTE coordinators with access to curriculum development experts to build local programs that are needed to address local or regional workforce development needs.

(B) The Agency shall collaborate with the Adult Career and Technical Education Association and the Vermont Department of Labor to make awards of not more than \$20,000.00.

* * * Unemployment Insurance; Intent * * *

Sec. 5. INTENT

It is the intent of the General Assembly to:

(1) ensure that COVID-19-related protections for unemployment insurance claimants and employers that were enacted as part of 2020 Acts and Resolves No. 91 remain in effect until after the state of emergency declared in relation to the COVID-19 pandemic has been lifted;

(2) ensure that the maximum amount of weekly unemployment insurance benefits that a claimant may receive does not decrease;

(3) provide claimants with enhanced unemployment insurance benefits;

(4) prevent unemployment insurance tax rates from increasing by an amount that is greater than necessary to replenish the Unemployment Insurance Trust Fund;

(5) ensure that the Unemployment Insurance Trust Fund is restored to a healthy balance;

(6) determine whether the State should increase the amount of unemployment insurance benefits that a claimant may be eligible to receive in the future;

(7) develop improved strategies to prevent the Trust Fund from being harmed by unemployment insurance fraud and employee misclassification; and

(8) avoid placing additional demands on the Department of Labor's limited staff and information technology resources, which are already experiencing significant strain from the unprecedented demands placed on the unemployment insurance system by the COVID-19 Pandemic.

* * * Experience Rating Relief for Calendar Year 2020 * * *

Sec. 6. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;

DISCLOSURE TO SUCCESSOR ENTITY

(a)(1) The Commissioner shall maintain an experience-rating record for each employer. Benefits paid shall be charged against the experience-rating record of each subject employer who provided base-period wages to the eligible individual. Each subject employer's experience-rating charge shall bear the same ratio to total benefits paid as the total base-period wages paid by that employer bear to the total base-period wages paid to the individual by all base-period employers. The experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual under any of the following conditions:

* * *

(G) ~~The~~ During calendar year 2020, the individual voluntarily separated from that employer as provided by subdivision 1344(a)(2)(A) of this chapter for one of the following reasons:

* * *

(3)(A) Subject to the provisions of subdivision (B) of this subdivision (a)(3), an employer shall be relieved of charges for benefits paid to an individual ~~for a period of up to eight weeks~~ during calendar year 2020 with respect to benefits paid because:

(i) the employer temporarily ceased operation, either partially or completely, at the individual's place of employment in response to a request from a public health authority with jurisdiction that the employer cease operations because of COVID-19, in response to an emergency order or directive issued by the Governor or the President related to COVID-19, or

because the employer voluntarily ceased operations due to the actual exposure of workers at that place of employment to COVID-19;

(ii) the individual becomes unemployed as a direct result of a state of emergency declared by the Governor or the President in relation to COVID-19 or an order or directive issued by the Governor or President in relation to COVID-19, including through a change or reduction in the employer's operation at the individual's place of employment that is a direct result of such a state of emergency, order, or directive; or

(iii) ~~the employer has temporarily laid off the individual has been recommended or requested based on a recommendation or request~~ by a medical professional or a public health authority with jurisdiction ~~to that the individual~~ be isolated or quarantined as a result of COVID-19, regardless of whether the individual has been diagnosed with COVID-19.

(B)(i) ~~An employer shall only be eligible for relief be relieved of charges for benefits paid during calendar year 2020 under the provisions of this subdivision (a)(3) if the employer rehires or offers to rehire the individual within a reasonable period of time after the employer resumes operations at the individual's place of employment, as determined by the Commissioner, or upon the completion of the individual's period of isolation or quarantine unless the Commissioner determines that:~~

(I) the employee was not separated from employment for one of the reasons set forth in subdivision (A) of this subdivision (a)(3); or

(II) the reason for the individual's separation from employment set forth in subdivision (A) of this subdivision (a)(3) no longer exists and the employer has failed to rehire or offer to rehire the individual without good cause.

(ii) If the Commissioner has cause to believe or receives an allegation or other information indicating that an employer may not be entitled to relief from charges pursuant to this subdivision (a)(3), the Commissioner shall examine the employer's records and any other documents and information necessary to determine if the employer is entitled to relief from charges pursuant to this subdivision (a)(3).

~~(C) The Commissioner may extend the period for which an employer shall be relieved of charges for benefits paid to employees pursuant to subdivision (A)(i) of this subdivision (a)(3) by an amount that the Commissioner determines to be appropriate in light of the terms of any applicable request from a local health official or the Commissioner of Health or any applicable emergency order or directive issued by the Governor or the President and any other relevant conditions or factors.~~

* * *

* * * Experience Rating Relief for Calendar Year 2021 * * *

Sec. 7. RELIEF FROM COVID-19-RELATED UNEMPLOYMENT

BENEFIT CHARGES FOR CALENDAR YEAR 2021

(a) For calendar year 2021, an employer shall be relieved from charges against its unemployment insurance experience rating under 21 V.S.A. § 1325 for benefits paid to an individual because:

(1)(A) the individual voluntarily separated from employment with the employer for one of the reasons set forth in 21 V.S.A. § 1344(a)(2)(A)(ii)–(vi);

(B) the employer temporarily ceased operation, either partially or completely, at the individual’s place of employment in response to a request from a public health authority with jurisdiction that the employer cease operations because of COVID-19, in response to an emergency order or directive issued by the Governor or the President related to COVID-19, or because the employer voluntarily ceased operations due to the actual exposure of workers at that place of employment to COVID-19;

(C) the individual became unemployed as a direct result of a state of emergency declared by the Governor or the President in relation to COVID-19 or an order or directive issued by the Governor or President in relation to COVID-19, including through a change or reduction in the employer’s operation at the individual’s place of employment that was a direct result of such a state of emergency, order, or directive; or

(D) the employer temporarily laid off the individual based on a recommendation or request by a medical professional or a public health authority with jurisdiction that the individual be isolated or quarantined as a result of COVID-19, regardless of whether the individual was diagnosed with COVID-19; and

(2)(A) the employer rehired or offered to rehire the employee within a reasonable time, not to exceed 30 days after the reason for the individual’s separation from employment set forth in subdivision (1) of this subsection (a) no longer exists; or

(B) the employer demonstrates to the satisfaction of the Commissioner that it had good cause for failing to rehire or offer to rehire the employee within the time period set forth in subdivision (A) of this subdivision (a)(2).

(b) On or before July 1, 2021, the Commissioner of Labor shall adopt procedures and an application form for employers to apply for relief from charges pursuant to subsection (a) of this section.

(c) The Commissioner shall not be required to initiate rulemaking pursuant to 3 V.S.A. § 831(c) in relation to any procedures adopted under subsection (b) of this section.

(d) On or before June 15, 2021, the Commissioner shall:

(1) submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a report summarizing the procedures and application form to be adopted pursuant to subsection (b) of this section; and

(2) commence a public outreach campaign to notify employers, employees, and claimants of the requirements and procedures to obtain relief from charges under this section.

* * * Extension of Unemployment Insurance-Related Sunset

from 2020 Acts and Resolves No. 91 * * *

Sec. 8. 2020 Acts and Resolves No. 91, Sec. 38(3) is amended to read:

(3) Secs. 32 and 33 shall take effect on ~~March 31, 2021~~ the first day of the calendar quarter following the calendar quarter in which the state of emergency declared in response to COVID-19 pursuant to Executive Order 01-20 is terminated, provided that if the state of emergency is terminated within the final 30 days of a calendar quarter, Secs. 32 and 33 shall take effect on the first day of the second calendar quarter following the calendar quarter in which the state of emergency is terminated.

* * * Implementation of Continued Assistance Act Provisions * * *

Sec. 9. TEMPORARY SUSPENSION OF CERTAIN REQUIREMENTS

FOR TRIGGERING AN EXTENDED BENEFIT PERIOD

For purposes of determining whether the State is in an extended benefit period during the period from November 1, 2020 through December 31, 2021, the Commissioner shall disregard the requirement in 21 V.S.A. § 1421 that no extended benefit period may begin before the 14th week following the end of a prior extended benefit period.

* * * Unemployment Insurance Benefits * * *

Sec. 10. 21 V.S.A. § 1338(f) is amended to read:

(f)(1) The maximum weekly benefit amount shall be \$425.00. ~~When the State Unemployment Compensation Fund has a positive balance and all~~

~~advances made to the State Unemployment Compensation Fund pursuant to Title XII of the Social Security Act have been repaid as of December 31 of the last completed calendar year, on the first day of the first calendar week of July, the maximum weekly benefit amount shall be adjusted by a percentage equal to the percentage change during the preceding calendar year in the State average weekly wage as determined by subsection (g) of this section. When the unemployment contribution rate schedule established by subsection 1326(e) of this title is at schedule III, the maximum weekly benefit amount shall be annually adjusted on the first day of the first calendar week in July to an amount equal to 57 percent of the State annual average weekly wage as determined by subsection (g) of this section.~~

(2) Notwithstanding any provision of subdivision (1) of this subsection to the contrary:

(A) The maximum weekly benefit amount shall not increase in any year that advances made to the State Unemployment Compensation Fund pursuant to Title XII of the Social Security Act, as amended, remain unpaid.

(B) The maximum weekly benefit amount shall not decrease.

Sec. 11. 21 V.S.A. § 1338 is amended to read:

§ 1338. WEEKLY BENEFITS

* * *

~~(b) For benefit years beginning prior to January 3, 1988 to qualify for benefits an individual must have had at least 20 weeks of work at wages of at least \$35.00 per week in employment with an employer subject to this chapter in the individual's base period. [Repealed.]~~

~~(c) For benefit years beginning prior to January 3, 1988, an individual's weekly benefit amount shall be one-half of the average weekly wage earned by such individual in employment with an employer subject to this chapter for 20 of the weeks in the individual's base period, whether or not consecutive, in which the wages earned by him or her in that employment were highest. Such weekly benefit amount shall be computed as a multiple of \$1.00; provided, that the weekly benefit amount so determined:~~

~~(1) shall not exceed 1/40th of the total wages actually used in the calculation of the average weekly wage for the highest 20 weeks as hereinbefore provided; and~~

~~(2) shall not exceed the maximum weekly benefit amount computed as provided in this section. [Repealed.]~~

~~(d)(1) For benefit years beginning on January 3, 1988 and subsequent thereto, to~~ To qualify for benefits an individual must:

* * *

~~(e)(1) For benefit years beginning on January 3, 1988 and subsequent thereto, an~~ An individual's weekly benefit amount shall be determined by dividing the individual's two high quarter total subject wages required under subdivision (d)(1) of this section by 45; provided that the weekly benefit amount so determined shall not exceed the maximum weekly benefit amount ~~computed as provided in pursuant to subsection (f) of this section.~~

(2) Notwithstanding the maximum weekly benefit amount computed pursuant to subsection (f) of this section, an individual shall receive a supplemental benefit of \$25.00 per week in addition to the amount determined pursuant to subdivision (1) of this subsection.

* * *

Sec. 12. 21 V.S.A. § 1338(e) is amended to read:

~~(e)(1)~~ An individual's weekly benefit amount shall be determined by dividing the individual's two high quarter total subject wages required under subdivision (d)(1) of this section by 45; provided that the weekly benefit amount so determined shall not exceed the maximum weekly benefit amount computed pursuant to subsection (f) of this section.

~~(2) Notwithstanding the maximum weekly benefit amount computed pursuant to subsection (f) of this section, an individual shall receive a supplemental benefit of \$25.00 per week in addition to the amount determined pursuant to subdivision (1) of this subsection.~~

* * * Reports * * *

Sec. 13. 21 V.S.A. § 1309 is amended to read:

§ 1309. REPORTS; SOLVENCY OF TRUST FUND

~~(a)(1)~~ On or before January 31 of each year, the Commissioner shall submit to the Governor and the Chairs of the Senate ~~Committee~~ Committees on Economic Development, Housing and General Affairs and on Finance and the House Committees on Commerce and Economic Development and on Ways and Means a report covering the administration and operation of this chapter during the preceding calendar year.

(2) The report shall include:

(A) a balance sheet of the monies in the Fund and data as to probable reserve requirements based upon accepted actuarial principles, with respect to

business activity, and other relevant factors for the longest available period. ~~The report shall also include;~~

(B) recommendations for amendments of this chapter as the Board considers proper; and

(C) an accounting of the amount of supplemental benefits paid to claimants pursuant to subdivision 1338(e)(2) of this chapter.

(b) Whenever the Commissioner believes that the solvency of the Fund is in danger or the balance of the Fund drops below \$180,000,000.00, the Commissioner shall promptly inform the Governor and the Chairs of the Senate Committees on Economic Development, Housing and General Affairs and on Finance, and the House Committees on Commerce and Economic Development and on Ways and Means, and make recommendations for preserving an adequate level in the Trust Fund. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.

Sec. 14. UNEMPLOYMENT INSURANCE; TRUST FUND; BENEFITS;
DETECTION AND PREVENTION OF FRAUD AND
OVERPAYMENTS; REIMBURSABLE EMPLOYERS;
CONSULTANT; REPORT

(a) On or before July 15, 2021, the Joint Fiscal Office shall contract with an economist or independent consulting entity with expertise in the field of unemployment insurance to evaluate certain aspects of Vermont's unemployment insurance system in comparison with the unemployment insurance systems of other states and in consideration of the needs of Vermont claimants, employees, and employers, as well as the potential modernization of the Department's information technology systems within the next several years. The economist or independent consulting entity shall specifically examine:

(1) the solvency of Vermont's Unemployment Insurance Trust Fund and the amount necessary to ensure that the Trust Fund remains solvent and able to continue meeting the needs of claimants during a future economic recession and subsequent recovery;

(2) the adequacy and appropriateness of Vermont's unemployment insurance benefits, whether Vermont's benefits should be increased, and whether the Vermont statutes related to benefits should be modified in any manner;

(3) the Department of Labor's existing practices and procedures for detecting and preventing unemployment insurance fraud;

(4) instances in which it may be appropriate to refer unemployment insurance fraud for criminal prosecution, including a reasonable minimum threshold for such a referral;

(5) instances for which it may be appropriate to provide the Commissioner with authority to reduce or waive a period of disqualification imposed in relation to a determination of unemployment insurance fraud;

(6) potential measures to eliminate or minimize claim processing delays that result from fraud prevention measures;

(7) the Department of Labor's existing practices and procedures for preventing, reducing, and collecting overpayments of unemployment insurance benefits;

(8) instances for which it may be appropriate to provide the Commissioner with authority to reduce or waive an individual's liability to repay overpaid unemployment insurance benefits; and

(9) potential statutory changes to mitigate the impact of benefit charges attributed to reimbursable employers who paid wages to a claimant during the claimant's base period but did not cause the claimant to become unemployed.

(b) In performing the evaluation required pursuant to subsection (a), the economist or consulting entity shall do the following:

(1) specifically identify:

(A) best practices and high performing aspects of other states' unemployment insurance systems;

(B) shortcomings, challenges, and opportunities for improvement in Vermont's unemployment insurance system;

(C) potential changes and improvements to the Vermont Department of Labor's staffing, resources, information technology, training, funding, communications, practices, and procedures that are necessary to address the shortcomings, challenges, and opportunities for improvement identified pursuant to subdivision (B) of this subdivision (b)(1);

(D) potential statutory changes necessary to address the shortcomings, challenges, and opportunities for improvement identified pursuant to subdivision (B) of this subdivision (b)(1); and

(E) the anticipated cost of implementing the changes and improvements identified pursuant to subdivisions (C) and (D) of this

subdivision (b)(1) and any ongoing costs associated with such changes and improvements; and

(2) consult with the Department of Labor, the Attorney General, the Department of State's Attorneys and Sheriffs, representatives of employers, representatives of employees, and representatives of claimants.

(c) The Department of Labor shall cooperate with the economist or independent consulting entity and shall to the maximum extent permitted by law provide the economist or independent consulting entity with prompt access to all information requested.

(d)(1) On or before November 15, 2020, the economist or independent consulting entity shall submit a written report detailing the findings and recommendations to the Senate Committees on Economic Development, Housing and General Affairs and on Finance and the House Committees on Commerce and Economic Development and on Ways and Means.

(2) The economist or independent consulting entity shall omit from the report information regarding techniques, procedures, and guidelines for unemployment insurance fraud investigations or prosecution if the disclosure of that information could reasonably be expected to risk circumvention of the law.

(e) As used in this section:

(1) "Overpayment of unemployment insurance benefits" includes overpayments due to a mistake on the part of a claimant or the Department, a claimant's unintentional misrepresentation or nondisclosure of a material fact, or a claimant's intentional misrepresentation or nondisclosure of a material fact.

(2) "Unemployment insurance fraud" means the intentional misrepresentation or knowing nondisclosure of a material fact by a claimant or any other entity for purposes of obtaining unemployment insurance benefits.

Sec. 15. 2020 Acts and Resolves No. 85, Sec. 9(a)(1) is amended to read:

(a)(1) On or before ~~January 15, 2022~~ November 15, 2021, the Attorney General and the Commissioner of Labor shall submit a written report to the House Committees on Commerce and Economic Development and on General, Housing, and Military Affairs and the Senate Committees on Economic Development, Housing and General Affairs and on Finance regarding the enforcement of employment laws related to employee misclassification pursuant to 21 V.S.A. §§ 346, 387, 712, and 1379 and by the Commissioner of Labor pursuant to 21 V.S.A. chapter 5, subchapters 2 and 3, and 21 V.S.A. chapters 9 and 17.

Sec. 16. 3 V.S.A. § 2222d is amended to read:

§ 2222d. EMPLOYEE MISCLASSIFICATION TASK FORCE

* * *

(f) On or before ~~January 15, 2022~~ November 15, 2021, the Task Force shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs regarding ways to improve the effectiveness and efficiency of the system of joint enforcement by the Commissioner of Labor and the Attorney General of the laws related to employee misclassification that is established pursuant to 21 V.S.A. §§ 3, 346, 387, 712, and 1379. In particular, the Report shall examine:

* * *

* * * Effective Dates * * *

Sec. 17. EFFECTIVE DATES

(a)(1) This section and, except as provided in subdivisions (2)–(4) of this subsection, Secs. 5–16 shall take effect on passage.

(2) Notwithstanding 1 V.S.A. § 214, Sec. 8 (extension of sunset) shall take effect retroactively on March 31, 2021.

(3) Sec. 11 (supplemental weekly benefit) shall take effect 30 days after the termination date for Federal Pandemic Unemployment Compensation set forth in 15 U.S.C. § 9023(e)(2), as amended.

(4) Sec. 12 (repeal of supplemental weekly benefit) shall take effect upon the payment of a cumulative total of \$100,000,000.00 in supplemental benefits pursuant to 21 V.S.A. § 1338(e)(2) and shall apply prospectively to all benefit payments in the next week and each subsequent week.

(b) Secs. 1–4 shall take effect on July 1, 2021.

Rep. Kornheiser of Brattleboro, for the Committee on Ways and Means, recommended that the House propose to the Senate to amend the bill as recommended by the Committee on Commerce and Economic Development and when amended as follows:

By inserting a new Sec. 9a and its reader assistance heading to read as follows:

* * * Unemployment Insurance Contribution Relief * * *

Sec. 9a. 21 V.S.A. § 1326 is amended to read:

§ 1326. RATE BASED ON BENEFIT EXPERIENCE

* * *

(d) The Commissioner shall compute a current fund ratio, and a highest benefit cost rate, as follows:

(1) ~~the~~ The current fund ratio shall be determined by dividing the available balance of the Unemployment Compensation Fund on December 31 of the preceding calendar year by the total wages paid for employment during ~~the said~~ that calendar year as reported by employers by the following March 31_;

(2)(A) ~~the~~ The highest benefit cost rate shall be determined by dividing the highest amount of benefit payments made during a consecutive ~~12-month~~ 12-month period ~~which that~~ ended within the ~~10-year~~ 10-year period ~~ended with ending on~~ the preceding December 31, by the total wages paid during the four calendar quarter periods ~~which that~~ ended within ~~such 12-month~~ that 12-month period.

(B) Notwithstanding any provision of subdivision (A) of this subdivision (d)(2) to the contrary, when computing the tax rate schedule to become effective on July 1, 2021 and on each subsequent July 1, the Commissioner shall calculate the highest benefit cost rate without consideration of benefit payments made in calendar year 2020.

* * *

Rep. Toleno of Brattleboro, for the Committee on Appropriations, recommended that the House propose to the Senate to amend the bill as recommended by the Committees on Commerce and Economic Development and on Ways and Means and when amended as follows:

First: By striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read:

Sec. 2. NEW RELOCATING EMPLOYEE INCENTIVES

(a) The Agency of Commerce and Community Development shall design and implement a program to award incentive grants to relocating employees as provided in this section and subject to the policies and procedures the Agency adopts to implement the program.

(b) A relocating employee may be eligible for a grant under the program for qualifying expenses, subject to the following:

(1) A base grant shall not exceed \$5,000.00.

(2) The Agency may award an enhanced grant, which shall not exceed \$7,500.00, for a relocating employee who becomes a resident in a labor market area in this State in which:

(A) the average annual unemployment rate in the labor market area exceeds the average annual unemployment rate in the State; or

(B) the average annual wage in the State exceeds the annual average wage in the labor market area.

(c) The Agency shall:

(1) adopt procedures for implementing the program, which shall include a simple certification process to certify relocating employees and qualifying expenses;

(2) promote awareness of the program, including through coordination with relevant trade groups and by integration into the Agency's economic development marketing campaigns;

(3) award grants to relocating employees on a first-come, first-served basis beginning on July 1, 2021, subject to available funding; and

(4) adopt measurable goals, performance measures, and an audit strategy to assess the utilization and performance of the program.

(d) On or before January 15, 2022, the Agency shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs concerning the implementation of this section, including:

(1) a description of the policies and procedures adopted to implement the program;

(2) the promotion and marketing of the program; and

(3) an analysis of the utilization and performance of the program, including the projected revenue impacts and other qualitative and quantitative returns on investment in the program based on available data and modeling.

(e) As used in this section:

(1) "Qualifying expenses" means the actual costs a relocating employee incurs for relocation expenses, which may include moving costs, closing costs for a primary residence, rental security deposit, one month's rent payment, and other relocation expenses established in Agency guidelines.

(2) "Relocating employee" means an individual who on or after July 1, 2021 meets the following criteria:

(A) The individual becomes a full-time resident of this State.

(B) The individual:

(i) becomes a full-time employee at a Vermont location of a for-profit or nonprofit business organization domiciled or authorized to do business in this State, or of a State, municipal, or other public sector employer; and

(ii) the employer attests to the Agency that, after reasonable time and effort, the employer has been unable to fill the employee's position from among Vermont applicants.

(C) The individual receives gross salary or wages that equal or exceed the Vermont livable wage rate calculated pursuant to 2 V.S.A. § 526.

(D) The individual is employed in one of the "Occupations with the Most Openings" identified by the Vermont Department of Labor in its "Short Term Employment Projections 2020-2022."

Second: By striking out Sec. 14, unemployment insurance; trust fund; benefits; detection and prevention of fraud and overpayments; reimbursable employers; consultant; report, in its entirety and inserting in lieu thereof Secs. 14 and 14a to read as follows:

Sec. 14. UNEMPLOYMENT INSURANCE; DETECTION AND
PREVENTION OF FRAUD AND OVERPAYMENTS;
CLAIM PROCESSING; CONSULTANT; REPORT

(a) On or before July 15, 2021, the State Auditor, in consultation with the Joint Fiscal Office, shall contract with an independent consulting entity with expertise in the field of unemployment insurance to evaluate certain aspects of Vermont's unemployment insurance system in comparison with the unemployment insurance systems of other states and in consideration of the needs of Vermont claimants, employees, and employers, as well as the preparation for the modernization of the Department's unemployment insurance information technology systems during the next several years. The independent consulting entity shall specifically examine:

(1) the Department of Labor's existing practices and procedures for detecting and preventing unemployment insurance fraud;

(2) instances in which it may be appropriate to refer unemployment insurance fraud for criminal prosecution, including a reasonable minimum threshold for such a referral;

(3) potential measures to eliminate or minimize claim processing delays that result from fraud prevention measures; and

(4) the Department of Labor's existing practices and procedures for preventing, reducing, and collecting overpayments of unemployment insurance benefits.

(b) In performing the evaluation required pursuant to subsection (a) of this section, the independent consulting entity shall do the following:

(1) specifically identify:

(A) best practices and high performing aspects of other states' unemployment insurance systems;

(B) shortcomings, challenges, and opportunities for improvement in Vermont's unemployment insurance system;

(C) potential changes and improvements to the Vermont Department of Labor's staffing, resources, information technology, training, funding, communications, practices, and procedures that are necessary to address the shortcomings, challenges, and opportunities for improvement identified pursuant to subdivision (B) of this subdivision (b)(1);

(D) potential statutory changes necessary to address the shortcomings, challenges, and opportunities for improvement identified pursuant to subdivision (B) of this subdivision (b)(1); and

(E) the anticipated cost of implementing the changes and improvements identified pursuant to subdivisions (C) and (D) of this subdivision (b)(1) and any ongoing costs associated with such changes and improvements; and

(2) consult with informed parties and relevant entities, including the Department of Labor, the Attorney General, the Agency of Digital Services, the Department of Human Resources, the Department of State's Attorneys and Sheriffs, representatives of employers, representatives of employees, and representatives of claimants.

(c) The Department of Labor shall cooperate with the independent consulting entity and shall, to the maximum extent permitted by law, provide the independent consulting entity with prompt access to all information requested.

(d)(1) On or before December 15, 2021, the independent consulting entity shall submit a written report detailing the findings and recommendations to the State Auditor, the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, and on Finance, and the House Committees on Appropriations, on Commerce and Economic Development, and on Ways and Means.

(2) The independent consulting entity shall omit from the report information regarding techniques, procedures, and guidelines for unemployment insurance fraud investigations or prosecution if the disclosure of that information could reasonably be expected to risk circumvention of the law.

(e) As used in this section:

(1) "Overpayment of unemployment insurance benefits" includes overpayments due to a mistake on the part of a claimant or the Department, a claimant's unintentional misrepresentation or nondisclosure of a material fact, or a claimant's intentional misrepresentation or nondisclosure of a material fact.

(2) "Unemployment insurance fraud" means the intentional misrepresentation or knowing nondisclosure of a material fact by a claimant or any other entity for purposes of obtaining unemployment insurance benefits.

Sec. 14a. UNEMPLOYMENT INSURANCE; TRUST FUND; BENEFITS; PENALTIES; REIMBURSABLE EMPLOYERS; STUDY COMMITTEE; REPORT

(a) Creation. There is created the Unemployment Insurance Study Committee to examine the solvency of Vermont's Unemployment Insurance Trust Fund, its benefit structure, potential grants of authority for the Commissioner of Labor to reduce or waive certain penalties, and potential measures to mitigate the liability of reimbursable employers for some benefit charges.

(b) Membership. The Committee shall be composed of the following four members:

(1) one current member of the House Committee on Commerce and Economic Development, who shall be appointed by the Speaker of the House;

(2) one current member of the House Committee on Ways and Means, who shall be appointed by the Speaker of the House;

(3) one current member of the Senate Committee on Economic Development, Housing and General Affairs, who shall be appointed by the Committee on Committees; and

(4) one current member of the Senate Committee on Finance, who shall be appointed by the Committee on Committees.

(c) Powers and duties.

(1) The Committee shall study the following issues:

(A) the solvency of Vermont's Unemployment Insurance Trust Fund and the amount necessary to ensure that the Trust Fund remains solvent and able to continue meeting the needs of claimants during a future economic recession and subsequent recovery;

(B) the adequacy and appropriateness of Vermont's unemployment insurance benefits, whether Vermont's benefits should be increased, and whether the Vermont statutes related to benefits should be modified in any manner;

(C) instances for which it may be appropriate to provide the Commissioner of Labor with authority to reduce or waive a period of disqualification imposed in relation to a determination of unemployment insurance fraud;

(D) instances for which it may be appropriate to provide the Commissioner of Labor with authority to reduce or waive an individual's liability to repay overpaid unemployment insurance benefits; and

(E) potential statutory changes to mitigate the impact of benefit charges attributed to reimbursable employers who paid wages to a claimant during the claimant's base period but did not cause the claimant to become unemployed.

(2) In studying the issues set forth in subdivision (1) of this subsection, the Committee shall compare Vermont's unemployment insurance system with the unemployment insurance systems of other states and specifically identify:

(A) best practices and high performing aspects of other states' unemployment insurance systems;

(B) shortcomings, challenges, and opportunities for improvement in Vermont's unemployment insurance system;

(C) potential changes and improvements to the Vermont Department of Labor's staffing, resources, information technology, training, funding, communications, practices, and procedures that are necessary to address the shortcomings, challenges, and opportunities for improvement identified pursuant to subdivision (B) of this subdivision (c)(2);

(D) potential statutory changes necessary to address the shortcomings, challenges, and opportunities for improvement identified pursuant to subdivision (B) of this subdivision (c)(2); and

(E) to the extent possible, the anticipated cost of implementing the changes and improvements identified pursuant to subdivisions (C) and (D) of this subdivision (c)(2) and any ongoing costs associated with such changes and improvements.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Counsel, the Office of Legislative Operations, and the Joint Fiscal Office.

(e) Report. On or before December 15, 2021, the Committee shall submit a written report to the House Committees on Appropriations, on Commerce and Economic Development, and on Ways and Means and the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, and on Finance with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Speaker of the House shall call the first meeting of the Committee to occur on or before September 15, 2021.

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

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

(4) The Committee shall cease to exist on December 31, 2021.

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than 3 meetings. These payments shall be made from monies appropriated to the General Assembly.

Third: In Sec. 15, 2020 Acts and Resolves No. 85, Sec. 9(a)(1), by striking out the following: “November 15, 2021” and inserting in lieu thereof the following: “December 15, 2021”

Fourth: In Sec. 16, 3 V.S.A. § 2222d, by striking out the following: “November 15, 2021” and inserting in lieu thereof the following: “December 15, 2021”

and that after passage the title of the bill be amended to read: “An act relating to employee incentives, technical education, and unemployment insurance”

The bill having appeared on the Calendar one day for Notice was taken up, read the second time, the report of the Committee on Commerce and Economic Development was amended as recommended by the Committee on Appropriations. Thereupon, the report of the Committee on Commerce and Economic Development, as amended, was further amended as recommended by the Committee on Ways and Means.

Thereafter, **Rep. Marcotte of Coventry** moved to amend the bill as follows:

First: By striking out Secs. 2–4 in their entireties and inserting in lieu thereof new Secs. 2–4 to read as follows:

Sec. 2. 10 V.S.A. § 4 is added to read:

§ 4. NEW RELOCATING EMPLOYEE INCENTIVES

(a) The Agency of Commerce and Community Development shall design and implement a program to award incentive grants to relocating employees as provided in this section and subject to the policies and procedures the Agency adopts to implement the program.

(b) A relocating employee may be eligible for a grant under the program for qualifying expenses, subject to the following:

(1) A base grant shall not exceed \$5,000.00.

(2) The Agency may award an enhanced grant, which shall not exceed \$7,500.00, for a relocating employee who becomes a resident in a labor market area in this State in which:

(A) the average annual unemployment rate in the labor market area exceeds the average annual unemployment rate in the State; or

(B) the average annual wage in the State exceeds the annual average wage in the labor market area.

(c) The Agency shall:

(1) adopt procedures for implementing the program, which shall include a simple certification process to certify relocating employees and qualifying expenses;

(2) promote awareness of the program, including through coordination with relevant trade groups and by integration into the Agency's economic development marketing campaigns;

(3) award grants to relocating employees on a first-come, first-served basis beginning on July 1, 2021, subject to available funding; and

(4) adopt measurable goals, performance measures, and an audit strategy to assess the utilization and performance of the program.

(d) On or before January 15, 2022, the Agency shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs concerning the implementation of this section, including:

(1) a description of the policies and procedures adopted to implement the program;

(2) the promotion and marketing of the program; and

(3) an analysis of the utilization and performance of the program, including the projected revenue impacts and other qualitative and quantitative returns on investment in the program based on available data and modeling.

(e) As used in this section:

(1) “Qualifying expenses” means the actual costs a relocating employee incurs for relocation expenses, which may include moving costs, closing costs for a primary residence, rental security deposit, one month’s rent payment, and other relocation expenses established in Agency guidelines.

(2) “Relocating employee” means an individual who meets the following criteria.

(A)(i) On or after July 1, 2021:

(I) the individual becomes a full-time resident of this State;

(II) the individual becomes a full-time employee at a Vermont location of a for-profit or nonprofit business organization domiciled or authorized to do business in this State, or of a State, municipal, or other public sector employer;

(III) the individual becomes employed in one of the “Occupations with the Most Openings” identified by the Vermont Department of Labor in its “Short Term Employment Projections 2020-2022”; and

(IV) the employer attests to the Agency that, after reasonable time and effort, the employer was unable to fill the employee’s position from among Vermont applicants; or

(ii) on or after February 1, 2022:

(I) the individual becomes a full-time resident of this State; and

(II) the individual is a full-time employee of an out-of-state business and performs the majority of his or her employment duties remotely from a home office or a co-working space located in this State.

(B) The individual receives gross salary or wages that equal or exceed the Vermont livable wage rate calculated pursuant to 2 V.S.A. § 526.

(C) The individual is subject to Vermont income tax.

Sec. 2a. ALLOCATION OF APPROPRIATION

The Agency of Commerce shall allocate the amounts appropriated in Sec. G.300(a)(20) as follows:

(1) The Agency may use not more than \$480,000.00 to provide grants to new relocating employees who qualify under 10 V.S.A. § 4(e)(2)(A)(i).

(2) The Agency may use not more than \$130,000.00 to provide grants to new relocating employees who qualify under 10 V.S.A. § 4(e)(2)(A)(ii).

(3)(A) The Agency shall transfer not more than \$40,000.00 to the Department of Financial Regulation for the amount required to hire an independent consultant as required in Sec. 2b of this act.

(B) If any amounts from subdivision (3)(A) of this section remain unspent upon conclusion of the study, the Agency shall divide such amounts evenly for grants pursuant to subdivisions (1) and (2) of this section.

Sec. 2b. NEW RELOCATING WORKERS; STUDY

(a) The Department of Financial Regulation shall contract with an independent consultant to study and report on the effectiveness of incentive programs to attract new workers and new remote workers in meeting the demographic challenges and workforce shortages that exist in Vermont.

(b) The Agency of Commerce and Community Development shall make available to the consultant any data and information necessary to assess the administration and outcomes of the programs created in 2018 Acts and Resolves No. 197, Sec. 1, as amended by 2019 Acts and Resolves No. 80, Sec. 15 (New Remote Worker Grant Program); in 2019 Acts and Resolves No. 80, Sec. 12 (New Worker Relocation Incentive Program); and the new relocating employee program created by this act in 10 V.S.A. § 4.

(c) On or before December 15, 2021, the Department shall deliver a final report and any recommendations for legislative action to the House Committees on Commerce and Economic Development and on Appropriations and the Senate Committees on Economic Development, Housing and General Affairs and on Appropriations.

Sec. 3. REPEALS

The following are repealed:

(1) 2018 Acts and Resolves No. 197, Sec. 1, as amended by 2019 Acts and Resolves No. 80, Sec. 15 (New Remote Worker Grant Program); and

(2) 2019 Acts and Resolves No. 80, Sec. 12 (New Worker Relocation Incentive Program).

* * * Adult CTE Investments * * *

Sec. 4. CAREER AND TECHNICAL EDUCATION; ALLOCATIONS

The following recipients shall use the amounts appropriated in Sec. G.300(a)(21) for the purposes specified:

(1) Career and Technical Education Adult Training Scholarships.

(A) The Vermont Student Assistance Corporation (VSAC) shall use \$100,000.00 appropriated for CTE Adult Training Scholarships to provide not more than \$1,000.00 in tuition support to students enrolled in workforce development programs at Adult Career and Technical Education Centers.

(B) Funding may be used for standalone grants or for supplemental grants to the VSAC Advancement Grant.

(C) Eligible students may be nominated by a VSAC Outreach Counselor or a caseworker from the Vermont Department of Labor.

(2) Career and Technical Education equipment purchasing.

(A) The Vermont Agency of Education shall use \$150,000.00 appropriated to award grants of not more than \$20,000.00 to Adult Career and Technical Education Centers for the purchase of equipment needed to launch or sustain workforce development programs in high-growth, high-need sectors.

(B) The Agency of Education shall collaborate with the Vermont Adult Career and Technical Education Association and the Vermont Department of Labor to create a competitive grant program.

(3) CTE program development and instruction.

(A) The Agency of Education shall use \$150,000.00 to provide adult CTE coordinators with access to curriculum development experts to build local programs that are needed to address local or regional workforce development needs.

(B) The Agency shall collaborate with the Adult Career and Technical Education Association and the Vermont Department of Labor to make awards of not more than \$20,000.00.

Second: By striking out Sec. 6, 21 V.S.A. § 1325, in its entirety and inserting in lieu thereof a new Sec. 6 to read as follows:

Sec. 6. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;

DISCLOSURE TO SUCCESSOR ENTITY

(a)(1) The Commissioner shall maintain an experience-rating record for each employer. Benefits paid shall be charged against the experience-rating record of each subject employer who provided base-period wages to the eligible individual. Each subject employer's experience-rating charge shall bear the same ratio to total benefits paid as the total base-period wages paid by that employer bear to the total base-period wages paid to the individual by all base-period employers. The experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual under any of the following conditions:

* * *

(G) ~~The~~ During calendar year 2020, the individual voluntarily separated from that employer as provided by subdivision 1344(a)(2)(A) of this chapter for one of the following reasons:

* * *

~~(3)(A) Subject to the provisions of~~ Except as otherwise provided pursuant to subdivision (B) of this subdivision (a)(3), an employer shall be relieved of charges for benefits paid to an individual ~~for a period of up to eight weeks with respect to benefits paid because:~~

~~(i) the employer temporarily ceased operation, either partially or completely, at the individual's place of employment in response to a request from a public health authority with jurisdiction that the employer cease operations because of COVID-19, in response to an emergency order or directive issued by the Governor or the President related to COVID-19, or because the employer voluntarily ceased operations due to the actual exposure of workers at that place of employment to COVID-19;~~

~~(ii) the individual becomes unemployed as a direct result of a state of emergency declared by the Governor or the President in relation to COVID-19 or an order or directive issued by the Governor or President in relation to COVID-19; or~~

~~(iii) the individual has been recommended or requested by a medical professional or a public health authority with jurisdiction to be isolated or quarantined as a result of COVID-19, regardless of whether the individual has been diagnosed with COVID-19 during calendar year 2020.~~

~~(B)(i) An employer shall only be eligible for relief~~ be relieved of charges for benefits paid during calendar year 2020 in relation to a COVID-19-related separation from employment under the provisions of this subdivision (a)(3) ~~if the employer rehires or offers to rehire the individual within a reasonable period of time after the employer resumes operations at the individual's place of employment, as determined by the Commissioner, or~~

upon the completion of the individual's period of isolation or quarantine unless the Commissioner determines that the COVID-19-related reason for the individual's separation from employment no longer exists and the employer has failed to rehire or offer to rehire the individual without good cause.

(ii) If the Commissioner has cause to believe or receives an allegation or other information indicating that an employer may not be entitled to relief from charges pursuant to this subdivision (a)(3), the Commissioner shall examine the employer's records and any other documents and information necessary to determine if the employer is entitled to relief from charges pursuant to this subdivision (a)(3).

(C) The Commissioner may extend the period for which an employer shall be relieved of charges for benefits paid to employees pursuant to subdivision (A)(i) of this subdivision (a)(3) by an amount that the Commissioner determines to be appropriate in light of the terms of any applicable request from a local health official or the Commissioner of Health or any applicable emergency order or directive issued by the Governor or the President and any other relevant conditions or factors. As used in this subdivision (a)(3), "COVID-19-related separation from employment" shall mean a separation from employment for one of the following reasons:

(i) the employer temporarily ceased operation, either partially or completely, at the individual's place of employment in response to a request from a public health authority with jurisdiction that the employer cease operations because of COVID-19, in response to an emergency order or directive issued by the Governor or the President related to COVID-19, or because the employer voluntarily ceased operations due to the actual exposure of workers at that place of employment to COVID-19;

(ii) the individual became unemployed as a direct result of a state of emergency declared by the Governor or the President in relation to COVID-19 or an order or directive issued by the Governor or President in relation to COVID-19, including through a change or reduction in the employer's operation at the individual's place of employment that directly resulted from such a state of emergency, order, or directive; or

(iii) the employer temporarily laid off the individual based on a recommendation or request by a medical professional or a public health authority with jurisdiction that the individual be isolated or quarantined as a result of COVID-19, regardless of whether the individual has been diagnosed with COVID-19.

* * *

Which was agreed to.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the Committee on Commerce and Economic Development, as amended?, **Rep. McCoy of Poultney** asked that the question be divided as follows: In the first division, by considering Sections 11, 12, and 13 and, in Section 17 – which is the effective dates section – subdivisions (a)(3) and (4). Next, in the second division, by considering all remaining provisions of the committee report.

The question of the first division, Shall the House propose to amend the bill in the first division, which is sections 11 through 13 and, in Section 17, subdivisions (a)(3) and (4) of the amendment recommended by the Committee on Commerce and Economic Development, as amended?, was agreed to on a vote by division: Yeas, 110; Nays, 26.

The question of the second division, Shall the House propose to the Senate to amend the bill in the second division, which is the remainder of the amendment recommended by the Committee on Commerce and Economic Development, as amended?, was agreed to on a vote by division: Yeas, 122, Nays, 7.

Pending the question, Shall the bill be read a third time?, **Rep. Marcotte of Coventry** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time?, was decided in the affirmative. Yeas, 143. Nays, 0.

Those who voted in the affirmative are:

Achey of Middletown	Goslant of Northfield	Notte of Rutland City
Springs	Grad of Moretown	Noyes of Wolcott
Ancel of Calais	Graham of Williamstown	O'Brien of Tunbridge
Anthony of Barre City	Gregoire of Fairfield	Ode of Burlington
Arrison of Weathersfield	Hango of Berkshire	Page of Newport City
Austin of Colchester	Harrison of Chittenden	Pajala of Londonderry
Bartholomew of Hartland	Helm of Fair Haven	Palasik of Milton
Batchelor of Derby	Higley of Lowell	Parsons of Newbury
Birong of Vergennes	Hooper of Montpelier	Partridge of Windham
Black of Essex	Hooper of Randolph	Patt of Worcester
Bluemle of Burlington	Hooper of Burlington	Peterson of Clarendon
Bock of Chester	Houghton of Essex	Pugh of South Burlington
Bongartz of Manchester	Howard of Rutland City	Rachelson of Burlington
Bos-Lun of Westminster	James of Manchester	Redmond of Essex
Brady of Williston	Jerome of Brandon	Rogers of Waterville
Brennan of Colchester	Jessup of Middlesex	Rosenquist of Georgia
Briglin of Thetford	Killacky of South Burlington	Satcowitz of Randolph
Brown of Richmond	Kimbell of Woodstock	Savage of Swanton
Brownell of Pownal	Kitzmiller of Montpelier	Scheu of Middlebury
Brumsted of Shelburne	Kornheiser of Brattleboro	Scheuermann of Stowe

Burditt of West Rutland	LaClair of Barre Town	Seymour of Sutton
Burke of Brattleboro	LaLonde of South	Shaw of Pittsford
Burrows of West Windsor	Burlington	Sheldon of Middlebury
Campbell of St. Johnsbury	Lanpher of Vergennes	Sibilia of Dover
Canfield of Fair Haven	Lefebvre of Newark	Sims of Craftsbury
Chase of Colchester	Lefebvre of Orange	Small of Winooski
Christie of Hartford	Leffler of Enosburgh	Smith of Derby
Cina of Burlington	Lippert of Hinesburg	Smith of New Haven
Coffey of Guilford	Long of Newfane *	Stebbins of Burlington
Colburn of Burlington	Marcotte of Coventry	Stevens of Waterbury
Colston of Winooski	Martel of Waterford	Strong of Albany
Conlon of Cornwall	Martin of Franklin	Sullivan of Dorset
Copeland Hanzas of	Masland of Thetford	Surprenant of Barnard
Bradford	Mattos of Milton	Taylor of Colchester
Corcoran of Bennington	McCarthy of St. Albans City	Toleno of Brattleboro
Cordes of Lincoln	McCoy of Poultney	Toof of St. Albans Town
Cupoli of Rutland City	McCullough of Williston	Townsend of South
Dickinson of St. Albans	McFaun of Barre Town	Burlington
Town	Morgan, L. of Milton	Troiano of Stannard
Dolan of Essex	Morgan, M. of Milton	Vyhovsky of Essex
Dolan of Waitsfield	Morris of Springfield	Walz of Barre City
Donahue of Northfield	Morrissey of Bennington	Webb of Shelburne
Donnally of Hyde Park	Mrowicki of Putney	White of Bethel
Durfee of Shaftsbury	Mulvaney-Stanak of	White of Hartford
Elder of Starksboro	Burlington	Whitman of Bennington
Emmons of Springfield	Murphy of Fairfax	Williams of Granby
Fagan of Rutland City	Nicoll of Ludlow	Wood of Waterbury
Feltus of Lyndon	Nigro of Bennington	Yacovone of Morristown
Gannon of Wilmington	Norris of Sheldon	Yantachka of Charlotte
Goldman of Rockingham	Norris of Shoreham	

Those who voted in the negative are: none

Those members absent with leave of the House and not voting are:

Beck of St. Johnsbury	Pearl of Danville	Terenzini of Rutland Town
McCormack of Burlington	Squirrell of Underhill	Till of Jericho

Rep. Long of Newfane explained her vote as follows:

“Madam Speaker:

I’m proud to vote to support the work of our committees on S.62, who came together to craft a path forward to not only refill our Unemployment Trust Fund in the spirit of the grand bargain, but to also increase the unemployment benefits that we provide Vermont workers moving forward. Whether it’s the next recession or pandemic or just the bad luck of being laid off and in between jobs, Vermonters need to know we have an economy that

leaves no one behind. Thanks to the good work of our committees, we have a bill that is fair to Vermont's businesses, while also lifting up Vermont workers."

Message from the Senate No. 65

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has considered bills originating in the House of the following titles:

H. 289. An act relating to professions and occupations regulated by the Office of Professional Regulation.

H. 431. An act relating to miscellaneous energy subjects.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered House proposal of amendment to Senate bill of the following title:

S. 3. An act relating to competency to stand trial and insanity as a defense.

And has concurred therein with an amendment in the passage of which the concurrence of the House is requested.

The Governor has informed the Senate that on the 18th day of May, 2021, he approved and signed bills originating in the Senate of the following titles:

S. 16. An act relating to the creation of the Task Force on Equitable and Inclusive School Environments.

S. 20. An act relating to restrictions on perfluoroalkyl and polyfluoroalkyl substances and other chemicals of concern in consumer products.

S. 42. An act relating to establishing the Emergency Service Provider Wellness Commission.

Message from the Senate No. 66

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has considered House proposals of amendment to Senate proposals of amendment to House bills of the following titles:

H. 426. An act relating to addressing the needs and conditions of public school facilities in the State.

H. 435. An act relating to miscellaneous Department of Corrections-related amendments.

And has concurred therein.

The Senate has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses upon House bill of the following title:

H. 360. An act relating to accelerated community broadband deployment.

And has accepted and adopted the same on its part.

The Senate has considered House proposal of amendment to Senate proposal of amendment to joint resolution of the following title:

J.R.H. 2. Joint resolution sincerely apologizing and expressing sorrow and regret to all individual Vermonters and their families and descendants who were harmed as a result of State-sanctioned eugenics policies and practices.

And has concurred therein.

The Senate has considered House proposal of amendment to Senate bill of the following title:

S. 13. An act relating to the implementation of the Pupil Weighting Factors Report.

And has concurred therein.

Adjournment

At nine o'clock and twenty-three minutes in the evening, on motion of **Rep. McCoy of Poultney**, the House adjourned until tomorrow at ten o'clock in the forenoon.