

# Journal of the Senate

TUESDAY, MAY 3, 2022

The Senate was called to order by the President.

## Devotional Exercises

A moment of silence was observed in lieu of devotions.

## Pledge of Allegiance

The President then led the members of the Senate in the pledge of allegiance.

## Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Madam President:

I am directed by the Governor to inform the Senate that on the second day of May, 2022 he returned without signature and *vetoed* a bill originating in the Senate of the following title:

**S. 286.** An act relating to amending various public pension and other postemployment benefits.

## Text of Communication from Governor

The text of the communication to the Senate from His Excellency, the Governor, whereby he vetoed and returned unsigned **Senate Bill No. 286** to the Senate is as follows:

“May 2, 2022

The Honorable John Bloomer, Jr.  
Secretary of the Senate  
115 State House  
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.286, *An act relating to amending various public pension and other postemployment benefits*, without my signature because of my objections described herein.

Since the day after this bill was introduced, before it was voted out of a single committee, in either chamber of the General Assembly, I have been clear it does not include enough structural change to solve the enormous unfunded liability problems the State faces. I offered balanced solutions, which were disregarded.

It is unfortunate this veto will likely be easily overridden, not for me, but for Vermont taxpayers and State employees who will bear the burden in the future. I will acknowledge, this bill takes some positive steps, and the easiest thing for me to do would be to sign it, assure the public we solved the problem, and move on.

But given the scope of this problem and the risk it poses to the financial health of our state, I cannot bring myself to do that. It would be disingenuous because I know we could have done better.

The fact is, in several years – despite adding a quarter of a billion dollars in *additional* money (on top of the roughly \$400 million for our regular, required payment) from taxpayers – the state will be faced with the same unsustainable system we have today.

I won't be governor when those chickens come home to roost, and many of you will not be serving in your current roles, either. But the Legislature's unwillingness to question the deal reached between a handful of union and legislative representatives will come back to haunt our state in the not-too-distant future.

And when it does, we won't have the unprecedented level of federal funds and state surplus dollars at our disposal, and the fix will be tougher on both taxpayers and public employees.

Sincerely,

/s/Philip B. Scott  
Governor"

**Message from the Governor  
Appointment Referred**

A message was received from the Governor, by Brittney L. Wilson, Secretary of Civil and Military Affairs, submitting the following appointment, which was referred to its committee as indicated:

The nomination of

Richardson, Amy of Woodstock - Member of the Vermont Housing and Conservation Board - from March 28, 2022 to February 29, 2024.

To the Committee on Economic Development, Housing and General Affairs.

**Rules Suspended; Bill Committed**

Pending entry on the Calendar for notice, on motion of Senator Sirotkin the rules were suspended and House bill entitled:

**H. 730.** An act relating to alcoholic beverages and the Department of Liquor and Lottery.

was committed to the Committee on Finance pursuant to Rule 31 with the report of the Committee on Economic Development, Housing and General Affairs *intact*,

Which was agreed to.

**Bill Passed in Concurrence**

**H. 482.**

House bill of the following title was read the third time and passed in concurrence:

An act relating to the Petroleum Cleanup Fund.

**Bills Passed in Concurrence with Proposal of Amendment**

House bills of the following titles were severally read the third time and passed in concurrence with proposals of amendment:

**H. 456.** An act relating to establishing strategic goals and reporting requirements for the Vermont State Colleges.

**H. 464.** An act relating to miscellaneous changes to the Reach Up Program.

**H. 523.** An act relating to reducing hydrofluorocarbon emissions.

**Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment**

**H. 729.**

House bill entitled:

An act relating to miscellaneous judiciary procedures.

Was taken up.

Thereupon, pending third reading of the bill, Senators White, Sears, Baruth and Benning moved to amend the Senate proposal of amendment as follows:

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

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

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

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

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

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

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

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

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

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

And by renumbering the remaining section to be numerically correct.

Which was agreed to.

Thereupon, Senator Sears moved that the Senate proposal of amendment be amended by inserting a new section to be Sec. 7a to read as follows:

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

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

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

\* \* \*

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

\* \* \*

Which was agreed to.

Thereupon, Senator Ram Hinsdale moved that the Senate proposal of amendment be amended by inserting a new section to be Sec. 4a to read as follows:

Sec. 4a. 33 V.S.A. § 6936 is amended to read:

§ 6936. EMERGENCY RELIEF; HEARINGS

(a) In accordance with the Rules for Family Proceedings, temporary orders under this subchapter may be issued ex parte, without notice to the defendant, upon motion and findings by the court that the defendant has abused, neglected, or exploited the vulnerable adult and that serious and irreparable harm to the physical health or financial interests of the vulnerable adult will result without ex parte relief.

\* \* \*

(d)(1) The Court Administrator shall establish procedures to ensure access to relief after regular court hours, or on weekends and holidays.

(2) The procedures established pursuant to this subsection shall include:

(A) designation of an employee of the Judiciary authorized to receive requests for ex parte petitions submitted after regular court hours; and

(B) permission for the petitioner's affidavit to be sworn to or affirmed by administration of the oath over the telephone to the petitioner by the authorized person, during or after regular court hours.

Which was agreed to.

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

### **Third Reading Ordered**

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

Senator White, for the Committee on Government Operations, to which was referred joint House resolution entitled:

Joint resolution relating to the Russian invasion of Ukraine.

Reported that the joint resolution ought to be adopted in concurrence.

Thereupon, the joint resolution was read the second time by title only pursuant to Rule 43, and third reading of the joint resolution was ordered.

### **Proposal of Amendment; Third Reading Ordered**

#### **H. 279.**

Senator Hardy, for the Committee on Health and Welfare, to which was referred House bill entitled:

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

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

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Health and Welfare.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered.

**Proposal of Amendment; Third Reading Ordered****H. 410.**

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

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

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

Sec. 1. FINDINGS; INTENT

(a) The General Assembly finds that:

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

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

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

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

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

(b) It is the intent of the General Assembly to carry out the work of the Task Force by creating the Division of Artificial Intelligence within the Agency of Digital Services to implement some of the specific

recommendations of the Task Force and require the Agency of Digital Services to conduct an inventory of all automated decision systems that are being developed, used, or procured by the State.

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

§ 3303. REPORTING, RECORDS, AND REVIEW REQUIREMENTS

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

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

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

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

(4) an outline summary of information, including scope, schedule, budget, and status for information technology projects with total costs of \$500,000.00 or greater;

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

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

(7) the Agency budget submission; and

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

\* \* \*

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

§ 3305. AUTOMATED DECISION SYSTEM; STATE PROCUREMENT;  
INVENTORY

(a) Definitions. As used in this section:

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

(2) “Automated decision system” means any algorithm, including one incorporating machine learning or other artificial intelligence techniques, that



uses data-based analytics to make or support government decisions, judgments, or conclusions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) how automated decision system data is securely stored and processed and whether an agency intends to share access to the automated

decision system or the data from that automated decision system with any other entity, which entity, and why; and

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

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

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

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

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

On or before December 1, 2022, the Agency of Digital Services shall submit to the House Committee on Energy and Technology and the Senate Committee on Finance a report on the inventory described in 3 V.S.A. § 3305. The report shall include recommendations for any changes to the inventory, including how it should be maintained, the frequency of updates, and remediation measures needed to address systems deemed problematic.

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

#### CHAPTER 69. DIVISION OF ARTIFICIAL INTELLIGENCE

##### § 5011. DEFINITION

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

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

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

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

following:

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

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

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

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

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

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

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

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

(3) any necessary policies to:

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

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

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

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

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

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§ 5013. ARTIFICIAL INTELLIGENCE ADVISORY COUNCIL

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

(b) Members.

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

(A) the Secretary of Digital Services or designee;

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

(C) the Commissioner of Public Safety or designee;

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

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

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

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

(H) the Commissioner of Health or designee;

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

(J) the Attorney General or designee.

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

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

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

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

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

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

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

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

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

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

Sec. 6. ARTIFICIAL INTELLIGENCE ADVISORY COUNCIL;  
IMPLEMENTATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) As used in this section:

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

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

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

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

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

#### Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Baruth, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Government Operations.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered.

### **Proposal of Amendment; Third Reading Ordered**

#### **H. 728.**

Senator Hardy, for the Committee on Health and Welfare, to which was referred House bill entitled:

An act relating to opioid overdose response services.

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

\* \* \* Operation of Syringe Service Programs \* \* \*

Sec. 1. 18 V.S.A. § 4475 is amended to read:

#### § 4475. DEFINITIONS

(a)(1) The term “drug paraphernalia” means all equipment, products, devices, and materials of any kind that are used, or promoted for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a regulated drug in violation of chapter 84 of this title. “Drug paraphernalia” does not include needles ~~and~~, syringes, or other harm reduction supplies distributed or possessed as part of an organized community-based needle exchange program.

(2) “Organized community-based needle exchange program” means a program approved by the Commissioner of Health under section 4478 of this title, the purpose of which is to provide access to clean needles and syringes, ~~and which is operated by an AIDS service organization, a substance abuse treatment provider, or a licensed health care provider or facility.~~ Such programs shall be operated in a manner that is consistent with the provisions of 10 V.S.A. chapter 159 (waste management; hazardous waste), and any other applicable laws.

\* \* \*



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Sec. 2. REPORT; NEEDLE EXCHANGE PROGRAM GUIDELINES

On or before January 1, 2023, the Department of Health shall submit a written report to the House Committee on Human Services and to the Senate Committee on Health and Welfare on updates to the needle exchange program operating guidelines required pursuant to 18 V.S.A. § 4478 that reflect current practice and consideration of the feasibility and costs of designating organizations to deliver peer-operated needle exchange.

\* \* \* Prior Authorization of Medication-Assisted Treatment  
Medications for Medicaid Beneficiaries \* \* \*

Sec. 3. 33 V.S.A. § 1901k is added to read:

§ 1901k. MEDICATION-ASSISTED TREATMENT MEDICATIONS

(a) The Agency of Human Services shall provide coverage to Medicaid beneficiaries for medically necessary medication-assisted treatment for opioid use disorder when prescribed by a health care professional practicing within the scope of the professional's license and participating in the Medicaid program.

(b) Upon approval of the Drug Utilization Review Board, the Agency shall cover at least one medication in each therapeutic class for methadone, buprenorphine, and naltrexone as listed on Medicaid's preferred drug list without requiring prior authorization.

Sec. 4. REPORT; PRIOR AUTHORIZATION; MEDICATION-ASSISTED TREATMENT

(a) On or before December 1, 2022, the Department of Vermont Health Access shall research the following, in consultation with individuals representing diverse professional perspectives, and submit its findings related to prior authorization for medication-assisted treatment to the Drug Utilization Review Board and Clinical Utilization Review Board for review, consideration, and recommendations:

(1) the quantity limits and preferred medications for buprenorphine products;

(2) the feasibility and costs for adding mono-buprenorphine products as preferred medications and the current process for verifying adverse effects;

(3) how other states' Medicaid programs address prior authorization for medication-assisted treatment, including the 60-day deferral of prior authorization implemented by Oregon's Medicaid program;

(4) the appropriateness and feasibility of removing annual renewal of prior authorization;

(5) the appropriateness of creating parity between hub-and-spoke providers with regard to medication-assisted treatment quantity limits; and

(6) creating an automatic emergency 72-hour pharmacy override default.

(b) Prior to providing a recommendation to the Department, the Drug Utilization Review Board and the Clinical Utilization Review Board shall include as an agenda item at their respective meetings the Department's findings related to prior authorization required pursuant to subsection (a) of this section.

(c) On or before January 15, 2023, the Department shall submit a written report containing both the Department's initial research and findings and the Drug Utilization Review Board and the Clinical Utilization Review Board's recommendations pursuant to subsection (a) of this section to the House Committee on Human Services and to the Senate Committee on Health and Welfare.

Sec. 5. [Deleted.]

Sec. 6. [Deleted.]

Sec. 7. REPORTS; PRIOR AUTHORIZATION FOR MEDICATION-ASSISTED TREATMENT; MEDICAID

On or before February 1, 2023, 2024, and 2025, the Department of Vermont Health Access shall report to the House Committees on Health Care and on Human Services and to the Senate Committee on Health and Welfare regarding prior authorization processes for medication-assisted treatment in Vermont's Medicaid program during the previous calendar year, including:

(1) which medications required prior authorization;

(2) the reason for initiating prior authorization;

(3) how many prior authorization requests the Department received and, of these, how many were approved and denied and the reason for approval or denial;

(4) the average and longest length of time the Department took to process a prior authorization request; and

(5) how many prior authorization appeals the Department received and, of these, how many were approved and denied and the reason for approval or denial.

\* \* \* Overdose Prevention Site Working Group \* \* \*

Sec. 8. OVERDOSE PREVENTION SITE WORKING GROUP

(a) Creation. In recognition of the rapid increase in overdose deaths across the State, with a record number of opioid-related deaths in 2021, there is created the Overdose Prevention Site Working Group to identify the feasibility and liability of implementing overdose prevention sites in Vermont. The Working Group shall review the findings from previously completed reports on this topic and current efforts to examine and implement an overdose prevention site.

(b) Membership. The Working Group shall be composed of the following members:

(1) the Commissioner of Health or designee;

(2) the Commissioner of Public Safety or designee;

(3) a representative, appointed by the State's Attorneys Offices;

(4) two representatives, appointed by the Vermont League of Cities and Towns, from different regions of the State;

(5) two individuals with lived experience of opioid use disorder, including at least one of whom is in recovery; one member appointed by the Howard Center's Safe Recovery program; and one member appointed by the Vermont Association of Mental Health and Addiction Recovery;

(6) the Program Director from the Consortium on Substance Use;

(7) the Program Director from the Howard Center's Safe Recovery program;

(8) a primary care prescriber with experience providing medication-assisted treatment within the hub-and-spoke model, appointed by the Clinical Director of Alcohol and Drug Abuse Programs; and

(9) an emergency department physician, appointed by the Vermont Medical Society.

(c) Powers and duties. The Working Group shall:

(1) conduct an inventory of overdose prevention sites nationally;

(2) identify the feasibility, liability, and cost of both publicly funded and privately funded overdose prevention sites;

(3) make recommendations on municipal and local actions necessary to implement overdose prevention sites;

(4) make recommendations on executive and legislative actions necessary to implement overdose prevention sites, if any; and

(5) develop an actionable plan for the design, facility fit-up, and implementation of one or more overdose prevention sites in Vermont.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Department of Health.

(e) Report. On or before January 15, 2023, the Working Group shall submit a written report to the House Committee on Human Services and the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Commissioner of Health or designee shall call the first meeting of the Working Group to occur on or before July 15, 2022.

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

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

(4) The Working Group shall cease to exist on January 15, 2023.

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

(h) As used in this section, “overdose prevention site” means a facility where individuals can use previously acquired regulated drugs as defined in 18 V.S.A. § 4201.

\* \* \* Program Presentations \* \* \*

## Sec. 9. MOBILE MEDICATION-ASSISTED TREATMENT

On or before February 15, 2023, the designated agencies operating mobile medication-assisted treatment services shall present information regarding their services to the House Committee on Human Services and to the Senate Committee on Health and Welfare. The Department of Health’s Division of Alcohol and Drug Abuse Programs shall also present a summary of its use of federal funds for mobile medication-assisted treatment services and an assessment as to the efficacy of mobile medication-assisted treatment services at preventing overdose deaths.

Sec. 10. SUBSTANCE USE SUPPORT FOR JUSTICE INVOLVED  
VERMONTERS

The Departments of Health and of Corrections shall continue existing efforts to support access to medication-assisted treatment services to individuals in the custody of the Department of Corrections and those individuals transitioning out of the custody of the Department of Corrections. On or before February 15, 2023, the Departments shall jointly present to the House Committees on Corrections and Institutions and on Human Services and to the Senate Committees on Health and Welfare and on Judiciary information:

- (1) summarizing their use of federal funds for this purpose; and
- (2) regarding the provision of medication-assisted treatment services to justice-involved individuals.

Sec. 11. OVERDOSE EMERGENCY RESPONSE SUPPORT

The Agency of Human Services shall continue existing efforts to provide or facilitate connections to substance use treatment, recovery, or harm reduction services at the time of an emergency response to an overdose. On or before February 15, 2023, the Agency shall present information to the House Committee on Human Services and to the Senate Committee on Health and Welfare summarizing the use of federal funds and status of this work.

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

Sec. 12. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Westman, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Health and Welfare.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Health and Welfare?, Senators Hardy, Cummings, Hooker and Lyons moved to amend the proposal of amendment of the Committee on Health and Welfare, as follows:

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

(e) Report. On or before January 15, 2023, the Working Group shall submit a written report to the House Committee on Human Services and the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action, including the plan developed pursuant to subdivision (c)(5) of this section and the estimated cost to implement the plan.

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

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

Which was agreed to.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Health and Welfare, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 22, Nays 7.

Senator Terenzini having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Balint, Baruth, Bray, Campion, Chittenden, Clarkson, Cummings, Hardy, Hooker, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Perchlik, Pollina, Ram Hinsdale, Sears, Sirotkin, Starr, White.

**Those Senators who voted in the negative were:** Benning, Brock, Collamore, Ingalls, Parent, Terenzini, Westman.

**The Senator absent and not voting was:** Kitchel.

#### **Proposal of Amendment; Third Reading Ordered**

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

Senator White, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to racial justice statistics.

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

Sec. 1. 3 V.S.A. chapter 68 is amended to read:

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

Subchapter 1. Executive Director of Racial Equity

\* \* \*

§ 5003. DUTIES OF EXECUTIVE DIRECTOR OF RACIAL EQUITY

\* \* \*

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

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

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

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

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

\* \* \*

Subchapter 2. Division of Racial Justice Statistics

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

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

(b) Purpose. The mission of the Division is to collect and analyze data relating to racial disparities with the intent to center racial equity throughout these efforts. The purpose of the Division is to create, promote, and advance a system and structure that provides access to appropriate data and information, ensuring that privacy interests are protected and principles of transparency and

accountability are clearly expressed. The data are to be used to inform policy decisions that work toward the amelioration of racial disparities across various systems of State government.

§ 5012. DUTIES

(a) The Division shall have the following duties:

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

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

(3) Conduct justice information sharing gap analyses.

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

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

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

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

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

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

§ 5013. DATA GOVERNANCE

(a) Data collection. In consultation with the Racial Disparities in the Criminal and Juvenile Justice Systems Advisory Panel and the Racial Justice



Statistics Advisory Council, the Division shall establish the data to be collected to carry out the duties of this subchapter.

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

(2) The Division shall identify which State and local agencies or departments possess the data necessary for the Division to perform the requirements and objectives of this subchapter. An agency or department identified pursuant to this subdivision shall, upon request, provide the Division with any data that the Division determines is relevant to its purpose under subsection 5011(b) of this title, provided that the Office of the Defender General shall not be required to make any disclosures that would violate 1 V.S.A. § 317(c)(3). The Division may identify non-State entities that possess the data necessary for the Division to perform the requirements and objectives of this subchapter and have access to the data of an identified entity pursuant to a data sharing agreement or memorandum of understanding.

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

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

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

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

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

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

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

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

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

(e) Publicly available data.

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

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

#### § 5014. RACIAL JUSTICE STATISTICS ADVISORY COUNCIL

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

(b) Membership.

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

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

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

(I) facing eviction;

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

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

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

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

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

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

(3) Terms. The term of each member shall be four years. As terms of currently serving members expire, appointments of successors shall be in accord with the provisions of this section. Appointments of members to fill vacancies or expired terms shall be made by the authority that made the initial appointment to the vacated or expired term. Members shall serve until their successors are appointed. Members shall serve not more than two consecutive terms in any capacity.

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

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

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

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

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

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

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

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

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

(d) Meetings. The Council shall meet monthly.

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

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

## Sec. 2. RACIAL JUSTICE STATISTICS ADVISORY COUNCIL; IMPLEMENTATION

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

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

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

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

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

## Sec. 3. DIVISION OF RACIAL JUSTICE STATISTICS; POSITIONS

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

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

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

## Sec. 4. APPROPRIATION

The following appropriations shall be made in fiscal year 2023:

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

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

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

#### Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Baruth, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Judiciary.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered.

#### **Proposal of Amendment; Third Reading Ordered**

#### **H. 551.**

Senator Benning, for the Committee on Judiciary, to which was referred House bill entitled:

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

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

#### Sec. 1. LEGISLATIVE INTENT

While racially and religiously restrictive covenants have been held unenforceable by courts since the U.S. Supreme Court's 1948 decision in *Shelley v. Kramer*, 344 U.S. 1 (1948), no State law currently exists to render these covenants void and to put an end to what was an invidious, historical practice of discrimination in the United States. This practice was responsible, in part, for preventing persons of racial and religious minority backgrounds from fully participating in one of the greatest expansions of wealth and

prosperity in this country's history through federally backed mortgages and freely available homeownership. It is the intent of the General Assembly that this act prohibit racially and religiously restrictive covenants from ever being used in Vermont again, regardless of their enforceability, and that it ensure that existing racially and religiously restrictive covenants remain in municipal land records to preserve the historical record and maintain critical evidence of a pervasive system of discrimination that existed in Vermont and throughout the country.

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

§ 546. RACIALLY AND RELIGIOUSLY RESTRICTIVE COVENANTS IN DEEDS PROHIBITED

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

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

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered on a roll call, Yeas 30, Nays 0.

Senator Benning having demanded the yeas and nays, they were taken and are as follows:

**Roll Call**

**Those Senators who voted in the affirmative were:** Balint, Baruth, Benning, Bray, Brock, Campion, Chittenden, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingalls, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Parent, Pearson, Perchlik, Pollina, Ram Hinsdale, Sears, Sirotkin, Starr, Terenzini, Westman, White.

**Those Senators who voted in the negative were:** None.

**House Proposals of Amendment Concurred In with Amendment****S. 280.**

House proposals of amendment to Senate bill entitled:

An act relating to miscellaneous changes to laws related to vehicles.

Were taken up.

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

First: In Sec. 2, 23 V.S.A. § 1209a, in subdivision (b)(1)(A)(ii), by inserting “or a regulated drug” following “other than alcohol”

Second: By striking out Sec. 10, effective dates, and its corresponding reader assistance heading in their entirety and inserting in lieu thereof the following:

\* \* \* Transportation Network Companies (TNC);  
Preemption; Sunset Extension; Report \* \* \*

Sec. 10. 23 V.S.A. § 754 is amended to read:

§ 754. PREEMPTION; SAVINGS CLAUSE

(a) Municipal ordinances, resolutions, or bylaws regulating transportation network companies are preempted to the extent they are inconsistent with the provisions of this chapter.

(b) Subsection (a) of this section shall not apply to a municipal ordinance, resolution, or bylaw regulating transportation network companies adopted by a municipality with a population of more than 35,000 residents based on the 2010 census and in effect on July 1, 2017. This subsection shall be repealed on July 1, ~~2022~~ 2025.

Sec. 11. TRANSPORTATION NETWORK COMPANIES (TNC) REPORT

(a) The Commissioner of Motor Vehicles, in consultation with the City of Burlington; the Vermont League of Cities and Towns; and transportation network companies (TNCs), as defined in 23 V.S.A. § 750(a)(4), doing business in Vermont, shall file a written report with recommendations on how, if at all, to amend 23 V.S.A. § 754 and, as applicable, 23 V.S.A. chapter 10 with the House Committees on Commerce and Economic Development, on Judiciary, and on Transportation and the Senate Committees on Finance, on Judiciary, and on Transportation on or before March 15, 2024.

(b) In preparing the report, the Commissioner of Motor Vehicles shall review the following related to TNCs:

(1) changes in ridership and consumer practices for calendar years 2018 to 2023, including market penetration across the State;

(2) the results of and process for audits conducted on a State or municipal level;

(3) an analysis prepared by the City of Burlington and TNCs of the differences between the State's regulatory scheme and the City of Burlington's regulatory scheme, including whether allowing those inconsistencies is or will be detrimental or beneficial to any of the following: the State, the traveling public, TNCs, the City of Burlington, or other municipalities; and

(4) significant regulatory changes on a national level.

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

Sec. 12. REPORT ON INCREASING GROSS WEIGHT LIMITS ON  
HIGHWAYS THROUGH SPECIAL ANNUAL PERMIT AND  
STATUS OF PERMIT PORTAL

(a) The Secretary of Transportation or designee, in collaboration with the Commissioner of Forests, Parks and Recreation or designee, the Executive Director of the Vermont League of Cities and Towns or designee, and the President of the Vermont Forest Products Association or designee and with the assistance of the Commissioner of Motor Vehicles or designee, shall examine adding one or more additional special annual permits to 23 V.S.A. § 1392 to allow for the operation of motor vehicles at a gross vehicle weight over 99,000 pounds and shall file a written report on the examination and any recommendations with the House and Senate Committees on Transportation on or before January 15, 2023.

(b) At a minimum, the examination shall address:

(1) allowing for a truck trailer combination or truck tractor, semi-trailer combination transporting cargo of legal dimensions that can be separated into units of legal weight without affecting the physical integrity of the load to bear a maximum of 107,000 pounds on six axles or a maximum of 117,000 pounds on seven axles by special annual permit;

(2) limitations for any additional special annual gross vehicle weight permits based on highway type, including limited access State highway, non-limited access State highway, class 1 town highway, and class 2 town highway;

(3) limitations for any additional special annual gross vehicle weight permits based on axle spacing and axle-weight provisions;

(4) reciprocity treatment for foreign trucks from a state or province that recognizes Vermont vehicles permitted at increased gross weights;



(5) permit fees for any additional special annual gross vehicle weight permits;

(6) additional penalties, including civil penalties and permit revocation, for gross vehicle weight violations; and

(7) impacts of any additional special annual gross vehicle permits on the forest economy and on the management and forest cover of Vermont's landscape.

(c) The Secretary of Transportation or designee, in consultation with the Commissioner of Motor Vehicles or designee, shall also include an update on the development and implementation of the centralized online permitting system that the Commissioner of Motor Vehicles was authorized to initiate the design and development of pursuant to 2021 Acts and Resolves No. 149, Sec. 26(a) in the report required under subsection (a) of this section.

\* \* \* Distracted Driving; Report \* \* \*

### Sec. 13. DISTRACTED DRIVING; REPORT

(a) Findings. The General Assembly finds that:

(1) Distracted driving is any activity that diverts attention from driving, including talking or texting on a portable electronic device.

(2) Sending or reading a text could take an individual's eyes off the road for five seconds or more. At 55 miles per hour, that is like an operator driving the length of an entire football field with closed eyes.

(3) In 2020, 113 individuals were convicted under 23 V.S.A. § 1095a, 1095b, or 1099 (Vermont statutes that prohibit a non-commercial driver's license holder from using a portable electronic device or texting while operating a motor vehicle).

(4) In 2020, 3,142 individuals were killed by distracted driving in the United States.

(b) Recommendations.

(1) The Vermont State Highway Safety Office, in consultation with the Departments of Motor Vehicles and of Public Safety, the Vermont Sheriffs' Association, the Vermont League of Cities and Towns, the Vermont Department of State's Attorneys and Sheriffs, the Vermont Association of Court Diversion and Pretrial Services, and the Vermont Judiciary, shall file written recommendations on how, if at all, the State should modify its approach to the education, enforcement, and conviction of the non-commercial driver's license distracted driving violations under 23 V.S.A. §§ 1095a, 1095b,

and 1099 with the House and Senate Committees on Judiciary and on Transportation on or before January 15, 2023.

(2) As part of making any recommendations, the Vermont State Highway Safety Office shall review what is and what is not working to minimize distracted driving in Vermont and other states, especially amongst operators under 18 years of age, and examine:

(A) the use of monetary penalties, points, suspensions, revocations, and recalls, including escalations based on the number and location of distracted driving violations;

(B) the use of diversion programs and other mandated education; and

(C) how to balance education, enforcement, and conviction.

\* \* \* Idling; Public Outreach \* \* \*

#### Sec. 14. IDLING; PUBLIC OUTREACH CAMPAIGN

(a) The Department of Environmental Conservation, Air Quality and Climate Division, in consultation with the Departments of Motor Vehicles and of Public Safety, shall implement a public outreach campaign on idling that, at a minimum, addresses that:

(1) in most cases, idling violates 23 V.S.A. § 1110;

(2) unnecessary idling harms human health, pollutes the air, wastes fuel and money, and causes excess engine wear;

(3) based on estimates, if every motor vehicle in Vermont reduced unnecessary idling by just one minute per day, over the course of a year Vermonters would save over 1,000,000 gallons of fuel and over \$2,000,000.00 in fuel costs, and Vermont would reduce CO2 emissions by more than 10,000 metric tons; and

(4) while individual actions may be small, the cumulative impacts of idling are large.

(b) The public outreach campaign shall disseminate information on idling through e-mail; a dedicated web page on idling that is linked through the websites for the Agency of Natural Resources and the Departments of Environmental Conservation, of Motor Vehicles, and of Public Safety; social media platforms; community posting websites; radio; television; and printed written materials.

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

Sec. 15. 19 V.S.A. § 10b is amended to read:

§ 10b. STATEMENT OF POLICY; GENERAL

(a) The Agency shall be the responsible agency of the State for the development of transportation policy. It shall develop a mission statement to reflect:

(1) that State transportation policy shall be to encompass, coordinate, and integrate all modes of transportation and to consider “complete streets” principles, which are principles of safety and accommodation of all transportation system users, regardless of age, ability, or modal preference; ~~and~~

(2) the need for transportation projects that will improve the State’s economic infrastructure, as well as the use of resources in efficient, coordinated, integrated, cost-effective, and environmentally sound ways, and that will be consistent with the recommendations of the Comprehensive Energy Plan (CEP) issued under 30 V.S.A. § 202b, the recommendations of the Climate Action Plan (CAP) issued under 10 V.S.A. § 592, and any rules adopted in accordance with 10 V.S.A. § 593;

(3) the need for the Agency to lead, assist, and partner in the transformation of the transportation sector to meet the emissions reduction requirements of the Global Warming Solutions Act, codified at 10 V.S.A. § 578, and ensure that there is an environmentally clean, efficient, multimodal system that will have economic, environmental, equity, and public health benefits for all Vermonters; and

(4) the importance of transportation infrastructure resilience and strategies to construct or retrofit, or both, transportation infrastructure to prepare for and adapt to changes in the climate, add redundancy and efficiency to the transportation network, and use maintenance and operational strategies to address transportation disruptions.

(b) The Agency shall coordinate planning and education efforts with those of the Vermont ~~Climate Change Oversight Committee~~ Council, established under 10 V.S.A. § 591, and those of local and regional planning entities to:

(1) ~~to~~ ensure that the transportation system as a whole is integrated, that access to the transportation system as a whole is integrated, and that statewide, local, and regional conservation and efficiency opportunities and practices are integrated; and

(2) ~~to~~ support employer-led or local or regional government-led conservation, efficiency, rideshare, and bicycle programs and other innovative transportation advances, especially employer-based incentives.

(c) In developing the State’s annual Transportation Program, the Agency shall, consistent with the planning goals listed in 24 V.S.A. § 4302 ~~as amended by 1988 Acts and Resolves No. 200~~ and with appropriate consideration to local, regional, and State agency plans:

(1) Develop or incorporate designs that provide integrated, safe, and efficient transportation and that are consistent with the recommendations of the CEP and the CAP.

\* \* \*

Sec. 16. 19 V.S.A. § 10i is amended to read:

§ 10i. TRANSPORTATION PLANNING PROCESS

(a) Long-range systems plan. The Agency shall establish and implement a planning process through the adoption of a long-range ~~multi-modal~~ multimodal systems plan integrating all modes of transportation. The long-range ~~multi-modal~~ multimodal systems plan shall be based upon Agency transportation policy developed under section 10b of this title;<sub>;</sub> other policies approved by the General Assembly;<sub>;</sub> Agency goals, mission, and objectives;<sub>;</sub> and demographic and travel forecasts, design standards, performance criteria, and funding availability. The long-range systems plan shall be developed with participation of the public and local and regional governmental entities and pursuant to the planning goals and processes set forth in 1988 Acts and Resolves No. 200. The plan shall be consistent with the Comprehensive Energy Plan (CEP) issued under 30 V.S.A. § 202b and the Climate Action Plan (CAP) issued under 10 V.S.A. § 592.

\* \* \*

(c) Transportation Program. The Transportation Program shall be developed in a fiscally responsible manner to accomplish the following objectives:

(1) managing, maintaining, and improving the State's existing transportation infrastructure to provide capacity, safety, ~~and flexibility,~~ and resiliency in the most cost-effective and efficient manner;

(2) developing an integrated transportation system that provides Vermonters with transportation choices;

(3) strengthening the economy, protecting the quality of the natural environment, and improving Vermonters' quality of life; ~~and~~

(4) achieving the recommendations of the CEP and the CAP; ~~and~~

(5) transforming the transportation sector to meet the State's emissions reduction requirements and ensure that there is an environmentally clean, efficient, multimodal system that will have economic, environmental, equity, and public health benefits for all Vermonters.

\* \* \*

(f) Emissions modeling.

(1) The Agency of Natural Resources shall coordinate with the Agency of Transportation to consider and incorporate relevant elements of the proposed Transportation Program and the effectiveness of those elements in reducing greenhouse gas emissions when developing and updating the Tracking and Measuring Progress Tool pursuant to 10 V.S.A. § 591(b)(3).

(2) The following shall be included in the reports required pursuant to section 10g of this chapter:

(A) the portion of the Tracking and Measuring Progress Tool related to the Transportation Program;

(B) a qualitative estimation of how effective the relevant elements of the proposed Transportation Program for the upcoming fiscal year will be in reducing greenhouse gas emissions and a quantitative estimation, based on the emission projections published in the Greenhouse Gas Inventory, if available, of how much more the greenhouse gas emissions from the transportation sector need to be reduced for the State to achieve its emissions reductions requirements; and

(C) a strategy and plan for how to reduce the greenhouse gas emissions from the transportation sector to achieve the recommendations in the CEP and the CAP during fiscal years beyond the upcoming fiscal year, with the expectation that the strategy and plan shall be used in the Agency of Transportation's ongoing planning.

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

Sec. 17. EFFECTIVE DATES

(a) This section and Secs. 1 (new motor vehicle arbitration; 9 V.S.A. § 4173(d)), 3 (current Total Abstinence Program participants), 8 and 9 (abandoned vehicles; 23 V.S.A. §§ 2151 and 2153(a)), and 10 (transportation network companies regulation preemption; 23 V.S.A. § 754(b)) shall take effect on passage.

(b) Sec. 2 (Total Abstinence Program; 23 V.S.A. § 1209a) shall take effect on passage and apply to all individuals participating in or in the process of applying to participate in the Total Abstinence Program as of the effective date of this section without regard to when the individual's license was reinstated under the Total Abstinence Program.

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

Thereupon, pending the question, Shall the Senate concur in the House proposals of amendment?, Senators Perchlik, Mazza, Chittenden, Ingalls and

Kitchel moved that the Senate concur in the House proposals of amendment with an amendment as follows:

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

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

Sec. 12. 19 V.S.A. § 10b is amended to read:

§ 10b. STATEMENT OF POLICY; GENERAL

(a) The Agency shall be the responsible agency of the State for the development of transportation policy. It shall develop a mission statement to reflect:

(1) that State transportation policy shall be to encompass, coordinate, and integrate all modes of transportation and to consider “complete streets” principles, which are principles of safety and accommodation of all transportation system users, regardless of age, ability, or modal preference; and

(2) the need for transportation projects that will improve the State’s economic infrastructure, as well as the use of resources in efficient, coordinated, integrated, cost-effective, and environmentally sound ways, and that will be consistent with the recommendations of the Comprehensive Energy Plan (CEP) issued under 30 V.S.A. § 202b, the recommendations of the Climate Action Plan (CAP) issued under 10 V.S.A. § 592, and any rules adopted in accordance with 10 V.S.A. § 593.

(b) The Agency shall coordinate planning and education efforts with ~~those of the Vermont Climate Change Oversight Committee~~ and those of local and regional planning entities to:

(1) ~~to~~ ensure that the transportation system as a whole is integrated, that access to the transportation system as a whole is integrated, and that statewide, local, and regional conservation and efficiency opportunities and practices are integrated; and

(2) ~~to~~ support employer-led or local or regional government-led conservation, efficiency, rideshare, and bicycle programs and other innovative transportation advances, especially employer-based incentives.

(c) In developing the State’s annual Transportation Program, the Agency shall, consistent with the planning goals listed in 24 V.S.A. § 4302 ~~as amended by 1988 Acts and Resolves No. 200~~ and with appropriate consideration to

local, regional, and State agency plans:

(1) Develop or incorporate designs that provide integrated, safe, and efficient transportation and that are consistent with the recommendations of the CEP and the CAP.

\* \* \*

Sec. 13. 19 V.S.A. § 10i is amended to read:

§ 10i. TRANSPORTATION PLANNING PROCESS

(a) Long-range systems plan. The Agency shall establish and implement a planning process through the adoption of a long-range ~~multi-modal~~ multimodal systems plan integrating all modes of transportation. The long-range ~~multi-modal~~ multimodal systems plan shall be based upon Agency transportation policy developed under section 10b of this title; other policies approved by the General Assembly; Agency goals, mission, and objectives; and demographic and travel forecasts, design standards, performance criteria, and funding availability. The long-range systems plan shall be developed with participation of the public and local and regional governmental entities and pursuant to the planning goals and processes set forth in 1988 Acts and Resolves No. 200. The plan shall be consistent with the Comprehensive Energy Plan (CEP) issued under 30 V.S.A. § 202b and the Climate Action Plan (CAP) issued under 10 V.S.A. § 592.

\* \* \*

(c) Transportation Program. The Transportation Program shall be developed in a fiscally responsible manner to accomplish the following objectives:

(1) managing, maintaining, and improving the State's existing transportation infrastructure to provide capacity, safety, ~~and flexibility,~~ and resiliency in the most cost-effective and efficient manner;

(2) developing an integrated transportation system that provides Vermonters with transportation choices;

(3) strengthening the economy, protecting the quality of the natural environment, and improving Vermonters' quality of life; and

(4) achieving the recommendations of the CEP and the CAP.

\* \* \*

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

Sec. 14. EFFECTIVE DATES

(a) This section and Secs. 1 (new motor vehicle arbitration; 9 V.S.A.

§ 4173(d), 3 (current Total Abstinence Program participants), 8 and 9 (abandoned vehicles; 23 V.S.A. §§ 2151 and 2153(a)), and 10 (transportation network companies regulation preemption; 23 V.S.A. § 754(b)) shall take effect on passage.

(b) Sec. 2 (Total Abstinence Program; 23 V.S.A. § 1209a) shall take effect on passage and apply to all individuals participating in or in the process of applying to participate in the Total Abstinence Program as of the effective date of this section without regard to when the individual's license was reinstated under the Total Abstinence Program.

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

Thereupon, the question, Shall the Senate concur in the House proposals of amendment with further proposal of amendment?, was decided in the affirmative.

### **Third Reading Ordered**

#### **H. 500.**

Senator Bray, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

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

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

### **Proposals of Amendment; Third Reading Ordered**

#### **H. 96.**

Senator Ram Hinsdale, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to creating the Truth and Reconciliation Commission.

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

Sec. 1. INTENT

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

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



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

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

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

CHAPTER 25. TRUTH AND RECONCILIATION COMMISSION

§ 901. DEFINITIONS

As used in this chapter:

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

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

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

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

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

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

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

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

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

(C) Black individuals and other individuals of color;

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

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

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

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

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

(D)(i) Except as otherwise provided pursuant to subdivision (ii) of this subdivision (2)(D), committee members shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than eight meetings per calendar year. These payments shall be made from monies appropriated to the Commission.

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

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

§ 903. COMMISSIONERS

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

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

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

§ 904. SELECTION PANEL; MEMBERSHIP; DUTIES

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

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

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

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

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

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

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

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

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

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

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

of this chapter.

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

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

(B) establish and maintain a principal office;

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

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

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

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

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

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

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

#### § 905. SELECTION OF COMMISSIONERS

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

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

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

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

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

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

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

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

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

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

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

(A) be residents of Vermont;

(B) not be members of the Selection Panel;

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

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

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

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

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

§ 906. POWERS AND DUTIES OF THE COMMISSIONERS

(a) Duties. The commissioners shall:

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

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

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

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

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

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

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

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

of the committees' work;

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

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

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

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

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

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

(3) Establish and maintain a principal office.

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

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

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

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

(8) Enter into cooperative agreements with private organizations or individuals or with any agency or instrumentality of the United States or of

this State to carry out the provisions of this chapter.

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

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

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

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

#### § 907. EXECUTIVE DIRECTOR; DUTIES

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

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

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

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

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

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

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

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

#### § 908. REPORTS

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



institutional, structural, and systemic discrimination identified by the Commission.

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

(2) The Commission shall, on or before January 15, 2026, make a draft of the final report publicly available and provide copies of the draft to interested parties from the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter and other interested parties. The Commission shall provide the interested parties and members of the public with not less than 60 days to review the draft and provide comments on it. The Commission shall consider fully all comments submitted in relation to the draft and shall include with the final version of the report a summary of all comments received and a concise statement of the reasons why the Commission decided to incorporate or reject any proposed changes. Comments submitted in relation to the final report shall be made available to the public in a manner that complies with the requirements of section 910 of this chapter.

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

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

##### (a) Access to State records and information.

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

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

##### (b) Confidentiality requirements.

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

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

(c) Exceptions.

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

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

(d) Private proceedings.

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

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

Sec. 3. APPROPRIATION

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

Sec. 4. REPEAL

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

## Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Baruth, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Government Operations with the following amendments thereto:

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

§ 910. ESTABLISHMENT OF POSITIONS

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

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

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Government Operations was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Government Operations, as amended, was agreed to on a roll call, Yeas 22, Nays 7.

Senator Brock having demanded the yeas and nays, they were taken and are as follows:

**Roll Call**

**Those Senators who voted in the affirmative were:** Balint, Baruth, Bray, Campion, Chittenden, Clarkson, Cummings, Hardy, Hooker, Kitchel, Lyons, MacDonald, McCormack, Nitka, Pearson, Perchlik, Pollina, Ram Hinsdale, Sears, Sirotkin, Westman, White.

**Those Senators who voted in the negative were:** Benning, Brock, Collamore, Ingalls, Mazza, Parent, Starr.

**The Senator absent and not voting was:** Terenzini.

Thereupon, third reading of the bill was ordered.

**Committee Relieved of Further Consideration; Rules Suspended; House Proposal of Amendment Not Concurred In; Committee of Conference Requested**

**S. 101.**

On motion of Senator Sirotkin, the Committee on Economic Development, Housing and General Affairs was relieved of further consideration of Senate bill entitled:

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

and the rules were suspended and the bill was taken up for immediate consideration.

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

First: In Sec. 2, 24 V.S.A. § 4307, by striking it out in its entirety and inserting in lieu thereof the following:

Sec. 2. 24 V.S.A. § 4307 is added to read:

§ 4307. MUNICIPAL BYLAW MODERNIZATION GRANTS

(a) There are created Municipal Bylaw Modernization Grants to assist municipalities in updating their land use and development bylaws to support a development pattern that is pedestrian oriented and consistent with the smart growth principles established in section 2791 of this title. The Grants shall be funded by monies allocated from the municipality allocation of the Municipal and Regional Planning Funds established in subdivision 4306 (a)(3)(C) of this title and any other monies appropriated for this purpose.

(b) A municipality that receives a grant shall use the funds for the adoption of bylaws that increase housing choice, affordability, and opportunity in smart growth areas. These smart growth areas shall be areas that reflect the smart growth principles established in section 2791 of this title, that are located outside important natural resource areas, and are located outside identified flood hazard areas and river corridors or are acceptable for infill development as defined in § 29–201 of the Vermont Flood Hazard Area and River Corridor Rule.

(c) Disbursement to municipalities shall be administered by the Department of Housing and Community Development through a competitive process providing the opportunity for all regions and any eligible municipality to compete regardless of size. The Department shall, to the extent reasonably possible, ensure that grants are awarded with the intent of achieving

geographic distribution across the State.

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

(e) Funding may be used for mapping, the cost of regional planning commission staff or consultant time, carrying out the provisions of subchapters 5 through 10 of this chapter, and any other purpose approved by the Department.

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

(1) identify any municipal water supply and wastewater disposal capacity, opportunities, and constraints within mapped service areas in both traditional water and wastewater systems and smaller scale municipal systems, including soil-based wastewater treatment and decentralized water and wastewater systems;

(2) allow, at a minimum, duplexes within smart growth areas to the same extent that single-family dwellings are allowed;

(3) require parking waiver provisions in appropriate smart growth areas and situations;

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

(5) adopt dimensional, use, parking, and other standards that allow compact neighborhood form and support walkable lot and unit density, which may be achieved with a standard allowing at least four units per acre with site and building design standards or by other means established in guidelines issued by the Department; and

(6) demonstrate how the bylaws support implementation of the housing element of its municipal plan as provided in 24 V.S.A. § 4382(a)(10) related to addressing lower and moderate-income housing needs.

(g) On or before September 1, 2021, the Department shall adopt guidelines to assist municipalities applying for grants under this section.

Second: By striking out Secs. 7 (10 V.S.A. § 1974) and 8 (10 V.S.A. § 1983) and their reader assistance heading in their entirety.

and by renumbering the remaining sections to be numerically correct.

Third: By striking out Secs. 3–6, tax credits, and their reader assistance heading in their entirety and inserting in lieu thereof the following:

\* \* \* Property Transfer Tax Surcharge \* \* \*

Sec. 3. 32 V.S.A. § 9602 is amended to read:

§ 9602. TAX ON TRANSFER OF TITLE TO PROPERTY

A tax is hereby imposed upon the transfer by deed of title to property located in this State, or a transfer or acquisition of a controlling interest in any person with title to property in this State. The amount of the tax equals one and one-quarter percent of the value of the property transferred, or \$1.00, whichever is greater, except as follows:

\* \* \*

(4) With respect to all transfers by deed of title to property located in this State, a surcharge shall be imposed at the rate of one half of a percent of the value of the property transferred in excess of \$1,000,000.00.

(5) The Commissioner shall annually estimate the amount of revenue raised by the surcharge imposed pursuant to subdivision (4) of this section and transfer that same amount to the General Fund established under section 435 of this title.

\* \* \* Allocation of Property Transfer Tax Surcharge Revenue \* \* \*

Sec. 4. 32 V.S.A. § 435(b) is amended to read:

(b) The General Fund shall be composed of revenues from the following sources:

\* \* \*

(10)(A) 33 percent of the revenue from the property transfer taxes levied pursuant to chapter 231 of this title and the revenue from the gains taxes levied each year pursuant to chapter 236 of this title; and

(B) notwithstanding subdivision (A) of this subdivision (b)(10), the revenue raised by the surcharge imposed pursuant to subdivision 9602(4) of this title;

\* \* \*

Sec. 5. 32 V.S.A. § 9610 is amended to read:

§ 9610. REMITTANCE OF RETURN AND TAX; INSPECTION OF RETURNS

\* \* \*

(c) Prior to distributions of property transfer tax revenues under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), and subdivision 435(b)(10) of this title, two percent of the revenues received from the property transfer tax shall be

deposited in a special fund in the Department of Taxes for Property Valuation and Review administration costs.

(d)(1) Prior to any distribution of property transfer tax revenue under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), subdivision 435(b)(10) of this title, and subsection (c) of this section, \$2,500,000.00 of the revenue received from the property transfer tax shall be transferred to the Vermont Housing Finance Agency to pay the principal of and interest due on the bonds, notes, and other obligations authorized to be issued by the Agency pursuant to 10 V.S.A. § 621(22), the proceeds of which the Vermont Housing and Conservation Board shall use to create affordable housing pursuant to 10 V.S.A. § 314.

\* \* \*

(e) Notwithstanding subsections (c) and (d) of this section and any other provision of law to the contrary, the Commissioner of Taxes shall annually estimate the revenue raised by the surcharge imposed pursuant to subdivision 9602(4) of this chapter and transfer that same amount to the General Fund established under section 435 of this title.

\* \* \* Affordable Housing Tax Credit; Manufactured Homes \* \* \*

Sec. 6. 32 V.S.A. § 5930u(g) is amended to read:

(g)(1) In any fiscal year, the allocating agency may award up to:

(A) \$400,000.00 in total first-year credit allocations to all applicants for rental housing projects, for an aggregate limit of \$2,000,000.00 over any given five-year period that credits are available under this subdivision (A);

(B) ~~\$425,000.00~~ \$675,000.00 in total first-year credit allocations for loans or grants for owner-occupied unit financing or down payment loans as provided in subdivision (b)(2) of this section consistent with the allocation plan, including for new construction and manufactured housing, for an aggregate limit of ~~\$2,125,000.00~~ \$3,375,000.00 over any given five-year period that credits are available under this subdivision (B). Of the total first-year credit allocations made under this subdivision (B), \$250,000.00 shall be used each fiscal year for manufactured home purchase and replacement.

(2) If the full amount of first-year credits authorized by an award are not allocated to a taxpayer, the Agency may reclaim the amount not allocated and re-award such allocations to other applicants, and such re-awards shall not be subject to the limits set forth in subdivision (1) of this subsection.

Thereupon, pending the question, Shall the Senate concur in the House proposals of amendment?, on motion of Senator Sirotkin, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

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**Rules Suspended; Bills Messaged**

On motion of Senator Balint, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

**S. 280, H. 456, H. 464, H. 482, H. 523, H. 729.**

**Rules Suspended; Bill Committed**

Pending entry on the Calendar for notice, on motion of Senator Bray the rules were suspended and House bill entitled:

**H. 446.** An act relating to miscellaneous natural resources and development subjectsAn act relating to a universal, publicly financed primary care system.

was committed to the Committee on Finance pursuant to Rule 31 with the report of the Committee on Natural Resources and Energy *intact*.

**Message from the House No. 62**

A message was received from the House of Representatives by Ms. Alona Tate, its Second Assistant Clerk, as follows:

Madam President:

I am directed to inform the Senate that:

The House has considered a bill originating in the Senate of the following title:

**S. 285.** An act relating to health care reform initiatives, data collection, and access to home- and community-based services.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

**Message from the House No. 63**

A message was received from the House of Representatives by Ms. Alona Tate, its Second Assistant Clerk, as follows:

Madam President:

I am directed to inform the Senate that:

The House has considered a bill originating in the Senate of the following title:

**S. 11.** An act relating to prohibiting robocalls.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.



**Adjournment**

On motion of Senator Balint, the Senate adjourned until ten o'clock in the forenoon on Wednesday, May 4, 2022.